

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petitions)
of Bresnan Broadband of Utah,) Docket No.
LLC, to Resolve Dispute Over) 08-2476-02
Interconnection of Essential)
Facilities and for Arbitration)
to Resolve Issues Relating to)
an Interconnection Agreement)
with UBTA-UBET Communications,)
Inc.)

TRANSCRIPT OF HEARING PROCEEDINGS
VOLUME III

TAKEN AT: Public Service Commission
160 East 300 South, Room 451
Salt Lake City, Utah

DATE: 29 January 2009

TIME: 8:00 a.m.

REPORTED BY: Debra A. Dibble; CSR, RPR

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BRESNAN EXHIBITS:

- 1 Petition to Resolve Dispute over
Interconnection of Essential Facilities.
- 2 Bresnan Broadband of Utah, LLC's Response
To Division of Public Utilities' Second
Set of Data Requests.
- 3 Quest Utah SGAT Seventh Revision,
Exhibit A.
- 4 UBTA-UBET Communications, Inc's Responses
To Bresnan Broadband of Utah, LLC's
Second Set of Data Requests.
Harris replacement pages.
- 6 12/6/04 letter to Stanley Stoll from
Julie Orchard, with attachments.
- 7 Direct Testimony of Peggy N. Egbert/
Docket 03-2403-02.
(ADMINISTRATIVE NOTICE.)
- 8 Rebuttal Testimony on Cost Analysis
For Interconnection rates of Peggy
N. Egbert/Docket 03-2403-02.
(ADMINISTRATIVE NOTICE.)
- 9 Direct Cost Analysis Testimony of
Jonathan Lee/Docket 03-2403-02
(ADMINISTRATIVE NOTICE.)
- 10 Rebuttal cost Analysis Testimony of
Jonathan Lee/Docket 03-2403-02
(ADMINISTRATIVE NOTICE.)

UBTA-UBET EXHIBITS:

- 1 Direct Testimony of Valerie Wimer on
Behalf of UBTA-UBET communications, Inc.
- 2 Current interconnects.
- 3 Proposed language changes for UBTA-UBET's
original Essential Facilities Agreement.
- 4 Bresnan Broadband of Utah LLC's Response
To UBTA-UBET Communications, Inc.'s
First Set of Data Requests.
- 5 U.S. Code Collection. (Withdrawn)

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2 URTA EXHIBITS:

- 3 1 Direct Testimony of Douglas Duncan
4 Meredith on behalf of URTS and UBTA-
5 UBET, Communications, Inc.

6 DEPARTMENT OF PUBLIC UTILITIES EXHIBITS:

- 7 1 Direct Testimony of Casey J. Coleman.
8 2 Interconnection Agreement.
9 (Union/UBTA-UBET)
10 3 Interconnection Agreement (UBTA-UBET/WWC)
11 4 UBTA-UBET Responses to DPU's Second Set
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1 P R O C E E D I N G S

2 ADMINISTRATIVE LAW JUDGE: We're ready to
3 start?

4 MR. NELSON: Yes, sir.

5 ADMINISTRATIVE LAW JUDGE: Then let's go
6 ahead.

7 CROSS EXAMINATION (continued)

8 BY MR. NELSON:

9 Q. Good morning, Ms. Wimer.

10 A. Morning.

11 Q. There was one last discussion I wanted to --
12 Woops, that's the wrong document.

13 One last discussion I wanted to have with
14 you.

15 And, again, very much appreciate your
16 patience with what must have been a very long day
17 yesterday, and hopefully not nearly so bad today.

18 A. I hope so.

19 Q. Let's look at, if you would, what's been
20 admitted as UU-4, which is the Bresnan response to the
21 data request from UBTA UBET.

22 A. Okay.

23 Q. Do you recall in your testimony of yesterday
24 that there was a discussion about whether or not the
25 Bresnan service was nomadic?

1 A. Yes.

2 Q. Okay.

3 I guess I wanted to start by asking, if
4 you'll look at page 5 of Exhibit UU-4, please.

5 A. Yes.

6 Q. Okay.

7 And I think I just maybe want to make sure
8 there's not a misunderstanding here.

9 Do you see the response to question 1.10 at
10 the top of page five?

11 A. Yes.

12 Q. The question is, is the service provided by
13 Bresnan to the end users a geographically-fixed
14 service? And the answer is yes. Right?

15 A. Correct.

16 Q. And then you pointed to language in the
17 other two paragraphs that you indicated you thought
18 represented, I think the term-of-art was weasel words?
19 Do you recall that?

20 A. Yes.

21 Q. Okay.

22 And I wanted to just see whether or not we
23 were all on the same page here.

24 You understand, do you not, that if a
25 customer goes from -- let me put this in the example of

1 UBTA UBET.

2 If a UBTA UBET customer moves from one house
3 in Vernal to another house in Vernal.

4 Do you have that in mind?

5 A. Yes.

6 Q. Isn't it possible that the UBTA UBET
7 customer would be able to port her telephone number
8 from that old house to the new house, if the customer
9 desired?

10 A. They can get the same telephone number.
11 It's not ported.

12 Q. And that's what I mean. But they can keep
13 their telephone number, moving from one location to the
14 other. Correct?

15 A. Correct.

16 Q. And UBTA UBET will offer service to that
17 customer at both locations, won't they?

18 A. Yes.

19 Q. And that doesn't make the UBTA UBET service
20 mobile, does it?

21 A. No.

22 Q. That doesn't make that service nomadic, does
23 it?

24 A. No.

25 Q. And if the intention in Bresnan answering

1 this question 1.10(A) was simply to reflect the fact
2 that a geographically-fixed service can be, quote
3 unquote, moved, because a customer in one house can
4 move to another house and keep her telephone number,
5 and also take service from Bresnan at the second house,
6 if that's what Bresnan had in mind, would you agree
7 with me that the service is not nomadic?

8 A. If that's what you had in mind.

9 Q. Okay.

10 And the words that are in 1.10(A), that
11 suggest that's not what we had in mind, I'm just --
12 want to make sure I understand.

13 What word in there leads you to conclude
14 that we're talking about something different than the
15 scenario that you and I just went through?

16 A. In this, it's unclear that they said you're
17 not permitted to move the service to the extent they
18 relocate in the same rate center they can get the same
19 number. But what I've seen in here doesn't say you're
20 moving the service, or anything else.

21 And from my understanding of how VoIP
22 service works, and I think you had things listed on how
23 your service works in your application, that you use an
24 EMTA. That that EMTA can physically be moved to
25 another location and work.

1 Q. Okay. But --

2 A. So --

3 Q. What I want to do is focus on the answer
4 that is given here. Doesn't Bresnan say that to the
5 extent an end user relocates within the same Bresnan
6 service rate center, Bresnan will offer to provide
7 service to the end user at its new premise with the
8 same telephone number?

9 That's what the answer says, isn't it?

10 A. Yes.

11 Q. And if the word Bresnan, in both cases, were
12 replaced with UBTA UBET, wouldn't that sentence be the
13 same for UBTA UBET under the scenario we just
14 discussed?

15 That to the extent an end user relocates
16 within the same UBTA UBET service rate center,
17 UBTA UBET would offer to provide service to the end
18 user at its new premise with the same telephone number,
19 that would be a true statement, wouldn't it?

20 A. Yes.

21 Q. Okay.

22 A. But UBET -- what it doesn't say here, UBET
23 physically moves the service. I don't see this where
24 Bresnan is physically moving the service.

25 Q. Right. But again --

1 A. So that is --

2 Q. -- the very --

3 A. -- unclear to me by the wording.

4 Q. The very first answer, is the service
5 provided by Bresnan to the end users a
6 geographically-based service, the answer there is yes.
7 Isn't it?

8 A. Yes.

9 Q. Okay.

10 Thank you, Ms. Wimer.

11 MR. NELSON: You have nothing further of
12 this witness. Thank you for your patience and your
13 time.

14 ADMINISTRATIVE LAW JUDGE: Thank you,
15 Mr. Nelson.

16 Mr. Ginsberg?

17 CROSS EXAMINATION

18 BY MR. GINSBERG:

19 Q. Good morning, Ms. Wimer.

20 A. Good morning.

21 Q. Do you have -- the areas I want to talk with
22 you first about, do you have UU-2 up there with you?

23 And the answers to DPU data request second
24 set that you answered on whether you all did cost
25 studies or not. Do you have that up there too?

1 And then the final one is the study that
2 Bresnan provided, which shows -- compares your cost and
3 their cost.

4 A. Yes.

5 Q. Do you have all three of those?

6 MS. SLAWSON: She does not have the answers
7 to the DPU. I can give those to her though.

8 MR. GINSBERG: You don't have them?

9 THE WITNESS: Hang on a second. I'm getting
10 things out.

11 MR. GINSBERG: I can read the answer.
12 They're relatively short. I mean, when we get to it.

13 THE WITNESS: I think -- what's the date of
14 request on the data response one?

15 MR. GINSBERG: It's DPU second set of data
16 request. Answer: Basically provide any workpapers,
17 spreadsheets, et cetera.

18 THE WITNESS: Oh, I don't have the
19 workpaper. Sorry.

20 MR. GINSBERG: There were no workpapers. It
21 was just a verbal answer.

22 THE WITNESS: Yes. Yes.

23 MR. GINSBERG: Okay.

24 MS. SLAWSON: Do you have the answers?

25 Sorry.

1 THE WITNESS: No.

2 MS. SLAWSON: Okay.

3 THE WITNESS: You had given me the other --

4 I have the other ones. I don't have that second set.

5 MR. GINSBERG: The Bresnan answer, do you
6 have that?

7 THE WITNESS: Yes. I do have the --

8 The spreadsheet?

9 MR. GINSBERG: Yes.

10 THE WITNESS: Yes.

11 MR. GINSBERG: If you need it, I can get it
12 to you, but I don't think it's that big of a deal. I
13 just don't have another copy.

14 MR. NELSON: Here. That's an extra.

15 MS. SLAWSON: Thanks.

16 Did you want to mark this as an exhibit?

17 MR. GINSBERG: No. It's probably not
18 necessary.

19 MS. SLAWSON: Why don't we go ahead.

20 Do you have any objection to marking it?

21 MR. GINSBERG: No. That's fine.

22 (Whereupon, Exhibit No. DPU-4
23 was marked for identification.)

24 Q. (BY MR. GINSBERG) If we could first look at
25 this UU-2.

1 A. Okay.

2 Q. Is there different type of traffic that goes
3 through each of these? Whether it be the Provo tandem
4 or the UFN tandem, is it basically the same traffic?

5 A. It's all toll traffic.

6 Q. Okay.

7 A. It's IntraLATA and interLATA toll traffic.

8 And, in fact, there was a little matrix that
9 talked about what type of traffic goes there.

10 In the Provo tandem, it's all feature group
11 D traffic, that is going to -- to and from IXCs. And
12 so it gets transmitted there. So it's 100 percent
13 access. And the compensation as it comes into the UFN
14 tandem, the UFN tandem charges UFN charges to the IXCs.
15 When it gets to our meet point, the facility that goes
16 to UFN then gets paid for by the IXCs all the way to
17 the Vernal switch or to the remotes, based on access
18 charges.

19 MS. SLAWSON: Excuse me. I think at the
20 beginning of your answer you suggested that it was the
21 Provo tandem. Did you mean the UFN tandem?

22 THE WITNESS: Oh, UFN -- the UFN tandem.

23 MS. SLAWSON: In Salt Lake?

24 THE WITNESS: In Salt Lake, sorry.

25 Q. (BY MR. GINSBERG) So the UFN tandem is all

1 interexchange traffic?

2 A. Correct. And the Provo tandem, that's an
3 IntraLATA tandem. And essentially the traffic there is
4 going to Qwest.

5 So any -- the only traffic that is --
6 actually -- I should make sure I check this. I believe
7 the only traffic that is going from -- and this matrix
8 is on our data response on January 22nd.

9 2.3, there is a matrix that talks about the
10 traffic that's on there.

11 And the first one is from -- I'm not sure
12 which one. The Salt Lake City tandem. So that would
13 be the UFN tandem I was just walking about.

14 So it shows that all of the toll and access
15 are going to that tandem, outbound and in-bound.

16 And then if you look at the next page, on
17 page four, and response number 2.4, there is another
18 matrix. And it shows that there's toll traffic from
19 Qwest. So all of the traffic is going one way, from
20 Qwest to UBET. And the reason for that -- and, again,
21 it's all switched access that goes one direction, from
22 Qwest to UBET, and essentially there's no traffic going
23 in the other direction.

24 There -- essentially none.

25 The UFN tandem is relatively new, and so

1 they've been moving IXCs from Qwest over to UFN. And
2 there's one carrier that has not moved, but it is not a
3 major carrier. It's a very minor carrier.

4 So that is the only essentially
5 pre-subscribed traffic that would be originating from
6 say Vernal or UBET to Qwest, but it's a minor amount of
7 traffic. So it's 100 percent essentially traffic from
8 Qwest to UBET, and essentially a one-way trunk.

9 Q. And on this exhibit you show that the Provo
10 tandem is near capacity?

11 Was all of the traffic that was on the UFN
12 tandem, then, on this Provo tandem before the UFN
13 tandem started?

14 A. Yes.

15 Q. So how did -- how did you carry all of that
16 traffic? Did you like give up a trunk group or
17 something?

18 A. There were -- right now, what's left is what
19 they call a feature group C trunk group. Between Qwest
20 and UBET. Previously there were feature group D, as in
21 dog, trunk groups, and those have been turned off.

22 Q. And you said that there are other
23 interchange carriers that you are trying to migrate to
24 the UFN tandem?

25 A. My understanding is there's one.

1 Q. And will that add additional capacity to
2 this trunk group?

3 A. From my understanding, it's a very minor
4 amount of traffic, and, you know, would be -- it's a
5 very minor amount of traffic that would not make a
6 significant difference.

7 Q. Now, in your answer to the data request, in
8 DPU -- which has been marked DPU-4. Do you have that?

9 A. Yes.

10 Q. And I think while you were on the stand you
11 also indicated that -- in the answer you basically said
12 that you'd have to add a new trunk group. And in your
13 answers, while you were talking about this UU-2, you
14 used the term that you'd have to augment this trunk
15 group, I think was the term.

16 A. Yes.

17 Q. What does that mean?

18 A. You would have to add capacity.

19 Q. Not --

20 A. So it -- just to explain that, if you look
21 at there's 406 DSOs and 17 T1 lines, we would have to
22 essentially, say, add additional T1 lines to make that
23 18 or 19. To increase the size of the trunk group.

24 Q. And those costs are not reflected on the
25 spreadsheet that Bresnan has put together?

1 A. Bresnan -- no.

2 What Bresnan has said, if you walk through
3 their scenarios, scenario one says you have existing
4 capacity. If you have any spare capacity, it -- you
5 know, it's free.

6 So if you say, Hey, I'm taking a bus down
7 the street and I have one passenger, then all of the
8 other seats should go for free because the bus is
9 already going down the street with one passenger.

10 So that's what situation number one says.

11 Situation number two says, Oh, I have a bus
12 going down the street, and I'm assuming every seat is
13 full. And then I'm taking the cost of that full bus,
14 however much that costs, and dividing it up, and saying
15 that is what a cost there should be.

16 And in doing that -- I'll have to
17 check. -- I think they used -- I'll have to check their
18 assumptions. In one case they used Qwest costs, as far
19 as what the cost of the bus was, and in another case I
20 believe they used UBET NECA 4 --

21 Or let's see. What did they use?

22 I'm not sure the base cost. It's not
23 jumping out at me in that scenario.

24 But they essentially go from, Hey, it's
25 full, all the extra seats are free, to, if the bus is

1 full. And no kind of in-between that says, Hey, if the
2 bus is going down the street, it should be allocated.

3 In addition, what they said on the stand is
4 that there's no out-of-pocket costs. So one of the
5 things we're trying to get through, on this data
6 response, is, in fact, there are out-of-pocket costs.

7 We have to provision another trunk, and, in
8 fact, these toll trunks. So even if they're not full,
9 we would need a separate trunk group for local traffic,
10 to carry the local traffic.

11 So essentially you need a whole new bus.
12 You're not going through and adding, or putting new
13 passengers on the current bus, you really have to put
14 another bus out there. And we'd have to establish that
15 with either tandem.

16 And in all of these cases, even if I did put
17 another passenger on the bus, the way the economics for
18 the telephone company works, we're getting paid
19 essentially for the entire bus, whether it's one or
20 many customers on it. And as soon as I put, say
21 instead of a red customer, a blue customer on it, I'm
22 going to get less revenue from -- I'm going to get less
23 revenue from that, the way my costs work.

24 So even though I might not be spending more
25 to pay for the bus, I'm going to get less amount of

1 revenue as soon as I put a blue passenger on it.

2 Q. And if we could, let's -- let's talk about
3 that.

4 That was an area that was brought up by
5 Mr. Meredith. And when you say less revenue, do you
6 mean that it would affect your NECA settlements?

7 A. Correct.

8 Q. And can you sort of -- so if I understand it
9 right, if you add local traffic onto the Provo tandem,
10 or the UFN tandem that we were talking about, and maybe
11 we could -- you could use an example of 60,000 minutes,
12 or whatever example you'd want.

13 Can you walk us through about how that
14 affects your NECA settlements, and what the cost of
15 that is?

16 A. Okay.

17 I'll try, and hopefully Mr. Meredith will
18 keep me honest here.

19 How NECA works is the -- a lot of rural
20 telephone companies submit their cost to NECA, and --
21 all of the costs going in. So if I have my -- say my
22 total company cost is \$100,000.

23 We work out all of our cost and say how
24 much -- how much of those costs are in the interstate
25 jurisdiction. So -- because NECA only pays for

1 interstate.

2 And if I walk through all of that, say I
3 find that 60,000 of the 100,000 is interstate cost. I
4 submit that to NECA.

5 And then based on my investment, they give
6 me an 11 and a half percent return on that investment,
7 and I get payments every year for that. And expenses
8 go along also.

9 And there's a whole formula on what gets
10 added and what doesn't.

11 So say it turns out to be 60 percent towards
12 interstate, 40 percent to intra -- intrastate. So I
13 would get 11 and a half percent return, and I get those
14 payments every year.

15 If, now -- so, say, what you -- what did you
16 say? I had 60,000 --

17 Q. I'm using one of the examples that are on
18 the schedule.

19 A. Oh.

20 Q. 60,000 minutes. Is that -- that a material
21 amount of minutes?

22 A. Well, what -- why don't I just talk about
23 the percentages.

24 So if I had, you know, \$100 invested in the
25 transport, I would get reim -- I would get some

1 reimbursement on 60,000 of that. That it's 60/40.

2 Well, now if the percent changes on that,
3 because I now have local on it, now I could have a
4 change that, instead of 60/40, it's, you know, 45/55.
5 And then, instead of getting \$60 recovery, I'm going to
6 get \$55 recovery.

7 So does that -- I don't think we --

8 Q. I get --

9 A. Does that help?

10 Q. It gives me sort of an example, but not an
11 example of materiality of the kind of traffic that
12 Bresnan is talking about.

13 A. Well, I can't -- I mean, even in the example
14 here, I don't know how many minutes are going to be --
15 how many minutes or how many trunks are going to be
16 establish -- established here. I don't know what their
17 forecast is.

18 Q. Isn't -- is there a maximum amount of the
19 effect which would be the 250,000 minutes that a trunk
20 group can carry?

21 A. No. Because it's going to be on the overall
22 amount.

23 So, for example, I have -- say, to the Provo
24 tandem, I have 17 T1 lines.

25 So say I now add two T1 lines, or maybe --

1 I'll make it easier. Say I have the 20 -- 20 T1 lines.
2 I add two T1 lines to do UF -- the UFN. So now I
3 have -- say that's ten percent. So now I'm going to
4 have ten percent of that cost taken away.

5 Q. Are there any other effects of allowing
6 local traffic on a trunk group that would affect your
7 Federal USF payments?

8 A. Excuse me. Repeat again?

9 Q. You said it affects your NECA settlements.
10 Does it affect any other payments you receive from the
11 Federal side, such as like Federal USF?

12 A. I don't -- I mean, subject to check, I don't
13 believe that transport affects USF, because the main
14 part of USF is more on the local loop side is where the
15 majority of that revenue comes from.

16 Q. You also mentioned, I think one other effect
17 of having local traffic. And that is phantom traffic
18 could be --

19 A. Correct.

20 Q. -- allowed to go on this trunk group?

21 A. Correct.

22 Q. And can you sort of describe what that
23 meant?

24 A. Phantom traffic. So as we looked at the
25 little matrix, that all of this traffic going back and

1 forth is toll traffic. So that means for every minute
2 that comes through the trunks to these two tandems, I
3 should receive a payment.

4 But what happens sometimes, and what we want
5 to prevent, is when it goes through the tandem -- and,
6 in fact, UBET was having a problem with this, and
7 that's one of the drivers of moving all of their
8 traffic to the UFN tandem. Either IXEs send traffic
9 and say they strip off the calling party number. And
10 what we'd normally do to determine what the
11 jurisdiction of the call is is we'd compare the
12 originating number, the calling party number, to the
13 terminating number, or the called party number, and
14 say, Where are those two locations? This is either an
15 intrastate toll, intrastate toll call it should be, or
16 interstate call. And then we also need to know what is
17 called a carrier identification code, or a CIC code.
18 And that tells us who to bill.

19 And then the originating and terminating
20 numbers tell us what jurisdiction it should be in.
21 Interstate, intrastate, intra -- I think you're one
22 LATA.

23 So intrastate would be IntraLATA. And then
24 we would apply the appropriate rate.

25 What happens on phantom traffic is one of

1 those pieces is missing. So either the call -- the CPN
2 or calling party number is missing, or the CIC code is
3 missing. And it makes it so we cannot bill the call.

4 So essentially it is then free, because we
5 have no way to bill the call. And so it's called
6 phantom traffic, because we can't identify it, and we
7 can't bill it.

8 And so when it goes through the tandem, what
9 happens is, occasionally -- I don't know if this
10 happened particularly with Qwest, but kind of in
11 general it's happened places. When it goes into the
12 tandem, the tandem, instead of passing all of the CIC
13 codes through, because there could be multiple CIC
14 codes on a single trunk group, they say the trunk group
15 is all YXZ carrier. Say the -- it's all AT&T.

16 Well, we bill AT&T and they say, hey, all of
17 this traffic isn't mine. And it's because Qwest, or
18 the tandem provider changed the CIC codes on there.
19 And then, even though I think I have a CIC code, the
20 bill is disputed because, you know, the tandem provider
21 either changed the number on it, or they -- or even the
22 CIC -- they did not pass the information that I need to
23 bill the code.

24 So that amount of traffic was starting to
25 increase, and we had a problem. We moved to the UFN

1 tandem.

2 But any time you go through a tandem, you
3 have the opportunity that those things are going to
4 happen, either on purpose or just on the matter of how
5 equipment works, sometimes things happen.

6 So that's what phantom traffic is, and
7 there's a risk every time we go through a tandem.

8 Q. Have you done any kind of study or analysis
9 of the amount of phantom traffic that would go through
10 these tandems if the local traffic was on there?

11 A. Well, all the -- I mean, it -- today, the
12 toll traffic goes through there. The traffic that
13 would go through there on the phantom traffic would be
14 the traffic between the two carriers.

15 And so that would be the volume of traffic.

16 I can't --

17 Q. And does UBET already have phantom traffic
18 just because you're using a tandem?

19 A. Yes. We do.

20 Q. Okay.

21 Do you have those two interconnection
22 agreements I gave you yesterday?

23 A. Yes, I do.

24 Q. Maybe we could have those marked.

25 * * *

1 (Whereupon, Exhibit Nos. DPU-2 and
2 DPU-3 were marked for identification.)

3 Q. (BY MR. GINSBERG) Are there other
4 interconnection agreements that Uinta Basin has entered
5 into that, you know, we have the one that was -- you
6 were given yesterday with the affiliate.

7 We have Western Wireless, we have Union.
8 Are there others that they've entered into?

9 A. There might be another wireless one. I
10 mean, I did not review them all, but there may be
11 another wireless one. I'm not sure.

12 Q. Did you review the Union and the Western
13 Wireless one?

14 A. Yes, I did.

15 Q. In fact, were the Western Wireless one, that
16 was the one you refer to in your testimony where the
17 rate that you proposed came from?

18 A. I forget which one, but yes. Subject to
19 check, yes.

20 Q. If we could, look at the Union one for a
21 minute.

22 A. Okay.

23 Q. The provision 3.4.1.

24 A. Yes.

25 Q. Does this mean that that provision allows

1 this Interconnection Agreement to have indirect
2 interconnection through a tandem of a third-party?

3 A. I don't think it does.

4 The title of this section is called Indirect
5 Network Connection, and it says it may be transited
6 through one or more intermediaries. It never refers to
7 a tandem.

8 And, frankly, it -- there are other things
9 in this agreement that somewhat contradict this
10 statement.

11 If you look at the definition of point of
12 interconnection, it means a technically feasible point
13 where UBET and Union interconnect their respective
14 networks using a technical interface and points of
15 operational division.

16 And then, when you go through the agreement
17 on say 3.5, Traffic Routing, it says that you're
18 routing the traffic to the Union POI. It never
19 discusses routing traffic to any tandem provider.

20 So I know, from an actual implementation
21 standpoint, there has never been an indirect connection
22 with Union. And there's other items in this agreement
23 that don't seem to anticipate any interconnection with
24 a third-party.

25 So I am not sure what exactly that indirect

1 connection was for. The only thing that I can think
2 about, or even -- UBET can think about, is, in fact
3 Union leases some facilities from UBET to kind of get
4 through their territory. So they meet at a meet point.
5 UBET transfers through their service territory, and
6 then hands it off to Qwest on the other side. But it's
7 pure transport.

8 But otherwise, we really don't know why that
9 provision is in there.

10 There's other provisions that, you know, do
11 not allow. There's not references of actually sending
12 it to a third-party tandem.

13 Q. So is it your testimony that for your
14 wireless traffic Interconnection Agreement, none of
15 that goes through a third-party tandem?

16 A. Correct.

17 Q. Going to the costs that are shown for the
18 direct connection on scenario -- this exhibit again.

19 And, again, your answer was that you did no
20 special studies to what the cost of a direct connection
21 would be, other than you'd have to add a trunk group.
22 Is that right?

23 A. We would have to add a trunk group.

24 And the question is, is it capital cost, or
25 do you apply, you know, your tariff rates. Because

1 clearly, you know, a tariff rate recovers your cost.

2 So you could apply a tariff rate to, you
3 know, the mileage, and come up with a rate.

4 Q. Are these costs that have been shown to be
5 Uinta Basin's cost reflect what that would be? For a
6 direct connection?

7 A. They -- my understanding, if you look on
8 page two of two, on the assumptions, they have a rate
9 of 273 from Grand Junction to the Qwest Provo tandem,
10 and then they have the Grand Junction switch to Vernal
11 POI at \$1,500.

12 I think at least the \$1,500 one, they -- has
13 some tariff rates in. But I'm not sure. I forget
14 Mr. Harris's testimony on where those came from.

15 Q. I meant your cost.

16 A. Oh, our cost?

17 Q. Yes.

18 A. Let me check their assumptions. Because I
19 think on most of these they used Qwest's cost.

20 Like, for example, on the -- the last
21 page -- the page on the EAS, they used Qwest's cost.

22 And then the other column, they used UBET
23 dedicated access rates in that column.

24 They did not use individual minute of use
25 rates, which are much higher than that. The minute of

1 use rate, for transport on their IntraLATA tandem, is
2 .01425, versus, you know, these -- these numbers that
3 are all tenths of a penny versus over a penny.

4 Q. Were we looking at the same page? I'm
5 talking about the \$175 direct interconnection cost. Is
6 that what you were referring to?

7 A. Oh, sorry. I was on the EAS one.

8 Q. Right.

9 A. On the entrance facility -- let me just
10 check their assumptions. Because it says here that, on
11 assumption six on page two, it says IBEC transport
12 expense, and then it says Quest RURAL reciprocal
13 compensation rates are employed as a reasonable proxy
14 for UBET's internal per-MOU costs.

15 And it's entirely -- well, entirely proper
16 for those to be created on cost characteristics for
17 rural exchanges.

18 And then it also says --

19 Yeah. I'm not seeing here --

20 I'm sorry, at one point I had this in mind,
21 but I guess I got burned out yesterday.

22 I'm not seeing here, and I can check, but
23 it's -- it looks like these are using Qwest rates
24 versus UBET's rates. Although I thought I heard
25 Mr. Harris talking that the entrance facility as out of

1 the UBET tariff.

2 And -- well, if I look at both the 75 and
3 \$100, both of those are assumed rates, so it does not
4 look like they go back to any UBET tariff rate. That
5 they were assumed rates.

6 Q. Let me go to a different subject then.

7 A. Okay.

8 Q. You're proposing that this agreement start
9 with reciprocal compensation and bill-and-keep not be
10 an option?

11 A. Correct.

12 And that is similar to the two agreements
13 that you provided me. There's no provisions for
14 bill-and-keep in either of those.

15 Q. And I believe your testimony said that you
16 believe that the traffic will be out of balance?

17 A. Assuming that whenever one entity targets a
18 certain type of customer, it's likely to be out of
19 balance.

20 So, in this case, I believe we've heard
21 Bresnan say they're targeting primarily residential
22 customers and not business. And if that is, in fact,
23 the case, then there can be an out-of-balance type of
24 traffic.

25 Q. Is your disagreement with the 60 percent

1 proposed by Bresnan, or the concept that there should
2 be any percentage?

3 A. Our preference is, we do all -- that we
4 don't want to go through a back and forth when we're
5 billing recip comp for wireless carriers now. There's
6 a lot of back and forth of checking and making sure are
7 things in balance or are things not in balance. And
8 our preference is that, Hey, we just start off one way,
9 and we stay there.

10 Q. So even if the traffic is in balance, at
11 some percentage that you can agree to, you would always
12 propose that you stay at reciprocal compensation?

13 A. Yeah.

14 Q. Doesn't that sort of create costs for you
15 that could be avoided?

16 A. The question is does it cost to do things in
17 a non-standard way? We're doing things one way with
18 the wireless carriers, and this just all gets thrown in
19 so it's consistent.

20 Q. If you could, turn to the -- I think you
21 indicated that EAS was created out there. That it
22 didn't exist at any other time before the EAS rate was
23 established. Do you recall that yesterday?

24 A. My understanding, and what I've been
25 presented by the companies, is that there was an EAS

1 docket 4 or 5 years ago. And prior to that, that the
2 standard rate covered only the single local exchange,
3 where the customer had their network. And then the EAS
4 docket expanded that to cover all of the exchanges.

5 Q. My question to you is, you understand that
6 the Vernal exchange was owned by Qwest? And then
7 acquired by Uinta Basin?

8 A. I knew some were purchased. I wasn't sure
9 that Vernal was one of them. But yes. Okay.

10 Q. And do you know whether or not before --
11 before they acquired the Vernal exchange, whether there
12 was EAS in the Uinta Basin company that existed without
13 Vernal?

14 A. No, I don't.

15 Q. Now, the -- do you have the Western Wireless
16 agreement, which has been marked as DPU --

17 A. 3.

18 Q. 3?

19 A. Yes.

20 Q. And if you could turn to 4.2.1.

21 This is the same rates that you went through
22 yesterday with Mr. Nelson. Is that right?

23 A. Yes.

24 Q. And the process of these rates, of how
25 they're charged, is the same for Uinta Basin's

1 affiliate as it is with Western Wireless?

2 A. Yes.

3 And similar to yesterday, there is also the
4 70/30 sharing of the facility in here. So that's an
5 additional compensation, in addition to this.

6 So, just like yesterday, there's a meet
7 point, Western Wireless has 100 percent on their side
8 of the meet point -- or point of interconnection. On
9 the UBET side of the interconnection, the facility that
10 goes from there to the UBET switch is shared --
11 70 percent is paid by Western Wireless, and 30 percent
12 is paid by UBET.

13 Q. Now, which agreement, do you know, existed
14 first?

15 Did --

16 A. I don't know.

17 Q. Now, when you've hunted around for this
18 proposed rate of the 0.12, why did you choose this
19 agreement?

20 A. This was the one provided by the company to
21 me.

22 Q. Did they indicate to you that this agreement
23 was a cost-based rate?

24 This rate?

25 A. They -- I believe, in a -- because they did

1 say, I believe, the Union went into some litigation, if
2 I'm remembering properly. And if you look at the Union
3 agreement, it talks about those rates being interim.

4 So they've -- I think they felt they were
5 charging this same rate in both. They ended up giving
6 me the Western Wireless one.

7 Q. Do you know when this rate went into effect?
8 In what year?

9 A. Several years ago. I think it was 2005
10 maybe.

11 I'm trying to look at the signatures, but.

12 Q. I actually see that there isn't a date on
13 this, so.

14 A. And so --

15 Q. My question --

16 A. It's -- but my understanding are they are
17 several years old.

18 Q. Did you, in any way, look or review the
19 docket for the Western Wireless agreement --

20 Did you know it was an arbitrated docket?
21 That ultimately there was an agreement reached?

22 A. I knew one of the two of them were
23 arbitrated.

24 Q. But you didn't attempting to go behind it
25 all to determine whether the rates being proposed are

1 reasonable today or not?

2 A. No, I did not.

3 Q. Why, in the proposed agreement, did you only
4 include the .012 and not the .01?

5 A. Again, these agreements are very different
6 from a -- you know, these are under 251. As you said,
7 there was litigation around what the costs were, back
8 and forth, were not under 251.

9 The other thing is these are reciprocal
10 arrangements. The wireless carriers do cover the
11 entire UBET service area. And, in fact, there's
12 reference to various NPA-NXXs.

13 And if you look at that Western Wireless,
14 even in the local calling area, it says the local
15 calling area will include Western Wireless NPA-NXXs
16 located in UBET exchanges and any within the UAS
17 arrangement. So there are actually numbers out there,
18 and coverage, that go in both directions.

19 So these -- these are different
20 arrangements. And, as you said, that was a negotiated
21 rate. You know, we felt we had backup.

22 If you look in the Union agreement, the
23 proposed, in the Union agreement was 3.4 cents, and 3.6
24 cents. In that agreement, we felt the 1.2 was, out of
25 all of these, were a fair price, and a price we already

1 had out there and were paying.

2 Q. Just one general question. If we look at
3 that -- in the Western Wireless, I think it's 3.7.4.

4 Do you have that?

5 A. The dispute --

6 Q. Yeah.

7 A. -- resolution? Okay.

8 Q. And I see in there that there's a 60-day
9 interval in there?

10 A. Yes.

11 Q. And isn't that one of the areas that's sort
12 of in dispute between you and Bresnan and what that
13 interval should be?

14 A. Yes.

15 Q. Is there a reasonable way for the Commission
16 to sort of resolve these issues, is to look to what
17 you've agreed to elsewhere? Whether in this agreement
18 or your affiliated agreement? As to what an interval
19 should be?

20 A. If we -- doesn't mean that we like the
21 interval. We can argue either way. You know, we've
22 requested a 30-day interval.

23 Q. And they wanted 90.

24 A. And they wanted 90. And certainly 60 is in
25 between there, so.

1 Q. Well, you must think 60 is reasonable,
2 because you agreed to it in both this agreement and
3 your agreement with the affiliate.

4 A. Yes. And -- but keep in mind, these are,
5 you know, a lot of things balancing out in the
6 agreement. And, you know, it's like, Well, if I can
7 pick the best arrangement out of this agreement, and
8 the best arrangement for me out of this agreement, you
9 know, the other party's not going to have a -- a real
10 good time with that.

11 So, as far as, you know, picking and
12 choosing, I don't think individual items should be
13 picked and chosen. And unfortunately, since Bresnan is
14 not a wireless carrier, there's a lot of terms that are
15 not in this -- you know, that are not in the
16 arrangement.

17 But yes, I think the Commission can look at
18 other agreements as guidance as to what has been agreed
19 to before.

20 Q. Isn't that, in a sense, though, what you're
21 asking the Commission to do, is on each of these little
22 points, intervals, and sort of to pick one side or the
23 other, and -- isn't one way for them to do that is to
24 say, Well, what does Uinta Basin think they can do it
25 in? They can do it in 60 days. They found

1 reasonable. Why isn't that a reasonable solution?

2 A. Well, my understanding of how the process
3 works is after we're done here, we're going to line up
4 the Bresnan language and our language, defend back and
5 forth.

6 And if the Commission wants to, they can
7 then come up with an in-between solution in there.

8 MR. GINSBERG: If I could just take a
9 minute.

10 Thank you.

11 MR. NELSON: Mr. Ginsberg, did you want to
12 move the exhibits you've identified?

13 MR. GINSBERG: Yes. If I haven't admitted 2
14 and 3. And I guess 4 also.

15 ADMINISTRATIVE LAW JUDGE: No objections?

16 MR. NELSON: No objection.

17 ADMINISTRATIVE LAW JUDGE: They're admitted.

18 (Whereupon, Exhibit Nos. DPU 2 through
19 DPU-4 were admitted.)

20 ADMINISTRATIVE LAW JUDGE: Do you have any
21 more questions?

22 MR. GINSBERG: No. Thank you.

23 ADMINISTRATIVE LAW JUDGE: All right.

24 Redirect.

25 * * *

1 REDIRECT EXAMINATION

2 BY MS. SLAWSON:

3 Q. Thank you.

4 Ms. Wimer, I only have a few questions for
5 you. The first one I wanted to talk to you about was
6 these various interconnection agreements that we've
7 been looking at for the wireless companies.

8 As I understand it, there's differences
9 between the parties and the circumstances in those
10 agreements. And you've discussed some of those.

11 I believe you -- you've indicated that there
12 was an extended calling area that the wireless carriers
13 have that would also benefit UBET. Is that correct?

14 A. Correct.

15 Q. And -- and I think you've touched on this a
16 little bit. That the wireless interconnection
17 agreements were negotiated under Federal law. Is that
18 correct?

19 A. Correct.

20 Q. I wanted to talk to you a little about that.

21 Under Federal law and guidelines, when
22 you're negotiating an Interconnection Agreement, my
23 understanding is you can negotiate whatever rate you
24 want, but that there would be a certain backstop if you
25 can't come to an agreement. Is that your

1 understanding?

2 A. Yes. You use total long-run incremental
3 costs.

4 And how those costs are set up is it says
5 you have essentially the optimum network. That, you
6 know, you're starting off with all new technologies.
7 You know exactly wherever everybody fits and can build
8 a brand new network in the most efficient way and
9 current technology.

10 And that's not really how anybody's network
11 is, except for say a new provider, starting out brand
12 new. And it does not take in, Oh, I made this
13 investment. I have copper plant in my network, which I
14 would not build. And so my actual cost, or imbedded
15 cost of what I'm really working on can be very
16 different than an incremental cost. Which is the
17 Federal standard.

18 And in the State rules, State rules also
19 apply to total service long-run incremental cost, or
20 tel reg.

21 However, UBET is exempt from that because
22 they're under 30,000 lines, so there is no incremental
23 pricing standard for UBET under State law.

24 So we are talking different pricing
25 standards between the two.

1 Q. Thank you.

2 And yesterday, Mr. Nelson asked you about
3 UBET's tariff rates for service orders. And I believe
4 the back and forth, that the end result was that you
5 agreed to look at those rates. Did you have a chance
6 to look at those rates?

7 A. Yes, I did.

8 And the service order rate that we were
9 discussing, that would be the base service order rate
10 for transfer of customers, from one company to the
11 other, it's called an initial service order. And for
12 residential, it's \$15, and for business it's \$20.

13 And also, to discuss that I was questioned
14 on, you know, what is included in that service order,
15 and isn't that a lot more work, when, in fact, you have
16 a new customer coming on, you have to do a lot more
17 work.

18 Well, in fact the service order and
19 installation is broken up, and there's several
20 different types of service orders.

21 So in addition to that, you know, initial
22 service order, that covers, you know, basic contact,
23 doing the verification and things like that, there's a
24 prem visit order, a line establishment order number, an
25 engineering premise visit. And so there's other rate

1 elements that cover some of those more complicated
2 ordering functions.

3 So, in fact, that 15 for res, 20 for
4 business, is, I think, fairly similar to what the
5 process that we were talking about for the strict
6 transfer customers between carriers.

7 Q. Yesterday Mr. Nelson asked you about
8 customer service records and intercept messages. You
9 kind of went back and forth on that. I just want to
10 make sure I understand your testimony.

11 With UBET's proposed language in the
12 Essential Facilities Agreement, and its objection to
13 Bresnan's proposed language, is it UBET's position that
14 they're not going to provide its -- they're not going
15 to provide UBET's customers, if they were requested,
16 with intercept messages?

17 A. No. And I think -- I tried to say, but it
18 may have gotten lost, but no. In both cases, if a
19 customer asks us for their own customer service record,
20 we'll provide the customer service record.

21 If UBET provide -- asks us for customer
22 service record, and has an LOA --

23 Q. I'm sorry. You said UBET. Did you mean
24 Bresnan?

25 A. Yes.

1 If Bresnan requests a customer service
2 record, and has a letter of authorization by the
3 customer to get that, we will provide it to them;
4 however, we want to charge them to do it, because we
5 have work to do when we give it to them, versus when we
6 give it to the end user, because the end user, we also
7 include exactly what we have on our records, that we
8 have deregulated items that is not really appropriate
9 to give to Bresnan.

10 And so, yes, we will do it, we just want to
11 get reimbursed for it.

12 And, again, on the customer, the referral on
13 announcement, Yes, we will do it. We're doing it -- we
14 will do it in a non-discriminatory manner. The
15 customer can get an announcement, but it's between us
16 and the customer. We will provide that service. It's
17 just we don't feel Bresnan is in the middle of us
18 providing the service.

19 Q. And finally, yesterday, when you were
20 discussing the EAS on a flat rate per customer charge,
21 Mr. Nelson had asked you whether having Bresnan pay a
22 per-customer charge for EAS would require them to
23 disclose proprietary information. Is that the case?

24 A. Not really. My understanding, and our
25 objection on providing the information, I believe our

1 access line count, as a company, is a public piece of
2 information. This is something we have to file.

3 What is not -- what is proprietary is how
4 that's broken up by each exchange.

5 So, as a company, and I forget the number,
6 but, you know, it's out there in FCC documents. I
7 believe we have to file with the State Commission. Our
8 number, our total number of access line is public
9 information.

10 So our objection is breaking it down.

11 In the same manner, we feel Bresnan ends up
12 having to file reports also, at least quarterly with
13 the Commission, on their access lines. And, again, my
14 understanding is that's public information and could be
15 used for calculating that charge.

16 MS. SLAWSON: And those are all the
17 questions that I have, but before we release the
18 witness, I'm not sure -- I know we had discussed
19 UBTA UBET's answers to Bresnan's second set of
20 discovery responses. Mr. Ginsberg was discussing that
21 with you. Has that been marked as an exhibit?

22 MR. NELSON: Yes.

23 MS. SLAWSON: It has?

24 And admitted?

25 MR. NELSON: Yes.

1 MS. SLAWSON: Thank you.

2 ADMINISTRATIVE LAW JUDGE: I think at the
3 end of the hearing we'll go through just the exhibits a
4 final time.

5 MR. NELSON: If I might. I have just one or
6 two questions based on the questions that Ms. Slawson
7 just asked the witness, if I might before she's
8 released.

9 ADMINISTRATIVE LAW JUDGE: Go ahead.

10 RE-CROSS EXAMINATION

11 BY MR. NELSON:

12 Q. Ms. Wimer, just real quickly. You
13 indicated, in response to a question by Mrs. Slawson
14 just a moment ago, that the initial service order
15 charge that you would expect to apply was \$15 for a
16 residential customer and \$20 for a business customer.
17 Do you recall that?

18 A. Yes.

19 Q. And I appreciate understanding that
20 information. There's a couple of questions about that.

21 Is that -- if a residential or business
22 customer has more than one line, is that charge per
23 line, or is if they have -- if they have a two, three,
24 four lines at their home, or their business, and they
25 submit a single request, would that 15 or \$20 cover the

1 whole thing?

2 A. I believe it's per order. And the -- and
3 I'm going to be talking from general knowledge versus
4 UBET's specific.

5 I think a service order can have several
6 lines. So I believe it's a per order that's several
7 lines. And actually, as I'm thinking about it, I think
8 the more lines, just the due date moves out. But the
9 per order charge, I believe, subject to check, it's per
10 customer, not per line.

11 Q. Okay.

12 And if this charge is associated with doing
13 the transfer, and I think we talked about last time the
14 fact that that, in essence, from what Bresnan's talking
15 about, boils down to the local number portability
16 process. You tell me, isn't it true that doing a
17 residential local number port is the exact same process
18 as doing a business local number port?

19 A. Correct.

20 Q. Okay.

21 So is there any basis to charge an extra
22 five bucks for business to do the exact same thing you
23 do for the \$15?

24 A. I believe the \$15 would be -- you asked what
25 it is. I -- these are what is in the tariff.

1 So I believe the rate would be \$15. It
2 would not differentiate.

3 Q. Okay.

4 Then secondly, you indicated that there was
5 an issue with access lines. Are you aware that Bresnan
6 also has a certificate in Cedar City?

7 A. Yes. But I thought I understood earlier
8 that that was provisioned through a different group.

9 Q. It is currently.

10 Did you also hear Mr. Harris testify as how
11 that's going to be transitioning to Bresnan's own
12 service under their own certificate?

13 A. I wasn't recalling that, but.

14 Q. Okay.

15 A. That may be the fact.

16 Q. So if it were the case that Bresnan had two
17 exchanges in the State of Utah, Vernal and Cedar City,
18 wouldn't it be true that these state-wide reports that
19 you're talking about, just like UBTA UBET reports on a
20 total company basis, might include the access line
21 information for both cities on an aggregated level?

22 A. It could.

23 Q. And then, if we were reporting to UBTA UBET,
24 in order to -- because you're not charging us \$1.80 for
25 the Cedar City lines, hopefully. Reporting to

1 UBTA UBET just the subpart of that that's in the single
2 Vernal exchange, that would be providing the
3 exchange-specific leveled information which UBTA UBET
4 asserts, for its part, is confidential. Wouldn't it?

5 A. It could.

6 One of my points, though, I believe there is
7 a non-proprietary mechanism to calculate that fee on a
8 port -- port-out options, and things like that could
9 also apply. But even on ports, if -- even if you lose
10 a customer, there should be notification back that the
11 number is released, and, you know, if the customer
12 leaves you, or whatever.

13 But we feel there's other non-proprietary
14 ways to get at that number also.

15 Q. So would that -- if that were through, would
16 that mean that if a Bresnan customer just grew an own
17 line by himself, ordered additional line from Bresnan,
18 where there's no way that UBTA UBET would otherwise
19 know that Bresnan's lines were growing, would you be
20 willing to waive whatever charges for those \$1.80 apply
21 to that new growth line because to release that would
22 be confidential?

23 A. No. I'm saying that there's ways to work
24 things out, hopefully that it would not be disclosing
25 proprietary information.

1 Q. All I'm saying is that if a customer grows
2 intrinsically, never a UBTA UBET customer, new person
3 moves to Vernal, signs up only with Bresnan, Bresnan
4 customer, as an additional line, or two additional
5 lines, what non-proprietary way of knowing that would
6 UBTA UBET have but for the disclosure of this charge?

7 A. We haven't worked that out yet. But I'm
8 sure we would be able to.

9 Q. So as you sit here today, there's no way you
10 can imagine -- because I'm having a hard time imagining
11 how it would ever be.

12 Sitting here today, there's nothing you can
13 think of, is there?

14 A. There's plenty of ways that -- for example,
15 if you look at page four of the Western Wireless
16 agreement. On the Western Wireless agreement they have
17 a factor in here saying that, Oh, I'm -- I'm assuming
18 that 97 percent -- it's on 3.7.1 on their little
19 calculation here.

20 And what they have laid out is, Hey, mobile
21 traffic is mobile. We think that everything is local
22 here, that we're passing back and forth, but we know
23 there's mobile traffic. Since we're not identifying
24 it, we're saying that three percent of the traffic that
25 I pass you is switched access traffic.

1 Something similar like that could be done to
2 accommodate, you know, that we agree to -- that there's
3 some percentage that either hasn't been ported or is
4 not part of this amount, that would be allocated.

5 There could be an allocation based on you
6 have Cedar City and the Vernal location, and there
7 could be a split -- an arbitrary split between those.

8 There's a lot of ways to work the thing out.
9 And we're willing to work that out on something that
10 would hopefully protect your exact nature of your --
11 what you feel is your proprietary information.

12 Q. And lastly, though, but if the Commission
13 ordered a per-minute of use charge associated with EAS,
14 all of those issues would be avoided, wouldn't they?

15 A. Well, the Commission has already ordered
16 that EAS should be charged to end users on a flat rate
17 charge.

18 Q. I --

19 A. And that's our allocation.

20 If they ordered something else, then
21 different things would be avoided. But we have one
22 issue of do you avoid this issue, or do you avoid that
23 they've already said the fair compensation is a \$1.80,
24 and so yes, there's two conflicting issues there.

25 MR. NELSON: Thank you. I have no further

1 questions.

2 ADMINISTRATIVE LAW JUDGE: Okay.

3 Anything else, Mr. Ginsberg? Would you

4 like to --

5 Okay.

6 Then we'll move on. Thank you, Ms. Wimer.

7 THE WITNESS: Thank you.

8 ADMINISTRATIVE LAW JUDGE: Mr. Harris.

9 MS. SLAWSON: Your Honor, I just note that
10 Mr. Mecham is still on his conference call, and he did
11 want to hear Mr. Harris's testimony. Can we take a
12 brief recess?

13 ADMINISTRATIVE LAW JUDGE: Yeah. Let's take
14 a break.

15 (Whereupon, a break was taken.)

16 ADMINISTRATIVE LAW JUDGE: Go back on the
17 record.

18 And Mr. Harris, I'll just remind you you're
19 still under oath.

20 THE WITNESS: Yes, sir.

21 ADMINISTRATIVE LAW JUDGE: Thank you.

22 ALEX HARRIS

23 having been previously sworn, was examined and testified
24 as follows:

25 * * *

1

2

DIRECT EXAMINATION

3

BY MR. NELSON:

4

5

6

Q. Mr. Harris, were you present when witnesses for URTA and UBTA UBET testified previously in this proceeding?

7

A. I was.

8

9

10

Q. And so I'd like to just ask you if you have some more specific responses to the testimony that has been offered live here in the past few days.

11

12

13

And let me just ask first if you have sort of any general statements that you'd like to make in response to that testimony.

14

A. Where to start.

15

16

17

I must say that I was very impressed by Ms. Wimer's stamina, if not necessarily by her positions.

18

19

20

21

22

You know, generally, you know, I want to just make sure that we're all focused. That what we're really talking about here is bringing competition, local phone service, to the residents and businesses residing in -- in Vernal, Utah.

23

24

25

And I also want to note that, from the beginning, UBTA UBET opposed our entry into that market. Opposed our CPN -- CPCN application. Have

1 repeated some of the same arguments that they made in
2 that proceeding in this proceeding. Refused to
3 interconnect with us for a year, and, you know, having
4 caused us to open this hearing and go through this
5 whole procedure.

6 And at the opening of hearing, in fact
7 indicated that they -- you know, through counsel,
8 indicated that pretty much regardless of what the
9 decision is, they plan to appeal the very existence of
10 this proceeding.

11 So I think it's important to view
12 UBTA UBET's various objections to Bresnan's positions
13 and red-lines of their agreement in that light.

14 Our proposals are for interconnection and
15 access to essential facilities according to the proven
16 practices and arrangements which are employed
17 ubiquitously across the United States, between
18 independent -- between incumbent LECs, including rural
19 independent LECs and CLECs, as well as wireless, other
20 ILECs, and for that matter, with RBOCs.

21 So I -- I want to lay that as a foundation.
22 What we're -- what we've tried to propose here is
23 nothing unique or even, you know, out -- remotely
24 outside of the ordinary.

25 In the interest of finishing as

1 expeditiously as possible, I'm going to limit my
2 specific response of comments to just six main areas.

3 One will be the issue of pole attachments.

4 The second is, you know, the issue of
5 including in the agreement restrictions on Bresnan's
6 otherwise lawful activities.

7 The third would be non-recurring charges.

8 The fourth area is indirect interconnection.

9 The fifth area is bill-and-keep and
10 reciprocal compensation, and the sixth area is EAS.

11 Q. Okay. Well let's start on that list of the
12 highlights then, and let's talk first, if you would,
13 what responsive testimony do you have to the testimony
14 that was offered in this hearing by the URTA and the
15 UBTA UBET witnesses with respect to the issue of the
16 pole attachments, Mr. Harris?

17 A. Okay.

18 Well, first of all, I just would like to
19 clarify the record.

20 At this time, there is no dispute. What
21 there is is that UBTA UBET has sent us an invoice for
22 pole attachments. We are on the poles. My
23 understanding is that some, if not all of the poles,
24 were previously owned by another entity, and that we
25 had some historic attachments.

1 Regardless, we had responded, you know, send
2 us an agreement, and if the invoice matches the -- you
3 know, the -- you know, the form agreement that this
4 State has, you know, authorized, we will pay the
5 invoice.

6 The party -- the UBTA UBET has indicated
7 that they are going to be forwarding us a -- an
8 agreement, which, as I say, if it conforms to the State
9 requirements, we will sign. And if the charges on the
10 invoice conforms to these agreement, we will pay.

11 And, in fact, we have been informed by
12 UBTA UBET that the invoice is probably incorrect. That
13 they do expect to adjust it, and that it will go down
14 by some amount.

15 So we believe -- you know, our understanding
16 is, and we've had very cordial conversations. We
17 expect that will be resolved without an issue.

18 As far as outstanding invoices, I might also
19 add, we also have an outstanding invoice to UBTA UBET,
20 for a situation where their activities cut a major
21 cable on our network in Vernal. And that invoice also
22 hasn't been paid.

23 We don't expect to link that to this
24 agreement. It's a separate business matter, just as
25 the pole attachments are a separate business matter.

1 And that each should be dealt with in their own --
2 under their own terms, and with their own appropriate
3 dispute resolution default matters.

4 Q. The second area you indicated you wanted to
5 discuss was concerns about testimony you heard with
6 respect to what Bresnan perceives to be the UBTA UBET's
7 insistence that we be restricted to not offer services
8 that we might otherwise be lawfully entitled to offer.

9 Do you recall the testimony you heard on the
10 stand from witnesses on that topic?

11 A. Yes.

12 And --

13 Q. Would you go ahead and provide a response to
14 that, please?

15 A. Sure.

16 At various points in their testimony,
17 Witness Wimer and Witness Meredith stressed the need
18 for safeguards and protections in the agreement to
19 protect primarily UBTA UBET, since, in their original
20 draft, all of the protections were one way.

21 And the provisions -- and these would
22 include provisions related to wholesale services,
23 services provided to ISPs, services pro -- nomadic
24 services, et cetera. That there may be others. I'm
25 just referring to those as -- as examples.

1 Generally those provisions had three
2 components, as written by UBTA UBET.

3 The first component was a prohibition on
4 sending certain forms of traffic that might be
5 originated or terminated via certain services that are
6 deemed outside this agreement.

7 There would be a prohibition on sending that
8 traffic over the interconnection arrangements provided
9 for in the agreement.

10 So that point, we have no objection. We
11 agree.

12 We have said that this agreement shall apply
13 to limited form of traffic, local and EAS traffic,
14 which is explicitly defined as being between end users
15 physically located within the same local exchange, or
16 EAS calling area.

17 We have no objection, and we wholeheartedly
18 agree. In fact, all of our revisions were designed
19 just to make sure that that prohibition was bilateral.
20 That it -- that it worked in both direction.

21 The second element, which was in the
22 UBTA UBET draft, was a penalty. That if, in fact, a
23 party violated that prohibition, and sent the band or
24 prohibited type of traffic over the Interconnection
25 Agreement, that there would be a penalty. And it was,

1 I believe in their original draft, it was that the
2 penalty would be that the traffic would be billed at
3 UBTA UBET's maximum switched access rate.

4 We felt, in our initial run-through, that if
5 we're prohibiting the traffic, we're done.

6 But, you know, having heard their concerns,
7 we don't believe -- we don't think it's a concern,
8 because we know we're not going to do it. We have no
9 expectation that they were going to do it. But having
10 heard their concerns that, well, third parties might
11 opt into the agreement, we also have no problem with
12 re-inserting that pro -- the penalty that would say, if
13 you send this prohibited traffic, it will be paid for
14 at the full access rate. In fact, in specifying
15 UBTA UBET's full access rate.

16 We don't have a problem with using that as
17 the basis for penalty, where prohibited traffic is
18 exchanged, but the third element was the one that we
19 had a great problem with.

20 And the third element was that Bresnan alone
21 would be outright prohibited from even offering these
22 services that might, in some way or another, generate
23 this traffic that we've said is outside the agreement,
24 regardless of whether or not we delivered that traffic
25 over the interconnection facilities.

1 And to that extent, we say that's just
2 inappropriate.

3 Number one, we provide wholesale services.
4 We provide wholesale transport. But beyond that, we
5 have end users who come to us occasionally and say, you
6 know, we're just like any other telecommunications
7 carriers. We have to allow legal re-sale of our
8 services. We can't say, No, I'm not going to sell it
9 to you because you're so and so. I can say how I'll
10 redirect the traffic -- how I'll direct the traffic.

11 So, you know, what we say there is if it's
12 lawful for us to provide a service, we should not be
13 restricted.

14 If our CPCN or the broader law entitles us
15 to provide a -- any service, an Interconnection
16 Agreement should not prohibit us from doing something
17 which we were otherwise lawfully entitled to do.

18 The Interconnection Agreement should only be
19 concerned with the traffic that we exchange over the
20 interconnection of facilities that are subject to that
21 agreement.

22 So on two of those points we're good.

23 I heard Ms. Wimer actually, I believe
24 yesterday, said that, you know, she only meant that the
25 prohibition to apply to the extent that the traffic was

1 exchanged over the interconnection facility, but I
2 actually heard Mr. Meredith state, I believe some days
3 ago. I don't remember when.

4 ADMINISTRATIVE LAW JUDGE: Two weeks ago.

5 THE WITNESS: Yeah, two weeks ago.

6 State that, no, in fact he wanted the
7 prohibition independent of whether we passed the
8 traffic over the interconnection, because of fears of
9 leakage.

10 And that's -- that's a -- I'm not an
11 attorney, and I'm, you know, don't know Constitutional
12 law, but that seems like some extreme case of prior
13 restraint.

14 Q. (BY MR. NELSON) Okay. The third area you
15 indicated you wanted to touch on was the testimony you
16 heard from the other witnesses with respect to the
17 non-recurring charges; the customer service requests,
18 the local service requests, and the access service
19 requests.

20 Would you please go ahead and provide your
21 response to the testimony you heard on those areas?

22 A. Sure.

23 Our position on the CSR is that that is the
24 customer's own information, to which they are entitled.

25 And, beyond that, they're entitled to that

1 information whether it is for regulated information or
2 about unregulated information. That is their own
3 information. And if the customer, in their discretion,
4 upon giving us a signed letter of agency, or release
5 form, instructs UBTA UBET to provide that to Bresnan,
6 that's the same as if the customer is saying provide it
7 to me. Because in that case, they're saying, I've
8 authorized Bresnan to act in my stead. I'm making the
9 request, through them. Please provide the information
10 to them.

11 And to the extent that they -- you know,
12 that they -- you know, that they're providing that
13 information directly to the customer, if the customer
14 directs that they provide it to Bresnan, they should
15 fulfill the customer's request.

16 And, you know, and on the same terms,
17 without -- without discriminating and saying, Well,
18 customer A, you've asked for me to mail it to you, but
19 customer B, you've asked me to mail it over to Bresnan.
20 I'm going to charge you.

21 With respect to the LSR charges. You know,
22 the charges for LSR, I believe what we're talking about
23 here is number portability. Because if we're not
24 porting a number, we're not going to be submitting an
25 LSR to UBTA UBET, and neither would they be submitting

1 a -- an LSR to us, if they're not porting a number from
2 us.

3 So this is really a number portability
4 charge.

5 And, yes, in other markets, where we have
6 voluntarily entered into agreements, we have, in those
7 cases, looked at the balance of the agreement and said,
8 Do you know what? On balance we can live with this
9 agreement. We don't like that number portability
10 charge. It's not appropriate. But, having said that,
11 it -- if it allows us to get into business, we'll do
12 the deal, because on balance, all of the other pieces
13 are -- are acceptable.

14 And that's true in a negotiated agreement.
15 Because the standard for a negotiated agreement is, is
16 that it not -- that it be non-discriminatory to
17 third-parties. That it not create a discriminatory
18 arrangement, you know, situation with respect to
19 third-parties. In this situation, however, we've been
20 stopped from doing business for over a year.

21 You know, we are -- we have had to go to
22 the -- and not only have we not been able to offer our
23 services to customers, and not, you know, actually
24 begin generating revenue, or providing service, but
25 furthermore, we've had to go through the tremendous

1 expense of engaging outside counsel, and going through
2 a hearing, and, you know, et cetera. And that the
3 standard there is different. It should be what's in,
4 you know, the appropriate public interest. What's
5 economically reasonable. Just and reasonable. And a
6 service order charge on an LSR for number portability
7 would not be appropriate.

8 I would add, however, that -- and it
9 certainly wouldn't be appropriate to use their retail
10 customer order charge. You know, I would go to the
11 Qwest agreements, which have all been thoroughly
12 litigated. And, you know, according to the
13 appropriate -- you know, according to the various
14 standards, and all the RBOC agreements for that matter.
15 You know, do not include the number portability charge.

16 However, if the Commission feels that in
17 this case that some charge might be appropriate,
18 because, for what -- you know, if -- you know, out of
19 consideration for the size of UBTA UBET, I would point
20 the Commission to look at the Qwest SGAT for Utah. The
21 Exhibit A price list, which lists -- it doesn't include
22 an LNP service order charge, or any kind of LSR charge
23 for -- that would pertain to number portability, but it
24 does include a set of charges for manual transfer of
25 service in a re-sale situation. And in that situation,

1 that is where a CLEC is assuming -- is taking over the
2 service of a customer, but the telephone company is
3 still providing the service. That's not something we
4 do. But that involves a -- a very long list of record
5 changes that the incumbent LEC must go through to make
6 that customer transfer.

7 And I would -- my understanding is that's
8 quite a bit more extensive than what would be entailed
9 in an LNP -- a port -- number portability situation.

10 And, for a manual transfer, for residents
11 and business, the rate is \$8.93 for the first line.
12 And if there are multiple lines for the same customer
13 on the same order, \$1.49 for the second line.

14 And to my mind, those would be far more
15 appropriate rates, if any rate was going to be ordered
16 in this way. Although, as I stated initially, that
17 it's fundamentally inappropriate to have an LNP rate
18 charge with respect to ASRs.

19 And what we're talking about, ASRs are the
20 access service requests. And that would be the order
21 for the actual interconnection trunk group between the
22 parties at the POI.

23 And here again, what we're talking about in
24 this situation is a two-way trunk group. That is what
25 UBTA UBET has proposed. That is also in this -- in our

1 red-line.

2 We've agreed that we will only provide for
3 two-way trunking, if that's their preference. That's,
4 frankly also our preference, but in our initial draft
5 we didn't know what their preference would be, and so
6 we had proposed that the parties would agree that they
7 would be one-way or two-way.

8 In a two-way trunk group, one party for --
9 just because we don't have procedures, you know, we use
10 the access order procedures. But when one party is
11 placing the order for that, the fact of the matter is
12 that both parties are using that -- need to use that
13 facility to complete their own traffic.

14 And so it would be inappropriate for one
15 party to bill the other party an access order charge,
16 when, in fact, it's a co-carrier facility that will be
17 used in common.

18 And, as we've testified, our experience is
19 that our traffic is essentially in balance. Very, very
20 close to being 50/50.

21 And that's true where we're doing residents,
22 or where we're doing both residents and business.

23 And, in fact, we do, in fact, plan to do
24 both residential and business services in Vernal.

25 Now, in the Qwest SGAT, they do have charges

1 for trunk activation; however, that is because that
2 Qwest SGAT, and all of the interconnection agreements
3 that I've seen Qwest enter into based on that SGAT
4 contain the option for one-way as well as two-way
5 trunks.

6 And, in fact, where we have two-way trunks,
7 they do bill us an activation charge. But we are also
8 entitled to bill them back an activation charge on the
9 same trunk, which, you know, should cancel.

10 In this case, why go through that cancelling
11 just to say there's no charges on the -- for the
12 two-way trunk group? For the two-way trunk?

13 And I think that -- that's about it on that.

14 Q. Okay. I want to go to the next topic.

15 A. Okay. Now --

16 Q. The next area that you indicated you wanted
17 to discuss was the testimony that was offered including
18 the new Exhibit UU-2, which describes the capacity of
19 the trunk groups as it relates to the issue that's been
20 discussed about indirect interconnection.

21 Do you recall all of that testimony?

22 A. I do.

23 Q. And what would be your response to that
24 testimony, and in particular the information provided
25 in UU-2?

1 A. Well, you know, we heard a great deal of
2 testimony about how it's not possible, it's not
3 technically feasible, it would require the addition of
4 a new trunk group to that tandem. And I will just say
5 that that's just wholly incorrect.

6 Indirect interconnection, with independent
7 TelCos, is done every day, all over the country.

8 There was some reference to my testimony in
9 some of the comments that were made saying, Well, what
10 he's talking about is when he connects to Qwest tandem
11 to terminate traffic to Qwest.

12 Yes, we do connect to the Qwest tandem to
13 terminate to Qwest, but we use the Qwest tandem to
14 terminate or to receive traffic from independent
15 TelCos, CLECs, and/or wireless companies on the same
16 trunk. They do the same.

17 And where we interconnect with independent
18 TelCos, world TelCos, we currently have two agreements
19 that operate -- agreements with two independent rural
20 TelCos. Actually they're -- I think there are three
21 total agreements, because we have separate agreements
22 with separate states. -- where that call for direct
23 interconnection through the Qwest tandem for the
24 exchange of local traffic, where we are operating and
25 competing with the rural LEC, in their own exchange,

1 but exchanging that traffic through a tandem switch, a
2 Qwest tandem switch that's far removed from the
3 independent TelCo's operating territory.

4 They did not add a trunk group to that
5 tandem. Though their trunk groups to those tandems,
6 according to their representations, those independent
7 TelCo's representations to me, are, as in this case,
8 feature group C trunk groups, that are used primarily
9 for toll -- were originally used exclusively for toll
10 and/or toll and long distance traffic, they were not
11 previously used for local traffic, but there was no
12 technical reason they could not be used.

13 And, in fact, those parties agreed to use
14 them for those purposes. They did not add another
15 trunk group to that tandem. It's the exact identical
16 situation.

17 This is not unique to Bresnan. This occurs
18 across the country everywhere.

19 And, in fact, independents and CLECs
20 exchange incidental EAS traffic over those routes,
21 without Interconnection Agreements, pretty much
22 consistently. That's where a CLEC is not necessarily
23 operating in an independent territory, but there may be
24 an EAS route from the territory in which the CLEC is
25 operating, to the independent LEC territory. They

1 typically would exchange EAS traffic, even before they
2 have an agreement in place, via that indirect
3 interconnection.

4 That's not unheard of, or uncommon.

5 So the point is that this, in fact, is -- is
6 technically feasible, and it's well documented, and
7 well known.

8 Getting to the issue of the trunk
9 utilization.

10 By her own testimony yesterday, Ms. Wimer
11 noted that the trunk to the Provo tandem is at -- in
12 excess of 97 percent of utilization. Based on however
13 they're measuring it. I'm not sure what the
14 measurement quantity here is. And that it's -- it
15 appears to have about -- available capacity of only, as
16 they're showing it here, about 125,000 minutes per
17 month.

18 And by her own testimony, you typically
19 augment a trunk group, add another DS1 to that trunk
20 group anywhere from 85 to 93 percent.

21 And that's entirely true. So what we see
22 here is that they're very likely, in all probability, I
23 would expect, based on her testimony, going to be
24 augmenting this trunk group very soon. So the
25 available capacity will increase, and will be

1 available, regardless of whether or not we exchange
2 traffic over that trunk group.

3 So there -- there are three options here.
4 Either they're going to augment, or they have reason to
5 believe that their traffic is going to decline, in
6 which case they won't augment. In which case, if the
7 traffic does decline, there will be more capacity
8 available.

9 Or, you know, maybe the traffic will stay
10 flat, and for whatever reason they'll choose not to
11 augment.

12 But even if -- you know, but in the first
13 and second scenarios, there will be capacity available
14 on that trunk group to exchange local traffic. And
15 that will not be a technical issue for them, and it
16 will not require an augment.

17 Or it would not require an augment to
18 accommodate Bresnan's traffic, that they wouldn't
19 otherwise undertake.

20 If they don't aug -- if the traffic stays
21 flat and they don't augment, meaning that they keep it
22 at 17 DS1s, there's a couple of things that we have to
23 take in here. According to the numbers here, they have
24 about 4,125,000 minutes of use currently going over
25 that trunk group.

1 And that is, I -- my understanding, is
2 mostly toll traffic, from Qwest, as well as I believe
3 they said there's one -- in one of the data requests, a
4 rogue IXC, which is inappropriately using that trunk
5 group to terminate long distance traffic.

6 That comes to about 210 minutes for every
7 one of UBTA UBET's access lines.

8 So every time we win an access line in that
9 market, we can assume that 210 minutes will be removed
10 from that trunk group, because when that customer comes
11 to Bresnan, we will have our own trunk group to that
12 tandem, and that traffic to and from that customer will
13 travel over our separate trunk group that we will
14 purchase, own, and maintain, and will be removed from
15 this trunk group.

16 So that, as we win customers, in addition to
17 the 125,000 that's currently available, according to
18 their exhibit, we will be freeing up minutes per
19 customer.

20 Now, of course we will be adding minutes
21 back on, so it won't be a one-to-one relationship, but
22 I can say that, across our markets, and we operate in
23 four states, we've seen a fairly consistent level of
24 local and EAS traffic per customer. It ranges, but the
25 range tends to center on about 55 two-way minutes per

1 month, per customer line.

2 As that is the case, if you take out the 210
3 that we would be displacing, that would be a net add to
4 this trunk group of 340 minutes per customer.

5 And if you do all of the math, what it means
6 is is that we could add customers up to a point that,
7 you know, just in terms of net incremental traffic on
8 the trunk group, we could put on as much as
9 202,000 minutes a month without exhausting this trunk
10 group, according to what they have presented in their
11 exhibit.

12 And this is not how you do true classic
13 engineering, traffic engineering, but we're -- you
14 know, I'm using what they've provided. And it's
15 probably a fair proxy.

16 You know, given that most of this traffic is
17 toll traffic, and -- or toll and LD, and I'm going to
18 be putting on only local and EAS, what we do know is
19 that those traffic types tend to have different peak
20 periods, and a trunk group is filled based on the peak
21 periods. And if their peak periods don't align, there
22 may be additional capacity beyond what we're
23 theoretically computing here.

24 Well, 200,000 would be 80 percent of what
25 we're assuming is a DS1. So if -- if they're one --

1 you know, we would be willing to say, instead of saying
2 a full DS1 capacity, at 80 percent, DS1 capacity will
3 go to direct trunks, because, in fact, in a small trunk
4 group, when you're doing a single DS1, 80 percent is
5 probably -- is a pretty good cut-over. It's a low
6 threshold, but it's not out of the question.

7 So we would be certainly be amenable, and
8 there seems to be no evidence to indicate that setting
9 the threshold at 80 percent of a DS one capacity, for
10 transition to direct, would be, you know, technically
11 infeasible, or would require them to undertake any
12 additional augment expense, which they otherwise would
13 not be required to take.

14 Finally, on this same issue, we heard
15 discussion about their NECA settlements. And Ms. Wimer
16 gave some extensive testimony about how they -- you
17 know, to the extent that there's interstate traffic on
18 the trunk group, they receive NECA settlements based on
19 that percentage. And if you increase the percentage of
20 intrastate traffic on the trunk group, their NECA
21 settlements will go down.

22 However, what they've stated is is that this
23 trunk group is primarily carrying Qwest's intrastate
24 toll, and then the LD of one rogue interstate carrier.

25 Well, assuming that they're going to enforce

1 their tariffs, and their LERG routing, that rogue
2 interstate -- that rogue LD carrier, from presumably
3 putting some intrastate traffic on this trunk group,
4 will be moving their traffic, or its traffic to the UFN
5 tandem. In which case, you know, to -- presumably
6 today this is only a very small amount of interstate
7 traffic percentage on this trunk group. And if they
8 actually enforce their -- their LERG routing and their
9 tariffs, this will all go to UFN, and this will be
10 100 percent intrastate.

11 And the addition of Bresnan's traffic will
12 not impact that intrastate/interstate percentage
13 unless, you know, they're in engaged in some kind of
14 fraudulent NECA, which I'm sure they're not.

15 So that should not -- you know, I don't --
16 it doesn't compute that they would experience any kind
17 of material losses there.

18 And, in fact, you know, in response to a
19 question from counsel for staff, Ms. Wimer said she was
20 not able to quantify what the loss might be.

21 So, you know, technically feasible? Yes.
22 By the mere fact that we know it's done every day, by
23 other carriers who are similarly situated, by other
24 independent LECs who are similarly situated.

25 Trunk utilization issues should not be a

1 problem. To the extent there's an augment necessary,
2 that will be driven by factors outside of Bresnan's
3 transmission of local traffic. And, you know,
4 settlements should not be a factor.

5 Finally, you know, cost.

6 The fact of the matter is, that they are
7 going to have these costs for that -- for that trunk
8 group whether or not Bresnan puts any traffic on it.

9 Their net new cost, money out-of-pocket,
10 comes to about \$138 a month in payments to -- maximum,
11 will be \$138 a month in payments to Qwest for
12 transiting under the S-G-A-T, SGAT. That pricing that
13 Qwest is required to offer to everyone.

14 They're required to offer it to us, they're
15 required to offer it to -- to UBTA UBET. That is not a
16 significant amount of money out-of-pocket.

17 And the -- you know, their -- yes, the use
18 of that capacity, you could allocate that capacity and
19 allocate a higher cost to it. You certainly can. But
20 that's an accounting cost. It doesn't actually impact
21 what their dollars and cents are.

22 And because indirect interconnection, by its
23 very nature, is a temporary situation, it's not a
24 long-run capacity infringement on that -- on that trunk
25 group.

1 Our costs are, frankly, you know, we are
2 indifferent to the costs. I mean, we're going to have
3 a cost of doing business to enter this market. We
4 expect to eat those costs. That's part of the cost of
5 doing business. We're not looking to charge UBTA UBET
6 more or less based on what our costs are. We're saying
7 we're going to exchange traffic. It should be
8 reciprocal.

9 We're each responsible for our own costs up
10 to the -- either up to the point of interconnection, or
11 through the -- through the indirect interconnection
12 through the third-party tandem.

13 Q. Okay.

14 The fifth area, Mr. Harris, that you
15 indicated you wanted to give some responsive testimony
16 to was in the area of reciprocal compensation, and in
17 particular the -- both the issues of bill-and-keep and
18 the applicable rate for the termination charge
19 associated with out-of-balance traffic.

20 Would you go ahead and provide, please, any
21 responsive testimony you have on those topics?

22 A. Well, I do want to repeat, for the umpteenth
23 time, that our experience, where we offer services
24 exactly the same way we plan to offer services in
25 Vernal, is that our traffic is in balance. Very close

1 to 50/50. It varies from month to month because, you
2 have, you know, periodic fluctuations. But, you know,
3 we -- we are very close to being in balance.

4 That it is widely -- that bill-and-keep is
5 used widely through -- across the country, with a
6 60 percent threshold for determining out-of-balance.
7 That has been deemed -- widely deemed and recognized as
8 a reasonable precaution against out of balance
9 situations, or abuse by one party or the other.

10 You know. But, you know.

11 So we -- we absolutely, you know, believe
12 that it would be appropriate to require bill-and-keep
13 in this situation.

14 Moving on to reciprocal compensation levels,
15 you know, I -- we think that they're -- you know, we
16 had originally offered up the triple 07 number. That
17 is a proxy that has been widely reviewed and accepted
18 across the country, for -- in the absence of actual
19 cost data of the incumbent in a situation.

20 It's been found to be reasonable across --
21 as I say, across the country. That's what we have
22 initially offered up, because we had no other basis to
23 offer anything.

24 We believe that's certainly the appropriate
25 lower bound.

1 On the upper bound -- based on what's in the
2 evidence today, not in terms of what's appropriate from
3 a cost standard, but just in terms of what would be
4 minimally appropriate from just a non-discrimination
5 standard, would be the one-minute maximum for exchange
6 of local traffic within the Vernal exchange, which is
7 the maximum rate that UBTA UBET charges to its
8 affiliated wireless company, as well as to several
9 other wireless companies, under their other agreements.

10 To charge Bresnan more than what they're
11 charging their affiliate, and other carriers, would be
12 blatantly discriminatory.

13 And there was a great deal of discussion,
14 well, the wireless carriers operate in all of these
15 other areas. And it's -- you know, I can't verify
16 that. Typically wireless companies operate in large
17 areas.

18 But the fact of the matter is, if at any
19 given time a wireless company has no customers in those
20 other areas, but only has customers in Vernal, this --
21 their agreements with them will still be in force. And
22 the terms of those agreements would be that -- such
23 that a wireless customer calling Vernal will pay \$0.01,
24 and a Vernal customer calling a wireless company will
25 pay \$0.01.

1 And that's -- that's it. You know.

2 They -- you know, that -- those agreements
3 do not appear to be contingent upon those wireless
4 companies actually having customers in any other
5 markets, so --

6 You know, so I would say that that \$0.01
7 maximum, you know, is -- you know, is the highest that
8 would be -- that would be appropriate, you know, in --
9 you know, without -- you know, involving, you know,
10 discrimination.

11 That's a -- but from our perspective, \$0.01
12 is dramatically too high.

13 The fact of the matter is that that \$0.01
14 number was not a litigated number. It resulted from a
15 settlement. Yes, there was an arbitration that
16 preceded the settlement, but in fact there was -- the
17 Commission never -- never approved that number. Under
18 the -- under the way -- my understanding, the way the
19 system works, is when there is a settlement or a
20 negotiated agreement, the Commission accepts it based
21 on the fact that it would not be discriminatory to get
22 third-parties. It's not -- that number, to my
23 understanding, does not have the imprimatur being
24 approved as a just and reasonable number, but something
25 that's -- if two parties want to agree to it, that's

1 fine. This is a very different case.

2 Now, if the Commission is unwilling to say,
3 well, you know, there was no cost information that was
4 submitted by UBTA UBET in this proceeding, but we're
5 not comfortable with the .007, then I would point the
6 Commission to the Qwest SGAT, which has end office
7 termination rates for local -- local and EAS traffic
8 that are specifically rural rates. And I would suggest
9 that since those rural rates were in fact developed by
10 Qwest based on a collection of exchanges, that I
11 understand included Vernal, Duchesne, and Roosevelt,
12 Vernal being the exchange we're actually operating in,
13 Duchesne and Roosevelt being the two exchanges that
14 have 90 percent of the EAS traffic that -- between
15 Vernal -- from Vernal, that it would be appropriate to
16 use those rates in lieu of -- you know, in -- you know,
17 it would be appropriate to pick -- to use those rates
18 in this case, if the Commission does not feel that the
19 triple 07 rates would be -- would be appropriate. And
20 that they should apply for at least those three
21 exchanges.

22 I would respectfully request the Commission
23 not open a cost docket to explore this. And this, I
24 believe, is -- comes down to a matter of basic equity.

25 UBTA UBET has known for a year that we've

1 been requesting interconnection with them. They knew
2 prior to that that we intended to operate there,
3 because we had filed our application for service to --
4 for CPCN.

5 They -- this proceeding was launched. They
6 knew well in advance. They had every opportunity in
7 their pre-filed testimony to put in actual cost
8 information. They chose not to.

9 To then, you know, essentially reward
10 that -- you know, that decision of theirs by giving --
11 by opening a cost docket which would entail more cost
12 and more delay for Bresnan, and add a great deal of
13 uncertainty to our business plan in Vernal, would just
14 seem to be, you know, allowing -- allowing a level of
15 regs to go to our gamesmanship that would not be in the
16 public interest, or certainly not in the interests of
17 consumers and businesses in Vernal.

18 Now, obviously it's in the Commission's sole
19 discretion to make that determination, and I'm certain
20 that -- that you -- that Your Honor and the Commission
21 will weigh a number of factors, but I hope that you'll
22 consider that as one of the factors.

23 Q. Just before you leave that area, I just
24 wondered if you might point the Administrative Law
25 Judge to the area in Exhibit B3, which is the Qwest

1 SGAT, where that rural rate that you recommended he
2 consider exists.

3 A. Okay. The rural rate is Section 7.6.1.3.
4 And that is the rural end office -- or rural exchange
5 service EAS local traffic end office call termination
6 per minute of use.

7 And that is .001798.

8 Q. And just for clarity, that rate is the rural
9 rate that Qwest applies for both EAS and local traffic
10 termination? Is that your understanding?

11 A. That is my understanding. That's the end
12 office termination rate.

13 Q. Okay.

14 Then lastly, you indicated you wanted to
15 talk about the testimony you heard from Mr. Meredith
16 and Ms. Wimer with respect to the UBTA UBET proposal on
17 EAS service.

18 So would you go ahead and please make your
19 response to that -- to their testimony on that issue?

20 A. Yes, I will.

21 Frankly, I've never seen anything like this.
22 And I can't say that I've seen everything, but I've
23 certainly never seen anything like this approved. And
24 I dare say I've never seen anything like this even
25 proposed, though --

1 I guess if I subscribed to News of the Weird
2 I might be able to find something like it.

3 Now, I think it's blatantly anti-competitive
4 on several levels. One, you know, it would require
5 Bresnan to disclose competitively sensitive information
6 every month. Ms. Wimer tried to imply that there might
7 be some factor that could be used, but, you know,
8 that's -- that would not be acceptable, frankly.

9 And she couldn't actually come up with a
10 factor that would be -- couldn't come up with a
11 concrete example of what kind of factor there might be.

12 In both Ms. Wimer's and Mr. Meredith's
13 testimony earlier, they both expressed a very specific
14 disdain for the use of factors with the request -- with
15 respect to exchange of multi-jurisdictional traffic,
16 which objection we made moot by agreeing that this
17 would be not included in this agreement, but -- so I
18 don't know why they would think that we would be, you
19 know, agreeable to a factor in this case. But in any
20 case, we -- it would be tracking our -- it would be
21 tracking our competitive success in a way that would be
22 inappropriate.

23 On a second level, the use of any retail
24 rate for an interconnection or essential facility is
25 entirely inappropriate.

1 Retail rates are designed to do very
2 different things than an essential facility rate should
3 do. A retail rate is -- is essentially, you know,
4 designed to -- you know, to re -- you know, to --
5 carriers create their retail rates under a variety of
6 circumstances and for a variety of reasons. And while
7 we heard extensive testimony as to the Commission
8 ordering them to impose this per-customer charge, my
9 review of that EAS docket was that, in fact, UBTA UBET
10 had come in and requested EAS, and had proposed various
11 EAS rates. And if recollection serves, had initially
12 proposed a uniform high rate across the board, that the
13 Commission then reduced for certain of the markets. So
14 it's not as if this was something that is -- that they
15 were dragged kicking and screaming and forced to do.
16 It was something that they had essentially proposed and
17 then the Commission subsequently ordered.

18 But even if that wasn't the case, as I say,
19 retail rates are designed to do different things.

20 An interconnection rate, an essential
21 facility rate, in order to be consistent with just
22 basic competitive neutrality, should have some relation
23 to cost, as well as being non-discriminatory to --
24 amongst various carriers.

25 And charging us a per-customer rate, of any

1 amount, that has no relationship to our customer's
2 actual usage of the terminating -- of the interoffice
3 facilities used to terminate that traffic is just
4 beyond the pale. That -- you know, if a --

5 Look. Flat rates for end user customers are
6 appropriate. They're used in marketing all the time.
7 And that's appropriate. We have flat rates to our
8 customers as well.

9 But we wouldn't go to a carrier who wants to
10 terminate to us and say, Well, do you know what? You
11 want to terminate switched access traffic to us.
12 Instead of charging you whatever the per-minute rate is
13 of the incumbent LEC in the territory we're serving, do
14 you know what? We think that that trunk port is worth
15 \$10,000. So we're going to charge you \$10,000 for that
16 port whether you put one minute on it or zero minutes.
17 That's essentially what --

18 I mean, they're not saying 10,000, but
19 they're saying I'm going to charge you \$1.80 a month
20 for every number you serve, whether you give me a
21 minute or not. It misses the point of being
22 economically rationale and competitively neutral by,
23 you know, not just a mile, but maybe a million miles.

24 And, you know, the third point. It's a
25 significant annuity to UBET for every customer that

1 Bresnan wins. We would essentially see an increase in
2 our cost to do business just by being successful.

3 If UBET -- you know, we're going to go and
4 compete with UBTA UBET for customers. And, you know,
5 the customers will win. They're going to be the
6 primary beneficiaries. They're going to have choice,
7 and from that choice, and from that competition, it
8 will force both parties, both carriers to produce
9 better services at better prices.

10 To then say, Well, but one party's going to
11 be handicapped. Even if we lose, we're not going to
12 lose everything, because we're going to get a little
13 bit back for every line we lose. That -- you know,
14 that's a -- that's money out of our pocket that we
15 could spend on improving our services, or lowering our
16 prices, that UBTA UBET would receive for essentially
17 not doing anything.

18 As I had originally testified, it's, you
19 know, almost uniform that EAS is -- that terminates to
20 a host switch, that all traffic terminating to a host
21 switch, where it's within an EAS area, is subject to
22 the standard reciprocal compensation. And so we see no
23 reason that there should be an additive.

24 However, if the Commission believes, either
25 because of unique circumstances of these exchanges,

1 that there should be some additive, we would point back
2 then, again, that, you know, that the maximum here
3 should be the -- the two-tenths of a cent which they
4 charge, which UBTA UBET charges to its affiliated
5 wireless company, and to apparently several other
6 wireless companies for traffic terminated to the Vernal
7 host, that ultimately is delivered to their remote
8 areas. And that -- that -- to charge anything more
9 than two-tenths.

10 Of a cent would be discriminatory, because
11 it -- as I mentioned before, those agreements -- they
12 certainly contemplate the wireless carriers might have
13 customers out in those other areas, but do not appear
14 to be contingent upon it. And to the extent that a
15 wireless carrier has no customers out there in any
16 given month, they don't lose that compensation. They
17 pay a penny if it stops in Vernal, they pay a penny if
18 it goes beyond that. Two-tenths of a cent differential
19 is what they're charge is for that EAS termination. To
20 charge us more would be inappropriate.

21 However, there again, it's a wide band.
22 Zero and two-tenths. And in that case, again, we would
23 turn to the SGAT. The Qwest SGAT that -- and to the
24 rural rates that were created from the pool of rural
25 exchanges, and point to, in section -- and although it

1 doesn't apply this way in the Qwest territory, we think
2 it could be applied here.

3 Point two, in that Exhibit A, Section 7.6.3,
4 tandem transmission per MOU, recurring fixed per mile.
5 And there are mileage banded rates there, fixed and
6 recurring, that if the Commission was uncertain as to,
7 you know, where to put it, that those would be an
8 appropriate proxy for UBTA UBET's actual costs for
9 transmission between Vernal and the seven distant
10 exchanges. We believe that Duchesne and Roosevelt
11 should be within the -- within the call termination,
12 because they -- we believe they were in the original --
13 when those rates were originally developed.

14 And in my -- in the Exhibit 1 --

15 Q. B2.

16 A. My response to the staff data request --

17 Q. Exhibit B2.

18 A. Exhibit B2, my understanding, in the last
19 page of the spreadsheet, there is a table on the left
20 of the last page that shows -- the right-most column of
21 the last table says Qwest rural and local EAS transport
22 rates, and what they would be on those various routes.
23 And, you know, that that's -- would be the appropriate
24 additive to apply.

25 I would -- I would just want -- that would

1 be the Qwest rates applied to those mileages.

2 I would just add, there is another Qwest
3 rate element listed in the SGAT, which is tandem
4 switching. It's listed as tandem switch transport per
5 MOU, but it's essentially for the tandem switching
6 itself. But in this case there is no tandem switching,
7 and it would not be appropriate to apply that rate.

8 In fact, in a host remote situation, you're
9 really looking at components of the same switch being
10 geographically separated, essentially. But this is not
11 a tandem switch, so it would not be appropriate to add
12 a tandem switching element to that.

13 And that -- you know, and I believe that
14 that's -- you know, we respectfully submit that the
15 Commission, and Your Honor, should consider these in
16 making your decision.

17 ADMINISTRATIVE LAW JUDGE: Thank you.

18 Any other questions, Mr. Nelson?

19 MR. NELSON: Not that I can think of.

20 Was there anything else that we missed,
21 Mr. Harris, that you wanted to add, or did we cover it
22 all?

23 THE WITNESS: I would just, in all six of
24 these areas, and numerous other issues which I didn't
25 enumerate specifically, but I would just like to, you

1 know, state that what we're really talking about here
2 is bringing choice to the customers of Vernal, to the
3 residents and businesses, and, through that -- through
4 the introduction of competition, create a situation
5 where they're going to get benefit from two companies
6 that, you know, apparently take their businesses very
7 seriously, and will strive to deliver the best possible
8 products to them. And the consumers will win. But in
9 order for that to happen, we need -- you know, this --
10 this Interconnection Agreement must be competitively
11 neutral.

12 And it's -- and we've actually -- I must say
13 that Bresnan has faced a much higher hurdle here,
14 because we -- for us to -- you know, we've been trying
15 to maintain -- make the case for competitive neutrality
16 in all of the elements of the agreement. UBTA UBET, to
17 be successful, really only has to imbalance it in a few
18 minor ways. So, you know, I would -- you know, and
19 given their stated intention of not wanting to
20 interconnect with us, and planning, actually, to appeal
21 the very existence of this proceeding in itself, I
22 think we have to take into account that their positions
23 may, in fact, be stemming from that desire to imbalance
24 the compe -- the competition by, you know,
25 interconnecting in the worst way possible. And I don't

1 mean a desire to interconnect, but a desire to
2 interconnect badly.

3 So, you know. And that's, you know, what
4 we've been trying to do.

5 And we are, obviously, amenable. We don't
6 believe that any of our red-lines are, you know, word
7 for word, the only way to do it. We are amenable to,
8 you know, working with the other party, or with the --
9 with any members of the Division, or however it might
10 be appropriate to, you know, where possible, you know,
11 revise the language to arrive at a -- an appropriate
12 middle ground.

13 But at the end of the day, the entire
14 agreement must be competitively neutral and balanced so
15 that the benefits of competition will flow to the
16 residents and businesses of Vernal.

17 ADMINISTRATIVE LAW JUDGE: All right.

18 MR. NELSON: Thank you, Mr. Harris.

19 Nothing further.

20 ADMINISTRATIVE LAW JUDGE: Okay.

21 Ms. Slawson, any questions?

22 MS. SLAWSON: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MS. SLAWSON:

25 Q. Mr. Harris, you understand, do you not, that

1 legal procedures have a certain way of going forward.
2 And that in order for certain issues to be preserved,
3 certain statements have to be made at the trial or the
4 hearing itself. Do you understand that?

5 A. Well, yes.

6 Q. And do you understand that the -- in order
7 to preserve an issue for appeal, an objection or
8 something to -- to that extent has to be raised in the
9 hearing itself. Do you understand that?

10 A. I do.

11 Q. And I suspect that if -- if your counsel --
12 or you would expect that your counsel would preserve
13 all of your issues for Bresnan, you would expect that
14 they would do that for you. Is that correct?

15 A. Perhaps my comments were -- were not -- I
16 did not connect them carefully enough.

17 It wasn't just the opening statements of
18 counsel as to appealing the existence of this hearing,
19 but taken in the context of the entire range of -- of
20 behavior that UBTA UBET has indicated from the time we
21 filed our initial application. They have opposed our
22 entry and have made it very clear that they do not want
23 us operating in their territory under any
24 circumstances, including any circumstances that would
25 involve interconnection.

1 And I understand that there are -- you know,
2 that they've wrapped that in a variety of legal
3 objections and interpretations of the law, but I think
4 that, when you view that all, take it all in a whole,
5 the overwhelming impression is that any reasonable man
6 on the street, or person on the street rather, the
7 Average Joe, is that, you know, that the interests of
8 the company is to keep us out.

9 Q. And you would not -- your testimony would
10 not be that UBET has any obligation or requirement to
11 waive any of its perceived rights under Utah law.

12 A. No party has an obligation to waive any
13 rights other than they've voluntarily agreed, is my
14 understanding.

15 Q. I wanted to go back. I'll go through your
16 issues in the order that you did.

17 You indicated on -- with regard to the pole
18 attachments, you had mentioned something that I -- I
19 don't believe had been raised earlier.

20 You indicated that you -- that there's an
21 invoice that Bresnan has submitted to UBET for a line
22 cut in Vernal.

23 A. I believe it was a cable cut.

24 Q. A cable cut. Where UBET cut Bresnan's
25 cable. Is that correct?

1 A. That's my understanding.

2 Q. And isn't it true that UBET hasn't paid the
3 outstanding invoice because the rates that were charged
4 on that invoice were rates that UBET perceived to be
5 unreasonable?

6 A. I'm not sure what their reasons for not
7 paying it were.

8 They were the labor rates that we incurred
9 to repair the cable cut. And so we took it as a -- you
10 know, that -- that if that's what we had to pay to
11 repair the damage caused by UBET, that we should be
12 reimbursed for that.

13 Q. And as you sit here today, do you know what
14 that charge was that you paid for that cable cut?

15 A. I do not.

16 Q. Is that something that you can find out?

17 A. I'm sure I can, yes.

18 Q. You understand that one of UBET's concern in
19 this entire process is that the rates charged by
20 Bresnan can exceed -- and far exceed in some instances,
21 or could -- the rates that UBET charges for the same
22 thing?

23 A. I'm not sure what their objection was. I
24 know that we were looking to be reimbursed for the cost
25 of the repair.

1 Q. Okay.

2 A. And if I might add, we didn't -- it wasn't
3 our interests to introduce that in this hearing, we
4 just wanted to show that there are items outside of
5 interconnection that should not be linked to it, and
6 that -- just that they feel the pole attachments should
7 not be linked to it. By the same token, we -- we were
8 not seeking to link the cable cut, and we don't think
9 the pole attachments should be linked either.

10 Q. Let me ask you this.

11 Does Bresnan -- is it Bresnan's policy to
12 attach to new poles without an agreement? Out there
13 in Uinta Basin?

14 A. It's not our policy. You know, it's -- it's
15 my understanding that apparently it occurred in this
16 situation. It's certainly not our policy.

17 Q. Moving forward to the service restrictions.

18 Actually, no, the -- let's move on to
19 indirect interconnection.

20 I just want to understand. Bresnan's
21 position is that UBET already has trunks from Vernal to
22 Provo, so Bresnan should get to use up the extra
23 capacity in those trunks for free. Is that correct?

24 A. My position is that any compensation that
25 would be due under direct interconnection would be the

1 same compensation due for indirect. And because of
2 the -- and it would apply in both directions.

3 I would not be charging -- I would have --
4 I'm going to have to have my own capacity to the Provo
5 tandem in order to receive toll traffic from that
6 tandem -- from Qwest to my customers residing in
7 Vernal. And I'm going to say, well, I've got available
8 capacity on that trunk group, and I will use it to
9 terminate the traffic that you send to me as well.

10 Q. But you're the one what wants to go to that
11 tandem. Is that correct?

12 A. I'm saying that we both have independent
13 business and operational needs to be at that tandem,
14 and so it's available to both of us to use.

15 Q. And isn't it true that UBET, if -- even if
16 they do have additional capacity, there's no -- there's
17 nothing that would require them to keep that additional
18 capacity? They could turn down some of those trunks as
19 needed? They could use the T1 cards in other
20 locations? Isn't that true?

21 A. Potentially. But given the level of --
22 given the level of utilization they have, I would be
23 hard pressed to see them turning anything down unless
24 they expected a -- and unless they actually experienced
25 a dramatic drop.

1 Q. But if there was extra capacity, they could
2 turn the trunk down? They don't have to keep it
3 there.

4 A. They could. And typically what you see
5 happen, though, is that trunk groups are left up for
6 extended periods of time, until -- to see if there
7 would be other -- because there's an expense of turning
8 up and turning down. That you leave them up, and then,
9 you know, if -- if, over an extended period of time,
10 that traffic, you know, does not re-materialize, you
11 may turn it down.

12 But, you know, having said that, we're
13 talking about indirect interconnections. Probably, you
14 know, a very -- a relatively short-term situation.

15 Q. Well, would you --

16 A. And if, in fact, it wasn't short-term, that
17 would indicate that Bresnan was not being very
18 successful in attracting customers, in which case the
19 traffic being transmitted over that would be
20 di minimis.

21 Q. Two things I want to raise there.

22 So you indicated that companies typically do
23 not turn trunks up and down. They -- because there's
24 an expense involved with that.

25 But --

1 A. No, I didn't say they don't turn them up and
2 down, what I said is they don't turn them up and down
3 based on short-term monthly, you know, blips of volume.
4 They do turn them up and down, as they've proved out
5 that there's not a need for that, you know, over some,
6 you know, longer -- you know, a little bit longer
7 planning horizon.

8 Q. But they certainly don't leave them up so
9 that a competitor can come in and use the extra
10 capacity that they have on those trunks?

11 A. They don't leave them up indefinitely, but
12 those trunk groups tend to -- you always have to have
13 some excess capacity on a trunk group, just for spikes
14 in usage, et cetera.

15 So there's always going to be capacity
16 available.

17 Q. And so why should UBET, having that extra
18 capacity, if they do, which I think is in dispute, but
19 if they have that extra capacity, why should Bresnan
20 get to come in and use it for free, just because
21 they've chosen to have a remote switch outside of
22 UBET's service territory?

23 A. The location of our switch has nothing to do
24 with the desire for direct or indirect interconnection.

25 As I've mentioned before, we have situations

1 where we have switches that are very close to an end
2 office, where we do not directly connect to the end
3 office, because the traffic volumes don't justify a
4 direct connection when we already have a -- a -- a
5 tandem route available that has capacity available for
6 both parties.

7 And as I say, this is not -- the location of
8 our switch and our cost to get to either of those
9 interconnection points is not remotely relevant to the
10 discussion. We're going to have transmission -- we're
11 going to have transport expenses into and out of Vernal
12 and into and out of Provo regardless of where the
13 indirect interconnection is. That's not something
14 that's going to impact our network planning over the
15 long run. However, it is, you know, a basic of, you
16 know, the way telephone companies interconnect. That
17 where you have an efficient tandem route available,
18 whether it be through a tandem that one of the parties
19 owns, or through an indirect interconnection through a
20 third-party tandem, that that's the preferable route to
21 go.

22 And this -- this is standard practice for
23 interconnection across the country, and interconnection
24 with independent rural TelCos, via a -- an RBOC tandem
25 in a remote -- you know, that is not in the actual area

1 that the CLEC and the ILEC are competing.

2 Q. Well, you indicated that it's the preferable
3 route to go. It's not -- in this case, it's certainly
4 not the preferable route for UBET. Would you agree
5 with that?

6 A. I don't agree that it's not the preferable
7 route. It seems to me that we've demonstrated that
8 their cash out-of-pocket on this is about \$140 a month,
9 if we're maximally -- at the maximum point where we
10 finally move everything off to a direct route.

11 Q. That would be based on all of your
12 assumptions that the traffic -- that the trunks
13 currently in use could also be used for local traffic,
14 and the fact that we wouldn't -- that UBET wouldn't
15 have to add additional capacity just to accommodate
16 Bresnan's traffic. That's all of your assumptions,
17 right?

18 A. I went through the assumptions this morning
19 as to why I think you wouldn't necessarily have to be
20 adding capacity just to accommodate our traffic.

21 Q. I don't have any other questions on that
22 matter. I do have a couple of questions --

23 Let's see. You mentioned that the Qwest
24 SGAT rural rates were based on a pool of exchanges that
25 included Vernal, Roosevelt, and I think Duchesne. Is

1 that correct?

2 A. Yes. I had asked -- I had asked Qwest what
3 was the -- what were the exchanges, and they provided
4 me a list. And included in those -- in that list were
5 those exchanges.

6 Q. Okay. And those were the only -- the only
7 exchanges in that pool; is that correct?

8 A. Those are the exchanges that I recognized,
9 yes.

10 Q. Sorry, I misspoke. There are other
11 exchanges in that pool, are there not?

12 A. Yes.

13 Q. Okay. And those would be the other six
14 exchanges that we've talked about: Altamont?
15 LaPointe? Is that right?

16 A. No, they're not in that pool.

17 Q. Okay.

18 A. There are other exchanges in UBTA UBET's EAS
19 territory.

20 Q. Okay.

21 Let's see. Next I'd like to move on to EAS.

22 You'd kind of likened this -- I heard you go
23 through an example of a flat rate retail charge that
24 carriers could decide to charge their customers. Isn't
25 it true that this isn't a rate that -- the EAS rate of

1 \$1.80 for Vernal customers isn't a rate that UBET could
2 choose or not choose to apply. Is that correct?

3 A. You cannot -- it's my understanding that you
4 cannot choose to apply it to your -- to your retail
5 customers, that's correct.

6 Q. Everybody is charged that rate.

7 A. It's my understanding that your -- that your
8 access line customers are charged that rate, correct.

9 Q. Okay.

10 And --

11 A. Upon my understanding is UBET's request to
12 create those EAS routes.

13 Q. UBET's request to charge -- to set the EAS
14 rates?

15 A. It was my understanding that there was a
16 petition that UBET filed requesting EAS, and that --
17 that that rate ultimately resulted, but that they had
18 initially initiated the request.

19 Q. Okay. If that's your understanding.

20 Let me understand Bresnan's position on EAS.

21 You want all of your Bresnan customers in
22 Vernal to have access to the outlying areas?

23 A. Yes.

24 Q. You don't want to pay anything additional
25 for that access. Is that correct?

1 A. We've -- our original proposal was, is that
2 based on, you know, norms, that, you know, one,
3 reciprocal rate and bill-and-keep should apply to
4 everything. But we have discussed, this morning, that
5 a reasonable alternative to that might be an
6 incremental charge based on the Qwest rural -- rural
7 mileage rates contained in their SGAT.

8 Q. Okay. So you're coming off of your original
9 position that you don't want to pay anything, and
10 you're saying that we would now pay something that's
11 reasonable. Is that correct?

12 A. I'm saying that we're not -- we believe that
13 it would be reasonable to make it all part of local
14 termination, because they're all served from the same
15 host switch. But that if the Commission, for whatever
16 reason, was not comfortable with that, that the Qwest
17 SGAT rates would be a reasonable increment.

18 Q. Is it reasonable that a UBET customer,
19 sitting in his house in Vernal, pays \$1.80 to access
20 the outlying areas, whereas a Bresnan customer, right
21 next door, would pay nothing to access the outlying
22 areas? Is that reasonable?

23 A. Your -- you're -- you are confusing a retail
24 rate structure with an interconnection connection rate
25 structure, and the two are not the same.

1 By the same token, is it -- if we're in a --
2 if we're in -- let's say we're out of balance, under
3 your -- you know, as we've said. That we're out of
4 balance. And, for whatever reason, in either
5 direction, we're out of balance.

6 In that ways, if there was -- let's use your
7 proposal -- or actually let's just say, forget --
8 forget my proposal, let's just say we're operating
9 under the UBET proposal. 1.2 cents a minute for every
10 local call within Vernal.

11 Okay?

12 Just call to call in Vernal.

13 In that case, a Bresnan customer would pay
14 1.2 cents through -- not actually pay, but I would
15 be -- Bresnan would be paying 1.2 cents for every one
16 of his customers that called a UBET customer across the
17 street. But when his neighbor called that same UBET
18 customer across the street, where both customers --
19 there would be no charge.

20 So if -- you know, if -- if that's -- and
21 nobody's -- and, in fact, that's how reciprocal
22 compensation works. Reciprocal compensation, you know,
23 when it applies, applies regardless of what the retail
24 rate structure is. And so it works in both direction.

25 So if we had a -- if we -- if we, either

1 under my -- under my proposal we were out of balance,
2 or under your proposal from the beginning, is it fair
3 that -- that a retail end user customer pays nothing,
4 but Bresnan would have to pay 1.2 cents to terminate
5 that same call? Actually, yes, it is.

6 I mean, that's -- that's the point. That
7 retail rate structures are designed differently than
8 essential facility or interconnection rate structures.

9 Q. As I understood you, and maybe I
10 misunderstood you.

11 You indicated that the Bresnan customer
12 would pay 1.2 cents.

13 A. No. Bresnan would pay 1.2 cents.

14 Q. Okay. And that the UBET customer would pay
15 nothing.

16 A. And my understanding is that you have flat
17 rate service. That there's no local call -- there's no
18 charge per local call, Vernal to Vernal.

19 Q. Right. But they're not paying nothing.
20 They might be paying nothing on a per-call basis, but
21 they're not paying nothing for that service. Would you
22 agree?

23 A. They're -- they're not paying anything for
24 that call.

25 Q. On a per-call basis.

1 A. For that call. Whether they make the call
2 or not, their charges don't vary.

3 Q. Okay.

4 A. And that's how -- and that's how a lot of
5 retail rate structures work. That's not necessarily
6 how -- that's not typically how interconnection rate
7 structures work.

8 MS. SLAWSON: I don't have any other
9 questions.

10 ADMINISTRATIVE LAW JUDGE: All right.
11 Mr. Mecham?

12 MR. MECHAM: Thank you, Your Honor.

13 CROSS EXAMINATION

14 BY MR. MECHAM:

15 Q. Good morning, Mr. Harris.

16 A. Good morning, Mr. Mecham.

17 Q. In your testimony concerning indirect
18 interconnection, you gave several numbers to the effect
19 of Bresnan getting customers in the Vernal exchange.
20 And let me make sure that I've understood what you've
21 stated.

22 A. Sure.

23 Q. If I understood you correctly, you said that
24 for every customer you win, 210 minutes will be removed
25 from the trunk group that's at a 97 plus percent

1 utilization rate. Is that correct?

2 A. That's according -- you know, taking the
3 total minutes, the total actual minutes on the trunk
4 group and dividing it by the number of lines that
5 UBTA UBET has indicated are, you know, service on the
6 other end of that trunk group, yes.

7 Q. And that -- well, and what -- okay. So
8 that's the assumption you made?

9 A. Yes.

10 Q. Does that number only work -- well, doesn't
11 that also assume that you're winning the customers who
12 receive toll calls from Qwest?

13 A. Well, I'm assuming that I'm going to receive
14 a cross-section of customers, most of whom will receive
15 some toll calls from Qwest, yes.

16 And when Qwest customers -- the fact that
17 they -- the fact that the customer stops being a UBET
18 customer and becomes a Bresnan customer isn't going to
19 impact who calls them.

20 Q. Isn't the traffic through that tandem to the
21 Vernal exchange one-way traffic?

22 A. It's listed in the LERG as two-way. It may
23 well be one-way.

24 Q. And if it were one-way, wouldn't it have to
25 be -- in order to reduce utilization, or reduce those

1 minutes, they would have to be customers receiving toll
2 calls through Qwest, if it were one-way, coming that
3 way into Vernal.

4 A. One-way terminating to Vernal, or one-way
5 outbound from Vernal?

6 Q. Terminating into Vernal.

7 A. Okay. Could you restate -- I'm not sure
8 what the question is.

9 Q. The customers you're winning. I'm just
10 trying to figure out that 210-minute figure. And in
11 order to relieve that trunk, or the -- yeah, that trunk
12 group by 210 minutes, if the tandem is basically
13 entertaining traffic of Qwest customers coming into
14 Vernal, wouldn't you have to win those customers in
15 order for this 210 to be correct?

16 A. Yes. We expect that we will win a broad
17 cross-section of customers. And since we are targeting
18 the same segments that UBTA UBET targets, we have every
19 expectation that our customers will have similar
20 in-bound and outbound calling patterns as UBTA UBET's
21 customers. And, in fact, that's been our experience
22 wherever we operate. That they have very -- you know,
23 that the calling patterns are essentially similar.
24 That the --

25 And when that traffic comes into our

1 customers, rather than traversing the trunk group that
2 goes to UBTA UBET from Provo, it will traverse our own
3 trunk group, that we have -- will have connected to
4 Provo.

5 Q. But the 210 minutes, would they not all have
6 to be in-bound, into Vernal, through the tandem?

7 A. No. The 210 minutes could be
8 in-bound -- the 210 minutes is the average minutes per
9 customer served from the Vernal host switch.

10 It doesn't matter whether the -- we're going
11 to be winning the customers in Vernal.

12 Now, are you -- if -- I'm not sure what
13 you're implying, but to the extent that that average is
14 fairly consistent, yes, we would expect that when we
15 win a customer in Vernal, that amount of traffic would
16 be relieved. Or at least some -- I know, it may be a
17 greater amount, it may be a lesser amount, but from the
18 data we have so far, that's the -- that's the best we
19 can do.

20 I might add, counselor, Mr. Mecham, that we
21 did request a great deal of additional data so that we
22 might be more specific, but that was not provided, so
23 yeah. We went with what we had.

24 Q. So if the traffic is all in-bound through
25 that tandem, in order for your 210 minutes to work, it

1 would have to be -- you would have to be winning
2 customers whose traffic is essentially all in-bound.

3 A. No. Not at all.

4 Q. Why not?

5 A. That trunk group may be in-bound, but those
6 customers make calls out. The fact that those
7 customers aren't sending their traffic out over that
8 trunk group doesn't mean they have no outbound traffic.
9 That trunk group is not dedicated to any subset of
10 customers who only receive in-bound traffic from Qwest.
11 That trunk group is bringing all in-bound -- all
12 traffic from Qwest into the Vernal -- the UBTA UBET
13 service territory.

14 UBTA UBET has chosen to route outbound
15 traffic over different trunk groups, to -- apparent --
16 according to the assumption behind your question,
17 apparently through UFN -- through the UFN tandem or
18 other arrangements. But, are -- if your -- are you
19 telling me that the only customers who receive traffic
20 from Qwest are customers who only have in-bound
21 traffic?

22 Q. No.

23 Apparently I have enough for Mr. Meredith to
24 be able to rebut.

25 A. I look forward to that.

1 Q. Now, also, in your opening statement you
2 talked about the fact that terms and conditions and so
3 on that you're seeing here, or that you're proposing,
4 are ubiquitously available throughout the United
5 States. And that that -- that Utah is sort of the
6 outlier, if I understand your opening statement?

7 A. I didn't make any comment about Utah.
8 These -- these terms and conditions that I'm proposing
9 are generally consistent, you know. I -- to the extent
10 that they're not consistent with what's been done, say
11 by Utah in -- you know, with respect to Qwest, then,
12 you know, we're certainly open to -- to, you know,
13 making them conform as may be appropriate.

14 What I've said is that our revisions are
15 intended to bring the UBTA UBET proposal, which is an
16 extreme outlier, into the mainstream.

17 From what I've seen of the State of Utah,
18 and the Utah Commission's work, that by in large they
19 are firmly in the mainstream. And we see no reason
20 that they should, you know, digress from that in this
21 case.

22 Q. But to beat a dead horse only one more time,
23 all of those other agreements have been decided under
24 the Federal law, and not exclusively under the State
25 law. Isn't that correct?

1 A. If that -- you know, I'll take it upon your
2 word. That's, you know, certainly been -- I've heard
3 that stated several times here today. But when you
4 have the -- you know, when you have references into a
5 State law -- to a State law, to terms and arrangements
6 that are understood to have a meaning nationwide,
7 you -- and that have been actually developed and turned
8 into practices and procedures nationwide, you kind of
9 have every expectation that State law is contemplating
10 that it not go out and recreate something from scratch.

11 You know, that it's not saying that State
12 law is going to have a different standard for the
13 height of dinner tables and chairs, for instance,
14 because it references dinner tables and chairs.

15 Q. I guess we'll let the Commission decide that
16 one.

17 MR. MECHAM: Thank you, Your Honor.

18 ADMINISTRATIVE LAW JUDGE: All right.

19 Mr. Ginsberg?

20 MR. NELSON: Before we go to Mr. Ginsberg, I
21 don't know if you'd like, but I believe we do have the
22 information that Ms. Slawson had requested about those
23 labor rates, and at whatever phase in the process you
24 want, I can --

25 ADMINISTRATIVE LAW JUDGE: Let's do that

1 right now.

2 MR. NELSON: I can provide this to
3 Mr. Harris.

4 THE WITNESS: It was a total number.

5 I believe the total amount of the invoice --
6 Ms. Slawson, you were asking what the total amount of
7 the invoice was?

8 MS. SLAWSON: Yeah. For the -- for the
9 cable cut.

10 THE WITNESS: The total amount of the
11 invoice for the repair of the cable cut was, I believe,
12 \$16,205.85.

13 MS. SLAWSON: And that was one cable cut.
14 Correct?

15 THE WITNESS: I'm trying to -- I don't know
16 the extent. It's a facility cut that was described to
17 me as a cable cut.

18 MS. SLAWSON: Thank you.

19 ADMINISTRATIVE LAW JUDGE: Okay.

20 MR. NELSON: Okay?

21 ADMINISTRATIVE LAW JUDGE: Mr. Ginsberg.

22 MR. GINSBERG: I don't have any more.

23 ADMINISTRATIVE LAW JUDGE: All right. Then
24 let's proceed to Mr. Coleman. Thank you, Mr. Harris.

25 THE WITNESS: Thank you, Your Honor.

1 CASEY J. COLEMAN,
2 having first been duly sworn, was examined and testified
3 as follows:

4 DIRECT EXAMINATION
5 BY MR. GINSBERG

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

7 A. Casey J. Coleman.

8 Q. And you have, before you, what's been marked
9 as DPU Exhibit 1, which is your direct testimony.

10 A. Yes.

11 Q. Consisting of 14 pages? Is that right?

12 A. Yes.

13 Q. And do you have any corrections you'd like
14 to make to this testimony, or you can make them when
15 you provide whatever additional testimony you have.

16 A. There is a couple minor points of
17 clarification that I wanted to make, but I'll do that
18 in kind of my summary, if that's okay.

19 Q. With those clarification that you'll be
20 making, if those questions were asked to you today,
21 those would be the answers you'd give?

22 A. Yes.

23 MR. GINSBERG: And could I have that Exhibit
24 DPU-1 admitted?

25 ADMINISTRATIVE LAW JUDGE: DPU-1? Do you

1 have that already?

2 Any objections?

3 MR. NELSON: No objection.

4 MR. MECHAM: No.

5 ADMINISTRATIVE LAW JUDGE: We'll admit that.

6 (Whereupon, Exhibit No. DPU-1
7 was admitted.)

8 Q. (BY MR. GINSBERG) Can you go ahead and
9 provide whatever summary you wanted to make? You're
10 corrections and any additional comments to where we
11 are?

12 A. As part of this proceeding, I filed
13 testimony that basically would be dealing with
14 interconnection agreements.

15 My testimony dealt with a variety of
16 different topics. One was the unique nature of this
17 Interconnection Agreement -- which I believe that is
18 now the dead horse -- we've been going over as far as
19 it being only State law and not Federal law, and what
20 we have done, as far as the Division and also the
21 Commission, with Interconnection Agreements.

22 And then, as kind of a response to
23 Ms. Wimer's testimony, we had some interconnection
24 issues that she had put forward. And I did discuss
25 some of those, which would be the scope of traffic

1 covered, direct connect versus indirect connection,
2 location of the point of interconnection, jurisdiction
3 of traffic, compensation, recognition of ancillary
4 services, and exclusion of certain terms.

5 And I wanted to point to a couple of places
6 in there I wanted to add clarification in my testimony.

7 It would have been at lines 271 through
8 lines 274, which was page 12. It was under the
9 subheading basically dealing with compensation.

10 What the testimony that I had stated before
11 said, Finally the Division would recommend that the
12 Commission mirror the same rate of .012 per minute, as
13 developed by the Division and approved by the
14 Commission in the Interconnection Agreement between
15 Western Wireless and UBTA UBET.

16 A couple of things I wanted to clarify there
17 is, the .012 rate was not actually developed by the
18 Division. What I was trying to intend there was there
19 was a cost docket that the Division had been a party to
20 and had filed some testimony on, but the actual rate of
21 .012 was never developed by the Division. We had
22 submitted other points of data with that as well.

23 And then the other point that I wanted to
24 clarify on that as well, we had recommended the .012
25 because we thought that it was only going to be dealing

1 with host remote, which, when we had looked at Western
2 Wireless and the other cases, that was the point of
3 rate that was in there as well. And so I did want to
4 offer those points of clarification with that.

5 A couple of items to go along with that.

6 Part of my testimony dealt with the fact
7 that it would have been very difficult for this
8 proceeding to happen if we were dealing with two
9 interconnection agreements. We have been here three
10 days dealing with one. We're grateful that both
11 parties at least tried to do that, but if you double
12 that and add another one, I think it would have been a
13 challenge for both of us. So we are understanding and
14 respectful of that.

15 Other than that, I don't have any specific
16 items in the testimony that would be changed, or
17 anything that would be different than really what was
18 said in there.

19 Q. And so you have -- you don't have any other
20 additional comments you wish to make at this point?

21 A. Well, you know, I believe what we said
22 before, and I think my testimony would still go to
23 that, you know, I think, having listened to the
24 proceedings and also having the Division went into a
25 certain amount of items here, it would be the major

1 issues would probably be the direct connect versus the
2 interconnection, and also the compensation element with
3 it as well.

4 You know, the Division still believes that
5 absent of any hard cost data, which the Division did
6 try to do an attempt, asking both UBTA UBET and also
7 Bresnan, to try to provide to us some cost numbers that
8 we would be able to look to to be able to determine
9 what the cost would be for both parties for direct and
10 indirect connection, you know, we still believe that
11 the premise for the Commission should be that if
12 there's not an excessive cost for one company to do a
13 certain method, be it direct versus indirect, that both
14 options should be allowed, and parties should be able
15 to agree to what's going to be best for them as well.

16 There's been a lot of testimony given by
17 both parties as far as why that may or may not be
18 acceptable, but we still believe, as a general premise,
19 that allowing indirect or direct would be an option
20 that would be acceptable in this agreement, and also
21 other agreements going forward, if, in fact, this does
22 set somewhat of a standard or at least an
23 interconnection agreement that individuals and other
24 parties could look to for reference if they were coming
25 into this State with that as well.

1 CROSS EXAMINATION

2 BY MR. NELSON:

3 Q. Let me, if I could, just take a moment.

4 What is that number?

5 ADMINISTRATIVE LAW JUDGE: Actually, maybe
6 we could take a five-minute break. Just five minutes.

7 MR. NELSON: Oh, sure.

8 (Whereupon, a break was taken.)

9 (Whereupon, Exhibit Nos. B7 through
10 B10 were marked for identification.)

11 ADMINISTRATIVE LAW JUDGE: Okay. Back on
12 the record.

13 Go ahead, Mr. Nelson.

14 MR. NELSON: Thank you, Your Honor.

15 Q. (BY MR. NELSON) Still good morning. Good
16 morning, Mr. Coleman.

17 A. Good morning, Mr. Nelson.

18 Q. Mr. Coleman, I'd like to talk to you a
19 little bit in particular about your testimony regarding
20 the reciprocal compensation and the EAS issue, which I
21 think, just for your reference, generally you'll find
22 on -- starting at the bottom of page 11 of your
23 testimony and continuing onto the -- onto page 12.

24 A. Okay.

25 Q. All right. So the first question I have is

1 I'm trying to understand the position you've
2 articulated in your testimony, if I might, sir.

3 As I understand your position, you first
4 start off on line 259, for example, an example of
5 suggesting that UBTA UBET has proposed using a flat
6 rate of 273, which, I assume we'll all agree has now
7 been amended to \$1.80, plus an additional charge of 1.2
8 cents per minute of use of the EAS network. That's the
9 way you characterized their proposal. Do you see that?

10 A. Yes.

11 Q. Then later I gather that your suggestion is
12 that the Commission adopt, in essence, either a flat
13 rate or a usage rate, but you recommend that it not be
14 the case that the Commission adopt both a flat rate and
15 a usage rate. Do I understand your testimony
16 correctly?

17 A. Correct. And maybe, if it's okay, I can
18 clarify where I was coming from when I wrote this
19 testimony. And that may --

20 Q. Go ahead.

21 A. That may help with that as well.

22 Q. That would be great.

23 A. And I didn't bring it up in my summary, but
24 it is in the testimony there.

25 The Division was kind of in an interesting

1 situation, because I had to file testimony, and then
2 the next day I knew parties were going to be meeting to
3 discuss this interconnection agreement.

4 And as a Division, what we didn't want to do
5 was to come out and say, We believe it should be this
6 and such, and then all of a sudden the next day have
7 you guys decide that that wasn't going to be
8 appropriate for a negotiation.

9 So what we tried to do was to give a broad,
10 Here's what we think may be appropriate. If you guys
11 want to agree to something else, the Division probably
12 is not going to -- to be opposed to that.

13 And so throughout the testimony we'll see,
14 in certain situations, where we said, if a party wants
15 to agree to it, or both parties want to agree to it,
16 and you agree to it, we probably don't have a strong
17 opinion. But if the Division has an opinion, here's
18 how we would go with that.

19 Now with that clarification, answer what I
20 think your answer was, our testimony was, in fact, that
21 we believe it should be -- the network should be
22 covered with some type of charge. If both companies
23 wanted to agree to a flat rate, that would be
24 acceptable. If they wanted to agree to something else,
25 with the Division, that would be acceptable. But we

1 didn't believe that both -- in our interpretation,
2 looked like that was more than what was necessary.

3 Q. Okay.

4 Now we're having come to the unhappy point
5 where the parties were unable to come to an agreement.
6 What is your recommendation, today, with respect to
7 whether you would recommend that the Commission adopt a
8 compensation rate based on a flat rate, or a
9 compensation rate based on a per-minute-of-use rate?

10 A. My premise would be per minute of use. My
11 testimony would be per minute of use.

12 My reasoning for that is I believe that's
13 the best way that you can accurately reflect the use of
14 whichever company, be it UBTA UBET or Bresnan, for
15 using the other person's network.

16 You'll have minutes that will be measured,
17 you'll have the ability to physically see what's being
18 used by that company. And going off the premise that
19 the minute of use charges is set appropriately, and
20 that it compensates and covers the cost, I think that
21 would be the most equitable way for the Commission to
22 determine how to allow someone to recover the network
23 usage.

24 Q. Okay.

25 A. Or for the company to recover that network

1 usage.

2 Q. Okay.

3 So then, going off your proposal, or your
4 recommendation that a per-minute-of-use rate be
5 adopted, further on down on page 12 there, you
6 recommend that the Commission mirror the 1.2 cents that
7 was reflected in the Western Wireless agreement, which
8 has been admitted as Exhibit DPU-3 in this proceeding.

9 Do I understand that part of your testimony
10 correctly?

11 A. Yes.

12 Q. Okay.

13 And do you happen to have DPU-3 handy? I
14 think I put it up there.

15 A. I do. Yes.

16 Q. Okay.

17 I'd like you to turn to page 12 of DPU-3,
18 please.

19 And in particular, take a look at Section
20 4.2.1.

21 A. Okay.

22 Q. In 4.2, do you see there are two different
23 rates, the \$0.01 a minute for end office transport and
24 termination, and the 1.2 cents a minute for tandem/host
25 remote transport and termination?

1 A. Yes, I do.

2 Q. Okay.

3 And I noted that you -- you selected, for
4 this recommendation, the 1.2 cents, which is the one
5 labeled tandem/host and remote. Is that correct?

6 A. Correct.

7 Q. Okay. And can you explain what your
8 thinking was in terms of why the 1.2 cents was the
9 number you would recommend instead of the \$0.01 number?

10 A. Sure. And I -- I tried to maybe get to that
11 with my clarification to a certain extent.

12 My understanding with -- of 1.2, and maybe
13 it was an oversight. I was thinking of calls going
14 from Vernal to the outlying areas. The other 9 or 10
15 exchanges that are out there. I knew that they were a
16 host remote situation, and I believed that, you know,
17 there would need to be transport from Vernal to -- to
18 those areas.

19 And so my belief was is that that was
20 primarily the only type of traffic that we'd be dealing
21 with.

22 It's right here in an Interconnection
23 Agreement that was negotiated between two parties.

24 Sounds like a pretty good point to start with as well.

25 Having been in this proceeding and listening

1 to what's happened with that as well, I now realize
2 that I didn't think of another element of it, which
3 would be a UBTA UBET customer calling a Bresnan
4 customer, that's within a Vernal exchange. And having
5 listened to that, that would be, instead it would be
6 the end office transport termination of \$0.01. And I
7 honestly did not think of that when I was doing the
8 testimony, and so that was why I was thinking it was
9 all a host remote situation of .012.

10 Q. Okay. So let me see if I'm understanding
11 the clarification you just made, or perhaps the
12 refinement of your position.

13 Would I be correct in assuming, then, that
14 your testimony today, and your recommendation today,
15 would be if the Commission decided to use the Western
16 Wireless as the model for how we do this, that you
17 would recommend a compensation rate of \$0.01 for calls
18 between the two companies within Vernal, and a
19 compensation rate of 1.2 cents for calls from Bresnan
20 going outside of Vernal into that host remote network
21 that UBTA UBET maintains?

22 A. Yes.

23 Q. Okay.

24 So in that instance, what your testimony
25 would be that the -- that two-tenths of a cent that's

1 reflected in the Western Wireless agreement, in your
2 mind would be a reasonable rate to compensate UBTA UBET
3 for the termination of Bresnan traffic that goes beyond
4 Vernal and goes to, instead, one of those other nine
5 exchanges that are served by remotes? Is that fair?

6 MS. SLAWSON: Your Honor, I'll going to
7 object. That wasn't the witness's testimony.

8 MR. NELSON: I think I'm trying -- I think
9 he's trying to clarify.

10 ADMINISTRATIVE LAW JUDGE: You're trying to
11 understand what he's saying.

12 MR. NELSON: Right. I'm trying to see if,
13 given his prior statement, if this would be his
14 testimony.

15 THE WITNESS: I don't know that I would say
16 it specifically that way, but let me give how I would
17 try to characterize it.

18 MR. NELSON: Okay.

19 THE WITNESS: Not having any cost studies,
20 cost data -- and let me put this out on the table.

21 I'm not suggesting that we do a cost -- I
22 heard what Mr. Harris's testimony before. As a
23 Division, we're not necessarily recommending that that
24 needs to happen. But without any firm numbers to say
25 there is a cost for doing that, this could be a proxy

1 that could be used with it. Is it two-tenths of a
2 cent, is that what the cost is for that? I don't
3 know. We haven't received any cost information really
4 from Bresnan to say that or from UBTA UBET to say that.

5 I believe there probably is a cost for
6 additional transport to these end offices that are
7 further out, and, you know, using a proxy, this could
8 be an acceptable proxy.

9 Q. Okay. And so let me just make sure I'm
10 understanding. The proxy of the two-tenths of a cent
11 would be additional termination compensation for calls
12 from Bresnan that go outside of the Vernal exchange to
13 one of those other nine exchanges served by remotes.

14 A. Yes.

15 Q. Is that correct?

16 A. Yes.

17 Q. And the starting though, then, would be for
18 calls back and forth within Vernal, the \$0.01 rate, for
19 the end office termination -- and I think -- let me
20 just make sure I understand this. The -- that rate
21 also is not a rate that would be cost-based, as I
22 understand your testimony. Would that be fair?

23 A. That would be a fair characterization, yes.

24 Q. Okay.

25 A. It was agreed between the two parties.

1 Q. Okay.

2 Up there I've placed in front of you what
3 have been marked for identification as Exhibits B7, B8,
4 B9, and B10.

5 So the next part of this discussion, I'd
6 like to -- if you could just have those handy, please.

7 A. Sure.

8 Q. This Western Wireless agreement that forms
9 the basis of the discussion we've been having so far,
10 that was a result -- or the agreement came following a
11 litigated proceeding here in Utah. And that proceeding
12 was docket number 03-2403-02.

13 Is that your understanding?

14 A. Yes.

15 Q. And in the course of that litigation
16 proceeding, is it correct that all of the parties,
17 including Western Wireless, the UBTA UBET entities, and
18 the Division, all prepared cost studies and analyses,
19 and filed those as testimony in that proceeding?

20 A. That's my understanding. I didn't
21 personally work on the -- on this information, but I
22 know that the Division was party, and I believe that
23 the other companies were party as well. So that's --
24 that's my understanding.

25 Q. Okay.

1 And let me just ask you, then, I've -- the
2 four documents I've placed in front of you were the
3 testimony direct and rebuttal that were filed by two
4 DPU witnesses. And I just want to see if you can
5 identify these for me.

6 The first thing is -- Exhibit B7.

7 A. Uh-huh.

8 Q. First of all, who is Peggy Egbert?

9 A. She was -- she's a colleague that worked for
10 the Division of Public Utilities, that -- that was an
11 expert witness in this proceeding.

12 Q. Are you familiar with her and her work
13 generally?

14 A. Yes.

15 Q. Generally respect the work that she does?

16 A. Yes.

17 MR. GINSBERG: I think I'm going to end up
18 making an objection. Maybe there's an easier way to do
19 this.

20 You know, he didn't -- this is not his
21 testimony.

22 And I'm not sure exactly where Mr. Nelson is
23 going, but I assume he's probably going to point to
24 something in the testimony and just put it in the
25 record.

1 Mr. Coleman is not capable of testifying as
2 to what -- what these witnesses say. They said what
3 they said. And maybe there's just a better way to do
4 this than -- and maybe the Commission could just take
5 administrative notice of the record in that docket.

6 ADMINISTRATIVE LAW JUDGE: Yeah. I'm -- I
7 think I'm going to agree with Mr. Ginsberg.

8 Do you want to reply? I guess we don't --

9 MR. GINSBERG: I mean, I --

10 ADMINISTRATIVE LAW JUDGE: I guess he's kind
11 of guessing what you're going to use it for.

12 MR. NELSON: No need to guess. Let me end
13 the guessing.

14 ADMINISTRATIVE LAW JUDGE: Okay.

15 MR. NELSON: What I'm going to use this for
16 is is that in the docket, the Western Wireless, the
17 Division conducted a cost study. I'm not asking
18 Mr. Coleman -- I won't ask Mr. Coleman to support that
19 cost study, but a study was done, and that study exists
20 in the records of the Commission, and it exists in the
21 form of this testimony.

22 And I have no objection if the proposal is
23 to admit these pieces of testimony by administrative
24 notice. That would be acceptable. But the purpose of
25 this questioning is nothing more or less than to

1 identify the study that was done, and have the
2 Commission understand the results of that study, which
3 are depicted in these four pieces of testimony.

4 So I would have no objection doing that
5 through administrative notice, if that would be your
6 preference.

7 ADMINISTRATIVE LAW JUDGE: I think I prefer
8 to do that administrative notice, and in the
9 post-hearing briefs you could raise it.

10 Are there any objections to the
11 administrative notice of these exhibits?

12 MS. SLAWSON: I do have an objection, only
13 to the extent that some of the tables seem to be cut
14 off in the copies.

15 MR. NELSON: And let me just explain that.
16 I apologize. These are from the Commission's Web site.

17 ADMINISTRATIVE LAW JUDGE: Okay.

18 MR. NELSON: And unfortunately -- the
19 information by Mr. Lee is complete, because the
20 Web site retained his testimony in a Word format.

21 ADMINISTRATIVE LAW JUDGE: Uh-huh.

22 MR. NELSON: Ms. Egbert's testimony, for
23 reasons I can not explain to you, maybe someone at this
24 Division could, was retained in HTML format, so it
25 doesn't print up in the whole page. I noted that, and

1 I would be happy to replace those, in the record, one
2 from the official file.

3 I will note, for Ms. Slawson and the other
4 parties, the information that I intend to use is a
5 single number, which exists not on any of the tables
6 that are truncated. The truncated tables relate to
7 another issue that is something that I'm not intending
8 to discuss, because it's not germane to the discussion
9 we're having today, and the one number I am trying to
10 get into the record isn't on one of those tables.

11 ADMINISTRATIVE LAW JUDGE: So as long as he
12 introduced one of those numbers that you can read, do
13 you still have that objection?

14 MS. SLAWSON: I have another objection. My
15 other objection would be for relevance. These cost
16 studies and these -- this testimony was given in
17 another docket that has no bearing on this instance.
18 The agreements that were reached, as there's been
19 copious testimony about in this proceeding, are --
20 you're comparing apples to oranges. So I think they're
21 irrelevant, and I would object on that basis also.

22 ADMINISTRATIVE LAW JUDGE: Do you want to
23 respond?

24 MR. NELSON: Sure.

25 In the course of Docket 03-2403-02, the

1 Division of Public Utilities conducted a cost study.
2 The cost study was asking the question, what does it
3 cost to terminate local traffic within the exchanges,
4 in particular here, of both UBET and Uinta Basin, the
5 UBTA. And the Division cost study did those
6 separately.

7 There has been extensive discussion about
8 what the cost ought to be for the termination of local
9 traffic, by witnesses on all sides. And I think
10 extensive discussion on it would be nice if there were
11 an actual cost study to reflect what those costs
12 actually were.

13 In this docket, the Commission Division did
14 exactly that. They did a cost study. And the cost
15 study applies directly to the exchanges that are at
16 issue here, and I think is directly germane to the
17 topics that are being discussed, that is what is the
18 cost of interconnection between another carrier and the
19 incumbent rural local exchange carrier.

20 MS. SLAWSON: Well, Your Honor, those cost
21 studies were done under different guidelines. They
22 were done under Federal guidelines that had the
23 tailwork standards of incremental costs not imbedded
24 costs. It's apples to oranges, and it's not relevant
25 for --

1 If the Commission wants to consider costs,
2 then I think we should do a cost study.

3 MR. NELSON: And let me, if I could, just --

4 MR. GINSBERG: May I sort of pipe in for
5 just a second?

6 ADMINISTRATIVE LAW JUDGE: Yeah.

7 MR. GINSBERG: I guess I also have a problem
8 in trying to use testimony that was done in a docket,
9 you know, six years ago, as a basis of suddenly now
10 saying we have a cost study in this docket, to justify
11 these rates. That was not Mr. Coleman's testimony, nor
12 the testimony of any of the other parties.

13 So I -- I tend to agree a little bit that,
14 if that's the objective, then -- then I think there is
15 a real relevance issue.

16 MR. NELSON: If I might respond.

17 I understand there is a question about
18 whether or not the cost study is dated, and I actually
19 have information here regarding the producer price
20 index associated with wireless telecommunications
21 companies, to show whether or not the -- on average,
22 the prices have changed significantly from 2003, when
23 this -- or 2003 when this study was done to today. I
24 think that objection goes to the weight this should be
25 considered, not to its relevance.

1 I think, again, Ms. Slawson's issue that
2 says she asserts that the -- it is irrelevant to have
3 cost-based information in this docket, I'd respectfully
4 disagree with that position. I think it is relevant.
5 But, again, I think that goes to the weight of the
6 evidence.

7 To the extent the Commission decides that
8 costs are relevant, this is the only cost study that
9 has been done any time in the recent past. UBTA UBET
10 has elected not to put a cost study on. We are unable
11 to do a cost study of UBTA UBET's costs, because we
12 don't know them. And so I think that the relevance is
13 clear.

14 All of the objections the other parties have
15 raised go to the weight of the evidence, and I think
16 that they are entitled to, on brief, discuss whether or
17 not, as a result of the issues with this cost study,
18 Your Honor should give it more or less credibility, but
19 I think, as a relevance matter, this point is clearly
20 central to this arbitration. It's clearly central to
21 the issues here, and, given the expansive rules of
22 evidence -- expansive rules of evidence that this
23 Commission applies, this -- these documentation
24 qualify.

25 MR. MECHAM: Your Honor, I'm going to join

1 the objection as well.

2 As Mr. Ginsberg has pointed out, these --
3 this -- Mr. Coleman did not sponsor this testimony.
4 These witnesses don't even work for the Division any
5 longer. It is being decided on a different analysis.
6 This is a State matter. This was really decided, as
7 all other interconnection agreements that I'm aware of
8 in this state, on a -- with respect to the Federal law,
9 not the State law. So I join in the objection.

10 ADMINISTRATIVE LAW JUDGE: Okay.

11 I'm going to overrule the objection. I
12 think they are relevant. I think I agree with
13 Mr. Nelson, in as far as their weight.

14 What we can do is we can -- you can raise
15 that issue as to the weight the Commission should give
16 the studies.

17 As far as letting Mr. Coleman testify
18 against them, I'm going to sustain that objection.
19 Inasmuch as it was raised, or to the extent it was
20 raised, and I think we'll take administrative notice of
21 these, but that's about it.

22 MR. NELSON: Okay.

23 MR. GINSBERG: Are you going to take
24 administrative notice, or I guess if people need to --
25 because there obviously was -- I'm not sure what else

1 was even filed in this docket.

2 I know there was testimony by both Western
3 Wireless and Uinta Basin, and this testimony was
4 never -- I think ever even admitted into evidence. I
5 think it was settled before the hearings actually took
6 place. But I'm not positive on that. But if other
7 parties need --

8 ADMINISTRATIVE LAW JUDGE: Was it admitted?
9 Do you know?

10 MR. GINSBERG: I don't know the answer to
11 that.

12 MR. MECHAM: And, Your Honor, if it wasn't
13 admitted, I don't know how you can take administrative
14 notice of it.

15 ADMINISTRATIVE LAW JUDGE: If it wasn't
16 admitted.

17 MR. GINSBERG: I don't know the answer to
18 that.

19 ADMINISTRATIVE LAW JUDGE: We might have to
20 reserve that for --

21 MR. NELSON: All I know, and I apologize,
22 because the Commission's Web site and its record of
23 this docket is something less than fully clear.

24 The testimony was clearly filed.

25 MR. GINSBERG: Right. That it was.

1 MR. NELSON: Whether there was a hearing and
2 the testimony was admitted, I don't know. But the
3 testimony was filed, and, as such, it exists in the
4 files of the Commission. And I think the standard for
5 administrative notice is whether the document exists in
6 the file of the administrative agency, not whether it
7 was ever admitted in a quasi-judicial or adjudicatory
8 proceeding. Because the Commission takes
9 administrative notice of documents in its files --

10 ADMINISTRATIVE LAW JUDGE: Yeah, I meant
11 filing. Yeah.

12 MR. NELSON: -- all the time.

13 ADMINISTRATIVE LAW JUDGE: Yeah.

14 MR. NELSON: But they were clearly filed,
15 and are referenced with filing dates on the Web site.

16 ADMINISTRATIVE LAW JUDGE: Okay.

17 MR. NELSON: To the extent other parties
18 want to move other pieces of that case for
19 administrative notice, I mean, obviously anyone can
20 have their right to do anything, I'm just moving these
21 pieces because that's the part I --

22 ADMINISTRATIVE LAW JUDGE: Okay. And if any
23 other parties raise other items, and we could take
24 administrative notice of that.

25 MR. NELSON: And, I guess, with respect to

1 your objection about asking Mr. Coleman, one question I
2 would ask is would I be at least permitted to have
3 Mr. Coleman identify the data point that I'm attempting
4 to introduce into the record in terms of the point that
5 matters, and see whether or not he would agree that
6 that data point in this study represents the same sort
7 of cost-based issue that he's attempting to testify to,
8 that is an appropriate rate for termination in Vernal?

9 I just -- I think I need to have the witness
10 identify that the data point in the study matches up
11 with the data point that he testifies about.

12 ADMINISTRATIVE LAW JUDGE: Why don't we do
13 this. Why don't we go off the record, and he can talk
14 with his counselor, and you can make an objection as
15 you'd like.

16 I mean, I think I don't have a problem with
17 that, but.

18 MR. GINSBERG: Your Honor, I think if he
19 could answer the question from -- I don't know whether
20 he can or not.

21 ADMINISTRATIVE LAW JUDGE: Okay.

22 MR. GINSBERG: I don't know.

23 ADMINISTRATIVE LAW JUDGE: Go ahead.

24 MR. GINSBERG: I don't know if Casey even
25 knows if he can.

1 MS. SLAWSON: Your Honor, I haven't heard
2 the question yet, but I'm going to object to asking
3 Mr. Coleman to agree to anything in this docket.

4 I guess I'd like to do a little voir dire.
5 Has he read the testimony? Has -- is he familiar with
6 it in any way? Is -- how can he --

7 ADMINISTRATIVE LAW JUDGE: Let's go off the
8 record.

9 (Whereupon, a discussion was
10 held off the record.)

11 ADMINISTRATIVE LAW JUDGE: Let's go back on
12 the record.

13 MR. NELSON: And just for the record, let me
14 identify the data point that I'm looking at.

15 If you look at the rebuttal testimony of
16 Mr. Jonathan Lee?

17 MR. GINSBERG: I must be missing that one.
18 I only have three.

19 THE WITNESS: That's Exhibit B10. Correct?

20 MR. NELSON: Hold on. I want to make sure
21 you're --

22 MR. GINSBERG: Okay.

23 MR. NELSON: Do you have it, Mr. Ginsberg?

24 MR. GINSBERG: Yes.

25 MR. NELSON: Okay.

1 Q. (BY MR. NELSON) If you look at the rebuttal
2 testimony of Mr. Jonathan Lee, what I would intend to
3 call Mr. Coleman's attention to, to see if he could
4 identify the comparable rate to the rate that he uses
5 from the Western Wireless process, would be on page 23.
6 There's a table which summarizes the Division's
7 proposed rate for the rural ILECs.

8 And there's a rate there for UBTA UBET,
9 because at the time of this docket, UBTA UBET and Uinta
10 Basin were still two separate entities. And UBTA UBET,
11 which was the entity in Vernal, Duchesne, and
12 Roosevelt, there is a rate there identified in the
13 middle column as the Division proposed -- and there's a
14 total rate under that column which is the
15 per-minute-of-use termination rate. And it is -- those
16 rates are the ones which I intend to direct
17 Mr. Coleman's attention to, so that he could then
18 indicate whether or not those rates are comparable to
19 the rate that we've just been discussing. That is the
20 termination within Vernal.

21 So that's the -- the number. And I'd be
22 happy to take a break and let --

23 ADMINISTRATIVE LAW JUDGE: So the .00019
24 number?

25 MR. NELSON: Actually, I intended to

1 introduce the .00019, but more importantly, probably
2 the .00405. Because I happen to believe, based on my
3 read of the testimony, and Mr. Coleman's testimony,
4 that that's the comparable number. What the Division
5 thought was the cost of -- that was what the Division
6 modeled the cost of termination in Vernal to be.

7 Now, the ultimate settled rate was
8 different, but that was the model number.

9 That's what I intend to do. And like I
10 said, I'd be happy to take a recess if the parties want
11 to consider that.

12 ADMINISTRATIVE LAW JUDGE: Okay. Let's go
13 off the record.

14 (Whereupon, a discussion was
15 held off the record.)

16 ADMINISTRATIVE LAW JUDGE: Let's go back on
17 the record.

18 Then raise your objection, Ms. Slawson.

19 MS. SLAWSON: My objection would remain the
20 same, based on -- I would object based on relevance. I
21 object based on the fact that Mr. Coleman's not
22 familiar -- or at least I have no evidence, I have not
23 heard him say he's familiar with this. I don't know
24 that he's read it.

25 This proceeding was a completely different

1 proceeding, that involved Federal law and Federal
2 interconnection, and had certain parameters that we do
3 not have here under State law.

4 And I also raise an objection to -- no, that
5 would be it.

6 ADMINISTRATIVE LAW JUDGE: Mr. Mecham?

7 MR. MECHAM: I have stated my objection, and
8 it was just as Ms. Slawson stated.

9 ADMINISTRATIVE LAW JUDGE: Okay.

10 Mr. Ginsberg?

11 MR. GINSBERG: Mine mainly goes to whether
12 or not he's familiar enough with these documents to
13 even answer the question. And I guess I don't -- I
14 don't know whether he is or not.

15 ADMINISTRATIVE LAW JUDGE: I'm going to
16 sustain those objections. And so we'll let them in in
17 administrative notice, and you can refer to them.
18 Parties can discuss them, their relevance, the weight
19 that the Commission should give, in their post hearing
20 briefs, but that's about it.

21 MR. NELSON: I guess, Mr. -- with all due
22 respect, is there any chance that I could ask
23 Mr. Coleman if he's familiar?

24 ADMINISTRATIVE LAW JUDGE: Ask him.

25 MR. NELSON: I understand the objection, but

1 I don't -- think we're all guessing as to whether or
2 not he's familiar or not.

3 ADMINISTRATIVE LAW JUDGE: Go ahead.

4 Q. (BY MR. NELSON) Mr. Coleman.

5 A. Yes.

6 Q. We're all talking about you, but no one's
7 talking to you.

8 Let me ask you this question.

9 Have you ever read or reviewed the testimony
10 of Mr. Lee or Ms. Egbert in docket number 03-2403-02?

11 A. In preparation for being on the witness
12 stand, I did a very brief review of the testimony that
13 was submitted by Ms. Egbert and also by Mr. Lee, but it
14 was a very brief cursory review.

15 Q. And in that cursory review, did you have
16 occasion to look at, for example, table four on page
17 23 -- or I'll tell you, there is a comparable table in
18 Ms. Egbert's testimony in rebuttal that summarized the
19 Division proposed rates for the rural ILECs using the
20 HAI 5.2A model?

21 A. In a couple of different scenarios, we did
22 talk about -- or I did review some tables. I can't say
23 for sure if it was specifically this table four. I
24 remember looking at some -- some tables that did talk
25 about the rates as well.

1 Q. Okay.

2 Let me just ask a practical question.

3 Based on whatever degree of review that you
4 did, would you be comfortable answering questions about
5 whether or not the information on this table, which
6 part of that information might correlate to the
7 recommendations you're making in this case with respect
8 to the appropriate rate for termination of local
9 traffic into and between UBTA UBET and Bresnan?

10 Would you be comfortable answering those
11 questions, or is that beyond your comfort level?

12 A. I guess the way that I would characterize
13 it, is I can obviously look at a table and say here's a
14 number that's there. Not knowing all of the inputs
15 that was put into developing that number, I don't know
16 that I would be able to say that it's an exact match,
17 this number for that number. But I believe that I
18 could say here's a number, and here's another number
19 that was in a different proceeding.

20 Do I think they're fairly similar? I mean,
21 that would be my level of comfort. But I wouldn't be
22 able to say how valid that data point is, not knowing
23 all of the inputs that went into it as well.

24 Q. Okay.

25 MR. NELSON: I guess, Your Honor.

1 ADMINISTRATIVE LAW JUDGE: With that, I'm
2 still going to sustain the objection. I think -- my
3 understanding is you're telling me you could read a
4 number, and he can say the number verbatim. That's it.
5 But I don't know how much more that would lend to
6 basically what -- doing administrative notice would,
7 so.

8 MR. NELSON: Okay.

9 ADMINISTRATIVE LAW JUDGE: So we can move on
10 after that.

11 Q. (BY MR. NELSON) Mr. Coleman, let me ask you
12 some general questions about how it is that you would
13 suggest that compensation rates be set in this
14 proceeding.

15 Would you agree with me that, as a general
16 principal, rates should be applied on a
17 non-discriminatory basis between different
18 telecommunications carriers interconnecting with the
19 same ILEC?

20 A. Yes. I believe with the interconnection
21 agreements, generally most ones we review, and we even
22 state this as a Division, that that is one thing that
23 we look at, is that they have been agreed upon in
24 non-discriminatory terms. And so I believe that would
25 be an element of an Interconnection Agreement.

1 Q. Okay.

2 Would you agree with me that, in the context
3 of an Interconnection Agreement -- and now I'm going to
4 ask you to please think about this in the context of
5 Utah State law alone, and not other proceedings that
6 you may have been involved with that were operating
7 under Federal law. Do you have that in mind?

8 A. Yes.

9 Q. Okay.

10 Based on your understanding of Utah law and
11 the policies associated with that, would it be your
12 recommendation that this Commission adopt
13 interconnection rates that are cost-based?

14 A. I mean, the simple answer is yes, as long as
15 there are costs there.

16 I mean, yeah. Generally, as a Division, we
17 would like those -- those rates to be cost-based, if
18 there's a practical way to get to the costs of those
19 rates.

20 Q. Okay.

21 And as a general principal, again focusing
22 on Utah law, do you think it would be reasonable public
23 policy for interconnection rates, for Essential
24 Facilities Agreement under Utah law, to have those
25 cost-based rates developed using total service long-run

1 incremental cost-type methodologies, or what has been
2 called sometimes TSLRIC methodologies?

3 A. I guess I'm in an interesting situation,
4 because I'm trying to go off of past experience, which
5 I know that has been used, but we've never done that in
6 State law. So I believe in that scenario the
7 Commission could probably choose or tell us how they
8 would want that to happen.

9 I know that is a methodology that has been
10 used in the industry, and it's one that gets to the
11 cost basis. And I know that some people -- sorry, some
12 companies like TELRIC, and other companies always say
13 that it's not reflective of the costs. But I know it
14 is a methodology that could be used.

15 Q. And just so the record is clear, you used an
16 acronym TELRIC. That's Total Element Long-Run
17 Incremental Cost. Is that correct?

18 A. Yes. I believe so. I know it as the
19 acronym, not the full lengthy thing. But that's --
20 I'll -- subject to you verifying differently, I'll
21 agree with you, so.

22 Q. Okay.

23 As a general principal, do you think that
24 interconnection rates that are set on TELRIC, or TSLRIC
25 principals, establish Interconnection Agreements at

1 rates and prices that are competitively neutral?

2 MR. MECHAM: Your Honor, I'm going to
3 object. This isn't a cost docket. Bresnan doesn't
4 want to go into a cost docket, and yet we're going
5 through the foundation of a cost docket?

6 And if we -- if the Commission wants to open
7 a cost docket, I guess they can do so, but that's
8 not -- I didn't think that was the purpose of our being
9 here today.

10 MR. NELSON: If I could respond.

11 MS. SLAWSON: I join in that objection.

12 MR. NELSON: I'd like to respond.

13 I don't know who said it's not a cost
14 docket. We've never said that this isn't a cost
15 docket. UBTA UBET and URTA have asserted that costs
16 are somehow out of bounds in this proceeding, and if
17 costs are to be considered, that we have to do that in
18 some separate proceeding. Everything that Bresnan has
19 done has been applying testimony based on what we
20 believe is cost.

21 We think it is perfectly appropriate, in the
22 context of an arbitrated Essential Facilities
23 Agreement, which is what we're here doing, that costs
24 be raised and discussed. If one party, or two parties
25 in this case, elect not to put costs into the record,

1 that's their choice. But I don't see anything in
2 anything the Commission has done that would suggest
3 that Bresnan is somehow barred from injecting costs
4 into the proceeding, and, in fact, a vast quantity of
5 the last several days has been tied up talking about
6 what is and isn't somebody's costs for doing something.

7 So I don't -- I guess I would oppose the
8 objection, because I think that costs have been
9 discussed at length in this proceeding, and are
10 entirely appropriate.

11 And whether or not they want to put them at
12 issue or not is entirely up to them, but it is clearly
13 within the scope of Bresnan's request initiating this
14 proceeding.

15 ADMINISTRATIVE LAW JUDGE: Mr. Ginsberg?

16 MR. GINSBERG: It just might not be
17 completely within the scope of Mr. Coleman's testimony.

18 I mean, he has not tried to define what the
19 costs should be, so I -- I think --

20 I'm letting him answer the questions, but
21 I -- I don't want him to -- he needs to say what he's
22 capable of answering, based on his testimony that he
23 presented.

24 ADMINISTRATIVE LAW JUDGE: I'm going to
25 overrule the objection.

1 Q. (BY MR. NELSON) Mr. Coleman, do you recall
2 the question?

3 A. No. Sorry. I should have kept it in my
4 mind, but I didn't. There was so much other stuff
5 going on, so.

6 Q. Okay.

7 MR. NELSON: And since I'm not sure I can
8 recall it, let me, just to be safe, could you read back
9 that last question, please?

10 (Whereupon, the pending testimony
11 was read by the court reporter.)

12 ADMINISTRATIVE LAW JUDGE: Okay.

13 THE WITNESS: As a general principal, that's
14 generally been accepted, yes.

15 MR. NELSON: Okay.

16 Okay. Thank you, Mr. Coleman for your
17 testimony.

18 That's all the questions I have of this
19 witness.

20 ADMINISTRATIVE LAW JUDGE: All right. Thank
21 you, Mr. Nelson.

22 Ms. Slawson?

23 MS. SLAWSON: Thank you, Your Honor.

24 * * *

25

1 CROSS EXAMINATION

2 BY MS. SLAWSON:

3 Q. Good morning, Mr. Coleman.

4 A. Hello, Ms. Slawson.

5 Q. Would you agree that Utah law and rules do
6 not make any specific provision -- now I'm talking Utah
7 law only -- for indirect connection for essential
8 facilities?

9 A. From my reading of the statutes and the
10 laws, I did not see anything in there that discussed
11 indirect interconnection.

12 Q. Did you see any requirement that the local
13 exchange carrier indirectly connect with a CLEC?

14 A. I didn't see anywhere that indirect
15 connection was discussed in the State or statutes. In
16 state laws -- or sorry, state statutes or the
17 Commission's rules.

18 Q. Okay.

19 As I understand your testimony today,
20 your -- or the Division's position that the EAS -- that
21 the compensation for access to the extended area,
22 extended calling area out in the basin, that the
23 compensation for that be set at two-tenths of a cent.
24 Is that correct?

25 A. I believe what I was saying is that I

1 believe there should be some way that both companies
2 are able to be compensated, or either company is able
3 to be compensated for the use of their network.

4 We don't have cost data to be able to come
5 up with that at this point, and so as a proxy, using
6 what was provided in the Western Wireless case,
7 two-tenths of a cent, if both companies agree to that,
8 or if the -- sorry, if the Commission chose that that
9 was going to be fair compensation, that that would be
10 acceptable.

11 I think that the Division's premise, and
12 what my testimony said was we believe that there should
13 be some type of compensation for use of a network. And
14 how that finally works out will probably either fall
15 back to the Commission, or discussion among the
16 parties.

17 Q. So as you sit here today, don't have a
18 recommendation for the Commission?

19 A. If I had to give a recommendation off of
20 what's been provided before me right now, you know,
21 two-tenths of a cent seems to be about the best proxy
22 as far as what we've been given that's been out there
23 before.

24 There may be other costs and information
25 that could be introduced, or there's other ways that

1 the Commission could obviously do that. If they choose
2 to. I'm just saying that there should be some way to
3 compensate for that network that's being used.

4 Q. And I believe just a moment ago you referred
5 to the Western Wireless. Were you referring to the
6 Western Wireless Interconnection Agreement, or the
7 Western Wireless docket?

8 A. Interconnection Agreement.

9 I don't believe that there was a difference
10 of two-tenths of a cent in the cost docket, or the
11 Western Wireless docket. But then again, as I
12 testified, I didn't participate in that, so I don't
13 know all of the details of that.

14 Q. As I understand it, do you understand that
15 the Commission set the rate for the EAS in Vernal? Is
16 that correct?

17 A. It was a proceeding, and they followed the
18 rules that are there as far as EAS, and ultimately set
19 the rates that UBTA UBET would charge their customers.

20 Q. And UBTA UBET, at this point, has no choice
21 whether to charge its customers that rate or not.

22 If you're customer of UBTA in Vernal, you
23 pay that \$1.80 rate. Is that correct?

24 A. That's my understanding of how EAS works,
25 yes.

1 Q. I wanted to ask a couple of questions about
2 your pre-filed testimony.

3 In the pre-filed testimony, you indicate
4 that Federal rules and guidelines -- that, in the
5 absence of -- well, let's just look at it, so I don't
6 mess it up.

7 A. I could have already done that when I wrote
8 it, so.

9 Q. On page 414, you say the Division believes
10 that looking at the Federal regulations provides
11 procedural insight to how interconnection agreements
12 were contemplated to be arbitrated on the Federal
13 level, and absent any specific orders or rules by the
14 Commission, those Federal regulations could be used as
15 a reference to guide all parties in this proceeding.

16 Do you see that?

17 A. Yes.

18 Q. I want to ask you, in reaching any of your
19 conclusions that you've reached in this testimony, did
20 you rely on Federal rules, regulations, or laws? Case
21 law? Anything like that?

22 A. Well, I think in my testimony it discussed
23 where there could be guide post that was used for that.

24 An example of that, it specifically says --
25 I mean, if I get the section right, I believe I quoted

1 it in here, but I believe it's Section 251 of the
2 Federal law that talks about how a company has the
3 ability to connect by direct or indirect connection.

4 I also believe, within the State, we have
5 allowed indirect versus direct interconnection,
6 although it's not specifically stated in the State
7 laws.

8 And so, what my intent was there, or what I
9 was trying to bring across is, if the State law is
10 quiet on it -- and, again, that's part of where the
11 unique nature of this interconnection agreement was
12 coming in. I recognize that it's only going to be
13 under State law. I recognize that sometimes a State
14 law may say nothing on that, but we also have the
15 reality, as far as the Commission and the Division,
16 that there are other interconnection agreements that
17 have been entered.

18 Q. Under Federal law?

19 A. Under Federal law. Yes.

20 Q. Okay.

21 A. And I understand it was under Federal law.

22 But it was an attempt to say, you know, if
23 the State law doesn't specifically say one way or the
24 other, we could potentially refer back to the Federal
25 law as a guide post. Not saying that it -- that has to

1 allow it to happen, but -- but that's been allowed in
2 other interconnection agreements.

3 If the Federal law, you know, allows it,
4 unless there's a compelling reason on the State side as
5 far as why not to allow it, I don't know that we would
6 want, as a Division -- as a State, to make our laws
7 more restrictive, without a compelling reason, or a
8 good reason, than what the Federal law would be.

9 Q. Well, in this instance, wouldn't the
10 compelling reason be that the Commission's order, in
11 moving forward with the interconnection obligation,
12 says specifically that State law only applies to this
13 docket, and that Federal law shall not be considered?

14 A. That sounds more like a legal argument than
15 a policy, and I'd let the attorneys be able to
16 determine that. I'm just -- I was just trying to give
17 reference as far as what has happened with
18 interconnection agreements before within the State.

19 Q. And my question to you is the one that I
20 asked earlier, and I'm not sure I got an answer for.

21 Did the Division, did you, in your
22 testimony, rely or consider Federal rules, regulations,
23 guidelines, case law, FCC rulings, anything like that
24 in making your recommendations and providing your
25 testimony?

1 MR. GINSBERG: I think he answered that with
2 an example.

3 ADMINISTRATIVE LAW JUDGE: Yeah, I think he
4 did. So the objection will be sustained.

5 Q. (BY MS. SLAWSON) Well, let's talk about
6 that. Let's talk about Section 251 of the Federal Act.
7 I believe that's the one that you
8 referenced?

9 A. That is the one I said here. Again, I'm not
10 100 percent, because I don't have it in front of me,
11 but I believe that's the one that I did use in
12 testimony.

13 Yeah, I did. 251. Yes.

14 (Whereupon, Exhibit No. UU-5
15 was marked for identification.)

16 MS. SLAWSON: Your Honor, can I approach?

17 ADMINISTRATIVE LAW JUDGE: Sure.

18 Q. (BY MS. SLAWSON) Mr. Coleman, I've shown
19 you what's been marked as Exhibit UU-5. And I'm going
20 to come back to that in just a second, but I have a
21 question. Were you sitting in the room when
22 Mr. Meredith was testifying about the problem, or the
23 concern that he has with bringing Federal rules and
24 guidelines into this proceeding through the back door?

25 A. Yes. I was in the room when he gave his

1 testimony.

2 Q. Okay.

3 And isn't that, in fact, what your testimony
4 is attempting to do?

5 A. I don't believe so, because also, in my
6 testimony, what I said is, is I don't believe that we
7 are allowing a company to give up any of their rights
8 on the Federal level, as far as a rural exemption or
9 anything else.

10 I said, we're not saying that that should be
11 in place or shouldn't be in place. All I'm saying --
12 again, and we're not necessarily following the Federal
13 rule exactly, because if we were we'd be having this as
14 a Federal proceeding instead of a State proceeding.
15 I'm just saying if the State law doesn't say
16 specifically something, that doesn't mean everything
17 that's involved in Section 251, but if there's
18 something that's silent, direct versus indirect
19 connection being one of those situations, we may be
20 able to look at what's been done in other
21 interconnection agreements to allow the Commission a
22 way to determine if that should be acceptable on the
23 State level or not.

24 Because I don't believe that there's
25 anything specifically in the law that says that should

1 be allowed or disallowed, so they're dealing with new
2 areas, new territories, what do you look to? Past
3 history of what's been done maybe on a Federal level in
4 other states or other areas as a way to do that. I
5 don't know.

6 And I hope in my testimony, what I tried to
7 bring out is I don't believe that we're saying that the
8 rule exemption should be circumvented. You know. This
9 could be an argument for another time. But maybe the
10 rural exemption through the CPCN proceeding of the
11 State could be classified that it wasn't --

12 It didn't talk about that, I understand
13 that. I'm not saying it should be given up, but I
14 believe those companies should still have that ability
15 to do that.

16 MS. SLAWSON: One moment, Your Honor.

17 ADMINISTRATIVE LAW JUDGE: Mm-hmm.

18 Q. (BY MS. SLAWSON) Mr. Coleman, did you just
19 say that the parties could assert the rural exemption
20 in State proceedings?

21 A. No.

22 Q. Okay.

23 A. What I was saying, and, again, it probably
24 came out incorrectly from what I was thinking in my
25 mind. It didn't happen in this case.

1 And I don't understand exactly how someone
2 could assert 251, but I know that we have a CPCN
3 proceeding in the State of Utah, for if someone is
4 going into a rural area without having to be in front
5 of the Commission. It could be conceivable that a
6 company coming in in the future may want to say, Hey
7 look, we would like this to be where we are asking for
8 the rule exemption of 251 to be examined.

9 Again, I'm not a legal person. I've never
10 been involved with it on the 251 side. That could be
11 an option. I don't know if it is or not. That's what
12 I was trying to say. And that --

13 All I'm saying is I know there is a
14 proceeding that this Commission has to grant a CPCN for
15 someone to go into a rural area. And that's -- that's
16 all I was trying to imply.

17 I'm not saying that that would fulfill the
18 Federal requirement. It does sound like a proceeding
19 where they're at least allowing someone into a rural
20 area, in this State.

21 Q. Okay. Let's -- let's move on and away from
22 that.

23 On your testimony on page four of four,
24 starting on line 83.

25 You indicate, Even though the Commission

1 rules do not specifically state that an ILEC would need
2 to cover interconnection via direct or indirect
3 connection, the Division believes that the Commission
4 has followed this principal in hundreds of other
5 interconnection agreements filed in the State.

6 Is that your testimony?

7 A. Yes.

8 Q. And, as far as I know, because of your
9 previous testimony and because of the nature of these
10 proceedings, this is the first Essential Facilities
11 Agreement entered into or negotiated pursuant solely to
12 State law. Is that correct?

13 A. Correct.

14 Am I allowed to clarify what my intent was
15 on that, or --

16 Q. No, I think we're all right.

17 A. Okay.

18 MR. GINSBERG: Well, I would ask that he be
19 allowed to make his clarification now, rather than
20 having to do it 15 minutes later.

21 ADMINISTRATIVE LAW JUDGE: Okay. Go ahead.

22 THE WITNESS: What my intent there was,
23 again, and it's coming back to the understanding the
24 Commission's rules do not specifically state if an ILEC
25 needs to have a direct versus indirect connection with

1 that as well. But we already know that there are
2 numerous CLECs in the State that are interconnecting
3 with Qwest, and those -- because of that, the
4 Commission has already allowed potentially indirect or
5 direct connection with those type of arrangements.

6 And even though it's on the Federal level, I
7 think it would be a little bit of a step. And again,
8 I'm not a legal person, but to say that those
9 interconnection agreements, although they were on the
10 Federal level, that -- that they would be inconsistent
11 on the State level as well.

12 So they're allowing it on a Federal level,
13 but on a state level, that would -- from my
14 understanding, again, I'm not a legal mind, would seem
15 to cause an inconsistency between a State law and a
16 Federal law.

17 And I'll stop there, because I'm not an
18 attorney.

19 Q. Well, with the CLECs that connect with
20 Qwest, would you agree that there is not a third-party
21 involved in those interconnection agreements?

22 A. Generally.

23 Q. Okay.

24 A. They're interconnecting directly with Qwest,
25 yes.

1 MS. SLAWSON: Okay. One moment, Your Honor.

2 (Whereupon, a discussion was
3 held off the record.)

4 MS. SLAWSON: Thank you, Mr. Coleman. I
5 have no other questions.

6 ADMINISTRATIVE LAW JUDGE: Okay. Thank you,
7 Ms. Slawson.

8 Mr. Mecham.

9 MR. GINSBERG: What are we going to do with
10 this UU-5? Does that need to be admitted? That's
11 just the statute.

12 MS. SLAWSON: No, it does not.

13 MR. MECHAM: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. MECHAM:

16 Q. Good morning, Mr. Coleman.

17 A. Good morning.

18 Q. And now good afternoon.

19 A. Good afternoon to you as well.

20 At least I'm not three days like other
21 witnesses that have been up here, so I'm okay in going
22 from morning to afternoon.

23 Q. In your exchanges with the two prior
24 counsel, you talked about how you used the Federal law
25 in association with the State law.

1 And you said that -- to Ms. Slawson, you
2 responded that an independent -- you weren't
3 necessarily saying that an independent telephone
4 carrier could assert the rural exemption under the
5 Federal law, or is that something that could be
6 asserted?

7 A. That could be asserted.

8 What -- I guess what I'm saying is, this is
9 dealing with State law. I understand there's a way
10 that the rural company is able to exert that -- that
11 they have an exemption that applies on the Federal
12 level.

13 We're not dealing with that body of law,
14 from my understanding, we're dealing with -- with the
15 State law here.

16 So there could be that assertion that's
17 made. I -- what I'm saying is that process, at least
18 in this proceeding, has not been -- been followed to my
19 understanding. And that, again, I don't know what that
20 process is exactly, because I've never dealt with it on
21 a work basis, so.

22 Q. So does that mean a -- an independent
23 telephone company could assert or request not just the
24 exemption, but modifications and/or suspension of any
25 of the duties under 251(F)?

1 MR. GINSBERG: I think you're asking him
2 there for a legal conclusion, that I'm not sure he's
3 capable of making.

4 MR. MECHAM: Okay. Let me think if I could
5 rephrase that.

6 Q. (BY MR. MECHAM) The State law is silent on
7 those issues too. Is it not, Mr. --

8 MR. GINSBERG: Those issues being? Be
9 specific please.

10 MR. MECHAM: I'm sorry.

11 Q. (BY MR. MECHAM) The issues with respect to
12 the rural exemption, modification, suspension of
13 duties. There's nothing in the State law, that you're
14 aware of, that addresses those issues, is there?

15 A. I guess I would say I have a difference of
16 opinion, because I believe, for a company to be allowed
17 into the rural areas within the State, they have to
18 file for a CPCN. So if we're talking just State law,
19 in my mind, that process that Bresnan went through to
20 be able to get a CPCN, or any other company -- although
21 most of the other CLECs and CMCNs have never asked to
22 be in a rural car -- that is, to a certain extent,
23 allowing or asking the Commission, should we be allowed
24 in a rural area. And Bresnan being the only one, I
25 would say, at least on a State level, again, it's

1 not -- the 251, it's not the Federal aspects of it, but
2 we had a pretty long proceeding that the Commission
3 said they were allowing someone to go into a rural
4 area.

5 From my laymen's terms, that would seem to
6 say that the Commission is allowing whatever
7 protections they were allowing for a rural company on
8 the State level, at least for that exchange of above
9 5,000 lines to be relaxed. So that competition could
10 come into that area.

11 Q. So, from your standpoint, those Federal
12 provisions are suspended in the State, based on the
13 Commission's --

14 Mr. Ginsberg, did you say something?

15 MR. GINSBERG: No. Finish your question.

16 MR. MECHAM: -- based on the Commission's
17 decision on the certification of the case?

18 MR. GINSBERG: I think there you are asking
19 him for a legal conclusion.

20 In your motion to dismiss, the Commission
21 ruled. And you're asking him that -- was that resolved
22 in the certificate proceeding, I think goes beyond what
23 he can testify to.

24 MR. MECHAM: Well, I didn't move to dismiss.
25 That was Ms. Slawson and her client. But if you'd

1 like, we could.

2 ADMINISTRATIVE LAW JUDGE: So is that an
3 objection?

4 MR. GINSBERG: Yes.

5 ADMINISTRATIVE LAW JUDGE: I'm going to
6 sustain it.

7 MR. MECHAM: Okay.

8 Q. (BY MR. MECHAM) With respect to indirect
9 interconnection, Mr. Coleman, have all of the indirect
10 interconnection provisions in interconnection
11 agreements today been decided under the Federal law, in
12 Utah?

13 A. I would have to default and say yes, because
14 this is the only Interconnection Agreement, that I'm
15 aware of, that has not, in the State --

16 Well, let me re-classify that. Before 1996
17 there may have been interconnection agreements that
18 were entered into that wouldn't have followed the
19 Telecommunications Act. I can't speak to those because
20 I wasn't working for the Division at that time.

21 But from my understanding, 969, 4, all of
22 them have pretty much followed the Federal law, and
23 this is the only State-specific -- specific State law
24 Interconnection Agreement.

25 Q. And do you remember if, while the

1 interconnection -- some interconnection agreements may
2 have been arbitrated, but do you remember if the
3 indirect interconnection provision of any of those
4 interconnection agreements was negotiated, or was it
5 arbitrated -- or were they arbitrated?

6 A. I don't remember either way.

7 Most -- my experience has been most of the
8 interconnection agreements that the Commission has
9 approved has been done through negotiation with the
10 parties. A few of them have been arbitrated, but I
11 don't remember if direct versus indirect connection was
12 an element of it. My recollection is that it wasn't,
13 but I don't know that specifically.

14 Q. Okay. Thank you.

15 You injected kind of a new factor into the
16 technical feasible -- technically feasible standard of
17 being economical.

18 A. Mm-hmm.

19 Q. Does that mean reasonable? What does that
20 mean exactly? To you?

21 A. What my preference, or what my intent was
22 with that is I believe that it -- it needs to make
23 sense.

24 Again, it's never going to be dollar for
25 dollar. I mean, I can't say that Bresnan is going to

1 have to pay \$20 and UBTA UBET is going to have to pay
2 \$20 for interconnection.

3 But what my hope is, or what my testimony
4 was is that the Commission may look at, is that if one
5 company had to pay a million dollars to do a connection
6 method, be it direct verses indirect, and another
7 company has to do a thousand dollars, and you flip
8 that, and you look at the other option if it's direct
9 versus indirect, whichever way you want to look at
10 that, and both companies maybe have to pay \$2,000, that
11 the Commission say, Wow, that doesn't seem economically
12 feasible or fair that one company has to pay a million
13 dollars to interconnect, while one's only paying a
14 thousand dollars, then we could do option B and have
15 both of them pay \$2,000.

16 So that's -- I don't know that it's an exact
17 dollar amount. I don't know that -- I guess --

18 And having worked with the Commission, my
19 belief is that they're reasonable and smart
20 individuals, and they would just be able, as a gut
21 check, or whatever way they want to say it, look at it
22 and say, Do you know what? It just doesn't seem
23 economically feasible to put a burden --

24 And it could be on UBTA UBET. Maybe
25 indirect connection. Again, this comes back to where

1 we haven't had --

2 Mr. Harris provided some information that he
3 put together a spreadsheet, but, again, he doesn't know
4 all of UBTA UBET's costs, and those were assumptions
5 with that.

6 Maybe indirect connection is going to cost
7 UBTA UBET the \$2 million and it will only cost Bresnan
8 \$2,000. My economic standard would be, and I would
9 hope the Commission would look at that and say, Boy,
10 that sure doesn't seem like a fair option.

11 We don't know what those costs are, and so
12 that's what I was hoping to interject in this as well.
13 Is not only technically feasible, but at least that it
14 makes a little bit of economic sense for both
15 companies, and it's not going to be, again, dollar for
16 dollar, but that a rational person would say, yeah,
17 there's some expense here, but it seems to be, within
18 reason, fair for both parties.

19 MR. MECHAM: Could I have just a moment?

20 ADMINISTRATIVE LAW JUDGE: Mm-hmm.

21 MR. MECHAM: Thank you, Your Honor.

22 ADMINISTRATIVE LAW JUDGE: All right. Thank
23 you, Mr. Mecham.

24 Any redirect, Mr. --

25 MR. NELSON: Actually, before Mr. Ginsberg,

1 could I ask a question to follow-up Ms. Slawson's
2 question?

3 ADMINISTRATIVE LAW JUDGE: Go ahead.

4 MR. NELSON: Thank you.

5 RE CROSS EXAMINATION

6 BY MR. NELSON:

7 Q. Mr. Coleman, I'd like for you to make an
8 assumption for me. I'd like for you to please assume
9 that the Federal law relating to interconnection and
10 Telecommunications Act doesn't exist.

11 Okay? Imagine it's repealed, right now,
12 this moment.

13 A. Does that mean the FCC is gone as well?

14 Q. Won't go there. We still have the
15 Communications Act, so we've got to sort out that.

16 A. Darn it, I was trying. You know?

17 Q. All right. I just want you to assume that
18 the 1996 Telecommunications Act doesn't exist. Okay?
19 Do you have that assumption in mind?

20 A. Okay.

21 Q. Okay. And what I'm asking you then is to
22 consider the issues in this case, based solely on the
23 law in the State of Utah, based solely on your
24 professional experience and judgement with respect to
25 what's competitively reasonable in the context of an

1 Interconnection Agreement between two competing
2 carriers. Do you have that in mind?

3 A. Yes.

4 Q. Okay.

5 In that situation, Federal law doesn't
6 exist, relying only on the State law, and your
7 professional judgement and experience, would any of the
8 substantive recommendations in your testimony, with
9 respect to how you would recommend the Commission
10 decide between the competing proposals being discussed
11 here, would any of those recommendations change?

12 A. Given the assumption that you set forth
13 there, I -- no, I don't believe any of my
14 recommendations would change.

15 MR. NELSON: Thank you, Mr. Coleman. I have
16 no further questions.

17 ADMINISTRATIVE LAW JUDGE: Thank you.
18 Mr. Nelson.

19 Mr. Ginsberg?

20 MR. GINSBERG: I don't think I have any
21 redirect.

22 ADMINISTRATIVE LAW JUDGE: All right. Thank
23 you, Mr. Coleman.

24 THE WITNESS: Sure.

25 ADMINISTRATIVE LAW JUDGE: Let's go off the

1 record.

2 (Whereupon, a discussion was
3 held off the record.)

4 ADMINISTRATIVE LAW JUDGE: Mr. Meredith,
5 I'll just remind you that you're still under oath.

6 THE WITNESS: Yes.

7 DOUGLAS D. MEREDITH

8 having been previously duly sworn, was examined and
9 testified as follows:

10 REBUTTAL EXAMINATION

11 BY MR. MECHAM:

12 Q. Mr. Meredith, you've been in the room this
13 morning as we've heard from Mr. Harris again and then
14 just recently from Mr. Coleman?

15 A. Yes.

16 Q. Do you have any testimony in response?

17 A. Yes. I have a brief response, initial
18 response, and then I would like to address, if it --
19 with permission, three items; indirect interconnection,
20 the reciprocal compensation material that was raised by
21 Mr. Harris, and then some EAS issues that Mr. Harris
22 raised.

23 My first observation is we've heard, I think
24 Mr. Harris, at least four or five times, talk about, or
25 discuss, or bemoan the fact that we are here after a

1 year of delay.

2 And I just want Your Honor to remember, and
3 I'm sure you do, that the first request from Bresnan
4 was largely based on a Federal request for
5 interconnection. And subsequently that was amended and
6 finalized and so forth, but we had serious questions
7 about the rights, the Federal rights of Bresnan to
8 interconnect under the Federal rules, Federal
9 regulations and Federal law. And now we're in a
10 State-only proceeding operating solely under State law,
11 as you're all aware.

12 However, I want to reiterate just briefly,
13 again, my concern, my greatest fear, is that we back up
14 the truck to the back door and dump all of the Federal
15 law and regulations into the State law.

16 The reason why that's a concern for me is
17 because the State -- the Federal law not only has
18 obligations and duties for rural independent telephone
19 companies, but it also has safeguards and protections.
20 Specifically, as has been -- as has been mentioned,
21 specifically the Section 251(F)(1) rural exemption, but
22 even more importantly, in this particular context, is
23 the 251(F)(2) suspension or modification requests, that
24 really hasn't received much attention.

25 Under Federal procedures, a rural carrier

1 has the opportunity to request for a suspension or
2 modification of Federal rules, and it has a set of
3 standards upon which the rural carrier can actually
4 seek relief.

5 If we back -- do it back-door approach and
6 bring all of the Federal regulations and law into the
7 State law through the back door, UBTA UBET does not
8 have its opportunity to seek suspension or modification
9 and meet the standards of that -- of that test, because
10 we're in a State proceeding.

11 And so I would urge Your Honor to take very
12 carefully the considerations of what Mr. Coleman has
13 stated, and obviously what Bresnan has been appearing
14 to do, trying to get total element incremental cost
15 into this proceeding, without a review of what that is.

16 Ms. Wimer talked about that yesterday, and
17 I -- I think she did an excellent job -- or this
18 morning, an excellent job explaining that that is a
19 hypothetical network that does not have any rational
20 basis for the actual costs that are developed, or that
21 have -- have been realized by an incumbent telephone
22 company.

23 So that is -- I just wanted to get that kind
24 of off my -- off my chest. And I appreciate your
25 indulgence.

1 With regards to the interconnection raised
2 by Mr. Harris, and -- indirect interconnection, there
3 is a distinction. Mr. Harris says it's done every day
4 to independent TelCos and there's no problem. I would
5 also like to recognize that there's not a duty under
6 Federal law to interconnect indirectly. Actually, the
7 choice is -- they can -- they can interconnect directly
8 or indirectly under Federal law, and no one is required
9 to direct -- interconnect indirectly.

10 There is a distinction between indirect
11 interconnection that we've discussed in this
12 proceeding, and a distinction between a third-party
13 being an agent for a carrier. And I raised this
14 yesterday.

15 If Bresnan, in fact, wants to use Qwest to
16 interconnect with Bresnan at a technically feasible
17 point within UBTA -- I'm sorry, UBTA's network, it may
18 engage Qwest to do that, and use that tandem function
19 and deliver traffic to and from UBTA UBET through that
20 arrangement. They would have the sole financial
21 responsibility for all of those arrangements.

22 The Qwest transiting rate would be theirs,
23 both on originating traffic that they deliver to UBET,
24 and also on traffic that UBET would deliver to Bresnan.
25 That's -- because the point of interconnection, the

1 point of financial responsibility would be within
2 UBTA UBET's network. It would not be on a
3 third-party's network.

4 Specifically, the tandems that we've been
5 talking about, the UFN tandem or the Qwest tandem.

6 Mr. Harris also says, Well, feature group C,
7 everybody's doing it. Well, let's look at that a
8 little bit closer. In support of that statement, he --
9 he mentions Century Tel. And he also mentions that
10 Century Tel is using the tandem for EAS services.

11 Well, if Century Tel has EAS -- is using
12 that for EAS services, then it is indeed using that,
13 that connection, that feature group C connection with
14 agreement that local traffic can go over that
15 connection.

16 UBTA UBET does not have any EAS with Qwest,
17 and so none of those arrangements have been made. None
18 of those arrangements have been established.

19 And so when we affirm that those trunks are
20 for feature group C intraLATA toll, that's indeed what
21 they are in this specific case.

22 There's also another -- a question about
23 the -- for indirect interconnection, that Bresnan
24 continues to want to establish Provo at the point of --
25 point of indirect interconnection, or point of

1 connection.

2 There's -- there is clear evidence that that
3 connection, from Vernal to Provo, is at or near
4 capacity. And we have evidence showing that. And it's
5 not really refuted, that that is the case.

6 However, what Mr. Harris is saying is, Well,
7 if I take -- if Bresnan takes a customer from
8 UBTA UBET, then the toll traffic that's coming from --
9 that -- through that -- through that connection is
10 going to offset some of that, and we'll be able to make
11 it work.

12 Well, and also he says that -- that the
13 suggestion, or the consideration that Ms. Wimer brought
14 up yesterday, and I -- saying that it's likely that
15 that trunk would be augmented after 85 to 93 percent,
16 he glob bed onto that quite readily in saying they're
17 going to augment anyway, and so they're going to have
18 to do the feature group C augmentation anyway.

19 There's one specific fact regarding that
20 that I would like the -- Your Honor to recognize.

21 Yesterday, it was established that this
22 trunk group is a one-way -- is used as a one-way trunk
23 group trunk for traffic coming from Qwest to UBTA UBET.
24 And if Qwest receives an overflow, that is to say if
25 the trunk is full, at capacity, Qwest does not just

1 drop those calls and -- onto the -- what we call the
2 proverbial floor and leave them. It actually has,
3 according to the LERG, it has an alternative route, And
4 that alternative route is through the UFN tandem.

5 So if there is a need, which I don't think
6 there will be, to augment -- I'm sorry. Let me say
7 that again. I don't believe there's going to be a need
8 to augment, because that one-way traffic that Qwest is
9 delivering through that connection has a -- has an
10 established overflow to the UFN tandem.

11 And so I would encourage Your Honor not to
12 take the assumption that there's going to be
13 augmentation automatically as was suggested by
14 Mr. Harris.

15 I would also want to -- Mr. Harris said that
16 they're indifferent to the costs for set-up, and in
17 establishing connections and so forth.

18 I had mentioned, and it's unrefuted as at
19 present, that there is a device that can be configured
20 for the Vernal point of interconnection, where TDM
21 traffic, circuits -- which circuit-based traffic can be
22 converted to IP traffic and put on the IP pipe to
23 Grand Junction.

24 And that is an affordable and actually a
25 very reasonable thing to do, because the testimony of

1 Mr. Harris is that they're going to augment that trunk
2 from Vernal to Grand Junction in the near term, or
3 they're planning it, or it's in the planning stages.

4 And having that piece of equipment, at that
5 center, at that head end, can alleviate all of this
6 problem. Because we have a -- then we would have a
7 situation where delivery of traffic would be within
8 the -- within -- certainly within the network of
9 UBTA UBET, and it would be -- it would be actually
10 within the exchange. It would be in Vernal. And so
11 local traffic would -- would -- would be exchanged at
12 the -- at the Vernal location.

13 With regards to reciprocal compensation.

14 This is a very different case for reciprocal
15 compensation. In fact, the -- the standard for
16 reciprocal compensation is a Federal standard. I was
17 very careful in not describing the exchange of
18 compensation between the two carriers yesterday -- or
19 two days ago, whatever it was, as reciprocal
20 compensation. Instead, I relied on the mutual exchange
21 of traffic, and the compensation related to such.

22 Reciprocal compensation, in the Western
23 Wireless case, in really any case, is based upon a
24 hypothetical network. It's based upon a set of
25 assumptions that does not reflect the actual costs that

1 the company has in the ground and in place for the
2 delivery of traffic.

3 And furthermore, the -- the issues of TELRIC
4 and those matters come up as well, because now
5 Mr. Harris -- or Bresnan is suggesting you rely on the
6 Qwest SGAT, the general terms that Qwest has
7 established. This is fully, totally inappropriate, for
8 a number of reasons.

9 Number one, the SGAT was based upon TELRIC
10 standards. It was -- that's the reason why you have
11 SGAT, is to actually establish TELRIC-based pricings
12 to -- to facilitate the interconnection of carriers
13 under Federal law, not under State.

14 Secondly, and those costs are not to be
15 shown as our costs.

16 And there's -- there's some concept of a
17 pool of rural exchanges that were used by the -- by
18 Qwest to report some costs. Three of those exchanges
19 were Vernal, Roosevelt, and Duchesne. There were a
20 pool of other -- there were a number of other exchanges
21 in that pool. We do not know what they are, but
22 they -- they were -- they were -- that that pool is
23 just not those three exchanges.

24 And so using that SGAT issue is not fully --
25 is not appropriate at this time, because we don't know

1 exactly what those other exchanges are.

2 Furthermore, in the dealing with urban and
3 tandem transport, the SGAT that Mr. Harris referred to
4 was not a rural suburban urban rate, it was a mileage
5 rate. It was actually a system-wide rate. And so that
6 would be fully, totally inappropriate for adoption in
7 this particular case.

8 Let me turn now to my last item, which is
9 the EAS service.

10 The EAS expanded area service is intended to
11 provide a benefit to consumers.

12 And UBTA UBET, and other carriers throughout
13 the country, frankly, try to establish EAS routes so
14 that -- to the benefit of the consumers.

15 And absent EAS, those costs -- those calls
16 are toll calls, and consumers have to pay a toll free
17 fee in order to make those calls.

18 So what commissions do, and what they have
19 done in this docket is they've looked at, Okay, we have
20 access rates that are to recover -- that are designed
21 to recover costs. If we establish an EAS rate, how
22 much revenue is going to be lost in terms of access
23 charges? Access revenue? And how can we make sure
24 that the company receives the cost recovery that was
25 based on those access rates?

1 And, in this particular instance, this
2 Commission has established a per-customer flat rate of
3 \$1.80 cents for the recovery of those costs.

4 Now we have Bresnan wanting to use those
5 network facilities, but not wanting to pay the
6 established rate for the use of those facilities. Your
7 \$1.80. They actually want to go to a per-minute rate
8 or whatnot. And actually a very small one at that.

9 But if you didn't have -- take the
10 hypothetical, if you did not have the EAS route, what
11 would you have? You would have access regime. You
12 would have toll calls.

13 And so the -- the -- I think the reflective,
14 and prudent thing to say is, well what would be the
15 access costs for those calls, if you were to do -- if
16 you were to allow a permanent rate to be established?
17 Certainly not using the Qwest SGAT for urban tandem
18 transport. And that would -- and that's --

19 Of course, you could take administrative
20 notice of that, because those tariffs are obviously on
21 file here. But the established rate for using UBET's
22 EAS network is a \$1.80 per subscriber, or per line that
23 uses it. That provides the opportunity to use the
24 service, not only the use of the service -- but the
25 opportunity to use the service, because it's a flat

1 rate based.

2 And that is, I believe, my comments that I
3 wanted to provide you.

4 ADMINISTRATIVE LAW JUDGE: Okay. Thank you,
5 Mr. Meredith.

6 No questions?

7 MS. SLAWSON: No.

8 MR. NELSON: I'm sorry, did you ask me?

9 ADMINISTRATIVE LAW JUDGE: Yeah.

10 MR. NELSON: Just one second.

11 ADMINISTRATIVE LAW JUDGE: Sure.

12 MR. NELSON: Can we be off the record for a
13 second?

14 ADMINISTRATIVE LAW JUDGE: Yeah.

15 MR. NELSON: No questions. Thank you.

16 ADMINISTRATIVE LAW JUDGE: All right. Thank
17 you.

18 Mr. Mecham, any questions?

19 MR. MECHAM: We're finished.

20 MR. NELSON: Mr. Ginsberg?

21 MR. GINSBERG: I do have a question.

22 Do you actually have your --

23 THE WITNESS: Yes, I do.

24 * * *

25

1 CROSS EXAMINATION

2 BY MR. GINSBERG:

3 Q. If you turn to R346. 347, 4C. It's on
4 page --

5 Hmm. Where are page numbers? 165. You'll
6 be able to find that.

7 A. R346, 347?

8 Q. 347-4, Cost-Based Pricing.

9 A. Yes.

10 Q. And then C, Route-Specific. This deals with
11 EAS.

12 A. Yes.

13 Q. And could you read that section just to us
14 in the record?

15 A. Yes. This is R 746-347-4.

16 Q. Right.

17 A. C. Route specific assumptions. "EAS cost
18 studies shall reflect route specific assumptions of
19 demand and direct costs attributable to facilities
20 investment and operating expenses."

21 Q. You seemed to apply that when these rates
22 were developed, that they would have included lost
23 access revenues?

24 A. They would have -- well, the -- my -- yes.

25 My discussion was you have a set of costs

1 that are going to be -- that are going to be recovered
2 through access, through those routes. Generally. This
3 is on EAS routes.

4 And when you -- and when you develop EAS
5 routes, you look at either the revenues or the costs,
6 because they're the same in that -- in that situation.
7 To develop the EAS.

8 Q. Do you know specifically, in Utah, whether
9 lost access revenues or related direct trunking costs
10 are included in the costs?

11 A. No. I know, according to this rule, that it
12 does reflect route-specific assumptions of demand, but
13 I don't know if that's exclusive or not.

14 MR. GINSBERG: Okay. Thank you.

15 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.
16 Thank you, Mr. Meredith.

17 Is Ms. Wimer going to testify?

18 MS. SLAWSON: No, she's not, Your Honor.

19 ADMINISTRATIVE LAW JUDGE: Okay.

20 Then we'll conclude with Mr. Harris. If you
21 would like to come up.

22 MR. NELSON: If I could have just a moment.

23 ADMINISTRATIVE LAW JUDGE: Sure.

24 MR. GINSBERG: We do still need to talk
25 about how best to end this. Because I think we never

1 did have that discussion about how -- how it would be
2 most useful to end it, with the briefing and this
3 matrix.

4 ADMINISTRATIVE LAW JUDGE: Yeah.

5 My understanding is the parties were going
6 to discuss the matrix.

7 Sorry.

8 MS. SLAWSON: We have, Your Honor.

9 ADMINISTRATIVE LAW JUDGE: Go ahead,
10 Mr. Nelson. Do you want to have Mr. Harris?

11 MR. NELSON: Bresnan has nothing further.
12 Thank you.

13 ADMINISTRATIVE LAW JUDGE: Then with that,
14 let's go off the record real quick.

15 (Whereupon, a discussion was
16 held off the record.)

17 ADMINISTRATIVE LAW JUDGE: Let's go on the
18 record. I just want to make sure we have all of the
19 exhibits.

20 So these are the exhibits that the reporter
21 has. She has B1, B2, B3, B4, B5, B6, 7, 8.

22 MR. MECHAM: Although Your Honor, I thought
23 the B6, 7, 8, and 9 were administrative notice.

24 ADMINISTRATIVE LAW JUDGE: Yes. Are just
25 administrative notice.

1 Then we have UU-1, UU-2, 3, 4, and 5.

2 MS. SLAWSON: We withdraw 5.

3 ADMINISTRATIVE LAW JUDGE: Okay.

4 And then we have URTA-1 --

5 MR. MECHAM: And that's it.

6 ADMINISTRATIVE LAW JUDGE: Okay. And then
7 DPU-1, 2, 3, and 4.

8 That's it. So everybody's got the exhibits
9 they want in. Right?

10 And I think everybody moved. There's
11 nothing missing?

12 Okay. For the admission of those exhibits.

13 Then with that, let's go ahead and discuss
14 the issues that the parties would like to raise in
15 their post-hearing briefs.

16 We'll start with Bresnan.

17 MR. NELSON: Okay. And do you want this on
18 the record or off the record, Your Honor?

19 ADMINISTRATIVE LAW JUDGE: We can do it on
20 the record.

21 MR. NELSON: I guess, from our perspective,
22 what we would be willing to do, and what I think we had
23 briefly contemplated is the following.

24 We'd be willing to, first, engage in a
25 process whereby Bresnan and UBTA UBET basically take

1 the two dueling versions of each paragraph, reduce
2 those onto a single document in some way that's not
3 impossible to read.

4 And in the meantime, while so doing, it
5 sounds like also discuss whether or not there may be
6 areas where the current disagreements might be resolved
7 with some mutually agreed-upon language.

8 And that, in so doing, basically, what we
9 would end up with is a document which then identifies
10 sort of paragraph by paragraph where there are
11 remaining disputes or issues, presents the two
12 competing language suggestions, and then identifies all
13 of the hopefully numerous paragraphs where there are no
14 disagreements, so that, in essence, what you will be
15 left with, and what the parties will have to brief,
16 would be an issue list, in essence which is broken down
17 paragraph by paragraph, with the different dueling
18 languages.

19 And so that's sort of what I thought might
20 be helpful, and might be workable.

21 And for our part, we certainly would be
22 happy to commit, you know, to work some reasonable
23 allocation, on an imbedded basis or incremental basis
24 of work, but some reasonable allocation of getting that
25 all accomplished.

1 And as between myself and Ms. Slawson, we
2 had talked about possibly taking about two weeks to do
3 that process. Then possibly taking an additional two
4 weeks to do initial briefs, assuming there are some
5 issues left to brief, which I think is a very fair
6 assumption.

7 And then the initial schedule that you had
8 proposed contemplates reply briefs, and so possibly
9 then another week past that I would suggest to do reply
10 briefs, so that basically by, call it mid-March or so,
11 the whole thing gets wrapped up and is ready for your
12 deliberations and the Commission's decision.

13 ADMINISTRATIVE LAW JUDGE: Okay.

14 MR. GINSBERG: I think the initial schedule
15 thought that there would be a lot longer time after the
16 initial brief for the reply brief. Four weeks.

17 ADMINISTRATIVE LAW JUDGE: Here's what I
18 see --

19 MR. NELSON: The initial schedule
20 contemplated four weeks. I think I'm just hoping if we
21 spend two weeks of going through this process of
22 narrowing the issues, and we've now then taken the
23 initial brief to a month past the hearing instead of
24 just a week or so past the hearing. That we not add
25 another month on to that process, because we're now

1 expanding greatly on the schedule that was already
2 ordered.

3 MR. GINSBERG: I think it's fine not to go a
4 month, but a week is a little too short. I'm not sure
5 what the --

6 MR. NELSON: Two weeks?

7 MR. MECHAM: For the first couple of weeks,
8 neither Mr. Ginsberg nor I will be involved in that, so
9 having a little extra time wouldn't hurt us.

10 MS. SLAWSON: I would think we would be very
11 good at two weeks.

12 MR. NELSON: Two weeks is fine, with a
13 six-week process with two-week increments to do the
14 three different steps.

15 ADMINISTRATIVE LAW JUDGE: Yeah, because
16 that's just -- that's about ten days past the original
17 date that we had set.

18 MR. NELSON: And that would be acceptable.

19 ADMINISTRATIVE LAW JUDGE: Okay.

20 Any other comments? Jokes?

21 MS. SLAWSON: Your Honor, I would just say
22 and I'm sure that goes without saying, but it would be
23 helpful for us to get -- we have a PDF format of the
24 agreement. If we get a Word format of your agreement,
25 we could track changes.

1 MR. NELSON: Yes.

2 MS. SLAWSON: Thank you.

3 MR. NELSON: Absolutely. I'll commit to
4 putting a Word document together, and Ms. Slawson and I
5 am sure we'll be able to have a discussion about
6 logistically how we might make the next couple of week
7 process work seamlessly.

8 MR. GINSBERG: Will the matrix only have
9 just the language, or will it have any additional
10 summary of positions on it, or --

11 MR. NELSON: The idea for the first two-week
12 process is simply to identify the language. The
13 positions summaries would then be reflected in the
14 subsequent briefs, and hopefully, if we have sort of a
15 structure of the language disagreements, that will then
16 be able to be tracked in the briefs so that it's pretty
17 easy for the Commission to put the positions sort of
18 side by side with the language changes, is what I would
19 suggest. If that's acceptable.

20 ADMINISTRATIVE LAW JUDGE: Maybe we should
21 set that two-week period. Something simple. Quick
22 outline typed thing at the back of your -- you know,
23 the dual interconnection agreements where we just --
24 everybody knows, okay, this is the order.

25 MR. NELSON: Okay. Right. And we'll

1 certainly endeavor, because I know there are, for
2 example, there may be some issues which are sort of
3 linked, and so to the extent it would be helpful for --

4 ADMINISTRATIVE LAW JUDGE: Right.

5 MR. NELSON: -- the other parties, if we can
6 identify the -- that -- you know, I'll give you an
7 example a Federal preemption language, as I indicated,
8 and we discussed that shows up three different places,
9 and so we could gut a little index together that says
10 Federal preemption issue, if that still exists, is
11 found in these three different sections.

12 ADMINISTRATIVE LAW JUDGE: Okay.

13 MR. NELSON: Hopefully that is user
14 friendly --

15 ADMINISTRATIVE LAW JUDGE: Okay.

16 Any other comments?

17 MR. GINSBERG: So, it was just measuring
18 from today, or could we like start from Monday, and
19 just go from the -- two weeks? To two weeks.

20 ADMINISTRATIVE LAW JUDGE: We'll start
21 Monday. Obviously you can start beforehand.

22 MR. GINSBERG: I'm just trying to -- so I
23 put dates down.

24 ADMINISTRATIVE LAW JUDGE: Somebody took my
25 calendar. Can somebody give me some dates?

1 MR. NELSON: Just one second.

2 ADMINISTRATIVE LAW JUDGE: Or two weeks from
3 Monday.

4 MR. MECHAM: Is the 16th.

5 ADMINISTRATIVE LAW JUDGE: Of February?

6 MR. MECHAM: I think that's President's Day.

7 ADMINISTRATIVE LAW JUDGE: Is that a
8 holiday? So start the 17th?

9 MR. GINSBERG: And then the initial briefs
10 would be due one month after that, which would be -- or
11 what was it, two weeks after that?

12 MR. NELSON: Two weeks. So the matrix on
13 the 17th. The initial briefs on March 2nd.

14 MS. SLAWSON: Matrix begins on the 7th?
15 We -- the period --

16 We're not providing the matrix on the 17th?

17 Oh, on the 17th. Sorry. I'm with you.

18 MR. NELSON: On the 17th we provide the
19 matrix. On March 2nd, initial briefs. March 16th,
20 that's the two-weeks from that Monday, for reply
21 briefs?

22 MR. MECHAM: That gets us to March.

23 ADMINISTRATIVE LAW JUDGE: Okay.

24 Do you need the Commission to issue kind of
25 an interim order on those dates, or --

1 MR. GINSBERG: Probably not.

2 ADMINISTRATIVE LAW JUDGE: Or can I replay
3 this?

4 MR. NELSON: I think if you simply order
5 them on the record here, that's probably good enough to
6 me.

7 ADMINISTRATIVE LAW JUDGE: What we'll do is
8 two weeks from Monday, beginning Monday, the matrix
9 will be due in that two-week period set for February
10 17th. Two weeks after February 17th, initial briefs
11 are due. And that's March 2nd.

12 MR. NELSON: Okay. Okay. I'm sorry. I may
13 have confused you.

14 March 17th is a Tuesday, because I was
15 overhearing that the two-weeks from Monday is a
16 holiday.

17 ADMINISTRATIVE LAW JUDGE: You're right.

18 MR. NELSON: For President's Day? So it's
19 actually the third -- not exactly two weeks from 17th
20 to the 2nd?

21 ADMINISTRATIVE LAW JUDGE: Does anybody have
22 any heartburn about putting on March 2nd? One day?

23 MR. NELSON: No. That's fine.

24 MR. MECHAM: No.

25 ADMINISTRATIVE LAW JUDGE: Then initial

1 briefs will be due March 2nd, and then reply briefs due
2 March 16th.

3 And the Commission will issue an order
4 March 17th. Just kidding.

5 MR. NELSON: That would be marvelous.

6 MR. GINSBERG: Yeah. That was the joke.

7 ADMINISTRATIVE LAW JUDGE: That was a bad
8 joke.

9 Anything else then? All right. Thank you
10 everybody.

11 (Whereupon, the hearing
12 was concluded at 12:45 p.m.)

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1 STATE OF UTAH)
2 COUNTY OF SALT LAKE) ss

3
4 THIS IS TO CERTIFY that the foregoing
5 proceeding in the foregoing cause named, was taken
6 before me, DEBRA A. DIBBLE, a Certified Shorthand
7 Reporter and Notary Public in and for the State of
8 Utah, residing at Woodland, Utah.

9 That the testimony of said proceeding was
10 reported by me in Stenotype, and thereafter caused by
11 me to be transcribed into typewriting, and that a full,
12 true and correct transcription of said testimony so
13 taken and transcribed is set forth in the foregoing
14 annexed transcript.

15 I further certify that I am not of kin or
16 otherwise associated with any of the parties to said
17 cause of action, and that I am not interested in the
18 event thereof.

19 IN WITNESS WHEREOF, I have hereunto set
20 my hand this ___ day of
21 _____, 2009.

22
23
24
25
Debra A. Dibble, C.S.R., R.P.R.