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Alex M. Duarte

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September 21, 2006

Honorable Allan Arlow
Administrative Law Judge
Administrative Hearings Division
Public Utility Commission of Oregon
P. O. Box 2148
Salem, OR 97308-2148

Re: UM 1251- Joint Submission of 6/13/06 Transcript from Utah *TRRO* Docket

Dear Judge Arlow:

As we mentioned on June 30, 2006, when the parties first raised the issue of waiving the evidentiary hearing in this docket, the parties requested that they be able to use the transcript of the June 13, 2006 evidentiary hearing before the Utah Public Service Commission in its *TRRO* wire center non-impairment docket. Accordingly, as Qwest mentions in a footnote in its opening post-hearing brief that it is filing this afternoon, the parties submit this transcript as part of the record in this docket. Please note that there were about 11 pages (pp. 152-162) that addressed confidential or highly-confidential information in that Utah docket. Because of the confidentiality of that material, and that it is Utah-specific and thus has no bearing on this docket, we have submitted only the public version of the transcript.

Thank you for your attention to this matter. If you have any questions regarding this matter, please feel free to call me at your convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alex M. Duarte". The signature is fluid and cursive, with a large, prominent "A" at the beginning.

Alex M. Duarte

cc Service List (w/o encl.)

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

)
) DOCKET NO. 06-049-40

In the Matter of the)
Investigation into) TRANSCRIPT OF
Qwest Wire Center Data) PROCEEDINGS

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)

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

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

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

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25

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

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

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

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

17 JUDGE GOODWILL: For Qwest?

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

24 JUDGE GOODWILL: That's fine, Mr. Monson.
25 And for the Division?

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

3 JUDGE GOODWILL: Great. Thanks.

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

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

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

21 MR. DUARTE: Thank you, your Honor.

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

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

7 JUDGE GOODWILL: Mr. Kopta?

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

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

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

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

21 MS. ALBERSHEIM: I do.

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

24 /

25 /

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

4 DIRECT EXAMINATION

5 BY MR. DUARTE:

6 Q. Good morning, Ms. Albersheim.

7 A. Good morning.

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

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

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

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

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

18 A. Yes, I did.

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

21 A. Yes.

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

24 A. Yes.

25 Q. Does your Direct Testimony also have three

1 exhibits?

2 A. Yes, it does.

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

6 A. No.

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

9 A. No.

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

12 A. No.

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

15 A. No.

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

19 A. Yes.

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

24 A. Yes.

25 Q. And are all of your other exhibits

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

5 A. Yes.

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

10 A. Yes.

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

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

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

24 JUDGE GOODWILL: Any objections?

25 MR. KOPTA: No objection.

1 JUDGE GOODWILL: They're admitted.

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

4 A. No.

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

10 A. Yes, I do.

11 Q. You may proceed.

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

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

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

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

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

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

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

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

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

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

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

14 That conclusions my formal Surrebuttal.

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

18 JUDGE GOODWILL: Mr. Kopta?

19 MR. KOPTA: Thank you, your Honor.

20 CROSS-EXAMINATION

21 BY MR. KOPTA:

22 Q. Good morning, Ms. Albersheim.

23 A. Good morning.

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

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

5 A. Yes.

6 Q. And so what will that data include?

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

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

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

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

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

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

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

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

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

9 A. Yes.

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

15 A. Yes.

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

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

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

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

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

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

3 A. Yes.

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

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

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

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

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

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

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

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

3 A. Yes.

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

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

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

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

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

18 A. Yes.

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

20 A. No, I do not.

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

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

25 A. I'm there.

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

8 A. Yes.

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

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

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

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

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

24 A. (Indicating affirmatively.)

25 Q. Which is actually from the Wireline

1 Competition Bureau as opposed to the FCC, right?

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

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

5 A. I'm there.

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

13 A. Yes.

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

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

22 A. Not that I'm aware of.

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

25 A. Well, are you speaking of business lines

1 or fiber-based co-locaters?

2 Q. Both.

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

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

20 A. Yes.

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

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

1 over to page 4, lines 56 through 58.

2 MR. DUARTE: Thanks.

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

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

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

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

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

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

1 providers.

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

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

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

12 A. It could.

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

15 JUDGE GOODWILL: Mr. Duarte?

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

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

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

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

24 CROSS-EXAMINATION

25 BY MR. GINSBERG:

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

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

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

13 A. That's correct.

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

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

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

23 A. Yes.

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

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

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

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

8 A. That's a possibility.

9 MR. GINSBERG: No more questions.

10 JUDGE GOODWILL: Now Mr. Duarte.

11 MR. DUARTE: Thank you, your Honor.

12 REDIRECT EXAMINATION

13 BY MR. DUARTE:

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

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

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

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

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

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

12 A. Yes, that's true.

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

20 A. Yes.

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

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

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

5 JUDGE GOODWILL: Mr. Kopta?

6 MR. KOPTA: Nothing further, your Honor.

7 JUDGE GOODWILL: Mr. Ginsberg?

8 MR. GINSBERG: Nothing.

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

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

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

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

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

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

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

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

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

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

14 MR. DUARTE: No, your Honor.

15 JUDGE GOODWILL: Okay. Thank you.

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

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

23 MR. TEITZEL: I do.

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

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

4 DIRECT EXAMINATION

5 BY MR. DUARTE:

6 Q. Good morning, Mr. Teitzel.

7 A. Good morning.

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

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

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

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

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

21 A. Yes, I did.

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

24 A. Yes, it does.

25 Q. Is that exhibit to your Direct Testimony

1 "Confidential" or "Highly Confidential"?

2 A. It is "Highly Confidential."

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

5 A. It does not.

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

8 A. Yes, it does.

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

11 A. That exhibit is "Highly Confidential."

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

14 A. No, I don't.

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

18 A. Yes, they are.

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

23 A. Yes, they are.

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

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

4 A. That's correct.

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

9 A. Yes, it would.

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

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

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

8 JUDGE GOODWILL: Any objections?

9 MR. KOPTA: No objection, your Honor.

10 MR. GINSBERG: No.

11 JUDGE GOODWILL: They're admitted.

12 MR. DUARTE: Thank you, your Honor.

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

15 A. Yes, I do.

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

17 A. Yes, I will. And this will be very brief.

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

25 And this entire discussion relative to

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

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

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

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

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

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

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

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

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

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

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

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

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

1 threshold.

2 Thank you.

3 Q. Thank you, Mr. Teitzel.

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

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

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

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

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

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

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

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

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

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

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

1 Wire center.

2 And that's the extent of my Surrebuttal.

3 Thank you, Your Honor.

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

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

8 JUDGE GOODWILL: Mr. Kopta?

9 MR. KOPTA: Thank you, your Honor.

10 CROSS-EXAMINATION

11 BY MR. KOPTA:

12 Q. Good morning, Mr. Teitzel.

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

14 Q. And you.

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

21 A. Yes, I do.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 A. I see your question.

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

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

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

19 Q. But it could be done?

20 A. Correct, theoretically it could be done.

21 Q. If you would, please turn to your
22 Surrebuttal Testimony.

23 A. I have that.

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

25 A. I have that page.

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

8 A. Yes, it was.

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

12 A. That's correct.

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

18 A. That is correct.

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

22 A. I did not.

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

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

1 is looked at at the statewide level.

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

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

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

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

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

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

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

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

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

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

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

20 A. Thank you.

21 JUDGE GOODWILL: Mr. Ginsberg?

22 CROSS-EXAMINATION

23 BY MR. GINSBERG:

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

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

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

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

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

11 MR. GINSBERG: Yes.

12 JUDGE GOODWILL: Thanks, Mr. Duarte.

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

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

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

1 A. Yes, it does.

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

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

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

10 A. It does not.

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

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

16 Q. So where do you get that information?

17 A. It's our wholesale tracking system.

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

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

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

3 A. No, we do not.

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

6 A. Yes, we do.

7 Q. Now, on this table --

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

10 MR. GINSBERG: Page 5.

11 JUDGE GOODWILL: Okay. Thanks.

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

14 A. Yes, I do.

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

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

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

1 channels?

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

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

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

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

23 A. Yes.

24 Q. How would you do that?

25 A. It would take a very complicated

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

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

6 A. Absolutely.

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

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

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

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

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

19 MR. GINSBERG: Thank you.

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

25 A. Yes, I believe.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 A. Yes, it is.

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

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

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

13 A. Yes, I can.

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

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

1 line access threshold.

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

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

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

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

19 A. That's correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 A. I'm sorry, sir?

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

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

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

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

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

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

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

14 A. It could get a little bit closer.

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

21 A. That's potentially possible.

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

24 A. No.

25 MR. GINSBERG: Thank you.

1 THE WITNESS: Thank you, sir.

2 JUDGE GOODWILL: Mr. Duarte?

3 MR. DUARTE: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. DUARTE:

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

11 A. That's my understanding.

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

17 A. That's correct.

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

25 A. Well, it requires an additional process

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

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

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

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

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

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

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

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

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

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

13 A. I would agree with that.

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

20 A. That's correct.

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

24 A. Yes, it does exist.

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

1 research to determine that?

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

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

6 JUDGE GOODWILL: Mr. Kopta?

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

9 JUDGE GOODWILL: Mr. Ginsberg?

10 RECROSS-EXAMINATION

11 BY MR. GINSBERG:

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

14 A. I do not.

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

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

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

25 MR. GINSBERG: Sorry. Were you finished?

1 MR. DUARTE: Yes.

2 JUDGE GOODWILL: Repeat your question for
3 me.

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

15 Do you recall that kind of language?

16 A. Yes, I do.

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

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

24 JUDGE GOODWILL: That would be great.

25 MR. DUARTE: Thank you, Your Honor.

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

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

6 Q. What bypass is this talking about?

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

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

24 MR. GINSBERG: Okay. Thank you.

25 MR. TEITZEL: You're welcome.

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

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

6 MR. TEITZEL: Sure.

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

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

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

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

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

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

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

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

25 JUDGE GOODWILL: Now, the CLECs have

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

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

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

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

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

22 MR. TEITZEL: That's correct.

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

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

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

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

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

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

1 average that you're referring to?

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

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

16 MR. TEITZEL: Sure.

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

25 MR. TEITZEL: That's fair.

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

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

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

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

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

3 JUDGE GOODWILL: Okay. Thank you.

4 Any further questions based on my
5 questioning?

6 MR. DUARTE: No, Your Honor.

7 JUDGE GOODWILL: Mr. Kopta?

8 RECROSS-EXAMINATION

9 BY MR. KOPTA:

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

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

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

21 A. Yes, it is.

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

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

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

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

11 MR. KOPTA: That's correct.

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

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

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

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

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

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

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

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

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

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

20 A. It's possible.

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

22 JUDGE GOODWILL: Anything further?

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

25 /

1 REXCROSS-EXAMINATION

2 BY MR. GINSBERG:

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

7 A. Yes, we did.

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

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

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

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

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

1 exhibit?

2 A. Yes.

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

4 A. Why did not we do that here?

5 Q. Yes.

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

11 Q. Using a statewide average?

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

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

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

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

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

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

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

11 Q. Okay. Thank you.

12 A. You're welcome.

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

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

17 FURTHER REDIRECT EXAMINATION

18 BY MR. DUARTE:

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

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

1 that calculation. It may or may not be.

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

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

6 Q. Sure.

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

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

12 A. Surrebuttal.

13 Q. Surrebuttal, right.

14 A. Then I answered that question properly.

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

18 A. Yes.

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

22 A. That's also correct.

23 Q. And that was based on 2003 data?

24 A. Yes, it was.

25 Q. And Mr. Coleman did not advocate 2004

1 vintage data like the Joint CLECs, did he?

2 A. He did not.

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

5 JUDGE GOODWILL: Mr. Kopta?

6 FURTHER RECROSS-EXAMINATION

7 BY MR. KOPTA:

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

14 A. That's my understanding.

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

19 A. That's also correct.

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

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

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

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

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

23 MR. TEITZEL: Yes, it does.

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

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

3 FURTHER RECROSS-EXAMINATION

4 BY MR. GINSBERG:

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

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

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

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

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

25 Q. But even the order seems to say that

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

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

13 MR. GINSBERG: Okay.

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

23 THE WITNESS: That's correct.

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

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

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

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

25 MR. TEITZEL: I'm sorry?

1 JUDGE GOODWILL: In issuing its reports?

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

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

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

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

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

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

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

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

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

19 JUDGE GOODWILL: Okay. Anything further?

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

22 FURTHER REDIRECT EXAMINATION

23 BY MR. DUARTE:

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

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

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

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

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

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

22 A. Yes.

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

1 use?

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

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

7 A. And your question again, please?

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

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

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

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

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

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

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

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

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

20 A. Yes.

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

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

1 (Recess taken.)

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

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

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

17 JUDGE GOODWILL: Okay.

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

1 JUDGE GOODWILL: Okay.

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

11 JUDGE GOODWILL: Thanks.

12 MR. DUARTE: Thanks, your Honor.

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

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

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

22 MR. DUARTE: Thank you, Your Honor.

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

25 JUDGE GOODWILL: Ms. Torrence, if you will

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

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

6 MS. TORRENCE: Yes.

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

9 MR. DUARTE: Thank you, your Honor.

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

13 DIRECT EXAMINATION

14 BY MR. DUARTE:

15 Q. Good morning, Ms. Torrence.

16 A. Good morning.

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

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

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

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

1 Department.

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

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

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

12 A. Yes, I did.

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

15 A. Yes.

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

18 A. Two are considered highly confidential.

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

21 A. Yes.

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

24 A. No.

25 Q. Does your Response Testimony have any

1 exhibits?

2 A. Yes, two.

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

5 A. They were both confidential.

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

8 A. There were none, no.

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

11 A. I do not.

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

15 A. Yes, they are.

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

20 A. Yes.

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

1 A. Yes.

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

6 A. They would, yes.

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

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

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

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

3 JUDGE GOODWILL: Any objections to their
4 admission?

5 MR. KOPTA: No objection.

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

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

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

16 A. I do.

17 Q. Please do so.

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

25 I feel that is an incorrect statement

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

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

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

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

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

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

1 That concludes my Surrebuttal.

2 Q. Thank you, Ms. Torrence.

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

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

10 MR. KOPTA: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. KOPTA:

13 Q. Good morning, Ms. Torrence.

14 A. Good morning.

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

17 A. Yes.

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

25 A. Yes, I do.

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

6 A. A substantial portion of both.

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

12 A. Yes.

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

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

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

23 A. I don't see why not.

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

1 goes to the co-located spaces?

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

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

9 A. I'm there.

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

13 A. Yes.

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

18 A. Yes.

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

23 A. That's true.

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

1 designated as a Tier 2 wire center?

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

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

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

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

1 A. I haven't gotten that far.

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

8 A. Yes.

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

13 A. That's right.

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

17 A. Yes.

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

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

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

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

8 A. Right.

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

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

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

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

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

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

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

11 A. Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 JUDGE GOODWILL: Mr. Ginsberg?

19 CROSS-EXAMINATION

20 BY MR. GINSBERG:

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

24 A. Yes.

25 Q. As I understand it, the determination of

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

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

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

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

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

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

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

12 Q. Right.

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

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

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

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

1 this carrier didn't answer your questions?

2 A. They chose not to, right.

3 Q. You could have requested an order

4 compelling them to, could you not?

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

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

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

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

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

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

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

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

1 A. Absolutely.

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

4 A. Yes.

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

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

12 MR. GINSBERG: Thank you.

13 JUDGE GOODWILL: Mr. Duarte.

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

16 REDIRECT EXAMINATION

17 BY MR. DUARTE:

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

1 whatever needs to be done?

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

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

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

10 MR. KOPTA: No.

11 JUDGE GOODWILL: Mr. Ginsberg?

12 Thank you very much.

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

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

21 THE WITNESS: I do.

22 JUDGE GOODWILL: Please be seated.

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

1 DIRECT EXAMINATION

2 BY MR. DUARTE:

3 Q. Good morning, Ms. Million.

4 A. Good morning.

5 Q. State your full name and business address.

6 A. My name is Teresa K. Million. The address
7 is the 47th Floor, 1801 California Street, Denver,
8 Colorado, 80202.

9 Q. Ms. Million, who do you work for and what
10 is your position?

11 A. I work for Qwest Services Corporation and
12 I work as a Staff Director in the public policy
13 organization.

14 Q. And, Ms. Million, did you prepare Direct
15 Testimony that was filed on March 24, 2006 and
16 Response Testimony that was filed on May 24, 2006?

17 A. Yes, I did.

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

20 A. No, it does not.

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

23 A. Yes, it does.

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

1 A. No, they are not.

2 Q. Did you file any Surrebuttal Testimony?

3 A. No.

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

6 A. No.

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

10 A. Yes, they are.

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

15 A. Yes, they would.

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

21 A. Yes.

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

1 A. Yes, they would.

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

12 JUDGE GOODWILL: Any objections?

13 MR. KOPTA: No objections.

14 JUDGE GOODWILL: They're admitted.

15 MR. DUARTE: Thank you, your Honor.

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

18 A. I do not.

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

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

1 Q. Please do so.

2 A. Thank you.

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

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

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

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

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

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

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

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

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

6 And that concludes my Surrebuttal.

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

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

11 JUDGE GOODWILL: Mr. Kopta?

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

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

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

19 MR. DUARTE: Good point.

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

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

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

3 THE WITNESS: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

12 (Noon recess taken.)

13 --ooOoo--

14 1:15 p.m.

June 13, 2006

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

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

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

25 MR. DENNEY: Yes.

1 JUDGE GOODWILL: Thanks. Please be
2 seated.

3 Mr. Kopta?

4 MR. KOPTA: Thank you, your Honor.

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

8 DIRECT EXAMINATION

9 BY MR. KOPTA:

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

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

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

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

3 A. Yes.

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

6 A. Yes, they were.

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

10 A. Yes.

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

15 A. Yes.

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

18 A. No.

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

22 JUDGE GOODWILL: Any objections?

23 MR. DUARTE: No objections, your Honor.

24 JUDGE GOODWILL: They are admitted.

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

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

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

7 MR. DUARTE: No objections, your Honor.

8 JUDGE GOODWILL: Okay. Go ahead.

9 MR. KOPTA: Thank you, your Honor.

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

14 A. Yes.

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

17 A. Yes, I have a few responses.

18 Q. Would you make those now, please?

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

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

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

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

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

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

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

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

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

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

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

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

25 And very important, these calculations

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

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

25 So Qwest field verifications failed and

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

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

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

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

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

22 Thank you.

23 MR. KOPTA: Those are all my questions.

24 Mr. Denney is available for cross-examination.

25 JUDGE GOODWILL: Mr. Duarte?

1 MR. DUARTE: Thank you, your Honor.

2 CROSS-EXAMINATION

3 BY MR. DUARTE:

4 Q. Good afternoon, Mr. Denney.

5 A. Good afternoon.

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

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

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

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

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

19 A. That's correct.

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

22 A. Yes.

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

1 Rhode Island. Do you see that?

2 A. Yes, I do.

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

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

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

14 A. That's correct.

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

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

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

25 A. Yes. The Ohio Commission issued an order

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

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

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

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

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

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

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

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

15 Q. Thank you.

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

19 MR. GINSBERG: Page 5.

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

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

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

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

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

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

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

20 A. Yes, that is correct.

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

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

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

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

11 A. That's correct.

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

13 A. Yes.

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

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

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

3 A. No.

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

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

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

15 A. In the ARMIS data?

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

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

1 the TRRO.

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

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

7 Q. Or any other ILEC, sure.

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

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

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

22 Q. For wholesale?

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

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

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

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

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

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

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

1 business line count?

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

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

15 A. No, that's correct.

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

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

1 in a lot of the states.

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

7 A. No, that's correct.

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

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

16 Q. Thank you.

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

22 A. Yes, I would agree with that.

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

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

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

9 A. Yes.

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

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

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

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

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

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

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

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

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

23 A. Yes, that's correct.

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

1 A. Yes.

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

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

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

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

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

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

16 A. Yes, it has.

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

20 A. That's correct.

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

1 say that Qwest adjusted certain ARMIS data?

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

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

9 A. But I'm not --

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

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

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

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

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

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

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

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

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

20 (Laughter.)

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

25 A. That's correct.

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

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

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

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

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

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

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

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

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

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

25 A. Are you just asking me if the Commission

1 made a final determination?

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

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

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

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

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

23 MR. GINSBERG: I was just curious why it's
24 confidential who the carrier is.

25 MR. DUARTE: That's a good question.

1 MR. GINSBERG: As opposed to what's in
2 their facilities? I mean, why is the name of the
3 carrier confidential?

4 JUDGE GOODWILL: That was a Qwest exhibit;
5 is that right?

6 MR. DUARTE: No, that was -- well, the
7 backup data with respect to the communications and
8 all that, we certainly consider that to be
9 confidential. The kind of questions that I want to
10 ask Mr. Denney I don't believe are confidential at
11 all. Mr. Denney in his testimony at page 6 did put
12 the name in brackets as confidential, and that's the
13 only thing that he put in as confidential. And I
14 don't think we have to name that carrier, but in the
15 course of my questions it may be pretty easy to
16 figure out who that carrier is.

17 JUDGE GOODWILL: That's the Surrebuttal
18 Testimony at page 6, line 9?

19 MR. DUARTE: Right.

20 MR. DENNEY: It's because I took that
21 information from Qwest proprietary sheets, you know,
22 regarding those two particular wire centers that are
23 mentioned earlier in that paragraph. So I considered
24 that to be confidential. If we get in -- you get in
25 any discussions regarding attempts to verify any

1 discussions I had with that carrier, that's
2 considered highly confidential.

3 MR. DUARTE: Then I think under those
4 circumstances, your Honor, it would be prudent to
5 close the hearing for a few minutes.

6 JUDGE GOODWILL: Because we're going to
7 discuss what?

8 MR. DUARTE: What discussion he made of
9 that particular carrier.

10 JUDGE GOODWILL: And conversations that
11 you had with that carrier?

12 MR. DENNEY: Yes.

13 MR. DUARTE: It sounds that Mr. Denney
14 believes that any conversations he had with that
15 carrier would be considered confidential so maybe
16 it's prudent that we just go ahead and close the
17 hearings just for those questions.

18 JUDGE GOODWILL: Comments on that from
19 anybody else?

20 MR. KOPTA: It seems appropriate.

21 JUDGE GOODWILL: Any way around that?
22 All right. And we're talking highly confidential?

23 MR. DUARTE: Yes. Highly confidential,
24 yes, your Honor.

25 JUDGE GOODWILL: What we will do for the

1 next few minutes is close this hearing to anyone who
2 is not entitled under the terms of the Commission's
3 Protective Order to highly confidential information.
4 And I will rely on the parties to look around the
5 room and try to make sure that everybody here has
6 either signed the appropriate appendix to the
7 protective order, otherwise Commission staff.

8 MR. GINSBERG: Can we, though, during this
9 discussion allow us to ask our questions dealing with
10 this issue surrounding these two offices so we don't
11 have to --

12 JUDGE GOODWILL: Sure. I think that's the
13 right way to proceed.

14 MR. DUARTE: Sure.

15 JUDGE GOODWILL: Is everybody satisfied
16 with those who are in the room currently?

17 Okay. We will now go off the public
18 record and onto the record in a sealed proceedings,
19 closed proceedings to discuss some highly
20 confidential matters. And this portion of the
21 transcript will be kept separately from the remainder
22 of the transcript. With that, Mr. Duarte.

23 MR. DUARTE: Thank you, your Honor.

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CLOSED SESSION

1 (Resuming Hearing After Closed Session.)

2 Q. (BY MR. DUARTE) Mr. Denney, if I can now
3 refer you to page 18 of your Surrebuttal Testimony
4 and specifically line 7 through 10.

5 A. Okay.

6 Q. Now, I think it's pretty clear from this
7 language, but I want to just confirm that when you
8 talk about that Qwest should be limited to
9 essentially a once a year update, you are just
10 talking about the business line part of this
11 exercise; is that correct?

12 A. Right. The full, the total set of
13 business, right, line counts in their entirety.

14 Q. So this once a year process or once a year
15 limitation wouldn't apply to the fiber co-location
16 piece of this exercise, right?

17 A. That's correct.

18 Q. Because that doesn't rely on ARMIS or
19 annual filings, correct?

20 A. That's correct.

21 Q. So then if tomorrow Qwest were to
22 determine that there were four fiber-based
23 co-locaters in a certain wire center and that met the
24 threshold for a certain product, Qwest could then
25 tomorrow make that update or seek to update that wire

1 center to add that to the list?

2 A. Right. I mean, I agree that we haven't
3 asked for any restrictions on Qwest making updates to
4 the list based on fiber-based co-locaters. Some
5 question comes in if it's based on both fiber-based
6 co-locaters and line counts and you get into a
7 situation, you know, such as March 29th when Qwest
8 makes an update and we know there's going to be new
9 ARMIS data coming out in two days and Qwest makes an
10 update on ARMIS data that's well over a year old. I
11 mean, I think that still may be an issue. But
12 updates based on fiber-based co-locations, we haven't
13 argued that Qwest should not be able to update that
14 as that becomes available.

15 Q. That's what we thought, we just wanted to
16 confirm that there was no surprises about any
17 advocacy.

18 Sir, if I can direct your attention to
19 page 19 of your Surrebuttal Testimony, you use an
20 example here starting at line 5 of 100 businesses,
21 each purchasing four business lines. Now, by 100
22 businesses, you do mean 100 Qwest business end-user
23 customers; is that correct?

24 A. Yes.

25 Q. So in your example you're saying that not

1 one or two or 10 or even 25 end-user customers, but
2 100 different Qwest business user customers would all
3 have to get service with a DS1 loop instead of four
4 regular 1SD business lines, is that correct, in this
5 example?

6 A. In this particular example, right. What
7 I'm saying is Qwest could just offer up to provision
8 these businesses that way. In most states, I believe
9 Utah is one of them, Qwest can enter into IACB
10 contracts with businesses and provision each so the
11 cost could be the same to that particular business.
12 And this would basically -- this gives Qwest the
13 ability to manipulate the counts without actually
14 changing demand in a wire center.

15 Q. So when you say that Qwest could choose to
16 service this business, isn't it true that, the end
17 user customers aside, what kind of service that they
18 want?

19 A. Yeah, that's correct. But it doesn't stop
20 Qwest from making an offer to a customer saying,
21 Look, if you'll switch over to our DS1 service,
22 first, you'll have the ability to grow at a lower
23 cost and we'll provision this to you at the same
24 price, I suppose, of provisioning. There's all types
25 of deals that you could imagine whereby you could

1 convince a customer to move from their four analog
2 lines over to a T1.

3 Q. Okay. And here in Utah do you know what
4 the cost is for a T1 or DS1?

5 A. And I mean, there's a variety of different
6 rates in Qwest's price lists depending on if it's
7 ISDN. So I'm not real familiar with the retail
8 pricing of that. I did attempt to look at that. I
9 saw it was around \$300, but I'm not sure if I was
10 putting all the pieces together correctly.

11 Q. And can you tell me what the flat rated
12 business line is here in Utah for a 1FB?

13 A. Is it \$20?

14 Q. I don't know. I'm asking you. I'm
15 breaking my rule of asking a question that I don't
16 know the answer to.

17 A. You had me convinced there for a while. I
18 don't recall offhand. I believe it was around \$20.

19 Q. Okay. So in this hypothetical here you're
20 basically saying that if this were so, that for 104
21 line customers that Qwest, so that they could jack up
22 their business line counts, that Qwest would
23 provision, I guess with or without the customer's
24 consent, but to provision a DS1 with 24 channels and
25 therefore have 20 unused channels of capacity to each

1 of these 100 businesses so that we could be able to
2 increase our business line count; is that correct?

3 A. I said that's certainly a possibility.
4 That's a hypothetical situation showing that allowing
5 Qwest to count unused capacity rather than actual
6 line served gives Qwest some incentives to try to
7 provision things with more unused capacity on them so
8 that it could count greater line counts. That's the
9 purpose of the example here.

10 Q. I think I'm going to safely say or ask you
11 that you're not aware of Qwest ever doing that, are
12 you?

13 A. I'm not aware of that.

14 Q. And finally, sir, if I can direct your
15 attention to page 29, line 7 and 8 and 12 and 13 of
16 your Surrebuttal.

17 A. Sorry, lines 7 and 8 and --

18 Q. And 12 and 13. Basically, it's two
19 sentences in a row that kind of talk about the same
20 thing.

21 A. Okay.

22 Q. So you say that "Qwest may well claim that
23 every wire center is impaired." You're not aware of
24 Qwest trying to just throw up every wire center on
25 the wall and say, you know, we hope that this all

1 meets the business line count threshold and we want
2 it to stick?

3 A. I'm not aware of that happening, but the
4 way I understood Qwest's proposals were they could
5 file these lists with the Commissions and then go
6 into effect 30 days whether or not the CLEC objected,
7 there was no downside to Qwest just filing everything
8 that way and then the CLECs would have a total of 30
9 days to try to get on something else or risk whether
10 or not there's going to be supporting data for that.

11 Q. Based on your decade of experience in the
12 telecom industry, do you think that any rational
13 carrier would do something like that?

14 MR. DIAMOND: Don't get him started.

15 MR. DENNEY: I think -- I don't think
16 Qwest would file every wire center that way. I
17 certainly believe Qwest would file exact -- I mean,
18 to the farthest of the argument that it could make if
19 it thought that there was any chance that a wire
20 center would make it on the list even if the data
21 wasn't 100 percent supporting or if there is some
22 question about that. I think Qwest may try to put it
23 on there and try to get the wire center through. I
24 mean, what this issue really gets to is the
25 Commission should determine the effective date of new

1 wire centers that are added to the list.

2 Qwest is asking for these to automatically
3 go into effect 30 days afterwards. If a dispute ends
4 up not being approved it would be set retroactive at
5 30 days. And I think the Commission should look at
6 the data and information that Qwest has filed and
7 make a determination, we think we can get this done
8 in 30 days, the CLECs can review this data, and that
9 shouldn't be a problem. But if Qwest is not
10 forthcoming with all of the data or Qwest doesn't
11 supply what's needed then the Commission may
12 determine, you can't have this in 30 days. You
13 didn't fully support this until halfway through this
14 request period so we're going to put out that
15 effective date.

16 And so what the issue gets to is just that
17 the Commission should be the one to determine the
18 effective date of updates to the wire center based on
19 the comments that are filed regarding that list. And
20 we hope, the CLECs hope that this isn't a drawn-out
21 disputed process going forward, that Qwest will
22 supply the data, we'll be able to verify it and then
23 it will be done. Some of the disputes we're having
24 now are going to be decided.

25 Q. (BY MR. DUARTE) Well, let's take a real

1 world example. Here in Utah we have a total of one
2 wire center for DS1 and DS3 loops that we have
3 claimed and that obviously is in dispute and six wire
4 centers for transport. With respect to the six wire
5 centers for transport, there's no dispute here that
6 we've met the threshold, right? You're not is
7 disputing any of these, are you?

8 A. Well, we are disputing -- I mean, we're
9 disputing four in the sense of those wire centers,
10 two of them are the Ogden and Main in Provo that we
11 just talked about. The CLECs have said it should be
12 Tier 2 and Qwest said Tier 1. So it would affect the
13 Tier 2 status. If this were an update going forward
14 we would say that Tier 2 should go into effect in 30
15 days and the CLECs have agreed there. Now, there's
16 two other wire centers where Qwest added to the list
17 in July which was, what, four months, five months
18 after the TRRO that Qwest is saying should take
19 effect backward to March, and we're disputing that
20 those should be applied retroactively.

21 Q. But with respect to those, none of those
22 wire centers you would consider to be something where
23 we just threw it up against the wall and hoped that
24 it would stick? I mean, clearly while we have honest
25 disagreements with respect to how to interpret the

1 data or how to calculate the data, there's no
2 situation like you posited where Qwest is just taking
3 a flier on a wire center that doesn't even come close
4 to meeting the threshold; is that correct?

5 A. They all come close, but I think there's
6 disputes of a few that we feel that Qwest has reached
7 just to get them over the threshold.

8 Q. Okay. And with respect to that 30-day
9 process going forward, I mean, CLECs would have the
10 opportunity to challenge that and if ultimately they
11 prevailed that wire center would not go on the list;
12 is that correct?

13 A. Yes, that is correct.

14 Q. So there is a remedy for CLECs to ensure
15 that Qwest doesn't throw everything against the wall
16 hoping that something will stick?

17 A. But the remedy has no cost to Qwest.
18 Because what happens, if Qwest -- let's just take
19 that extreme where Qwest threw everything against the
20 wall. The Commission could -- the CLECs would make
21 this argument, look, they didn't do any of what they
22 did before, they didn't look at the data closely, you
23 shouldn't allow these to go into effect at the end of
24 30 days. Qwest purposely provided too much
25 information and it didn't give us time to look at

1 that to be able to effectively review the
2 information. We weren't able to do this in a 30-day
3 time frame and we request the Commission not to
4 establish the ones that we've agreed until 60 days.
5 That's an incentive for Qwest to actually file what
6 it has support for if the Commission has the ability
7 to determine the effective date. This automatic 30
8 days, if it passes the test, I don't see there's any
9 downside for Qwest for overreaching.

10 Q. And you would agree with me that there's
11 also potential incentive by some CLECs to try to
12 delay the process by raising frivolous objections or
13 disputes to some of the requests for updates; is that
14 correct?

15 A. This is where again we get at the
16 Commission. This is why we didn't say it should be
17 the date the Commission order comes out. We said it
18 should be the date that the Commission determines
19 these wire centers should be effective. So if the
20 Commission determines the CLECs have made frivolous
21 arguments, you've just tried to delay this process,
22 we're going to set this -- Qwest requested these go
23 into effect 30 days after they filed it, we think
24 they supplied the proper information, CLECs, you're
25 just dragging this along. We're going to set it for

1 effective in 30 days. I mean, by giving the
2 Commission control of that it ends the incentives of
3 both parties to enter into -- you know, to just focus
4 on arguments that may extend and expedite the process
5 to get it done.

6 Q. But you would agree with me that with the
7 30-day process, if there are no objections, that 30
8 days would be a reasonable time period for that wire
9 center to go into effect as a non-impaired wire
10 center?

11 A. Yes, I agree with that. And I think in
12 most cases it can happen that way. Now, I mean, just
13 to be clear, there's questions as to what happens
14 after that point in terms of rates and transition.
15 But in terms of when that's effective, I think it
16 should happen within 30 days, but I think giving the
17 Commission the ability to make that determination on
18 a case-by-case basis ensures that the parties will
19 work to facilitate that process.

20 Q. Right. But ultimately if there is a
21 dispute, the Commission is going to get involved, and
22 ultimately if the dispute is valid and the CLECs win
23 then Qwest is not going to get that wire center on
24 the list, right?

25 A. That's correct.

1 Q. And ultimately if there is a dispute but
2 the Commission finds -- strike that.

3 Ultimately, if there is a dispute and the
4 dispute goes to the Commission for resolution and the
5 Commission later determines that the dispute was
6 frivolous and that Qwest was correct all along,
7 wouldn't it be fair that the effective date would
8 have been the 30 days from that notice and not six
9 months later when the issue was finally resolved by
10 the Commission?

11 A. And I didn't ask for when the Commission
12 resolves the resolution. We asked that the
13 Commission be the party that establish the effective
14 date on a case-by-case basis looking at the
15 information that was filed and the objections raised,
16 if any, by CLECs. So I'm not arguing that the
17 Commission should delay this six months if the CLECs
18 can come up with an argument to dispute it for six
19 months.

20 If the Commission feels that they were in
21 support of these wire centers and it was valid and
22 the CLECs claims were not valid or were frivolous, as
23 he put it, then the Commission should establish it
24 back at 30 days. But I think giving that discretion
25 to the Commission just makes sense in order to get

1 parties to work toward resolution to try to get these
2 done in an expedited manner, which I believe both
3 parties have indicated they would like to do.

4 Q. But ultimately I guess what I don't
5 understand is this, so let me just posit this
6 question. If there's no dispute and no challenge
7 then we all agree that 30 days will be sufficient,
8 and we all agree that if there is a dispute then the
9 Commission is going to get involved and make a
10 decision one way or the other and if it is in Qwest's
11 favor it's going to go back to the 30 days. So I
12 guess I'm having a hard time understanding why you
13 have no objection to 30 days and having the
14 Commission -- the date becoming effective given that
15 if there's no challenge 30 days would be sufficient.
16 And if there is a challenge, ultimately it's the
17 Commission that's going to decide the issue?

18 A. The Commission should decide the issue,
19 but the issue is what if the CLECs dispute is Qwest
20 didn't supply the supporting data. Then I as a CLEC
21 am going to argue Qwest shouldn't get to count that
22 30 days after their filing because they didn't
23 support this wire center as they said they were going
24 to do with their initial filing. So we would argue,
25 and maybe during the course of data requests or

1 exchange of information the CLECs realized Qwest's
2 request was valid, that if they didn't supply that
3 supporting information up front, if Qwest was the
4 cause of dragging out this proceeding, then I think
5 the Commission shouldn't set an effective date 30
6 days after the Qwest filing but they should set it
7 some date later.

8 And I expect during that filing the CLECs
9 would request, you know, we didn't find this
10 effective, but Qwest didn't supply all the data until
11 30 days later so you should actually set the
12 effective date 30 days after we received full
13 disclosure of the data. And Qwest would argue the
14 other side and the Commission would make the
15 determination.

16 Q. Okay. That clarification is helpful, Mr.
17 Denney. So then you would agree with me, though,
18 that if the Commission were to investigate and
19 determine that that is the case, that yes, it meets,
20 but Qwest dragged its feet, certainly the Commission
21 has the power to make a determination as to an
22 effective date; wouldn't you agree?

23 A. That's our position.

24 Q. I mean, isn't that what it is because
25 Qwest was dragging its feet?

1 A. Right. Our position is, and I can't
2 imagine every situation that's going to come up, but
3 our position is the Commission should look at the
4 particular filing. I assume when Qwest would make a
5 filing and would say here's the data then we would
6 request it go into effect in 30 days. And the CLECs
7 would look at that data and say, yeah, that's fine,
8 or here's some brand new issue that was never raised
9 before or here's -- Qwest found a new way to count
10 ARMIS line counts now that it didn't think of
11 previously.

12 You know, there's some issue that could
13 come up and that could cause the CLECs to say, we
14 don't think this should go into effect in 30 days.
15 All we're asking is that that power be put in the
16 hands of the Commission, not in the hands of Qwest.

17 Q. Mr. Denney, thank you. I think, if
18 anything, it shows that we're not that far apart on
19 many of these issues. But thank you very much.

20 JUDGE GOODWILL: Mr. Ginsberg.

21 MR. GINSBERG: Thank you, your Honor.

22 CROSS-EXAMINATION

23 BY MR. GINSBERG:

24 Q. Mr. Denney, can you turn to that schedule
25 you have on page 5 of your Surrebuttal?

1 A. Yes.

2 Q. What is the N/A supposed to mean there?

3 A. So the N/A, in some of these -- I'll just
4 clarify both of those things if that's all right.
5 There's an "X" in I think one box and there's an N/A
6 in quite a few boxes. What the N/A represents is
7 that this issue was not directly determined by the
8 order that the Commission put out. So that the
9 Commission, for example, on Illinois there's an N/A
10 under Vintage of Data.

11 So the Commission, there's nowhere in the
12 order did the Commission make an affirmative decision
13 saying the vintage of data should be 2003 or it
14 should be 2004. But what I've assumed, and I think
15 it's safe to assume where there's an N/A, is that the
16 Commission defaulted to the RBOC position. So in
17 that particular example of Illinois it's likely where
18 it says N/A you would look up and you would see the
19 AT&T (SBC) position that they would have defaulted if
20 it did December 2003 data.

21 Because if the Commission had ordered the
22 RBOC to do something different from what their
23 position was it would have been clear in the order.
24 So the N/A was kind of an attempt to get at, not to
25 put words in the Commission's mouth, but to get some

1 information that I think should be reasonably safe in
2 terms of what the Commission has decided. Where
3 there's an "X" it just means that issue was not
4 litigated at all. And I believe there's an "X" just
5 in California under Vintage of Data.

6 The wire center order in the California
7 case was part of an arbitration between I think it
8 was between SBC and the CLECs. The argument
9 regarding the vintage of data never came up in that
10 arbitration proceeding. There's currently a case
11 going on in California right now and that is one of
12 the issues before the Commission, but it just hasn't
13 made a ruling in any case that data hasn't been
14 filed. So they haven't finished the process enough
15 to say what the Commission means to do.

16 Q. So, for example, for the ARMIS 43-08
17 column where it says for SBC or AT&T where they
18 apparently proposed not to adjust the ARMIS data for
19 the full capacity of DS1 and DS3s?

20 A. Right. SBC, I mean, it's very clear if
21 you read through some of their testimony and through
22 these orders that they thought that the ARMIS data
23 should be used as is without any adjustments.

24 Q. So when it says N/A for those other states
25 of --

1 A. Right. For Michigan and Ohio, for
2 example, those states then went with -- they agreed
3 with AT&T that the ARMIS 43-08 data should be used
4 exactly as is. Now, the reason this came up in
5 disputes in a lot of these cases is because some of
6 the CLECs in other states were arguing for Centrex
7 lines and some other types of lines be counted
8 differently from the way they're counted in ARMIS.
9 And SBC said, no, we should use ARMIS data exactly as
10 it is, exactly as it falls out. There shouldn't be
11 any other adjustments to it. The FCC was clear on
12 this and the state commissions have agreed there with
13 SBC.

14 Q. I take it Verizon is in the same boat as
15 SBC?

16 A. That's correct. With regard to the ARMIS
17 43-08 data, that's correct.

18 Q. Now, if we look at the last column, which
19 is CLEC High Capacity Loop Count, that would be where
20 Qwest goes to their wholesale list, I guess, and say
21 how many DS1s and DS3s they have sold to each CLEC
22 and determine how much of those various capacities is
23 actually being used, right?

24 A. Right. And what Qwest actually does is
25 they say, We've sold 5 DS1s. Those count 5 times 24.

1 That's what it means when it says "full capacity."

2 Qwest would have counted those as 120 lines.

3 Q. So for those that say N/A under AT&T, you
4 would assume that those states stayed with the full
5 capacity?

6 A. Yes, that's correct.

7 Q. Now, how many of these DS1s and DS3s, do
8 they sell quite a few of them in an office like Salt
9 Lake Main to a lot of CLECs?

10 A. There's quite a few. The numbers are
11 probably here in one of my exhibits. I could find
12 it, but I'm not sure it's a proprietary number. I
13 mean, I am sure there's, I don't know, a few hundred
14 at least.

15 Q. Just to one company or to a variety of
16 companies?

17 A. Yeah, to a variety of companies. I mean,
18 it may be a thousand or so DS1s, but Qwest has
19 provided that data. So, I mean, it's included here.

20 Q. Do most CLECs buy DS1s and DS3s?

21 A. DS3 in terms of loops, I'm assuming we're
22 talking about? Most CLECs -- a lot of CLECs buy DS1
23 loops because a lot of the CLECs are really focused
24 on midsize businesses and the midsize businesses
25 could still buy DS1s. DS3s is really more of an

1 enterprise market type of customer. So there's a few
2 CLECs that will buy DS3 loops. There's nowhere near
3 as many DS3 loops that are sold as there would be DS1
4 loops. There's just not that many large customers
5 out there purchasing those loops, and those
6 enterprise businesses tend to be -- those customers
7 tend to go with the larger players.

8 Q. How would Qwest physically have determined
9 the amount of capacity to be used?

10 A. Well, for the CLEC DS1 and DS3 loops Qwest
11 didn't attempt to determine how much capacity.

12 Q. I asked you how would they determine?

13 A. Oh, how would they determine? One, I
14 asked Echelon to do this and we were able to
15 determine here's how much switch capacity we have on
16 a DS1. It wasn't -- it took a little bit of work,
17 but we can put that data together. You know, I
18 talked to Covad about that and they said that's
19 something they could easily do as well.

20 Q. What about our unnamed carrier who isn't
21 so willing to provide information?

22 A. It would be a little harder to get their
23 exact counts out of them. I don't know to the extent
24 they're a player with regard to DS1 loops. I know
25 when the merger was going on their big argument was

1 we have pulled out of the retail market in a lot of
2 these states.

3 Q. But you would agree that it would take
4 what everyone seems to want it to be, to be a simple
5 straightforward easily verifiable process to
6 something that might end up being pulling teeth from
7 each CLEC to obtain the information?

8 A. Excuse me, I'm sorry. Requesting each
9 CLEC's data, you know, each individual CLEC data
10 would be a lot of work. But I don't know that that's
11 necessary. For one, we know that Qwest has stated it
12 was able to determine for itself its ratio of total
13 capacity to use -- or to use capacity to total
14 capacity. You know, a few carriers could provide
15 that information, could give you a ballpark in order
16 to use that, in order to do that adjustment.

17 Q. But you don't seem so willing to accept
18 ball parks.

19 A. I see that as a two-way street in a sense
20 because for me, from a CLEC perspective, once that
21 wire center is on the list it stays on the list and
22 that's it, there's nothing I can do about it. So
23 when Qwest throws in a ballpark estimate I'm a little
24 more wary about it. To get a good estimate for some
25 of the CLEC data, I see it as a different issue

1 because what we're trying to look at is what's the
2 actual use capacity on these lines. So coming up
3 with an estimate or even getting the actual data from
4 CLECs, you don't have the same repercussions as you
5 do as when something gets out to that list, it's
6 there forever and it doesn't matter if you were right
7 or wrong.

8 Q. Obtaining some sort of prenotification,
9 this 5,000 access line that's been talked about, can
10 you tell us a little bit about what benefit that
11 would be? What would the CLECs do with that
12 information if they had prenotification either of the
13 5,000 access lines or whatever the number would be or
14 the number of co-locaters in an office?

15 A. Right. Well, I mean this is a big worry
16 for our business units, especially the people doing
17 planning, talking to our shareholders and to our
18 investors. You know, you do business planning on
19 what your expenses are going to be going forward,
20 what are the risks you face. You need to reveal
21 these risks to your shareholders. And they ask all
22 the time, What's next, what wire centers are going to
23 be next on the list? We need to have some idea so we
24 can at least account to our shareholders and say or
25 account internally and say here's some risk that we

1 may be facing here, we better start looking. Are
2 there other actual alternatives out there for us or
3 not? What can we do to try to hedge our bet so that
4 one day suddenly we're not just completely stuck.
5 And these plans go out for a while.

6 I'm not personally involved in those
7 plans, I just know I get the question all the time
8 from these folks. I mean, they're worried about what
9 is it that's coming up? Where are the next changes
10 going to be? Where are my costs going to go up next?
11 Where are my wholesale costs going to change? And so
12 that's the type of -- it gives you some ability to at
13 least kind of hedge in terms of accounting for these
14 increased places where costs may increase going
15 forward.

16 Q. Did they ask you those kind of questions
17 when these rules were being considered by the FCC as
18 to which offices would be affected?

19 A. Well, you know, I wasn't at Echelon at
20 that time so they didn't ask me that question, I was
21 at AT&T. And AT&T is just kind of this big monster
22 and different parts don't talk to each other as often
23 as they should. So I didn't get asked those
24 questions there either.

25 Q. Is there any kind of publicly available

1 information that would help you know ahead of time
2 whether an office was going to become non-impaired or
3 not other than the filing that Qwest would be making
4 on an annual basis?

5 A. I mean, certainly we're looking at -- you
6 know, like I've said, I've looked at the Icon
7 database which has a list of line counts by wire
8 center that Qwest puts out. Those are not counted on
9 the exact same basis. There's another loop count by
10 wire center that Qwest files and that's on its Icon
11 website as well. I've done some estimates here to
12 give me an idea of where I thought there were
13 questions and a threshold.

14 So certainly we're looking at that type of
15 data. But as Qwest has pointed out, those data sets
16 don't follow the FCC rules so you can't -- you know,
17 they're not as useful to rely on. From what I
18 understood from Qwest's testimony this morning, it
19 would be fairly simple for them when they're doing
20 their annual compilation of this ARMIS data to check
21 to see if the threshold was at 19,000 versus 24,000
22 and compile this data on an annual basis and make
23 that available.

24 Q. So you're suggesting that when they make
25 the ARMIS filing that they look at the various wire

1 centers to determine which are close to the limit and
2 provide you that information?

3 A. I mean, I think that's a reasonable
4 approach. I mean, I would much prefer to have that
5 data updated on a monthly basis. But I mean, I think
6 what I heard this morning was that doing it on an
7 annual basis, that's when all of this work is being
8 done with ARMIS and that would be basically almost no
9 extra work just because you're counting all those
10 lines anyway to compare if it's 19,000 or just
11 compare it at the 24,000 or if it's 33,000 compared
12 with 38,000, that that would be a simple process to
13 do at that time period.

14 Q. Well, it's not clear to me then how this
15 5,000 access line away from the criteria comes into
16 play under the way you're suggesting this would work.

17 A. Right. So I would just see a list of wire
18 centers that would say these wire centers are within
19 5,000 lines of meeting threshold. There's four line
20 counts, or actually three line count thresholds out
21 there, there's 60,000 lines which plays into the DS1
22 loops, there's 38,000 lines which plays both into
23 Tier 1 status and into the DS3 loop non-impairment
24 status, and there's 24,000 lines that plays into the
25 Tier 2 status. If Qwest gave a list and said these

1 wire centers are within 5,000 lines of meeting that
2 status, it's pretty easy to determine where -- you
3 already know what the wire center is currently
4 classified as. So if it's already a Tier 2 wire
5 center you know it's within 5,000 of reaching the
6 Tier 1. Otherwise, it would be a Tier 1 wire center.
7 So it basically gives you information on what wire
8 centers are going to potentially -- have the
9 potential to be next and when they would occur. Not
10 when they would occur, but I mean how close they are
11 to occurring.

12 MR. GINSBERG: Thank you.

13 JUDGE GOODWILL: Let me ask just a couple
14 of questions before we turn back to the parties. The
15 subject you were just speaking about, the within
16 5,000 of a threshold, what would you expect the CLECs
17 to do with that information?

18 MR. DENNEY: Well, what I would expect, I
19 mean I know from our company, I mean they would look
20 at this information and say, you know, oh, here's
21 some wire centers that are -- we're going to have
22 some cost changes coming up in the future and we need
23 to plan for these increases in our costs or there's a
24 potential for increases in costs.

25 And ways that we can potentially plan for

1 this might be, you know, -- I mean, it could be the
2 extreme of some companies maybe would say, we could
3 build -- we better start planning on building loops
4 to get around this. And so far that's not something
5 Echelon has done, but a company could do that. That
6 takes a long time to go through that process. It may
7 be just more looking at your financials and you have
8 to report your regulatory risk to people and when it
9 comes up in terms of raising money for different
10 types of activities that you take this into account
11 in terms of we've got huge risk coming up. Like
12 maybe every wire center in Utah is right next to the
13 threshold. Maybe our business strategy, we ought to
14 look at the way we're doing business here if we're
15 going to have a huge wholesale cost increase. You
16 know, we may need to find some other way to access
17 those end-user customers if there's some other way
18 that's out there.

19 The DS1 loop in Utah is approximately \$65
20 per UNE-loop rate. The special access rate that
21 Qwest is proposing to charge is \$165. So it's almost
22 a two and-a-half times increase, you know, in just
23 that end-user connection to get to that customer.
24 It's similar increases for the other types of
25 products. So knowing these are coming helps the CLEC

1 in its overall business planning. It doesn't mean
2 that the CLEC is going to shut down business
3 somewhere, but it's good to know of your risk before
4 you get there.

5 JUDGE GOODWILL: On the Vintage of the
6 Data -- I guess let's step back. Is it the case that
7 the CLECs want to use the December 2004 data as
8 opposed to the December 2003?

9 MR. DENNEY: Right. And what the CLECs
10 have proposed initially is you ought to use data
11 that's reflective of March 11, 2005. Qwest came back
12 and said you have to use ARMIS and it's only
13 available once a year. And so you say, well,
14 December 2004 is much more reflective of the
15 effective data in the TRRO than December 2003 data.

16 So it's our position that you should use
17 the December 2004 data because what we're talking
18 about is impairment at the time of when the TRRO goes
19 into effect, which is March 11, 2005. The
20 fiber-based co-locations were measured during that
21 time period and we thought the line counts should be
22 reflective of that time period as well. Going
23 forward we would expect the line counts to be
24 reflective of the time period where you're making
25 changes going forward that Qwest couldn't continue to

1 use 2003 data, say, in 2008.

2 JUDGE GOODWILL: So the CLECs are making
3 the argument based on the principle of using the most
4 recent data available corresponding to the time
5 period in question, I guess irrespective of using
6 that data?

7 My question is, I haven't seen anything
8 yet -- I'm not sure under which scenario using 2003
9 data versus 2004 is alleged to make any difference.
10 Is there? Is there some scenario there where you see
11 a difference?

12 MR. DENNEY: I mean, Qwest did -- kind of
13 step back a little bit. You know, Qwest, we
14 initially asked for the 2004 data and Qwest refused
15 to provide it which made us think it was probably
16 more favorable toward us than the 2003 data, that
17 there was some reason they were using old data. But
18 the data they filed in this case for 2004, it shows
19 less line counts than 2003 for the Salt Lake Main
20 Wire center.

21 I don't recall offhand if that's the case
22 for every wire center. And I'm trying to think if
23 Qwest -- I believe Qwest filed the 2004 data for all
24 wire centers, but at least for Salt Lake Main the
25 line counts were less in 2004. But I mean, we think

1 regardless of whether the line counts went up or down
2 in 2005, if that's the most recent data available at
3 the time that you're making a claim, you know, then
4 you should use the most recent data that's available
5 that corresponds to the date that you're trying to
6 make your determinations effective.

7 JUDGE GOODWILL: Okay. Mr. Kopta?

8 MR. KOPTA: I don't have any questions.

9 JUDGE GOODWILL: Mr. Duarte?

10 MR. DUARTE: I do have a couple of
11 questions. And if I could ask for your Honor's
12 indulgence, there was a couple of questions on one
13 topic of his oral Surrebuttal that I wanted to ask on
14 my first go-around and I forgot to do that.

15 RE-CROSS-EXAMINATION

16 BY MR. DUARTE:

17 Q. Let's start off with, Mr. Denney, you
18 discussed this morning or this afternoon right after
19 the lunch break the Footnote 303 that you cited in
20 your testimony, and you took issue with the oral
21 Surrebuttal that Mr. Teitzel gave this morning on
22 that issue.

23 Sir, isn't it true that the document that
24 is referenced as Footnote 303 is actually a report
25 definition document whose edition date is 12-2004 or

1 December 2004?

2 A. I'm not sure I understand your question.
3 And I'm not sure I took issue with what Mr. Teitzel
4 said so much as to say that I thought it was more
5 relevant than he had said because of where that
6 footnote fell. But that report is the instructions
7 for filing of December 2004 ARMIS data. There's a
8 report -- these reports are available on the FCC
9 website and I've given the link there. There's a
10 report for 2003 on the website, there's a report for
11 2005 on the website. These instructions don't change
12 a whole lot over time and I didn't see any difference
13 between -- in the instructions for 2003 versus 2004.
14 The point I was making here is that the FCC
15 specifically referenced its 2004 instructions which
16 would correspond with the December 2004 ARMIS filing.

17 Q. Well, and certainly since the order came
18 out in February 2005 you would expect them for
19 citation purposes to cite to the definition document
20 that they were to cite the most recent; wouldn't you
21 expect that?

22 A. Well, I would have expected them to cite
23 the definition document that corresponded with the
24 data that they're requesting because that's how this
25 footnote is used. It's used in reference to the

1 ARMIS data.

2 Q. But you just said that the document
3 doesn't really change from year to year?

4 A. That's correct.

5 Q. And so we pulled a copy of this report
6 from the website that that was listed in Footnote
7 303. You would agree with me, and I have the
8 document here if you want to look at it, that there
9 is no reference to 2004 ARMIS data itself, it's just
10 the definition document for ARMIS reports, an edition
11 of which was issued in December 2004?

12 A. If I understood you, I think we're in
13 agreement here that this document is the instructions
14 for filing December 2004 ARMIS data. That's what the
15 document is.

16 Q. Right. And the footnote basically just
17 talked about the fact that this is a report, this is
18 the most recent report for those definitions,
19 correct?

20 A. Well, the footnote doesn't say anything
21 about recent report. I mean, the paragraph or the
22 sentence in paragraph 105 says, "The BOC wire center
23 we analyzed in this order is based on ARMIS 43-03
24 business lines," and it has Footnote 303. You look
25 at Footnote 303 and it says, "See the Industry

1 Analysis and Technology Division Wireline Competition
2 Bureau, FCC, FCC Report 43-08, Report Definition,
3 December 2004, Available At," and it gives the
4 website.

5 Q. Right. And I guess we're not going to
6 agree on anything, but I want to just clarify that
7 the document itself doesn't say anything about for
8 TRRO purposes you should use December 2004, it's just
9 the instructions for how to fill out an ARMIS report;
10 is that correct?

11 A. Right. The document is how to fill out
12 the ARMIS report. I view the TRRO as saying here's
13 what to use.

14 Q. So to be fair or to be clear, you're
15 making an inference then that because there's a
16 citation to the most recent edition which was issued
17 in 12-2004, that that means that the FCC intended the
18 parties to use December 2004 data for this paragraph
19 105 business line count; is that correct?

20 A. Right. And I mean, and to be clear, I
21 think it's logical that you would use the most
22 current line counts available and I see this as
23 further evidence that the FCC thought so as well.

24 Q. And in the 185 pages in the document
25 there's not one sentence that basically says that

1 CLECs or that ILECs were to use December '04 data; is
2 that correct?

3 A. Right. This footnote is the closest it
4 directly comes to saying that in this document.

5 Q. And just one other area here. The Judge
6 was asking you a couple of questions about the
7 advance notice for 5,000 lines and how you would
8 expect to use that information. Though I think you
9 admitted that it's not an apples to oranges
10 comparison, you do have access to some line count
11 information through the Icon database that would give
12 you at least some information whether a wire center
13 was at the 19,000-20,000 line level or at the
14 34-3,000 level or the 55,000 level, i.e., within
15 5,000 of one of the thresholds?

16 A. I mean, there's some dispute over the use
17 -- there is that data there, and certainly that's the
18 best that's available in terms of publicly available
19 line count information. And I used that as an
20 initial inquiry into whether Qwest wire centers met
21 the impairment status. But I mean, it's not perfect
22 data, it's not based on any -- none of those counts
23 are based on the FCC's definition on how to count
24 lines.

25 Q. Sure. I think we all agree on that. But

1 you were talking about the importance of knowing when
2 a wire center might be getting close to a
3 non-impairment status for investors and the business
4 planning purposes and all of that. So, for example,
5 if one of the thresholds that you're concerned about
6 is 24,000, you want to know whether a certain wire
7 center is within the 19, 20, 21,000 line range.
8 Couldn't you at least get a, if you want to use the
9 word "ballpark" status of that wire center by going
10 through Icon and determining, gees, according to
11 Icon, albeit it's not an apples to apples comparison,
12 but it looks like wire center X is at about the
13 21,000, that might be getting close to 24,000
14 business lines as the TRRO defines it? I mean,
15 wouldn't that give you some information?

16 A. That's some information with regard to
17 line counts. It's no information with regard to
18 fiber-based co-locaters. And it's imperfect
19 information regarding line counts.

20 Q. Thank you.

21 JUDGE GOODWILL: Anything further of this
22 witness?

23 MR. KOPTA: No, your Honor.

24 MR. GINSBERG: No.

25 JUDGE GOODWILL: All right. Thank you.

1 We've been going for almost two hours.
2 I'm inclined to just plow ahead, but if people would
3 like to break we certainly can.

4 MR. GINSBERG: Maybe we could take a short
5 break.

6 JUDGE GOODWILL: Is five minutes good?

7 (Short recess.)

8 JUDGE GOODWILL: Let's go back on the
9 record. I believe now we're going to turn to the
10 Division now. Is that right, Mr. Ginsberg?

11 MR. GINSBERG: Yes. The Division witness
12 is Casey Coleman.

13 JUDGE GOODWILL: Mr. Coleman, if you would
14 stand and raise your right hand I'll swear you in.
15 Do you solemnly swear that the testimony you're about
16 to provide shall be the truth, the whole truth, and
17 nothing but the truth, so help you God?

18 MR. COLEMAN: Yes.

19 JUDGE GOODWILL: Thanks. Please be
20 seated.

21 CASEY J. COLEMAN,
22 called as a witness, was examined and testified as
23 follows:

24 DIRECT EXAMINATION

25 BY MR. GINSBERG:

1 Q. Would you state your name and business
2 address and occupation for the record?

3 A. Sure. My name is Casey J. Coleman. I
4 work for the Division of Public Utilities. Our
5 address is 160 East 300 South, Salt Lake City, Utah.

6 Q. And you are assigned to provide
7 information for this docket?

8 A. Yes.

9 Q. And you filed Direct Testimony that has
10 been marked as DPU Exhibit 1 consisting of 11 pages
11 and one exhibit?

12 A. Yes.

13 Q. And do you have any corrections to make to
14 that testimony?

15 A. No.

16 Q. If those questions were asked to you today
17 they would essentially be your answers?

18 A. Yes.

19 MR. GINSBERG: With that I would ask that
20 what's been marked as DPU Exhibit 1 with Exhibit 1.1
21 attached be admitted.

22 JUDGE GOODWILL: Any objections?

23 MR. KOPTA: No objections.

24 MR. DUARTE: No objections.

25 JUDGE GOODWILL: It's admitted.

1 Q. (BY MR. GINSBERG) I know you're going to
2 also provide some responsive testimony to the
3 Surrebuttal that was filed in response to yours. Can
4 you first give a summary of your testimony?

5 A. Yeah. I'll condense it down for the sake
6 of time. But basically my testimony was just to
7 provide the Division's position on the way that the
8 lines should be counted for the different wire
9 centers as far as trying to read the TRRO definition.
10 And we also did give some direction as far as how we
11 felt that a wire center should be added to the
12 impaired list going forward and also gave some
13 suggestions on how that process could work where we
14 felt the Division could probably be involved going
15 forward with that as well. So that's a very brief
16 summary.

17 Q. One of the issues that was in your initial
18 testimony, you were generally satisfied with the way
19 Qwest had addressed the determination of whether
20 there were sufficient fiber-based co-locaters; is
21 that right?

22 A. Yeah. When we had done our review of the
23 information that was filed by Qwest and the efforts
24 that they had taken, we felt that they had tried to
25 do pretty much as much as they could have to be able

1 to determine if fiber-based co-locaters were in the
2 various wire centers.

3 Q. Do you see any way to obtain answers from
4 a CLEC who won't provide the information without
5 getting an order from the Commission?

6 A. I think it would be fairly difficult for
7 the companies involved. One option, and it's one
8 that if the Commission is interested in doing the
9 Division could try on their own to independently go
10 out with the CLEC co-location fiber-based co-locaters
11 and do a field verification on our own. I mean,
12 that's one option that we could see.

13 As Mr. Ginsberg mentioned, possibly an
14 order to where we could follow-up with that as a
15 Division with the different CLECs that haven't
16 participated just to make sure that the information
17 is accurate. As a Division, we would be willing to
18 do that because we do feel somewhat sympathetic to
19 what Mr. Denney has discussed as far as kind of a
20 one-time chance. It's on there and it's permanent.
21 So we would like to make sure that we get the
22 information as accurate as possible. So those are a
23 couple of scenarios that we think as a Division we
24 would be willing to pursue if the Commission fills
25 that that would be an additional step that we would

1 be able to help clarify the wire centers in this
2 docket.

3 Q. Your testimony talked about a five-day
4 notice period that would apply before the effective
5 date, I guess, of the non-impaired status of a wire
6 center, and you got responses from both Qwest and I
7 think particularly for the CLECs of five days. Can
8 you put that in the context of how you envisioned the
9 process working on a going-forward basis?

10 A. Yeah. One clarification on that, and I
11 know that Mr. Denney in his testimony had brought
12 this up, we had anticipated that the notification
13 would be given to the Division and the Commission but
14 also to Joint CLECs. It wasn't that we were going to
15 exclude them, that they should have the information.
16 And I think that came out in this proceeding that
17 that would be necessary, and we think it would be
18 vital.

19 What our anticipation was is that if it
20 was possible for Qwest or reasonably possible for
21 Qwest to be able to provide some advance
22 notification, we could get the ball rolling as far as
23 the Division and the other parties just to get the
24 verifications done so that we could make sure the
25 line counts were done accurately. Our belief and

1 hope is is what has been expressed by the other
2 parties, that once this proceeding is finished as a
3 group we will have a fairly clear understanding as
4 far as how the Commission wants us to do the line
5 counts, and recreating the wheel for the next time
6 should be easier.

7 So the hope was is that we would get
8 notification from Qwest. It didn't have to be
9 elaborate, in my simple mind it was maybe an e-mail
10 saying, "Look, this wire center is within whatever
11 threshold we determined." We start with a process to
12 verify and make sure that's done. We as a Division
13 would potentially coordinate with the CLEC, say
14 that's the information we've got, you know, that's
15 reasonable to us as far as what they're doing.
16 What's your input, feedback? So we kind of do it as
17 a proactive.

18 We take this proceeding that we have here,
19 hopefully it's done quicker, but it's also done in
20 the forefront with the idea that the Commission and
21 the Division would file with the Commission something
22 that says we have reviewed this, it's accurate, you
23 know, and we believe that they are following the
24 proceedings that are done. And if, in fact, Qwest,
25 at the point where they have to file the ARMIS data,

1 doesn't put this on the wire center, we believe that
2 it should be approved.

3 The reason why we did the five days was
4 because we felt at that point maybe there was
5 something that didn't come up, maybe we had missed
6 something, and we wanted to give a time frame to
7 allow individuals to be able to respond and challenge
8 if need be. But the idea is is that we've all
9 already done that initially up front before it's
10 happened, most of those issues have been resolved.

11 And so the event that we saw potentially
12 with Qwest is that they could have the non-impairment
13 status almost initially or immediately once they
14 filed it because all the work has been done
15 beforehand. A benefit that we saw potentially with
16 the CLECs is that they could have that information
17 earlier.

18 Q. There was nothing magic about the five
19 days? Your main point is that you think the process
20 should be straightforward and easy to verify?

21 A. Yes. And the five days, the only reason
22 why I selected that is that that is what has been
23 selected by the Commission before. And for example,
24 price lists, when Qwest files those, they can go into
25 effect in five days.

1 And I know it's not exactly the same
2 scenario and situation, but over the time frame that
3 made sense. But, you know, the five days is not
4 magical or anything like that, it was just to give
5 time. But the idea is that this would be a simple
6 process so it would be one where it was collaborative
7 with everyone. We hope to have consensus. Qwest
8 files with the FCC and says, "This is non-impaired,"
9 the Division can file a memo that says, "We agree
10 with that," and the CLECs, you know, if they agree to
11 file something, and then it basically is at that
12 point given that time to be non-impaired. That's, in
13 my perception, how we would proceed and take care of
14 it, and have before, if possible, to have that done.

15 Q. On the line count where you essentially
16 with the CLECs have said that you should count the
17 actual business lines in use and not multiply the
18 Qwest DS1s and DS3s but unused capacity; is that
19 right?

20 A. Correct, that was my position.

21 Q. And often this method has somehow been
22 called the "Coleman method" in that it resulted in
23 producing this Exhibit DLT-2; is that right? Do you
24 have that?

25 A. Yeah. I believe that DLT-2 has been named

1 in response to some of the testimony that I filed.

2 Q. Would you like to provide some comments on
3 what you intended?

4 A. Yes.

5 Q. What you envisioned to be the process to
6 determine the amount of line counts for an office
7 like Salt Lake Main and how would you see this DLT-2
8 working in it, if at all?

9 A. Okay. My first vision and it may have
10 been a little bit of a lack of understanding as far
11 as ARMIS information, but what my testimony was
12 basically advocating and what I felt a reading of the
13 TRRO also said was that you should use ARMIS 43-08
14 data. My impression of that would have been that it
15 would have been a non-adjusted amount with that. So
16 you just take the raw data that was filed, 43-08, and
17 then you would add UNE lines to that, UNE-Ps and
18 UNE-Ls and other things to be able to come up with
19 that determination.

20 The DLT-2, although I understand what Mr.
21 Teitzel has said, this was kind of in response to
22 that, I think it's a little bit different than what
23 our -- or what my interpretation was because I didn't
24 believe that you would adjust the Salt Lake Main for
25 the differences as far as a wire center a business

1 line that was originating in the one wire center and
2 terminating it in a different one. And so I would
3 say that that number that he filed there, from my
4 interpretation, was maybe a little bit inflated and
5 that was probably a misunderstanding as far as what
6 we were advocating.

7 I think for the simplistic nature of what
8 the FCC wanted to do is, if at all possible, is to
9 just use the 43-08 data and add on the UNE lines, and
10 that would be how you would come up with a count that
11 would determine whether the wire center was impaired
12 or non-impaired.

13 Q. Was there anything else you wanted to add,
14 any other areas that you wanted to provide some
15 information for?

16 A. One thing that I did want to discuss, and
17 I know that I had advocated as far as the 60,000
18 lines and that Qwest -- sorry, that the Salt Lake
19 Main wire center would fall below that. And what I
20 did is I just looked at the information that was
21 provided by Mr. Teitzel in his testimony in data
22 response -- let me make sure it's the right one -- I
23 believe it was considered the "Highly Confidential"
24 attachment response to the Joint CLEC Data request
25 01-030 subpart (b).

1 And I just looked at some of the data in
2 some of the ARMIS quantity and that's where I came up
3 with a number. And then if you looked at the number
4 of CLEC lines that were provided also by Mr. Teitzel,
5 that's where I came up with the number that was going
6 to be below the 60,000 lines with that. I didn't
7 look at it with the 2004 data. I mean, to be honest,
8 I didn't do that with what was provided. But that's
9 how I came up with my position as far as it being
10 below the 60,000 line threshold. And that wasn't
11 explicitly stated. I didn't want to use confidential
12 numbers and that's why it wasn't put in there, but
13 that's how I came up with that position.

14 MR. GINSBERG: Thank you. That's all we
15 have. He's available for questions.

16 JUDGE GOODWILL: Thank you. Mr. Duarte?

17 MR. DUARTE: Yes. Thank you, your Honor.

18 CROSS-EXAMINATION

19 BY MR. DUARTE:

20 Q. Good afternoon, Mr. Coleman.

21 A. Good afternoon.

22 Q. If I can direct your attention to page 3
23 of your testimony where you have the definition from
24 the Code of Federal Regulations or CFR 51.5 regarding
25 business lines.

1 A. Okay.

2 Q. Now, would you agree with me that Rule
3 51.5 applies to both wholesale lines and retail
4 lines?

5 A. No. Or I guess my position was is that
6 the factor should only apply to CLEC lines on the
7 wholesale side.

8 Q. And that's because of the way you read
9 subpart 3; is that correct?

10 A. What I did is you look at subpart 3, it's
11 kind of defining the business line, but I believe in
12 the TRRO in paragraph 105 is what more explicitly
13 states how you would count the business line. And
14 that would be looking at specifically what, in the
15 way I read it, would be known as far as Qwest
16 quantities, which is what's the retail side. And
17 then for something that may not be known, which would
18 be a digitized line, that's where subpart 3 would be
19 coming in. And so that's where my understanding, as
20 far as if you included Qwest's adjustments or not,
21 would come into play more on the side of Qwest's
22 wholesale instead of retail customers.

23 Q. Okay. Well, you'll agree with me that the
24 FCC's rules don't specifically state that subpart 3
25 with respect to the counting of the 64 kilobit per

1 second equivalents, that that rule doesn't specify
2 that it's limited to wholesale or ILEC clients; is
3 that correct?

4 A. Yeah. And from my reading of that, I
5 mean, it doesn't specifically say if it should be
6 used in one arena or the other. I don't know that it
7 details that specifically on either end.

8 Q. Let's talk a little bit about the data
9 vintage. It's your understanding, is it not, that
10 back in February of 2005 when the TRRO issued -- or
11 the FCC issued the TRRO that the FCC also requested
12 all ILECs or at least all RBOCs to produce business
13 line information; is that correct?

14 A. I know as a Division we started to get
15 ready to prepare for that and so there were some
16 responses and some information that was supposed to
17 be put together for the RBOCs, yes.

18 Q. And there was a letter in the record from
19 the FCC requesting certain information, I think it
20 was like in two weeks or something like that?

21 A. Honestly, I can't say for sure. I mean, I
22 don't remember reading the letter so I can't confirm.

23 Q. Sure. Would you agree with me, sir, that
24 if in February 2005 the FCC requested Qwest to
25 provide business line information that it would not

1 be reasonable for Qwest to provide information that
2 had not been complete and had not been filed to the
3 FCC for at least another month and-a-half? Would
4 that be not a reasonable thing?

5 A. When you're trying to analyze what the FCC
6 wants sometimes it's difficult to come up with what's
7 reasonable and what's not. But from myself, just
8 thinking of what I think would be reasonable, is you
9 would want whatever information was readily available
10 at that time. And so if, for example, as a Division
11 we were asking for something from a company, we hoped
12 it would be a little more explicit and say we would
13 want it as of this date. But, you know, if it didn't
14 say something then we would probably want the most
15 recent information.

16 Q. And so in that sense, then, if information
17 was not finalized yet but somebody did have the most
18 recent submitted information, you would request that
19 information?

20 A. We generally would try to get what we
21 would think would be the most accurate picture of
22 whatever is happening in the situation in the
23 environment at that time. I mean, if we had
24 information that was applicable and could be used and
25 it made sense and parties could agree on it, we would

1 try to get the most recent information. But we also
2 try -- on the flip side of that is we sometimes try
3 to be responsive. We don't want to recreate the
4 wheel if we don't have to. And so if there's
5 something that works for our situation, the
6 information is out there, then we will try to allow
7 that to happen as well.

8 Q. And if a carrier had draft information
9 that wasn't quite ready for prime time and wouldn't
10 be for another month and-a-half, you wouldn't make
11 them give you that raw information for the
12 information that you were seeking?

13 A. Probably not. I mean, we would want to
14 make sure the information is as accurate as possible.

15 Q. Thank you.

16 Mr. Coleman, earlier to the -- it wasn't
17 Direct Examination, I guess it was in your summary,
18 you indicated that you were sympathetic to Mr. Denney
19 with respect to, you know, this is a one-time shot so
20 you've got to get it right, and I agree with you.
21 But I was sort of feeling a little bit left out about
22 your sympathies here.

23 A. Yes.

24 Q. You would agree with me that you're kind
25 of sympathetic to Qwest regarding the efforts that it

1 is trying to make and information it's trying to get
2 on fiber-based co-location and that some carriers
3 just may not cooperate and that's pretty frustrating?
4 I mean, would you be sympathetic to Qwest in that
5 scenario?

6 A. Yeah, I would agree. And that's partly
7 why with my position of what I had said. You know,
8 in a perfect world we would have all the information
9 and we could put it here on the table and we could --
10 for the sake of a bad example, I could lay five
11 apples on the ground and I would say, "How many
12 apples are there," and we would all say five. But we
13 don't have the perfect scenario. And so I would
14 agree that I believe Qwest has tried to do what they
15 can to try to verify that information. And that's
16 why in my testimony I said I believe for what Qwest
17 has done they should be at those levels.

18 I'm only adding that as another option for
19 having the Division go out and verify just so that
20 there's a level of comfort for everyone that it's as
21 accurate as possible. We would like, as a State and
22 the Division, we would like to make sure that we get
23 the information correct and accurate and so that's
24 why we were doing that. But in no way do I want to
25 diminish or try to minimize the efforts that I think

1 Qwest has done because I believe they tried to do
2 what would be reasonable and within what is allowed
3 for them to do as well.

4 Q. Thank you.

5 In that same vein, you would agree with me
6 that some CLECs may have a financial incentive not to
7 cooperate for whatever purposes they deem appropriate
8 for this process?

9 A. Again, you know, I can't say that I'm
10 privy to every business decision of CLECs, but I
11 could see a situation where a CLEC may feel that if a
12 wire center did become non-impaired they may be able
13 to pick up additional traffic from another CLEC using
14 their services. It's not with -- outside the realm
15 of possibility. So I could say in that scenario that
16 it is possible that there could be benefit derived
17 from a competing CLEC in that instance.

18 Q. A competing CLEC could also probably
19 determine that if they report as a fiber-based
20 co-locater, and that is the last one needed to make
21 that a non-impaired wire center, that their rates may
22 go up and, therefore, it might be in their financial
23 interest not to report? I mean, would you agree with
24 that?

25 A. Possibly. Although, again, looking at it

1 from a business perspective, which is a little bit
2 more of my background as well, I think you make
3 business decisions, and you have to look at the
4 market environment, but ultimately you make a
5 business decision on what's best for your company.
6 And so saying that someone is going to not respond
7 just because it sees that it's the last one or
8 something like that, you know, most of them aren't
9 going to know that they're the last one. That
10 they're responding anyway to the company because
11 they're just responding to that question, they're not
12 going to know if there's four or six or whatever
13 until the proceeding has started.

14 So I don't know that I would say that a
15 company -- again, it's plausible if they had that
16 information they could do that. But again, I don't
17 know that that would be the business discussion of
18 like, oh, can we not respond to this so that we can
19 have this wire center not be impaired, whatever, and
20 how does that benefit us as well. I guess I'm an
21 optimist by nature and I think ultimately people try
22 to do what's in the best interest of the company
23 until proven otherwise. That's kind of my premise
24 and belief.

25 MR. DUARTE: I have no further questions.

1 Thank you.

2 JUDGE GOODWILL: Mr. Kopta?

3 CROSS-EXAMINATION

4 BY MR. KOPTA:

5 Q. Good afternoon, Mr. Coleman. I'm just
6 going to ask you a couple of clarifying questions.

7 A. Sure.

8 Q. I appreciate the Division's discussion,
9 but I guess I want to have a better idea what the
10 Division's position is at this point. Is it fair to
11 say that the Division would recommend to the
12 Commission that it get the best information that it
13 can with respect to fiber-based co-locaters before
14 reaching a determination?

15 A. How I would characterize that is I believe
16 that both parties have tried to do as much as they
17 can to be able to find that. I believe it's vital
18 for as much information as is possible to be able to
19 make that decision. So if the Commission felt that
20 there wasn't enough information provided to be able
21 to make that determination, the Division is offering
22 that opportunity to maybe go one step further if the
23 Commission felt like it. You know, when I looked at
24 the information that was given, my position was, I
25 felt that that had been done as accurately as it

1 could have been.

2 But as we talked about it at the Division
3 and as counsel we said, okay, there may be another
4 step that hasn't been taken that the Division could
5 fill by maybe coming in and looking at those line
6 counts as well. So I don't know if that directly
7 answered your question, but that's kind of what my
8 position is.

9 Q. Okay.

10 A. Maybe I've been working in the regulatory
11 too long in how to couch the answers or something.

12 Q. Well, we've all been doing that.

13 A. Yeah.

14 Q. So there are two wire centers that are at
15 issue with respect to the number of fiber-based
16 co-locaters; is that your understanding?

17 A. Yes.

18 Q. And with respect to those two wire
19 centers, does the Division believe that the
20 Commission should make a determination based on the
21 record evidence as it sits today or do you think that
22 the Commission should conduct or attempt to conduct
23 or authorize the Division to conduct any more
24 exploration to get some additional information before
25 making a decision on those two wire centers?

1 A. In answer to that question, I think that
2 the Commission, it could be beneficial for them to do
3 that. Like we said, I think everybody here wants to
4 make sure the information is done accurately and
5 correctly. And I don't believe that Qwest has tried
6 to hide anything or to pull the wool over the eyes of
7 anyone. But as the Division, we have a little bit of
8 a different position than what Qwest or even the CLEC
9 has. We can go in and we're not going to compete and
10 open up a phone company in a week or something like
11 that. And so CLECs may be a little more willing or
12 could be compelled by the Commission to do that. And
13 that's something that as I sit here makes sense, you
14 know, just so that we make sure for the State of Utah
15 we get the information as accurate as possible.

16 And so, you know, I had to make the
17 decision when I'm reading the testimony as far as
18 what do I feel has happened. But again, one more
19 review just to make sure the information is
20 completely accurate and totally done properly I don't
21 see as a huge work element and I think everybody
22 would just be happy to make sure that it's taken care
23 of and it's as accurate as possible.

24 Q. One other area. As I understand your
25 testimony both as you wrote it and as you've given it

1 today, you have simply looked at 2003 data for Qwest
2 for the Salt Lake Main wire center and concluded that
3 it didn't meet the 60,000 line threshold and did not
4 go beyond that point? Am I fair in characterizing
5 your testimony in saying you didn't get to the issue
6 of whether 2003 or 2004 vintage data should be used?

7 A. Correct. I didn't really take a strong
8 position on that and even now I don't have a strong
9 position. So I don't feel that it would change
10 dramatically. I mean, it's possible. I mean, you
11 look at 2004 and there's obviously a decrease in the
12 number of access lines so it's possible. But part of
13 the reason why I didn't take a strong position either
14 is because I know that this has been discussed as far
15 as data requests and a motion to compel and I thought
16 that the Commission by issuing an order at least had
17 kept open the option of looking at 2003 and/or 2004.
18 And so I was silent on it not because I think one
19 date is more appropriate than the other, but just
20 because, you know, I figured that the Commission kind
21 of had a feel with it and we didn't have a strong
22 position one way or the other. So we would allow
23 those that have the strong position to voice it and
24 we would just do what the Commission asked us to do
25 as far as looking at the data and go forward with it

1 at that point.

2 MR. KOPTA: Fair enough. Thank you.

3 Those are all the questions I have at this point.

4 JUDGE GOODWILL: Mr. Ginsberg, anything
5 further?

6 Anything further of this witness?

7 MR. DUARTE: No, your Honor, I have no
8 further questions.

9 JUDGE GOODWILL: Thank you.

10 MR. DUARTE: Your Honor, before we close
11 the evidence, Mr. Denney in his cross-examination
12 questions to my questions raised some information
13 about the Ogden and Provo, Utah with respect to what
14 elements of the fiber-based co-location requirements
15 were met and were not met and he was, I think,
16 working off of one of the data responses of the
17 co-location worksheet.

18 Would it be possible to have some
19 clarification by Ms. Torrence, who is the fiber-based
20 co-location witness, regarding her investigation that
21 didn't come out or may have been miscommunicated
22 given the testimony that Mr. Denney gave? It would
23 be very brief.

24 MR. KOPTA: Your Honor, I'm a little
25 puzzled because we've been through the whole day and

1 there were opportunities to clarify what their
2 position was. I mean, Ms. Torrence gave oral
3 Surrebuttal in response to Mr. Denney's written
4 Surrebuttal that discussed those two wire centers,
5 and I don't think that Mr. Denney said anything
6 orally today that was any different than what he said
7 in his testimony. So I'm not sure exactly why we're
8 dealing with this issue now.

9 MR. DUARTE: Your Honor, if I can respond.
10 Mr. Denney did get into some specifics about those
11 two wire centers during the closed session and he was
12 referring to the data response attachment which I
13 believe was the co-location verification spreadsheet.
14 So I think this is not testimony that was necessarily
15 in his -- well, it was something that Ms. Torrence
16 would have dealt with but for the fact that he raised
17 it in answering my cross-examination questions.

18 MR. KOPTA: Well, your Honor, I would
19 respectfully disagree with Mr. Duarte. While Mr.
20 Denney identified the source of the document, it is
21 attached as Exhibit DD-02 to his Response Testimony,
22 which is Exhibit Echelon 1R.2. So certainly Ms.
23 Torrence had every opportunity to respond to his
24 Response Testimony and, in fact, did respond to his
25 Response Testimony. And it's also in his Rebuttal

1 Testimony on page 11 beginning at line 9, which
2 specifically addresses what the deficiencies are in
3 the Ogden Main and Provo, Utah co-locations. So this
4 is all information that has been available to Qwest
5 for some time.

6 JUDGE GOODWILL: Mr. Duarte, I'm curious.
7 Would the additional testimony go to the information
8 contained in those worksheets?

9 MR. DUARTE: No, your Honor. And frankly,
10 I don't specifically know exactly what the
11 information that Ms. Torrence needs to clarify. But
12 Ms. Torrence advised me that there were some things
13 that he said in response to my cross-examination
14 questions that she felt were not accurate and so she
15 wanted to address those. And perhaps the way we can
16 approach this is to allow the testimony subject to a
17 motion to strike and then, your Honor, if there is a
18 motion made by Mr. Kopta, which I assume I will
19 oppose, your Honor can make that final decision. And
20 I don't think it will take more than a few minutes,
21 your Honor.

22 JUDGE GOODWILL: Let's just take five
23 minutes and you can confer with your witness and see
24 exactly what testimony it is and we'll come back on
25 the record and you can let us know whether you think

1 it's still necessary from there.

2 MR. DUARTE: Perfect. Thank you, your
3 Honor.

4 (Recess taken.)

5 JUDGE GOODWILL: We'll go back on the
6 report. Mr. Duarte?

7 MR. DUARTE: Ms. Torrence has confirmed
8 that what she's wanting to make accurate for the
9 record has nothing to do with the oral live
10 Surrebuttal Testimony that she gave because what
11 ended up happening was she gave her oral live
12 Surrebuttal that was only responsive to Mr. Denney's
13 Surrebuttal. Because Mr. Denney went later, Mr.
14 Denney made certain characterizations or certain
15 allegations with respect to whether power was
16 verified, whether the fiber exited or left the
17 building and whether or not we could prove
18 terminations, and that discussion was during the
19 Surrebuttal Testimony. And so Ms. Torrence would not
20 have had an opportunity to reply to that specific
21 detail that he gave because she went later.

22 And so, therefore, there are three
23 different points that she wants to clarify and we do
24 believe that had she gone after Mr. Denney she would
25 have been able to, when it was her turn, respond to

1 that. But because it was not information in response
2 to his Surrebuttal, which is what she dealt with in
3 the morning during her summary, she didn't have an
4 opportunity to address that.

5 Now, I can summarize very briefly the
6 three points she wants to clarify, but at the same
7 time I probably wouldn't do it as much justice as the
8 witness herself and would probably take more time
9 than the actual clarification. Qwest would be open
10 and subject to recross, obviously, if Mr. Kopta
11 deemed it appropriate.

12 MR. KOPTA: And, your Honor, again I will
13 direct everyone's attention to the Rebuttal Testimony
14 that Mr. Denney filed. And on page 11, the Ogden
15 Main, the deficiencies are listed right there. Those
16 are the exact same things that Mr. Duarte says that
17 his witness wants to address now. She had the
18 opportunity to address that not only in written
19 testimony, but in any oral Surrebuttal that she gave.
20 It wasn't a factor of Mr. Denney saying something
21 here today, he said it in paper on April 26th.

22 MR. DUARTE: Your Honor, she did respond
23 to Mr. Denney's Response Testimony in her written
24 Surrebuttal. So with that aspect, we're not trying
25 to revisit that. But he gave a lot more detail and,

1 in her view, some inaccuracies in his
2 cross-examination testimony which obviously came
3 after her testimony. And so, therefore, we think
4 that it's only fair that we be given the opportunity
5 for a full and complete record for us to go up there,
6 for her to go up and clarify based on her view.

7 And obviously, if Mr. Kopta wants to
8 cross-examine her I certainly would have no
9 objections to that. And, frankly, if Mr. Denney
10 wants to come up there and try to rebut that, not
11 that we want to be here forever, but I wouldn't have
12 a problem. I want everything to just be in the
13 record so that we can then argue it from the briefs
14 and no one can complain that there was something out
15 there that was left unsaid.

16 JUDGE GOODWILL: I'll go ahead and allow
17 it.

18 MR. DUARTE: Thank you, your Honor. We
19 would recall Ms. Rachel Torrence to the stand for
20 brief Sur-Surrebuttal, I guess.

21 JUDGE GOODWILL: Ms. Torrence, I'll remind
22 you you're still under oath.

23 THE WITNESS: Yes, sir.

24 JUDGE GOODWILL: We're not talking on
25 highly confidential information or confidential

1 material?

2 MS. TORRENCE: I will stay away from that.

3 RACHEL TORRENCE,

4 recalled as a witness, was examined and testified

5 further as follows:

6 DIRECT EXAMINATION

7 BY MR. DUARTE:

8 Q. I will stay away from that. Please do not
9 identify the carrier whose co-loations we're talking
10 about.

11 A. Okay. If you'll allow me a minute to find
12 the worksheets.

13 Q. I believe it was data response -- was it
14 40? Which data request was it?

15 MR. DENNEY: Forty-five.

16 Q. (BY MR. DUARTE) It's 45. They're all in
17 order.

18 A. Oh, 45. Here we go. I felt compelled to
19 respond to some of the comments Mr. Denney made
20 regarding the Provo and Ogden wire centers in that we
21 failed to prove that they were fiber-based
22 co-locaters.

23 These worksheets are the actual worksheets
24 that were provided to me by the field crews. When
25 responding to this I provided them as documentation

1 when -- supporting information. However, when I was
2 going through the worksheets prior to compiling the
3 list I saw that there were inconsistencies. And I
4 contacted the individuals that did the actual field
5 verification for me and, as I stated in my testimony,
6 in which Mr. Denney seems to kind of gloss over, if
7 not totally ignore, is that if there was a negative
8 answer it was not that it did not meet that criteria,
9 it was that they were not in a position at that point
10 in time to verify that. They either couldn't see it
11 or they could not follow it out.

12 So subsequent to that I did the further
13 research or had my field folks do the further
14 research, and that was the case in the Provo wire
15 center where the termination in the co-lolls was in
16 dispute where it says no. And it's not that it
17 didn't terminate in the co-loll, it's that during the
18 June time frame they could not verify that physically
19 without entering the co-location.

20 However, I actually pulled construction
21 prints and talked to the individuals that do the work
22 in the central office. Qwest provided the cable that
23 goes into that central office -- or into that
24 co-location, excuse me. So Qwest actually physically
25 placed the cable and dropped it into the cage. It

1 goes behind the electronics. The electronics are
2 powered and lit. We just can't see the connections.

3 Now, he made the misstatement that power
4 could not be verified. We visually verified power
5 which is what the TRRO required us to do. I asked
6 them to verify power at the BDFB previously, which is
7 our basic fuse box, our power boxes. I wanted to
8 know where those connections were so that I could go
9 back in and check on power levels usage if there was
10 a dispute, which there have been in other states, as
11 to how much they're using if the co-location was
12 operational. That was just additional data from my
13 backup.

14 But the fact of the matter is, if you'll
15 look at Provo, was the power verified? Yes, it was.
16 Subsequent to this filing we did find the power
17 connections. They were on the second floor. In this
18 particular office we have power units on two
19 different floors and when it went through the path
20 between floors is where we kept losing it.
21 Eventually we did find it so it has been verified.

22 Now, in the Ogden situation it was the
23 same, it was basically the same process. I knew
24 there was an issue. And the fact of the matter is,
25 if it's in there, it's working, it's got to be

1 leaving the office. So again, we looked at order
2 information, we looked at a lot of supporting data
3 before I committed to putting this on the list. Now,
4 I did not change or add any information to the
5 worksheets, I didn't think that was appropriate.

6 Now, as far as verification documents, I
7 suppose I can provide affidavits from the individuals
8 that actually performed the data searches for me
9 subsequent to these verifications. Usually it's a
10 phone call. They call me back, "Yeah, we finally
11 found it." Or "This is the job number, I pulled it
12 on line." And generally we don't provide our
13 construction data because we consider that very
14 confidential information because it has very specific
15 customer data. So those I didn't provide, I didn't
16 even pull copies of them. I just ran them out, told
17 them where to look and they found it.

18 So to say that we failed is completely
19 inaccurate. To ignore the fact that in my testimony
20 I repeatedly say we didn't stop at this verification,
21 this is just one piece of evidence, and if there was
22 still any question I went that much further to try
23 and find the information. The fact that it wasn't
24 documented on this worksheet is regrettable and I'll
25 know better for next time.

1 JUDGE GOODWILL: Anything further on that
2 issue, Mr. Duarte?

3 MR. DUARTE: Nothing further from Qwest,
4 your Honor.

5 JUDGE GOODWILL: Mr. Kopta?

6 MR. KOPTA: Thank you, your Honor.

7 CROSS-EXAMINATION

8 BY MR KOPTA:

9 Q. Do you have the data requests? Do you
10 have Joint CLEC 01-045? Actually it's included with
11 the response.

12 A. Yes. I just had it in front of me a
13 second ago.

14 JUDGE GOODWILL: Mr. Kopta, where is that?
15 And for the record, we're referring to Confidential
16 Exhibit DD-02. I'm not sure how we admitted it in
17 these proceedings, but it's marked DD-02 to Mr.
18 Denney's Rebuttal Testimony. Where in that is the
19 actual data request that you're referring to?

20 MR. KOPTA: The data request itself is not
21 included in that exhibit.

22 JUDGE GOODWILL: I thought you said it
23 was. I'm sorry.

24 MR. KOPTA: Which would explain why you
25 weren't able to find it.

1 THE WITNESS: Yes, I have it in front of
2 me.

3 Q. (BY MR. KOPTA) Ms. Torrence, I will read
4 the request to you. "Please provide a copy of the
5 spreadsheet discussed on this page of Ms. Torrence's
6 testimony," referring to page 14, "along with all
7 supporting information for all wire centers requests
8 relied upon fiber-based co-location to determine that
9 the wire center is not impaired." Did I read that
10 accurately?

11 A. Yes.

12 Q. And if you look at the confidential
13 attachment A, is that the same information that is
14 reproduced in Mr. Denney's Exhibit DD-02?

15 A. Yes. It's a copy of the information in
16 the spreadsheet as asked for.

17 Q. Are you aware that data requests are
18 ongoing and that if you obtain additional information
19 you are obligated to provide that information in
20 response to data requests?

21 A. You know, I am.

22 Q. And you didn't provide this additional
23 follow-up information, did you?

24 A. As a supplement, no. It was contained in
25 brief in my testimony.

1 Q. Would you point to me where that is in
2 your testimony?

3 A. I don't have my testimony in front of me,
4 but I believe I responded -- it wasn't in my Direct,
5 it was in my Response.

6 MR. DUARTE: May I approach the witness,
7 your Honor?

8 JUDGE GOODWILL: Sure.

9 THE WITNESS: It's so much easier when you
10 have a search capability.

11 Q. (BY MR. KOPTA) Sorry, you need an
12 electronic copy.

13 A. Okay. I started on page 9.

14 JUDGE GOODWILL: This is of your Response
15 Testimony?

16 THE WITNESS: Of my Response Testimony,
17 yes. On page 4 I asked, "How do you respond to Mr.
18 Denney's concern regarding information that is not
19 shown on the verification worksheets?" And I stated
20 that he mistakenly implied that an item on the
21 worksheet was missing or contained negative input.
22 Apparently no further investigation before counting
23 the particular carrier. However, I counted the
24 carrier only. I'm paraphrasing here. And the field
25 verifications were not taken singularly, but rather

1 simply an additional piece of information.

2 I thought there was additional. I know
3 I've responded elsewhere where I put or stated the
4 fact that we looked at other data to support. I
5 would have to find that.

6 Okay. Page 11, Qwest used -- starting on
7 line 1 and, for example, on line 4, "In instances
8 where visibility was obstructed or access not
9 available, Qwest used other available data such as
10 order or billing information to substantiate that the
11 co-location was fiber-based and operational."

12 Q. That varies somewhat from what you just
13 testified, though.

14 A. I don't think it does, no.

15 Q. It doesn't? Well, you were very specific
16 in your testimony today about exactly what you did,
17 where and when, and I see nothing of that in your
18 written testimony.

19 A. "Qwest used other available data such as
20 order and billing information." And in both
21 instances I looked at order information which led me
22 to the construction records. I also looked at
23 billing information.

24 Q. I don't see any reference to construction
25 records.

1 A. Well, order information. When you place
2 an order, we build. I should have articulated it
3 better, I agree. And I should have provided a
4 supplemental response to my data request, yes, and I
5 probably will on arriving back at my office.

6 Q. Next week.

7 A. My apologies.

8 Q. Do you have the information that you just
9 described orally in any written form in terms of what
10 your steps were after you received and what you
11 provided to us in response to that data request?

12 A. In written form, I have looked at the
13 ordering information online and I have looked at a
14 variety of online tools. I haven't taken any paper
15 copies, if that's what you mean.

16 Q. So there's no documentation of the steps
17 you took after you have the spreadsheets and other
18 information that you provided in response to this
19 data request?

20 A. Not with me. I do have records of the
21 phone calls and who I spoke with and the individuals
22 that actually proceeded to do the physical
23 verification after we pointed them in different
24 directions, for example, in the BDFB. And again, my
25 purpose here is to provide the most complete set of

1 data. I've -- it was not a question of me trying to
2 just gloss over it. I do have the information and he
3 was -- Mr. Denney was laboring under a misconception.

4 Q. But you will concede, will you not, that
5 Mr. Denney didn't have the information that you just
6 gave right now prior to his testimony?

7 A. He had my Response Testimony, was what he
8 had.

9 Q. But he also had the response to Data
10 Request Number 45 which ostensibly provided all the
11 backup information, and your testimony right here --

12 A. No. The information for the physical
13 verification that was -- if I recall correctly, if
14 you point back to my first testimony, those
15 verifications were an exhibit -- or if you take them
16 in the context of my Direct Testimony, I provided the
17 worksheets that were given to me by the field folks
18 as a part of that verification.

19 Q. Right. And that obviously was what you
20 provided in response to Request Number 45?

21 A. Yes. And I saw that as limited to that.

22 Q. Although the data request itself, as we
23 just read it, includes not just the spreadsheets but
24 all supporting information?

25 A. It didn't say supporting and additional

1 information, which I took to mean when -- if you look
2 at the letter that I sent out asking, which was an
3 exhibit to my Response Testimony, the letter asked my
4 field folks to provide me with comments and
5 additional information beyond the five little
6 criteria set forth by the FCC. I looked at that as
7 being the additional information that was being
8 called for.

9 Q. Okay. Well, I certainly think that the
10 request is clear on its face so I won't argue with
11 you over what it means because I'll just get an
12 objection from your counsel if I try to do that.

13 MR. DUARTE: It's too late in the day.

14 THE WITNESS: And again, you know, my
15 purpose here is not to argue here. I do want to
16 present the most complete record here and prove that
17 those two are legitimate fiber-based co-locaters that
18 should not be taken off the list. And, quite
19 frankly, as was the case with the Midvale, if I
20 didn't feel comfortable with that I wouldn't have put
21 it forward.

22 Q. (BY MR. KOPTA) I understand that. And I
23 hope that you would also understand from our
24 perspective that Mr. Denney was somewhat limited in
25 what he had in terms of backup information from Qwest

1 and that was what formed the basis of his opinion and
2 he didn't have the benefit of the additional
3 information you provided today. Is that a fair
4 statement?

5 A. I agree that we were not working under the
6 best of circumstances here, yes.

7 Q. Fair enough, that's as good as I'm going
8 to get.

9 MR. KOPTA: Your Honor, I would request,
10 however, to the extent that documentation exists
11 along the lines that Ms. Torrence described, if we
12 could perhaps have that as a supplement to the record
13 so that we have a complete documentation of Qwest's
14 activities in terms of verifying the fiber-based
15 co-locations in addition to the testimony of Ms.
16 Torrence given today.

17 JUDGE GOODWILL: No, that's reasonable.
18 And I would go the step further to permit Mr. Denney
19 the opportunity to review that, and if he needs to
20 provide anything by way of supplemental testimony to
21 the Commission based on that information we will give
22 him that opportunity.

23 MR. KOPTA: Thank you, your Honor. That
24 was my second request.

25 JUDGE GOODWILL: Along those lines, how

1 long do you think would be required to get that
2 information to the Joint CLECs, Ms. Torrence?

3 MS. TORRENCE: I could probably have it
4 within -- by the end of the week.

5 JUDGE GOODWILL: Okay.

6 MS. TORRENCE: Now, as far as
7 conversations with my field folks, I'm not sure how I
8 would document that.

9 MR. KOPTA: Obviously, we don't want you
10 to try and recreate from memory what those
11 conversations were, but I think it would be
12 beneficial to tell us who you spoke with and what the
13 job title of that person is.

14 MS. TORRENCE: And that would be fine.

15 JUDGE GOODWILL: If you'll go ahead and
16 provide that. Today is the 13th, I believe Friday
17 must be the 16th, and if you can provide that to the
18 Joint CLECs by the 16th, provide a copy to the
19 Commission, we will make it subject to objection, but
20 we will identify it as a Joint Exhibit 2 for these
21 purposes.

22 And Mr. Denney and Mr. Kopta, I'll allow
23 you to speak as well, one week following that to
24 provide any response that you feel is required?

25 MR. KOPTA: Yes. And certainly, to the

1 extent we can get the information electronically on
2 Friday, then we can have the full week to work on it
3 and would anticipate that we could provide a response
4 by the end of the following week.

5 JUDGE GOODWILL: By the 23rd of June?

6 MR. KOPTA: Yes.

7 JUDGE GOODWILL: Anything further for Ms.
8 Torrence.

9 MR. DUARTE: No, your Honor.

10 JUDGE GOODWILL: Thanks. Anything further
11 from the parties?

12 MR. DUARTE: Nothing with respect to any
13 testimony or evidence, your Honor.

14 JUDGE GOODWILL: I want to -- I'll ask the
15 attorneys, I want to make sure I'm clear on your
16 expectations coming out of this. As I look at the
17 information that's been provided in the testimony
18 that's now in the record, the Commission has
19 certainly been asked and can make a decision with
20 respect to the proper method of counting business
21 lines, for instance. There is information in the
22 record that would enable the Commission, I believe,
23 to say, Hey, we choose the Joint CLECs' position and
24 the Joint CLECs provided this number of line counts,
25 therefore, Qwest, you know, this wire center is not

1 impaired."

2 I haven't heard the parties dispute
3 numbers, if you will, that have been used by either
4 side so much as the methods that were used to arrive
5 at those numbers. And I'm just wondering, is it an
6 expectation of the parties, and would it be helpful
7 for the parties for the Commission to actually make
8 that ultimate determination based on the numbers
9 provided or to simply say this is the method that we
10 believe is reasonable and correct, come back to us,
11 as it appears Washington has done, with the numbers
12 based on that method?

13 MR. DUARTE: Your Honor, I think my answer
14 would be the latter. I think if the Commission
15 issues an order setting forth the ground rules
16 resolving the disputes about the methodology, what I
17 have seen in a lot of states is that the parties then
18 submit a compliance filing, for lack of a better
19 word, that basically says, Okay, now, that we have
20 reached all this, it appears from the record that
21 this one meets, this one doesn't, but as part of that
22 process, you know, basically confirm that the numbers
23 are right and there's no dispute. And I don't think
24 there's going to be much of a dispute between the
25 parties because I think it's a simple counting

1 exercise once we have the guidance from the
2 Commission regarding the methodology.

3 So I don't know. I think if the
4 Commission issues an order setting forth all of its
5 rules and all of its methodologies and resolving all
6 of the disputes that the parties can pretty readily
7 agree to the numbers. Because the numbers should be
8 what the numbers are, I think. I don't think Greg
9 was listening to me.

10 MR. KOPTA: I always listen to you. I'm
11 sort of torn because on one hand I know that from the
12 experience in Washington we don't always agree with
13 the numbers that come back and sometimes that
14 engenders additional disputes. On the other hand, I
15 want to make sure, obviously, that the Commission has
16 the numbers in the record if it were to decide, okay,
17 we agree with this position, the result is this
18 number, and therefore, either the wire center meets
19 or doesn't meet the impairment standards.

20 I believe that in Mr. Denney's testimony,
21 at least from our perspective, we have documented the
22 number of lines that result from making the
23 adjustments that -- or not making the adjustments,
24 depending on whose proposal it is, and so that that
25 information is in the record and the Commission could

1 make a determination on almost all of the numbers.
2 The only number that I'm aware of as I sit here right
3 now would be if the Commission were to say, we're
4 going to accept the way that Qwest calculated lines
5 for Salt Lake Main in Exhibit DLT-2, but we're going
6 to want them to use 2004 data. That number doesn't
7 exist.

8 And to go to your earlier point, that is
9 the one number that I think that the parties do
10 disagree on in terms of -- our position, of course,
11 is that we have no basis of knowing how that was
12 calculated. And so we disagree with the methodology
13 as well as with the number. But that one issue
14 aside, I do think that there are line count numbers
15 from both parties in the record. Certainly Mr.
16 Teitzel has an Exhibit DLT-1 that has the numbers
17 from Qwest's perspective and Mr. Denney has several
18 exhibits that include the numbers.

19 And so I guess what I would propose is
20 that after reviewing the record, if the Commission
21 were to determine that the numbers are in the record
22 as a result of the determinations that the Commission
23 has made, that it would then tell the parties,
24 "Here's our decision, we need the numbers, you guys
25 need to come back with the correct numbers." But we

1 would ask that the Commission first look to see if
2 the numbers are in the record.

3 MR. DUARTE: Yes, your Honor, if I could
4 just amplify on that. I mean, I do think that
5 there's currently, and actually I have seen nothing
6 in the testimony that disputes the numbers of what we
7 have presented and what they have presented. The
8 disputes have been with respect to methodology. Mr.
9 Kopta is correct, the only number that we don't know
10 yet, because no one has done the analysis, is the
11 2004 using the two wire center issue that we've
12 discussed. And certainly we can do that. And just
13 like with the 2003 data for that process and the
14 other numbers we've used there's been no dispute.

15 So I wouldn't anticipate that if that's
16 what the Commission rules we can easily crunch those
17 numbers and share those numbers and if there's a
18 dispute, I guess we could bring it to the
19 Commission's attention. Just like the other numbers
20 have not been disputed, once we agree -- or once we
21 know what the methodology is, I don't anticipate that
22 this will be any different.

23 JUDGE GOODWILL: The Division?

24 MR. GINSBERG: I think I tend to agree
25 more with Mr. Kopta that the numbers are on the

1 record and are not in dispute. And if the Commission
2 can make a decision based on those records, then go
3 ahead and do it and not just automatically order a
4 compliance filing unless they find that they're not
5 able to based on the information that's in the record
6 make a determination of what the proper number is.

7 JUDGE GOODWILL: Okay. And my
8 recollection of the Division's position, Mr.
9 Coleman's calculations, we have his testimony that
10 under the Division's method Salt Lake Main would fall
11 under the threshold. But I think unlike the other
12 parties, maybe we don't actually see the numbers
13 behind that calculation. Is that correct?

14 MR. GINSBERG: That's correct.

15 MR. COLEMAN: Yeah, that's accurate.

16 JUDGE GOODWILL: And I don't intend to --
17 I didn't expect to get any resolution. I just wanted
18 to kind of hear what the parties thought about the
19 situation.

20 MR. DUARTE: Your Honor, I just want to
21 clarify. Mr. Ginsberg said he agreed more with Mr.
22 Kopta. Actually, I'm in agreement with Mr. Kopta, so
23 I think we're all in agreement, frankly. The only
24 reason I mentioned the compliance filing is I got the
25 impression that maybe your Honor was concerned there

1 might be some dispute. And certainly if the
2 Commission did go with the 2004 numbers that Mr.
3 Teitzel did in DLT-2, then obviously we would have to
4 do some kind of compliance filing. But we do agree
5 that there's enough numbers in the record and that no
6 one has really disputed those numbers and so that
7 once the methodology issues have been resolved then
8 we know what the numbers are. So I think we're all
9 in agreement.

10 JUDGE GOODWILL: Okay. Thanks.

11 The only other thing I can think of, and I
12 just throw it out as I do in most dockets, does
13 anyone feel the need for briefing at all on this or
14 are you just ready to the Commission rule on it?

15 MR. DUARTE: Your Honor, I'm not sure if
16 we've talked to Mr. Ginsberg, but I've talked to Mr.
17 Kopta. I think we do agree especially because these
18 issues are being dealt with in other states that we
19 do want post hearing briefs. And we noticed from the
20 original prehearing conference order that there was a
21 very, very quick, like seven or eight-day turnaround
22 for post hearing brief. And I was not involved in
23 the case at that time, but we agree that that is very
24 unrealistically tight.

25 And so we were thinking more in terms of,

1 because it's going to take a week or two for the
2 transcript, that perhaps a 30-day time period for an
3 opening brief, all parties do simultaneous opening
4 brief and then two or three weeks later we could get
5 a simultaneous reply brief. And I apologize, I did
6 not discuss that with Mr. Ginsberg. I just did not
7 get a chance to. But that would be the proposal that
8 I think both Mr. Kopta and I would at least agree
9 with.

10 JUDGE GOODWILL: My apologies. I forget
11 that was even in the original scheduling order. So
12 we will look at briefs, then, and we can talk dates?

13 MR. GINSBERG: Sure. My preference would
14 be only to have one brief, but I guess I don't have
15 to respond.

16 MR. DUARTE: That's true. We talked about
17 that, your Honor, but I think because of the other
18 states we kind of thought that -- I mean, lawyers
19 always want to get the last word in.

20 MR. GINSBERG: That's the trouble about us
21 going first, I guess. They want to make sure they
22 get everything that they can say.

23 MR. DUARTE: Well, and unlike other
24 dockets where there will be filed testimony first,
25 we're not advocating that we go first and then

1 everybody else respond and then we reply and so we
2 get two bites of the apple and they get one. We
3 agree two simultaneous direct -- or opening and two
4 simultaneous replies should be more than enough.

5 JUDGE GOODWILL: Again, I think the
6 parties are free to decide not to submit one or both
7 of those if they choose not to. So the first round
8 -- I mean, I'm open to what the parties want as far
9 as a deadline for these.

10 MR. DUARTE: It is summer, which in
11 Portland is only from July to September.

12 MR. KOPTA: It's the same in Seattle.

13 MR. GINSBERG: Well, it's certainly summer
14 here.

15 MR. DUARTE: Well, your Honor, we thought
16 30 days would be reasonable. So that would be --
17 that would probably fall on either a Thursday or
18 Friday. I assume, probably a Thursday.

19 JUDGE GOODWILL: Can we make it Friday,
20 July 14th?

21 MR. DUARTE: July 14th would work okay.

22 JUDGE GOODWILL: For the initial briefs.
23 And then a couple of weeks for the reply?

24 MR. DUARTE: Greg, two, three?

25 MR. KOPTA: I think two should be enough.

1 MR. DUARTE: You do or don't?

2 MR. KOPTA: Let's split the difference and
3 do two and-a-half.

4 JUDGE GOODWILL: Oh, two and-a-half?

5 MR. KOPTA: Yeah. Make it like August
6 2nd.

7 JUDGE GOODWILL: Okay.

8 MR. DUARTE: You know what, I'm going on
9 -- well, I'm going to be gone the week of I think
10 it's the 30th or something for the whole week.

11 MR. KOPTA: The week of July 30th. All
12 right. We can do two briefs and have it the 28th.

13 MR. DUARTE: That's a good way to get
14 away.

15 JUDGE GOODWILL: 14 July and 28 July?

16 MR. DUARTE: Right. Any problem with that
17 from the Division?

18 MR. GINSBERG: No.

19 JUDGE GOODWILL: All right. Anything
20 further we need to take up before we close here
21 today?

22 All right. Thank you very much.

23 (The taking of the deposition was.

24 Concluded at 4:11 p.m.)

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C E R T I F I C A T E

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

I, LANETTE SHINDURLING, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the State of Utah, residing at Salt Lake City, Utah hereby certify;

That the foregoing proceeding was taken before me at the time and place herein set forth, and was taken down by me in stenotype and thereafter transcribed into typewriting;

That pages 1 through 249, contain a full, true and correct transcription of my stenotype notes so taken.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 27th day of June, 2006.

LANETTE SHINDURLING, RPR, CRR
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