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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

|                        |   |                      |
|------------------------|---|----------------------|
|                        | ) |                      |
|                        | ) | DOCKET NO. 06-049-40 |
| In the Matter of the   | ) |                      |
| Investigation into     | ) | TRANSCRIPT OF        |
| Qwest Wire Center Data | ) | PROCEEDINGS          |
|                        | ) |                      |
|                        | ) |                      |

June 13, 2006 \* 9:00 a.m.

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

Richard Campbell, Chairman  
 Theodore Boyer, Commissioner  
 Ron Allen, Commissioner

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| 9  | Qwest 1, 1.1, 1.2 and 1.3      | 10     | 10       |
| 10 | Qwest 1R                       | 10     | 10       |
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(To be produced by Qwest)

25

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

1  
2 JUDGE GOODWILL: This is the Public  
3 Service Commission hearing in the matter of the  
4 investigation into the Qwest Wire Center Data, Public  
5 Service Commission Docket Number 06-049-40. I'm  
6 Steve Goodwill, the Administrative Law Judge for the  
7 Commission and I've been assigned by the Commission  
8 to hear this matter.

9 Notice of this hearing was issued by the  
10 Commission on March 13, 2006 and again on May 25,  
11 2006. At this time I'll go ahead and take  
12 appearances from the parties. We'll start with the  
13 Joint CLECs.

14 MR. KOPTA: Thank you, your Honor.  
15 Gregory J. Kopta of the law firm of Davis Wright  
16 Tremaine, LLP on behalf of the Joint CLECs.

17 JUDGE GOODWILL: For Qwest?

18 MR. MONSON: Gregory Monson of the law  
19 firm Stoel Rives, LLP for Qwest. And with me is Alex  
20 Duarte who is an in-house counsel for Qwest. And  
21 Alex, Mr. Duarte will be handling the hearing. So I  
22 would ask to be excused once we get into the  
23 presentation, your Honor.

24 JUDGE GOODWILL: That's fine, Mr. Monson.

25 And for the Division?  
26

1           MR. GINSBERG: My name is Michael Ginsberg  
2 representing the Division of Public Utilities.

3           JUDGE GOODWILL: Great. Thanks.

4           Before we move into the testimony, I'll  
5 just remind everybody we do have various information  
6 and exhibits in this proceeding that's been marked  
7 "Confidential" and "Highly Confidential" in  
8 accordance with the Protective Order that's been  
9 issued in this docket. I'll look to the parties to  
10 protect that information as you see fit and to make  
11 me aware when we're getting into areas that might  
12 bring that information to light so that we can  
13 discuss whether or not we need to close the hearing.

14           My preference is to, of course, keep the  
15 hearing as open as possible. So anything that you  
16 can do to refer to that information without actually  
17 divulging it on the record would be appreciated. Of  
18 course, if we need to close the sessions we'll do so.

19           With that, we'll go ahead and begin with  
20 Qwest. Mr. Duarte.

21           MR. DUARTE: Thank you, your Honor.

22           Your Honor, before we begin I wanted to  
23 make a brief request and, that is, when I do my very  
24 brief direct examination of the witnesses, a couple  
25 of our witnesses either have a very brief summary  
26

1 and/or a brief surrebuttal testimony that they would  
2 like to give in response to the surrebuttal that Mr.  
3 Denney filed I believe it was last Monday or Friday  
4 before last because we did not have an opportunity to  
5 respond to that. This would be very brief so we  
6 would ask your Honor's indulgence to do that.

7 JUDGE GOODWILL: Mr. Kopta?

8 MR. KOPTA: There's probably no basis for  
9 an objection so I won't object.

10 JUDGE GOODWILL: That's fine. We'll go  
11 ahead and allow that.

12 MR. DUARTE: Thank you, your Honor. Qwest  
13 would call for its first witness Renée Albersheim to  
14 the stand, please.

15 JUDGE GOODWILL: Mrs. Albersheim, if you  
16 would just stand and face me and raise your right  
17 hand I'll go ahead and swear you in. Do you solemnly  
18 swear that the testimony you are about to provide  
19 shall be the truth, the whole truth, and nothing but  
20 the truth, so help you God?

21 MS. ALBERSHEIM: I do.

22 JUDGE GOODWILL: Thank you. Please be  
23 seated.

24 /

25 /

26

1                               RENÉE ALBERSHEIM,  
2       called as a witness for, was examined and testified  
3       as follows:

4                               DIRECT EXAMINATION

5       BY MR. DUARTE:

6               Q.     Good morning, Ms. Albersheim.

7               A.     Good morning.

8               Q.     Ms. Albersheim, state your name and  
9       business address for the record.

10              A.     Renée Albersheim, 1801 California Street,  
11       24th Floor, Denver, Colorado, 80202.

12              Q.     Ms. Albersheim, who do you work for and  
13       what is your position?

14              A.     I work for Qwest. My position is Staff  
15       Witnessing Representative.

16              Q.     Ms. Albersheim, did you prepare Direct  
17       Testimony that was filed on March 24, 2006?

18              A.     Yes, I did.

19              Q.     Response Testimony that was filed on May  
20       24, 2006?

21              A.     Yes.

22              Q.     And Surrebuttal Testimony that was filed  
23       on June 5, 2006?

24              A.     Yes.

25              Q.     Does your Direct Testimony also have three  
26



1 exhibits?

2 A. Yes, it does.

3 Q. And are any of these three exhibits to  
4 your Direct Testimony "Confidential" or "Highly  
5 Confidential"?

6 A. No.

7 Q. Does your Response Testimony have any  
8 exhibits?

9 A. No.

10 Q. Does your Surrebuttal Testimony have any  
11 exhibits?

12 A. No.

13 Q. And do you have any corrections to any of  
14 your testimony or exhibits?

15 A. No.

16 Q. Ms. Albersheim, are all of the answers in  
17 all of your testimony true and correct, to the best  
18 of your knowledge?

19 A. Yes.

20 Q. And to the extent that any exhibits are a  
21 copy of a document, are all such exhibits true and  
22 correct copies of the documents that they purport to  
23 be?

24 A. Yes.

25 Q. And are all of your other exhibits  
26

1 documents that were either prepared or gathered in  
2 the ordinary course of business of Qwest by you or a  
3 Qwest employee under your supervision for purposes of  
4 this docket?

5 A. Yes.

6 Q. Ms. Albersheim, if I were to ask you the  
7 same questions here, would your answers be  
8 substantially the same here as those set forth in  
9 your written testimony?

10 A. Yes.

11 MR. DUARTE: Your Honor, we have marked  
12 Ms. Albersheim's Direct Testimony as Qwest Exhibit 1  
13 and the three exhibits to that testimony as Exhibits  
14 1.1, 1.2 and 1.3.

15 In addition, we have marked Ms.  
16 Albersheim's Response Testimony as Qwest Exhibit 1R.  
17 And finally, we have marked Ms. Albersheim's'  
18 Surrebuttal Testimony as Qwest Exhibit 1SR.

19 Your Honor, Qwest now moves for admission  
20 into the evidence and record in this proceeding all  
21 of Ms. Albersheim's testimony and exhibits as  
22 follows: Exhibit 1 and the attached exhibits 1.1,  
23 1.2 and 1.3; Exhibit 1R and Exhibit 1SR.

24 JUDGE GOODWILL: Any objections?

25 MR. KOPTA: No objection.

26

1 JUDGE GOODWILL: They're admitted.

2 Q. (BY MR. DUARTE) Ms. Albersheim, do you  
3 have a summary of your testimony?

4 A. No.

5 Q. On June 5, 2006, Mr. Denney for the Joint  
6 CLECs filed Surrebuttal Testimony to which you have  
7 not had an opportunity to respond in written  
8 testimony. Do you wish to respond to any of the  
9 issues in Mr. Denney's Surrebuttal Testimony?

10 A. Yes, I do.

11 Q. You may proceed.

12 A. Okay. As I said in my filed testimony, I  
13 don't think that Qwest and the Joint CLECs are really  
14 that far apart. And upon reading Mr. Denney's  
15 Surrebuttal I saw some facts that need some  
16 correction. And once you hear what I have to say, I  
17 think you'll see that we really aren't that far  
18 apart.

19 First, Mr. Denney gives the impression in  
20 his testimony that when he was preparing to update  
21 the list of non-impaired wire centers, Qwest will  
22 simply provide the name of the Wire Center and not  
23 provide any supporting data, and that is not the  
24 case. Qwest intends to provide the same kind of  
25 supporting data that was used to support its initial  
26

1 list of non-impaired wire centers. Mr. Denney claims  
2 that the CLECs need five days' advance notice of the  
3 filing to update the list of non-impaired wire  
4 centers because they need extra time to determine if  
5 they want to object to having data released to the  
6 public.

7 This is not an issue as Qwest intends to  
8 protect the data it has in this case. It is my  
9 understanding that this Commission can establish a  
10 standing on disclosure agreement that can protect  
11 sensitive CLEC data and, therefore, the five days'  
12 notice of advance filing is not necessary either.

13 Mr. Denney claims that 30 days is needed  
14 for the CLECs to determine if they have any -- 30  
15 days is not sufficient for the CLECs to determine if  
16 they have an objection to obtaining the list of  
17 non-impaired wire centers because Qwest could claim  
18 non-impairment without the supporting data.

19 Again, since I have already stated that  
20 Qwest will provide supporting data with its filing  
21 this is not an issue. Mr. Denney claims that Qwest  
22 should not be allowed to block orders for wire  
23 centers in dispute. Qwest has never said that we  
24 would block orders in dispute. In fact, we have only  
25 stated an intent to block orders in  
26

1 Commission-approved non-impaired wire centers. So  
2 again, this is not an issue.

3 Mr. Denney states that there is some  
4 uncertainty regarding what rate Qwest would charge  
5 per UNE during the transition period in which they  
6 are converted to an alternate service, and let me  
7 clear that up. For the process going forward in  
8 which we transition UNEs in wire centers that we add  
9 to the list of non-impaired wire centers, we will  
10 charge the UNE rate until the services are converted  
11 and then we will back out the difference between the  
12 UNE rate and the higher tariff rate for the service.

13 Mr. Denney claims that the TRRO  
14 establishes a one-year transition period and that is  
15 the period that should be used going forward for the  
16 additions to the lists of non-impaired wire centers.  
17 What Mr. Denney neglects to mention is that the  
18 one-year transition period was for the initial set of  
19 wire centers and that transition was to begin upon  
20 the effective date of the TRRO which was March 11,  
21 2005, and that transition period has expired as of  
22 March 11, 2006. The FCC did not rule that the  
23 transitions for updates to the non-impaired wire  
24 centers should also be one year. That much time  
25 should not be necessary as such transitions will take

26

1 place for a much smaller subset of services since  
2 it's likely to be for one or two Wire centers at a  
3 time.

4 Mr. Denney notes that the Wire Center List  
5 should only be updated once a year since ARMIS data  
6 is only prepared once a year. I want to make clear  
7 that this once a year updating only applies to  
8 business lines and that data regarding fiber-based  
9 co-locaters is not connected to ARMIS and, thus,  
10 should not be limited to once yearly updating.  
11 Therefore, Qwest should be able to amend the list at  
12 any time that the number of fiber-based co-locaters  
13 changes.

14 That conclusions my formal Surrebuttal.

15 MR. DUARTE: Your Honor, I have no more  
16 questions of Ms. Albersheim at this time and Qwest  
17 would tender her for any cross-examination.

18 JUDGE GOODWILL: Mr. Kopta?

19 MR. KOPTA: Thank you, your Honor.

20 CROSS-EXAMINATION

21 BY MR. KOPTA:

22 Q. Good morning, Ms. Albersheim.

23 A. Good morning.

24 Q. Let's start with some of the information  
25 that you've just provided. I believe you testified

26

1 that Qwest will provide the same supporting data when  
2 it files new wire centers as not impaired as it  
3 provided for these wire centers that at issue in this  
4 case; is that your testimony?

5 A. Yes.

6 Q. And so what will that data include?

7 A. Well, for the specifics I would yield to  
8 our business line witness, Mr. Teitzel, or our  
9 fiber-based co-locater witness, Ms. Torrence. But it  
10 will be the same kind of backup data that we prepared  
11 for our initial set of wire centers.

12 Q. So it would be essentially the same type  
13 of data that was included in the Direct Testimony  
14 that was filed in this case by all the Qwest  
15 witnesses?

16 A. And I believe there was also data provided  
17 in our response to the CLEC petition as well.

18 Q. What about responses to the CLEC data  
19 requests? Do you know whether that will also be  
20 provided?

21 A. There I would have to refer to the other  
22 witnesses. I'm not certain of that because I didn't  
23 respond to any of those data requests.

24 Q. So is it your anticipation, then, that  
25 Qwest when it makes a filing with the Commission  
26

1 would include essentially the testimony or the  
2 information that was contained in the testimony that  
3 was filed in this case?

4 A. I don't believe it would be testimony to  
5 begin with. I believe it would be supporting data.

6 Q. Well, I guess the question then is what  
7 form that data would take. Is that something I'm  
8 better at asking the other witnesses?

9 A. Yes.

10 Q. You also testified that Qwest's intent is  
11 that the UNE rate would be billed during the  
12 transition for these new wire centers, but then there  
13 would be a back bill for the higher special access or  
14 tariff rate for the new services; is that correct?

15 A. Yes.

16 Q. So the back bill would go to what date  
17 then?

18 A. To -- well, the effective date of the wire  
19 center being non-impaired.

20 Q. And that is what date in Qwest's --

21 A. Well, if the wire center is not disputed,  
22 30 days after the notice is given that the wire  
23 center is not impaired.

24 Q. So in Qwest's proposal, then, the tariffed  
25 rate would apply if no party objects to the

26



1 designation 30 days after Qwest files the designation  
2 with the Commission; is that correct?

3 A. Yes.

4 Q. And that's in contrast to what is  
5 contemplated in the TRRO for at least the initial  
6 designation of there being an interim rate of 115  
7 percent at the UNE rate; is that correct?

8 A. The TRRO did indicate 115 percent, but  
9 Qwest is not charging that as an interim rate. Qwest  
10 intends to back bill that as well.

11 Q. I guess the question is, what Qwest is  
12 proposing is different than what the FCC  
13 contemplated?

14 A. Not for the initial set. The FCC was only  
15 speaking of the initial set of data.

16 Q. Right. I meant for the new wire centers  
17 Qwest is proposing a different transition rate than  
18 the FCC required in the TRRO, at least for the  
19 initial wire center designations?

20 A. I wouldn't call it a transition rate  
21 really because we're not going to be charging interim  
22 rate. It will be the rate of the new service as of  
23 the effective date of non-impairment.

24 Q. You also testified that Qwest is proposing  
25 a 90-day transition period rather than a one-year  
26

1 transition period because there will be fewer wire  
2 centers involved; is that correct?

3 A. Yes.

4 Q. And is it your understanding that that was  
5 the FCC's concern when it established the one-year  
6 transition period?

7 A. Well, the FCC didn't express a concern.  
8 They were simply speaking of the initial transition.  
9 They did not say what the transition period should be  
10 going forward.

11 Q. But the FCC did have a reason for  
12 establishing a one-year transition period, did it  
13 not?

14 A. Because there was a large embedded base of  
15 customers to deal with in the initial transition,  
16 yes.

17 Q. That's your interpretation of the order?

18 A. Yes.

19 Q. Do you have the TRRO in front of you?

20 A. No, I do not.

21 Q. Well, that really speaks for itself so I  
22 will ask a different question.

23 If you would please turn to page 7 of your  
24 Direct Testimony.

25 A. I'm there.

26

1 Q. And specifically I would direct you to the  
2 portion of the testimony beginning on line 9 and  
3 running through line 11. And at that point I believe  
4 you were testifying that ILECs such as Qwest were  
5 required to file a list of non-impaired wire centers  
6 coincident with the effective date of the TRRO; is  
7 that correct?

8 A. Yes.

9 Q. There's nothing in the TRRO itself that  
10 imposes any kind of filing requirement, is there?

11 A. I don't recall if it said specifically  
12 when that filing was to take place. I don't recall.

13 Q. But it's your interpretation of the order  
14 that that was what the FCC contemplated is that there  
15 would be a filing with the FCC of the wire centers  
16 that were initially being designated?

17 A. Well, it wasn't so much my interpretation  
18 of the order as well as a letter from the FCC to  
19 Qwest asking that we do so and saying that we needed  
20 to do so coincident with the effective date of the  
21 order. And that was my Exhibit 1.

22 Q. Right. And that's the next sentence which  
23 talks about the letter request?

24 A. (Indicating affirmatively.)

25 Q. Which is actually from the Wireline  
26

1 Competition Bureau as opposed to the FCC, right?

2 A. Correct. That's a department of the FCC.

3 Q. Okay. And if you would please turn to  
4 your Response Testimony, page 10.

5 A. I'm there.

6 Q. And unfortunately the copy that I have  
7 doesn't have line numbers on it, but it is the second  
8 paragraph of the answer. At that point you're  
9 discussing responding to the proposal that there be a  
10 notice when a wire center is within 5,000 lines of  
11 meeting the threshold requirements under the TRRO.  
12 Do you see where my reference is?

13 A. Yes.

14 Q. And the second sentence in that second  
15 paragraph starts, "It should be sufficient that when  
16 Qwest becomes aware that a wire center has actually  
17 met the requirements," and I'll stop there. And I'm  
18 focusing on "it becomes aware."

19 Does Qwest have any kind of mechanism,  
20 internal mechanism for tracking when a wire center is  
21 going to meet the threshold requirements in the TRRO?

22 A. Not that I'm aware of.

23 Q. So how would Qwest become aware that a  
24 wire center meets the requirements of the TRRO?

25 A. Well, are you speaking of business lines  
26

1 or fiber-based co-locaters?

2 Q. Both.

3 A. Well, again, I defer to our witnesses on  
4 those two subjects. My assumption would be for  
5 business lines in preparation of the ARMIS report.  
6 But again, Mr. Teitzel could respond to that more  
7 clearly. I don't know how often we look at  
8 fiber-based co-locater data, so that would be Ms.  
9 Torrence.

10 Q. Okay. Now, if you would, please, turn to  
11 your Surrebuttal Testimony, specifically -- well, the  
12 sentence that begins on the bottom of page 3, I think  
13 line 55, which states, "Of equal concern is the fact  
14 that providing notice that the 5,000-line threshold  
15 has been met could cause CLECs to avoid placing DS1  
16 and DS3 facilities in the wire centers where the  
17 threshold is met in an effort to maintain a wire  
18 center's impaired status." Did I read that  
19 correctly?

20 A. Yes.

21 MR. DUARTE: Your Honor, I don't think I'm  
22 following. Can you repeat the page and line  
23 reference?

24 MR. KOPTA: Sure. It's in the Surrebuttal  
25 Testimony on page 3 beginning on line 55 carrying

26

1 over to page 4, lines 56 through 58.

2 MR. DUARTE: Thanks.

3 Q. (BY MR. KOPTA) Now, I guess I'm trying to  
4 understand what the concern is here. Is Qwest  
5 concerned that if a CLEC has a customer in that wire  
6 center that wants service the CLEC would refuse to  
7 provide service to that customer because they would  
8 need to lease facilities from Qwest?

9 A. I don't think they would refuse. I would  
10 think they would find alternate means for making sure  
11 they could provide that service.

12 Q. So even if it were not more economical to  
13 use UNEs in that wire center then the CLECs would  
14 find some other way to provision service to that  
15 customer?

16 A. I can't make any assumptions about what  
17 would be economical or not. I think that they would  
18 determine for themselves what would be a better  
19 business plan because part of the equation will be if  
20 they think that the prices for UNEs will become  
21 prices for tariff services instead.

22 Q. So what are CLECs' other options then  
23 instead of buying UNEs from Qwest?

24 A. Buying UNEs from other providers. Not  
25 UNEs necessarily, but buying services from other

26

1 providers.

2 Q. So then that would actually encourage the  
3 development of more facilities by other carriers,  
4 would it not?

5 A. Not necessarily. It might -- one of the  
6 things I've been told we see more of is CLEC to CLEC  
7 connections as opposed to CLEC to Qwest connections.  
8 So that might be a way that they obtain the  
9 facilities from other CLECs.

10 Q. But doesn't that foster the development of  
11 greater facilities-based competition?

12 A. It could.

13 MR. KOPTA: Okay. Thank you. Those are  
14 all my questions.

15 JUDGE GOODWILL: Mr. Duarte?

16 MR. DUARTE: Your Honor, just a couple of  
17 redirect questions.

18 MR. GINSBERG: I'm sorry, I have a few  
19 questions.

20 JUDGE GOODWILL: I'm sorry. I apologize.

21 MR. GINSBERG: I realize we're bit  
22 players, but I just had a couple of follow-ups on the  
23 areas that Mr. Kopta was just covering with you.

24 CROSS-EXAMINATION

25 BY MR. GINSBERG:

26

1 Q. Am I correct that when you designate an  
2 office as non-impaired that that's the date that you  
3 propose to back bill the CLECs to?

4 A. No. The date would be 30 days after we  
5 give notice that it's non-impaired. That's our  
6 proposal, 30 days after.

7 Q. And you gave two reasons for why you  
8 opposed, maybe more than two but at least two, on why  
9 you opposed advance notice. One was the one that he  
10 just talked to you about and the other one was that  
11 Qwest doesn't have this process in place to give this  
12 notice; is that right?

13 A. That's correct.

14 Q. And am I right, this is the first time  
15 that the issue is being addressed by any of the Qwest  
16 states? This is the first hearing?

17 A. This is the first hearing. I believe the  
18 issue was addressed in Washington, but I don't  
19 believe there was a hearing there.

20 Q. Okay. You agree, though, that the CLECs  
21 have business decisions that they have to make when  
22 they know an office is no longer impaired?

23 A. Yes.

24 Q. Have you determined that the CLECs have  
25 not purchased the facilities in any of the offices

26



1 that you are claiming to be non-impaired because of  
2 the number of lines? In other words, did you notice  
3 them not buying facilities?

4 A. I don't know that that analysis has been  
5 done. I don't know.

6 Q. Your premise is, though, that they might  
7 not do that?

8 A. That's a possibility.

9 MR. GINSBERG: No more questions.

10 JUDGE GOODWILL: Now Mr. Duarte.

11 MR. DUARTE: Thank you, your Honor.

12 REDIRECT EXAMINATION

13 BY MR. DUARTE:

14 Q. Ms. Albersheim, with respect to the update  
15 process for a new or additional wire centers, do you  
16 believe that testimony in a proceeding as extensive  
17 as this one would be within the intent of the FCC for  
18 a simple and straightforward process for this type of  
19 exercise?

20 A. No. They thought that this would be a  
21 self-effectuating process. So I don't think the FCC  
22 contemplated this kind of adversarial proceeding  
23 going forward.

24 Q. Ms. Albersheim, would you expect that the  
25 rules and the guidelines with respect to how to, for

26

1 example, count business lines and how to deal with  
2 fiber-based co-locaters would have been established  
3 in this docket by the parties for use in a  
4 going-forward basis?

5 A. I have to contradict you a little bit  
6 because I believe they were set forth by the FCC and  
7 that we are simply trying to get the list approved  
8 based on the rules set forth by the FCC.

9 Q. Sure. But there are some disputes today,  
10 which is why we're here, with respect to what those  
11 rules mean; is that correct?

12 A. Yes, that's true.

13 Q. And so would you expect that after this  
14 hearing, this proceeding is over and the Commission  
15 has issued an order that the Commission will give the  
16 parties some guidance as to some of those disputed  
17 issues, hopefully all of the disputed issues, so that  
18 the parties know what the ground rules are in black  
19 and white for sure in the future?

20 A. Yes.

21 Q. And so you believe that then supporting  
22 numeric data would be sufficient for those one or two  
23 new wire centers that are added to the list in the  
24 future after the Commission has issued its guidelines  
25 in this docket?

26

1           A.     Yes.    Because we would have the rules to  
2 follow for that supporting data.

3           MR. DUARTE:   Thank you, Ms. Albersheim.  
4 Your Honor, I have no more questions.

5           JUDGE GOODWILL:   Mr. Kopta?

6           MR. KOPTA:    Nothing further, your Honor.

7           JUDGE GOODWILL:   Mr. Ginsberg?

8           MR. GINSBERG:   Nothing.

9           JUDGE GOODWILL:   I have just a couple of  
10 questions, Ms. Albersheim. Did I understand you to  
11 say that Qwest doesn't currently have any process in  
12 place or developed going forward to keep track of the  
13 wire -- or the line counts or the co-locater counts  
14 and update that?

15           MS. ALBERSHEIM:   The process we have is  
16 the preparation of the ARMIS reports that we do once  
17 a year. We don't have an extra process that would be  
18 necessary in order to give advance notice.

19           JUDGE GOODWILL:   So do you anticipate  
20 doing any updates in conjunction with that ARMIS  
21 reporting?

22           MS. ALBERSHEIM:   For the business line  
23 counts, yes.

24           JUDGE GOODWILL:   And there's been some  
25 discussion about adding centers to the list. What  
26

1 obligation does Qwest feel it has to subtract a  
2 center from the list if that was to become necessary  
3 in the future?

4 MS. ALBERSHEIM: Actually, the FCC stated  
5 that once a center is non-impaired it stays  
6 non-impaired so there is no change. And so we don't  
7 contemplate removing a wire center.

8 JUDGE GOODWILL: And you base that on the  
9 TRRO?

10 MS. ALBERSHEIM: Yes. Well, I believe  
11 it's more explicitly stated in the rules.

12 JUDGE GOODWILL: Any further questioning  
13 of this witness from any party?

14 MR. DUARTE: No, your Honor.

15 JUDGE GOODWILL: Okay. Thank you.

16 MR. DUARTE: Your Honor, Qwest would call  
17 David Teitzel as its next witness.

18 JUDGE GOODWILL: Mr. Teitzel? Please  
19 stand and raise your right hand and I'll swear you  
20 in. Do you solemnly swear that the testimony you are  
21 about to provide will be the truth, the whole truth  
22 and nothing but the truth, so help you God?

23 MR. TEITZEL: I do.

24 JUDGE GOODWILL: Thank you. Please be  
25 seated.

26

1                                 DAVID L. TEITZEL,  
2     called as a witness, was examined and testified as  
3     follows:

4                                 DIRECT EXAMINATION

5     BY MR. DUARTE:

6                 Q.     Good morning, Mr. Teitzel.

7                 A.     Good morning.

8                 Q.     Can you please state your full name and  
9     business address for the record?

10                A.     Yes. My name is David L. Teitzel, and  
11     that's spelled T-E-I-T-Z-E-L. My business address is  
12     1600 7th Avenue, Seattle, Washington, 98191.

13                Q.     Mr. Teitzel, who do you work for and what  
14     is your position?

15                A.     I work for Qwest Communications. My  
16     position is Staff Director in Qwest public policy.

17                Q.     Mr. Teitzel, did you prepare Direct  
18     Testimony that was filed on March 24, 2006, Response  
19     Testimony that was filed on May 24, 2006, and  
20     Surrebuttal Testimony that was filed on June 5, 2006?

21                A.     Yes, I did.

22                Q.     Does your Direct Testimony also have one  
23     exhibit?

24                A.     Yes, it does.

25                Q.     Is that exhibit to your Direct Testimony  
26

1 "Confidential" or "Highly Confidential"?

2 A. It is "Highly Confidential."

3 Q. Does your Response Testimony have any  
4 exhibits?

5 A. It does not.

6 Q. And does your Surrebuttal Testimony also  
7 have an exhibit?

8 A. Yes, it does.

9 Q. And is the exhibit to your Surrebuttal  
10 Testimony "Confidential" or "Highly Confidential"?

11 A. That exhibit is "Highly Confidential."

12 Q. Mr. Teitzel, do you have any corrections  
13 to make to your testimony or any exhibits?

14 A. No, I don't.

15 Q. Mr. Teitzel, are all of the answers in all  
16 of your testimony true and correct, to the best of  
17 your knowledge?

18 A. Yes, they are.

19 Q. To the extent that any of these exhibits  
20 is a copy of a document, are all such exhibits true  
21 and correct copies of the documents that they purport  
22 to be?

23 A. Yes, they are.

24 Q. And are all of your exhibits either  
25 documents that were prepared or gathered in the

26

1 ordinary course of business at Qwest by you or by a  
2 Qwest employee under your supervision for purposes of  
3 this docket?

4 A. That's correct.

5 Q. And, Mr. Teitzel, if I were to ask you the  
6 same questions here, would your answers be  
7 substantially the same as those set forth in your  
8 written testimony?

9 A. Yes, it would.

10 MR. DUARTE: Your Honor, we have marked  
11 Mr. Teitzel's Direct Testimony as Qwest Exhibit 2 and  
12 the "Highly Confidential" exhibit attached to that  
13 testimony as "Highly Confidential" Exhibit 2.1. As  
14 you'll note, Exhibit 2.1 has been provided on pink  
15 paper so it is easily recognizable as a "Highly  
16 Confidential" document.

17 And in addition we have marked Mr.  
18 Teitzel's Response Testimony as Qwest Exhibit 2R.  
19 And finally, we have marked Mr. Teitzel's Surrebuttal  
20 Testimony as Qwest Exhibit 2SR and the "Highly  
21 Confidential" exhibit to that testimony as "Highly  
22 Confidential" Exhibit 2SR.1. Again, as you will  
23 note, Exhibit 2SR.1 has been provided on pink paper  
24 so that it is easily recognizable as a "Highly  
25 Confidential" document.

26

1           At this time, your Honor, Qwest moves for  
2 admission to the evidence and record in this  
3 proceeding all of Mr. Teitzel's testimony and  
4 exhibits as follows: Qwest Exhibit 2 and the  
5 attached "Highly Confidential" Exhibit 2.1, Qwest  
6 Exhibit 2R and Qwest Exhibit 2SR and the attached  
7 "Highly Confidential" Exhibit 2SR.1.

8           JUDGE GOODWILL: Any objections?

9           MR. KOPTA: No objection, your Honor.

10          MR. GINSBERG: No.

11          JUDGE GOODWILL: They're admitted.

12          MR. DUARTE: Thank you, your Honor.

13          Q.       (BY MR. DUARTE) Mr. Teitzel, do you have  
14 a summary of your testimony?

15          A.       Yes, I do.

16          Q.       Can you please present it, your summary?

17          A.       Yes, I will. And this will be very brief.  
18 My testimony addresses in large part how Qwest  
19 responded to the FCC's TRRO in defining the number of  
20 business access lines in Utah wire centers, and  
21 essentially my testimony boils down to one wire  
22 center, and that's Salt Lake City Main in which Qwest  
23 has met the 60,000 line non-impairment threshold with  
24 respect to DS1 and DS3 unbundled loops.

25                 And this entire discussion relative to  
26



1 business lines focuses on only two paragraphs out of  
2 the TRRO order that is nearly 200 pages long, and  
3 that would be paragraph 105 of the TRRO and also the  
4 FCC's Associated Implementation Rules which are found  
5 at 47 Code of Federal Register 51.5.

6           And I think it's important as we discuss  
7 business lines to just focus on what the words say.  
8 I think the words are very clear. Let me just read  
9 briefly. In paragraph 105 of the TRRO the FCC  
10 defines business lines as, and I'll quote, "The block  
11 wire center data that we analyze in this order is  
12 based on ARMIS 43-08 business lines plus business  
13 UNE-P, plus business UNE loops."

14           And then their Associated Implementation  
15 Rules provide a bit more clarity around what a  
16 business line is. I think this is very important for  
17 the discussion today. At Section 51.5 the FCC's  
18 Implementation Rules define a business line as  
19 follows: "A business line is an incumbent LEC,"  
20 that's L-E-C, "owned switched access line used to  
21 serve a business customer whether by the incumbent  
22 LEC itself or by a competitive LEC that leases a line  
23 from the incumbent LEC."

24           Again, that's very important because it  
25 defines the business line as encompassing both Qwest  
26

1 retail lines and wholesale lines Qwest sells to  
2 CLECs. Keeping that in mind, the FCC further says,  
3 "Business line teles (1) shall include only those  
4 access lines connecting end user customers with  
5 business lines" -- excuse me, let me try that again.

6 "Section 1 shall include only those access  
7 lines connecting end user customers with incumbent  
8 LEC end offices for switch services.

9 Item 2, "Shall not include non-switched  
10 special access lines." And number 3, "Shall account  
11 for ISDN and other digital access lines by counting  
12 each 64 kilobit per second equivalent as one line.  
13 For example, a DS1 line corresponds to 24 64 kilobit  
14 per second equivalents and, therefore, to 24 business  
15 lines."

16 The important thing about those three  
17 qualifiers in that section is they all define the  
18 business lines as the FCC defines them. And keep in  
19 mind the business lines are defined by the TRRO as  
20 both retail and wholesale services. I think that's  
21 very important.

22 With that in mind, Qwest followed the FCC  
23 rules explicitly in counting business lines in Utah.  
24 And once again, for the Salt Lake Main Wire Center we  
25 did the following: We used the most current ARMIS  
26

1 data available to Qwest as of February 2005 for the  
2 filing of our initial non-impairment wire center list  
3 with the FCC. And recall that the FCC asked all of  
4 the RBOCs to file that list in February. They then  
5 reviewed that list, incorporated the findings into  
6 their order which came out in March 11, 2005.

7 So again, the 2003 data was the most  
8 current ARMIS data available to Qwest when we were  
9 required to file our initial non-impairment list.

10 We also included business UNE-P access  
11 lines, not residential access lines as required by  
12 the TRRO. We included all UNE-loops in our count as  
13 required by the TRRO irrespective of what sort of  
14 service was provided over those loops, whether it be  
15 business, whether it be residence or another service.  
16 And then finally we included the full DSO channel  
17 capacity of any DS1 or DS3 line, either retail or  
18 wholesale in the Salt Lake City Main Wire center.  
19 Those things are called for specifically in the FCC's  
20 orders and their rules I just read.

21 And in summary, my "Highly Confidential"  
22 exhibit, Qwest 1.1, as marked, when properly  
23 following the FCC's definitions and their rules,  
24 would specify that the Utah, Salt Lake City Main Wire  
25 Center is above the 60,000 line non-impairment  
26

1 threshold.

2 Thank you.

3 Q. Thank you, Mr. Teitzel.

4 Mr. Teitzel, Mr. Denney of the Joint CLECs  
5 filed Surrebuttal Testimony on June 5, 2006 to which  
6 you have not had an opportunity to respond in written  
7 testimony. Do you wish to briefly respond to any  
8 issues in Mr. Denney's Surrebuttal Testimony?

9 A. Yes, if I could. And this, again, will be  
10 very brief. There are three items in Mr. Denney's  
11 Surrebuttal Testimony I feel warrant a response. And  
12 the pages 14 and 15 of the Surrebuttal he makes the  
13 point that Qwest used data that was over one year old  
14 when the FCC released its TRRO order on March 11,  
15 2005. And he also suggests that Qwest should  
16 consider using data that hadn't yet been input to  
17 ARMIS.

18 And once again, I should just emphasize  
19 that Qwest inputs its ARMIS data to the FCC in April  
20 of each year. In February, when our initial list was  
21 provided, the most current data available in ARMIS  
22 was December 2003 data. Qwest properly used the  
23 correct data.

24 Mr. Denney also said on pages 14 and 15  
25 that Footnote 303 of the TRRO, and I quote,

26

1 "Specifically refers to December 2004 data." And I  
2 can tell you that I did review Footnote 303 again  
3 last week before traveling to Utah and I can tell you  
4 that is not correct. Footnote 303 simply refers to  
5 the FCC's ARMIS input instructions. It defines what  
6 line types are in each category of ARMIS. It talks  
7 about how the data should be input to the FCC  
8 process. Those revised guidelines, which are  
9 referred to on Footnote 303, were issued in December  
10 2004 and Qwest followed those guidelines when it  
11 input its 2004 data in April of the following year.  
12 But once again, Footnote 303 does not refer to the  
13 vintage of 2004 data.

14 And finally, at page 17 Mr. Denney says  
15 that "Qwest responds the Joint CLEC Data Request  
16 Number 01-031, as well as 01-033 which simply updated  
17 Qwest line counts for the December '04 data vintage  
18 showed that the Salt Lake City Main access line  
19 counts drop below the 60,000 line threshold."

20 However, I responded to both those data  
21 requests personally and he didn't mention the fact  
22 that in response to our data requests 01-031 we  
23 mentioned the fact that ARMIS data does not always  
24 account for DS1 channels to the proper home wire  
25 center from which they originated. The example I  
26

1 provided was that pure Internet service providers in  
2 Salt Lake City often will subscribe to a service such  
3 as ISDN primary rate service that is originated in  
4 the Salt Lake City Main switch but then terminates in  
5 another wire center where the Internet service  
6 provider's equipment might be located.

7           And in that case it might originate in  
8 Salt Lake City Main, terminate in Salt Lake City  
9 West, as an example. Since Qwest reports its ARMIS  
10 data to the statewide level, those channels are not  
11 miscounted at the statewide level. However, when you  
12 look at the wire center level it would attribute  
13 those DS1 channels to the Salt Lake City West Wire  
14 center, not the Salt Lake City Main Wire center which  
15 they should properly be counted against because  
16 that's where those lines originate.

17           There are no loops that originate in that  
18 instance that leave Salt Lake City West. So, in  
19 effect, the Internet service provider is the end use  
20 subscriber receiving service from the Salt Lake City  
21 Main Wire center.

22           So I think that's an important clarifier.  
23 And when those access lines in the ARMIS data are  
24 adjusted for that problem Qwest continues to be above  
25 the 60,000 line threshold in the Salt Lake City Main  
26

1 Wire center.

2 And that's the extent of my Surrebuttal.

3 Thank you, Your Honor.

4 MR. DUARTE: Thank you, Mr. Teitzel.

5 Your Honor, I have no further questions  
6 for Mr. Teitzel at this time. Qwest would tender Mr.  
7 Teitzel for cross-examination.

8 JUDGE GOODWILL: Mr. Kopta?

9 MR. KOPTA: Thank you, your Honor.

10 CROSS-EXAMINATION

11 BY MR. KOPTA:

12 Q. Good morning, Mr. Teitzel.

13 A. Good morning. Good to see you again.

14 Q. And you.

15 Let's start with something that Ms.  
16 Albersheim punted to you, which is how Qwest will  
17 track business line data on a going-forward basis to  
18 determine whether a wire center should be designated  
19 as non-impaired that currently is not so designated.  
20 Do you recall that discussion?

21 A. Yes, I do.

22 Q. Can you tell me whether Qwest has any  
23 mechanism in place in connection with its ARMIS  
24 filing report to undertake that kind of analysis on a  
25 yearly basis?

26

1           A.     Let me just say that access line tracking  
2     is done on a monthly basis in Qwest. We obviously  
3     have billing records, we do that tracking. However,  
4     that is not ARMIS data. ARMIS data is defined in a  
5     very particular way, as Mr. Denney said, in reference  
6     to Footnote 303 in the order. Qwest follows those  
7     guidelines when it puts together its ARMIS data once  
8     per year. And so once the data is input into the  
9     FCC's ARMIS system it then becomes ARMIS data on that  
10    once-a-year basis.

11                 So Qwest would look at that data as it's  
12    prepared and input to ARMIS and determine at that  
13    point whether we were at a threshold, non-impairment  
14    threshold whereby we should notify the CLECs as well  
15    as the Commission and address that with them then.  
16    But I see that process happening on a once-a-year  
17    basis.

18           Q.     But you anticipate that will happen on an  
19    annual basis in conjunction or shortly after filing  
20    the ARMIS data with the FCC in April of each year?

21           A.     Qwest will look at the data that it inputs  
22    to ARMIS and determine whether threshold has been  
23    met. That will then trigger an action by Qwest to  
24    declare that legally the wire center has met the  
25    threshold. And that then would be provided, that

26



1 information would be provided to the Joint CLECs,  
2 other interested parties for the Commission or the  
3 30-day rule.

4 Q. And if this Commission were to establish a  
5 sort of warning, if you will, of potential impairment  
6 by requiring that Qwest let the Commission and the  
7 CLECs know when a wire center is within 5,000 lines  
8 of being designated as non-impaired, that's something  
9 that could be done at the same time as you're doing  
10 this same ARMIS review for non-impairment purposes?

11 A. Again, that review would be coincident  
12 with the preparation of the December data, end of  
13 year data to be input into ARMIS in April. So I see  
14 those things happening coincidentally.

15 Q. And do you see that as a significant extra  
16 burden on Qwest if it were to look at different  
17 threshold than what the FCC has required that you  
18 look at for non-impairment purposes?

19 A. Well, I think the intent of the TRRO is  
20 that we would define a wire center as being  
21 non-impaired against its matrix and then notify  
22 interested parties of that fact. Qwest doesn't as a  
23 normal course of business in its internal data define  
24 its data the way it's defined in ARMIS. We have to  
25 do manipulations and reassemble the data for that

26

1 input purpose. So if we were to go back in time a  
2 month, two months, three months prior to the input  
3 date of the ARMIS data and use non-ARMIS data it  
4 would require an additional manipulation step that's  
5 not done now.

6 Q. Perhaps I wasn't too clear on my question.  
7 If you're going to be looking at ARMIS data to  
8 determine, for example, whether a wire center has  
9 24,000 business lines to meet a particular threshold,  
10 would it be any significant extra burden to determine  
11 whether the wire center has 19,000 business lines?

12 A. Frankly, I don't see these as even being  
13 relevant because if Qwest believes we met the  
14 threshold, the threshold would be pretty clear.

15 Q. Well, let's just say, put it in terms of  
16 the Commission establishing a pre-threshold for Utah  
17 Public Service Commission purposes, they want to know  
18 when a wire center is within 5,000 lines of being  
19 potentially designated as non-impaired. And again,  
20 in my example of 24,000 access or business lines, the  
21 Utah Commission would want to know when a wire center  
22 reaches 19,000.

23 A. I see your question.

24 Q. So I'm asking, if the Commission were to  
25 establish that as a requirement, that's something  
26

1 that could be readily done as part of the process  
2 that you've done for looking at non-impairment  
3 thresholds established in the TRRO?

4 A. Well, let me suggest this. Qwest will  
5 review its ARMIS data in late March in preparation  
6 for inputting it in early April into ARMIS. At that  
7 point the data would be in the system and I suppose  
8 the Commission would be within its rights to require  
9 Qwest to define a different threshold and provide  
10 advance notice, but that advance notice would be  
11 based on the December data that's input in April.  
12 That would be essentially looking at data that would  
13 be a year in arrears were Qwest to the following  
14 April determine that a wire center is non-impaired,  
15 that it had hit 19,000 and now is up to 24,000, for  
16 example. So a lot can happen in a year's period. So  
17 I'm not even sure a year's advance notice would even  
18 make sense in the current business environment.

19 Q. But it could be done?

20 A. Correct, theoretically it could be done.

21 Q. If you would, please turn to your

22 Surrebuttal Testimony.

23 A. I have that.

24 Q. And specifically I direct you to page 8.

25 A. I have that page.

26

1 Q. And on that page you are discussing, I  
2 believe, what you also were discussing some this  
3 morning in terms of adjusting business line counts to  
4 account for in-service digital business channels that  
5 are associated with a wire center outside of Salt  
6 Lake Main, for example, Salt Lake West I think was  
7 the example that you gave.

8 A. Yes, it was.

9 Q. Where the service was actually provided  
10 out of the Salt Lake Main Wire center; is that  
11 correct?

12 A. That's correct.

13 Q. And you made a calculation based on what  
14 you describe here on page 8, in particular the last  
15 few lines of that page beginning on line 151, which  
16 is reflected in Exhibit DLD-2 or Qwest 2SR.1,  
17 correct?

18 A. That is correct.

19 Q. And you did not provide the ratio that you  
20 used to develop that figure as part of your  
21 testimony, did you?

22 A. I did not.

23 Q. And is that ratio, does that come from  
24 ARMIS data?

25 A. The ratio is based on, yes, ARMIS data and  
26

1 is looked at at the statewide level.

2 Q. And also in your testimony you don't  
3 include how that ratio itself was calculated, did  
4 you?

5 A. I did not. Let me just clarify, Qwest is  
6 not sponsoring this methodology. Qwest is sponsoring  
7 a methodology that says that the TRRO is very clear.  
8 It requires that all channels of the digital access  
9 line be counted against the home wire center. That's  
10 the way the Qwest data was put together. What this  
11 testimony says is that if Qwest were required to  
12 provide actual in-service channels this adjustment  
13 would also be required. But to be clear, Qwest is  
14 not sponsoring this method.

15 Q. And I understand that. But if the  
16 Commission were to adopt the Joint CLEC and Division  
17 proposal that Qwest adjustments to the ARMIS data to  
18 account for capacity, not just circuits in use as  
19 something that shouldn't be included, is it Qwest's  
20 position that this adjustment that we were just  
21 talking about should be made under those  
22 circumstances?

23 A. If Qwest were required to provide actual  
24 channels by the Commission, this adjustment would be  
25 appropriate and necessary.

26

1 Q. And the adjustment itself doesn't account  
2 for the actual number of DSO channels, does it? I  
3 mean, it's an approximation; isn't that correct?

4 A. It's based on Qwest's statewide average  
5 ARMIS data and ratios developed from that basis and  
6 applied to the number of digital facilities that are  
7 leaving the Salt Lake Main Wire center.

8 Q. But that's an estimate of the number, it's  
9 not the actual number; is that correct?

10 A. It's based on the statewide average  
11 applied to Salt Lake Main.

12 Q. But again, I'm looking for a yes or no  
13 answer to my question.

14 A. I'm sorry. On that basis it would be a  
15 statewide average number which is an actual number  
16 applied to Salt Lake Main to estimate the number in  
17 Salt Lake Main.

18 Q. Okay. I will accept that. Thank you.  
19 Those are all my questions.

20 A. Thank you.

21 JUDGE GOODWILL: Mr. Ginsberg?

22 CROSS-EXAMINATION

23 BY MR. GINSBERG:

24 Q. Do you have Mr. Denney's testimony  
25 Surrebuttal with you?

26

1           A.     I'm sorry, I don't have it on the stand  
2 with me.

3           Q.     Do you recall that he has a table that  
4 shows basically how decisions have been made in other  
5 states dealing with the issues that you're testifying  
6 to on this DS1 and DS3 capacity issue?

7           A.     Yes, sir, I do recall that.

8           MR. DUARTE: Your Honor, could I approach  
9 the witness and give him my copy of that page? Is  
10 that page 5, the chart on page 5?

11          MR. GINSBERG: Yes.

12          JUDGE GOODWILL: Thanks, Mr. Duarte.

13          Q.     (BY MR. GINSBERG) Now, just  
14 preliminarily, and I think your other witness  
15 testified to this, that your view is that this  
16 designation of the number of lines is supposed to be  
17 simple, self-effectuating, non-controversial, maybe  
18 after the first set of hearings? In other words, it  
19 could pretty much move along pretty quickly once  
20 you've reached the 60,000 lines; is that fair?

21          A.     To the extent possible, it should be  
22 simple and self-effectuating, I would agree with  
23 that.

24          Q.     ARMIS data will list the number of  
25 business lines that are actually in use?

26

1 A. Yes, it does.

2 Q. So you had to alter the number of business  
3 lines in use to take into account the unused DS1 and  
4 DS3 channels that are yours?

5 A. Yes. We had to do a calculation to show  
6 full capacity of the DS1 and/or DS3 service, whether  
7 it be retail or wholesale.

8 Q. But just the ARMIS data itself doesn't do  
9 that?

10 A. It does not.

11 Q. And does the ARMIS data list the wholesale  
12 lines, DS1 and DS3s, that are being purchased by the  
13 CLECs?

14 A. No, it does not. That comes from a  
15 separate source.

16 Q. So where do you get that information?

17 A. It's our wholesale tracking system.

18 Q. So you then take the number that is in  
19 your wholesale tracking system of DS1 and DS3 that a  
20 CLEC is purchasing and multiply it by the number of  
21 channels and throw that number into your mix to come  
22 up with the total number?

23 A. Yes, sir. For example, DS1 would be  
24 multiplied by a factor of 24 because there are 24 DSO  
25 channels in a DS1.

26



1 Q. But you don't have any idea, though, do  
2 you, if a CLEC is using all those channels?

3 A. No, we do not.

4 Q. But you do know for yourself whether  
5 you're using all those channels?

6 A. Yes, we do.

7 Q. Now, on this table --

8 JUDGE GOODWILL: Excuse me. Mr. Ginsberg,  
9 could you point me to the page again you're on?

10 MR. GINSBERG: Page 5.

11 JUDGE GOODWILL: Okay. Thanks.

12 Q. (BY MR. GINSBERG) The column that says  
13 ARMIS 43-08, do you see that column?

14 A. Yes, I do.

15 Q. And it says as is and it lists the only  
16 Qwest state as Washington. As is means, do you  
17 understand that to mean that you don't adjust the  
18 ARMIS data the way you've adjusted it?

19 A. As is means the data would be as is as it  
20 is reported in ARMIS, that's correct, without  
21 adjustment.

22 Q. So it looks like many states have,  
23 including one of yours, have determined not to  
24 manipulate the ARMIS data to include all of the DS1  
25 and DS3 channels that aren't in use that are Qwest's

26

1 channels?

2 A. Let me respond to your question by saying  
3 there's a mixture here. Some states have agreed with  
4 Qwest's process in this proceeding, other states have  
5 not agreed with that process. We think that the  
6 FCC's rules that I read into the record in my summary  
7 are very clear, they apply to both retail and  
8 wholesale.

9 Q. But you would agree that it takes away  
10 from the simplicity of the process?

11 A. Unfortunately, it does take away from the  
12 simplicity. And I would suggest that it's also an  
13 enforcement of the ARMIS data, as I testified  
14 earlier, which is reported at the statewide level for  
15 the FCC. It was not intended to be used for this  
16 purpose and so it does require some adjustment, if  
17 you will, to make it fit the FCC's requirements.

18 Q. And the other aside, the column CLEC  
19 High-Capacity Loop Count, the last column is the one  
20 where the question is should you actually go out and  
21 try and figure out how many of the DS1 and DS3  
22 channels the CLECs are using; is that right?

23 A. Yes.

24 Q. How would you do that?

25 A. It would take a very complicated  
26

1 inventory. It would likely require data requests to  
2 the CLECs asking for highly confidential data. It  
3 would not be a simple process.

4 Q. So it also takes away from the simplicity  
5 of the process, does it not?

6 A. Absolutely.

7 Q. Washington is the only state, and we tried  
8 to find the Washington order and apparently there is  
9 no order in Washington; is that right?

10 A. There is an Administrative Law Judge order  
11 that's been released, but there's not a final order  
12 from the Commission in that docket as of yet.

13 MR. DUARTE: Your Honor, if I can  
14 interject, it is one of the exhibits to Mr. Denney's  
15 testimony.

16 MR. GINSBERG: Oh, it is? In the order?

17 MR. KOPTA: That's correct. The initial  
18 order is Exhibit DD-03.

19 MR. GINSBERG: Thank you.

20 Q. (BY MR. GINSBERG) Now, you were asked  
21 some questions about did you make these monthly  
22 counts of number of business lines. Is that a  
23 question that Mr. Kopta asked you? Do you remember  
24 that?

25 A. Yes, I believe.

26

1 Q. You have a monthly tracking system to know  
2 the number of business lines that is in an office?

3 A. Yes. I believe my response was that Qwest  
4 clearly does track its business and residential lines  
5 and its wholesale lines on a monthly basis. The  
6 problem is that Qwest does not track that data as  
7 ARMIS defines it. It requires additional assembly of  
8 information, additional calculation to get the data  
9 into ARMIS format which is provided to the FCC in  
10 April of each year.

11 Q. Well, how different are the number of  
12 business lines that are counted in your tracking  
13 system and the ARMIS data that's eventually reported?

14 A. Well, there are differences. The  
15 differences vary by state. They're not on the order  
16 of magnitude of 50 percent, it's a smaller number  
17 than that. But there are definitely differences.

18 Q. Have you actually tried to go back and  
19 determine what the differences and determine how  
20 material they are? Do they over or underestimate the  
21 number of lines that eventually appear in ARMIS?

22 A. I think it could go either way, quite  
23 frankly, and does in different states. But I have  
24 not personally gone back and tried to create ARMIS  
25 data from a different vintage of time.

26

1 Q. But that data does tell you, though, when  
2 there is "X" number of business lines in an exchange?

3 A. I'm sorry, which data again, sir?

4 Q. Your monthly data does tell you for  
5 purposes of your tracking on a monthly basis how many  
6 lines are in that exchange?

7 A. It would tell us how many simple business  
8 lines are in the exchange or wire center, if you  
9 will. It would tell us the number of active channels  
10 that are tracked as being in a particular wire center  
11 if they're served by a DS1 or DS3 service.

12 Q. Then how is that different than your ARMIS  
13 data? I thought that's what you told me your ARMIS  
14 data was.

15 A. I'm sorry. Are you asking about the ARMIS  
16 data or the Qwest?

17 Q. How is what you've just described  
18 different from your ARMIS data?

19 A. There are different definitions around  
20 service like how the Qwest official service lines are  
21 counted, differences around how public coin lines are  
22 categorized and tracked. There are differences,  
23 again, that flow into the problem I mentioned a  
24 moment ago of how DSO channels associated with  
25 digital high-capacity services are tracked.

26

1                   And once again, let me just reiterate, in  
2 the ARMIS data, those channels are tracked to the far  
3 end wire center when, in fact, they're being served  
4 by a home wire center where they should be properly  
5 attributed.

6           Q.     That's the example you were --

7           A.     Yes, it is.

8           Q.     -- that you reflect on your exhibit, your  
9 Surrebuttal exhibit?

10          A.     I talked about that in my testimony. I'm  
11 not sure I reflected that in my exhibit.

12          Q.     Can you go to that exhibit, please?

13          A.     Yes, I can.

14          Q.     I think it's your -- well, it's our only  
15 Surrebuttal exhibit. We couldn't determine where  
16 your numbers come from that appear on this exhibit  
17 that you show in Salt Lake Main business lines. We  
18 could find no exhibit that reflected that number.  
19 Can you tell us where that came from?

20          A.     This is something that I personally  
21 created to demonstrate that were these calculations  
22 to be done properly using December 2003 data,  
23 assuming the actual access lines in service as Mr.  
24 Denney advocated as of Mr. Coleman, that even with  
25 that manipulation we would still be about the 61,000

26

1 line access threshold.

2 Now, this was not meant to be a  
3 representation that Qwest sponsors these numbers,  
4 these numbers are created by a method that Qwest  
5 believes is appropriate under the TRRO. It's meant  
6 is an illustration that we would still be above the  
7 threshold.

8 Q. For purposes of our discussion I'm  
9 referring to the first number under Quantity. Is  
10 that what you were referring to?

11 A. I'm sorry, I'm looking at the bottom line  
12 total for Salt Lake Main access lines as of December  
13 2003.

14 Q. So you took, basically, the number of  
15 active in-service business lines that's reported in  
16 the ARMIS data, then applied these ratios that you  
17 referred to with Mr. Kopta and sort of added those  
18 into it?

19 A. That's correct.

20 Q. And do we know what that number is that  
21 you added in off this exhibit?

22 A. Not from this exhibit. Again, this is  
23 meant as an illustration.

24 Q. Well, not quite. Because you're actually  
25 indicating, if I understood you from Mr. Kopta, that

26

1 if the proposal being made, that you only count  
2 actual lines that this is your proposal; is that  
3 correct?

4 A. Well, Qwest believes strongly that the  
5 TRRO order requires all channels to be counted. It's  
6 very clear. So Qwest does not agree that this method  
7 is the appropriate method.

8 Q. So if the proposal made by the Division  
9 and the CLECs is adopted then you would agree that  
10 the Salt Lake Main office does not qualify?

11 A. I would not at all agree with that.

12 Q. The only way it would, then, would be by  
13 doing this?

14 A. You would have to properly adjust the  
15 numbers to attribute all of the business lines as the  
16 FCC defines them to the appropriate wire center.

17 Q. So is the answer yes, the only way the  
18 Salt Lake Main office would qualify is if you applied  
19 these ratios that you just referred to, to throw in  
20 those extra ISP lines into the Salt Lake Main office?

21 A. Well, clearly Salt Lake Main is close to  
22 the 60,000 line threshold, it doesn't exceed it by  
23 much. And if you did not do that appropriate  
24 adjustment that we just spoke about it would fall  
25 below the 60,000 line threshold.

26



1           Q.     Now, when I read that, one of those  
2 paragraphs in the TRRO it seemed to say specifically  
3 that in order to keep things simple that you  
4 shouldn't go through this process that you went  
5 through in trying to figure out what these lines are  
6 that may be in one office but actually should be  
7 counted in another office. Is that right?

8           A.     The TRRO was silent on that particular  
9 point. However, let me just point out that paragraph  
10 105 again says the data that will be analyzed in this  
11 order is based on ARMIS 43-08 data. It doesn't say  
12 that that data can be modified in any way to meet the  
13 requirements of the order. It doesn't say that.

14          Q.     Well, you actually propose quite a few  
15 modifications to the simple self-effectuating  
16 process, do you not? You're proposing to modify the  
17 data for purposes of the Qwest count and now you  
18 would also propose to modify the ARMIS data to  
19 actually determine these ISDN/ISP lines, do you not?

20          A.     What I suggest is that we have proposed  
21 modifications that allow Qwest to comply with the  
22 order, but no more modifications than are necessary.

23          Q.     Now, you indicated that this number was an  
24 average, a statewide average?

25          A.     I'm sorry, sir?

26

1 Q. The ratio that you applied was a statewide  
2 average?

3 A. It was based on a statewide calculation of  
4 the ARMIS, underlying ARMIS data.

5 Q. And could you actually have gone and done  
6 a count?

7 A. There could be a manual accounting method  
8 pursued, but we didn't do that in this case because  
9 we did have the statewide average available.

10 Q. Now, you said the Salt Lake Main office  
11 was pretty close.

12 A. It is close to the 60,000 line threshold.

13 Q. It couldn't get much closer, could it?

14 A. It could get a little bit closer.

15 Q. So it's very likely, it's very possible,  
16 then, is it not, that even if this ratio or this  
17 proposal of counting these lines from other offices  
18 was adopted that applying the ratio could be  
19 different than what the actual count is for that  
20 office?

21 A. That's potentially possible.

22 Q. And it wouldn't have to be very far off to  
23 let this office fall below the 60,000, would it?

24 A. No.

25 MR. GINSBERG: Thank you.

26

1 THE WITNESS: Thank you, sir.

2 JUDGE GOODWILL: Mr. Duarte?

3 MR. DUARTE: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. DUARTE:

6 Q. Mr. Teitzel, is it your understanding that  
7 Qwest does not begin the analysis for the ARMIS  
8 report, in other words, to prepare the ARMIS report  
9 until after December 31st so that Qwest can prepare  
10 the report for the previous year?

11 A. That's my understanding.

12 Q. So is it your understanding that Qwest  
13 looks at the data pretty much in the first quarter of  
14 the next year of January, February, March to look at  
15 the December 31 data in order to file it by April 1  
16 with the FCC?

17 A. That's correct.

18 Q. Now, there may be a little bit of  
19 confusion here so I'm going to go ahead and ask you  
20 this question and I hope it's not too repetitive of  
21 your testimony. But tell us why Qwest is concerned  
22 about sort of a two-minute warning kind of 5,000-line  
23 warning that the Joint CLECs have advocated and the  
24 DPU has also supported.

25 A. Well, it requires an additional process  
26

1 that has not been contemplated, to the best of my  
2 knowledge by the FCC. Qwest will provide to CLECs  
3 and other parties, including the Commission, with  
4 30-day notice when we believe that a particular wire  
5 center has met the threshold, a business line  
6 threshold. Going through an analysis about  
7 additional wire centers that might be potentially  
8 coming close would require an additional step,  
9 additional analysis, additional reporting, additional  
10 burden, expense on Qwest that is simply not required.

11 Q. And based on your testimony about January,  
12 February and March, would it be your understanding  
13 that that would be the time, the one time a year that  
14 Qwest would be looking at this ARMIS data and be able  
15 to determine that, hey, something just made it to  
16 threshold at that point in time?

17 A. That's correct. Just to go further, if we  
18 were to look at data in June and see that we were  
19 getting close to the threshold or in fact had  
20 exceeded the threshold by that point, things are  
21 changing fast in this environment, this telecom  
22 environment, and it's likely that the factors would  
23 be changed again. Qwest has to do the analysis, the  
24 formal analysis to submit to the parties. So it  
25 would just be an additional step.

26

1           Q.     And if somehow the threshold had been met,  
2     for example, in June of a year, but then by December  
3     of the year it actually fell below the threshold and  
4     then if Qwest was reporting that to ARMIS the  
5     following year, what would be the result with respect  
6     to whether a wire center would or would not be  
7     eligible for the list?

8           A.     The result would be that the data looked  
9     at in end-of-year data in December submitted in April  
10    would be the determinate of non-impairment, not the  
11    earlier data.

12          Q.     Now, there's been discussion about ARMIS  
13    and how ARMIS has to be adjusted in some ways because  
14    it's -- well, it has to be adjusted. Do you believe  
15    that this is because ARMIS was what the FCC required  
16    the parties to use?

17          A.     I'm sorry, would you ask your question  
18    again?

19          Q.     Sure. Mr. Ginsberg was asking you some  
20    questions about simplicity and about how there's been  
21    some adjustments to ARMIS that perhaps make it less  
22    than simple. Do you believe that that's because  
23    ARMIS was what the FCC required the parties to use,  
24    but that the rules themselves set forth additional  
25    requirements as well?

26

1           A.     I would agree with that.  The TRRO  
2 requires ARMIS data to be used as a basis for the  
3 access line counts, for the retail access line  
4 counts.  But the FCC's order and rules require  
5 certain adjustments to be made to that base data.

6           Q.     There was some discussion about whether or  
7 not ARMIS was sort of the right process to use.  But  
8 to count business lines, do you believe that ARMIS  
9 may not be perfect for this particular process but  
10 probably the best that the FCC has without  
11 reinventing the wheel of a new process for purposes  
12 of this exercise in the TRRO?

13          A.     I would agree with that.

14          Q.     Now, Mr. Ginsberg asked you a few  
15 questions about the situation you describe in your  
16 Surrebuttal Testimony regarding the far end wire  
17 center and the home wire center and you used the  
18 example of Salt Lake City Main and Salt Lake City  
19 West Wire centers, if I remember correctly?

20          A.     That's correct.

21          Q.     Do you know whether the situation that you  
22 describe actually exists in the specific Salt Lake  
23 City Main Wire center?

24          A.     Yes, it does exist.

25          Q.     And you have done the analysis or done the  
26

1 research to determine that?

2 A. I have not done the analysis myself, but I  
3 reviewed the results of the analysis.

4 MR. DUARTE: That's all the questions I  
5 have, your Honor. Thank you.

6 JUDGE GOODWILL: Mr. Kopta?

7 MR. KOPTA: I have nothing further at this  
8 time.

9 JUDGE GOODWILL: Mr. Ginsberg?

10 RE-CROSS-EXAMINATION

11 BY MR. GINSBERG:

12 Q. Do you have the TRRO order in front of  
13 you?

14 A. I do not.

15 Q. In paragraph 104 it seems to imply that  
16 they set the 60,000 limit lower because they  
17 understand that there's other lines that may be in  
18 that office that aren't being counted in the ARMIS  
19 data. Do you recall that language?

20 MR. DUARTE: I'll object, your Honor, on  
21 the grounds that it may call for a legal conclusion  
22 and also that it may assume facts that are not so.  
23 But --

24 Q. (BY MR. GINSBERG) Well, go ahead.

25 MR. GINSBERG: Sorry. Were you finished?

26

1 MR. DUARTE: Yes.

2 JUDGE GOODWILL: Repeat your question for  
3 me.

4 Q. (BY MR. GINSBERG) Well, I asked whether  
5 in paragraph 104 you recall that -- well, let me read  
6 you the language. "That the LEC business line counts  
7 in an office are likely to be -- underrepresent the  
8 total revenues available in that wire center.  
9 Nevertheless, we find that this shortcoming can be  
10 accomplished by established business line density  
11 thresholds lower to account for incumbent LEC line  
12 loss due to facilities that bypass the incumbent's  
13 loop network all together, including line loss from  
14 intermodal competition."

15 Do you recall that kind of language?

16 A. Yes, I do.

17 MR. DUARTE: Your Honor, I don't mean to  
18 interpose another objection, but maybe it will be  
19 more expedient if I give him paragraph 104. And  
20 obviously, if Mr. Ginsberg wants to ask him what the  
21 order said then I don't have a problem with that.

22 MR. GINSBERG: Well, I have a specific  
23 question.

24 JUDGE GOODWILL: That would be great.

25 MR. DUARTE: Thank you, Your Honor.

26



1 Q. (BY MR. GINSBERG) My question is, is the  
2 bypass that's being referred to the bypass that you  
3 described in your creation of a ratio for this  
4 schedule?

5 A. No. A bypass would not be included.

6 Q. What bypass is this talking about?

7 A. This is talking about the fact that in  
8 larger wire centers with a larger number and larger  
9 concentration of business lines there typically is  
10 more intermodal competition present, whether that be  
11 CLECs using fiber to bypass Qwest's network or  
12 whether the CLECs using coaxial cable such as Comcast  
13 to bypass Qwest's network, such as Wi-Fi wireless  
14 providers which also bypass Qwest's network. Those  
15 things are all more prevalent in highly concentrated  
16 wire centers like Salt Lake Main, for example.

17 So I think the FCC's conclusion, if I can  
18 -- from a lay perspective just interpret what their  
19 intent was, they suggested that they set the  
20 threshold a little bit lower than they might  
21 otherwise have to account for the fact that  
22 intermodal competition exists and the total number of  
23 business lines is likely a large number.

24 MR. GINSBERG: Okay. Thank you.

25 MR. TEITZEL: You're welcome.

26

1                   JUDGE GOODWILL: I have just a few  
2 questions and then I'll see if the parties have any  
3 more.

4                   Turning to the question of the vintage of  
5 ARMIS data used.

6                   MR. TEITZEL: Sure.

7                   JUDGE GOODWILL: I want to make sure I  
8 understand Qwest's position. The initial reporting  
9 that Qwest did to the FCC in 2005 -- it was 2005,  
10 correct?

11                  MR. TEITZEL: It was February of 2005,  
12 correct.

13                  JUDGE GOODWILL: Used December of 2003  
14 ARMIS data?

15                  MR. TEITZEL: That's correct, Your Honor.

16                  JUDGE GOODWILL: And in that reporting  
17 Qwest did or did not adjust both retail and wholesale  
18 DS1 and DS3 lines?

19                  MR. TEITZEL: It did adjust both retail  
20 and wholesale.

21                  JUDGE GOODWILL: Okay. And based on that  
22 reporting Qwest says we meet the 60,000 business line  
23 threshold in Salt Lake Main?

24                  MR. TEITZEL: That's correct, Your Honor.

25                  JUDGE GOODWILL: Now, the CLECs have  
26

1 looked at the issue of using December 2004 ARMIS data  
2 instead. And I believe, and correct me if I'm wrong,  
3 the argument has been made that if you use that data  
4 Salt Lake Main falls below 60,000?

5 MR. TEITZEL: That's their position, I  
6 would agree.

7 JUDGE GOODWILL: And we can talk more  
8 their position per their witnesses but, again, I  
9 believe that's based on their method of not counting  
10 Qwest's retail -- not adjusting Qwest's retail  
11 counts?

12 MR. TEITZEL: That's correct, Your Honor.  
13 And Qwest would maintain that if we provided 2004  
14 data in the same methodology we used for the 2003  
15 data, Salt Lake Main would still exceed that 60,000  
16 line threshold.

17 JUDGE GOODWILL: And that's what I was  
18 trying to get at. So the only adjustment to the 2004  
19 ARMIS data that Qwest would make is the same  
20 adjustment that it made in its initial reporting 2003  
21 data?

22 MR. TEITZEL: That's correct.

23 JUDGE GOODWILL: Because I thought I heard  
24 you say that the additional adjustment would be made  
25 with the 2004 data of attributing the proper number  
26

1 of channels to the home wire center as opposed to the  
2 far end wire center. Am I saying that correctly?

3 MR. TEITZEL: I'm sorry, let me just  
4 clarify. I think I testified that where Qwest would  
5 be ordered to provide, quote-unquote, actual  
6 in-service lines, which include actual in-service  
7 channels, that adjustment would have to be made.  
8 Otherwise, those channels in an ISDN primary rate  
9 scenario would be attributed to the incorrect wire  
10 center.

11 JUDGE GOODWILL: So that's the only time  
12 Qwest would make that adjustment is if the Commission  
13 were to adopt the CLECs and the Division's proposal  
14 for using in-service lines?

15 MR. TEITZEL: Yes, that's correct. And  
16 the reason that's true is when we look at the total  
17 access lines in service, including full channel  
18 capacity of the DS1 or a DS3 circuit, we simply take  
19 the number of in-service DS1 or DS3 facilities and  
20 multiply those by 24 with respect to DS1 service or  
21 672 with respect to DS3 service. So that process  
22 automatically ensure that that capacity is properly  
23 attributed to the proper wire center.

24 JUDGE GOODWILL: With respect to that  
25 process, could you clarify for me the statewide  
26

1 average that you're referring to?

2 MR. TEITZEL: Sure. We've taken a look at  
3 what the average number of active channels that are  
4 associated with an ISDN primary rate service, for  
5 example, are. There's a DS1 facility which is  
6 basically the pipe that hooks into the switch that  
7 serves multiple channels at our location. There's a  
8 ratio that can be calculated by looking at the total  
9 number of DS1 facilities for that service divided  
10 into the total number of channels for that service.  
11 That's the statewide average I spoke about, and that  
12 was applied to the Salt Lake City data.

13 JUDGE GOODWILL: Finally, I have a  
14 question about the -- again, about the process of  
15 updating the list of non-impaired wire centers.

16 MR. TEITZEL: Sure.

17 JUDGE GOODWILL: And you and Ms.  
18 Albersheim have both testified that Qwest received  
19 the basic process of waiting until the ARMIS data has  
20 been put together for a given year in December and  
21 when ARMIS reporting begins in late March, early  
22 April the following year, that's when Qwest would  
23 look to see whether or not one of its wire centers  
24 would be non-impaired with respect to business lines?

25 MR. TEITZEL: That's fair.

26

1           JUDGE GOODWILL: Mr. Duarte asked you some  
2 questions about, though, what happens if in June a  
3 particular wire center may be over the threshold but  
4 by December it's not. And I think under that  
5 scenario you testified that, well, we would be  
6 looking at the ARMIS data for December and would  
7 determine that that wire center doesn't meet the  
8 threshold. Is that accurate?

9           MR. TEITZEL: In that example that would  
10 be the case.

11           JUDGE GOODWILL: Are you aware of anything  
12 in the TRRO or otherwise that would prohibit Qwest  
13 from saying in June under that scenario, hey, we meet  
14 the threshold, let's file with the Commission to get  
15 that wire center on the non-impaired list?

16           MR. TEITZEL: Well, your Honor, I think  
17 the thing that prohibits that in the TRRO is that the  
18 order requires Qwest to use ARMIS data. I would  
19 suggest that ARMIS data doesn't exist, it's not  
20 verified, it's not finalized until the December data  
21 is submitted in April of the following year. If  
22 Qwest were required to produce an ARMIS-like report,  
23 and even then it would not be ARMIS data, it would be  
24 ARMIS-like data in mid year, that would be an  
25 additional step, additional effort, an additional

26

1 process required by Qwest that I don't think is  
2 called for in the TRRO.

3 JUDGE GOODWILL: Okay. Thank you.

4 Any further questions based on my  
5 questioning?

6 MR. DUARTE: No, Your Honor.

7 JUDGE GOODWILL: Mr. Kopta?

8 RECROSS-EXAMINATION

9 BY MR. KOPTA:

10 Q. Mr. Teitzel, I believe you testified in  
11 response to some questions from the Judge that  
12 regardless of whether you use 2003 data or 2004 data,  
13 that under Qwest's calculations the Salt Lake Main,  
14 the number of business lines in the Salt Lake Main  
15 center office exceed 60,000; is that correct?

16 A. If Qwest's same methodology is followed  
17 that it used in 2003 that would be correct.

18 Q. Now, I'm looking at Exhibit DLT-2, which  
19 is Qwest 2SR.1, this exhibit is specific to the 2003  
20 data, is it not?

21 A. Yes, it is.

22 Q. And have you undertaken the same type of  
23 analysis for 2004 data?

24 A. I have not. And let me clarify again,  
25 this exhibit is a representation of what the actual  
26

1 accounts would look like were Mr. Coleman's methods  
2 to be used to analyze that data. But this is not  
3 Qwest advocacy. Were Qwest advocacy to be used for  
4 the 2003 data, the number would be a higher number  
5 than the number shown here. It would also exceed the  
6 threshold for 2004.

7 MR. DUARTE: Your Honor, I'm a little bit  
8 confused because I think there was a reference to  
9 2003 data, but we're looking at DLT-2 and not DLT-1,  
10 correct?

11 MR. KOPTA: That's correct.

12 MR. DUARTE: And so somebody, I think it  
13 was your question, Greg, you referred that this  
14 refers to 2003 data?

15 MR. KOPTA: Correct. And I asked Mr.  
16 Teitzel if he had undertaken the same type of  
17 analysis for 2004 data and I believe he said that he  
18 had not. Is that correct?

19 MR. TEITZEL: We have looked at the  
20 information and find that we are above the threshold  
21 for 2004 if we use the same set of assumptions and  
22 methodology that we used for 2003.

23 Q. (BY MR. KOPTA) In DLT-2?

24 A. Again, DLT-2 represents 2003 data using  
25 Mr. Coleman's methodology only.

26



1 Q. Right. So if you were to apply the same  
2 methodology that you used to develop the numbers in  
3 DLT-2 for 2003 data, if you were to use 2004 data,  
4 your testimony is that it would still exceed 60,000;  
5 is that what you're saying?

6 A. No. My testimony was that if 2004 data  
7 were tabulated under precisely the same set of  
8 methodologies and assumptions that we used for the  
9 2003 data, that total would come up to more than  
10 60,000 in 2004 as well. I did not submit a separate  
11 calculation using Mr. Coleman's methodology for 2004.

12 Q. So I guess I'm still a little confused.  
13 Did you undertake the same type of analysis that  
14 resulted in DLT-2 for 2004 data?

15 A. I did not. Again, Qwest is not sponsoring  
16 this methodology.

17 Q. So it's possible that if you were to apply  
18 this to 2004 that it would fall below the 60,000 line  
19 threshold?

20 A. It's possible.

21 MR. KOPTA: Thank you. That's all I have.

22 JUDGE GOODWILL: Anything further?

23 MR. GINSBERG: Just another question or  
24 two.

25 /

26

## 1 RE-CROSS-EXAMINATION

2 BY MR. GINSBERG:

3 Q. DLT-2 and the ratio that you submitted  
4 here, did you only then look, as now I think I  
5 understand from your question, only at one year,  
6 2003?

7 A. Yes, we did.

8 Q. You didn't look at any earlier years to  
9 see how that ratio may differ from one year to  
10 another?

11 A. No, I didn't. The ratio does change and  
12 it evolves. My experience has been the ratio tends  
13 to increase over time, but I did not look at previous  
14 years.

15 Q. And in Washington where apparently the ALJ  
16 made the decision that you use ARMIS data as is  
17 without multiplying the additional, did they address  
18 this issue?

19 A. They didn't address this issue, but I can  
20 tell you that the data we supplied in Washington was  
21 based on the same methodology I'm talking about here  
22 where we attribute the DSO channels to the proper  
23 home wire center.

24 Q. So you in Washington took the ARMIS data  
25 and applied the statewide ratio that you show in this  
26

1 exhibit?

2 A. Yes.

3 Q. And why didn't you do that here?

4 A. Why did not we do that here?

5 Q. Yes.

6 A. Qwest has not been ordered to follow that  
7 methodology and we don't believe that methodology is  
8 appropriate here. In Washington there was an ALJ  
9 order that ordered Qwest to produce the data in that  
10 fashion.

11 Q. Using a statewide average?

12 A. No. Qwest developed that average in  
13 response to the order.

14 Q. I'm not sure where the statewide average  
15 appears. Is it in the ARMIS data?

16 A. The statewide average is information that  
17 we calculate based on inputs to the ARMIS data.  
18 Again, we know how many DS1 channels are leaving a  
19 central office or particular service like ISDN  
20 primary rate. We also know how many total channels  
21 there are for that service and it's simply a function  
22 of dividing one by the other.

23 Q. Again, though, that would be information  
24 that would not be publicly available, readily  
25 available to the CLECs?

26

1           A.     No.  It's not publicly available, that's  
2 correct, it's confidential.

3           Q.     So when you attribute all this adding this  
4 Exhibit DLT here, your Exhibit 2 to Mr. Coleman, it's  
5 under the assumption that he agrees that you should  
6 alter ARMIS data to reflect these additional lines?

7           A.     What we're saying is that if we were to be  
8 required to use actual lines in service the only way  
9 to make those correct and accurate is to do this  
10 adjustment.  That's the only way to make that happen.

11          Q.     Okay.  Thank you.

12          A.     You're welcome.

13                   JUDGE GOODWILL:  Do you have anything, Mr.  
14 Duarte?

15                   MR. DUARTE:  I have a couple of questions,  
16 Your Honor.

17                               FURTHER REDIRECT EXAMINATION

18 BY MR. DUARTE:

19           Q.     Mr. Teitzel, turning to Exhibit DLT-2  
20 which has the adjustments you made based on Mr.  
21 Coleman's testimony for the 2003 wire center data, do  
22 you expect that even if you recalculated DLT-2 with  
23 2004 data that you would still probably be over  
24 60,000 lines for Salt Lake City Main?

25           A.     Frankly, I don't know.  I have not done  
26

1 that calculation. It may or may not be.

2 Q. DLT-2 was in response to Mr. Coleman's  
3 testimony with the caveat that Qwest does not agree  
4 with that methodology; is that correct?

5 A. I'm sorry, can I back up just a moment?

6 Q. Sure.

7 A. Are you asking me about Qwest Exhibit  
8 Q2SR-1?

9 Q. SR2. This would be -- no, I'm sorry, SR1,  
10 right, because it's your one exhibit to your  
11 supplement testimony.

12 A. Surrebuttal.

13 Q. Surrebuttal, right.

14 A. Then I answered that question properly.

15 Q. So let me ask this question then. Was  
16 this exhibit in response to Mr. Coleman's testimony  
17 with his recommendation?

18 A. Yes.

19 Q. And we did add the caveat that Qwest  
20 doesn't agree with it, but you would go ahead and  
21 make that analysis; is that correct?

22 A. That's also correct.

23 Q. And that was based on 2003 data?

24 A. Yes, it was.

25 Q. And Mr. Coleman did not advocate 2004  
26

1 vintage data like the Joint CLECs, did he?

2 A. He did not.

3 MR. DUARTE: No other questions, Your  
4 Honor.

5 JUDGE GOODWILL: Mr. Kopta?

6 FURTHER RECROSS-EXAMINATION

7 BY MR. KOPTA:

8 Q. I just wanted to clarify what was  
9 happening in Washington. It's my understanding that  
10 in response to the initial order from the ALJ that  
11 Qwest filed updated wire center data including  
12 business line counts for the wire centers that depend  
13 on those for non-impairment; is that correct?

14 A. That's my understanding.

15 Q. And the Commission itself has not yet  
16 issued a decision one way or the other on those  
17 business line counts or the central offices that  
18 Qwest has designated as not impaired?

19 A. That's also correct.

20 MR. KOPTA: Thanks. That's all I wanted  
21 to clarify.

22 JUDGE GOODWILL: I've got to step back and  
23 ask a more basic question. The ARMIS data that we're  
24 talking about -- well, I'll just ask you. What  
25 exactly does it include regarding Qwest business  
26

1 lines? How specific is that information regarding  
2 in-service lines versus numbers of channels and so  
3 forth?

4 MR. TEITZEL: The ARMIS data, and I don't  
5 have the specific definitions here in front of me and  
6 they're fairly extensive, but they include such  
7 things for business services as flat business lines,  
8 as measured business lines, if measured business  
9 lines exist in the state, and they don't in all  
10 states, public lane lines, public access lines. They  
11 include services as we spoke about a moment ago with  
12 Mr. Kopta, things like ISDN primary rate service, PBX  
13 trunk service. That entire range of services would  
14 be considered switched business lines. It also  
15 includes private line or special access type services  
16 as a special category, but those aren't relevant to  
17 the lines we counted in this proceeding which were  
18 limited to switched business lines.

19 JUDGE GOODWILL: Right. And regarding  
20 those lines, it was my understanding that that ARMIS  
21 data actually contains in it the number of Qwest  
22 retail business lines?

23 MR. TEITZEL: Yes, it does.

24 JUDGE GOODWILL: Okay. I don't think I  
25 have any other questions. Does anyone else?

26

1 MR. GINSBERG: I have one final, one  
2 question.

3 FURTHER RECROSS-EXAMINATION

4 BY MR. GINSBERG:

5 Q. Were you involved in this Washington  
6 proceeding?

7 A. I was not involved as a witness, but I  
8 have been involved in producing data request  
9 responses in that proceeding.

10 Q. I'm looking at paragraph 35 of the order  
11 and it says, "Thus Qwest must submit its business  
12 lines count to include actual business lines as  
13 required in the December 2003 ARMIS 43-08 data  
14 without adjustments."

15 But I understand that you said that you  
16 think you were required to make an adjustment to  
17 reflect the statewide average of these ISP ISDN lines  
18 that you referred to in this Exhibit 2 of yours, that  
19 you're required to do that in Washington?

20 A. We had to do that in Washington to make  
21 the channels be attributable to the proper home wire  
22 centers. There was no other way that we could have  
23 done that. Otherwise, data would not have been  
24 correct.

25 Q. But even the order seems to say that  
26



1 they're just going to use ARMIS data as recorded  
2 without modification. You've interpreted that to  
3 mean that you need to do something outside of the  
4 ARMIS data to bring that in and now it's up to the  
5 Commission to decide whether your interpretation is  
6 correct or not?

7 A. Well, again, that's a different  
8 proceeding. But we didn't produce the data in that  
9 fashion in response to what we believe is the correct  
10 data in Washington. There's been no ruling on that  
11 data as of yet, as Mr. Kopta mentioned a moment ago.  
12 It's an ongoing docket.

13 MR. GINSBERG: Okay.

14 JUDGE GOODWILL: I've got to follow-up on  
15 that just because I'm still confused. I understand  
16 that's a separate state, separate proceeding. But  
17 it's my understanding that in the Washington the ALJ  
18 decided essentially that Qwest could not adjust its  
19 data, it had to use its actual retail line data from  
20 ARMIS. It couldn't multiply it by 24 or any other  
21 number as Qwest would like to do and does with the  
22 wholesale information; is that correct?

23 THE WITNESS: That's correct.

24 JUDGE GOODWILL: How, then, does the  
25 adjustment that Qwest apparently submitted in

26

1 Washington enter in dealing with the ISD lines and  
2 the one wire center versus the far end wire center?  
3 I thought you had testified earlier that that's a  
4 separate issue that Qwest would only do if the  
5 Commission were to adopt the Division's proposal for  
6 counting lines.

7 MR. TEITZEL: Let me just clarify for you.  
8 In Washington the ALJ ordered that no adjustment be  
9 made to reflect full capacity of service of DSO  
10 channels in a DS1 or DS3 service and we did that. We  
11 provided to ALJ the actual in-service channels at the  
12 DSO level associated with retail and wholesale  
13 services as she ordered to attribute the ARMIS data  
14 as it's reported at the wire center level which,  
15 again, is not the intent for which that data was  
16 assembled to start with, would have attributed  
17 in-service channels to an incorrect wire center, the  
18 wire center that was not the originating wire center.  
19 So the ISP and PRI adjustment that we spoke about has  
20 to be done to make this data correct and make the  
21 data in a form that we think conforms with the TRRO.

22 JUDGE GOODWILL: But not if Qwest is able  
23 to report, to make adjustments to both the retail and  
24 wholesale business line counts?

25 MR. TEITZEL: I'm sorry?

26

1 JUDGE GOODWILL: In issuing its reports?

2 MR. TEITZEL: Would you restate your  
3 question for me?

4 JUDGE GOODWILL: You wouldn't make that  
5 adjustment if you've already made the adjustment in  
6 the wholesale and retail line counts as you did with  
7 the 2003 data that you initially reported?

8 MR. TEITZEL: Okay. I think there were  
9 two adjustments we're talking about here.

10 JUDGE GOODWILL: That's my understanding  
11 too.

12 MR. TEITZEL: And one would be the full  
13 DSO calculation, the DSO in-service channel  
14 calculation which the TRRO clearly requires. And  
15 it's also appropriate to attribute in-service  
16 channels, active channels to the serving wire center.  
17 Because, again, in the case of an ISP and PRI circuit  
18 there's no loop associated with that circuit leaving  
19 the far end wire center. In effect, the ISP is the  
20 end user because it is served by the Salt Lake main  
21 switch.

22 JUDGE GOODWILL: But again, in fully  
23 attributing the DSO channels in your initial  
24 reporting to the FCC, Qwest didn't make any  
25 adjustment for the in-service lines for ISDN?

26

1           MR. TEITZEL: We did not because we simply  
2 took the number of DS1 and DS3 channels, either  
3 retail or wholesale that originated from the wire  
4 center and multiplied that number -- excuse me, the  
5 number DS1 or DS3 facilities originating from a  
6 particular wire center and multiplied that by the  
7 full utilization factor. So there's no adjustment  
8 needed.

9           JUDGE GOODWILL: So if this Commission  
10 says adjust the ARMIS data for the DSO capacity for  
11 wholesale lines but not for retail, what would Qwest  
12 do with respect to the ISDN in-service adjustments?

13           MR. TEITZEL: I would suggest to you if  
14 that were to be the case, Qwest would feel obligated  
15 to apply the statewide ratio that we spoke about a  
16 moment ago to the DS1 facilities leaving Salt Lake  
17 Main for that service. Otherwise, there's a mismatch  
18 in tracking the data.

19           JUDGE GOODWILL: Okay. Anything further?

20           MR. DUARTE: Yes, your Honor. I apologize  
21 for re-re-redirect, maybe re-re-re-redirect.

22           FURTHER REDIRECT EXAMINATION

23 BY MR. DUARTE:

24           Q. Mr. Teitzel, would you describe the  
25 process that we're talking about to be an adjustment  
26

1 to ARMIS data or a rehoming to the proper wire  
2 center?

3 A. It's really a rehoming because at the  
4 statewide level nothing changes. The numbers are as  
5 they are, the totals don't change. But the way that  
6 we track our data at a sub state level, at the wire  
7 center level creates this issue that has to be  
8 addressed.

9 Q. And so when you say there's no change,  
10 you're meaning there's no change to the actual ARMIS  
11 data when you do this exercise?

12 A. That's correct. At the statewide level  
13 the channel counts don't change.

14 Q. Now, with respect to -- there's been  
15 probably too much discussion about the Washington ALJ  
16 decision -- but with respect to the calculations of  
17 voice-grade equivalents that the FCC discusses in its  
18 TRRO, the 24 64 kilobits per second active channels,  
19 is it your understanding that the Washington order  
20 still allowed Qwest to make those calculations to the  
21 ARMIS data?

22 A. Yes.

23 Q. And that Washington ordered that it also  
24 allow the ILECs both Qwest and Verizon to calculate  
25 total capacity and not just the actual circuits in  
26

1 use?

2 A. The ALJ's order required Qwest to report  
3 simply in-service channels, not total capacity, which  
4 is what we originally filed.

5 Q. I'm sorry, but for UNE-loops, I should  
6 say, not for Qwest retail lines, but for UNE-loops.

7 A. And your question again, please?

8 Q. Sure. The question is, what is your  
9 understanding with respect to what the ALJ ruled in  
10 Washington regarding total capacity of UNE-loops  
11 versus just actual circuits in use?

12 A. I'm sorry, I understand. My understanding  
13 of the order is that it required Qwest to use total  
14 capacity for the UNE-loops but actual in-service  
15 capacity for the ARMIS data.

16 Q. So either way would you say that there is  
17 some adjustments made by definition to the ARMIS data  
18 that Qwest files with the FCC every April?

19 A. I apologize, I'm not following your  
20 question. Ask it again, please.

21 Q. Sure. So there's been a lot of discussion  
22 about whether adjustments can be made to the actual  
23 ARMIS data that is filed every April with the FCC.  
24 And I guess my question is, that no matter what,  
25 would you agree that there's still some adjustments

26

1 that must be made to the pure ARMIS data that's filed  
2 for purposes of this TRRO exercise?

3 A. Well, there's two things at play. There's  
4 ARMIS data that relates to Qwest's retail lines and  
5 that would suggest that Qwest be required to provide  
6 in-service counts at the wire center level. The  
7 adjustment that we spoke about for ISDN PRI type  
8 services is appropriate.

9 On the wholesale level, and relating this  
10 back to the Washington order again, there's an  
11 adjustment required to that data, but that's not  
12 ARMIS data. It comes from the wholesale database.  
13 And there's a simple multiplication by a factor of 24  
14 or 672 to that data that gets that information into  
15 compliance with the TRRO. So that adjustment is  
16 required.

17 Q. And that's what I was trying to get at.  
18 And your understanding is that the ALJ in Washington  
19 allowed that to happen?

20 A. Yes.

21 MR. DUARTE: Thank you, Your Honor.  
22 That's all I have.

23 JUDGE GOODWILL: Mr. Kopta? Mr. Ginsberg?  
24 Thank you very much. We'll break until  
25 eleven o'clock.

26

1 (Recess taken.)

2 JUDGE GOODWILL: We'll go back on the  
3 record. Mr. Duarte?

4 MR. DUARTE: Yes, Your Honor. Before I  
5 call my next witness I thought it might be  
6 appropriate to do a housekeeping item here. And that  
7 is, Mr. Coleman graciously agreed to kind of work  
8 with the parties to put together a matrix based on  
9 the issues in the companies, the different parties'  
10 positions, and I thought it was a very nice product  
11 that everybody worked on pretty cooperatively.

12 Just for the record, there are a couple of  
13 very minor changes that I thought would be  
14 appropriate. If your Honor would like, if I could  
15 just explain those right now and make that clear on  
16 the record?

17 JUDGE GOODWILL: Okay.

18 MR. DUARTE: Your Honor, on page 4 at the  
19 very top where it says "Qwest's position," and this  
20 has to do with the whole issue about the conversion  
21 or the voice-grade equivalent of 24 64 kilobit per  
22 second equivalents, after the number 24 it says "24  
23 kbps equivalents." It should be 24 space and then 64  
24 kbps. So you're talking about 24 different 64  
25 k-equivalents.

26



1 JUDGE GOODWILL: Okay.

2 MR. DUARTE: And then on page 7, this is  
3 the issue about the update process for the Joint  
4 CLECs' position. The very last line it says, "Qwest  
5 should not be able to unilaterally reject orders  
6 without the CLECs' approval." I think the parties  
7 are in agreement that the word "approval" should  
8 probably be agreement and not approval. Probably not  
9 a real major change, but that's the way it's been  
10 described in the testimony.

11 JUDGE GOODWILL: Thanks.

12 MR. DUARTE: Thanks, your Honor.

13 JUDGE GOODWILL: And just for purposes of  
14 the record, we'll go ahead and mark this as Joint  
15 Exhibit 1 for identification.

16 MR. GINSBERG: Do you want us to resubmit  
17 that with those changes on there or it will just be  
18 on the record?

19 JUDGE GOODWILL: I think just being on the  
20 record is sufficient. And we'll just go ahead and  
21 admit that as such without any objection.

22 MR. DUARTE: Thank you, Your Honor.

23 Qwest now calls Rachel Torrence as its  
24 next witness.

25 JUDGE GOODWILL: Ms. Torrence, if you will  
26

1 stand and face me and raise your right hand I'll go  
2 ahead and swear you in.

3 Do you solemnly swear that the testimony  
4 you're about to provide shall be the truth, the whole  
5 truth and nothing but the truth, so help you God?

6 MS. TORRENCE: Yes.

7 JUDGE GOODWILL: Thank you. Please be  
8 seated.

9 MR. DUARTE: Thank you, your Honor.

10 RACHEL TORRENCE,  
11 called as a witness, being first duly sworn, was  
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. DUARTE:

15 Q. Good morning, Ms. Torrence.

16 A. Good morning.

17 Q. Could you please state your full name and  
18 business address for the record?

19 A. My name is Rachel Torrence, spelled "T" as  
20 in Tom, T-O-R-R-E-N-C-E. I'm employed by Qwest  
21 Services Corporation, 700 West Mineral Avenue,  
22 Littleton, Colorado, 80120.

23 Q. And, Ms. Torrence, what is your position  
24 with Qwest?

25 A. I'm a Director within the Network Policy  
26

1 Department.

2 Q. Ms. Torrence, did you prepare Direct  
3 Testimony that was filed on March 24, 2006; Response  
4 Testimony that was filed on May 24, 2006, and  
5 Surrebuttal Testimony that was filed on June 5, 2006?

6 A. As well as Response Testimony on May 24th.

7 Q. I thought I said that. Let's try that  
8 again. Did you prepare Direct Testimony that was  
9 filed on March 24, 2006; Response Testimony that was  
10 filed on May 24, 2006, and Surrebuttal Testimony that  
11 was filed on June 5, 2006?

12 A. Yes, I did.

13 Q. Does your Direct Testimony also have four  
14 exhibits?

15 A. Yes.

16 Q. And are these exhibits to your Direct  
17 Testimony "Confidential" or "Highly Confidential"?

18 A. Two are considered highly confidential.

19 Q. And would those be the two that were  
20 identified or marked as RT-3 and RT-4?

21 A. Yes.

22 Q. And the first two are not confidential at  
23 all?

24 A. No.

25 Q. Does your Response Testimony have any  
26

1 exhibits?

2 A. Yes, two.

3 Q. And were those "Confidential" or "Highly  
4 Confidential"?

5 A. They were both confidential.

6 Q. Does your Surrebuttal Testimony have any  
7 exhibits?

8 A. There were none, no.

9 Q. Do you have any corrections to make to  
10 your testimony or exhibits?

11 A. I do not.

12 Q. Ms. Torrence, are all of the answers in  
13 all of your testimony true and correct, to the best  
14 of your knowledge?

15 A. Yes, they are.

16 Q. And to the extent that any of your  
17 exhibits is a copy of a document, are all such  
18 exhibits true and correct copies of the documents  
19 they purport to be?

20 A. Yes.

21 Q. And, Ms. Torrence, are all of your  
22 exhibits documents that were either prepared or  
23 gathered in the ordinary course of business at Qwest  
24 by you or by a Qwest employee under your supervision  
25 for purposes of this docket?

26

1           A.     Yes.

2           Q.     Ms. Torrence, if I were to ask you the  
3 same questions here, would your answers be  
4 substantially the same as those set forth in your  
5 written testimony?

6           A.     They would, yes.

7                   MR. DUARTE: Your Honor, we would like to  
8 have marked Ms. Torrence's Direct Testimony as Qwest  
9 Exhibit 3 and the two non-confidential exhibits as  
10 3.1 or Qwest 3.1 and Qwest 3.2 and the two "Highly  
11 Confidential" exhibits to the testimony as Qwest  
12 "Highly Confidential" Exhibits 3.3 and 3.4. As I  
13 mentioned before, Exhibits 3.3 and 3.4 are provided  
14 on pink paper so that they are easily recognizable as  
15 "Highly Confidential" documents.

16                   In addition, we have marked Ms. Torrence's  
17 Response Testimony as 3R and the two "Confidential"  
18 exhibits to that testimony as "Confidential" Exhibits  
19 Qwest 3R.1 and Qwest 3R.2.

20                   And finally, we have marked Ms. Torrence's  
21 Surrebuttal Testimony as Qwest Exhibit 3SR. And now,  
22 your Honor, we would like to move for admission to  
23 the record all of Ms. Torrence's testimony and  
24 exhibits as follows. Qwest Exhibit 3 and attached  
25 Exhibits 3.1 and 3.2, and Qwest "Highly Confidential"

26

1 Exhibit 3R and the attached "Confidential" exhibits,  
2 Qwest 3R-1 and 3R-2, and finally Qwest Exhibit 3SR.

3 JUDGE GOODWILL: Any objections to their  
4 admission?

5 MR. KOPTA: No objection.

6 Q. (BY MR. DUARTE) Ms. Torrence, do you have  
7 a summary to your testimony?

8 A. I do not. I believe my position has been  
9 adequately stated and summarized repeatedly within my  
10 testimony.

11 Q. Mrs. Torrence, Mr. Denney filed  
12 Surrebuttal Testimony on June 5, 2006 to which you  
13 have not had an opportunity to respond in written  
14 testimony. Do you wish to respond briefly to any  
15 issues in Mr. Denney's Surrebuttal Testimony?

16 A. I do.

17 Q. Please do so.

18 A. I feel the need to respond to three points  
19 that Mr. Denney made in his Surrebuttal Testimony,  
20 and I'll try and be somewhat brief. The first point  
21 is he stated in his testimony that it is unreasonable  
22 to expect the Joint CLECs to perform an independent  
23 field verification when Qwest was unable to verify  
24 its own.

25 I feel that is an incorrect statement

26

1 simply because my testimony repeatedly states the  
2 process that we went through and the verification  
3 process and detail that we provided that directly  
4 contradicts this statement. Also, it directly  
5 contradicts his own testimony in that repeatedly he  
6 states in both his Rebuttal -- or Surrebuttal and his  
7 Direct that they attempted to contact other CLECs and  
8 that they attempted or performed studies of their  
9 own.

10 So I don't quite feel that this particular  
11 statement is accurate. Also, given the amount of  
12 information that's available to all parties,  
13 including the Joint CLECs, it's entirely reasonable  
14 to expect that the Joint CLECs could have gone out  
15 and done a verification of the data and presented  
16 more evidence on their behalf.

17 The second point is, he points to language  
18 within the SGAT filed here in Utah as support of the  
19 fact that they could not perform the field  
20 verification. While the SGAT provides guidance to  
21 secure and maintain a safe environment for both  
22 personnel and equipment within the Qwest Central  
23 Offices under normal operating conditions, to imply  
24 that a technician working for any of the CLECs has  
25 blinders on and cannot see what's going on in the

26

1 office is blatantly erroneous, blatantly false. And  
2 to claim that a CLEC located in one of our central  
3 offices is unaware of what other CLECs are doing is  
4 also disingenuous.

5 We're also looking at the physical fact  
6 that most of the co-locations are located within the  
7 same vicinity within the central office. They know  
8 each other, they speak to each other, they're well  
9 aware of what's happening in their central offices.  
10 And as stated by Mr. Denney in his testimony, when  
11 they tried to contact them, obviously they could have  
12 made arrangements to corroborate that data.

13 The last point Mr. Denney attempted to  
14 make was that certain carriers are not what he called  
15 traditional CLECs, and he points to two large  
16 carriers that are now part and parcel of two larger  
17 RBOCs on the East Coast. Saying that they are not  
18 traditional CLECs again is very misleading in that  
19 they are certificated within Utah as CLECs. They  
20 compete within our territory directly against Qwest  
21 as CLECs and they operate with contracts under the  
22 same terms and conditions identical to the carriers  
23 that he cited in there, identical or substantially  
24 similar within the Qwest Utah territory. So again, I  
25 think that was a misstatement on his part.

26



1                   That concludes my Surrebuttal.

2           Q.       Thank you, Ms. Torrence.

3                   MR. DUARTE:   Your Honor, I have no further  
4       questions for Ms. Torrence at this time.   Qwest  
5       tenders Ms. Torrence for any cross-examination.

6                   JUDGE GOODWILL:   A little bit of  
7       housekeeping.   I neglected to say the magic words.  
8       Ms. Torrence's exhibits are, in fact, admitted.   With  
9       that, Mr. Kopta?

10                  MR. KOPTA:   Thank you, Your Honor.

11                                   CROSS-EXAMINATION

12       BY MR. KOPTA:

13           Q.       Good morning, Ms. Torrence.

14           A.       Good morning.

15           Q.       Would you turn to your Response Testimony,  
16       Qwest Exhibit 3R on page 3.

17           A.       Yes.

18           Q.       And I believe this follows up on some of  
19       your oral Surrebuttal.   If you would look  
20       specifically to the sentence that begins on line 19  
21       and on line 20, you're discussing that CLECs could  
22       have conducted their own physical clarifications of  
23       the number of fiber-based co-locaters in wire  
24       centers.   Do you see my reference?

25           A.       Yes, I do.

26

1           Q.     Now, is it your testimony that CLECs would  
2     only be able to physically verify the number of  
3     co-locaters in Qwest's wire center or all of the  
4     aspects that go into defining a fiber-based  
5     co-locater?

6           A.     A substantial portion of both.

7           Q.     And as I understand your earlier  
8     testimony, it would be because they have their own  
9     co-locations and could look around and see what's in  
10    the same area where their co-location space is; is  
11    that correct?

12          A.     Yes.

13          Q.     But you're not saying that Qwest would  
14    allow a CLEC representative to come tour the Qwest  
15    Central Office to look at co-locations of other  
16    CLECs?

17          A.     Had we been approached I'm sure that could  
18    have been arranged.

19          Q.     And even today in other states that's  
20    something that you would be willing to allow CLECs to  
21    do, to perform their own physical verifications of  
22    co-locations?

23          A.     I don't see why not.

24          Q.     And would that include access to the cable  
25    vault to determine where the fiber comes from that  
26

1 goes to the co-located spaces?

2 A. I would hate to speculate on what all that  
3 would include but, quite frankly, given the faith  
4 that I have in the detail that I've put forth, it  
5 will only substantiate our position. So I don't  
6 think we would have too much of a problem.

7 Q. If you would please turn to your Response  
8 Testimony still, Exhibit Qwest 3R page 12.

9 A. I'm there.

10 Q. And I would direct your attention to line  
11 11 where you're talking about the Midvale Wire  
12 center.

13 A. Yes.

14 Q. That it was later downgraded from a Tier 2  
15 to a Tier 3 based on your subsequent investigation  
16 after you had initially designated wire centers in  
17 February of '05; is that correct?

18 A. Yes.

19 Q. Now, you also say here that, beginning on  
20 line 14, that Midvale, based on an additional inquiry  
21 or examination of the data, should have remained a  
22 Tier 2 wire center; is that correct?

23 A. That's true.

24 Q. Now, is Qwest claiming as part of this  
25 proceeding that the Midvale Central Office should be

26

1 designated as a Tier 2 wire center?

2 A. I am not. I am only stating here in  
3 support of my previous statements that we were very  
4 cautious and took a very conservative approach with  
5 putting our lists together. And to the extent that I  
6 couldn't feel comfortable in including it in the  
7 list, I did not. And Midvale is one instance where  
8 we had data that indicated that it could have  
9 remained a Tier 2. I didn't feel comfortable enough  
10 with that data to substantiate that position and I  
11 backed away and we did a Tier 3. Not to say that in  
12 a later proceeding we won't present that data and  
13 make it a Tier 2. But at this point, no.

14 Q. Okay. Well, that's what my next question  
15 is then. Do you know whether Qwest plans to  
16 designate the Midvale Wire center as a Tier 2 wire  
17 center?

18 A. I'm not sure what our position is in  
19 refiling. My personal position is that it is a Tier  
20 2 and should be treated as such. How we are going to  
21 proceed going forward, I don't know that we've  
22 determined that yet.

23 Q. And do you know whether you personally or  
24 Qwest has a position on as of what date the Midvale  
25 Wire center should be designated as Tier 2?

26

1           A.     I haven't gotten that far.

2           Q.     Now, if you would turn to your Surrebuttal  
3     Testimony, Exhibit Qwest 3SR, page 2, and  
4     specifically the question and answer that begins on  
5     line 30, which has to do with the Salt Lake West and  
6     Salt Lake South Wire centers; do you see where I'm  
7     referring?

8           A.     Yes.

9           Q.     Now, as I understand it, Qwest did not  
10    designate the Salt Lake West and Salt Lake South Wire  
11    centers as Tier 1 wire centers until July of 2005; is  
12    that correct?

13          A.     That's right.

14          Q.     And it's Qwest's claim that that  
15    designation should be effective as of March 11, 2005,  
16    correct?

17          A.     Yes.

18          Q.     And is it also your position based on your  
19    testimony here that Qwest was not required to provide  
20    notice to CLECs on March 11 that those two wire  
21    centers were to be designated as Tier 1 wire centers?

22          A.     I don't know that I ever addressed  
23    notification. My process was to determine, and as  
24    far as I was concerned, determine which of the  
25    co-locations, fiber-based co-locations were in place

26

1 meeting the criteria as of the effective date of the  
2 TRRO. Now, as far as the notification of the CLECs,  
3 I wasn't involved in that process.

4 Q. Okay. Well, I'm referring to the first  
5 two lines of your answer or lines 34 and 35 in which  
6 you state, "The FCC made their order effective on  
7 March 11, 2005."

8 A. Right.

9 Q. "They did not, however, require them  
10 noticing to the CLECs or production of a list of the  
11 non-impaired wire centers on that date." So that's  
12 why I asked the question whether it's your position  
13 that there was no requirement that Qwest notify CLECs  
14 on that date that those impairment designations would  
15 apply to those wire centers?

16 A. My response is that the notification was  
17 that the criteria was met on that date. The  
18 notification, as far as I understood it, was the  
19 publishing of the lists.

20 Q. And are you aware that the FCC established  
21 one year and 18-month transition periods for  
22 high-capacity UNEs that would be discontinued as a  
23 result of the designation of a wire center as  
24 non-impaired?

25 A. My understanding is -- I'm losing my  
26

1 voice, I apologize. I sound like a toad.

2 My understanding is that the one-year  
3 transition date that was set forth by the FCC was a  
4 year from the effective date, which was March 11,  
5 2005. So that year would have expired as of March  
6 11, 2006.

7 Q. Okay. And so is it your position that the  
8 transition period for the high capacity or the DS1  
9 transport as a UNE out of Salt Lake West and Salt  
10 Lake South Wire centers began as of March 11, 2005?

11 A. Yes.

12 Q. Even though the CLECs didn't know that  
13 those wire centers were designated?

14 A. A substantial portion of that list of  
15 co-locaters had been already noticed with the  
16 publication of the first list. The second list which  
17 was filed in July would have covered the ones that  
18 did not. I don't believe that an entire year was  
19 necessary for all. The way I saw it, it was almost a  
20 phased-in approach.

21 Q. And where in the FCC order are you  
22 referring to the FCC having a phased-in approach for  
23 the transition period?

24 A. Well, let's just say I wish all of the FCC  
25 orders were that clear. I am not aware that it

26

1 talked about a phased-in approach. That just ended  
2 up being the logistics of our filing.

3 Q. And you're also aware, I assume, that the  
4 FCC established interim rates that applied to the  
5 UNEs during that transition period?

6 A. I think that that's a question best asked  
7 of Ms. Million. I do not deal with the rates.

8 Q. And as far as the notice that you provided  
9 in July, would your position be any different if the  
10 notice that Qwest sent out was not until September in  
11 terms of when the transition period and when the  
12 effective date of the designation would start?

13 A. Well, speaking strictly from a network  
14 perspective, and I am here as the network  
15 representative, speaking from a network perspective,  
16 the logistics involved in accomplishing that  
17 transition would not necessarily require the entire  
18 year. So I'm saying that given the situation, given  
19 the wire center that's involved, a later period or  
20 later time frame for the notification could still  
21 have left enough time to accomplish that transition.

22 Q. And from a network perspective, how much  
23 notice do you think?

24 A. Again, I think that would be situational  
25 depending on the number of co-locaters and the number

26



1 of circuits and services involved with any given wire  
2 center.

3 Q. What about these particular wire centers,  
4 Salt Lake West and Salt Lake South?

5 A. I have not done that analysis so I  
6 couldn't speak to that at this point.

7 Q. So it would not be your position that if  
8 Qwest were to designate the Midvale Office as a Tier  
9 2 wire center that that designation would apply as of  
10 March 11, 2005 from a network perspective?

11 A. I would fall back to what Ms. Albersheim  
12 testified to earlier, that that would be as of an  
13 updated list and whatever time frame would have  
14 applied for that updated list is what the time frame  
15 is that would apply for Midvale.

16 MR. KOPTA: Thank you. Those were all my  
17 questions.

18 JUDGE GOODWILL: Mr. Ginsberg?

19 CROSS-EXAMINATION

20 BY MR. GINSBERG:

21 Q. Thank you. I have a few questions about  
22 the issues surrounding the Provo and Ogden Main  
23 Office.

24 A. Yes.

25 Q. As I understand it, the determination of  
26

1 whether there's a fiber-based co-locator is rather a  
2 technical issue, is that right, where you have to  
3 determine whether there's a fiber in the entrance  
4 facilities and the exit facilities? Is that right or  
5 can you --

6 A. Well, my approach to identifying the  
7 fiber-based co-locaters was to take a literal read of  
8 the requirements set forth that defined a fiber-based  
9 co-locator. And that was, obviously, fiber in and  
10 out of the co-location, that it exited the central  
11 office, that it was terminated on equipment within  
12 that co-location, and that there was active power to  
13 that co-location.

14 Q. Is there a dispute between you and the  
15 CLECs? Is that what they are looking for also or was  
16 there something --

17 A. Well, I assume that that's what they were  
18 looking for because they used my data as  
19 substantiation.

20 Q. Particularly now, then, for these two  
21 offices, it seems to imply that one particular  
22 carrier didn't provide you all of the information  
23 necessary to answer all of those questions?

24 A. Actually, the co-locator did not provide  
25 us with any of the information. It was our own  
26

1 physical view of what was in the co-location space  
2 without actually entering the co-location space.  
3 Obviously, we have access to the entire office. We  
4 saw that the fiber was going into the co-location.  
5 We verified that we were providing power to the  
6 co-location. We verified that the cables actually  
7 left the office. And in one instance we could not  
8 ascertain if the -- where the terminations were. In  
9 the worksheet that was provided as backup data for  
10 that particular wire center, I believe that was  
11 Provo.

12 Q. Right.

13 A. I don't have it in front of me. There was  
14 an end in the termination within the co-loll and Mr.  
15 Denney took that to mean that there was no  
16 terminations in the co-lolls. What it actually meant  
17 was that we could not verify the terminations in the  
18 co-location space without actually entering the  
19 co-loll space. So as such, that was something we  
20 could not accomplish.

21 Q. You couldn't enter the space because you  
22 didn't have the right to enter the space or what?

23 A. Absolutely, we do not have the right to  
24 enter the space.

25 Q. Now, in order to get an answer -- I guess  
26

1 this carrier didn't answer your questions?

2 A. They chose not to, right.

3 Q. You could have requested an order

4 compelling them to, could you not?

5 A. We could have. We could have. However --

6 Q. Or you could have requested -- I'm sorry.

7 A. We could have. However, prior to doing  
8 that we just fell back on all of our other data. We  
9 have billing data that I looked at. We had the  
10 actual order data. And it just seems, for lack of a  
11 better term, ridiculous to go through the whole point  
12 of the exercise of placing an order for fiber,  
13 bringing it in and powering up the systems and not  
14 terminating. So we just assumed they were there and  
15 in service.

16 Q. Could it be easily verified whether they  
17 actually do terminate it if there is a field visit?

18 A. Assuming that they would agree to either  
19 verify themselves in writing or allow us to enter.

20 Q. Well, this Commission could order that,  
21 could it not?

22 A. They could. And I would welcome an order  
23 like that, quite frankly.

24 Q. Well, it would solve the dispute that  
25 seems to be --

26

1 A. Absolutely.

2 Q. -- determining whether or not there's  
3 actually four co-locaters in that office?

4 A. Yes.

5 Q. I mean, if there's not, if the rule hasn't  
6 actually been met then you would agree that it  
7 shouldn't be designated as a --

8 A. Absolutely. If there are legitimately  
9 less than four co-locaters that would be -- that  
10 would mean we did not meet the criteria and, as such,  
11 it would not be a Tier 1.

12 MR. GINSBERG: Thank you.

13 JUDGE GOODWILL: Mr. Duarte.

14 MR. DUARTE: Yes, your Honor. Just one  
15 question, your Honor.

16 REDIRECT EXAMINATION

17 BY MR. DUARTE:

18 Q. When Mr. Kopta was asking you questions  
19 regarding whether CLECs could be able to visit these  
20 wire centers to do their own investigation, would you  
21 assume that if that were requested and if that was  
22 going to happen that we would still need to have the  
23 CLEC at issue to give consent or not have an  
24 objection to the parties, both Qwest and the Joint  
25 CLECs to investigate that by going into the cage or

26

1 whatever needs to be done?

2 A. Consent by the CLEC that owns the  
3 co-location would have to be obtained. There's no  
4 way Qwest can allow anyone else to enter someone  
5 else's co-location space.

6 MR. DUARTE: And that's all I have. Thank  
7 you.

8 JUDGE GOODWILL: Anything further, Mr.  
9 Kopta?

10 MR. KOPTA: No.

11 JUDGE GOODWILL: Mr. Ginsberg?

12 Thank you very much.

13 MR. DUARTE: Moving right along, your  
14 Honor, we would call our final witness, Ms. Terry  
15 Million.

16 JUDGE GOODWILL: Stand and face me, Ms.  
17 Million, and I'll swear you in. Do you solemnly  
18 swear that the testimony you're about to provide will  
19 be the truth, the whole truth and nothing but the  
20 truth, so help you God?

21 THE WITNESS: I do.

22 JUDGE GOODWILL: Please be seated.

23 TERRY MILLION,  
24 called as a witness, was examined and testified as  
25 follows:  
26

## 1 DIRECT EXAMINATION

2 BY MR. DUARTE:

3 Q. Good morning, Ms. Million.

4 A. Good morning.

5 Q. State your full name and business address.

6 A. My name is Teresa K. Million. The address  
7 is the 47th Floor, 1801 California Street, Denver,  
8 Colorado, 80202.9 Q. Ms. Million, who do you work for and what  
10 is your position?11 A. I work for Qwest Services Corporation and  
12 I work as a Staff Director in the public policy  
13 organization.14 Q. And, Ms. Million, did you prepare Direct  
15 Testimony that was filed on March 24, 2006 and  
16 Response Testimony that was filed on May 24, 2006?

17 A. Yes, I did.

18 Q. Does your Direct Testimony have any  
19 exhibits?

20 A. No, it does not.

21 Q. Does your Response Testimony have any  
22 exhibits?

23 A. Yes, it does.

24 Q. And are those exhibits "Confidential" or  
25 "Highly Confidential"?

26

1 A. No, they are not.

2 Q. Did you file any Surrebuttal Testimony?

3 A. No.

4 Q. Do you have any corrections to make to any  
5 of your testimony or exhibits?

6 A. No.

7 Q. Ms. Million, are all of the answers in all  
8 of your testimony true and correct, to the best of  
9 your knowledge?

10 A. Yes, they are.

11 Q. And to the extent that any of your  
12 exhibits is a copy of a document, would those  
13 exhibits be a true and correct copy of the documents  
14 that they purport to be?

15 A. Yes, they would.

16 Q. And, Ms. Million, are all of your  
17 exhibits, are they documents that were either  
18 prepared or gathered in the ordinary course of  
19 business by you or by a Qwest employee under your  
20 supervision for purposes of this docket?

21 A. Yes.

22 Q. Ms. Million, if I were to ask you the same  
23 questions here, would your answers be substantially  
24 the same as those set forth in your written  
25 testimony?

26



1           A.     Yes, they would.

2           MR. DUARTE:   Your Honor, we have marked  
3     the following exhibits for Ms. Million's testimony.  
4     Her Direct Testimony is Qwest Exhibit 4 and also her  
5     Response Testimony is Qwest Exhibit 4R and her two  
6     exhibits to her Response Testimony are exhibits,  
7     Qwest Exhibits 4R.1 and 4R.2.  At this time, your  
8     Honor, Qwest moves for admission to the evidence and  
9     record in this proceeding all of Ms. Million's  
10    testimony and exhibits as follows:  Qwest Exhibit 4,  
11    Qwest Exhibit 4R and Qwest Exhibits 4R.1 and 4R.2.

12           JUDGE GOODWILL:  Any objections?

13           MR. KOPTA:  No objections.

14           JUDGE GOODWILL:  They're admitted.

15           MR. DUARTE:  Thank you, your Honor.

16           Q.     (BY MR. DUARTE)  Ms. Million, do you have  
17    a summary of your testimony?

18           A.     I do not.

19           Q.     Ms. Million, Mr. Denney filed Surrebuttal  
20    Testimony on June 5, 2006 to which you have not had  
21    an opportunity to respond in written testimony.  Do  
22    you wish to respond briefly to any issues in Mr.  
23    Denney's Surrebuttal Testimony?

24           A.     Yes, I do.  I would like to address two of  
25    the points that Mr. Denney makes in his Surrebuttal.

26

1 Q. Please do so.

2 A. Thank you.

3 The first point I would like to address is  
4 that at page 33 of his Surrebuttal, Mr. Denney talks  
5 about the transition away from the UNEs being under  
6 the Utah Commission's jurisdiction. And for that  
7 proposition he refers to a decision that was made in  
8 a Verizon proceeding in Washington and that  
9 proceeding refers to the Section 252 process.

10 And the thing that I want to point out  
11 about that is that if you look at the footnotes that  
12 are a part of that decision that's footnoted in Mr.  
13 Denney's Surrebuttal and you look up each of those  
14 paragraphs, what those paragraphs really refer to in  
15 the TRRO are the Commission's jurisdiction over the  
16 parties' negotiations. In other words, it's not  
17 about the Commission asserting jurisdiction or  
18 inserting itself into the process or making  
19 determinations about rates. It's simply about the  
20 Commission approving good faith negotiations between  
21 the parties and in actually letting the parties come  
22 to an agreement between themselves and then approving  
23 that the way that they do for interconnection  
24 agreements typically, not making a determination  
25 about a particular rate.

26

1           And I would point out that the majority of  
2 the CLECs here, 52 out of 87, I believe is the  
3 number, have already signed an agreement and  
4 negotiated terms with Qwest over these TRRO  
5 amendments and the requirements going forward on the  
6 DS1 and DS3 facilities, just as the Joint CLECs have  
7 the opportunity to do and have not yet.

8           So that's the first point I wanted to  
9 make. And then the second point I wanted to make was  
10 that at page 34 Mr. Denney adds some additional  
11 evidence about the Omaha Forbearance Order. And  
12 that's an order in Nebraska that was set forth by the  
13 FCC that determined because of competition there were  
14 nine wire centers in Omaha that were not required to  
15 provide UNEs anymore. Not only the DS1 and DS3 UNEs,  
16 but also DS0 or DS0 level UNEs. As he did with the  
17 UNE-P example and QPP example, Mr. Denney tried to  
18 suggest that Qwest simply made an adjustment to the  
19 price in those and didn't go through the process that  
20 it is seeking to go through with respect to the DS1s  
21 and DS3s in the TRRO proceeding.

22           And there are a couple of things I would  
23 like to point out about that. First, in the case of  
24 DSOs, there is no existing tariff equivalent for an  
25 unbundled loop. In the case of DS1s and DS3s we have  
26

1 an existing tariff product that we can move the CLECs  
2 to that allows us to charge something other than the  
3 tariff rate for that. In Omaha, in the case of DSOs,  
4 there was no existing product so we had to create a  
5 new wholesale product in order to accommodate being  
6 able to charge something other than the Telerik rate  
7 for an unbundled loop.

8           And second, in Omaha there were only nine  
9 wire centers, as I mentioned before, and that  
10 amounted to about 3,000 DSOs in Omaha, which is far  
11 different than the DS1s and DS3s that we're talking  
12 about across an 11-state region where we found wire  
13 centers that are unimpaired. To do the manual  
14 process that we're going through in Omaha in order to  
15 track those DSOs separately and create this new  
16 wholesale product, that would just be unreasonable  
17 for us to have to do for the number of DS1s and DS3s  
18 that we're talking about in 11 states and in many,  
19 many more wire centers.

20           Then finally, the one thing that Mr.  
21 Denney doesn't mention in referring to the Omaha  
22 Forbearance Order is the fact that for DS1s and DS3s  
23 in Omaha, we treated them exactly the same as we're  
24 proposing to treat them in the TRRO proceedings. In  
25 other words, we moved them to private line services  
26

1 and we charged them a corresponding nonrecurring  
2 charge to do that. So even though he points out that  
3 we handled the DSOs differently in Omaha than what  
4 we're proposing here, we didn't do that with respect  
5 to DS1s and DS3s.

6 And that concludes my Surrebuttal.

7 MR. DUARTE: Thank you, Ms. Million.

8 Your Honor, Qwest has no further questions  
9 for Ms. Million at this time. Qwest tenders Ms.  
10 Million for any cross-examination.

11 JUDGE GOODWILL: Mr. Kopta?

12 MR. KOPTA: Thank you. I don't have any  
13 questions for Ms. Million. I can make some up if you  
14 want. You look disappointed.

15 MR. DUARTE: You made her tremble all the  
16 way over there.

17 MR. KOPTA: She was trembling for her oral  
18 Surrebuttal.

19 MR. DUARTE: Good point.

20 MR. GINSBERG: I hate to create double  
21 disappointment, but I also don't have any questions  
22 for you.

23 MR. DUARTE: Well, then, your Honor, I  
24 have -- it was worth the price for the points she  
25 made in her Surrebuttal.

26

1 JUDGE GOODWILL: And I have none. So with  
2 that we'll thank you very much.

3 THE WITNESS: Thank you.

4 MR. DUARTE: Your Honor, would it make  
5 sense to break for lunch and come back by one o'clock  
6 perhaps?

7 JUDGE GOODWILL: We certainly can break.  
8 We anticipate finishing up this afternoon then even  
9 with the break now?

10 MR. KOPTA: Absolutely. I don't know  
11 whether Mr. Coleman can get on and off. I don't know  
12 how much you have.

13 MR. DUARTE: I don't think I have more  
14 than 15 minutes for Mr. Denney, 20 perhaps, unless  
15 there's some redirect and recross, and probably 5 for  
16 Mr. Coleman. So I think we can finish up.

17 MR. GINSBERG: Then we'll definitely be  
18 done today.

19 MR. KOPTA: Or we can do Mr. Coleman now.

20 MR. GINSBERG: He's not available tomorrow  
21 so --

22 JUDGE GOODWILL: I was going to ask if the  
23 parties have any thoughts of who is next and if we  
24 can go ahead and do another witness in relatively  
25 short order.

26

1 MR. KOPTA: I would think Mr. Coleman  
2 could get on and off in 20 minutes.

3 JUDGE GOODWILL: If not, that's not a hard  
4 and fast rule, obviously, but if it makes sense to go  
5 with Mr. Coleman now, or did you anticipate waiting  
6 for Mr. Denney?

7 MR. GINSBERG: I just assumed that he  
8 would go after Mr. Denney.

9 JUDGE GOODWILL: Why don't we go ahead and  
10 break and we'll go with Mr. Denney and we'll go from  
11 there. Let's break until 1:15, an hour and-a-half.

12 (Noon recess taken.)

13 --ooOoo--

14 1:15 p.m. June 13, 2006

15 JUDGE GOODWILL: We'll go back on the  
16 record and turn to you, Mr. Kopta.

17 MR. KOPTA: Thank you, your Honor. The  
18 Joint CLECs call Doug Denney. Mr. Denney, why don't  
19 you get sworn in by the Judge.

20 JUDGE GOODWILL: Stand and raise your  
21 right hand and I'll swear you in. Do you solemnly  
22 swear that the testimony that you're about to provide  
23 shall be the truth, the whole truth, and nothing but  
24 the truth, so help you God?

25 MR. DENNEY: Yes.

26

1 JUDGE GOODWILL: Thanks. Please be  
2 seated.

3 Mr. Kopta?

4 MR. KOPTA: Thank you, your Honor.

5 DOUGLAS DENNEY,  
6 called as a witness, was examined and testified as  
7 follows:

8 DIRECT EXAMINATION

9 BY MR. KOPTA:

10 Q. Mr. Denney, would you state your name and  
11 business address for the record, please?

12 A. My name is Douglas Denney. My business  
13 address is 730 Second Avenue South, Suite 900, in  
14 Minneapolis, Minnesota.

15 Q. And do you have before you what has been  
16 marked for identification as Exhibit Echelon 1R which  
17 is the Rebuttal Testimony of Douglas Denney,  
18 including "Confidential" and "Highly Confidential"  
19 information on Exhibits 1R.1 through the 1R.7 which  
20 are Exhibits DD-01 through DD07 with "Confidential"  
21 information in DD-02 and "Highly Confidential"  
22 information in DD-04; Exhibit Echelon 1SR which is  
23 the Surrebuttal Testimony of Douglas Denney which  
24 includes "Confidential" and "Highly Confidential"  
25 information, and Exhibit Echelon 1SR.1 which is

26



1 Exhibit DD-08 and includes "Highly Confidential"  
2 information?

3 A. Yes.

4 Q. Were these documents prepared by you or  
5 under your direction and control?

6 A. Yes, they were.

7 Q. Is the information contained in these  
8 documents true and correct, to the best of your  
9 knowledge?

10 A. Yes.

11 Q. If I were to ask you the questions  
12 contained in Exhibit Echelon 1R and Echelon 1SR,  
13 would your answers today be the same as those  
14 contained in those documents?

15 A. Yes.

16 Q. Do you have any changes or corrections to  
17 make to your testimony?

18 A. No.

19 MR. KOPTA: Your Honor, I move admission  
20 of Exhibits Echelon 1R, 1R.1 through 1R.7, 1SR and  
21 1SR.1.

22 JUDGE GOODWILL: Any objections?

23 MR. DUARTE: No objections, your Honor.

24 JUDGE GOODWILL: They are admitted.

25 MR. KOPTA: Your Honor, in light of the  
26

1 oral testimony given by the Qwest witnesses this  
2 morning, we would also ask the Commission's  
3 indulgence to allow Mr. Denney to have a brief  
4 response to some of the points made orally today.

5 JUDGE GOODWILL: Any problem with that  
6 from anybody?

7 MR. DUARTE: No objections, your Honor.

8 JUDGE GOODWILL: Okay. Go ahead.

9 MR. KOPTA: Thank you, your Honor.

10 Q. (BY MR. KOPTA) Mr. Denney, were you  
11 present in the hearing room when the Qwest witnesses  
12 were providing some oral responses to your  
13 Surrebuttal Testimony, Exhibit Echelon 1SR?

14 A. Yes.

15 Q. Do you have any response to make to any of  
16 the points raised this morning?

17 A. Yes, I have a few responses.

18 Q. Would you make those now, please?

19 A. Yes. The overarching clarifying point I  
20 think to hold in the context of these responses is  
21 that once a wire center gets put on this wire center  
22 list it stays on this wire center list forever. And  
23 so this is why the Joint CLECs have undertaken, you  
24 know, really looking at this data as closely as  
25 possible to determine is there enough supporting

26

1 evidence that this wire center belongs on the list.  
2 Because that's going to change the way going forward  
3 the CLECs are able to do business in that particular  
4 wire center, the availability of certain UNES.

5 Ms. Albersheim said this morning, and she  
6 talked about that Qwest was willing to -- she  
7 clarified that they're willing to provide some  
8 supporting data for updates to the wire center lists  
9 as updates would occur going forward. And the CLECs  
10 obviously support that.

11 We have outlined in our testimony and also  
12 in the issues matrix that the specific data that we  
13 think Qwest should supply up front when it's  
14 supplying a wire center to be added to the list so  
15 that this should facilitate and expedite UNES  
16 proceedings going forward. If Qwest provides all of  
17 this data up front then I don't think there's a big  
18 issue about the amount of time it should take to  
19 review this data. But when the data is not there or  
20 the data is incomplete or the data is missing then  
21 that time -- it takes a longer period of time to try  
22 to verify, to contact CLECs, to do other things you  
23 may want to try to do to ask some questions of Qwest  
24 about that data to make sure that that data is  
25 accurate.

26

1           Another issue that was brought up was that  
2 Ms. Albersheim said that the blocking of orders was  
3 not in dispute because if a wire center is on the  
4 list that is the only time that Qwest would block an  
5 order. But the blocking of orders is in dispute  
6 because paragraph 234 of the TRRO lays out the  
7 rights, and it laid out these rights with the concept  
8 of the end-user customer in mind.

9           It said that CLECs have to do a reasonably  
10 diligent inquiry. And then if they place an order,  
11 Qwest needs to process that order and then dispute  
12 that order. Now, the CLECs have agreed not to place  
13 orders in wire centers that are on the list, but if a  
14 CLEC has made a mistake and did place that order,  
15 Qwest would simply dispute and the CLEC would have to  
16 fix that order and would be responsible for all the  
17 back billing. So there's no financial harm to Qwest  
18 if a CLEC makes a mistake.

19           But Qwest, in blocking orders, if they  
20 change systems without the CLECs' agreement, problems  
21 exist with those systems such that orders are blocked  
22 where they're not supposed to be blocked, which  
23 happens from time to time, the CLECs may lose their  
24 install date, they could potentially lose customers  
25 because of these types of processes. CLEC systems

26

1 talk to Qwest systems. When Qwest make changes to  
2 their systems, the way that CLECs systems interact  
3 with them can have an impact and the CLECs may not be  
4 able to process orders they would normally process  
5 that aren't even related to the TRRO.

6           And so all the CLECs are asking is that  
7 when Qwest moves to implement the system of blocking  
8 orders that it do so with CLEC agreement and CLEC  
9 involvement. And we've brought this issue up now in  
10 this case rather later so that these disputes can be  
11 taken care of in advance rather than we have customer  
12 impacting problems and the CLECs are running them.  
13 Because we can't repair once we lose a customer or we  
14 ruin our reputation with a customer because we  
15 couldn't process those orders. That's too late for  
16 us to solve these problems. So we're just asking  
17 that Qwest work with the CLECs. And if we need the  
18 staff and Commission involved in that process we  
19 would welcome that to come up with a process which  
20 everybody can come to an agreement on how any  
21 blocking orders would take place before Qwest  
22 actually blocks orders.

23           In Mr. Teitzel's testimony, just a couple  
24 of things in his. He pointed out, I referenced  
25 Footnote 303 of the TRRO, and that footnote refers to

26

1 the ARMIS data instructions for the year 2004. And  
2 Mr. Teitzel said that those are just instructions,  
3 not the data. But Footnote 303 is a footnote in  
4 paragraph 105 of the TRRO, and that paragraph 105  
5 describes the data, including the ARMIS data that  
6 Qwest needs to provide in order to do its business  
7 line counts. So I think Footnote 303 is relevant in  
8 the fact that it refers specifically to the 2004  
9 instructions which would correspond with the December  
10 2004 filing, you know, is significant, and the FCC  
11 clearly didn't expect that RBOCs would be filing data  
12 from more than a year past in order to make  
13 determinations that are on a going-forward basis.

14 And also just in Mr. Teitzel's, the final  
15 exhibit to Mr. Teitzel's Surrebuttal Testimony, he  
16 had some adjustments which he claimed he didn't  
17 support. And for that the CLECs are in agreement, we  
18 don't support those adjustments either, the  
19 adjustments he made to account for business lines, if  
20 they were counted the way the department and the  
21 CLECs had proposed for ARMIS line counts to make sure  
22 they were with a corresponding wire center. There  
23 was absolutely no supporting data filed with that to  
24 look at any of those calculations.

25 And very important, these calculations

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1 were not specific to Salt Lake Main, but if you  
2 remember the calculations were based on a statewide  
3 factor. So they weren't even specific to Salt Lake  
4 Main. And this gets back to once a wire center is on  
5 the list, it stays on the list. These calculations  
6 should have, you know, if they were done, they should  
7 be done specific for Salt Lake Main. Also, those  
8 calculations were done on 2003 data, but not on 2004  
9 data which we think is relevant. And the  
10 calculations have no support at all in the TRRO.

11 Ms. Torrence talked about some disputes  
12 with fiber-based co-locations. And one of the  
13 disputes regarding fiber-based co-locations is  
14 there's two wire centers and there's one carrier in  
15 that wire center. And when Qwest did its field  
16 verification, the field verification failed. In  
17 Ogden Main the field verification could not verify  
18 that fiber actually exited the central office. In  
19 the Provo office the field verification could not  
20 verify that the fiber terminated in the co-loll, and  
21 it also could not verify that there was power. And  
22 these field verifications, I have attached those to  
23 the testimony, they're part of Exhibit 1R.2, I  
24 believe.

25 So Qwest field verifications failed and  
26

1 Qwest just said, well, we have other reasons to  
2 believe these are fiber-based co-locaters. They  
3 didn't supply any of that information, they haven't  
4 backed that up. There's no reason to expect that if  
5 I went into the office or one of Echelon's or a  
6 CLEC's technician went into that office they would  
7 have any better ability to verify those fiber-based  
8 co-locations than Qwest would. Qwest did a visual  
9 inspection and could not verify. There's no reason  
10 that a field verification by the CLECs would be  
11 somehow superior to a field verification by Qwest.  
12 For these two offices, there's simply the fact that  
13 there's not the data there to support Qwest's claims.  
14 Qwest hasn't put this data on the record. And we  
15 have attempted to contact this particular carrier and  
16 this carrier has been unresponsive to those requests.

17 In response to Ms. Million, one issue she  
18 brought up, she said that kind of that this agreement  
19 on a conversion rate, she seemed to say this could  
20 take place as part of interconnection agreement  
21 negotiations or negotiations between Qwest and the  
22 parties, but the reason this issue is brought here is  
23 because the CLECs, a lot of them or some of them have  
24 not been able to agree with Qwest in terms of what  
25 this proper rate for conversion should be. And Qwest

26



1 is saying that the Commission doesn't have authority  
2 over that rate. So they're asking the Commission to  
3 allow them to use their Federal tariff in order to  
4 set the rate and we believe the Commission has  
5 authority over that rate.

6 In fact, the Commission has set a rate  
7 already that's for basically the same function, the  
8 conversion of private line to UNEs. This is going  
9 the other way, this is a conversion of UNE to private  
10 line, and those rates exist and should be used.

11 The final point of clarification in regard  
12 to I cited Qwest's Omaha contract that it offered out  
13 to CLECs as the result of the Omaha Forbearance Order  
14 that the FCC put forth. And the purpose of this  
15 contract and with QPP was just to show that Qwest can  
16 implement these changes via a rate change and that  
17 there are cases where Qwest has done so. Qwest  
18 chooses not to do so for conversion of DS1/DS3 loops  
19 in transport, but it's not that Qwest is unable to do  
20 so and they have shown in multiple situations that  
21 they have that ability.

22 Thank you.

23 MR. KOPTA: Those are all my questions.

24 Mr. Denney is available for cross-examination.

25 JUDGE GOODWILL: Mr. Duarte?

26

1 MR. DUARTE: Thank you, your Honor.

2 CROSS-EXAMINATION

3 BY MR. DUARTE:

4 Q. Good afternoon, Mr. Denney.

5 A. Good afternoon.

6 Q. Is this the fourth state that we have had  
7 this pleasure of meeting over the last six, seven  
8 years?

9 A. Okay. So there's Oregon and Utah and  
10 South Dakota, and what's the fourth?

11 Q. And Iowa. UNE averaging, in case you  
12 can't remember.

13 A. I've been in Iowa for a number of things,  
14 but UNE averaging wasn't one of them.

15 Q. Okay. Mr. Denney, you don't believe it's  
16 appropriate for a CLEC to submit an order to a wire  
17 center that has already been formally approved by a  
18 Commission to be not impaired, do you?

19 A. That's correct.

20 Q. Mr. Denney, do you by any chance happen to  
21 have Mr. Teitzel's Response Testimony?

22 A. Yes.

23 Q. Can you turn to page 8? And I want to  
24 just point you to the lines starting at about line 4  
25 through 13 where Mr. Teitzel discusses Verizon in  
26

1 Rhode Island. Do you see that?

2 A. Yes, I do.

3 Q. Sir, you don't disagree with Mr. Teitzel's  
4 statement regarding what occurred in Rhode Island, do  
5 you?

6 A. I didn't -- yeah, I don't disagree or  
7 agree. I haven't seen that particular order. I  
8 didn't find that order with -- you know, from this.  
9 So with Rhode Island, I don't have any -- I haven't  
10 read that particular order.

11 Q. So you have no way to dispute or confirm  
12 that the Rhode Island PUC agreed or allowed Verizon  
13 to use separate 2003 data; is that correct?

14 A. That's correct.

15 Q. Now, sir, in your Surrebuttal at page 8  
16 you mentioned that you've added two additional state  
17 decisions, California and Georgia, to your summary of  
18 state decisions regarding business line counts at  
19 Table 8; is that correct?

20 A. Let me get there. Yes, that's correct.

21 Q. Okay. Were you also aware that the Ohio  
22 Commission recently released an order, this month,  
23 actually, regarding the state, Ohio State TRRO  
24 investigation with respect to AT&T?

25 A. Yes. The Ohio Commission issued an order  
26

1 on June 6 that pretty much mirrored its order of  
2 November 9, 2005.

3 Q. And the Ohio Commission also held that  
4 December 2003 ARMIS data was appropriate; is that  
5 correct?

6 A. I know the Ohio Commission used the 2003  
7 data, and what I don't recall is in some states there  
8 was a dispute over -- the dispute wasn't the same as  
9 here, and I would have to actually check the Ohio  
10 order to see if that was the case. But in a lot of  
11 states the CLECs were arguing the data that should be  
12 used would be data that the RBOCs had initially filed  
13 with the FCC before the TRRO order. And so there's a  
14 dispute over whether the 2003 ARMIS data should be  
15 used or whether the data that was originally filed  
16 with the FCC should be used. So I do agree the Ohio  
17 Commission did use December 2003 ARMIS data. What I  
18 don't recollect right now without reading the order  
19 is whether the dispute was the same dispute as we're  
20 having here.

21 Q. Would it help you if I provided you the  
22 copy of the Ohio decision or is it something you have  
23 to read the entire thing?

24 A. I have a copy of it. If you want to point  
25 me to that area I can check for that particular case.

26

1 Q. Well, if I can just direct your attention  
2 to paragraph 22 on page 20 which pertains to the  
3 December 2003 ARMIS data, I want to just check with  
4 you whether that clarifies the issue that you just  
5 discussed about not being sure.

6 A. I mean, to be clear, I'm sure they used  
7 2003 ARMIS data. What I'm not sure about is the  
8 issue that was in dispute.

9 I believe on page 20 it says that December  
10 2003 ARMIS data line counts is appropriate and that  
11 business line count data must be counted in  
12 accordance with ARMIS 43-08 report and does not  
13 require any adjustments to be made to that data in  
14 that report. That was paragraphs 22 and 23.

15 Q. Thank you.

16 Maybe you can help me out here. What page  
17 is it on that Table 8 is located where you have all  
18 that very nice summary of all the different --

19 MR. GINSBERG: Page 5.

20 Q. (BY MR. DUARTE) Page 5. Sir, would you  
21 agree with me that based on your Table 8 and  
22 including the decisions not yet reflected on your  
23 table such as Ohio, that most state commissions have  
24 found that residential UNE-Ps -- I'm sorry, UNE-loops  
25 and non-switch UNE-loops and full capacity of  
26

1 high-capacity digital loops should be included in the  
2 business line counts?

3 A. Was that multiple sets of questions? I  
4 kind of --

5 Q. I had a note to myself to separate it into  
6 three separate questions. I probably should have  
7 done that and saved the time. So let me start all  
8 over again.

9 You would agree with me that based on your  
10 Table 8 and the Commission decisions that have not  
11 been reflected on your table, that most commissions  
12 have found that residential UNE-loops should be  
13 included in the business line counts?

14 A. Yes, that's correct. And I think that the  
15 table is clear in that regard.

16 Q. And you would agree with me that most of  
17 the state commissions, including the Ohio Commission,  
18 have found that non-switch UNE-loops should be  
19 included?

20 A. Yes, that is correct.

21 Q. And you would agree that most states have  
22 found that the full capacity of CLEC high-capacity  
23 digital loops should be included?

24 A. Yes, that's correct. And the two other --  
25 I mean, the two other categories on there is the

26

1 ARMIS 43-08 data, most states found that that data  
2 should be made without any adjustments filed as is.  
3 In fact, that was the positions of AT&T and Verizon.  
4 And for the vintage of the data the states have been  
5 somewhat mixed on whether to use 2003 and 2004 data,  
6 though Bell South took it upon themselves and updated  
7 their data with 2004 data.

8 Q. Mr. Denney, you would agree with me that  
9 ARMIS data is not reported at a wire center level; is  
10 that correct?

11 A. That's correct.

12 Q. It's reported at a statewide level?

13 A. Yes.

14 Q. So you would agree with me that no matter  
15 what, by using ARMIS data or ARMIS report data for  
16 purposes of this TRRO exercise, certain adjustments  
17 have to be made in any event; is that correct?

18 A. I don't know that that's necessarily the  
19 case. ARMIS data, and I believe that data -- and I  
20 don't know Qwest data systems, but it's quite  
21 possible that data is initially at the wire center  
22 area and is aggregated in order to create the ARMIS  
23 data. So I don't know that in any effect that  
24 adjustments need to be made to the underlying ARMIS  
25 data.

26

1 Q. Well, you don't know that for a fact, do  
2 you?

3 A. No.

4 Q. You just know that ARMIS data is reported  
5 to the FCC at a statewide level?

6 A. That's correct. If I go into the ARMIS  
7 systems which are on the FCC website, you can pull  
8 out that data and all you see is a statewide number  
9 for the ARMIS report.

10 Q. And with respect to whether you agree to  
11 full capacity or circuits in use, there are some  
12 adjustments that have to be made with respect to the  
13 voice-grade equivalents for digital loops DS1 and DS3  
14 loops, is that correct, based on what the FCC said?

15 A. In the ARMIS data?

16 Q. No. I'm sorry, based on what the FCC said  
17 in the TRRO, you would agree with me that some  
18 adjustments to ARMIS data have to be made because the  
19 FCC said that you should break down the voice-grade  
20 equivalents by 24 or 672 channels?

21 A. I don't think I agree with you. I mean,  
22 the ARMIS data itself counts things on a voice-grade  
23 equivalent basis. I mean, that is the way that ARMIS  
24 is reported. So I don't agree that there's  
25 additional adjustments that need to be made based on  
26



1 the TRRO.

2 Q. Now, you're not contending that any kind  
3 of data source other than ARMIS should be used for  
4 purposes of TRRO line counts, do you?

5 A. With regard to Qwest's switched business  
6 lines?

7 Q. Or any other ILEC, sure.

8 A. Well, I mean or any other ILEC?

9 Q. Well, I guess we're here for Qwest. But I  
10 mean, I'm asking you, you don't believe that there's  
11 any other kind of data source other than ARMIS that  
12 should be used for purposes of this TRRO business  
13 line count exercise?

14 A. Well, I believe ARMIS is one aspect of the  
15 total line count. So there are -- I mean, there are  
16 CLEC UNE-P lines that need to be counted, there are  
17 CLEC loops that need to be counted. Those particular  
18 things are not part of ARMIS. And I think when you  
19 read paragraphs 105 of the TRRO you can see -- I  
20 mean, you can see how the FCC laid it out and said  
21 there's the ARMIS data and there's this other data --

22 Q. For wholesale?

23 A. -- right, that we need to count.

24 Q. But in terms of for retail lines, Qwest  
25 retail lines, for example, I know you've discussed

26

1 this Icon database. But you're not contending that  
2 for purposes of what this Commission should do that  
3 we need to look at anything other than ARMIS data?

4 A. No, that's correct. I mean, there's other  
5 line count data sources out there and I used those  
6 data sources as part of the CLECs reasonably diligent  
7 inquiry to see if legitimate concerns existed  
8 regarding the line counts in those wire centers  
9 recognizing, and I think I was clear in the  
10 testimony, that those did not conform with the FCC's  
11 order, but that was the best data that was available  
12 to us on the publicly available basis.

13 Q. And you agree with me that every state  
14 commission that has ruled on these issues have found  
15 either December of 2003 or December 2004 ARMIS data  
16 to be appropriate and not any other time period; is  
17 that correct?

18 A. That's correct. For this initial list of  
19 wire centers, that's correct.

20 Q. And you don't believe that Qwest on a  
21 going-forward basis has proposed to use access line  
22 data other than current December end of the year  
23 ARMIS access data that's on file with the FCC? In  
24 other words, you're not contending that Qwest is  
25 trying to use June data or September data for its  
26

1 business line count?

2 A. That was initially a concern of mine, but  
3 I believe Qwest has clarified its position that it  
4 plans on using data as of the end of the year and it  
5 would only make up line counts on an annual basis.

6 Q. Sir, regarding page 23 of your Surrebuttal  
7 Testimony, and take a moment to get there, you  
8 discuss the advance notice of 5,000 lines or one  
9 fiber co-locater that you would like Qwest to provide  
10 here in Utah. You can't point to anything in the  
11 TRRO where the FCC requires an RBOC to provide  
12 advance notice to interested parties of a potential  
13 non-impairment when a wire center reaches within,  
14 say, 5,000 lines of a threshold?

15 A. No, that's correct.

16 Q. And you're not aware of any state  
17 Commissions that have ordered an ILEC or RBOC to  
18 provide any kind of advance warning or advance notice  
19 when a wire center gets within 5,000 of a threshold?

20 A. Recalling -- as I recall, I think I can  
21 only remember it coming up perhaps before one  
22 commission, and that may have been in California.  
23 And I believe they did not require that type of  
24 notice. But from reading the state decisions on  
25 this, I don't believe this issue has been addressed

26

1 in a lot of the states.

2 Q. And you can't point to anywhere in the  
3 TRRO where the FCC requires an RBOC to provide  
4 advance notice to interested parties of potential  
5 line unimpairment when a wire center gets within one  
6 fiber-based co-locater of a threshold, do you?

7 A. No, that's correct.

8 Q. And again, as far as you're concerned or  
9 you know of, no other state commission has ever  
10 required that kind of advance notice within one  
11 fiber-based co-locater?

12 A. I don't think the commissions have made a  
13 determination one way or the other. So I'm not aware  
14 of any decisions with regard to fiber-based  
15 co-locations.

16 Q. Thank you.

17 You would agree with me, sir, that a CLEC  
18 disputing, that is a fiber-based co-locater by  
19 itself, is not sufficient or enough of a basis to  
20 conclude that the CLEC is not a fiber-based  
21 co-locater?

22 A. Yes, I would agree with that.

23 Q. If I could direct your attention to pages  
24 6 and 7 of your Surrebuttal, please. Now,  
25 specifically directing your attention to line 18 on  
26

1 page 6 and line 1 on page 7, you said, "The Joint  
2 CLECs invited Qwest to provide any additional  
3 information upon which it relied, but Qwest has  
4 failed to do so."

5 And in the middle of that sentence you  
6 refer to or have a Footnote 7 in which you refer to  
7 page 16, lines 1 and 3 of your Response Testimony.  
8 Is that correct?

9 A. Yes.

10 Q. Can we go to page 16, line 1 to 3?

11 A. So clearly that's not the correct  
12 reference.

13 Q. So are you saying that the sentence on top  
14 of page 16, lines 1 to 3, "If the Joint CLECs receive  
15 additional information regarding the fiber-based  
16 co-locations in the offices where there are disputes,  
17 the Joint CLECs will update the status of these wire  
18 centers," are you saying that that's not what you  
19 were referring to?

20 A. I'm sorry, I was looking at the wrong  
21 lines. So that is correct, page 16 of my Rebuttal  
22 Testimony, lines 1 through 3, is where the CLECs have  
23 said if information presents itself which would  
24 verify these -- the status of these wire centers, I  
25 mean, we would update our positions. We're not --

26

1           Q.     So you take that sentence on lines 1 to 3  
2     on page 16 to be the so-called invitation to Qwest to  
3     provide information that Qwest allegedly failed to  
4     provide?

5           A.     Yeah. I think if you read the parts  
6     before that as well that say -- you know, that talk  
7     about here's the shortcomings we found in the data  
8     and here are the offices that are under dispute, and  
9     then the conclusion is if we get additional  
10    information we'll update our position, to me that's  
11    an invitation.

12          Q.     Well, sir, you agree with me that there's  
13    no specific co-location request for information that  
14    the CLECs have made to Qwest that Qwest has not  
15    responded to; is that correct?

16          A.     Yes, I agree. And I believe, based on  
17    that data, Qwest hasn't demonstrated that it meets  
18    the Tier 1 status in these two wire centers.

19          Q.     But just to be clear on the record, you  
20    agree there have been no specific co-location  
21    requests for information that Qwest has not responded  
22    to; is that correct?

23          A.     Yes, that's correct.

24          Q.     And, in fact, Qwest responded to more than  
25    40 data requests in this case, right?

26

1 A. Yes.

2 Q. And many of those data requests had  
3 multiple subparts, correct?

4 A. I can think of only one of those requests  
5 that had a multiple subpart. So I wouldn't  
6 characterize it as many of them.

7 Q. After a while these cases kind of blur  
8 together.

9 A. They do for me too, but I wrote those  
10 down.

11 Q. Okay. Well, you would know better than  
12 me. I'm sure the record will reflect what it will  
13 reflect.

14 Now, Qwest responded fully to all of those  
15 data requests, haven't they?

16 A. Yes, it has.

17 Q. So there's no information that you've  
18 requested from Qwest that Qwest has not provided on  
19 any of these issues?

20 A. That's correct.

21 Q. If I could ask you to turn to page 22 of  
22 your Response Testimony. Now, you talk about and  
23 you've used the word "manipulated" and "manipulation"  
24 of data several times throughout your testimony.  
25 Isn't that just kind of a strong accusatory word to

26

1 say that Qwest adjusted certain ARMIS data?

2 A. I believe I used the word "manipulation"  
3 because I felt that Qwest was going beyond what the  
4 FCC order had said in order to achieve an outcome  
5 which it desired for Salt Lake Main. So I'm going to  
6 agree it's a strong word, and "adjustment" is another  
7 word to be used but --

8 Q. I'm kind of partial to "adjustment."

9 A. But I'm not --

10 Q. Well, you would agree with me that Qwest  
11 has been very transparent about the adjustments that  
12 it has made and there was nothing nefarious or trying  
13 to pull the wool over anybody's eyes here; is that  
14 correct?

15 A. I believe with its direct filing in the  
16 initial data support that the data has been  
17 forthcoming. I mean, Qwest has been clear in terms  
18 of what it has done, yes.

19 Q. Now, assuming that the ARMIS data -- well,  
20 it's obviously reported to the FCC at a state level.  
21 Assuming that that's the way that it has been tracked  
22 at Qwest, you would agree with me that having to  
23 adjust that state level data to wire center level  
24 data would not be manipulation, would it? I mean,  
25 that would be an adjustment. You would use

26



1 "adjustment" over "manipulation" for that process?

2 A. And I would say that's what the FCC asked  
3 Qwest to do was to report that data on a wire center  
4 level. So right, I would agree reporting data on a  
5 wire center level is not manipulation. Exaggerating  
6 counts I would consider manipulation.

7 Q. And at the risk of beating a dead horse,  
8 at page 25 when you say that the ALJ in Washington  
9 found that Qwest manipulation of data was  
10 inappropriate, you would agree with me that nowhere  
11 in her ALJ recommendation did she ever use the word  
12 "manipulation"; is that correct?

13 A. Well, I mean, I don't know offhand. I  
14 trust that's probably not in the ALJ's report. The  
15 ALJ clearly said that it was an inappropriate for  
16 Qwest to make those adjustments.

17 Q. You don't believe I would ask you that  
18 question if it was in there, do you?

19 A. Sometimes you guys are lazy, you know.

20 (Laughter.)

21 Q. (BY MR. DUARTE) Let's talk just for one  
22 second about the Washington decision. You would  
23 agree with me that that's not a final order; is that  
24 correct?

25 A. That's correct.

26

1           Q.     And, in fact, the ALJ required Qwest to  
2 produce certain data so that the Commission can  
3 analyze it before it reaches any decision on the  
4 merits at the end of the case; is that correct?

5           A.     Right. The ALJ asked Qwest to provide  
6 data and the CLECs responded. Qwest just provided  
7 numbers and the CLECs responded that, you know, where  
8 did these numbers come from because they weren't any  
9 part of the record, Qwest didn't provide any basis  
10 for where they came from. We thought we had the  
11 ARMIS data on the record because Qwest had filed what  
12 it represented as ARMIS data previously, and that's  
13 where that case sits right now.

14          Q.     So with respect to the requirement that  
15 Qwest produce 2004 data, you're not claiming in part  
16 of your Table 8 chart that the Washington Commission  
17 has determined as a matter of substantive fact that  
18 2004 is the appropriate data to be used for that  
19 case?

20          A.     I'm sorry, so jumping subjects to the  
21 vintage of data? Is that what you're asking me about  
22 now?

23          Q.     I'm still on the Washington order, but on  
24 the vintage of the data.

25          A.     Yes, that's correct. They recommended to  
26

1 use the December 2003 data. That's one of the issues  
2 that the CLECs raised for reconsideration.

3 Q. Right. So my question is, the fact that  
4 the ALJ required Qwest to produce 2004 data doesn't  
5 mean that the Washington Commission has determined  
6 that 2004 is the appropriate data to be used in the  
7 case, it just means that Qwest should produce that  
8 information as part of the overall case?

9 A. I think you stated your sentence wrong  
10 because, I mean, you stated the ALJ ordered 2004 data  
11 which I hate to correct you, but it wasn't the case.  
12 The Washington ALJ ordered the use of 2003 data in  
13 its recommended order and the Commission has not made  
14 a final determination in that case.

15 Q. Let me back up. You're correct, that was  
16 one of the issues that we were pleased with,  
17 actually. But with respect to those other decisions,  
18 I guess the point I'm trying to make is that the  
19 Washington decision is not final and all it means is  
20 that any information that had to be adjusted was for  
21 purposes of the analysis in that case and not  
22 necessarily that the Washington Transmission and  
23 Utilities Commission would decide that that is the  
24 appropriate way to measure these issues?

25 A. Are you just asking me if the Commission  
26

1 made a final determination?

2 Q. That's basically what I'm asking.

3 A. Yes, no, they haven't.

4 MR. DUARTE: Your Honor, I'm going to ask  
5 a couple of questions about the one carrier that has  
6 been determined to be -- the identity of which has  
7 been determined to be highly confidential, the one  
8 fiber-based co-locater that we claim is a co-locater  
9 in the Ogden Main and Provo Wire center.

10 Now, I am very comfortable in asking my  
11 questions without disclosing that carrier's identity.  
12 However, discussing that carrier might lead any  
13 reasonable person in the industry to figure out who  
14 we're talking about. So I just don't know. I don't  
15 think we need to close the docket or close the  
16 hearing for it, but I just wanted to kind of ask your  
17 Honor's guidance about whether we should just go  
18 ahead and close it or whether I can ask those  
19 questions so long as I don't mention that particular  
20 carrier's name.

21 JUDGE GOODWILL: I thought you were going  
22 to say something.

23 MR. GINSBERG: I was just curious why it's  
24 confidential who the carrier is.

25 MR. DUARTE: That's a good question.

26

1           MR. GINSBERG: As opposed to what's in  
2 their facilities? I mean, why is the name of the  
3 carrier confidential?

4           JUDGE GOODWILL: That was a Qwest exhibit;  
5 is that right?

6           MR. DUARTE: No, that was -- well, the  
7 backup data with respect to the communications and  
8 all that, we certainly consider that to be  
9 confidential. The kind of questions that I want to  
10 ask Mr. Denney I don't believe are confidential at  
11 all. Mr. Denney in his testimony at page 6 did put  
12 the name in brackets as confidential, and that's the  
13 only thing that he put in as confidential. And I  
14 don't think we have to name that carrier, but in the  
15 course of my questions it may be pretty easy to  
16 figure out who that carrier is.

17           JUDGE GOODWILL: That's the Surrebuttal  
18 Testimony at page 6, line 9?

19           MR. DUARTE: Right.

20           MR. DENNEY: It's because I took that  
21 information from Qwest proprietary sheets, you know,  
22 regarding those two particular wire centers that are  
23 mentioned earlier in that paragraph. So I considered  
24 that to be confidential. If we get in -- you get in  
25 any discussions regarding attempts to verify any

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1 discussions I had with that carrier, that's  
2 considered highly confidential.

3 MR. DUARTE: Then I think under those  
4 circumstances, your Honor, it would be prudent to  
5 close the hearing for a few minutes.

6 JUDGE GOODWILL: Because we're going to  
7 discuss what?

8 MR. DUARTE: What discussion he made of  
9 that particular carrier.

10 JUDGE GOODWILL: And conversations that  
11 you had with that carrier?

12 MR. DENNEY: Yes.

13 MR. DUARTE: It sounds that Mr. Denney  
14 believes that any conversations he had with that  
15 carrier would be considered confidential so maybe  
16 it's prudent that we just go ahead and close the  
17 hearings just for those questions.

18 JUDGE GOODWILL: Comments on that from  
19 anybody else?

20 MR. KOPTA: It seems appropriate.

21 JUDGE GOODWILL: Any way around that?  
22 All right. And we're talking highly confidential?

23 MR. DUARTE: Yes. Highly confidential,  
24 yes, your Honor.

25 JUDGE GOODWILL: What we will do for the  
26

1 next few minutes is close this hearing to anyone who  
2 is not entitled under the terms of the Commission's  
3 Protective Order to highly confidential information.  
4 And I will rely on the parties to look around the  
5 room and try to make sure that everybody here has  
6 either signed the appropriate appendix to the  
7 protective order, otherwise Commission staff.

8 MR. GINSBERG: Can we, though, during this  
9 discussion allow us to ask our questions dealing with  
10 this issue surrounding these two offices so we don't  
11 have to --

12 JUDGE GOODWILL: Sure. I think that's the  
13 right way to proceed.

14 MR. DUARTE: Sure.

15 JUDGE GOODWILL: Is everybody satisfied  
16 with those who are in the room currently?

17 Okay. We will now go off the public  
18 record and onto the record in a sealed proceedings,  
19 closed proceedings to discuss some highly  
20 confidential matters. And this portion of the  
21 transcript will be kept separately from the remainder  
22 of the transcript. With that, Mr. Duarte.

23 MR. DUARTE: Thank you, your Honor.

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1 (Resuming Hearing After Closed Session.)

2 Q. (BY MR. DUARTE) Mr. Denney, if I can now  
3 refer you to page 18 of your Surrebuttal Testimony  
4 and specifically line 7 through 10.

5 A. Okay.

6 Q. Now, I think it's pretty clear from this  
7 language, but I want to just confirm that when you  
8 talk about that Qwest should be limited to  
9 essentially a once a year update, you are just  
10 talking about the business line part of this  
11 exercise; is that correct?

12 A. Right. The full, the total set of  
13 business, right, line counts in their entirety.

14 Q. So this once a year process or once a year  
15 limitation wouldn't apply to the fiber co-location  
16 piece of this exercise, right?

17 A. That's correct.

18 Q. Because that doesn't rely on ARMIS or  
19 annual filings, correct?

20 A. That's correct.

21 Q. So then if tomorrow Qwest were to  
22 determine that there were four fiber-based  
23 co-locaters in a certain wire center and that met the  
24 threshold for a certain product, Qwest could then  
25 tomorrow make that update or seek to update that wire  
26

1 center to add that to the list?

2 A. Right. I mean, I agree that we haven't  
3 asked for any restrictions on Qwest making updates to  
4 the list based on fiber-based co-locaters. Some  
5 question comes in if it's based on both fiber-based  
6 co-locaters and line counts and you get into a  
7 situation, you know, such as March 29th when Qwest  
8 makes an update and we know there's going to be new  
9 ARMIS data coming out in two days and Qwest makes an  
10 update on ARMIS data that's well over a year old. I  
11 mean, I think that still may be an issue. But  
12 updates based on fiber-based co-locations, we haven't  
13 argued that Qwest should not be able to update that  
14 as that becomes available.

15 Q. That's what we thought, we just wanted to  
16 confirm that there was no surprises about any  
17 advocacy.

18 Sir, if I can direct your attention to  
19 page 19 of your Surrebuttal Testimony, you use an  
20 example here starting at line 5 of 100 businesses,  
21 each purchasing four business lines. Now, by 100  
22 businesses, you do mean 100 Qwest business end-user  
23 customers; is that correct?

24 A. Yes.

25 Q. So in your example you're saying that not  
26

1 one or two or 10 or even 25 end-user customers, but  
2 100 different Qwest business user customers would all  
3 have to get service with a DS1 loop instead of four  
4 regular 1SD business lines, is that correct, in this  
5 example?

6 A. In this particular example, right. What  
7 I'm saying is Qwest could just offer up to provision  
8 these businesses that way. In most states, I believe  
9 Utah is one of them, Qwest can enter into IACB  
10 contracts with businesses and provision each so the  
11 cost could be the same to that particular business.  
12 And this would basically -- this gives Qwest the  
13 ability to manipulate the counts without actually  
14 changing demand in a wire center.

15 Q. So when you say that Qwest could choose to  
16 service this business, isn't it true that, the end  
17 user customers aside, what kind of service that they  
18 want?

19 A. Yeah, that's correct. But it doesn't stop  
20 Qwest from making an offer to a customer saying,  
21 Look, if you'll switch over to our DS1 service,  
22 first, you'll have the ability to grow at a lower  
23 cost and we'll provision this to you at the same  
24 price, I suppose, of provisioning. There's all types  
25 of deals that you could imagine whereby you could

26

1 convince a customer to move from their four analog  
2 lines over to a T1.

3 Q. Okay. And here in Utah do you know what  
4 the cost is for a T1 or DS1?

5 A. And I mean, there's a variety of different  
6 rates in Qwest's price lists depending on if it's  
7 ISDN. So I'm not real familiar with the retail  
8 pricing of that. I did attempt to look at that. I  
9 saw it was around \$300, but I'm not sure if I was  
10 putting all the pieces together correctly.

11 Q. And can you tell me what the flat rated  
12 business line is here in Utah for a 1FB?

13 A. Is it \$20?

14 Q. I don't know. I'm asking you. I'm  
15 breaking my rule of asking a question that I don't  
16 know the answer to.

17 A. You had me convinced there for a while. I  
18 don't recall offhand. I believe it was around \$20.

19 Q. Okay. So in this hypothetical here you're  
20 basically saying that if this were so, that for 104  
21 line customers that Qwest, so that they could jack up  
22 their business line counts, that Qwest would  
23 provision, I guess with or without the customer's  
24 consent, but to provision a DS1 with 24 channels and  
25 therefore have 20 unused channels of capacity to each

26

1 of these 100 businesses so that we could be able to  
2 increase our business line count; is that correct?

3 A. I said that's certainly a possibility.  
4 That's a hypothetical situation showing that allowing  
5 Qwest to count unused capacity rather than actual  
6 line served gives Qwest some incentives to try to  
7 provision things with more unused capacity on them so  
8 that it could count greater line counts. That's the  
9 purpose of the example here.

10 Q. I think I'm going to safely say or ask you  
11 that you're not aware of Qwest ever doing that, are  
12 you?

13 A. I'm not aware of that.

14 Q. And finally, sir, if I can direct your  
15 attention to page 29, line 7 and 8 and 12 and 13 of  
16 your Surrebuttal.

17 A. Sorry, lines 7 and 8 and --

18 Q. And 12 and 13. Basically, it's two  
19 sentences in a row that kind of talk about the same  
20 thing.

21 A. Okay.

22 Q. So you say that "Qwest may well claim that  
23 every wire center is impaired." You're not aware of  
24 Qwest trying to just throw up every wire center on  
25 the wall and say, you know, we hope that this all

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1 meets the business line count threshold and we want  
2 it to stick?

3 A. I'm not aware of that happening, but the  
4 way I understood Qwest's proposals were they could  
5 file these lists with the Commissions and then go  
6 into effect 30 days whether or not the CLEC objected,  
7 there was no downside to Qwest just filing everything  
8 that way and then the CLECs would have a total of 30  
9 days to try to get on something else or risk whether  
10 or not there's going to be supporting data for that.

11 Q. Based on your decade of experience in the  
12 telecom industry, do you think that any rational  
13 carrier would do something like that?

14 MR. DIAMOND: Don't get him started.

15 MR. DENNEY: I think -- I don't think  
16 Qwest would file every wire center that way. I  
17 certainly believe Qwest would file exact -- I mean,  
18 to the farthest of the argument that it could make if  
19 it thought that there was any chance that a wire  
20 center would make it on the list even if the data  
21 wasn't 100 percent supporting or if there is some  
22 question about that. I think Qwest may try to put it  
23 on there and try to get the wire center through. I  
24 mean, what this issue really gets to is the  
25 Commission should determine the effective date of new  
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1 wire centers that are added to the list.

2 Qwest is asking for these to automatically  
3 go into effect 30 days afterwards. If a dispute ends  
4 up not being approved it would be set retroactive at  
5 30 days. And I think the Commission should look at  
6 the data and information that Qwest has filed and  
7 make a determination, we think we can get this done  
8 in 30 days, the CLECs can review this data, and that  
9 shouldn't be a problem. But if Qwest is not  
10 forthcoming with all of the data or Qwest doesn't  
11 supply what's needed then the Commission may  
12 determine, you can't have this in 30 days. You  
13 didn't fully support this until halfway through this  
14 request period so we're going to put out that  
15 effective date.

16 And so what the issue gets to is just that  
17 the Commission should be the one to determine the  
18 effective date of updates to the wire center based on  
19 the comments that are filed regarding that list. And  
20 we hope, the CLECs hope that this isn't a drawn-out  
21 disputed process going forward, that Qwest will  
22 supply the data, we'll be able to verify it and then  
23 it will be done. Some of the disputes we're having  
24 now are going to be decided.

25 Q. (BY MR. DUARTE) Well, let's take a real

26

1 world example. Here in Utah we have a total of one  
2 wire center for DS1 and DS3 loops that we have  
3 claimed and that obviously is in dispute and six wire  
4 centers for transport. With respect to the six wire  
5 centers for transport, there's no dispute here that  
6 we've met the threshold, right? You're not is  
7 disputing any of these, are you?

8 A. Well, we are disputing -- I mean, we're  
9 disputing four in the sense of those wire centers,  
10 two of them are the Ogden and Main in Provo that we  
11 just talked about. The CLECs have said it should be  
12 Tier 2 and Qwest said Tier 1. So it would affect the  
13 Tier 2 status. If this were an update going forward  
14 we would say that Tier 2 should go into effect in 30  
15 days and the CLECs have agreed there. Now, there's  
16 two other wire centers where Qwest added to the list  
17 in July which was, what, four months, five months  
18 after the TRRO that Qwest is saying should take  
19 effect backward to March, and we're disputing that  
20 those should be applied retroactively.

21 Q. But with respect to those, none of those  
22 wire centers you would consider to be something where  
23 we just threw it up against the wall and hoped that  
24 it would stick? I mean, clearly while we have honest  
25 disagreements with respect to how to interpret the

26

1 data or how to calculate the data, there's no  
2 situation like you posited where Qwest is just taking  
3 a flier on a wire center that doesn't even come close  
4 to meeting the threshold; is that correct?

5 A. They all come close, but I think there's  
6 disputes of a few that we feel that Qwest has reached  
7 just to get them over the threshold.

8 Q. Okay. And with respect to that 30-day  
9 process going forward, I mean, CLECs would have the  
10 opportunity to challenge that and if ultimately they  
11 prevailed that wire center would not go on the list;  
12 is that correct?

13 A. Yes, that is correct.

14 Q. So there is a remedy for CLECs to ensure  
15 that Qwest doesn't throw everything against the wall  
16 hoping that something will stick?

17 A. But the remedy has no cost to Qwest.  
18 Because what happens, if Qwest -- let's just take  
19 that extreme where Qwest threw everything against the  
20 wall. The Commission could -- the CLECs would make  
21 this argument, look, they didn't do any of what they  
22 did before, they didn't look at the data closely, you  
23 shouldn't allow these to go into effect at the end of  
24 30 days. Qwest purposely provided too much  
25 information and it didn't give us time to look at  
26

1 that to be able to effectively review the  
2 information. We weren't able to do this in a 30-day  
3 time frame and we request the Commission not to  
4 establish the ones that we've agreed until 60 days.  
5 That's an incentive for Qwest to actually file what  
6 it has support for if the Commission has the ability  
7 to determine the effective date. This automatic 30  
8 days, if it passes the test, I don't see there's any  
9 downside for Qwest for overreaching.

10 Q. And you would agree with me that there's  
11 also potential incentive by some CLECs to try to  
12 delay the process by raising frivolous objections or  
13 disputes to some of the requests for updates; is that  
14 correct?

15 A. This is where again we get at the  
16 Commission. This is why we didn't say it should be  
17 the date the Commission order comes out. We said it  
18 should be the date that the Commission determines  
19 these wire centers should be effective. So if the  
20 Commission determines the CLECs have made frivolous  
21 arguments, you've just tried to delay this process,  
22 we're going to set this -- Qwest requested these go  
23 into effect 30 days after they filed it, we think  
24 they supplied the proper information, CLECs, you're  
25 just dragging this along. We're going to set it for

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1 effective in 30 days. I mean, by giving the  
2 Commission control of that it ends the incentives of  
3 both parties to enter into -- you know, to just focus  
4 on arguments that may extend and expedite the process  
5 to get it done.

6 Q. But you would agree with me that with the  
7 30-day process, if there are no objections, that 30  
8 days would be a reasonable time period for that wire  
9 center to go into effect as a non-impaired wire  
10 center?

11 A. Yes, I agree with that. And I think in  
12 most cases it can happen that way. Now, I mean, just  
13 to be clear, there's questions as to what happens  
14 after that point in terms of rates and transition.  
15 But in terms of when that's effective, I think it  
16 should happen within 30 days, but I think giving the  
17 Commission the ability to make that determination on  
18 a case-by-case basis ensures that the parties will  
19 work to facilitate that process.

20 Q. Right. But ultimately if there is a  
21 dispute, the Commission is going to get involved, and  
22 ultimately if the dispute is valid and the CLECs win  
23 then Qwest is not going to get that wire center on  
24 the list, right?

25 A. That's correct.

26

1           Q.     And ultimately if there is a dispute but  
2 the Commission finds -- strike that.

3                     Ultimately, if there is a dispute and the  
4 dispute goes to the Commission for resolution and the  
5 Commission later determines that the dispute was  
6 frivolous and that Qwest was correct all along,  
7 wouldn't it be fair that the effective date would  
8 have been the 30 days from that notice and not six  
9 months later when the issue was finally resolved by  
10 the Commission?

11           A.     And I didn't ask for when the Commission  
12 resolves the resolution. We asked that the  
13 Commission be the party that establish the effective  
14 date on a case-by-case basis looking at the  
15 information that was filed and the objections raised,  
16 if any, by CLECs. So I'm not arguing that the  
17 Commission should delay this six months if the CLECs  
18 can come up with an argument to dispute it for six  
19 months.

20                     If the Commission feels that they were in  
21 support of these wire centers and it was valid and  
22 the CLECs claims were not valid or were frivolous, as  
23 he put it, then the Commission should establish it  
24 back at 30 days. But I think giving that discretion  
25 to the Commission just makes sense in order to get  
26

1 parties to work toward resolution to try to get these  
2 done in an expedited manner, which I believe both  
3 parties have indicated they would like to do.

4 Q. But ultimately I guess what I don't  
5 understand is this, so let me just posit this  
6 question. If there's no dispute and no challenge  
7 then we all agree that 30 days will be sufficient,  
8 and we all agree that if there is a dispute then the  
9 Commission is going to get involved and make a  
10 decision one way or the other and if it is in Qwest's  
11 favor it's going to go back to the 30 days. So I  
12 guess I'm having a hard time understanding why you  
13 have no objection to 30 days and having the  
14 Commission -- the date becoming effective given that  
15 if there's no challenge 30 days would be sufficient.  
16 And if there is a challenge, ultimately it's the  
17 Commission that's going to decide the issue?

18 A. The Commission should decide the issue,  
19 but the issue is what if the CLECs dispute is Qwest  
20 didn't supply the supporting data. Then I as a CLEC  
21 am going to argue Qwest shouldn't get to count that  
22 30 days after their filing because they didn't  
23 support this wire center as they said they were going  
24 to do with their initial filing. So we would argue,  
25 and maybe during the course of data requests or

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1 exchange of information the CLECs realized Qwest's  
2 request was valid, that if they didn't supply that  
3 supporting information up front, if Qwest was the  
4 cause of dragging out this proceeding, then I think  
5 the Commission shouldn't set an effective date 30  
6 days after the Qwest filing but they should set it  
7 some date later.

8           And I expect during that filing the CLECs  
9 would request, you know, we didn't find this  
10 effective, but Qwest didn't supply all the data until  
11 30 days later so you should actually set the  
12 effective date 30 days after we received full  
13 disclosure of the data. And Qwest would argue the  
14 other side and the Commission would make the  
15 determination.

16           Q.     Okay. That clarification is helpful, Mr.  
17 Denney. So then you would agree with me, though,  
18 that if the Commission were to investigate and  
19 determine that that is the case, that yes, it meets,  
20 but Qwest dragged its feet, certainly the Commission  
21 has the power to make a determination as to an  
22 effective date; wouldn't you agree?

23           A.     That's our position.

24           Q.     I mean, isn't that what it is because  
25 Qwest was dragging its feet?

26



1           A.     Right.  Our position is, and I can't  
2  imagine every situation that's going to come up, but  
3  our position is the Commission should look at the  
4  particular filing.  I assume when Qwest would make a  
5  filing and would say here's the data then we would  
6  request it go into effect in 30 days.  And the CLECs  
7  would look at that data and say, yeah, that's fine,  
8  or here's some brand new issue that was never raised  
9  before or here's -- Qwest found a new way to count  
10 ARMIS line counts now that it didn't think of  
11 previously.

12                     You know, there's some issue that could  
13 come up and that could cause the CLECs to say, we  
14 don't think this should go into effect in 30 days.  
15 All we're asking is that that power be put in the  
16 hands of the Commission, not in the hands of Qwest.

17           Q.     Mr. Denney, thank you.  I think, if  
18 anything, it shows that we're not that far apart on  
19 many of these issues.  But thank you very much.

20                     JUDGE GOODWILL:  Mr. Ginsberg.

21                     MR. GINSBERG:  Thank you, your Honor.

22                                 CROSS-EXAMINATION

23                     BY MR. GINSBERG:

24           Q.     Mr. Denney, can you turn to that schedule  
25 you have on page 5 of your Surrebuttal?

26

1           A.     Yes.

2           Q.     What is the N/A supposed to mean there?

3           A.     So the N/A, in some of these -- I'll just  
4 clarify both of those things if that's all right.  
5 There's an "X" in I think one box and there's an N/A  
6 in quite a few boxes. What the N/A represents is  
7 that this issue was not directly determined by the  
8 order that the Commission put out. So that the  
9 Commission, for example, on Illinois there's an N/A  
10 under Vintage of Data.

11                   So the Commission, there's nowhere in the  
12 order did the Commission make an affirmative decision  
13 saying the vintage of data should be 2003 or it  
14 should be 2004. But what I've assumed, and I think  
15 it's safe to assume where there's an N/A, is that the  
16 Commission defaulted to the RBOC position. So in  
17 that particular example of Illinois it's likely where  
18 it says N/A you would look up and you would see the  
19 AT&T (SBC) position that they would have defaulted if  
20 it did December 2003 data.

21                   Because if the Commission had ordered the  
22 RBOC to do something different from what their  
23 position was it would have been clear in the order.  
24 So the N/A was kind of an attempt to get at, not to  
25 put words in the Commission's mouth, but to get some  
26

1 information that I think should be reasonably safe in  
2 terms of what the Commission has decided. Where  
3 there's an "X" it just means that issue was not  
4 litigated at all. And I believe there's an "X" just  
5 in California under Vintage of Data.

6 The wire center order in the California  
7 case was part of an arbitration between I think it  
8 was between SBC and the CLECs. The argument  
9 regarding the vintage of data never came up in that  
10 arbitration proceeding. There's currently a case  
11 going on in California right now and that is one of  
12 the issues before the Commission, but it just hasn't  
13 made a ruling in any case that data hasn't been  
14 filed. So they haven't finished the process enough  
15 to say what the Commission means to do.

16 Q. So, for example, for the ARMIS 43-08  
17 column where it says for SBC or AT&T where they  
18 apparently proposed not to adjust the ARMIS data for  
19 the full capacity of DS1 and DS3s?

20 A. Right. SBC, I mean, it's very clear if  
21 you read through some of their testimony and through  
22 these orders that they thought that the ARMIS data  
23 should be used as is without any adjustments.

24 Q. So when it says N/A for those other states  
25 of --

26

1           A.     Right.  For Michigan and Ohio, for  
2     example, those states then went with -- they agreed  
3     with AT&T that the ARMIS 43-08 data should be used  
4     exactly as is.  Now, the reason this came up in  
5     disputes in a lot of these cases is because some of  
6     the CLECs in other states were arguing for Centrex  
7     lines and some other types of lines be counted  
8     differently from the way they're counted in ARMIS.  
9     And SBC said, no, we should use ARMIS data exactly as  
10    it is, exactly as it falls out.  There shouldn't be  
11    any other adjustments to it.  The FCC was clear on  
12    this and the state commissions have agreed there with  
13    SBC.

14           Q.     I take it Verizon is in the same boat as  
15    SBC?

16           A.     That's correct.  With regard to the ARMIS  
17    43-08 data, that's correct.

18           Q.     Now, if we look at the last column, which  
19    is CLEC High Capacity Loop Count, that would be where  
20    Qwest goes to their wholesale list, I guess, and say  
21    how many DS1s and DS3s they have sold to each CLEC  
22    and determine how much of those various capacities is  
23    actually being used, right?

24           A.     Right.  And what Qwest actually does is  
25    they say, We've sold 5 DS1s.  Those count 5 times 24.

26

1 That's what it means when it says "full capacity."

2 Qwest would have counted those as 120 lines.

3 Q. So for those that say N/A under AT&T, you  
4 would assume that those states stayed with the full  
5 capacity?

6 A. Yes, that's correct.

7 Q. Now, how many of these DS1s and DS3s, do  
8 they sell quite a few of them in an office like Salt  
9 Lake Main to a lot of CLECs?

10 A. There's quite a few. The numbers are  
11 probably here in one of my exhibits. I could find  
12 it, but I'm not sure it's a proprietary number. I  
13 mean, I am sure there's, I don't know, a few hundred  
14 at least.

15 Q. Just to one company or to a variety of  
16 companies?

17 A. Yeah, to a variety of companies. I mean,  
18 it may be a thousand or so DS1s, but Qwest has  
19 provided that data. So, I mean, it's included here.

20 Q. Do most CLECs buy DS1s and DS3s?

21 A. DS3 in terms of loops, I'm assuming we're  
22 talking about? Most CLECs -- a lot of CLECs buy DS1  
23 loops because a lot of the CLECs are really focused  
24 on midsize businesses and the midsize businesses  
25 could still buy DS1s. DS3s is really more of an  
26

1 enterprise market type of customer. So there's a few  
2 CLECs that will buy DS3 loops. There's nowhere near  
3 as many DS3 loops that are sold as there would be DS1  
4 loops. There's just not that many large customers  
5 out there purchasing those loops, and those  
6 enterprise businesses tend to be -- those customers  
7 tend to go with the larger players.

8 Q. How would Qwest physically have determined  
9 the amount of capacity to be used?

10 A. Well, for the CLEC DS1 and DS3 loops Qwest  
11 didn't attempt to determine how much capacity.

12 Q. I asked you how would they determine?

13 A. Oh, how would they determine? One, I  
14 asked Echelon to do this and we were able to  
15 determine here's how much switch capacity we have on  
16 a DS1. It wasn't -- it took a little bit of work,  
17 but we can put that data together. You know, I  
18 talked to Covad about that and they said that's  
19 something they could easily do as well.

20 Q. What about our unnamed carrier who isn't  
21 so willing to provide information?

22 A. It would be a little harder to get their  
23 exact counts out of them. I don't know to the extent  
24 they're a player with regard to DS1 loops. I know  
25 when the merger was going on their big argument was  
26

1 we have pulled out of the retail market in a lot of  
2 these states.

3 Q. But you would agree that it would take  
4 what everyone seems to want it to be, to be a simple  
5 straightforward easily verifiable process to  
6 something that might end up being pulling teeth from  
7 each CLEC to obtain the information?

8 A. Excuse me, I'm sorry. Requesting each  
9 CLEC's data, you know, each individual CLEC data  
10 would be a lot of work. But I don't know that that's  
11 necessary. For one, we know that Qwest has stated it  
12 was able to determine for itself its ratio of total  
13 capacity to use -- or to use capacity to total  
14 capacity. You know, a few carriers could provide  
15 that information, could give you a ballpark in order  
16 to use that, in order to do that adjustment.

17 Q. But you don't seem so willing to accept  
18 ball parks.

19 A. I see that as a two-way street in a sense  
20 because for me, from a CLEC perspective, once that  
21 wire center is on the list it stays on the list and  
22 that's it, there's nothing I can do about it. So  
23 when Qwest throws in a ballpark estimate I'm a little  
24 more wary about it. To get a good estimate for some  
25 of the CLEC data, I see it as a different issue

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1 because what we're trying to look at is what's the  
2 actual use capacity on these lines. So coming up  
3 with an estimate or even getting the actual data from  
4 CLECs, you don't have the same repercussions as you  
5 do as when something gets out to that list, it's  
6 there forever and it doesn't matter if you were right  
7 or wrong.

8 Q. Obtaining some sort of prenotification,  
9 this 5,000 access line that's been talked about, can  
10 you tell us a little bit about what benefit that  
11 would be? What would the CLECs do with that  
12 information if they had prenotification either of the  
13 5,000 access lines or whatever the number would be or  
14 the number of co-locaters in an office?

15 A. Right. Well, I mean this is a big worry  
16 for our business units, especially the people doing  
17 planning, talking to our shareholders and to our  
18 investors. You know, you do business planning on  
19 what your expenses are going to be going forward,  
20 what are the risks you face. You need to reveal  
21 these risks to your shareholders. And they ask all  
22 the time, What's next, what wire centers are going to  
23 be next on the list? We need to have some idea so we  
24 can at least account to our shareholders and say or  
25 account internally and say here's some risk that we

26



1 may be facing here, we better start looking. Are  
2 there other actual alternatives out there for us or  
3 not? What can we do to try to hedge our bet so that  
4 one day suddenly we're not just completely stuck.  
5 And these plans go out for a while.

6 I'm not personally involved in those  
7 plans, I just know I get the question all the time  
8 from these folks. I mean, they're worried about what  
9 is it that's coming up? Where are the next changes  
10 going to be? Where are my costs going to go up next?  
11 Where are my wholesale costs going to change? And so  
12 that's the type of -- it gives you some ability to at  
13 least kind of hedge in terms of accounting for these  
14 increased places where costs may increase going  
15 forward.

16 Q. Did they ask you those kind of questions  
17 when these rules were being considered by the FCC as  
18 to which offices would be affected?

19 A. Well, you know, I wasn't at Echelon at  
20 that time so they didn't ask me that question, I was  
21 at AT&T. And AT&T is just kind of this big monster  
22 and different parts don't talk to each other as often  
23 as they should. So I didn't get asked those  
24 questions there either.

25 Q. Is there any kind of publicly available  
26

1 information that would help you know ahead of time  
2 whether an office was going to become non-impaired or  
3 not other than the filing that Qwest would be making  
4 on an annual basis?

5 A. I mean, certainly we're looking at -- you  
6 know, like I've said, I've looked at the Icon  
7 database which has a list of line counts by wire  
8 center that Qwest puts out. Those are not counted on  
9 the exact same basis. There's another loop count by  
10 wire center that Qwest files and that's on its Icon  
11 website as well. I've done some estimates here to  
12 give me an idea of where I thought there were  
13 questions and a threshold.

14 So certainly we're looking at that type of  
15 data. But as Qwest has pointed out, those data sets  
16 don't follow the FCC rules so you can't -- you know,  
17 they're not as useful to rely on. From what I  
18 understood from Qwest's testimony this morning, it  
19 would be fairly simple for them when they're doing  
20 their annual compilation of this ARMIS data to check  
21 to see if the threshold was at 19,000 versus 24,000  
22 and compile this data on an annual basis and make  
23 that available.

24 Q. So you're suggesting that when they make  
25 the ARMIS filing that they look at the various wire  
26

1 centers to determine which are close to the limit and  
2 provide you that information?

3 A. I mean, I think that's a reasonable  
4 approach. I mean, I would much prefer to have that  
5 data updated on a monthly basis. But I mean, I think  
6 what I heard this morning was that doing it on an  
7 annual basis, that's when all of this work is being  
8 done with ARMIS and that would be basically almost no  
9 extra work just because you're counting all those  
10 lines anyway to compare if it's 19,000 or just  
11 compare it at the 24,000 or if it's 33,000 compared  
12 with 38,000, that that would be a simple process to  
13 do at that time period.

14 Q. Well, it's not clear to me then how this  
15 5,000 access line away from the criteria comes into  
16 play under the way you're suggesting this would work.

17 A. Right. So I would just see a list of wire  
18 centers that would say these wire centers are within  
19 5,000 lines of meeting threshold. There's four line  
20 counts, or actually three line count thresholds out  
21 there, there's 60,000 lines which plays into the DS1  
22 loops, there's 38,000 lines which plays both into  
23 Tier 1 status and into the DS3 loop non-impairment  
24 status, and there's 24,000 lines that plays into the  
25 Tier 2 status. If Qwest gave a list and said these

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1 wire centers are within 5,000 lines of meeting that  
2 status, it's pretty easy to determine where -- you  
3 already know what the wire center is currently  
4 classified as. So if it's already a Tier 2 wire  
5 center you know it's within 5,000 of reaching the  
6 Tier 1. Otherwise, it would be a Tier 1 wire center.  
7 So it basically gives you information on what wire  
8 centers are going to potentially -- have the  
9 potential to be next and when they would occur. Not  
10 when they would occur, but I mean how close they are  
11 to occurring.

12 MR. GINSBERG: Thank you.

13 JUDGE GOODWILL: Let me ask just a couple  
14 of questions before we turn back to the parties. The  
15 subject you were just speaking about, the within  
16 5,000 of a threshold, what would you expect the CLECs  
17 to do with that information?

18 MR. DENNEY: Well, what I would expect, I  
19 mean I know from our company, I mean they would look  
20 at this information and say, you know, oh, here's  
21 some wire centers that are -- we're going to have  
22 some cost changes coming up in the future and we need  
23 to plan for these increases in our costs or there's a  
24 potential for increases in costs.

25 And ways that we can potentially plan for  
26

1 this might be, you know, -- I mean, it could be the  
2 extreme of some companies maybe would say, we could  
3 build -- we better start planning on building loops  
4 to get around this. And so far that's not something  
5 Echelon has done, but a company could do that. That  
6 takes a long time to go through that process. It may  
7 be just more looking at your financials and you have  
8 to report your regulatory risk to people and when it  
9 comes up in terms of raising money for different  
10 types of activities that you take this into account  
11 in terms of we've got huge risk coming up. Like  
12 maybe every wire center in Utah is right next to the  
13 threshold. Maybe our business strategy, we ought to  
14 look at the way we're doing business here if we're  
15 going to have a huge wholesale cost increase. You  
16 know, we may need to find some other way to access  
17 those end-user customers if there's some other way  
18 that's out there.

19           The DS1 loop in Utah is approximately \$65  
20 per UNE-loop rate. The special access rate that  
21 Qwest is proposing to charge is \$165. So it's almost  
22 a two and-a-half times increase, you know, in just  
23 that end-user connection to get to that customer.  
24 It's similar increases for the other types of  
25 products. So knowing these are coming helps the CLEC

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1 in its overall business planning. It doesn't mean  
2 that the CLEC is going to shut down business  
3 somewhere, but it's good to know of your risk before  
4 you get there.

5 JUDGE GOODWILL: On the Vintage of the  
6 Data -- I guess let's step back. Is it the case that  
7 the CLECs want to use the December 2004 data as  
8 opposed to the December 2003?

9 MR. DENNEY: Right. And what the CLECs  
10 have proposed initially is you ought to use data  
11 that's reflective of March 11, 2005. Qwest came back  
12 and said you have to use ARMIS and it's only  
13 available once a year. And so you say, well,  
14 December 2004 is much more reflective of the  
15 effective data in the TRRO than December 2003 data.

16 So it's our position that you should use  
17 the December 2004 data because what we're talking  
18 about is impairment at the time of when the TRRO goes  
19 into effect, which is March 11, 2005. The  
20 fiber-based co-locations were measured during that  
21 time period and we thought the line counts should be  
22 reflective of that time period as well. Going  
23 forward we would expect the line counts to be  
24 reflective of the time period where you're making  
25 changes going forward that Qwest couldn't continue to

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1 use 2003 data, say, in 2008.

2 JUDGE GOODWILL: So the CLECs are making  
3 the argument based on the principle of using the most  
4 recent data available corresponding to the time  
5 period in question, I guess irrespective of using  
6 that data?

7 My question is, I haven't seen anything  
8 yet -- I'm not sure under which scenario using 2003  
9 data versus 2004 is alleged to make any difference.  
10 Is there? Is there some scenario there where you see  
11 a difference?

12 MR. DENNEY: I mean, Qwest did -- kind of  
13 step back a little bit. You know, Qwest, we  
14 initially asked for the 2004 data and Qwest refused  
15 to provide it which made us think it was probably  
16 more favorable toward us than the 2003 data, that  
17 there was some reason they were using old data. But  
18 the data they filed in this case for 2004, it shows  
19 less line counts than 2003 for the Salt Lake Main  
20 Wire center.

21 I don't recall offhand if that's the case  
22 for every wire center. And I'm trying to think if  
23 Qwest -- I believe Qwest filed the 2004 data for all  
24 wire centers, but at least for Salt Lake Main the  
25 line counts were less in 2004. But I mean, we think

26

1 regardless of whether the line counts went up or down  
2 in 2005, if that's the most recent data available at  
3 the time that you're making a claim, you know, then  
4 you should use the most recent data that's available  
5 that corresponds to the date that you're trying to  
6 make your determinations effective.

7 JUDGE GOODWILL: Okay. Mr. Kopta?

8 MR. KOPTA: I don't have any questions.

9 JUDGE GOODWILL: Mr. Duarte?

10 MR. DUARTE: I do have a couple of  
11 questions. And if I could ask for your Honor's  
12 indulgence, there was a couple of questions on one  
13 topic of his oral Surrebuttal that I wanted to ask on  
14 my first go-around and I forgot to do that.

15 RE-CROSS-EXAMINATION

16 BY MR. DUARTE:

17 Q. Let's start off with, Mr. Denney, you  
18 discussed this morning or this afternoon right after  
19 the lunch break the Footnote 303 that you cited in  
20 your testimony, and you took issue with the oral  
21 Surrebuttal that Mr. Teitzel gave this morning on  
22 that issue.

23 Sir, isn't it true that the document that  
24 is referenced as Footnote 303 is actually a report  
25 definition document whose edition date is 12-2004 or  
26



1 December 2004?

2 A. I'm not sure I understand your question.  
3 And I'm not sure I took issue with what Mr. Teitzel  
4 said so much as to say that I thought it was more  
5 relevant than he had said because of where that  
6 footnote fell. But that report is the instructions  
7 for filing of December 2004 ARMIS data. There's a  
8 report -- these reports are available on the FCC  
9 website and I've given the link there. There's a  
10 report for 2003 on the website, there's a report for  
11 2005 on the website. These instructions don't change  
12 a whole lot over time and I didn't see any difference  
13 between -- in the instructions for 2003 versus 2004.  
14 The point I was making here is that the FCC  
15 specifically referenced its 2004 instructions which  
16 would correspond with the December 2004 ARMIS filing.

17 Q. Well, and certainly since the order came  
18 out in February 2005 you would expect them for  
19 citation purposes to cite to the definition document  
20 that they were to cite the most recent; wouldn't you  
21 expect that?

22 A. Well, I would have expected them to cite  
23 the definition document that corresponded with the  
24 data that they're requesting because that's how this  
25 footnote is used. It's used in reference to the

26

1 ARMIS data.

2 Q. But you just said that the document  
3 doesn't really change from year to year?

4 A. That's correct.

5 Q. And so we pulled a copy of this report  
6 from the website that that was listed in Footnote  
7 303. You would agree with me, and I have the  
8 document here if you want to look at it, that there  
9 is no reference to 2004 ARMIS data itself, it's just  
10 the definition document for ARMIS reports, an edition  
11 of which was issued in December 2004?

12 A. If I understood you, I think we're in  
13 agreement here that this document is the instructions  
14 for filing December 2004 ARMIS data. That's what the  
15 document is.

16 Q. Right. And the footnote basically just  
17 talked about the fact that this is a report, this is  
18 the most recent report for those definitions,  
19 correct?

20 A. Well, the footnote doesn't say anything  
21 about recent report. I mean, the paragraph or the  
22 sentence in paragraph 105 says, "The BOC wire center  
23 we analyzed in this order is based on ARMIS 43-03  
24 business lines," and it has Footnote 303. You look  
25 at Footnote 303 and it says, "See the Industry  
26

1 Analysis and Technology Division Wireline Competition  
2 Bureau, FCC, FCC Report 43-08, Report Definition,  
3 December 2004, Available At," and it gives the  
4 website.

5 Q. Right. And I guess we're not going to  
6 agree on anything, but I want to just clarify that  
7 the document itself doesn't say anything about for  
8 TRRO purposes you should use December 2004, it's just  
9 the instructions for how to fill out an ARMIS report;  
10 is that correct?

11 A. Right. The document is how to fill out  
12 the ARMIS report. I view the TRRO as saying here's  
13 what to use.

14 Q. So to be fair or to be clear, you're  
15 making an inference then that because there's a  
16 citation to the most recent edition which was issued  
17 in 12-2004, that that means that the FCC intended the  
18 parties to use December 2004 data for this paragraph  
19 105 business line count; is that correct?

20 A. Right. And I mean, and to be clear, I  
21 think it's logical that you would use the most  
22 current line counts available and I see this as  
23 further evidence that the FCC thought so as well.

24 Q. And in the 185 pages in the document  
25 there's not one sentence that basically says that  
26

1 CLECs or that ILECs were to use December '04 data; is  
2 that correct?

3 A. Right. This footnote is the closest it  
4 directly comes to saying that in this document.

5 Q. And just one other area here. The Judge  
6 was asking you a couple of questions about the  
7 advance notice for 5,000 lines and how you would  
8 expect to use that information. Though I think you  
9 admitted that it's not an apples to oranges  
10 comparison, you do have access to some line count  
11 information through the Icon database that would give  
12 you at least some information whether a wire center  
13 was at the 19,000-20,000 line level or at the  
14 34-3,000 level or the 55,000 level, i.e., within  
15 5,000 of one of the thresholds?

16 A. I mean, there's some dispute over the use  
17 -- there is that data there, and certainly that's the  
18 best that's available in terms of publicly available  
19 line count information. And I used that as an  
20 initial inquiry into whether Qwest wire centers met  
21 the impairment status. But I mean, it's not perfect  
22 data, it's not based on any -- none of those counts  
23 are based on the FCC's definition on how to count  
24 lines.

25 Q. Sure. I think we all agree on that. But  
26

1 you were talking about the importance of knowing when  
2 a wire center might be getting close to a  
3 non-impairment status for investors and the business  
4 planning purposes and all of that. So, for example,  
5 if one of the thresholds that you're concerned about  
6 is 24,000, you want to know whether a certain wire  
7 center is within the 19, 20, 21,000 line range.  
8 Couldn't you at least get a, if you want to use the  
9 word "ballpark" status of that wire center by going  
10 through Icon and determining, gee, according to  
11 Icon, albeit it's not an apples to apples comparison,  
12 but it looks like wire center X is at about the  
13 21,000, that might be getting close to 24,000  
14 business lines as the TRRO defines it? I mean,  
15 wouldn't that give you some information?

16 A. That's some information with regard to  
17 line counts. It's no information with regard to  
18 fiber-based co-locaters. And it's imperfect  
19 information regarding line counts.

20 Q. Thank you.

21 JUDGE GOODWILL: Anything further of this  
22 witness?

23 MR. KOPTA: No, your Honor.

24 MR. GINSBERG: No.

25 JUDGE GOODWILL: All right. Thank you.

26

1                   We've been going for almost two hours.  
2           I'm inclined to just plow ahead, but if people would  
3           like to break we certainly can.

4                   MR. GINSBERG:   Maybe we could take a short  
5           break.

6                   JUDGE GOODWILL:   Is five minutes good?

7                   (Short recess.)

8                   JUDGE GOODWILL:   Let's go back on the  
9           record.  I believe now we're going to turn to the  
10          Division now.  Is that right, Mr. Ginsberg?

11                  MR. GINSBERG:   Yes.  The Division witness  
12          is Casey Coleman.

13                  JUDGE GOODWILL:   Mr. Coleman, if you would  
14          stand and raise your right hand I'll swear you in.  
15          Do you solemnly swear that the testimony you're about  
16          to provide shall be the truth, the whole truth, and  
17          nothing but the truth, so help you God?

18                  MR. COLEMAN:   Yes.

19                  JUDGE GOODWILL:   Thanks.  Please be  
20          seated.

21                                 CASEY J. COLEMAN,  
22          called as a witness, was examined and testified as  
23          follows:

24                                 DIRECT EXAMINATION

25          BY MR. GINSBERG:

26

1 Q. Would you state your name and business  
2 address and occupation for the record?

3 A. Sure. My name is Casey J. Coleman. I  
4 work for the Division of Public Utilities. Our  
5 address is 160 East 300 South, Salt Lake City, Utah.

6 Q. And you are assigned to provide  
7 information for this docket?

8 A. Yes.

9 Q. And you filed Direct Testimony that has  
10 been marked as DPU Exhibit 1 consisting of 11 pages  
11 and one exhibit?

12 A. Yes.

13 Q. And do you have any corrections to make to  
14 that testimony?

15 A. No.

16 Q. If those questions were asked to you today  
17 they would essentially be your answers?

18 A. Yes.

19 MR. GINSBERG: With that I would ask that  
20 what's been marked as DPU Exhibit 1 with Exhibit 1.1  
21 attached be admitted.

22 JUDGE GOODWILL: Any objections?

23 MR. KOPTA: No objections.

24 MR. DUARTE: No objections.

25 JUDGE GOODWILL: It's admitted.

26

1 Q. (BY MR. GINSBERG) I know you're going to  
2 also provide some responsive testimony to the  
3 Surrebuttal that was filed in response to yours. Can  
4 you first give a summary of your testimony?

5 A. Yeah. I'll condense it down for the sake  
6 of time. But basically my testimony was just to  
7 provide the Division's position on the way that the  
8 lines should be counted for the different wire  
9 centers as far as trying to read the TRRO definition.  
10 And we also did give some direction as far as how we  
11 felt that a wire center should be added to the  
12 impaired list going forward and also gave some  
13 suggestions on how that process could work where we  
14 felt the Division could probably be involved going  
15 forward with that as well. So that's a very brief  
16 summary.

17 Q. One of the issues that was in your initial  
18 testimony, you were generally satisfied with the way  
19 Qwest had addressed the determination of whether  
20 there were sufficient fiber-based co-locaters; is  
21 that right?

22 A. Yeah. When we had done our review of the  
23 information that was filed by Qwest and the efforts  
24 that they had taken, we felt that they had tried to  
25 do pretty much as much as they could have to be able

26



1 to determine if fiber-based co-locaters were in the  
2 various wire centers.

3 Q. Do you see any way to obtain answers from  
4 a CLEC who won't provide the information without  
5 getting an order from the Commission?

6 A. I think it would be fairly difficult for  
7 the companies involved. One option, and it's one  
8 that if the Commission is interested in doing the  
9 Division could try on their own to independently go  
10 out with the CLEC co-location fiber-based co-locaters  
11 and do a field verification on our own. I mean,  
12 that's one option that we could see.

13 As Mr. Ginsberg mentioned, possibly an  
14 order to where we could follow-up with that as a  
15 Division with the different CLECs that haven't  
16 participated just to make sure that the information  
17 is accurate. As a Division, we would be willing to  
18 do that because we do feel somewhat sympathetic to  
19 what Mr. Denney has discussed as far as kind of a  
20 one-time chance. It's on there and it's permanent.  
21 So we would like to make sure that we get the  
22 information as accurate as possible. So those are a  
23 couple of scenarios that we think as a Division we  
24 would be willing to pursue if the Commission fills  
25 that that would be an additional step that we would

26

1 be able to help clarify the wire centers in this  
2 docket.

3 Q. Your testimony talked about a five-day  
4 notice period that would apply before the effective  
5 date, I guess, of the non-impaired status of a wire  
6 center, and you got responses from both Qwest and I  
7 think particularly for the CLECs of five days. Can  
8 you put that in the context of how you envisioned the  
9 process working on a going-forward basis?

10 A. Yeah. One clarification on that, and I  
11 know that Mr. Denney in his testimony had brought  
12 this up, we had anticipated that the notification  
13 would be given to the Division and the Commission but  
14 also to Joint CLECs. It wasn't that we were going to  
15 exclude them, that they should have the information.  
16 And I think that came out in this proceeding that  
17 that would be necessary, and we think it would be  
18 vital.

19 What our anticipation was is that if it  
20 was possible for Qwest or reasonably possible for  
21 Qwest to be able to provide some advance  
22 notification, we could get the ball rolling as far as  
23 the Division and the other parties just to get the  
24 verifications done so that we could make sure the  
25 line counts were done accurately. Our belief and

26

1 hope is is what has been expressed by the other  
2 parties, that once this proceeding is finished as a  
3 group we will have a fairly clear understanding as  
4 far as how the Commission wants us to do the line  
5 counts, and recreating the wheel for the next time  
6 should be easier.

7           So the hope was is that we would get  
8 notification from Qwest. It didn't have to be  
9 elaborate, in my simple mind it was maybe an e-mail  
10 saying, "Look, this wire center is within whatever  
11 threshold we determined." We start with a process to  
12 verify and make sure that's done. We as a Division  
13 would potentially coordinate with the CLEC, say  
14 that's the information we've got, you know, that's  
15 reasonable to us as far as what they're doing.  
16 What's your input, feedback? So we kind of do it as  
17 a proactive.

18           We take this proceeding that we have here,  
19 hopefully it's done quicker, but it's also done in  
20 the forefront with the idea that the Commission and  
21 the Division would file with the Commission something  
22 that says we have reviewed this, it's accurate, you  
23 know, and we believe that they are following the  
24 proceedings that are done. And if, in fact, Qwest,  
25 at the point where they have to file the ARMIS data,

26

1 doesn't put this on the wire center, we believe that  
2 it should be approved.

3           The reason why we did the five days was  
4 because we felt at that point maybe there was  
5 something that didn't come up, maybe we had missed  
6 something, and we wanted to give a time frame to  
7 allow individuals to be able to respond and challenge  
8 if need be. But the idea is is that we've all  
9 already done that initially up front before it's  
10 happened, most of those issues have been resolved.

11           And so the event that we saw potentially  
12 with Qwest is that they could have the non-impairment  
13 status almost initially or immediately once they  
14 filed it because all the work has been done  
15 beforehand. A benefit that we saw potentially with  
16 the CLECs is that they could have that information  
17 earlier.

18           Q.     There was nothing magic about the five  
19 days? Your main point is that you think the process  
20 should be straightforward and easy to verify?

21           A.     Yes. And the five days, the only reason  
22 why I selected that is that that is what has been  
23 selected by the Commission before. And for example,  
24 price lists, when Qwest files those, they can go into  
25 effect in five days.

26

1           And I know it's not exactly the same  
2 scenario and situation, but over the time frame that  
3 made sense. But, you know, the five days is not  
4 magical or anything like that, it was just to give  
5 time. But the idea is that this would be a simple  
6 process so it would be one where it was collaborative  
7 with everyone. We hope to have consensus. Qwest  
8 files with the FCC and says, "This is non-impaired,"  
9 the Division can file a memo that says, "We agree  
10 with that," and the CLECs, you know, if they agree to  
11 file something, and then it basically is at that  
12 point given that time to be non-impaired. That's, in  
13 my perception, how we would proceed and take care of  
14 it, and have before, if possible, to have that done.

15           Q.     On the line count where you essentially  
16 with the CLECs have said that you should count the  
17 actual business lines in use and not multiply the  
18 Qwest DS1s and DS3s but unused capacity; is that  
19 right?

20           A.     Correct, that was my position.

21           Q.     And often this method has somehow been  
22 called the "Coleman method" in that it resulted in  
23 producing this Exhibit DLT-2; is that right? Do you  
24 have that?

25           A.     Yeah. I believe that DLT-2 has been named  
26

1 in response to some of the testimony that I filed.

2 Q. Would you like to provide some comments on  
3 what you intended?

4 A. Yes.

5 Q. What you envisioned to be the process to  
6 determine the amount of line counts for an office  
7 like Salt Lake Main and how would you see this DLT-2  
8 working in it, if at all?

9 A. Okay. My first vision and it may have  
10 been a little bit of a lack of understanding as far  
11 as ARMIS information, but what my testimony was  
12 basically advocating and what I felt a reading of the  
13 TRRO also said was that you should use ARMIS 43-08  
14 data. My impression of that would have been that it  
15 would have been a non-adjusted amount with that. So  
16 you just take the raw data that was filed, 43-08, and  
17 then you would add UNE lines to that, UNE-Ps and  
18 UNE-Ls and other things to be able to come up with  
19 that determination.

20 The DLT-2, although I understand what Mr.  
21 Teitzel has said, this was kind of in response to  
22 that, I think it's a little bit different than what  
23 our -- or what my interpretation was because I didn't  
24 believe that you would adjust the Salt Lake Main for  
25 the differences as far as a wire center a business

26

1 line that was originating in the one wire center and  
2 terminating it in a different one. And so I would  
3 say that that number that he filed there, from my  
4 interpretation, was maybe a little bit inflated and  
5 that was probably a misunderstanding as far as what  
6 we were advocating.

7 I think for the simplistic nature of what  
8 the FCC wanted to do is, if at all possible, is to  
9 just use the 43-08 data and add on the UNE lines, and  
10 that would be how you would come up with a count that  
11 would determine whether the wire center was impaired  
12 or non-impaired.

13 Q. Was there anything else you wanted to add,  
14 any other areas that you wanted to provide some  
15 information for?

16 A. One thing that I did want to discuss, and  
17 I know that I had advocated as far as the 60,000  
18 lines and that Qwest -- sorry, that the Salt Lake  
19 Main wire center would fall below that. And what I  
20 did is I just looked at the information that was  
21 provided by Mr. Teitzel in his testimony in data  
22 response -- let me make sure it's the right one -- I  
23 believe it was considered the "Highly Confidential"  
24 attachment response to the Joint CLEC Data request  
25 01-030 subpart (b).

26

1           And I just looked at some of the data in  
2     some of the ARMIS quantity and that's where I came up  
3     with a number. And then if you looked at the number  
4     of CLEC lines that were provided also by Mr. Teitzel,  
5     that's where I came up with the number that was going  
6     to be below the 60,000 lines with that. I didn't  
7     look at it with the 2004 data. I mean, to be honest,  
8     I didn't do that with what was provided. But that's  
9     how I came up with my position as far as it being  
10    below the 60,000 line threshold. And that wasn't  
11    explicitly stated. I didn't want to use confidential  
12    numbers and that's why it wasn't put in there, but  
13    that's how I came up with that position.

14           MR. GINSBERG: Thank you. That's all we  
15    have. He's available for questions.

16           JUDGE GOODWILL: Thank you. Mr. Duarte?

17           MR. DUARTE: Yes. Thank you, your Honor.

18                           CROSS-EXAMINATION

19    BY MR. DUARTE:

20           Q.     Good afternoon, Mr. Coleman.

21           A.     Good afternoon.

22           Q.     If I can direct your attention to page 3  
23    of your testimony where you have the definition from  
24    the Code of Federal Regulations or CFR 51.5 regarding  
25    business lines.

26



1 A. Okay.

2 Q. Now, would you agree with me that Rule  
3 51.5 applies to both wholesale lines and retail  
4 lines?

5 A. No. Or I guess my position was is that  
6 the factor should only apply to CLEC lines on the  
7 wholesale side.

8 Q. And that's because of the way you read  
9 subpart 3; is that correct?

10 A. What I did is you look at subpart 3, it's  
11 kind of defining the business line, but I believe in  
12 the TRRO in paragraph 105 is what more explicitly  
13 states how you would count the business line. And  
14 that would be looking at specifically what, in the  
15 way I read it, would be known as far as Qwest  
16 quantities, which is what's the retail side. And  
17 then for something that may not be known, which would  
18 be a digitized line, that's where subpart 3 would be  
19 coming in. And so that's where my understanding, as  
20 far as if you included Qwest's adjustments or not,  
21 would come into play more on the side of Qwest's  
22 wholesale instead of retail customers.

23 Q. Okay. Well, you'll agree with me that the  
24 FCC's rules don't specifically state that subpart 3  
25 with respect to the counting of the 64 kilobit per  
26

1 second equivalents, that that rule doesn't specify  
2 that it's limited to wholesale or ILEC clients; is  
3 that correct?

4 A. Yeah. And from my reading of that, I  
5 mean, it doesn't specifically say if it should be  
6 used in one arena or the other. I don't know that it  
7 details that specifically on either end.

8 Q. Let's talk a little bit about the data  
9 vintage. It's your understanding, is it not, that  
10 back in February of 2005 when the TRRO issued -- or  
11 the FCC issued the TRRO that the FCC also requested  
12 all ILECs or at least all RBOCs to produce business  
13 line information; is that correct?

14 A. I know as a Division we started to get  
15 ready to prepare for that and so there were some  
16 responses and some information that was supposed to  
17 be put together for the RBOCs, yes.

18 Q. And there was a letter in the record from  
19 the FCC requesting certain information, I think it  
20 was like in two weeks or something like that?

21 A. Honestly, I can't say for sure. I mean, I  
22 don't remember reading the letter so I can't confirm.

23 Q. Sure. Would you agree with me, sir, that  
24 if in February 2005 the FCC requested Qwest to  
25 provide business line information that it would not  
26

1 be reasonable for Qwest to provide information that  
2 had not been complete and had not been filed to the  
3 FCC for at least another month and-a-half? Would  
4 that be not a reasonable thing?

5 A. When you're trying to analyze what the FCC  
6 wants sometimes it's difficult to come up with what's  
7 reasonable and what's not. But from myself, just  
8 thinking of what I think would be reasonable, is you  
9 would want whatever information was readily available  
10 at that time. And so if, for example, as a Division  
11 we were asking for something from a company, we hoped  
12 it would be a little more explicit and say we would  
13 want it as of this date. But, you know, if it didn't  
14 say something then we would probably want the most  
15 recent information.

16 Q. And so in that sense, then, if information  
17 was not finalized yet but somebody did have the most  
18 recent submitted information, you would request that  
19 information?

20 A. We generally would try to get what we  
21 would think would be the most accurate picture of  
22 whatever is happening in the situation in the  
23 environment at that time. I mean, if we had  
24 information that was applicable and could be used and  
25 it made sense and parties could agree on it, we would

26

1 try to get the most recent information. But we also  
2 try -- on the flip side of that is we sometimes try  
3 to be responsive. We don't want to recreate the  
4 wheel if we don't have to. And so if there's  
5 something that works for our situation, the  
6 information is out there, then we will try to allow  
7 that to happen as well.

8 Q. And if a carrier had draft information  
9 that wasn't quite ready for prime time and wouldn't  
10 be for another month and-a-half, you wouldn't make  
11 them give you that raw information for the  
12 information that you were seeking?

13 A. Probably not. I mean, we would want to  
14 make sure the information is as accurate as possible.

15 Q. Thank you.

16 Mr. Coleman, earlier to the -- it wasn't  
17 Direct Examination, I guess it was in your summary,  
18 you indicated that you were sympathetic to Mr. Denney  
19 with respect to, you know, this is a one-time shot so  
20 you've got to get it right, and I agree with you.  
21 But I was sort of feeling a little bit left out about  
22 your sympathies here.

23 A. Yes.

24 Q. You would agree with me that you're kind  
25 of sympathetic to Qwest regarding the efforts that it

26

1 is trying to make and information it's trying to get  
2 on fiber-based co-location and that some carriers  
3 just may not cooperate and that's pretty frustrating?  
4 I mean, would you be sympathetic to Qwest in that  
5 scenario?

6 A. Yeah, I would agree. And that's partly  
7 why with my position of what I had said. You know,  
8 in a perfect world we would have all the information  
9 and we could put it here on the table and we could --  
10 for the sake of a bad example, I could lay five  
11 apples on the ground and I would say, "How many  
12 apples are there," and we would all say five. But we  
13 don't have the perfect scenario. And so I would  
14 agree that I believe Qwest has tried to do what they  
15 can to try to verify that information. And that's  
16 why in my testimony I said I believe for what Qwest  
17 has done they should be at those levels.

18 I'm only adding that as another option for  
19 having the Division go out and verify just so that  
20 there's a level of comfort for everyone that it's as  
21 accurate as possible. We would like, as a State and  
22 the Division, we would like to make sure that we get  
23 the information correct and accurate and so that's  
24 why we were doing that. But in no way do I want to  
25 diminish or try to minimize the efforts that I think

26

1 Qwest has done because I believe they tried to do  
2 what would be reasonable and within what is allowed  
3 for them to do as well.

4 Q. Thank you.

5 In that same vein, you would agree with me  
6 that some CLECs may have a financial incentive not to  
7 cooperate for whatever purposes they deem appropriate  
8 for this process?

9 A. Again, you know, I can't say that I'm  
10 privy to every business decision of CLECs, but I  
11 could see a situation where a CLEC may feel that if a  
12 wire center did become non-impaired they may be able  
13 to pick up additional traffic from another CLEC using  
14 their services. It's not with -- outside the realm  
15 of possibility. So I could say in that scenario that  
16 it is possible that there could be benefit derived  
17 from a competing CLEC in that instance.

18 Q. A competing CLEC could also probably  
19 determine that if they report as a fiber-based  
20 co-locator, and that is the last one needed to make  
21 that a non-impaired wire center, that their rates may  
22 go up and, therefore, it might be in their financial  
23 interest not to report? I mean, would you agree with  
24 that?

25 A. Possibly. Although, again, looking at it  
26

1 from a business perspective, which is a little bit  
2 more of my background as well, I think you make  
3 business decisions, and you have to look at the  
4 market environment, but ultimately you make a  
5 business decision on what's best for your company.  
6 And so saying that someone is going to not respond  
7 just because it sees that it's the last one or  
8 something like that, you know, most of them aren't  
9 going to know that they're the last one. That  
10 they're responding anyway to the company because  
11 they're just responding to that question, they're not  
12 going to know if there's four or six or whatever  
13 until the proceeding has started.

14           So I don't know that I would say that a  
15 company -- again, it's plausible if they had that  
16 information they could do that. But again, I don't  
17 know that that would be the business discussion of  
18 like, oh, can we not respond to this so that we can  
19 have this wire center not be impaired, whatever, and  
20 how does that benefit us as well. I guess I'm an  
21 optimist by nature and I think ultimately people try  
22 to do what's in the best interest of the company  
23 until proven otherwise. That's kind of my premise  
24 and belief.

25           MR. DUARTE: I have no further questions.

26

1 Thank you.

2 JUDGE GOODWILL: Mr. Kopta?

3 CROSS-EXAMINATION

4 BY MR. KOPTA:

5 Q. Good afternoon, Mr. Coleman. I'm just  
6 going to ask you a couple of clarifying questions.

7 A. Sure.

8 Q. I appreciate the Division's discussion,  
9 but I guess I want to have a better idea what the  
10 Division's position is at this point. Is it fair to  
11 say that the Division would recommend to the  
12 Commission that it get the best information that it  
13 can with respect to fiber-based co-locaters before  
14 reaching a determination?

15 A. How I would characterize that is I believe  
16 that both parties have tried to do as much as they  
17 can to be able to find that. I believe it's vital  
18 for as much information as is possible to be able to  
19 make that decision. So if the Commission felt that  
20 there wasn't enough information provided to be able  
21 to make that determination, the Division is offering  
22 that opportunity to maybe go one step further if the  
23 Commission felt like it. You know, when I looked at  
24 the information that was given, my position was, I  
25 felt that that had been done as accurately as it

26



1 could have been.

2 But as we talked about it at the Division  
3 and as counsel we said, okay, there may be another  
4 step that hasn't been taken that the Division could  
5 fill by maybe coming in and looking at those line  
6 counts as well. So I don't know if that directly  
7 answered your question, but that's kind of what my  
8 position is.

9 Q. Okay.

10 A. Maybe I've been working in the regulatory  
11 too long in how to couch the answers or something.

12 Q. Well, we've all been doing that.

13 A. Yeah.

14 Q. So there are two wire centers that are at  
15 issue with respect to the number of fiber-based  
16 co-locaters; is that your understanding?

17 A. Yes.

18 Q. And with respect to those two wire  
19 centers, does the Division believe that the  
20 Commission should make a determination based on the  
21 record evidence as it sits today or do you think that  
22 the Commission should conduct or attempt to conduct  
23 or authorize the Division to conduct any more  
24 exploration to get some additional information before  
25 making a decision on those two wire centers?

26

1           A.     In answer to that question, I think that  
2     the Commission, it could be beneficial for them to do  
3     that. Like we said, I think everybody here wants to  
4     make sure the information is done accurately and  
5     correctly. And I don't believe that Qwest has tried  
6     to hide anything or to pull the wool over the eyes of  
7     anyone. But as the Division, we have a little bit of  
8     a different position than what Qwest or even the CLEC  
9     has. We can go in and we're not going to compete and  
10    open up a phone company in a week or something like  
11    that. And so CLECs may be a little more willing or  
12    could be compelled by the Commission to do that. And  
13    that's something that as I sit here makes sense, you  
14    know, just so that we make sure for the State of Utah  
15    we get the information as accurate as possible.

16                 And so, you know, I had to make the  
17    decision when I'm reading the testimony as far as  
18    what do I feel has happened. But again, one more  
19    review just to make sure the information is  
20    completely accurate and totally done properly I don't  
21    see as a huge work element and I think everybody  
22    would just be happy to make sure that it's taken care  
23    of and it's as accurate as possible.

24           Q.     One other area. As I understand your  
25    testimony both as you wrote it and as you've given it

26

1 today, you have simply looked at 2003 data for Qwest  
2 for the Salt Lake Main wire center and concluded that  
3 it didn't meet the 60,000 line threshold and did not  
4 go beyond that point? Am I fair in characterizing  
5 your testimony in saying you didn't get to the issue  
6 of whether 2003 or 2004 vintage data should be used?

7 A. Correct. I didn't really take a strong  
8 position on that and even now I don't have a strong  
9 position. So I don't feel that it would change  
10 dramatically. I mean, it's possible. I mean, you  
11 look at 2004 and there's obviously a decrease in the  
12 number of access lines so it's possible. But part of  
13 the reason why I didn't take a strong position either  
14 is because I know that this has been discussed as far  
15 as data requests and a motion to compel and I thought  
16 that the Commission by issuing an order at least had  
17 kept open the option of looking at 2003 and/or 2004.  
18 And so I was silent on it not because I think one  
19 date is more appropriate than the other, but just  
20 because, you know, I figured that the Commission kind  
21 of had a feel with it and we didn't have a strong  
22 position one way or the other. So we would allow  
23 those that have the strong position to voice it and  
24 we would just do what the Commission asked us to do  
25 as far as looking at the data and go forward with it

26

1 at that point.

2 MR. KOPTA: Fair enough. Thank you.

3 Those are all the questions I have at this point.

4 JUDGE GOODWILL: Mr. Ginsberg, anything  
5 further?

6 Anything further of this witness?

7 MR. DUARTE: No, your Honor, I have no  
8 further questions.

9 JUDGE GOODWILL: Thank you.

10 MR. DUARTE: Your Honor, before we close  
11 the evidence, Mr. Denney in his cross-examination  
12 questions to my questions raised some information  
13 about the Ogden and Provo, Utah with respect to what  
14 elements of the fiber-based co-location requirements  
15 were met and were not met and he was, I think,  
16 working off of one of the data responses of the  
17 co-location worksheet.

18 Would it be possible to have some  
19 clarification by Ms. Torrence, who is the fiber-based  
20 co-location witness, regarding her investigation that  
21 didn't come out or may have been miscommunicated  
22 given the testimony that Mr. Denney gave? It would  
23 be very brief.

24 MR. KOPTA: Your Honor, I'm a little  
25 puzzled because we've been through the whole day and  
26

1       there were opportunities to clarify what their  
2       position was. I mean, Ms. Torrence gave oral  
3       Surrebuttal in response to Mr. Denney's written  
4       Surrebuttal that discussed those two wire centers,  
5       and I don't think that Mr. Denney said anything  
6       orally today that was any different than what he said  
7       in his testimony. So I'm not sure exactly why we're  
8       dealing with this issue now.

9               MR. DUARTE: Your Honor, if I can respond.  
10       Mr. Denney did get into some specifics about those  
11       two wire centers during the closed session and he was  
12       referring to the data response attachment which I  
13       believe was the co-location verification spreadsheet.  
14       So I think this is not testimony that was necessarily  
15       in his -- well, it was something that Ms. Torrence  
16       would have dealt with but for the fact that he raised  
17       it in answering my cross-examination questions.

18              MR. KOPTA: Well, your Honor, I would  
19       respectfully disagree with Mr. Duarte. While Mr.  
20       Denney identified the source of the document, it is  
21       attached as Exhibit DD-02 to his Response Testimony,  
22       which is Exhibit Echelon 1R.2. So certainly Ms.  
23       Torrence had every opportunity to respond to his  
24       Response Testimony and, in fact, did respond to his  
25       Response Testimony. And it's also in his Rebuttal

26

1 Testimony on page 11 beginning at line 9, which  
2 specifically addresses what the deficiencies are in  
3 the Ogden Main and Provo, Utah co-locations. So this  
4 is all information that has been available to Qwest  
5 for some time.

6 JUDGE GOODWILL: Mr. Duarte, I'm curious.  
7 Would the additional testimony go to the information  
8 contained in those worksheets?

9 MR. DUARTE: No, your Honor. And frankly,  
10 I don't specifically know exactly what the  
11 information that Ms. Torrence needs to clarify. But  
12 Ms. Torrence advised me that there were some things  
13 that he said in response to my cross-examination  
14 questions that she felt were not accurate and so she  
15 wanted to address those. And perhaps the way we can  
16 approach this is to allow the testimony subject to a  
17 motion to strike and then, your Honor, if there is a  
18 motion made by Mr. Kopta, which I assume I will  
19 oppose, your Honor can make that final decision. And  
20 I don't think it will take more than a few minutes,  
21 your Honor.

22 JUDGE GOODWILL: Let's just take five  
23 minutes and you can confer with your witness and see  
24 exactly what testimony it is and we'll come back on  
25 the record and you can let us know whether you think

26

1 it's still necessary from there.

2 MR. DUARTE: Perfect. Thank you, your  
3 Honor.

4 (Recess taken.)

5 JUDGE GOODWILL: We'll go back on the  
6 report. Mr. Duarte?

7 MR. DUARTE: Ms. Torrence has confirmed  
8 that what she's wanting to make accurate for the  
9 record has nothing to do with the oral live  
10 Surrebuttal Testimony that she gave because what  
11 ended up happening was she gave her oral live  
12 Surrebuttal that was only responsive to Mr. Denney's  
13 Surrebuttal. Because Mr. Denney went later, Mr.  
14 Denney made certain characterizations or certain  
15 allegations with respect to whether power was  
16 verified, whether the fiber exited or left the  
17 building and whether or not we could prove  
18 terminations, and that discussion was during the  
19 Surrebuttal Testimony. And so Ms. Torrence would not  
20 have had an opportunity to reply to that specific  
21 detail that he gave because she went later.

22 And so, therefore, there are three  
23 different points that she wants to clarify and we do  
24 believe that had she gone after Mr. Denney she would  
25 have been able to, when it was her turn, respond to

26

1 that. But because it was not information in response  
2 to his Surrebuttal, which is what she dealt with in  
3 the morning during her summary, she didn't have an  
4 opportunity to address that.

5 Now, I can summarize very briefly the  
6 three points she wants to clarify, but at the same  
7 time I probably wouldn't do it as much justice as the  
8 witness herself and would probably take more time  
9 than the actual clarification. Qwest would be open  
10 and subject to recross, obviously, if Mr. Kopta  
11 deemed it appropriate.

12 MR. KOPTA: And, your Honor, again I will  
13 direct everyone's attention to the Rebuttal Testimony  
14 that Mr. Denney filed. And on page 11, the Ogden  
15 Main, the deficiencies are listed right there. Those  
16 are the exact same things that Mr. Duarte says that  
17 his witness wants to address now. She had the  
18 opportunity to address that not only in written  
19 testimony, but in any oral Surrebuttal that she gave.  
20 It wasn't a factor of Mr. Denney saying something  
21 here today, he said it in paper on April 26th.

22 MR. DUARTE: Your Honor, she did respond  
23 to Mr. Denney's Response Testimony in her written  
24 Surrebuttal. So with that aspect, we're not trying  
25 to revisit that. But he gave a lot more detail and,  
26



1 in her view, some inaccuracies in his  
2 cross-examination testimony which obviously came  
3 after her testimony. And so, therefore, we think  
4 that it's only fair that we be given the opportunity  
5 for a full and complete record for us to go up there,  
6 for her to go up and clarify based on her view.

7 And obviously, if Mr. Kopta wants to  
8 cross-examine her I certainly would have no  
9 objections to that. And, frankly, if Mr. Denney  
10 wants to come up there and try to rebut that, not  
11 that we want to be here forever, but I wouldn't have  
12 a problem. I want everything to just be in the  
13 record so that we can then argue it from the briefs  
14 and no one can complain that there was something out  
15 there that was left unsaid.

16 JUDGE GOODWILL: I'll go ahead and allow  
17 it.

18 MR. DUARTE: Thank you, your Honor. We  
19 would recall Ms. Rachel Torrence to the stand for  
20 brief Sur-Surrebuttal, I guess.

21 JUDGE GOODWILL: Ms. Torrence, I'll remind  
22 you you're still under oath.

23 THE WITNESS: Yes, sir.

24 JUDGE GOODWILL: We're not talking on  
25 highly confidential information or confidential

26

1 material?

2 MS. TORRENCE: I will stay away from that.

3 RACHEL TORRENCE,  
4 recalled as a witness, was examined and testified  
5 further as follows:

6 DIRECT EXAMINATION

7 BY MR. DUARTE:

8 Q. I will stay away from that. Please do not  
9 identify the carrier whose co-locations we're talking  
10 about.

11 A. Okay. If you'll allow me a minute to find  
12 the worksheets.

13 Q. I believe it was data response -- was it  
14 40? Which data request was it?

15 MR. DENNEY: Forty-five.

16 Q. (BY MR. DUARTE) It's 45. They're all in  
17 order.

18 A. Oh, 45. Here we go. I felt compelled to  
19 respond to some of the comments Mr. Denney made  
20 regarding the Provo and Ogden wire centers in that we  
21 failed to prove that they were fiber-based  
22 co-locaters.

23 These worksheets are the actual worksheets  
24 that were provided to me by the field crews. When  
25 responding to this I provided them as documentation

26

1 when -- supporting information. However, when I was  
2 going through the worksheets prior to compiling the  
3 list I saw that there were inconsistencies. And I  
4 contacted the individuals that did the actual field  
5 verification for me and, as I stated in my testimony,  
6 in which Mr. Denney seems to kind of gloss over, if  
7 not totally ignore, is that if there was a negative  
8 answer it was not that it did not meet that criteria,  
9 it was that they were not in a position at that point  
10 in time to verify that. They either couldn't see it  
11 or they could not follow it out.

12           So subsequent to that I did the further  
13 research or had my field folks do the further  
14 research, and that was the case in the Provo wire  
15 center where the termination in the co-rolls was in  
16 dispute where it says no. And it's not that it  
17 didn't terminate in the co-roll, it's that during the  
18 June time frame they could not verify that physically  
19 without entering the co-location.

20           However, I actually pulled construction  
21 prints and talked to the individuals that do the work  
22 in the central office. Qwest provided the cable that  
23 goes into that central office -- or into that  
24 co-location, excuse me. So Qwest actually physically  
25 placed the cable and dropped it into the cage. It

26

1 goes behind the electronics. The electronics are  
2 powered and lit. We just can't see the connections.

3 Now, he made the misstatement that power  
4 could not be verified. We visually verified power  
5 which is what the TRRO required us to do. I asked  
6 them to verify power at the BDFB previously, which is  
7 our basic fuse box, our power boxes. I wanted to  
8 know where those connections were so that I could go  
9 back in and check on power levels usage if there was  
10 a dispute, which there have been in other states, as  
11 to how much they're using if the co-location was  
12 operational. That was just additional data from my  
13 backup.

14 But the fact of the matter is, if you'll  
15 look at Provo, was the power verified? Yes, it was.  
16 Subsequent to this filing we did find the power  
17 connections. They were on the second floor. In this  
18 particular office we have power units on two  
19 different floors and when it went through the path  
20 between floors is where we kept losing it.  
21 Eventually we did find it so it has been verified.

22 Now, in the Ogden situation it was the  
23 same, it was basically the same process. I knew  
24 there was an issue. And the fact of the matter is,  
25 if it's in there, it's working, it's got to be

26

1 leaving the office. So again, we looked at order  
2 information, we looked at a lot of supporting data  
3 before I committed to putting this on the list. Now,  
4 I did not change or add any information to the  
5 worksheets, I didn't think that was appropriate.

6 Now, as far as verification documents, I  
7 suppose I can provide affidavits from the individuals  
8 that actually performed the data searches for me  
9 subsequent to these verifications. Usually it's a  
10 phone call. They call me back, "Yeah, we finally  
11 found it." Or "This is the job number, I pulled it  
12 on line." And generally we don't provide our  
13 construction data because we consider that very  
14 confidential information because it has very specific  
15 customer data. So those I didn't provide, I didn't  
16 even pull copies of them. I just ran them out, told  
17 them where to look and they found it.

18 So to say that we failed is completely  
19 inaccurate. To ignore the fact that in my testimony  
20 I repeatedly say we didn't stop at this verification,  
21 this is just one piece of evidence, and if there was  
22 still any question I went that much further to try  
23 and find the information. The fact that it wasn't  
24 documented on this worksheet is regrettable and I'll  
25 know better for next time.

26

1 JUDGE GOODWILL: Anything further on that  
2 issue, Mr. Duarte?

3 MR. DUARTE: Nothing further from Qwest,  
4 your Honor.

5 JUDGE GOODWILL: Mr. Kopta?

6 MR. KOPTA: Thank you, your Honor.

7 CROSS-EXAMINATION

8 BY MR KOPTA:

9 Q. Do you have the data requests? Do you  
10 have Joint CLEC 01-045? Actually it's included with  
11 the response.

12 A. Yes. I just had it in front of me a  
13 second ago.

14 JUDGE GOODWILL: Mr. Kopta, where is that?  
15 And for the record, we're referring to Confidential  
16 Exhibit DD-02. I'm not sure how we admitted it in  
17 these proceedings, but it's marked DD-02 to Mr.  
18 Denney's Rebuttal Testimony. Where in that is the  
19 actual data request that you're referring to?

20 MR. KOPTA: The data request itself is not  
21 included in that exhibit.

22 JUDGE GOODWILL: I thought you said it  
23 was. I'm sorry.

24 MR. KOPTA: Which would explain why you  
25 weren't able to find it.

26

1                   THE WITNESS: Yes, I have it in front of  
2 me.

3                   Q.     (BY MR. KOPTA) Ms. Torrence, I will read  
4 the request to you. "Please provide a copy of the  
5 spreadsheet discussed on this page of Ms. Torrence's  
6 testimony," referring to page 14, "along with all  
7 supporting information for all wire centers requests  
8 relied upon fiber-based co-location to determine that  
9 the wire center is not impaired." Did I read that  
10 accurately?

11                  A.     Yes.

12                  Q.     And if you look at the confidential  
13 attachment A, is that the same information that is  
14 reproduced in Mr. Denney's Exhibit DD-02?

15                  A.     Yes. It's a copy of the information in  
16 the spreadsheet as asked for.

17                  Q.     Are you aware that data requests are  
18 ongoing and that if you obtain additional information  
19 you are obligated to provide that information in  
20 response to data requests?

21                  A.     You know, I am.

22                  Q.     And you didn't provide this additional  
23 follow-up information, did you?

24                  A.     As a supplement, no. It was contained in  
25 brief in my testimony.

26

1           Q.     Would you point to me where that is in  
2 your testimony?

3           A.     I don't have my testimony in front of me,  
4 but I believe I responded -- it wasn't in my Direct,  
5 it was in my Response.

6           MR. DUARTE:   May I approach the witness,  
7 your Honor?

8           JUDGE GOODWILL:   Sure.

9           THE WITNESS:   It's so much easier when you  
10 have a search capability.

11          Q.     (BY MR. KOPTA)   Sorry, you need an  
12 electronic copy.

13          A.     Okay.   I started on page 9.

14          JUDGE GOODWILL:   This is of your Response  
15 Testimony?

16          THE WITNESS:   Of my Response Testimony,  
17 yes.   On page 4 I asked, "How do you respond to Mr.  
18 Denney's concern regarding information that is not  
19 shown on the verification worksheets?"   And I stated  
20 that he mistakenly implied that an item on the  
21 worksheet was missing or contained negative input.  
22 Apparently no further investigation before counting  
23 the particular carrier.   However, I counted the  
24 carrier only.   I'm paraphrasing here.   And the field  
25 verifications were not taken singularly, but rather

26



1 simply an additional piece of information.

2 I thought there was additional. I know  
3 I've responded elsewhere where I put or stated the  
4 fact that we looked at other data to support. I  
5 would have to find that.

6 Okay. Page 11, Qwest used -- starting on  
7 line 1 and, for example, on line 4, "In instances  
8 where visibility was obstructed or access not  
9 available, Qwest used other available data such as  
10 order or billing information to substantiate that the  
11 co-location was fiber-based and operational."

12 Q. That varies somewhat from what you just  
13 testified, though.

14 A. I don't think it does, no.

15 Q. It doesn't? Well, you were very specific  
16 in your testimony today about exactly what you did,  
17 where and when, and I see nothing of that in your  
18 written testimony.

19 A. "Qwest used other available data such as  
20 order and billing information." And in both  
21 instances I looked at order information which led me  
22 to the construction records. I also looked at  
23 billing information.

24 Q. I don't see any reference to construction  
25 records.

26

1           A.     Well, order information.  When you place  
2     an order, we build.  I should have articulated it  
3     better, I agree.  And I should have provided a  
4     supplemental response to my data request, yes, and I  
5     probably will on arriving back at my office.

6           Q.     Next week.

7           A.     My apologies.

8           Q.     Do you have the information that you just  
9     described orally in any written form in terms of what  
10    your steps were after you received and what you  
11    provided to us in response to that data request?

12          A.     In written form, I have looked at the  
13    ordering information online and I have looked at a  
14    variety of online tools.  I haven't taken any paper  
15    copies, if that's what you mean.

16          Q.     So there's no documentation of the steps  
17    you took after you have the spreadsheets and other  
18    information that you provided in response to this  
19    data request?

20          A.     Not with me.  I do have records of the  
21    phone calls and who I spoke with and the individuals  
22    that actually proceeded to do the physical  
23    verification after we pointed them in different  
24    directions, for example, in the BDFB.  And again, my  
25    purpose here is to provide the most complete set of  
26

1 data. I've -- it was not a question of me trying to  
2 just gloss over it. I do have the information and he  
3 was -- Mr. Denney was laboring under a misconception.

4 Q. But you will concede, will you not, that  
5 Mr. Denney didn't have the information that you just  
6 gave right now prior to his testimony?

7 A. He had my Response Testimony, was what he  
8 had.

9 Q. But he also had the response to Data  
10 Request Number 45 which ostensibly provided all the  
11 backup information, and your testimony right here --

12 A. No. The information for the physical  
13 verification that was -- if I recall correctly, if  
14 you point back to my first testimony, those  
15 verifications were an exhibit -- or if you take them  
16 in the context of my Direct Testimony, I provided the  
17 worksheets that were given to me by the field folks  
18 as a part of that verification.

19 Q. Right. And that obviously was what you  
20 provided in response to Request Number 45?

21 A. Yes. And I saw that as limited to that.

22 Q. Although the data request itself, as we  
23 just read it, includes not just the spreadsheets but  
24 all supporting information?

25 A. It didn't say supporting and additional  
26

1 information, which I took to mean when -- if you look  
2 at the letter that I sent out asking, which was an  
3 exhibit to my Response Testimony, the letter asked my  
4 field folks to provide me with comments and  
5 additional information beyond the five little  
6 criteria set forth by the FCC. I looked at that as  
7 being the additional information that was being  
8 called for.

9 Q. Okay. Well, I certainly think that the  
10 request is clear on its face so I won't argue with  
11 you over what it means because I'll just get an  
12 objection from your counsel if I try to do that.

13 MR. DUARTE: It's too late in the day.

14 THE WITNESS: And again, you know, my  
15 purpose here is not to argue here. I do want to  
16 present the most complete record here and prove that  
17 those two are legitimate fiber-based co-locaters that  
18 should not be taken off the list. And, quite  
19 frankly, as was the case with the Midvale, if I  
20 didn't feel comfortable with that I wouldn't have put  
21 it forward.

22 Q. (BY MR. KOPTA) I understand that. And I  
23 hope that you would also understand from our  
24 perspective that Mr. Denney was somewhat limited in  
25 what he had in terms of backup information from Qwest

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1 and that was what formed the basis of his opinion and  
2 he didn't have the benefit of the additional  
3 information you provided today. Is that a fair  
4 statement?

5 A. I agree that we were not working under the  
6 best of circumstances here, yes.

7 Q. Fair enough, that's as good as I'm going  
8 to get.

9 MR. KOPTA: Your Honor, I would request,  
10 however, to the extent that documentation exists  
11 along the lines that Ms. Torrence described, if we  
12 could perhaps have that as a supplement to the record  
13 so that we have a complete documentation of Qwest's  
14 activities in terms of verifying the fiber-based  
15 co-locations in addition to the testimony of Ms.  
16 Torrence given today.

17 JUDGE GOODWILL: No, that's reasonable.  
18 And I would go the step further to permit Mr. Denney  
19 the opportunity to review that, and if he needs to  
20 provide anything by way of supplemental testimony to  
21 the Commission based on that information we will give  
22 him that opportunity.

23 MR. KOPTA: Thank you, your Honor. That  
24 was my second request.

25 JUDGE GOODWILL: Along those lines, how  
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1 long do you think would be required to get that  
2 information to the Joint CLECs, Ms. Torrence?

3 MS. TORRENCE: I could probably have it  
4 within -- by the end of the week.

5 JUDGE GOODWILL: Okay.

6 MS. TORRENCE: Now, as far as  
7 conversations with my field folks, I'm not sure how I  
8 would document that.

9 MR. KOPTA: Obviously, we don't want you  
10 to try and recreate from memory what those  
11 conversations were, but I think it would be  
12 beneficial to tell us who you spoke with and what the  
13 job title of that person is.

14 MS. TORRENCE: And that would be fine.

15 JUDGE GOODWILL: If you'll go ahead and  
16 provide that. Today is the 13th, I believe Friday  
17 must be the 16th, and if you can provide that to the  
18 Joint CLECs by the 16th, provide a copy to the  
19 Commission, we will make it subject to objection, but  
20 we will identify it as a Joint Exhibit 2 for these  
21 purposes.

22 And Mr. Denney and Mr. Kopta, I'll allow  
23 you to speak as well, one week following that to  
24 provide any response that you feel is required?

25 MR. KOPTA: Yes. And certainly, to the  
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1 extent we can get the information electronically on  
2 Friday, then we can have the full week to work on it  
3 and would anticipate that we could provide a response  
4 by the end of the following week.

5 JUDGE GOODWILL: By the 23rd of June?

6 MR. KOPTA: Yes.

7 JUDGE GOODWILL: Anything further for Ms.  
8 Torrence.

9 MR. DUARTE: No, your Honor.

10 JUDGE GOODWILL: Thanks. Anything further  
11 from the parties?

12 MR. DUARTE: Nothing with respect to any  
13 testimony or evidence, your Honor.

14 JUDGE GOODWILL: I want to -- I'll ask the  
15 attorneys, I want to make sure I'm clear on your  
16 expectations coming out of this. As I look at the  
17 information that's been provided in the testimony  
18 that's now in the record, the Commission has  
19 certainly been asked and can make a decision with  
20 respect to the proper method of counting business  
21 lines, for instance. There is information in the  
22 record that would enable the Commission, I believe,  
23 to say, Hey, we choose the Joint CLECs' position and  
24 the Joint CLECs provided this number of line counts,  
25 therefore, Qwest, you know, this wire center is not

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1     impaired."

2                     I haven't heard the parties dispute  
3     numbers, if you will, that have been used by either  
4     side so much as the methods that were used to arrive  
5     at those numbers.  And I'm just wondering, is it an  
6     expectation of the parties, and would it be helpful  
7     for the parties for the Commission to actually make  
8     that ultimate determination based on the numbers  
9     provided or to simply say this is the method that we  
10    believe is reasonable and correct, come back to us,  
11    as it appears Washington has done, with the numbers  
12    based on that method?

13                    MR. DUARTE:  Your Honor, I think my answer  
14    would be the latter.  I think if the Commission  
15    issues an order setting forth the ground rules  
16    resolving the disputes about the methodology, what I  
17    have seen in a lot of states is that the parties then  
18    submit a compliance filing, for lack of a better  
19    word, that basically says, Okay, now, that we have  
20    reached all this, it appears from the record that  
21    this one meets, this one doesn't, but as part of that  
22    process, you know, basically confirm that the numbers  
23    are right and there's no dispute.  And I don't think  
24    there's going to be much of a dispute between the  
25    parties because I think it's a simple counting

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1 exercise once we have the guidance from the  
2 Commission regarding the methodology.

3 So I don't know. I think if the  
4 Commission issues an order setting forth all of its  
5 rules and all of its methodologies and resolving all  
6 of the disputes that the parties can pretty readily  
7 agree to the numbers. Because the numbers should be  
8 what the numbers are, I think. I don't think Greg  
9 was listening to me.

10 MR. KOPTA: I always listen to you. I'm  
11 sort of torn because on one hand I know that from the  
12 experience in Washington we don't always agree with  
13 the numbers that come back and sometimes that  
14 engenders additional disputes. On the other hand, I  
15 want to make sure, obviously, that the Commission has  
16 the numbers in the record if it were to decide, okay,  
17 we agree with this position, the result is this  
18 number, and therefore, either the wire center meets  
19 or doesn't meet the impairment standards.

20 I believe that in Mr. Denney's testimony,  
21 at least from our perspective, we have documented the  
22 number of lines that result from making the  
23 adjustments that -- or not making the adjustments,  
24 depending on whose proposal it is, and so that that  
25 information is in the record and the Commission could

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1 make a determination on almost all of the numbers.  
2 The only number that I'm aware of as I sit here right  
3 now would be if the Commission were to say, we're  
4 going to accept the way that Qwest calculated lines  
5 for Salt Lake Main in Exhibit DLT-2, but we're going  
6 to want them to use 2004 data. That number doesn't  
7 exist.

8           And to go to your earlier point, that is  
9 the one number that I think that the parties do  
10 disagree on in terms of -- our position, of course,  
11 is that we have no basis of knowing how that was  
12 calculated. And so we disagree with the methodology  
13 as well as with the number. But that one issue  
14 aside, I do think that there are line count numbers  
15 from both parties in the record. Certainly Mr.  
16 Teitzel has an Exhibit DLT-1 that has the numbers  
17 from Qwest's perspective and Mr. Denney has several  
18 exhibits that include the numbers.

19           And so I guess what I would propose is  
20 that after reviewing the record, if the Commission  
21 were to determine that the numbers are in the record  
22 as a result of the determinations that the Commission  
23 has made, that it would then tell the parties,  
24 "Here's our decision, we need the numbers, you guys  
25 need to come back with the correct numbers." But we

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1 would ask that the Commission first look to see if  
2 the numbers are in the record.

3 MR. DUARTE: Yes, your Honor, if I could  
4 just amplify on that. I mean, I do think that  
5 there's currently, and actually I have seen nothing  
6 in the testimony that disputes the numbers of what we  
7 have presented and what they have presented. The  
8 disputes have been with respect to methodology. Mr.  
9 Kopta is correct, the only number that we don't know  
10 yet, because no one has done the analysis, is the  
11 2004 using the two wire center issue that we've  
12 discussed. And certainly we can do that. And just  
13 like with the 2003 data for that process and the  
14 other numbers we've used there's been no dispute.

15 So I wouldn't anticipate that if that's  
16 what the Commission rules we can easily crunch those  
17 numbers and share those numbers and if there's a  
18 dispute, I guess we could bring it to the  
19 Commission's attention. Just like the other numbers  
20 have not been disputed, once we agree -- or once we  
21 know what the methodology is, I don't anticipate that  
22 this will be any different.

23 JUDGE GOODWILL: The Division?

24 MR. GINSBERG: I think I tend to agree  
25 more with Mr. Kopta that the numbers are on the

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1 record and are not in dispute. And if the Commission  
2 can make a decision based on those records, then go  
3 ahead and do it and not just automatically order a  
4 compliance filing unless they find that they're not  
5 able to based on the information that's in the record  
6 make a determination of what the proper number is.

7 JUDGE GOODWILL: Okay. And my  
8 recollection of the Division's position, Mr.  
9 Coleman's calculations, we have his testimony that  
10 under the Division's method Salt Lake Main would fall  
11 under the threshold. But I think unlike the other  
12 parties, maybe we don't actually see the numbers  
13 behind that calculation. Is that correct?

14 MR. GINSBERG: That's correct.

15 MR. COLEMAN: Yeah, that's accurate.

16 JUDGE GOODWILL: And I don't intend to --  
17 I didn't expect to get any resolution. I just wanted  
18 to kind of hear what the parties thought about the  
19 situation.

20 MR. DUARTE: Your Honor, I just want to  
21 clarify. Mr. Ginsberg said he agreed more with Mr.  
22 Kopta. Actually, I'm in agreement with Mr. Kopta, so  
23 I think we're all in agreement, frankly. The only  
24 reason I mentioned the compliance filing is I got the  
25 impression that maybe your Honor was concerned there

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1 might be some dispute. And certainly if the  
2 Commission did go with the 2004 numbers that Mr.  
3 Teitzel did in DLT-2, then obviously we would have to  
4 do some kind of compliance filing. But we do agree  
5 that there's enough numbers in the record and that no  
6 one has really disputed those numbers and so that  
7 once the methodology issues have been resolved then  
8 we know what the numbers are. So I think we're all  
9 in agreement.

10 JUDGE GOODWILL: Okay. Thanks.

11 The only other thing I can think of, and I  
12 just throw it out as I do in most dockets, does  
13 anyone feel the need for briefing at all on this or  
14 are you just ready to the Commission rule on it?

15 MR. DUARTE: Your Honor, I'm not sure if  
16 we've talked to Mr. Ginsberg, but I've talked to Mr.  
17 Kopta. I think we do agree especially because these  
18 issues are being dealt with in other states that we  
19 do want post hearing briefs. And we noticed from the  
20 original prehearing conference order that there was a  
21 very, very quick, like seven or eight-day turnaround  
22 for post hearing brief. And I was not involved in  
23 the case at that time, but we agree that that is very  
24 unrealistically tight.

25 And so we were thinking more in terms of,

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1 because it's going to take a week or two for the  
2 transcript, that perhaps a 30-day time period for an  
3 opening brief, all parties do simultaneous opening  
4 brief and then two or three weeks later we could get  
5 a simultaneous reply brief. And I apologize, I did  
6 not discuss that with Mr. Ginsberg. I just did not  
7 get a chance to. But that would be the proposal that  
8 I think both Mr. Kopta and I would at least agree  
9 with.

10 JUDGE GOODWILL: My apologies. I forget  
11 that was even in the original scheduling order. So  
12 we will look at briefs, then, and we can talk dates?

13 MR. GINSBERG: Sure. My preference would  
14 be only to have one brief, but I guess I don't have  
15 to respond.

16 MR. DUARTE: That's true. We talked about  
17 that, your Honor, but I think because of the other  
18 states we kind of thought that -- I mean, lawyers  
19 always want to get the last word in.

20 MR. GINSBERG: That's the trouble about us  
21 going first, I guess. They want to make sure they  
22 get everything that they can say.

23 MR. DUARTE: Well, and unlike other  
24 dockets where there will be filed testimony first,  
25 we're not advocating that we go first and then

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1 everybody else respond and then we reply and so we  
2 get two bites of the apple and they get one. We  
3 agree two simultaneous direct -- or opening and two  
4 simultaneous replies should be more than enough.

5 JUDGE GOODWILL: Again, I think the  
6 parties are free to decide not to submit one or both  
7 of those if they choose not to. So the first round  
8 -- I mean, I'm open to what the parties want as far  
9 as a deadline for these.

10 MR. DUARTE: It is summer, which in  
11 Portland is only from July to September.

12 MR. KOPTA: It's the same in Seattle.

13 MR. GINSBERG: Well, it's certainly summer  
14 here.

15 MR. DUARTE: Well, your Honor, we thought  
16 30 days would be reasonable. So that would be --  
17 that would probably fall on either a Thursday or  
18 Friday. I assume, probably a Thursday.

19 JUDGE GOODWILL: Can we make it Friday,  
20 July 14th?

21 MR. DUARTE: July 14th would work okay.

22 JUDGE GOODWILL: For the initial briefs.  
23 And then a couple of weeks for the reply?

24 MR. DUARTE: Greg, two, three?

25 MR. KOPTA: I think two should be enough.

26

1 MR. DUARTE: You do or don't?

2 MR. KOPTA: Let's split the difference and  
3 do two and-a-half.

4 JUDGE GOODWILL: Oh, two and-a-half?

5 MR. KOPTA: Yeah. Make it like August  
6 2nd.

7 JUDGE GOODWILL: Okay.

8 MR. DUARTE: You know what, I'm going on  
9 -- well, I'm going to be gone the week of I think  
10 it's the 30th or something for the whole week.

11 MR. KOPTA: The week of July 30th. All  
12 right. We can do two briefs and have it the 28th.

13 MR. DUARTE: That's a good way to get  
14 away.

15 JUDGE GOODWILL: 14 July and 28 July?

16 MR. DUARTE: Right. Any problem with that  
17 from the Division?

18 MR. GINSBERG: No.

19 JUDGE GOODWILL: All right. Anything  
20 further we need to take up before we close here  
21 today?

22 All right. Thank you very much.

23 (The taking of the deposition was.

24 Concluded at 4:11 p.m.)

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STATE OF UTAH )

: ss.

COUNTY OF SALT LAKE)

I, LANETTE SHINDURLING, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the State of Utah, residing at Salt Lake City, Utah hereby certify;

That the foregoing proceeding was taken before me at the time and place herein set forth, and was taken down by me in stenotype and thereafter transcribed into typewriting;

That pages 1 through 249, 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 27th day of June, 2006.

\_\_\_\_\_  
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