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BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL
COMMISSIONER
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COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH § 271 OF THE TELECOMMUNICATIONS ACT OF 1996.	DOCKET NO. T-00000A-97-0238

QWEST'S NOTICE OF FILING TRANSCRIPTS AND EXHIBITS FROM THE COLORADO WORKSHOP REGARDING GENERAL TERMS AND CONDITIONS

As agreed, Qwest Corporation ("Qwest") submits this Notice of Filing Transcripts and Exhibits from the Colorado Workshop No. 6 (follow up) on General Terms and Conditions, held August 21 - 23, 2001.

The following exhibits from the Colorado General Terms and Conditions proceeding are non-confidential exhibits with the Colorado exhibit numbering system:

Non-Confidential Colorado General Terms and Conditions Exhibits

6 Q 57	Open/Impasse issues list
6 Q 58	Consensus on Issues for M&R
6 Q 59	Consensus on Issues for OSS
6 Q 60	Consensus on Issues for General Terms
6 Q 61	SGAT Lite
6 Q 62	Proposed Language for 2.1
6 Q 63	Proposed Language for 2.3.1
6 Q 64	BFR Process Flow
6 Q 65	Special Request Process Flow

Arizona Corporation Commission
DOCKETED
AUG 27 2001
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6 WCom 66	Supplemental testimony of Balvin 7/2/01
6 WCom 67	Comments on Qwest's CICMP Process sent by e-mail week of July 2, 2001
6 ATT 68	ATT Issues List
6 Q 69	CICMP Issues List
6 ATT 70	Proposed SGAT Language for new section 1.7.2. (at impasse)
6 ATT 71	Affidavit of James Tade
6 ATT 72	Proposed Language for SGAT Section 5.12.2
6 Q 73	SGAT Language for 5.4.2 and 5.4.3
6 Q 74	SGAT Language for 9.7.5.2.2
6 Covad 75	Comments on CICMP
6 Q 76	Working Draft (8-17-01) of Definitions for SGAT
6 Q 77	Definition of Exchange Access
6 Q 78	SGAT Language for 12.2.1.9.7
6 Q 79	SGAT Language for 5.16.3
6 Q 80	SGAT Language for 5.16.9
6 Q 81	Import of Transcripts and Exhibits on General Terms and Conditions from AZ[1]
6 Q 82	Import of Transcripts and Exhibits on General Terms and Conditions from WA
6 Q 83	Import of Transcripts and Exhibits on General Terms and Conditions from Multi-State
6 ATT 84	Import of Transcript of Gary Klug
6 Q 85	New SGAT language for 11.23
6 Q 86	Proposed SGAT Language for 11.34
6 Q 87	Definition of Switch
6 Q 88	5.16.9.1.1
6 Q 89	Affidavit of Karen Stewart
6 Q 90	Schedule of Working Sessions on CICMP
6 Q 91	Revised SGAT Language for 11.23
6 Q 92	Definition of Rate Center
6 Q 93	SGAT Language for Section 5.2.2

[1] The transcripts and exhibits on General Terms and Conditions from Arizona, Washington and the Multi-state docket (Exhibits 6Q81, 6Q82 and 6Q83, respectively, are already a part of the Arizona record and are not being provided here. These transcripts are mentioned here only to identify such transcripts by their exhibit number in the Colorado record.

Dated this 27th day of August 2001.

By: _____

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1 BEFORE THE PUBLIC UTILITIES COMMISSION

2 OF THE STATE OF COLORADO

3 Docket No. 97I-198T - Workshop 6

4 * * *

5 IN THE MATTER OF THE INVESTIGATION OF US WEST

6 COMMUNICATIONS, INC.'S COMPLIANCE WITH SS 271(c)

7 OF THE TELECOMMUNICATIONS ACT OF 1996.

8 ----------

9 Pursuant to continuation, the Technical Workshop

10 was held at 8:35 a.m., August 21, 2001, at 3898 South

11 Wadsworth Boulevard, Lakewood, Colorado, before

12 Facilitators Hagood Bellinger and Martin Skeer.

13 APPEARANCES

14 (As noted in the transcript.)

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

2 (Exhibits 6-Qwest-57 through 65

3 6-WorldCom-66 and 67 were marked for identification

4 purposes by the court reporter.)

5 MS. HUGHES: The first exhibit which we

6 have premarked is 6-Qwest-57. Everyone should have a

7 list of the open/impasse issues for this workshop.

8 The next exhibit, and we tried to pass

9 these out in order, is Section 12, General Terms and

10 Conditions. It's the list of consensus on issues for

11 maintenance and repair, 6-Qwest-58.

12 The next exhibit is 59, the consensus

13 on the OSS issues.

14 The next exhibit, 6-Qwest-60, is the

15 consensus issues on the general terms issues.

16 The next exhibit, 6-Qwest-61, is the

17 SGAT Lite that has been prepared for this workshop.

18 It's dated August 21 through 24. This was previously

19 served on all parties.

20 The next exhibit is new Qwest proposed

21 language for Section 2.1 with some conforming changes

22 in Section 5.24 and 5.31. That is 6-Qwest-62.

23 The next exhibit, 6-Qwest-63, is new

24 Qwest proposed language for Section 2.3.1.

25 The next exhibit is labeled Bona Fide

1 Request Process Flow. It's a flow chart showing the
2 process for the bona fide request process, and it is
3 6-Qwest-64.
4 The last exhibit, 6-Qwest-65, is a flow
5 chart for the special request process flow.
6 MR. BELLINGER: Any other exhibits to
7 be marked for identification?
8 MR. DIXON: Yes. I have provided to
9 the court reporter two exhibits. One is the Prefiled
10 Supplemental Testimony of Elizabeth M. Balvin. This
11 was sent electronically to everybody June 29, 2001.
12 It was actually filed with the Commission July 2, 2001.
13 I would like it to be marked -- and I guess the next
14 number is 6-WorldCom-66.
15 In addition, subsequent to that date,
16 very shortly thereafter, WorldCom submitted comments on
17 Qwest's Co-provider Industry Change Management Process
18 that were submitted both to the CICMP group as well as
19 to this group in its entirety. That was also sent out
20 the week of June 29-July 2nd -- actually be the week of
21 July 2nd. I would request that be marked
22 6-WorldCom-67.
23 Some of you may remember getting this.

24 It sparked a series of e-mails from other parties that
25 had filed CICMP comments in the CICMP process and we

1 felt that since they were being discussed there, we
2 should make them exhibits in this workshop as well.
3 Mana, I do have an extra copy for you.
4 MS. JENNINGS-FADER: I remember it.
5 I just don't believe I brought a copy.
6 MR. DIXON: I've got one copy which
7 I'll auction off to a party that wants it that badly.
8 MR. BELLINGER: Any other exhibits?
9 MS. DOBERNECK: I'll also be
10 introducing into evidence Covad's CICMP comments but
11 I didn't bring it today since I was scheduled to be
12 talking about it Thursday. I will be doing that.
13 MR. BELLINGER: Let's go ahead and take
14 appearances. I'm Hagood Bellinger with DCI.
15 MR. SKEER: Marty Skeer with DCI.
16 MS. DOBERNECK: Megan Doberneck, Covad.
17 MR. ZULEVIC: Mike Zulevic, Covad.
18 MS. BEWICK: Penny Bewick, New Edge
19 Networks.
20 MR. SCHNEIDER: Michael Schneider,
21 WorldCom.
22 MR. DIXON: Tom Dixon, WorldCom.

23 MR. MENEZES: Mitch Menezes, AT&T.

24 MS. FRIESEN: Letty Friesen, AT&T.

25 MR. HYDOCK: Michael Hydock, AT&T.

1 MS. RAGGE: Joanne Ragge, Qwest.

2 MR. McDANIEL: Paul McDaniel, Qwest.

3 MS. FORD: Laura Ford, Qwest.

4 MS. HUGHES: Mary Rose Hughes, Qwest.

5 MR. BROTHERSON: Larry Brotherson,

6 Qwest.

7 MS. EIDE: Laurie Eide, Qwest.

8 MS. QUINTANA: Becky Quintana,

9 Commission staff.

10 MS. JENNINGS-FADER: Mana Jennings-

11 Fader, Commission counsel.

12 MR. BELLINGER: Let's identify

13 witnesses today.

14 MR. ZULEVIC: Mike Zulevic, Covad.

15 MS. BEWICK: Penny Bewick, New Edge

16 Network.

17 MR. SCHNEIDER: Michael Schneider,

18 WorldCom.

19 MR. HYDOCK: Michael Hydock, AT&T.

20 MR. McDANIEL: Paul McDaniel, Qwest.

21 MR. BROTHERSON: Larry Brotherson,

22 Qwest.

23 MS. EIDE: Laurie Eide, Qwest.

24 MS. QUINTANA: Becky Quintana, staff.

25 (The above-named witnesses were sworn

1 or affirmed to state the whole truth.)

2 MR. BELLINGER: I assume everyone has

3 an agenda. That was just a starting point. Let's talk

4 a few minutes about how we want to proceed.

5 At the last workshop we said there

6 would be a stipulation. I didn't see anything that I

7 would call a stipulation, so, Mary Rose, if you could

8 comment on that part.

9 MS. HUGHES: Yes, I can.

10 Qwest believes that what we have

11 circulated to all parties and filed as the consensus

12 on issues that we've marked as 6-Qwest-58, 59, and 60

13 reflects, if you will, a stipulation by the parties

14 that this is the language that they have agreed

15 properly and appropriately settles the issues that

16 have been raised amongst them.

17 I apologize if we have failed to

18 denominate it appropriately, but it is intended to be

19 responsive to the undertaking that we committed to at

20 the end of the last workshop which was to record in one

21 place for the Commission all of the language that the
22 parties have agreed upon, the basis for that agreement,
23 including record cites to transcripts both here in
24 Colorado and prior Colorado workshops as well as in
25 other workshops where the parties have discussed their

1 proposed resolution of the issue. Again, how it is
2 parties have resolved the issue.
3 We did circulate this to all of
4 the parties and at least to date we have received
5 no feedback or suggestion that there's anything
6 inappropriate about the way we have reflected the
7 consensus language or the basis for the consensus.
8 But certainly if any party has any disagreement with
9 the way we reflected the consensus -- it was our intent
10 to incorporate into comments.
11 MR. BELLINGER: I would assume those
12 closed in Colorado we don't need to talk about at all.
13 MS. FRIESEN: Could I comment?
14 MR. BELLINGER: Sure. Go ahead.
15 MS. FRIESEN: My understanding of what
16 the mission was, was to collect consensus language.
17 By consensus I thought we meant that language which we
18 agreed to. As I review the matrix, you'll note that
19 there are impasse issues on there, there are things

20 identified as closed. Perhaps I misunderstood what
21 the mission was.
22 But suffice to say, with respect to
23 other jurisdictions wherein we have discussed certain
24 issues and we have agreed to the language, I've created
25 our own little matrix to reflect that. I think that

1 our matrix more accurately reflects what the issues
2 were.
3 As I look at the matrix put together
4 by Qwest, which it appears they've put a lot of effort
5 and energy into it and I think that was very helpful,
6 I'm not sure it actually reflects accurately what the
7 issues were.
8 With respect to the matrix that I
9 put together that I'll pass around just a second, it
10 identifies issues that are open. By open I mean issues
11 that we have not yet discussed in Colorado. It will
12 say open and agreed or open and impasse. From AT&T's
13 perspective, only those issues that say open and
14 impasse are the ones that we should address orally here
15 today.
16 With respect to the other things, I did
17 look at Qwest's matrix and I think we, by and large
18 agree that the language with respect to particular

19 SGAT section that they've cited is agreed to where
20 it says open and agreed. I have not, however, had an
21 opportunity to review the SGAT Lite to ensure that the
22 language that we agreed to in other jurisdictions was
23 brought forward.
24 That's the only caveat I have.
25 I'd like to pass out our matrix just to

1 augment what Qwest has done and maybe help guide more
2 closely and accurately what it is we actually need to
3 talk about here, at least from AT&T's perspective.
4 MR. BELLINGER: Do you want to mark
5 that as 68.
6 (Exhibit 6-ATT-68 was marked for
7 identification purposes by the court reporter.)
8 MS. FRIESEN: The issues list I've just
9 passed out is one that was derived from an early issues
10 list that Qwest had created in this process for Gs, Ts
11 and Cs. So I hope that it continues to contain all of
12 the issues that were originally cited for these
13 workshops. I just bring forward what has happened with
14 respect to what we think has happened with issues.
15 Unless Qwest has a better idea, I would
16 propose we go through those issues that are identified
17 as open and at impasse and then reserve the right to

18 take a quick look at the SGAT language to ensure it
19 conforms to the agreements in either jurisdictions.
20 MR. BELLINGER: What's "discussed" and
21 "agreed" mean?
22 MS. FRIESEN: I've used the word
23 "discussed" to denote we have discussed it here in
24 Colorado and that we've agreed to it or it went to
25 impasse.

1 MR. BELLINGER: It was agreed to
2 somewhere else?
3 MS. FRIESEN: No. It was agreed to
4 here in Colorado. If it's discussed --
5 MR. BELLINGER: We discussed it here
6 and agreed to it here?
7 MS. FRIESEN: Right. I checked Qwest's
8 matrix with the transcripts to ensure that we in fact
9 did secure it ,and their matrix is fairly consistent.
10 That was a lot of help to have them do that.
11 MR. BELLINGER: What does "open" and
12 "agreed" mean?
13 MS. FRIESEN: Open means that it is
14 open in Colorado, it's not been discussed here yet.
15 Agreed means it's been agreed to in another
16 jurisdiction by AT&T or the parties in general.

17 MR. BELLINGER: Anyone have any input
18 on which of these you'd like to work from?
19 MR. DIXON: I expect to be working from
20 both of them.
21 First fall, I have any own notes and
22 confirm when I looked at the maintenance and repair
23 issues Qwest captured the status. I did not sit down
24 and compare my notes to their descriptions. But they
25 were only two issues I saw in maintenance and repairs

1 that were open. One was an impasse, maintenance and
2 repair 10, and one was an open, which was maintenance
3 and repair 38.
4 I apologize. I pulled up the agendas
5 we received from Becky but I only had Workshop 7
6 attached. I didn't see an agenda for workshop 6.
7 Maybe it was just the continuation.
8 MR. BELLINGER: We put out an agenda.
9 MR. DIXON: To make a long story short.
10 Maybe you could help me here. There were some CM items
11 which dealt with CICMP. Is there an issues list for CM
12 items? If so, could you direct me to it.
13 MS. FORD: We did not do a consensus
14 -- what we called consensus COIL on CICMP because it's
15 still really open here. But there is a COIL.

16 MR. DIXON: My question was what we
17 were doing with CICMP.
18 MS. JENNINGS-FADER: The CM-1 through
19 18 from the June 19 to 22nd Colorado issue log is the
20 issue log we ought to be working off of for the
21 Co-provider Industry Change Management Process
22 discussion?
23 MS. FRIESEN: We believe so.
24 I haven't got that in front of me.
25 MR. BELLINGER: Might want to review

1 that before we get to it.
2 MR. DIXON: I wanted to make sure there
3 wasn't an additional one.
4 MR. BELLINGER: The agenda went out
5 Wednesday.
6 MR. DIXON: For some reason I don't
7 have it. I got a number of other things from the
8 COILs.
9 MR. BELLINGER: At 9:33 a.m. That's
10 Denver time.
11 MR. DIXON: I'll pick up a hard copy.
12 MS. BEWICK: I have a question for
13 Qwest and AT&T. When we're talking about the status
14 column and it being either discussed, open, closed, at

15 impasse or whatever in another jurisdiction, are we
16 talking all jurisdictions? So we're talking Arizona,
17 Washington, Oregon, talking multi-state and with
18 Colorado? We're talking them all, correct?
19 Is AT&T doing the same thing?
20 MS. FRIESEN: To the extent that
21 we have actually concluded the workshops in other
22 jurisdictions. For example, in Washington, that
23 you'll see as open and agreed.
24 MS. BEWICK: On yours is it only in the
25 jurisdictions that AT&T participated in?

1 MS. FRIESEN: Right. Which is all of
2 them.
3 MS. BEWICK: You were in Arizona?
4 MS. FRIESEN: Arizona, multi-state.
5 I think that's what's reflected.
6 MS. JENNINGS-FADER: I'm curious now
7 how many issue logs we have. We have an issue log that
8 has CM-1 to 18, we have an issue log with G-1 through
9 61, we have an issue log MR-1 through MR-40, we have an
10 issue log OSS-1 through OSS-23. Are there any others?
11 MS. FRIESEN: AT&T's only covers Gs, Ts
12 and Cs -- just the Gs. It's meant to help streamline
13 the discussions this week for that section.

14 MR. BELLINGER: That would be good.

15 MS. JENNINGS-FADER: Is that all of

16 them?

17 MS. HUGHES: Yes.

18 MR. BELLINGER: What I would propose as

19 we go through the Gs in order, starting with that, if

20 they were discussed in Colorado and closed and we agree

21 to that, I don't think we need to discuss them at all.

22 If they haven't been discussed in Colorado, I think we

23 need to state what the issue is and comment on that and

24 how we would resolve it. Then if it's impasse, we need

25 to build a somewhat more extensive record than what the

1 impasse issue is. We'll cross-reference between AT&T's

2 and the one Qwest provided. That would be 6-ATT-69 and

3 6-Qwest-57 on the Gs.

4 That sound like a reasonable approach?

5 MR. DIXON: I don't believe the

6 CICMP COIL was ever marked as an exhibit. Since we're

7 marking the other ones, do we want to mark that one for

8 this final workshop? I recognize you may not have it

9 with you today, but that we either at some point also

10 mark that document.

11 MR. BELLINGER: Okay, we can mark it.

12 MR. DIXON: I'm looking at one dated

13 June, 19-22. That one actually had preprinted issue
14 numbers CM-1 through CM-12. I believe we added some to
15 that before we were done. I think I was up to No. 17
16 or 18.
17 I don't know that we have a final
18 version, but we have a working version that I think
19 probably at some point ought to be marked as an exhibit
20 if we're going to mark all these coils as exhibits at
21 least before we start discussing CICMP.
22 MR. BELLINGER: Does everyone have a
23 copy of the CICMP? Maybe we ought to get Qwest to make
24 a copy sometime before we get to it and we'll hand it
25 out and mark it. We can premark it 6-Qwest-69.

1 MR. DIXON: I don't know if Qwest
2 intends to update it with the additional issues we've
3 added, but it might make sense to try and get it in
4 in a current form rather than using the one that was
5 handed out the last time. Hopefully that's a homework
6 assignment we can wrap up.
7 MR. BELLINGER: Let's start back with
8 the combination of 6-Qwest-57 and 6-ATT-68. We'll work
9 off of 6-Qwest-60 as the base, then as we need to
10 recover to the other ones, I would appreciate the
11 parties referencing the other.

12 MR. DIXON: I have found the agenda.

13 I note there's a ROC OSS test update.

14 MR. BELLINGER: That's going to be done

15 Thursday. We ought to put a Thursday morning update.

16 MR. DIXON: If we're running late I'm

17 hoping we start that morning at 6 a.m. instead of

18 working into the night.

19 MR. BELLINGER: Let's go to 6-Qwest-60

20 and G-1. According to this document, was closed in

21 Colorado and it references the transcript.

22 Does everyone agree to that?

23 MS. HUGHES: Yes.

24 MR. BELLINGER: I don't think we need

25 to discuss it further.

1 MR. DIXON: I'll reflect it closed.

2 Thank you.

3 MR. BELLINGER: How about G-2?

4 G-3? Closed.

5 G-4? That was closed.

6 MR. DIXON: I also show deferred to

7 CICMP as it shows here on the AT&T document.

8 MR. BELLINGER: I would assume that

9 means the issues were closed here and carried on the

10 CICMP?

11 MR. DIXON: Right. Closed here but
12 deferred to CICMP.
13 MR. BELLINGER: G-5, we have a problem
14 with that, it appears, between this one and 6-Qwest-57,
15 which shows it at impasse.
16 MS. FRIESEN: I think the only
17 distinction between the two is the fact that we did
18 discuss previously in Colorado SGAT Section 1.7.1,
19 1.7.1.1, and .1.2. What we did not discuss and what's
20 not clearly identified, although it is sort of captured
21 on Qwest G-5, is AT&T's suggestion for a proposed
22 Section 1.7.2. I do have another exhibit--I apologize
23 for not getting that out--related to that section.
24 MS. QUINTANA: I have a question
25 before that. In 1.7, the new language reflected there

1 that says that the Commission will also notify all
2 interested parties of the filing. I'd like a little
3 explanation for that. These are notices of filings
4 made at CICMP. Who would we notify and why is this
5 something that's binding the Commission to do
6 something?
7 MS. FRIESEN: That notice is really
8 notice of Qwest's filing an amendment to the SGAT.
9 MS. QUINTANA: Thank you.

10 MR. MENEZES: The language actually
11 states that Qwest shall request that the Commission
12 notify. So we weren't trying to bind the Commission
13 to the document. We were trying to bind Qwest to make
14 that information to the Commission, present it to the
15 Commission so that we'd be assured of getting notice
16 that way as well.
17 MS. QUINTANA: That's fine with that
18 clarification.
19 MR. BELLINGER: Would somebody state
20 the issue for G-5.
21 MS. HUGHES: If I can summarize.
22 1.7.1, 1.7.1.1, 1.7.1.2 have previously been discussed
23 in this forum and the parties couldn't reach consensus
24 language as reflected in 6-Qwest-60. Subsequent to
25 those discussions, AT&T has proposed a new SGAT

1 section, 1.7.2. That language is reflected in the
2 exhibit that Ms. Friesen just handed out.
3 MR. BELLINGER: Which is 6-Qwest-70.
4 So I would propose that AT&T
5 address the reasons why it would like this language
6 incorporated in the SGAT and then perhaps Qwest can
7 respond.
8 MR. MENEZES: 6-ATT-70, AT&T's proposed

9 Section 1.7.2. Perhaps a little explanation of 1.7
10 because that sets up the reasoning for 1.7.2.
11 In 1.7 and the sub paragraphs there are
12 provisions that seek to make simple the incorporation
13 of new Qwest products into the SGAT for a CLEC to order
14 them. There are two paths a CLEC can take. One is
15 under 1.7.1.1 where a CLEC can adopt in whole the
16 product that Qwest has put out, rates, terms, and
17 conditions. And Exhibit L to the SGAT is a very
18 short notification that a CLEC can provide to Qwest
19 and to the Commission that it wants to amend its
20 interconnection agreement with the adoption of that
21 new product.
22 Under 1.7.1.2 it's another alternative.
23 The CLEC can adopt the Qwest rates, terms, and
24 conditions for the new product but on an interim basis
25 with the understanding that there would be negotiation

1 and perhaps arbitration to get the rates, terms, and
2 conditions to a place where the CLEC believes it should
3 be different from what Qwest had unilaterally put out
4 with its new product.
5 In 1.7.2, the proposed language by
6 AT&T, what we're trying to do is ensure that when new
7 products come out that are comparable--we use the term

8 comparable in this language--to products that already
9 exist and are available under the SGAT, that the rates,
10 terms, and conditions be substantially the same.
11 Some of the rationale for that is that
12 if you've got the same elements that are being provided
13 and it's under a new label as a different Qwest product
14 but they're the same elements, it should be Qwest's
15 burden to demonstrate that they should be priced
16 differently from the pricing that was determined in
17 the cost case in Colorado, for example.
18 So that is the AT&T proposal and that's
19 some explanation for it.
20 MR. BELLINGER: Can I get a somewhat
21 succinct statement of the issue.
22 MR. MENEZES: On 6-ATT-68, issue G-5
23 in the description of issue column, I think that
24 issue description of work should be Qwest's interim and
25 unapproved new product rates be substantially similar

1 to those rates already offered for similar products
2 until new product rates are approved by the Commission.
3 I think what I would add to that -- this only talks
4 about the rates. Terms and conditions as well.
5 MR. BELLINGER: We make similar to
6 those rates and general terms and conditions already

7 offered?

8 MR. MENEZES: Yes.

9 MR. BELLINGER: Qwest, do you have a

10 comment on this?

11 MR. BROTHERSON: Yes, we do. Couple

12 comments.

13 First, we had a lot of discussion

14 I think in Section 5.1.6, I believe it was, that

15 Qwest agreed that the services offered pursuant to the

16 telecom act are going to be priced at TELRIC, that the

17 CLECs in other sections -- we talk about the CLECs are

18 ready to look at these cost studies. When Qwest offers

19 a new product they establish the cost for that new

20 product based on cost studies, not by looking around at

21 other products that look like a particular product and

22 then base the price on that. When Qwest goes into a

23 cost docket with the Commission we establish our prices

24 based on our costs, not on building a record as to

25 how similar this might be with another product.

1 I think what Qwest is saying is

2 that when you come in with a new product you base the

3 prices for that product on that product's costs, not on

4 looking around for similar products.

5 The first problem we're going to have

6 is a fight about what's a similar product. To that
7 point, I would comment that AT&T also attempts to
8 insert in their language in 1.7.2 a statement, "Qwest
9 shall have the burden of demonstrating." We've seen
10 this a number of times in AT&T language where they
11 attempt to circumvent whatever the Commission's rules
12 are on burden of proof and create their own by trying
13 to put into the SGAT what the burden of proof is.
14 If Qwest has the burden of proof under the Commission
15 rules on a particular filing, then Qwest should meet
16 that burden and go forward. If AT&T has a current
17 burden of proof under any Commission filings, AT&T
18 should meet that burden and go forward. We shouldn't
19 try and write around that with language trying to put
20 forth outside of those rules who is beginning to have
21 a particular burden of proof.
22 I wanted to comment on that last
23 sentence as well.
24 I think the primary point is that when
25 a new product is filed and the prices are established,

1 they should be based on the costs of that product, not
2 on the costs of another product. I think that would be
3 the primary point.
4 The other point, I think AT&T mentioned

5 that in their comments, they do have the option of
6 challenging or negotiating anything if they think
7 there's a problem. I don't think that anyone is
8 locked into the Qwest prices if there is a
9 disagreement. I just think the appropriate language is
10 not to tie to a similar product but to tie it to the
11 cost of the specific product being filed.
12 MS. FRIESEN: Briefly, to respond.
13 It is not AT&T's intent nor has AT&T ever suggested
14 that the burden be changed or misplaced. In the state
15 of Colorado when Qwest files rates it is Qwest's burden
16 of proof, not AT&T's, not another CLEC's.
17 This particular section as proposed
18 by AT&T merely mirrors what is the status quo in this
19 state. It also helps protect Qwest and the CLECs when
20 they're using things that I'll call interim rates that
21 have not yet been approved by the Commission that
22 allows for the parties to acquire products based on
23 rates that have previously been approved. It also
24 allows for Qwest, should it need to, to get approved
25 rates that are higher.

1 I think the language is eminently fair
2 to both sides.
3 MR. BELLINGER: Any other comments?

4 MR. DIXON: Yes.

5 In looking at my notes from June 19th,

6 or that week at least, WorldCom had proposed language

7 in 6-WorldCom-30 that became the substance of

8 amendments to Section 1.7.1 and some of the other

9 sections we're addressing in this whole 1.7 discussion.

10 But I guess one thing that jumped out at us and we've

11 become sensitive to so I want to raise it and see why

12 it's been inserted. In Section 1.7.1 I will concede

13 that the language is very similar to WorldCom but not

14 identical.

15 The concern that I have is found on the

16 fourth line of 1.7.1. The line that begins "services

17 available for resale which are not contained in this

18 SGAT." That's where the WorldCom language stopped and

19 there's been the addition "or a tariff."

20 I wanted to try and determine the

21 purpose for inserting the words "or a tariff" and what

22 impact that may have because of WorldCom's sensitivity

23 to tariffs being modified and that's somehow finding

24 its way into an interconnection agreement which may or

25 may not be consistent with the parties' understanding.

1 I wanted someone to explain what's going on here.

2 MR. BROTHERSON: Could you give me that

3 reference.

4 MR. DIXON: Should Section 1.7.1.

5 It's the fourth line that begins with "services

6 available for resale." Then about 90 percent of the

7 way through you'll see a reference to "or a tariff."

8 I'm trying to find out why that was added and what

9 impact it has. I want to make sure it's benign and

10 not malignant.

11 MR. BROTHERSON: We're talking about

12 new services?

13 MR. DIXON: Yes.

14 MR. BROTHERSON: We're stating that if

15 a new service is offered under tariff it would be

16 available for resale under the SGAT.

17 MS. BEWICK: Say that again.

18 MR. BROTHERSON: If a new service is

19 offered under tariff, it would be available for resale

20 under the SGAT.

21 MR. DIXON: My question would be, why

22 would that not be contained in the SGAT -- why wouldn't

23 that be provided through the SGAT process as well?

24 If you were going to put it into a tariff, why wouldn't

25 you also be amending your SGAT to add this new product

1 or service?

MR. BROTHERSON: A retail service in the SGAT?

MR. DIXON: This is a retail service available for resale we're talking about?

MR. BROTHERSON: Yes.

MR. SCHNEIDER: Why wouldn't you give us notice of that new service to the SGAT?

MR. BELLINGER: The sentence follows that talks about notice to the CICMP process.

MR. SCHNEIDER: The only time they give us notice, if it's not contained in the SGAT or a tariff. So if it is in a tariff and they happen to stick a new product in a tariff, they won't give us notice through the CICMP process. Why not?

MR. BELLINGER: Is that the right conclusion?

MR. BROTHERSON: That was certainly not our intent. But I don't read it that way myself so I think we're just disagreeing on the reading of the language.

MR. BELLINGER: Do you have a particular disagreement with the language?

MR. SCHNEIDER: Yes. Because it says if -- if Qwest chooses to offer and CLEC desires to

1 purchase new interconnection of services, access to
2 unbundled network elements or additional ancillary
3 services available for resale which are not contained
4 in the SGAT or a tariff, Qwest will notify CLEC of
5 availability of new services through the product
6 notification process.
7 It implies that if it is in a tariff,
8 we don't get notice.
9 MR. DIXON: That's how I read it as
10 well. I've read this now three times to see if I could
11 find Larry's reading of this language, but this appears
12 to be notices conditioned on not getting it either
13 through the SGAT or a tariff. If the language is
14 there, either we want some notification over and above
15 what's in the tariff filing or, in the alternative,
16 would like the "or a tariff" stricken which is language
17 we never proposed in our 6-WorldCom-30.
18 MR. BROTHERSON: We'll agree to strike
19 "or a tariff."
20 MR. BELLINGER: That clears your issue?
21 MR. DIXON: It does indeed.
22 MR. BELLINGER: Back to AT&T's part of
23 the issue. Any more comment on this or is it at
24 impasse?
25 MS. QUINTANA: One question. In the

1 new language in 1.7.1.1 and 1.7.1.2 that has been
2 agreed to, there are references to new Exhibits L and
3 M. Does that mean that the parties agree to those
4 exhibits as well?
5 MS. FRIESEN: Yes.
6 MS. QUINTANA: Thank you.
7 MS. FRIESEN: Those are contained in
8 the SGAT Lite?
9 MS. HUGHES: They are.
10 MR. BROTHERSON: They're attached.
11 MR. BELLINGER: Are we at impasse on
12 AT&T's proposed 1.7.2?
13 MR. BROTHERSON: We are.
14 MR. BELLINGER: With that, I guess we
15 can move on.
16 G-6?
17 MR. BROTHERSON: That was discussed and
18 closed in Colorado, as was G-7.
19 MR. BELLINGER: G-8?
20 MR. DIXON: I would ask that we pause.
21 I'm flipping through the language --
22 MR. BELLINGER: Just tell me when
23 you're ready.
24 MR. DIXON: My notes reflect those two
25 were closed as well. I'm not suggesting any problem

with it.

MR. DIXON: WorldCom agrees G-6 and G-7 are closed.

MS. FRIESEN: Could I make a brief statement? I'm handing out what I need to have marked as an AT&T exhibit. It is the affidavit of James W. Tade. Mr. Tade will be available for cross-examination this afternoon at 1:00 or any other time of the week that we'd prefer. He is in Minnesota so he will be attending by telephone. I'll need to get a bit of a heads-up for him.

This is related to G-8. That being said, I'm wondering if maybe we want to postpone G-8. If Qwest or no one else wants to cross-examine Mr. Tade, we can go ahead with it.

MR. BELLINGER: Has Qwest seen the affidavit before?

MS. HUGHES: We've seen it in other workshops.

Our comment would be, we show the issue identified at G-8 as having previously been discussed in this workshop and taken to impasse. I think perhaps what AT&T is suggesting is that they would like to reopen that issue to offer additional evidence. That's fine with Qwest. We will respond.

1 MS. FRIESEN: I don't think this is the
2 same issue. I've looked at the transcripts from the
3 previous workshop and 5.16.whatever it is that deals
4 with CLEC forecasting is what was discussed -- the
5 confidential nature or lack thereof according to Qwest,
6 of the CLEC forecast, that was what was discussed.
7 This really has to do more with how
8 Qwest does or doesn't handle CLEC confidential data
9 pursuant to the Act under Section 222.
10 MR. MENEZES: In addition, the language
11 in 5.16.9 is different in this SGAT than what was in
12 the SGAT we discussed --
13 MR. BELLINGER: We can't hear very
14 well. Why don't we take a pause for a minute and see
15 what happens.
16 (Exhibits 6-ATT-70 and 71 were marked
17 for identification purposes by the court reporter.)
18 (Discussion off the record.)
19 MR. BELLINGER: Why don't we take a
20 15-minute break. Seems like it's going to take a few
21 minutes and people can't hear.
22 (Recess taken.)
23 MR. BELLINGER: Everybody ready?
24 We're on Section G-8. We need to

25 clarify. There's two issues on G-8. I guess we ought

1 to call them G-8A and B. They're both at impasse?

2 MS. FRIESEN: Would you repeat what you

3 think A is.

4 MR. BELLINGER: A is as on --

5 MS. FRIESEN: Becky's COIL?

6 MR. BELLINGER: Yes.

7 MS. HUGHES: 6-Qwest-57, broken out of

8 G-8, it's issue A, issue B.

9 MS. FRIESEN: Both of those are at

10 impasse, yes. The question of who should be able to

11 see the forecast, that laundry list of folks, and the

12 question of whether or not aggregated forecasts are

13 confidential.

14 MR. BELLINGER: They were at impasse

15 the last time we discussed them in Colorado.

16 MS. FRIESEN: Right.

17 The only thing I would note for the

18 record today is that the SGAT language appears to

19 have changed from what was discussed pursuant to the

20 previous impasse issue, but I don't think, unless

21 anybody else wants to, that we need to go over the

22 revised language because the issue remains at impasse

23 even as the language stands today.

24 MR. BELLINGER: Any comment from Qwest

25 on this one?

1 MS. HUGHES: Qwest agrees with AT&T

2 that there's no need to discuss it further.

3 MR. DIXON: I have a couple questions,

4 more just trying to get a status of this whole section.

5 When we last discussed it we were

6 focusing heavily on forecasting issues and I don't know

7 that we ever really discussed everything that lead up

8 to the problem.

9 MR. BELLINGER: We discussed it a long

10 time. I don't know if we got it all. State what you'd

11 like.

12 MR. DIXON: My understanding is, the

13 only dispute with Section 5.16 would be under Section

14 5.16.9. There are no other disputes prior to them.

15 MS. JENNINGS-FADER: .4 that's listed

16 on the issue log.

17 MR. DIXON: That's where I'm trying to

18 go. I see no markup of 5.16.4 with one small exception

19 and that's under sub section G. I'm trying to frame

20 the dispute by section number as well as subject

21 matter. Is there any dispute on 5.16.4, because

22 it's identified as a disputed section.

23 MS. FRIESEN: I think when we made that
24 one change we fixed the problem.
25 MR. DIXON: That's why I'm asking the

1 question. We do want to tie it to sections if we're
2 saying there's a dispute so we're clear we're only
3 focusing in one area.
4 MS. QUINTANA: AT&T is fine with the
5 language but not the underlying use of the confidential
6 information?
7 MS. FRIESEN: With respect to 5.16,
8 yes. 5.16.1, yes.
9 MS. QUINTANA: Is there language
10 contained in any of these sections of the SGAT that
11 AT&T has dispute with?
12 MR. MENEZES: Yes. 5.16.9 is the sub
13 section that this language is different from what was
14 in the SGAT Lite we looked at two months ago here.
15 It apparently was changed to reflect Qwest's view of
16 how it can use CLEC forecasts. AT&T objects to the
17 language and the way it has been drafted. So the
18 language here is at impasse as well as the concept.
19 The preceding provisions I think are
20 okay language-wise, but with the Tade affidavit that
21 Letty has handed out, we want to highlight some

22 concerns.

23 MR. DIXON: Let me also raise what I

24 thought was not resolved because I have notes that

25 suggest.

1 5.16.9 is focused on forecasting.

2 What's missing from Section 5.16 is equivalent language

3 for any other confidential information. In other

4 words, my review of 5.16 reflects no statement of how

5 confidential information over and above forecasting,

6 who can see it.

7 When we discussed this in Colorado the

8 last time, I noted that we were focusing on forecasting

9 but missing the forest. The forest is, Section 5.16,

10 while well intentioned, as presently drafted does not

11 provide any statement of who can see confidential

12 information. Unlike the forecasting section, whichever

13 so nicely states that -- and it was my position back

14 then and it continues to be my position that the

15 language that's in 5.16.9.1, and I don't mean precisely

16 the language but equivalent language, needs to be put

17 in 5.16 for all confidential information. I think

18 that's missing in this section. I guess I expected it

19 would have been picked up in multi-state or Washington

20 but obviously they didn't pick it up.

21 MS. JENNINGS-FADER: You have no
22 objection to the definition of confidential and
23 proprietary in 5.16.1; is that correct? That isn't
24 the all-encompassing definition?
25 MR. DIXON: Yes.

1 MS. JENNINGS-FADER: The concern is
2 the treatment of that all-encompassing type of
3 confidential material is missing?
4 MR. DIXON: Absolutely. That's
5 precisely what's missing.
6 MS. FRIESEN: It's covered throughout
7 the section, in 5.16.1, .2, .3. Are you looking for
8 specific words?
9 MR. DIXON: What I was worried about
10 and what we talked about was that we would note who
11 could or could not use this language, confidentiality
12 in general. 5.16.4 tells us what is not proprietary
13 information. 5.16.1 tells us what is proprietary or
14 confidential information. 5.16.2 tells us we've got to
15 return the documents. 5.16.3 says we will keep each
16 others information proprietary but it doesn't go into
17 the detail of what that means which is what, as I said,
18 was found in 5.16.9. 5.16.5, again, doesn't address
19 the issue of the treatment other than the limited

20 purpose of disclosing it to a mediator or what I will
21 call courts or administrative agencies. 5.16.6 deals
22 with the effectiveness of the effective date. 5.16.7
23 just is our confession that it will hurt us real bad
24 if it's disclosed. 5.16.8 talks about how we don't
25 construction the Section 222 of the Act.

1 My point back in June and also is now,
2 is that what we did in 5.16.9 which says with respect
3 to forecasting information who gets to see it, that's
4 missing for the forest. We've got one tree identified
5 as to how you treat it, but there's nothing for the
6 rest of the confidential information. I had proposed
7 back then that language similar to that which was
8 already contained for forecasting be lifted and used
9 globally for confidential information in general.
10 MS. JENNINGS-FADER: Since G-8 is
11 limited to confidentiality as pertains to forecasting,
12 do we need to add G-62 which goes to the broader
13 question of the treatment of confidential proprietary
14 data under Section 5.16 cosmically? Not to be confused
15 with COSMIC frame.
16 MR. DIXON: I'm assuming there's no
17 other separate G issue for 5.16 in general. Absent
18 another issue for that, yes, we need to have a new,

19 in my opinion, issue that addresses that.

20 MS. BEWICK: I would concur with Tom.

21 I have some concerns about the treatment -- not the

22 treatment of but who has the ability within Qwest to

23 see other types of confidential information other than

24 forecasts. Whose hands it ends up in.

25 MS. JENNINGS-FADER: With respect to

1 that, assuming we give it a new issue number, G-62,

2 we'll say, Letty, does Exhibit 6-ATT-771 go to that

3 broader question of the use of the proprietary data

4 or is it specific to forecasting?

5 MS. FRIESEN: It goes to the broader

6 use. It doesn't have anything to do with forecasting.

7 MS. JENNINGS-FADER: Thank you.

8 MS. FRIESEN: Does WorldCom have some

9 language they'd like to propose? We can put in --

10 we'll treat it the same way we treat our own. We'll

11 only give it to people with a need to know, that type

12 of thing.

13 MR. DIXON: The context that came up

14 in, I found a couple sections in the interconnection

15 collocation sections and that's how we ended up with

16 this need-to-know language for forecasting. The very

17 language that's right now in 5.9.16 -- 5.16.9 is the

18 type of language that I'm saying needs to be put in
19 for all confidential information.
20 Recognizing that you may not be able
21 to limit it just to network growth planning personnel
22 or what have you, that concept, the concepts I wanted
23 were need-to-know, limited to people who do not have
24 strategic or marking-type activity. And to the extent
25 we can identify specific people, if any, fine, which is

1 what we did with respect to forecasting.
2 MR. BROTHERSON: The forecasting
3 language was obviously written to address forecasting.
4 It doesn't talk about things like installers, but
5 installers are going to have access to other kinds of
6 information.
7 MR. DIXON: My intent is not to be as
8 restrictive as what's in a 5.16.9 for forecasting but
9 taking that language and making it more general for
10 more confidential information.
11 MS. HUGHES: If you could suggest
12 language that would be acceptable to WorldCom, we can
13 take a look at it at the next break and see if we can
14 incorporate it.
15 MR. DIXON: I'll be happy to do it if
16 we can do it by the next break.

17 MS. FRIESEN: I note that if we go
18 to adopting 5.16.9.1 and 9.1.1 for treatment of all
19 confidential data, Qwest seeks to be able to, at least
20 with respect to forecast, aggregate them and disclose
21 the information, quote, unquote, to fulfill regulatory
22 filing requirements.
23 I don't know what those requirements
24 are, number one. If you know what those are, could
25 you elucidate that for me? Number two, how does that

1 apply, or does it, in your mind, apply to other
2 confidential information that CLECs give you?
3 MR. BELLINGER: That's the B issue.
4 MS. FRIESEN: If you expand the
5 treatment under forecasting of information -- let's
6 talk about confidential information in general. If you
7 decide that that confidential information shall be
8 treated similarly to the way forecasts are treated,
9 then my question is, how does Qwest intend to deal with
10 this notion that it gets to aggregate information and
11 distribute it and disclose it? That's what I'm a
12 little bit troubled with.
13 MS. HUGHES: I'm not sure I understand
14 the question.
15 MS. FRIESEN: With respect to our

16 forecasts, those are confidential, Qwest believes it
17 can aggregate our forecasts and disclose them. If you
18 look at 5.16.9.1.1, Qwest there describes that it ought
19 to be able to disclose this aggregated information to,
20 quote, fulfill regulatory filing requirements. I don't
21 know that there are any regulatory filing requirements
22 with respect to our forecasts, but let's assume for
23 argument sake there are.
24 If we expand the forecasting treatment,
25 in other words the treatment of forecasts shall be

1 expanded to this broader category of documents called
2 confidential documents, what does Qwest propose to
3 do with aggregated confidential information? Not
4 forecasting, just confidential information. Does it
5 feel it can disclose that as well?
6 MR. BROTHERSON: The general answer
7 to the second part of your question is yes. If it's
8 aggregate information that would not identify the
9 specific CLECs, it could be used in certain situations.
10 Regulatory filing requirements, and I think you raise
11 that question -- in some instances, for example, we
12 will use projected volumes we're going to see in a
13 particular area to establish how we're going to price
14 out a product and spread the price of that product over

15 what is anticipated to be the number of uses or the
16 number of parties using that service or whether it's
17 number portability pricing or perhaps even planning
18 around collocation space or whatever. It's going to
19 be based in part on information that we have available
20 that we use to project those numbers. That would be
21 the type of example that aggregate information might be
22 used in a regulatory filing. But yes, we would use
23 aggregate information
24 MR. BELLINGER: Sounds like we have a
25 62A and B?

1 MS. FRIESEN: I think that's right.
2 I think part of it is the misuse of our confidential
3 data, which is what reflected in the Tade affidavit.
4 The second part of that question goes
5 to Tom's question to define how confidential data is to
6 be held and maintained in confidence by Qwest. There
7 the proposal is to adopt what's in the forecasting
8 section.
9 Having said that, I think Qwest has
10 made clear that any confidential information from a
11 CLEC it can aggregate, it will disclose.
12 MS. JENNINGS-FADER: We just did the
13 costing and pricing hearing in Colorado.

14 Mr. Brotherson, going to your point
15 about aggregating the data and using them in cost
16 studies to project future demand and thereby determine
17 costs and prices, my recollection is that the cost
18 studies of Qwest are always confidential. If that's
19 true, then can you think of another example in which
20 you would want to release aggregated CLEC data because
21 that usage would, by definition, be a confidential
22 usage?
23 MR. BROTHERSON: I can't think of any
24 immediately.
25 To the extent we're talking about the

1 way Qwest performs its business of fulfilling orders or
2 the like, it's not beyond the realm of possibility but
3 other uses could occur. I think that's the intent of
4 that language. I think the spirit of the language was
5 to say that we would treat individual CLEC data as
6 confidential and protect it, but the aggregate data,
7 that is to say of how Qwest is operating its business,
8 would, so long as individual CLECs' concerns or
9 proprietary information were masked, would be used
10 by Qwest in its business.
11 MR. MENEZES: A follow-up question,
12 Mr. Brotherson. You indicated that this aggregated

13 data may be used in cost studies for new products.
14 Would that be for both wholesale products as well as
15 retail products?
16 MR. BROTHERSON: Without having a
17 specific product in mind, that's difficult to respond
18 to.
19 But I would say generally you would
20 want to know if you've got certain costs of software
21 development that have to be spread over all of the
22 parties that are going to use that particular software,
23 you try and project how many users you're going to
24 have. If that software were something that were
25 impacting both Qwest customers and CLEC customers, you

1 would take that universe. If it impacted just CLEC
2 customers you would take that universe. Again, it
3 depends upon a particular product.
4 MR. MENEZES: Sounds like your answer
5 is, it may be for both retail and wholesale products?
6 MR. BROTHERSON: There could be
7 scenarios where that could occur, yes.
8 MS. BEWICK: Part of my concern too
9 has to do with even the aggregate number as opposed to
10 CLEC's specific number and the use of that information
11 from the standpoint that in some areas of the business

12 there are darn few CLECs still alive, so it becomes
13 very obvious when you use aggregate, quote, CLEC data
14 who you're talking about, and how in this kind of a
15 situation do you propose that that would be masked?
16 MR. BROTHERSON: We've tried to address
17 that in 5.16.9.1.1. "In no case shall Qwest disclose
18 aggregate information if such disclosure would, by its
19 nature, reveal individual CLEC forecast information."
20 I'm talking in the forecast language
21 when this issue came up in forecast. If the point
22 was raised in a small state in a rural area, even
23 aggregating it might still enable people to identify.
24 While we made statements we wouldn't do that, we tried
25 to incorporate that concept into the language by saying

1 where that's going to happen. We'll not disclose
2 aggregate information if such disclosure would by its
3 nature reveal individual CLEC forecast information.
4 MS. BEWICK: In the language that Tom
5 may be putting together for the more general categories
6 as opposed to simply forecasting, then maybe I can talk
7 to Tom about including something like that in that
8 particular language as well, because there's other
9 aspects of information that we provide to Qwest that
10 becomes very obvious --

11 MR. BROTHERSON: We agreed to that
12 concept and we'd agree to that in the general world
13 as well.
14 MR. BELLINGER: We've got G-62
15 identified as the general information. We'll get back
16 to that after Tom comes up with language.
17 Let's go back to G-8. What do we do
18 with G-8?
19 MS. FRIESEN: To the extent G-8 now
20 only involves CLEC forecasting, that issue has been
21 discussed and we probably don't need to dwell on it
22 anymore.
23 MR. BELLINGER: Still at impasse, both
24 A and B.
25 MR. MENEZES: I have a question on the

1 language in the SGAT if now is the appropriate time.
2 MR. BELLINGER: Now is the appropriate
3 time.
4 MR. MENEZES: It's the issue B on
5 6-Qwest-57, what group of Qwest's employees fall in the
6 need-to-know category for individual CLEC forecasts.
7 The language in the SGAT is 5.16.9.1.
8 In the first sentence there is sort
9 of a listing of Qwest personnel that includes legal

10 personnel if there's a legal issue about the forecast.
11 CLECs wholesale account managers, wholesale LIS and
12 collocation product managers, network and growth
13 planning personnel with certain responsibilities.
14 That sentence ends. Next sentence says, "In no case
15 shall retail marketing sales or strategic planning have
16 access to this forecasting information."
17 My question is, is there something in
18 between where Qwest thinks it can disclose individual
19 forecasts? In other words, in that first sentence
20 is that the exclusive list of people at Qwest who get
21 to see individual CLEC forecasts and the following
22 sentence merely seeks to clarify that, in addition,
23 none of those people will have responsibility to retail
24 marketing or strategic planning or -- I read it as
25 there being a gap that Qwest thinks maybe it can

1 disclose to other people and as long as they're retail
2 marketing sales or strategic planning, that's okay.
3 MR. BROTHERSON: We went through this
4 the last time around and I think we tried to carve out
5 and say, these are the people you're concerned about,
6 that is to say, the retail marketing sales-type people,
7 and carve them out as the exception and say that to the
8 extent we excluded those, it will be those that have a

9 need to know without trying to enumerate, although
10 in the course of discussions -- and I think Mr. Larry
11 Christian was here that day, if you recall, he was
12 asked for examples and gave those examples and we
13 put them in.
14 I can't say that's all-inclusive.
15 I can't say, for example, someone in finance doesn't
16 need to put together a construction budget for next
17 year, yes, it's going to be done by network planning
18 but at some point numbers are going to be shared with
19 the people who put together a capital budget. It
20 becomes very difficult to specifically identify on a
21 day-to-day basis the need to know other than to make
22 the warranties or the assurances in the language we're
23 not going to share them with retail and only going to
24 let those people with a need to know have access to
25 that information.

1 MR. MENEZES: I take that to mean,
2 to shorten that answer, if this is fair, the first
3 sentence of 5.16.9.1 doesn't contain an exhaustive list
4 of who gets to see individual CLEC forecasts; fair?
5 MR. BROTHERSON: I would say that's
6 fair. There could be others that could arise.
7 MR. MENEZES: I remember the

8 conversation with Mr. Christian. It seemed to me that
9 Qwest is not able to tell us to make a complete listing
10 of what categories of people at Qwest will actually
11 have access.
12 MR. BROTHERSON: This is a fairly
13 inclusive list. These are going to be the people that
14 would normally have access to this kind of information:
15 Legal personnel if legal issues arise, wholesale
16 account managers, wholesale LIS and collocation product
17 managers, network growth and planning personnel have
18 responded to the forecast. I would say that's very
19 inclusive of the people that would have access to that
20 information.
21 I think your question to me was, is
22 it possible that anyone else could, and I guess it's
23 difficult to respond to that. I said it's possible
24 that some finance person or something. But they might
25 not have actual view of the forecasts. They would have

1 actual view of numbers, perhaps.
2 MR. MENEZES: This is part of the
3 problem here. Qwest is unwilling to limit to whom the
4 disclosure of the forecasts can be made. For example,
5 throwing this out, couldn't there be a limitation with
6 an exception basis that calls for Qwest to come to the

7 CLEC and say, we have a need to have these other
8 categories of people; can we obtain your consent?
9 That kind of thing is done.
10 MR. BROTHERSON: We could do that.
11 We could say these parties, anyone else, if that
12 would close the issue.
13 MR. MENEZES: I think there are various
14 things that need to be done to this language, but
15 that's an approach that -- it would seem to me if we
16 can say there's a limited universe --
17 MR. BROTHERSON: The list that's there
18 could be a limited universe, only to, then we'd simply
19 add anyone else would be only after seeking permission
20 from the CLEC. Would that close the issue?
21 MR. MENEZES: It may close 5.16.9.1
22 with respect to the disclosure of individual CLEC
23 forecasts who gets to CLEC. We still have issue with
24 aggregation.
25 MR. BROTHERSON: I recognize that.

1 MS. HUGHES: If you want to propose a
2 language along the lines we've discussed that you
3 believe would close G-8B, we can take a look at it --
4 I'm sorry. A.
5 MR. DIXON: One nit on that section at

6 the moment. 5.16.9.1 in the second line talks about
7 parties may disclose on a need-to-know basis CLEC
8 individual forecasted if forecasting information
9 disclosed by Qwest -- that's disclosed to Qwest.
10 MS. FRIESEN: It's intended to be
11 reciprocal, because we also have some forecasting
12 obligations, as I understand it. It's awkward.
13 We were talking about that at the break.
14 MR. DIXON: This section is a little
15 awkward the way it's written, you're right. What made
16 is awkward was trying to make it reciprocal.
17 MS. HUGHES: That's correct. AT&T
18 discussed us with that as well.
19 MR. DIXON: We'll be reworking the
20 entire section to some degree, or at least the first
21 sentence to some degree.
22 MR. BELLINGER: We have a take-back
23 on A? Do you want add something to that?
24 MR. DIXON: No.
25 MR. BELLINGER: AT&T, you have a

1 take-back?
2 MR. MENEZES: Yes, we do.
3 MR. DIXON: In anticipation that
4 sometime we will come back to G-62, I do want to point

5 Qwest to the confidentiality provisions that WorldCom
6 submitted with its testimony for Michael Schneider,
7 the original filing which goes back to probably a May
8 date, and attached to that was a comparison of Qwest's
9 language versus WorldCom's language in our Section 21
10 addresses confidentiality. So that might be a starting
11 point when we're talking about future language on a
12 break.
13 MR. BELLINGER: I think we might be
14 able to close A. What about B?
15 MR. BROTHERSON: I believe we're
16 the impasse on B on the use of aggregate forecast
17 information, then when we get to 62 we'll possibly
18 have a similar issue.
19 MR. BELLINGER: I think we will.
20 We don't need to discuss B anymore? Okay.
21 I think that moves us on to G-9.
22 MR. BROTHERSON: I probably should
23 respond to this affidavit unless we're going to bring
24 it up in 62.
25 MR. BELLINGER: I thought we'd do it in

1 62.
2 MR. BROTHERSON: That's fine. I didn't
3 want it to go unresponded.

4 MR. BELLINGER: Hopefully we'll get to
5 it right after lunch.
6 MS. FRIESEN: Does Qwest want to
7 cross-examine Mr. Tade? Should I have him here by
8 phone? His affidavit is pretty straightforward and
9 that's what he'll tell you. There's not a whole lot
10 to ask him. Certainly you're welcome to do so.
11 MS. HUGHES: We've seen the affidavit
12 in two other forms and I think that we would not
13 require him to be available by phone. But we would
14 like to respond to the affidavit.
15 MS. FRIESEN: Would anyone else like to
16 talk to him?
17 MR. DIXON: Trying to see if I have any
18 friendly cross. No.
19 MR. BELLINGER: His comments are pretty
20 straightforward. I don't see why we would.
21 G-9, everyone agree that was closed?
22 MR. BROTHERSON: Uh-huh.
23 MR. DIXON: I show that No. 9 is
24 closed. G-9.
25 MR. BELLINGER: 10?

1 MR. BROTHERSON: G-10 I thought we
2 discussed in the last Colorado workshop, and that went

3 to impasse. That's reflected on everybody's exhibit.

4 MR. BELLINGER: Question would be, is

5 there any further discussion needed?

6 MR. BROTHERSON: Not from Qwest.

7 MS. FRIESEN: Not from AT&T.

8 MR. DIXON: I show we'd pretty well

9 beat that horse to death last time.

10 MS. FRIESEN: With respect to G-11,

11 what AT&T has done on its matrix of the issues is

12 subdivide G-11 into subparts that go through Section 17

13 and try to define what we've agreed to in other

14 jurisdictions and what's going to impasse in other

15 jurisdictions. That, for us, reflects what the issues

16 were and how they were resolved. It's a little broader

17 than what I think -- maybe not broader. It's a little

18 more expressed in terms of what the issues are than the

19 Qwest matrix, although as I went through both I didn't

20 note any tremendous differences other than we're trying

21 to refine what the impasse issues are.

22 MS. HUGHES: If I could suggest.

23 In Qwest's issues matrix at 6-Qwest-57, we have broken

24 out at impasse sub parts A, B, C and D.

25 MS. FRIESEN: Do you have that

1 listed --

2 MS. HUGHES: We would propose to
3 address if we accurately captured the impasse issues.
4 I think this is the way the parties have identified
5 these issues as being at impasse in other jurisdictions
6 and that's why we carried them forward here. So we
7 thought that might be the best way to approach the
8 discussion here.
9 MS. JENNINGS-FADER: 6-Qwest-57?
10 MS. HUGHES: G-11.
11 MS. JENNINGS-FADER: It says impasse B,
12 A.
13 MS. HUGHES: If you continue on to the
14 next page, you'll see C and D.
15 As I indicated, these descriptions
16 of the impasse issues are, at least from Qwest's
17 perspective, the way we've identified them and briefed
18 them in other jurisdictions. They're broken out on
19 6-Qwest-57, whereas in the AT&T Exhibit 6-ATT-68,
20 they're not broken out as specific impasse issues.
21 That's why we'd propose, if it's agreeable to discuss
22 them, individually as they're broken up A through D.
23 MS. JENNINGS-FADER: If you look at
24 6-ATT-68, G-11 has -- perhaps we could do it this way.
25 Is there disagreement about what's at impasse between

1 6-Qwest-57 and 6-ATT-68?

2 MS. HUGHES: I think that's a relevant

3 question. I would put that to AT&T.

4 Qwest believes that the only issues

5 that are at impasse are those identified as A through

6 D. If AT&T wants to add to that, I guess AT&T should

7 identify what issues they believe in addition to those

8 are at impasse.

9 MS. FRIESEN: I think 6-Qwest-57 is

10 fairly close to what AT&T has as well. We don't define

11 one of the issues as should Qwest productize BFRs.

12 In fact, the issues come up, when should Qwest -- how

13 many BFRs should Qwest receive before it creates a

14 product?

15 MR. BELLINGER: Let's work off

16 6-Qwest-57 and anything we don't catch, we can add,

17 AT&T.

18 MS. FRIESEN: Okay.

19 MR. BELLINGER: Why don't we start with

20 G-11A to 6-Qwest-57.

21 MR. BROTHERSON: If you recall,

22 we got into this issue briefly at the close of our last

23 workshop. I think I had just started into this issue

24 as we were running out of time. I indicated at that

25 time that Ms. Laurie Eide, who processes the actual

1 BFRs would be or was available by phone. I can't
2 remember if we had her on the phone before we broke,
3 as we broke as we were getting her on the phone.
4 We brought Ms. Eide along today to respond specifically
5 to some of these questions. I believe Ms. Eide has
6 some statements to make.
7 MS. EIDE: If we're beginning the
8 discussion around what's identified on the Qwest
9 exhibit as G-11A, should Qwest provide notice of
10 substantially similar BFRs.
11 Some of the CLECs, AT&T and WorldCom in
12 particular, I believe, had proposed that Qwest provide
13 notice to all CLECs when Qwest has processed a BFR.
14 Qwest does not believe that it's appropriate to provide
15 general notice to the CLEC community when one of the
16 companies has requested something unique.
17 Qwest considers that CLEC request to be
18 confidential and proprietary, and we've had statements
19 on the record in other proceedings by at least one of
20 the CLECs here that they also have that view and would
21 prefer that Qwest not disclose or provide notice of
22 CLECs in general.
23 In order to mitigate some of the
24 concerns that were discussed in other proceedings,
25 Qwest has agreed to SGAT language that's identified in

1 17.12 which states that if a CLEC has submitted a BFR,
2 subsequent requests or orders from that CLEC that are
3 substantially similar--we previously had the word
4 identical and modified that upon request to say
5 substantially similar--will not be subject to the BFR
6 process. That, in fact, if the CLEC submitted one and
7 it was determined to be unnecessary, we'd immediately
8 refund any BFR processing fee that had been submitted.
9 Qwest believes we're at impasse on this
10 particular issue.
11 MS. JENNINGS-FADER: Since we haven't
12 had a very lengthy discussion yet on the bona fide
13 request process, can you give the Commission some idea
14 how long it would take between the submission of the
15 bona fide request by CLEC number two to a determination
16 by Qwest that the BFR -- bona fide request is, quote,
17 substantially similar, unquote, to a bona fide request
18 previously submitted by CLEC number one.
19 MS. EIDE: Yes. Generally that would
20 be almost immediately; by that I mean within a couple
21 of days.
22 MS. JENNINGS-FADER: Would that couple
23 of days then count toward or not count toward any
24 provisioning interval? When would the provisioning

25 interval commence, the submission of the bona fide

1 request or the determination by Qwest that the second
2 bona fide request was substantially similar, unquote,
3 to an already received bona fide request?
4 MS. EIDE: I would say that as soon as
5 it's been determined that it is substantially similar
6 to the previous request, the CLEC would be notified
7 and instructed as to how they can proceed to order that
8 request, and at that time also be notified what the
9 rate and what the intervals would be.
10 MS. JENNINGS-FADER: Can you help us
11 to understand what the definition of "substantially
12 similar" is.
13 MS. EIDE: Yes. If we look in the SGAT
14 Lite language in Section 17, and I believe it is .2,
15 beginning with 17.2.1 through 17.2.6, those are a
16 description of the information that CLEC would provide
17 at the time they make their request, and that would be
18 the information that we would look at to determine if
19 the second request were in fact substantially similar
20 with regards to that information.
21 I've just been reminded there's some
22 additional language addressing that language in 17.12.
23 If I could clarify. I see some of you

24 turning to that. In 17.12 Qwest further states -- has
25 a discussion around substantially similar requests that

1 are subsequent to the initial BFR. Qwest goes into
2 quite some detail there to talk about, to the extent
3 we have deployed or denied a substantially similar
4 request, subsequent BFR shall not be required and an
5 application fee would be refunded if one had been
6 submitted. Then we further attempt to clarify
7 "substantially similar" to Mana's question, for
8 purposes of this section, 17.12. A substantially
9 similar request shall be one with substantially similar
10 characteristics to the previous request at pursuant to
11 sub sections A through F of 17.2 above. That numbering
12 scheme I believe has been changed to say 17.2.1 rather
13 than A through F, so that will have to be corrected.
14 MS. JENNINGS-FADER: 17.2.1 through and
15 including 17.2.8, even though I notice two of them are
16 left intentionally blank?
17 MS. EIDE: Yes.
18 MS. JENNINGS-FADER: I guess I'm still
19 not clear as to what "substantially similar" means.
20 Does it mean identical? Does it mean plus or minus
21 5 percent? I'm still not clear given that the
22 definition of "substantially similar" is itself

23 circular since it says that substantially similar
24 means substantially similar to, and then the referenced
25 sections. I'm still not clear.

1 MS. EIDE: Initially that phrase was
2 identical. With "substantially similar," I would say
3 that to the extent that the interface, the network
4 functionality that's being requested is the same --
5 nearly the same, it would be considered to be
6 substantially similar.
7 MR. BELLINGER: This was an effort to
8 broaden?
9 MS. EIDE: At the CLECs' request we
10 used that language, yes.
11 MS. FRIESEN: I have a couple
12 questions. Who at Qwest determines whether a BFR
13 is substantially similar?
14 MS. EIDE: The same individuals
15 that will be involved in evaluating the first request.
16 That would include the BFR product manager or process
17 manager, who at this point is me, and network
18 personnel, any of the parties that have been involved
19 in evaluating, as necessary.
20 MS. FRIESEN: So the individuals
21 involved in determining that a BFR is substantially

22 similar varies with respect to the BFR; am I
23 understanding your response?
24 MS. EIDE: What I'm trying to clarify
25 is, there may be an instance where I can immediately

1 determine that it's the same thing because the language
2 that has been submitted is identical and there's no
3 question that it's absolutely the same thing. There
4 may be an instance where the language as we've defined
5 in sub section 17.12.2.1 through et cetera, where
6 I first see it I may not be positive that it is
7 substantially similar and I may need to call upon a
8 technical expert or some other party to confirm is this
9 in fact what was found to be feasible previously.
10 MS. FRIESEN: When you could do this
11 comparison, is it a manual comparison or something
12 that's automated?
13 MS. EIDE: That's a manual comparison.
14 Due to the few number of bona fide requests that we
15 received, there is not an automated process per se.
16 MS. FRIESEN: When you're comparing
17 BFRs, are you comparing BFRs only submitted in a
18 particular or comparing BFRs across the 14-state
19 region?
20 MS. EIDE: Across the 14-state region.

21 MS. FRIESEN: When Qwest has filled a
22 BFR for any given CLEC and made that product available
23 to the CLEC, is it Qwest's position that that
24 particular request -- absent the name of the CLEC for
25 whom the request was billed and maybe the exact

1 location, is it Qwest's position that that information
2 is confidential?
3 MS. EIDE: If I understand your
4 question, are you saying is the request made by
5 that particular CLEC which does include things like
6 location, network functionality required, does Qwest
7 consider that to be confidential?
8 MS. FRIESEN: Not necessarily location.
9 But the particular -- we need to get a little more
10 concrete. That probably will help us.
11 Let's talk in terms of a certain type
12 of interconnection that is not available in the SGAT.
13 This certain type of interconnection is accomplished
14 through a new functionality. If the CLEC requests
15 this product and Qwest fills that order, is it Qwest's
16 position that absent the CLEC name and the particular
17 location for that interconnection that that new product
18 that it has created -- we won't even call it a product
19 at this point, but that service it has supplied to the

20 CLEC, is it Qwest's position that is confidential?

21 MS. EIDE: Yes.

22 MS. FRIESEN: What does Qwest do

23 with respect to allowing CLECs to gain notice that a

24 particular BFR process -- BFR request is outstanding

25 and that there's one substantially similar?

1 MS. EIDE: If you're asking -- can you

2 restate that?

3 MS. FRIESEN: Sure. Let's say you

4 filled a BFR request for CLEC A, and I as CLEC B am

5 coming to you and saying this is my request; how will

6 you notify me that what I am requesting has previously

7 been requested and granted?

8 MS. EIDE: Qwest would advise you

9 immediately that your request is feasible because it

10 would have previously done the analysis if in fact your

11 request is identical or substantially similar to one

12 that have asked for before. So in fact, Qwest would

13 come back to you and provide you notice almost

14 immediately that in fact what you've asked for is

15 feasible.

16 MS. FRIESEN: Feasible or substantially

17 similar? It would have to be both. I'm talking about

18 substantially similar right now. Obviously if you've

19 already allowed -- let's go back to the interconnection
20 example. You've already allowed that BFR for that kind
21 of interconnection, it is by definition technically
22 feasible, is it not?
23 MS. EIDE: Yes.
24 MS. FRIESEN: I as CLEC B come to you
25 and ask you to interconnect, it might be in a way that

1 is similar to that previous request, what will you
2 notify me of, if anything?
3 MS. EIDE: We would notify you that
4 your question is in fact feasible, then we'd proceed
5 to --
6 MS. FRIESEN: Feasible or is
7 substantially similar? This SGAT says you're going to
8 tell me it's substantially similar therefore I don't
9 have to go through the BFR process again. I'm trying
10 to understand what it is you do versus what it is this
11 SGAT says.
12 MS. EIDE: Just one moment.
13 (Discussion off the record.)
14 MS. EIDE: Is your question that you
15 would -- let me ask you this. I'm not sure that I see
16 the distinction, but are you asking if in fact you
17 request something that was requested before by some

18 other party, you then want to be notified that it's
19 substantially similar to something else that was
20 requested before? Are you not just interested in being
21 able to be notified that your request is in fact
22 feasible and here are the steps now that we would go
23 through to provision that for you?
24 MS. FRIESEN: I'm trying to find out
25 from you what it is you tell me -- as CLEC B, when I

1 come to you with a substantially similar BFR request,
2 what do you tell me?
3 Let me back up. Do you comply with
4 what the SGAT says you do?
5 MS. EIDE: Yes.
6 MS. FRIESEN: How do you do that?
7 MS. EIDE: With the new language
8 that has been agreed to in the SGAT where we have
9 modified and made changes based on CLEC input. If your
10 question is going forward would I tell you that it's
11 substantially similar such that your BFR processing fee
12 would be refunded, then, yes, we will comply with
13 language that's in the SGAT.
14 MS. FRIESEN: You would inform the CLEC
15 that the BFR was substantially similar to a previously
16 BFR and therefore getting a refund; is that correct?

17 MS. EIDE: Yes.

18 MS. FRIESEN:

19 MR. BELLINGER: I think what

20 she's looking for, just go ahead and say this is

21 substantially similar to this happens. I think that's

22 the question.

23 MS. EIDE: Yes. That is now the

24 language that we have in the SGAT. I apologize because

25 I misunderstood and was trying to respond based on

1 previous experience. But, yes.

2 MS. FRIESEN: Short of coming to you

3 with BFR request in hand, there is no other way for the

4 CLEC to obtain any kind of notification that there is a

5 substantially similar BFR out there; is that correct?

6 MS. EIDE: Yes, it is.

7 MR. MENEZES: I'm confused. What is

8 the difference between what you would tell CLEC B who

9 has made a substantially similar request that makes it

10 nonconfidential -- why can't you tell that through some

11 notice to CLECs the similar thing you would say to

12 CLEC B?

13 MS. EIDE: I guess at the time, say,

14 AT&T makes a request for something unique, there is

15 no support or evidence that that particular capability

16 is going to be requested again, would be required by
17 another party, and so it just doesn't seem to make
18 sense to do that.
19 Secondly, as we've talked earlier, and
20 in fact I believe this morning, language came out from
21 one of the CLECs that based on the request, where the
22 request is made, it may in fact be obvious who the
23 requesting party is. So Qwest has always maintained
24 it believes that information provided to us to be
25 confidential and, as a result, Qwest is not agreeable

1 to just generally notifying when a request is being
2 received.
3 MS. FRIESEN: Do you consider the fact
4 of a CLEC's collocating in a certain central office to
5 be confidential?
6 MS. EIDE: I'm not really sure how to
7 respond to that. I don't generally get involved --
8 MS. FRIESEN: The location of the
9 central office -- would it be your opinion that if I
10 asked you at Denver main who is collocated there, is it
11 your position that that information is confidential?
12 MS. EIDE: I don't normally with that
13 information so I would certainly not be providing that.
14 I'm not sure if I'm the best one to answer that

15 question in a general fashion.

16 MR. BROTHERSON: In response to that,

17 all CLECs have a right to do a walk-through. The cages

18 are in there, in many cases the CLECs have their name

19 on the cage and identify it as their own for their own

20 installers. That would be publicly available-type

21 exceptions.

22 MS. FRIESEN: That's an exception, that

23 particular location?

24 MR. BROTHERSON: It's publicly

25 available information.

1 MR. DIXON: I'm assuming access to

2 a CO, first of all, is not available to the public.

3 There are limitations on who can get into a central

4 office.

5 Without belaboring the point,

6 I'm not so sure I would say what is inside a central

7 office, but I don't think Qwest would agree that

8 whatever is inside a central office is publicly

9 available information, because I guess a CLEC tech

10 could go through and start inventorying what's in the

11 Qwest side of the house and I suspect you wouldn't

12 necessarily want that disclosed.

13 MR. BROTHERSON: We looped back to our

14 confidentiality debate. We don't normally have a BFR
15 to work a collocation.
16 MR. BELLINGER: Obviously it's not
17 confidential because you could find out. Whether it's
18 public maybe is carrying it a little far.
19 MR. DIXON: That's what I was trying to
20 drew a distinction between.
21 MR. BELLINGER: Let's get back to this
22 discussion letting other CLECs know BFR.
23 MS. FRIESEN: I think the
24 confidentiality claim Qwest is making is a red herring.
25 What AT&T is asking and what it would like to see is

1 not to be at the mercy of Qwest to always know whether
2 or not there's a substantially similar BFR out there.
3 The reason we want to be able to know what's out there
4 is so we can be treated and assured we're treated in a
5 nondiscriminatory fashion.
6 There is no mechanism other than
7 Ms. Eide to ensure we get treated that way. We'd have
8 to rely on her. In all honesty, I'm sure she's a good
9 person, but my company would not be comfortable resting
10 an entire decision in her hands.
11 That's one position.
12 The other issue is that AT&T is not

13 seeking to know who the CLEC is or necessarily where
14 the product is, the new type of interconnection going
15 back to our example. All we want to know is that if
16 this particular type of interconnection is available
17 anywhere in their network, that we can get it through
18 an expedited no need to go through the BFR, pay them
19 the money, sit around for a few days, wait on them
20 substantially similar, and get it back to us. All of
21 that is wasted energy and effort.
22 If in fact Qwest has provided a service
23 for another CLEC, it has an obligation under the law
24 to treat other CLECs in a nondiscriminatory fashion.
25 Only way we can make sure it fulfills that obligation

1 that it thinks is out there and we get the thing.
2 That begs the question, why don't they
3 turn it into a product after one request? As you'll
4 note, Qwest doesn't have a definitive way to turn
5 something into a product. If it's been requested once,
6 it doesn't necessarily become a product. If it's been
7 requested twice, it doesn't necessarily become a
8 product. If it's been requested three times and so
9 forth.
10 With respect to treating CLECs
11 in a nondiscriminatory fashion, we think we ought

12 to get notice that here's a particular type of new
13 interconnection, it's been reflected, it's not yet a
14 product; by the way, if you want it, here's what the
15 rates were, here's the functionality of it, and buy
16 it or don't buy it. We shouldn't be at the mercy of
17 Qwest and shouldn't have to jump to pay -- find out
18 if there's something substantially similar. I think
19 our engineers are perfectly capable of knowing that
20 something is substantially similar or not or it's been
21 done -- or we can do it in a similar way to cut to the
22 chase. We think we ought to be given notice.
23 MR. BELLINGER: Do you have any
24 response to that?
25 MR. BROTHERSON: It gets to the heart

1 of what we discussed early in the stages of these
2 discussions. We just got off a discussion about
3 the concern by the CLECs of treating any of their
4 information as confidential. What about if we mask the
5 name? There are cases when it's going to be obvious to
6 everybody who that CLEC is by the description of it.
7 On the one hand, we've got a concern by the CLECs that
8 say --
9 MR. BELLINGER: Let's ask them.
10 Is there any other CLEC that has a concern about this

11 issue 8, that this be made public to other CLECs if you
12 get a BFR agreed to?
13 MS. FRIESEN: AT&T's only concern is
14 that the name of the CLEC be removed and the exact
15 location. Qwest ought to be able to tell us that
16 they've provided a particular service anywhere in their
17 network, and I think that's consistent with what the
18 Act requires. If something is technically feasible and
19 they've ever done it before in their network, they have
20 to make that available to everybody.
21 MR. BELLINGER: You've made your point
22 very well. I'm looking for input from other CLECs.
23 MR. DIXON: We first raised this issue
24 as well. We concur in the comments of AT&T and believe
25 that we understand the confidentiality issues but

1 believe those can be addressed by masking the name of
2 the CLEC and the location and provide some indication
3 of requests for something that might fall under the BFR
4 process but for the substantially similar application,
5 therefore we agree with AT&T and would not have a
6 problem with our information being disclosed with
7 no identificational name or location.
8 MR. BELLINGER: BFR product be
9 disclosed?

10 MR. DIXON: Yes.

11 MR. BROTHERSON: The location becomes,

12 in many instances, a very critical piece --

13 MR. BELLINGER: I said product.

14 I think everybody is agreeing with product.

15 MR. BROTHERSON: I believe Tom said

16 mask the location, when in fact it may be there's

17 something unique about a location that creates a BFR.

18 MR. DIXON: I think if we initially

19 have it no name, no location, and if that becomes the

20 basis for rejecting it as substantially similar, we get

21 into another issue and at that point you're going to

22 have a burden of proof issue and we may challenge you

23 at that point.

24 MR. BELLINGER: We're dealing with A

25 which is notification that they've done one, and

1 describe the product. It does not preclude the

2 location but will provide a BFR has been agreed to

3 and it would describe the product that was agreed to.

4 MR. ZULEVIC: I essentially support

5 AT&T's position too. I think it's one critical step

6 towards eliminating some things as being requested

7 only as a BFR. Once you get to the point where

8 substantially similar products are being offered on a

9 regular basis, then I think they should be productized
10 and be available without having to go through this.
11 So I definitely support that.
12 MR. BELLINGER: Of a product BFR.
13 Okay.
14 Penny, we found everybody said if a BFR
15 has been issued for a particular request that the other
16 CLECs here would like to get notice of that excluding
17 the CLEC name and location and what the product is.
18 MS. BEWICK: I would agree with that.
19 MR. BELLINGER: We have consensus
20 on the CLEC side that they don't see a need for
21 confidentiality in terms of the product itself.
22 MR. BROTHERSON: The only open issue,
23 one that came up internally in our discussions, is that
24 in terms of the SGAT language, that's one thing.
25 We have interconnection agreements that are not SGAT

1 language. In fact, with each of the CLECs sitting at
2 this table that all have extensive language about
3 treating their information as confidential.
4 MR. BELLINGER: It's not CLEC-specific
5 information, it is a product that you have agreed to
6 provide. That's what they want notice of, the way I
7 understand it.

8 MR. BROTHERSON: I understand.

9 All I'm saying is, should I give a BFR

10 request from AT&T that I made public --

11 MR. BELLINGER: If you provide it to

12 AT&T, I think they want it made public.

13 MR. BROTHERSON: I get a request from

14 MCI and I say, Tom, I'm going to put this on the Web.

15 Even though I don't have language in your

16 interconnection agreement that protects me, only in the

17 SGAT because your interconnection agreement has rather

18 extensive confidentiality language in it, and that's

19 been the conflict all along.

20 MR. BELLINGER: We're clear what you

21 put on the Web is, we have provided this product.

22 Doesn't say what CLEC, doesn't say where. Just a

23 description of the product.

24 MR. BROTHERSON: We're clear. It will

25 be -- in some instances it will be identifiable who

1 that CLEC is going to be.

2 MR. BELLINGER: It might be hard to do

3 in some cases, but maybe you could. If nobody else

4 operates in North Dakota, you might figure out who it

5 is. But you don't tell them that.

6 MS. JENNINGS-FADER: The problem is a

7 perceived conflict, from Qwest's perception, between
8 specific interconnection agreement language which says
9 under all circumstances I, Qwest, promise you, CLEC,
10 that I will hold your information confidential, versus
11 the provision in the SGAT which would be more general
12 and would allow Qwest, without identifying the CLEC,
13 without identifying the location, to provide notice to
14 the world that it had provided a certain product or a
15 certain point of interconnection a certain way. Is
16 that the perceived problem?
17 MR. BROTHERSON: That was one of the
18 perceived problems, yes.
19 MS. JENNINGS-FADER: Could someone help
20 us to understand whether there's an issue from your
21 perspective. Can you help us understand what's going
22 on?
23 MS. FRIESEN: There's a difference
24 between what Qwest offers as a product to the world at
25 large and what a particular CLEC is doing in any given

1 instance or location with respect to any customers.
2 The latter is the confidential piece. What they're
3 supposed to be offering to the public at large, to
4 CLECs at large I don't consider product offerings
5 confidential.

6 Certainly AT&T doesn't want to have
7 Qwest revealing that AT&T has this new-fangled whatever
8 right here in Denver main. But on the other hand,
9 if Qwest is offering the new-fangled thing and it is
10 technically feasible inside its network, I think the
11 Act tells us that they have to make that technically
12 feasible type of interconnection available to
13 everybody. The only way everybody is going to
14 know about it is if they make it a product.
15 I think that's the distinction.
16 MS. JENNINGS-FADER: AT&T, at least,
17 you-all see no conflict between a confidentiality
18 provisioning your interconnection agreement and the
19 SGAT provisions we've been discussing under Section 17
20 with respect to issue G-11A? Let's be specific.
21 MR. MENEZES: Then notice CLECs are
22 asking for, there isn't language in the SGAT that does
23 that right now.
24 We'd certainly want to draft it so that
25 it didn't conflict. But I think the point -- our

1 notion is that it would not, because what it would say
2 is not what a CLEC asked for. It would say what Qwest
3 is providing.
4 MR. BROTHERSON: I think we're at

5 impasse. I want to respond to a couple things Letty
6 said.
7 MR. BELLINGER: My problem with your
8 impasse, I can't identify what your issue is.
9 MR. BROTHERSON: Let me respond to a
10 couple things.
11 Letty's comment was if we come to you
12 with something unique, we may not want that disclosed
13 but any general product offerings. Our general product
14 offerings are in the SGAT. What the BFR is going to be
15 is if AT&T comes to us and says we want some unique
16 software that will do this, is it technically feasible
17 and will you provide it? That's exactly what we'd then
18 identify.
19 MS. FRIESEN: That's a good example.
20 Let's use that example. If there's some software in
21 there that you've now made available to us, do you not
22 have an obligation, in your mind, to make that software
23 available to other CLECs for their similar types of
24 interconnection? I understood your witness to say
25 that you do have that obligation, that you do intend to

1 follow it, now I hear you telling me you don't because
2 now you perceive it to be confidential. Maybe you can
3 clarify for me.

4 MS. EIDE: The distinction is not
5 whether Qwest would make it available to a second
6 party, but rather would Qwest make it available if a
7 second party were ever to request it versus making it
8 available as you're proposing by a general notice after
9 having once received a request for it.
10 MS. FRIESEN: That makes our point
11 precisely. Because the issue is, once we've requested
12 something, they've disclosed to us that they'll get it
13 to us, then they disclose it to somebody else they'll
14 give them the same thing, it's no longer confidential.
15 Whether they give us prewarning of that or often
16 post-warning, they are getting out the information
17 on that particular product's characteristics, period.
18 They have to in order to identify substantially similar
19 product. You can't skirt the issue, this is a product
20 offering of this theirs, they need to make it available
21 on a nondiscriminatory basis. Can't turn it into
22 something special for a CLEC and thereby create some
23 confidentiality maze.
24 MR. BELLINGER: I can't identify your
25 problem with the CLEC, Larry. I don't see what your

1 problem is that you say you can't do it but the CLECs
2 say you can.

3 MS. BEWICK: Since I was pointed out as
4 someone who brought up something up earlier which was a
5 little bit different.
6 I believe if the CLEC name and
7 the location is eliminated, then I think it's very
8 difficult to narrow who asked for it. Granted if it's
9 on a particular product category and only a couple of
10 us offer that product, you're going -- you would be
11 able to figure that out. You're not going to figure
12 out location.
13 My problem was more in regards to
14 confidential information that also revealed locations.
15 For instance, when we had to go through the NFL draft
16 process on central offices for line sharing purposes
17 and all of the CLECs got together and we kept the
18 lawyers out of the room because that was the best way
19 to do it, and we agreed that what we'd do is go through
20 and each one of us would pick a CO, our priority COs
21 and prioritize it for Qwest what COs in each state we
22 wanted line sharing deployed in first. If you look at,
23 say, line sharing in some of the smaller areas of the
24 state of Colorado, was quite obvious that New Edge was
25 the only one in that particular CO. In fact, we got

1 big chuckles when we mentioned a CO.

2 So it's that kind of information that
3 I'm talking about that would say identify a location.
4 So on the product thing I think that's
5 a risk you take. I wanted to clarify where I was
6 coming from.
7 MR. BELLINGER: Anyway, we're back to,
8 Larry, I can't identify your defense of this issue.
9 MR. DIXON: That was the issue of
10 whether WorldCom believes its interconnection agreement
11 would somehow be violated in event the information
12 we've been generally discussing is product information
13 to be issued. I don't believe so. I think what might
14 give us some parameters on what it is that should be
15 disclosed as we refer to a product -- you might
16 remember this language in the section talks about how
17 we identify substantially similar and points us to
18 Section 17.2 as presently written.
19 I would suggest if you look at the
20 first three subsections under 17.2, which is the
21 description of what's substantially similar and what's
22 desirable, those first three pieces of data, namely a
23 technical description of the network element or new or
24 different point of interface -- interconnection or
25 ancillary service; two, the desired interface spec if

1 there a specification requested; and three, the type of
2 interconnection or access that's requested. That those
3 three pieces of information would be what we would
4 consider product-type information because it's that
5 very information we are being requested to provide so
6 Qwest can construct a BFR.
7 The last three, the statement that
8 it's going to be provided for a telecom service I don't
9 think adds anything to the product notice. That should
10 be easy if it gets posted. The quantity would
11 potentially identify a CLEC. Again, with the idea that
12 perhaps some of the big people would ask for more than
13 some of the little, so I think that quantity doesn't
14 impact what the product is directly.
15 Lastly, the specific location we've
16 already agreed shouldn't be disclosed.
17 It would seem to me if those three
18 criteria are generally what we're looking for to be
19 posted, that would solve what the notice should
20 generally address. WorldCom does not believe that
21 would violate the confidentiality provisions of any of
22 the interconnection agreements for its subsidiaries.
23 To the extent there was a perception that was the case,
24 I would work with Qwest to amend our interconnection
25 agreements so that would not present a problem, if in

1 fact someone wanted to read it in that fashion either
2 from Qwest or WorldCom's perspective. In other words,
3 we wouldn't put you in a catch-22.
4 MR. BROTHERSON: If I might respond and
5 maybe we can move on.
6 I appreciate the fact that everybody
7 here said don't worry about it. We've had CLECs
8 specifically say in their BFR request, we consider this
9 a proprietary new idea and we expect you to tree it as
10 such. So that has given rise to our concerns about
11 treating it confidential.
12 If we are ordered to publish this type
13 of request, then our response to a CLEC who comes to
14 us in future is going to be whether you consider it
15 confidential or not. If you give it to us, it's going
16 to be made public to some degree.
17 But the question is, where did this
18 concern arise? It has arisen because specific people
19 have told us that they consider it some unique concept
20 that they want to treat it confidential.
21 One short comment. In response to your
22 list of items that you thought would be sufficient in
23 the notice, Tom, I would say that in some cases the
24 location can be a critical element of the BFR request.
25 Let's say it's kind of a unique thing with a stepper

1 office and we've only got one in the 14 states, it
2 generates a specific kind of request which we'd respond
3 to but it would be unique to that kind of an office.
4 MR. DIXON: I would expect under
5 those circumstances -- what we're going to be doing is
6 looking at these notices. If we see something we think
7 is lame, we're going to tell you that and we shouldn't
8 have to go through the full product questionnaire and
9 shouldn't have to pay the processing fee. Qwest will
10 come back and say while on its face this appears to
11 be the case, because of the location and unique
12 circumstances, these are not in fact substantially
13 similar and then if we want to pursue it further, the
14 two parties, we'd discuss it in one fashion or another
15 or we go to the next sentence which says you bear the
16 burden of proof and presumably go to dispute resolution
17 on it.
18 I agree that the mere notice is not
19 binding. It is simply a notice and there still
20 could be further dispute on whether something was
21 substantially similar after the notice was issued even
22 though it appeared to be similar to the CLEC. I don't
23 know if we're at impasse or saying you won't even do
24 that.
25 MR. BELLINGER: You made a statement,

1 Larry; are we still at impasse?

2 MR. BROTHERSON: Yes.

3 MR. BELLINGER: Mana, did you have

4 anything else?

5 MS. JENNINGS-FADER: No.

6 MR. BELLINGER: Okay. Impasse. Let's

7 take a quick five-minute break.

8 (Recess taken.)

9 MR. BELLINGER: Let's move on to B.

10 MR. DIXON: We're at impasse on the

11 notice and impasse is productization issue?

12 MR. BELLINGER: It's B. Impasse on A.

13 We're working off of 6-Qwest-57 right now.

14 MS. EIDE: We talked about this in the

15 last discussion somewhat, but the issue I believe is

16 captured as when should Qwest, quote, productize BFRs

17 and make them standard product offerings set forth in

18 the SGAT. Some CLECs have proposed that Qwest commit

19 to a specific number of times BFR be made and beyond

20 which that point Qwest would be required to make the

21 capability a standard SGAT offering.

22 Qwest agrees there are times when it

23 will certainly make sense to, quote, productize or make

24 a new standard offering available in the SGAT. But

25 what Qwest disagrees with is that there be an arbitrary

1 or predetermined number as to when that trigger point
2 should be.
3 Qwest believes that the basis for
4 productizing should be based on experience, judgment,
5 and that applying a hard and fast number regardless of
6 the type of request or any lack of information as to
7 whether we would have future additional demand for it
8 would really divert resources towards activities that
9 might not benefit all CLECs in general. As a result,
10 Qwest had moved to impasse on this issue in previous
11 workshops.
12 MR. BELLINGER: Okay. Any input from
13 the CLEC side?
14 MS. JENNINGS-FADER: Could you explain
15 to the Commission how it is that future demand in
16 Qwest's opinion should influence a decision as to
17 whether or not to make something a standard offering.
18 MS. EIDE: To move beyond provisioning
19 something that may in fact only be requested one time
20 in one particular area to developing the standard
21 product offering would require resources for things
22 like more detailed methods and procedures, more
23 detailed product development, documentation, all of the

24 things that would normally be involved in developing a
25 standard offering that could be ordered through the

1 systems that have been defined in the SGAT for products
2 in general.
3 MR. BELLINGER: Open invitation to
4 CLECs: Do you want to make any comments on this one?
5 MR. DIXON: I think from WorldCom's
6 perspective, we've pretty well addressed this before.
7 I assume we're not looking for more comments.
8 MR. BELLINGER: Not necessarily looking
9 for more. I didn't know if there was any new input or
10 you wanted to make a statement for this record for
11 today.
12 MR. DIXON: From WorldCom's
13 perspective, again, that's the very issue we're
14 concerned about. That even with the best of intentions
15 that while Qwest may want to determine internally with
16 its experts whether these were all appropriate to be
17 productized, there may just be a hint of is it a
18 competitive issue as to whether it should be
19 productized.
20 So our concern is that if we don't have
21 objective criteria, then we don't have any way of
22 really evaluating whether we're properly receiving

23 products and instead getting them on an individual case
24 basis which WorldCom has spent extensive record time
25 opposing the individual record case process.

1 Nothing to add on that.
2 MS. FRIESEN: Nothing further from AT&T
3 MS. QUINTANA: Do CLECs have any
4 proposal for how many substantially similar BFRs are
5 requested for a product from the SGAT is standardized?
6 MR. DIXON: I had at one time thrown
7 out wildly, without consulting with a technical person,
8 three requests within six months and even that was
9 rejected by Qwest. I assume Qwest will object to any
10 criteria like that or even that particular one.
11 MS. FRIESEN: From our perspective, and
12 probably consistent with what Tom is thinking, to the
13 extent that it would get notice there are BFRs out
14 there, that have certain product characteristics.
15 Certainly if somebody else can order them or wants to
16 order them, once it's been ordered several times it
17 ought to become a product. But the key to determining
18 when it should become a product, from our perspective,
19 to see what the BFR is and to see if we want to buy it.
20 It probably ought to become a product. You don't know
21 unless you see what the characteristics of the previous

22 request were.

23 MS. JENNINGS-FADER: I'm having a

24 little difficulty understanding. Is there or is there

25 not a, quote, bright line, unquote, that AT&T is

1 suggesting Tom's suggestion three requests within six

2 months? Is there a similar kind of break point that

3 AT&T -- not that one, but a similar type that AT&T

4 would suggest?

5 MS. FRIESEN: The line may be less

6 bright I guess is where I was going, and will be

7 dependent upon notice. It may be.

8 MS. JENNINGS-FADER: Would Qwest, under

9 your concept, be the party making that determination as

10 to when there had been enough requests or orders of

11 something to warrant turning that something into a

12 standard offering?

13 MS. FRIESEN: I think we'd continue

14 to leave the ultimate decision in Qwest's hands.

15 Certainly if we thought something was out there and we

16 wanted to request it, we would suggest to them they

17 would make it a product, but we can't even begin to

18 make the suggestion. Our technical guys can't even

19 begin to understand what they would be asking for in

20 terms of making something a product unless they saw the

21 characteristics of the previous request.

22 It's a little bit fluid. I appreciate

23 that's not the clearest answer.

24 MS. JENNINGS-FADER: With respect to

25 your last point, am I correct that if we took Tom's

1 suggestion and had posted somewhere a description

2 including 17.2.1, 17.2.2 and 17.2.2.3, that that

3 would be sufficient technical description of what

4 was available to assist you-all in making your

5 determination?

6 MS. FRIESEN: Yes, it may.

7 MS. JENNINGS-FADER: Thanks.

8 MR. DIXON: My three requests in six

9 months was pulling it out of the air.

10 MS. JENNINGS-FADER: We understood

11 that.

12 MR. BELLINGER: Let's go to C.

13 MR. DIXON: There's one little nit in

14 Section 17.12. When it was originally proposed there

15 were references in the last two lines -- actually it's

16 the last two complete lines to sub sections A through

17 F. I think you'll see that in the SGAT under Section

18 17.12. Look at the last two lines. Those sections

19 have now been renumbered.

20 MS. FRIESEN: We fixed it.

21 MR. BELLINGER: Jump to the assumption

22 that Qwest fixed that.

23 MR. DIXON: No problem.

24 MR. BELLINGER: Let's go to C.

25 MS. EIDE: As Qwest has captured G-11C,

1 the issue is, should Qwest expand the scope of the

2 special request process beyond those UNE and UNE

3 combinations listed in Exhibit F, paragraphs 1A

4 through 1D.

5 Qwest agreed in earlier workshops in

6 Colorado and elsewhere that certain CLEC requests could

7 be handled on an expedited basis rather than go through

8 the full feasibility analysis described under BFR

9 Section 17. That expedited process is referred to

10 as special request process in Exhibit F.

11 Special request process was developed

12 at the request of CLECs and applies to specific types

13 of requests that in fact were agreed to in those

14 earlier workshops. Qwest does not feel it's

15 appropriate to expand the scope of the special request

16 process here in the general terms and conditions

17 workshop. I believe the purpose of discussing SRP

18 here in General Terms and Conditions was to discuss

19 structural and procedural concerns consensus language
20 around a description of the process, how request is to
21 be submitted, et cetera. So Qwest in a previous
22 discussion believed we were at impasse on third.
23 MS. JENNINGS-FADER: Under the
24 definition of special request process, the reasons
25 it should be used, that's what we're discussing?

1 MR. BELLINGER: 1.1 through 1.4?
2 MR. DIXON: That's correct. That's my
3 perception. It carried the A through D designation
4 because this came from WorldCom language and would be
5 found in 6-WorldCom-30. Of course when we drafted it
6 we didn't necessarily use the same numbering or
7 lettering convention that Qwest had used.
8 MR. BELLINGER: Do CLECs want to go
9 beyond the 1.1 through 1.4? Is that what I'm hearing?
10 MR. MENEZES: In 1.4 the language there
11 deals only with unbundled network elements. But it
12 reads that the special request process will apply where
13 there's an unbundled network element defined by the FCC
14 or state commission as a network element to which Qwest
15 is obligated to provide under bundled access but for
16 which Qwest has not created a standard product.
17 At least the position that I've put

18 forward is that this is really a generic statement that
19 it could be -- it could be made a generic statement
20 that applies to all of the things Qwest agrees it is
21 obligated to provide under the act or under the FCC or
22 state commission's rules and for which it doesn't have
23 a product yet.
24 So we had asked that it would not be
25 limited to bundled network elements but other things,

1 interconnection, collocation, other obligations that
2 Qwest has defined by the FCC or the state commission
3 that Qwest is obligated to provide.
4 MR. BELLINGER: You agree with the
5 unbundled network element portion of this?
6 MR. MENEZES: It's the notion that it
7 could be broadened. A distinction, I don't know if it
8 was mentioned, between this process and the BFR process
9 and at least one that is stated in the language here
10 and one in Section 2 of Exhibit F is that there's no
11 technical feasibility analysis, otherwise it becomes a
12 BFR.
13 So if it fits under 1.4 from the
14 standpoint of -- they have an obligation, they just
15 don't have a product, why make us go through BFR?
16 Why can't Qwest do the SRP process for things in

17 addition to UNEs?

18 MR. BELLINGER: Any response to that?

19 MR. BROTHERSON: As we said earlier,

20 we developed a BFR process and at the specific request

21 of the CLECs we carved out some situations which could

22 be processed on a shorter time frame and we enumerated

23 them. To expand beyond what was negotiated and agreed

24 to in the other workshops I think is inappropriate.

25 Mitch today suggested collocation.

1 We've had very lengthy workshops on collocation and

2 how long it takes to process collocation orders, the

3 information required in those, and I think to now

4 somehow tie those to SR would be inappropriate.

5 To my knowledge none of the RBOCs

6 offer a shortened SR process. The standard procedure

7 for something that's not currently available if someone

8 comes in with a unique idea is the BFR process. By

9 agreeing to through negotiations a short form process

10 for some specific items I think was a gesture on

11 Qwest's part to accommodate the CLECs but it's now

12 become a battle ground over expanding it to more

13 issues.

14 MS. FRIESEN: If I could just respond

15 quickly with respect to collocation.

16 I think collocation section says that
17 something, for example, like remote collocation is
18 available. Qwest has an obligation, it's technically
19 feasible. The only question or the only issue is, how
20 much is it going to cost? Maybe what the interval
21 might be. So if those are the only questions, then
22 that's right for SRP or maybe just ICB, but it's ripe
23 for SRP at a minimum because technical feasibility is
24 not the question. Whether it's a product is not the
25 question.

1 MR. BROTHERSON: Well, obviously, I don't
2 have any collocation people here. We have gone through
3 a number of workshops on collocation, and I think it --
4 MR. BELLINGER: I think that was an
5 example, sort of.
6 MR. BROTHERSON: All right.
7 MR. BELLINGER: I don't think we need
8 that. Okay. I think -- do we need any more discussion
9 on this? Tom.
10 MR. DIXON: Not on that point, but I do
11 have an issue on Exhibit F that I just need to clarify,
12 when it's convenient.
13 MR. BELLINGER: Okay. I think it's
14 convenient.

15 MR. DIXON: Because I think it appears
16 we're going to Exhibit I now. There's a request --
17 we're asking one quick question. Qwest did include in
18 BFR and SRP, as well as ICB, exhibits and/or sections
19 to provide Colorado's data, which we appreciate. I
20 think we requested that specifically, that is WorldCom.
21 However, in both BFR and ICB it's a 7-day turnaround,
22 and with SRP, it's a 15-day turnaround. And I am
23 wondering, does -- is there any particular reason why
24 it's different from Qwest's perspective, that you are
25 aware of, or could they all be 7 days?

1 MS. EIDES: Tom, I think I am a little
2 bit confused by your statement. The 15 business days,
3 is that what you are referring to?
4 MR. DIXON: Exactly.
5 MS. EIDES: In Exhibit F?
6 MR. DIXON: Maybe I should correct you.
7 The last paragraph on SRP has a 15-business day
8 turnaround for Colorado data, and with BFR and ICB,
9 it's 7. I thought they would all be the same.
10 MS. EIDES: What's actually provided,
11 under SRP, in 15 business days is the response to the
12 request itself. In other words, yes, here is what our
13 price quote is, and the time frames, et cetera. What I

14 believe you're referring to, under ICB and BFR, is if
15 you then come back to us, once a quote has been
16 provided, and say, and I would like to see your
17 underlying cost support, that's where the 7-day time
18 frame kicks in. So, Exhibit F, No. 6, when the CLEC
19 requests that cost support; is that right? I thought
20 we had talked about that.
21 MR. DIXON: We had. I thought we were
22 putting it in all three. I thought maybe this was the
23 effort. My notes reflect that was something we were
24 going to work off-line on, through July 13th, and
25 advise the commission of agreements based thereon and

1 identify the impasse issues. I am quoting from my
2 notes.
3 MR. BROTHERSON: We don't have a problem
4 with giving the cost data within 7 days of the request.
5 I think the language would cover that, no matter
6 whether the request was in conjunction with an SR or a
7 BFR or ICB. So, to the extent it doesn't, we can
8 clarify that. I don't think it's an impasse issue.
9 We're willing to do it. I thought that general
10 language about making it available was generic enough.
11 Whether you requested it on on ICB or on special
12 request, it would automatically apply.

13 MS. JENNINGS-FADER: Could you refer us
14 to the generic language to which you are referring?
15 MR. DIXON: The only place I am aware of
16 that that's actually in the Qwest SGAT right now, or
17 exhibits, Section 17.14, which is BFR. That's why I
18 thought that the 17.14 language was going to go in each
19 of the three.
20 MS. QUINTANA: It is in Exhibit I for
21 ICB.
22 MR. DIXON: Right. But it's missing in
23 SRP.
24 MS. EIDES: We can add it, yes.
25 MR. BROTHERSON: We will add it.

1 MR. BELLINGER: Okay. Very good.
2 MR. DIXON: I thought we had that worked
3 out. It was just missing.
4 MS. JENNINGS-FADER: So, it would go --
5 so we'll know where to look for the additional -- the
6 additional will be in Exhibit F, or some other place.
7 MS. FORD: Exhibit F, a new 6.
8 MS. JENNINGS-FADER: Okay. Thank you.
9 MR. BELLINGER: Okay. Let's move to D
10 then.
11 MR. DIXON: D is a pretty broad issue.

12 WorldCom has some specific ICB issues that are still
13 outstanding. And maybe, just to set the record clear,
14 and not to restate everything, in 6-WorldCom-30, the
15 multicolored exhibit that you all can recall, I am
16 sure, WorldCom had recorded some blue language that was
17 proposed for Exhibit I.
18 MS. JENNINGS-FADER: Yes.
19 MR. BELLINGER: Colored blue language.
20 MR. DIXON: Kind of an aquamarine
21 something. I call it algae-colored, whatever. In any
22 case, the gist of that language to be, rather than
23 going through it in depth, because it's already in the
24 record, had to do with one of the TELRIC requirements,
25 that is that all rates will be TELRIC-based. It also

1 had a procedure under the ICB rates, general category,
2 that established what would happen in terms of dispute
3 resolution on this issue. And we had proposed an
4 expedited resolution process in this section. And that
5 would have -- our proposal would have put it in Section
6 2.2, but that has since been modified.
7 But the bottom line is, there's language
8 from WorldCom that effectively proposes a dispute
9 resolution process on ICB rates, and a commitment that
10 those rates will be TELRIC-based. I don't see that in

11 the most recent version in 6-Qwest-61. That I want to
12 see something -- we never actually discussed this in
13 the last workshop. This is where we got -- this was
14 the dead end.
15 So, D seems to imply that maybe
16 everything is done on I, and we have never even talked
17 about I, to speak of, in the last workshop, other than
18 I believe Larry gave some introductory comments, and
19 where changes had been made, so we didn't get into any
20 CLEC comments, to speak of.
21 So we still have an issue with our
22 proposed language from 6-WorldCom-30 that addressed
23 this particular Exhibit I and the language we proposed.
24 MR. BROTHERSON: Well, I guess my first
25 comment would be that we did agree to put in the

1 language that our pricing -- and I think I cited that
2 reference earlier, but I don't have it right in front
3 of me, 5.1.9 was it. That we agreed, anyway, earlier,
4 to price our services in accordance with the act. I
5 recognize that saying we'll comply with the act is not
6 synonymous with saying we'll always use TELRIC, but I
7 think ours is the more appropriate language.
8 As you know, there's an appeal on the
9 TELRIC issue. Also, there are a set of services that

10 FCC has said are not required to be TELRIC. So I think
11 the guiding principle should be that the parties, and,
12 in this case, Qwest, will comply with the act in terms
13 of its pricing obligations without getting into
14 specific methodologies that a commission wants to use.
15 MR. DIXON: Larry, what was your citation
16 for that reference? I am sorry. I didn't hear it.
17 MR. BROTHERSON: I can't recall it. I
18 cited it earlier.
19 MS. FORD: 5.1.6.
20 MR. DIXON: Thank you. Go ahead. That's
21 fine. I just wanted to look at it while you are
22 talking.
23 MR. BROTHERSON: Yeah. I think, as to
24 how we would dispute that, I think we have worked out
25 dispute resolution language in the SGAT, and I think it

1 even has some expedited provisions that were put in at
2 the request of AT&T. So I think, to that end, we
3 responded to that concern as well. I don't think that
4 Exhibit I is the place to address those.
5 MR. DIXON: That solves the TELRIC issue.
6 So I agree with you, we don't need to specifically
7 reference TELRIC in Exhibit I, given what you have put
8 into 5.1.6. And I agree that's resolved with that

9 language. Then we're just down to the other issue of
10 the dispute resolution concept.
11 MR. BROTHERSON: To that end, I think we
12 hammered out dispute resolution language in the SGAT.
13 We feel that that's the way the parties should resolve
14 their dispute. I don't think we should have a unique
15 dispute resolution for each offering in the SGAT.
16 MR. DIXON: And I don't believe we ever
17 got to dispute resolution when we did this in Colorado.
18 So, I will take a look at the language and see if that
19 resolves our issues, so I would like 11D at least to be
20 open long enough to look and review -- apparently the
21 dispute resolution has been hammered out in the
22 multi-state, or in Washington, or somewhere. I know it
23 wasn't done with Arizona. So it would have to be the
24 multi-state or Washington.
25 MR. BELLINGER: Issue D is mostly dispute

1 resolution.
2 MR. DIXON: The issue now is dispute
3 resolution, at least from WorldCom's perspective, the
4 issue is dispute resolution and I would agree that
5 these could all be addressed in the dispute resolution
6 section. I need to look at it and see if it solves our
7 issue.

8 MS. FRIESEN: I think Issue D is still
9 alive, and as described both in our matrix and in
10 6-Qwest-57; that is to say, that has Qwest met its
11 obligation of nondiscrimination for BFR, SRP and ICB.
12 I think that's still an issue. We probably don't need
13 to discuss it.
14 MR. BROTHERSON: And then, I think, in
15 addition, there's Tom's issue.
16 MR. DIXON: As I understand, just so it's
17 clear, I want to make sure from other CLECs who may
18 have participated in Washington and the multi-state,
19 the rest of the section is okay. That's about Exhibit
20 I. Are there other issues under this one that other
21 CLECs have from Washington or the multi-state?
22 MS. JENNINGS-FADER: Well, for those of
23 us who haven't participated in Arizona, Washington,
24 multi-state, Utah, Minnesota, or any other states, or
25 group of states, whatever is the case, to discuss this,

1 is there a reference to the dispute resolution process
2 to which you can refer us? A section. A specific
3 section in the SGAT?
4 MR. BROTHERSON: Sure.
5 MS. HUGHES: Sure.
6 MR. DIXON: 18, 5.18.

7 MR. BELLINGER: It's what? 5.18?

8 MR. DIXON: Yeah.

9 MS. HUGHES: So, then, Tom, just so we're

10 clear, you will take a look at the dispute resolution

11 Section 5.18 a little, let us know whether WorldCom

12 believes there's an outstanding issue.

13 MR. DIXON: Exactly.

14 MS. HUGHES: With respect to Exhibit I.

15 MR. DIXON: Absolutely. Like Mana,

16 WorldCom was not active in the multi-state and did not

17 participate in the multi-state on the general terms and

18 conditions at all. So, no agreements have been reached

19 with WorldCom on dispute resolution in the multi-state.

20 Washington presents another issue, and we did have a

21 representative there. So, I am trying to just

22 coordinate -- be sure that I haven't overlooked

23 anything. The intent is not to raise new issues, is

24 what I am getting at.

25 MR. BELLINGER: Could someone succinctly

1 talk about what the other nondiscrimination obligations

2 are that are at issue?

3 MS. FRIESEN: They are virtually

4 identical with respect to what we just discussed. For

5 BFR, that is that Qwest should, in its obligations,

6 have the CLECs -- treat CLECs at parity in a
7 nondiscriminatory manner, whether they get products
8 through the BFR process, or they are getting products
9 through SRP or ICB. And the question is whether or not
10 Qwest is, in fact, able to treat us in a
11 nondiscriminatory manner, and whether or not they
12 provide sufficient evidence that suggests that they, in
13 fact, are doing that. It's AT&T's position, obviously,
14 that they are not.
15 MR. BELLINGER: Okay. So --
16 MS. JENNINGS-FADER: So it's beyond --
17 it's now beyond the bona fide request process, to link
18 every -- all of the special requests and other
19 processes.
20 MS. FRIESEN: Correct. And just to make
21 one more clarification. AT&T has agreed to the
22 language contained in Exhibit I, so we don't have a
23 dispute with respect to the language.
24 MS. EIDES: If I could just respond,
25 please. I think Qwest has discussed, at least

1 referenced here this morning, that, in fact, BFRs and
2 special requests that are submitted to Qwest do come
3 into one central location, whether they are submitted
4 in Colorado or any other states. In fact, there's one

5 individual at this point, myself, who oversees how
6 those are processed and reviews them.
7 So, I think Qwest has discussed, in fact,
8 how they would be handled in a nondiscriminatory
9 manner, and, in fact, we have laid out specific
10 language in Section 17 that defines the BFR process, in
11 great detail, and also in Exhibit F, that describes the
12 SRP process, how the requests are to be submitted, what
13 the time frames will be for evaluation, what the
14 criteria are. I believe that Qwest has demonstrated,
15 in fact, that it can handle those requests on a
16 nondiscriminatory basis.
17 MR. BELLINGER: Okay. So D is still at
18 impasse. We do have a takeback for Tom on the dispute
19 resolution.
20 MR. BROTHERSON: I think so.
21 MR. BELLINGER: So, my next question
22 really is, Letty, did you want to add any issues to
23 G-11 out of your list?
24 MS. FRIESEN: No, thank you, Hagood.
25 Both lists are consistent.

1 MR. BELLINGER: Okay.
2 MR. BROTHERSON: And I think, to one last
3 comment on the nondiscrimination, just so I understand

4 the issue. And I think Ms. Eides has talked about the
5 detail that's offered in the BFR and SR language. As
6 Ms. Friesen said, we're not really disputing the
7 language, but perhaps how we're going to implement it
8 or the way we treat it. But, to the extent that
9 there's an implication about discrimination between
10 retail and wholesale, I think the BFR and SR process is
11 specifically addressing Unbundled Network Elements,
12 UNEs, LIS, the kind of products that are offered to
13 CLECs under the Telecom Act that are not offered to our
14 retail customers.
15 MS. FRIESEN: Well, and having opened
16 that door, it's AT&T's position that Qwest, in fact,
17 does have similar mechanisms for producing products or
18 getting to their retail customers things that retail
19 customers order that are not contained necessarily in
20 the tariff. There's no evidence in this record that
21 suggests or even begins to suggest that Qwest is
22 treating wholesale customers that request things that
23 are either not in the interconnection tariffs here in
24 the state of Colorado or in their SGAT, at parity with
25 the way Qwest treats its retail customers, and how its

1 retail customers obtain products, or things that -- or
2 request things that are not contained in the tariffs.

3 So, as an evidentiary matter, there's absolutely no
4 showing at this point.
5 MS. EIDES: This is Laurie from Qwest.
6 I, again, I would like to just respond to that. Qwest
7 has stated previously that requests from the retail
8 side for new service, or the language that Letty just
9 referred to, things that are not currently available,
10 are handled on an individual case basis. And there are
11 no defined time frames or commitments such as those
12 that we afford to the CLECs in Section 17, and in
13 Exhibit F and Exhibit I, to get back to those requests
14 on the retail side.
15 MS. FRIESEN: Ms. Eides, are you
16 responsible for handling individual case requests from
17 retail customers?
18 MS. EIDES: No, I am not.
19 MS. FRIESEN: Thank you.
20 MS. EIDES: However --
21 MR. BELLINGER: Go ahead.
22 MS. EIDES: However --
23 MR. BELLINGER: You were going to say
24 something.
25 MS. EIDES: I just want to say, when this

1 issue was raised in previous workshops, Qwest did go

2 back and canvas personnel who do work with retail
3 requests and determined, from talking with them, in
4 fact that there they are handled on an individual case
5 basis.
6 MR. BELLINGER: Okay.
7 MR. DIXON: Lastly, maybe, we have
8 imported the Arizona record. And I am talking the
9 Arizona record that predates the Colorado record that
10 was -- occurred June 19th to 22nd. And I would point
11 out, in that particular record, that's now been
12 imported, that there's some pretty significant
13 discussion of these issue. And I assume, to the extent
14 they wish to be briefed or addressed, we'll be relying
15 on what's in Arizona on the record as well as what may
16 have occurred in other records, as long as they have
17 been imported to Colorado.
18 MS. HUGHES: As well as what has been
19 stated here or what is available here.
20 MR. DIXON: Absolutely.
21 MS. HUGHES: If anybody wishes to cross
22 examine Ms. Eides any further --
23 MR. DIXON: My point, in conversation
24 with Ms. Eides and Mr. Brotherson and perhaps even a
25 couple of guys on the phone that spoke one day in

1 Arizona, this is all part of this record now.

2 MR. BROTHERSON: Uh-hum.

3 MS. JENNINGS-FADER: When we get the

4 transcripts in the record.

5 MR. DIXON: I hated to bring it up, but

6 at least I wanted to -- and I understand that, as I

7 recall, at our last workshop, Qwest agreed they would

8 make sure the transcripts were, in fact, imported and

9 put into the record physically.

10 MS. JENNINGS-FADER: Correct. And so

11 we'll need to have exhibit numbers for at least

12 Arizona, the multi-state and Washington, and any other

13 transcript that Qwest is relying on in its Exhibit

14 6-Qwest-60 as a record basis for showing that issues

15 have been discussed and closed or discussed and at

16 impasse, or whatever else.

17 While we're at it, as I was going to talk

18 about this at lunch, let's do it now. The other thing

19 is, to the extent there are exhibits referenced in

20 those transcripts, I think the entire record has to be

21 imported. So, I would --

22 MR. DIXON: Actually, Mary Rose and I

23 talked about this a couple of weeks ago. But, our

24 understanding is when Qwest imports a transcript, what

25 it really is doing, when it imports a record, the

1 record includes not only the transcript but all of the
2 exhibits in whatever proceeding that was being
3 involved, even if they were not specifically referenced
4 in the transcript, because they are part of the record.
5 And I believe that's been our agreement from the
6 outset. That everything is in. I will let Mary Rose
7 certainly confirm or deny what I have indicated as
8 being our understanding of what the record includes.
9 MS. HUGHES: That's correct.
10 MS. JENNINGS-FADER: And so, well, I
11 appreciate that, but not all of this information has
12 been imparted to the parties by electronic service. We
13 needs copies for the record. And we'll need to do some
14 kind of exhibit thing for each of those, and I don't
15 know whether there are others beside Arizona, the
16 multi-state and Washington. It's all I could find in
17 my quick run-through.
18 MR. DIXON: I don't recall Oregon being
19 discussed.
20 MS. HUGHES: We haven't been to Oregon
21 yet.
22 MR. DIXON: I don't recall that Oregon
23 has been discussed. That's the only workshop that I am
24 aware of that might be addressing these issues.
25 MS. JENNINGS-FADER: Thank you.

1 MR. BELLINGER: Okay. I think that moves
2 us to G-12. And we have a somewhat disagreement on
3 G-12, I think. Six-Qwest-60 shows it closed.
4 MS. FRIESEN: I think the only
5 distinction --
6 MR. BELLINGER: AT&T shows it's still --
7 MS. FRIESEN: The only distinction
8 between the Qwest -- 6-Qwest-57 and AT&T-68 is that
9 G-11 and G-12 have been broken up slightly differently,
10 but the issues are the same.
11 MR. BELLINGER: Okay.
12 MS. FRIESEN: What we're showing as G-12
13 was really AT&T 68, and Qwest think it's subsumed
14 within G-11, so we already discussed it.
15 MR. BELLINGER: Okay. Then, let's ask
16 about 17.14, paragraph -- would you turn to page 8.
17 MR. DIXON: Right now I think you are
18 doing the same thing I was doing, Hagood. You are
19 looking at 6-Qwest-60.
20 MS. JENNINGS-FADER: Right.
21 MR. BELLINGER: That's our --
22 MR. DIXON: I was going to say --
23 MR. BELLINGER: That's our base document
24 and then we refer back to the others as they supersede.

25 MR. DIXON: I think the discussion

1 mentioned 6-Qwest-57, which is the lesser document.

2 MS. JENNINGS-FADER: Exactly.

3 MR. BELLINGER: I am going through --

4 this is the base document.

5 MR. DIXON: I thought everything under

6 G-12 as found in 6-Qwest-60 was what we just discussed

7 in G-11?

8 MR. BELLINGER: Okay.

9 MR. DIXON: So the issue then becomes

10 more of a nomenclature issue.

11 MR. BELLINGER: We have captured it in

12 G-11, is what you are saying.

13 MR. DIXON: What I am suggesting, I

14 followed it along that way, and my intent was, that's

15 what I thought was occurring. I thought the only G-12

16 issues that were raised were the two AT&T issues, which

17 were in 6-AT&T-68, and they have been discussed just

18 briefly. I thought the G-12 issue in the 6-Qwest-60

19 document was discussed under G-11, and consequently

20 perhaps that should all be marked in G-11, for purposes

21 of the record, on the document that's 6-Qwest-60,

22 unless someone has an objection, someone has a problem

23 with it.

24 MS. FORD: As you recall, there are a lot
25 of issues in this area, so that's the way we treated

1 them for these purposes.
2 MR. DIXON: I recall we had about 30
3 minutes left when we wrapped this part of the workshop
4 up, so it doesn't shock me that there might be some
5 confusion.
6 MS. JENNINGS-FADER: We didn't get to
7 this.
8 MR. BELLINGER: Humor me for a minute.
9 Looking at 17.4.
10 MR. DIXON: That's cost data.
11 MR. BELLINGER: There's the 7 business
12 days we were just talking about.
13 MR. DIXON: Right.
14 MR. BELLINGER: So, we really closed it.
15 MS. JENNINGS-FADER: You are happy -- am
16 I correct, Tom, that you are satisfied with the result
17 if Qwest were to make that change?
18 MR. DIXON: Right. And the only issue,
19 that of -- was getting across all three types of unique
20 requests, BFR, SRP and so again we have been
21 advised. . .
22 MR. BELLINGER: That makes it easier. I

23 can close G-12, because we closed the one issue we're
24 showing as open. We'll leave G-11 stand and the
25 discussion stand on its own.

1 MR. DIXON: What I wouldn't want to do --
2 the only reason I raised this is because portions of
3 G-11 are at impasse.
4 MR. BELLINGER: We have identified those.
5 MR. DIXON: And portions of G-12, as
6 identified in 6-Qwest-60, relate to the impasse issues.
7 I would suggest that if we mark under the 6-Qwest-60,
8 G-12, the impasse on 17.14, as closed.
9 MR. BELLINGER: That's what I am doing.
10 MR. DIXON: Then change the nomenclature
11 of G-12 on page 5 to G-11, then we'll have captured
12 everything that went on in BFR, and SRP and ICB, that's
13 still at issue under those A, B, C, D discussions we
14 had. And then if we have G-12 at all, it may be two
15 AT&T issues that are found upon 6-AT&T-68, which go to
16 the issue of nondiscriminatory application and
17 reference the definition of ICB, okay, which I hesitate
18 to bring up, but we'll get there.
19 MR. BELLINGER: Okay.
20 MS. JENNINGS-FADER: Okay. Let's go
21 ahead --

22 MR. BELLINGER: Go ahead, Mana.

23 MS. JENNINGS-FADER: Whatever you may

24 have said, Tom, let me just move to another document

25 real quickly. First of all, I actually followed what

1 you said. Moving to a different document very quickly,

2 6-Qwest-57, which Qwest has indicated to us are the

3 open impasse issues, shows nothing for G-12. On the

4 other hand, 6-AT&T-68, which is AT&T's, if you will,

5 parallel document, shows two open issues with respect

6 to G-12. Dealing with those two documents for a

7 moment, is AT&T's document correct or is Qwest's

8 document correct?

9 MS. FORD: We should probably have added

10 G-12 right under G-11 in our document, 6-Qwest-57.

11 MS. FRIESEN: The only difference between

12 ours and theirs is that ours just popped out the ICB

13 issues, so, separate --

14 MR. BROTHERSON: And numbered it 12.

15 MS. FRIESEN: -- from SRP and BFR. So

16 maybe if we could just make those two consistent.

17 MR. BROTHERSON: We included Issue G-12

18 items in 11. They broke them out in 12.

19 MS. JENNINGS-FADER: Circling back to

20 what Tom just talked about, if we all understand that

21 in 6-AT&T-68, G-12A is subsumed under G-11, will that
22 be correct? I think all documents would be consistent;
23 is that correct?
24 MR. MENEZES: (Nodding in the
25 affirmative.)

1 MS. JENNINGS-FADER: Thank you. So, if
2 we can move to G-13. We have combined 11 and 12.
3 MR. DIXON: Let me ask this: I didn't
4 mean to ignore what was going on, but because we ran
5 into a little problem on the UNE brief, and people had
6 to go back and figure out when we had identified an
7 issue. That's why I am kind of being careful here.
8 So, at least the issues that AT&T raises on 6-AT&T-68,
9 that are identified as G-12, that issue has been
10 discussed while we were talking about G-11. And so, if
11 we're going to say it's included in G-11, the only
12 place it could be included will be in G-11D, which is a
13 very broad discussion.
14 MS. HUGHES: Correct.
15 MR. DIXON: Assuming we understand.
16 MR. BELLINGER: That was discussed under
17 D.
18 MR. DIXON: Right. That's what I am
19 saying. Assuming we understand it's there, in there.

20 Then there's the G-12A issue that AT&T has also raised,
21 which I don't know if it's been discussed. In fact, it
22 may actually be resolved. That's bringing up something
23 that we have not talked about at all, which are
24 definitions for a moment, and particularly, in this
25 instance, the definition of ICB. And I think,

1 recognizing we haven't talked about definitional
2 agreements, we have -- that may already be resolved.
3 So, I am kind of putting that back to AT&T to figure
4 out where it belongs.
5 MS. FRIESEN: I think, you know, if we
6 want to delete G-12 altogether, we can just punt that
7 question -- and I do think that this issue has been
8 resolved, but we can put punt that to G-27, because it
9 is a definition.
10 MR. BELLINGER: Okay.
11 MS. HUGHES: So, we have then already
12 resolved or accommodated what's listed as G-12 and
13 G-12A on 6-AT&T-68?
14 MR. DIXON: We'll close G-12 for whatever
15 it was.
16 MS. HUGHES: As well as G-12A.
17 MR. BELLINGER: No. G-12 is now G-11D,
18 and it's at impasse.

19 MR. BROTHERSON: Right.

20 MR. BELLINGER: So we're not closing it.

21 MR. DIXON: I am saying we're closing the

22 G-12 issue. It's all under G-11D, to the extent there

23 was G-12 nomenclature.

24 MR. BELLINGER: I would rather not say it

25 that way. I would rather say it as moved to G-11.

1 MR. DIXON: That's fine.

2 MR. BELLINGER: Okay. And 12A may come

3 up under G-27, if there's an issue left. So we'll move

4 12A to G-27. See what happens.

5 MR. DIXON: Thank you.

6 MR. BELLINGER: Let's move to G-13.

7 MS. JENNINGS-FADER: Now, if I may, I am

8 confused about G-13, because I do not see it on

9 6-Qwest-57. Oh, but, obviously I see, Qwest, it's

10 combined with G-25.

11 MR. DIXON: Yes.

12 MS. JENNINGS-FADER: Is everybody agree

13 that that's okay? And that's consistent with AT&T's

14 understanding?

15 MS. FRIESEN: Yes, yes. It's consistent.

16 MS. JENNINGS-FADER: Do we discuss it

17 here or do we discuss it with the G-25?

18 MS. FRIESEN: I think, you know, I think
19 it's almost more appropriate to discuss it with G-25,
20 because the SGAT section referenced here, 8.1.1 6, is
21 really a collocation section.
22 MR. BELLINGER: So, you want to move G-13
23 to G-25 and discuss it there?
24 MS. FRIESEN: Yes.
25 MR. BELLINGER: G-13 is moved to G-25.

1 That takes us to G-14.
2 MR. SKEER: Still at impasse.
3 MR. BELLINGER: It's just been moved.
4 We're not there. It's just been moved. When we get to
5 G-25, we'll discuss it. So G-14. And there was an
6 AT&T question, I believe, on G-14.
7 MS. FRIESEN: And I think the issue with
8 respect to Section 7.4.7 has to do with the correct
9 provisioning intervals with LIS trunks -- for LIS
10 trunks. And in the interconnection workshop, as you
11 might recall, this was punted to general terms and
12 conditions, and/or the CICMP process, where it was
13 supposed to be determined what those intervals should
14 be. I think that this is consistent with what's on
15 Qwest's matrix as well. And so, I think that this
16 probably is a discussion for CICMP.

17 Having said that, I don't exactly know
18 what that means, because CICMP is described in Section
19 12 of the SGAT. But that really doesn't go to the
20 heart of what CICMP is, and how CICMP works, and what
21 kind of issues are going to be determined in CICMP.
22 You all may recall that during a lot of workshops,
23 Qwest has said that it will deal with various issues
24 out of individual workshops through the CICMP process.
25 And the CICMP process is that process where all CLECs

1 get together with Qwest and talk about how they want to
2 do something, or how they want to change something.
3 It's, to the best of my knowledge, as I sit here today,
4 this particular issue for LIS trunk intervals has not
5 come up in CICMP yet, so I don't know exactly how to
6 deal with G-14.
7 MS. JENNINGS-FADER: Well, can I ask,
8 we're having a discussion, in theory, Thursday, from
9 9:50 to 10:00 o'clock, on the coprovider industry
10 change management process, lovingly referred to as
11 CICMP. And, in addition, we have an entire issue log
12 related to CICMP. So, can all of that discussion take
13 place on Thursday, or not?
14 MS. FRIESEN: I think not, and here's
15 why.

16 MS. JENNINGS-FADER: Okay.

17 MS. FRIESEN: There are operational

18 questions, and an operational question I will define

19 for you as what is the interval in which AT&T should

20 expect to get provisioning for LIS trunk and

21 interconnection trunk, okay? That's an operational

22 question. What we're going to do in CICMP, and in

23 Section 12 on Thursday, has to do with what is the

24 CICMP process and how does it function, not is Qwest

25 addressing its various operational questions that came

1 out of workshops and were punted off or shunted off to

2 CICMP, but, rather, what the CICMP process -- how is it

3 functioning and is the CICMP process itself consistent

4 with what the FCC requires of CICMP.

5 So, it's really more of a process type

6 question that's going to be coming up on Thursday. I

7 think what you are going to hear on Thursday is that

8 Qwest wants to -- Qwest is revamping CICMP, redesigning

9 CICMP. It wants to do that through the CICMP process

10 itself. And so, right now, it's in this hurried-up

11 effort to try and redesign CICMP and hopefully bring it

12 back to the commission for the commission to consider

13 whether or not that redesign process complies with the

14 law. None of that goes to the question of when should

15 LIS trunks be provisioned. None that of that goes to
16 the -- are the tech pubs up to date. Remember some of
17 the issues that have come out of the workshops? None
18 of those things are going to be addressed necessarily
19 in the redesigned process and discussion on Thursday.
20 The question is, when are we going to
21 discuss those. And I think that, to the extent that
22 the redesigned CICMP goes through, the commission has
23 an obligation to make sure that Qwest is willing to
24 implement the redesign process, that it complies with
25 the law, and that Qwest is following up on these things

1 that were punted out of the workshops and into CICMP
2 that are operational questions.
3 MR. BELLINGER: I think what we have is
4 the Issue G-14, which is the interval for LIS trunks,
5 that I don't know the way it's going to be handled,
6 because I don't think CICMP process handles G-14.
7 MS. FORD: We could put a notice out that
8 that was going to be discussed, and then handle it
9 through CICMP.
10 MS. FRIESEN: And I think that's
11 appropriate, because there were a number of issues like
12 that, Laura, that Qwest was going to deal with in the
13 CICMP process, for LIS trunk provisioning, for updating

14 tech pubs, for all kinds of things like that. So
15 that's probably what ought to be going on right now.
16 MS. JENNINGS-FADER: I am sorry. I guess
17 my point of confusion is because I am not exactly sure
18 what it is that is appropriately handled actually
19 within the CICMP process itself, and what is
20 appropriately discussed in this forum. So, I am having
21 a difficult time understanding AT&T's concern. Is it
22 that the issue will -- the intervals for provisioning
23 of LIS trunks, for example, will never be discussed, or
24 the forum in which that discussion should take place,
25 or it's slated to be discussed, or if there's a notice

1 that goes out, could it be discussed in CICMP and that,
2 in AT&T's opinion, it is not the appropriate place to
3 discuss it. So I am completely muddled about what
4 the -- I understand that the concern is. I am just not
5 sure how to parse it out or where to put the pieces.
6 MS. FRIESEN: Provisioning intervals as
7 for interconnection trunks are important to us, very
8 important, and I think that is part of the 271
9 obligation. When we were all sitting and talking about
10 interconnection trunks, and in the interconnection
11 workshop, that issue, the provisioning interval got
12 punted to this workshop, for some reason, and into the

13 CICMP process, wherein Qwest said that the CLEC
14 community would get together and work on these
15 intervals, and we said okay.
16 MS. JENNINGS-FADER: Within CICMP,
17 though, not as a separate issue to be discussed again
18 here; is that right?
19 MS. FRIESEN: Well, the intervals
20 themselves have to be brought back to your
21 investigation, to the commission to take a look at it.
22 MR. BELLINGER: Aren't these intervals
23 provided in the SGAT? Shouldn't they be in --
24 MR. DIXON: Let me see if I can help you.
25 MR. BELLINGER: Yeah.

1 MR. DIXON: I think I can give you
2 history on this one.
3 MS. JENNINGS-FADER: Do you have your
4 electronic memory with you?
5 MR. DIXON: You will note there's a
6 reference to 2-Qwest-73.
7 MR. BELLINGER: Yeah.
8 MR. DIXON: Let me read you the current
9 SGAT language, which I am assuming is 2-Qwest-73, but I
10 can't guarantee that, only because of subsequent
11 workshops.

12 MS. JENNINGS-FADER: What's the section
13 number?
14 MR. DIXON: This will be Section 7.4.7,
15 the one that is cited -- and I will read it slowly:
16 "Qwest" -- I will wait for Mana.
17 MS. JENNINGS-FADER: Give us the section
18 again?
19 MR. DIXON: 7.4.7. And I am referring to
20 the June 29th SGAT, complete SGAT, that was filed by
21 Qwest, so at least we're all on the same page and same
22 document. You are ready? It says, "Qwest will
23 establish intervals for the provision of LIS trunks
24 that conform to the performance objectives set forth in
25 Section 20. Qwest will provide notice to CLEC of any

1 change to the LIS trunk intervals consistent with the
2 change management process applicable to the PCAT" -- to
3 refresh recollections, the PCAT is the new term for the
4 IIRG. Continuing then with the quote, "Operational
5 processes within Qwest work centers are discussed as
6 part of the CLEC industry change management process,
7 paren, CICMP. Qwest agrees that CLECs shall not be
8 held to the requirements of the PCAT," end of quote.
9 There's about three things going on with
10 this G-14 that I think we were trying to get at when we

11 kicked it to the general terms and conditions. First,
12 as some of you may recall, LIS trunks are measured on a
13 parity basis. There is no benchmark. And, so, when
14 we're talking about what the interval is, the interval
15 is whatever the parity measure is, which I think are
16 interoffice trunks. Whatever Qwest is providing itself
17 will be the interval for LIS trunks. So, unlike loops,
18 where we have some specific intervals, we don't have
19 for LIS trunks; therefore, we came up with this concept
20 that how do we get notice of what the interval can be,
21 so we can advise our customers and do some network
22 plannings.
23 That was where the concept was discussed,
24 well, let's put that into the CICMP process, because
25 CICMP is going to have this in -- is going to be

1 providing notice, it's going to give CLECs the
2 opportunity to comment, and it will become a process
3 where certain things can occur. Initially, just to
4 back up a little bit, CICMP was basically a process
5 designed to address OSS issues. And, particularly, the
6 testing issues, the measures that might be done,
7 whether there would be future measures that would be
8 excluded or deleted from those we had. And also could
9 be used for the purpose of including measures in the

10 PAP, or in this state, the CPAP, and/or deleting
11 measures, and that would include submeasures.
12 I think what the issue then is, here, was
13 one, the process, as opposed to discussing the
14 intervals, so I think we can start off by saying a
15 substantive issue under G-14 is not how long the
16 intervals are, but rather how CLECs get notice and how
17 CLECs then understand what the parity interval is. So,
18 the issue then becomes the CICMP process and that is
19 what I believe was deferred to CICMP. Because, in
20 theory, when we do have our discussion on CICMP, we
21 will discuss process in the CICMP process.
22 The last thing that is in here that may
23 have caused some confusion was the last -- very last
24 sentence which used the phrase, "Qwest agrees that
25 CLECs shall not be held to the requirements of the

1 PCAT." I am not exactly sure we didn't discuss what
2 those requirements were, but I think they are any LIS
3 trunking requirements that might be found in the PCAT,
4 and, again, I believe that sentence is meant to be
5 consistent with Section 2.3 as it's been proposed,
6 which -- that is the SGAT is superior over the PCAT
7 methods and procedures, et cetera. So, I believe the
8 issue under G-14 is the CICMP process. And to the

9 extent that process impacts LIS trunks, we might be
10 discussing that specifically under the CICMP process.
11 But that's the extent of my -- right now, I believe the
12 only other change I have noticed in Section 7.4.7, it
13 incorrectly describes CICMP as CLEC change management.
14 In fact, it's coprovider. So, I would note that nit in
15 passing.
16 MS. JENNINGS-FADER: Yes. N-i-t, not
17 N-I-D, correct?
18 MR. DIXON: As in the eggs of a lice or a
19 louse.
20 MS. JENNINGS-FADER: Louse.
21 MR. DIXON: That's what I believe is the
22 concept. That's what my notes reflected, not only in
23 Colorado but also in Arizona. And so I believe that's
24 what's going on here. And if anybody has a different
25 position, certainly, I am not trying to preclude them

1 or foreclose them.
2 MS. HUGHES: Tom --
3 MR. DIXON: So I would say, like we just
4 did on 12 and 13, G-14 get deferred to the CICMP. I
5 don't know, even, if it's in the CICMP COIL. Then, if
6 we're going to try to find an issue within the CICMP
7 COIL, I think that's a homework assignment.

8 MS. JENNINGS-FADER: I did a quick
9 perusal. I didn't see anything.
10 MR. DIXON: May not be specific to CICMP.
11 MR. BELLINGER: I think it would be
12 general.
13 MR. DIXON: It certainly would go to
14 CICMP somewhere. It may need to have its own issue
15 number.
16 MR. BELLINGER: I think the issue, does
17 CICMP provide for provisioning intervals.
18 MR. DIXON: Yes.
19 MR. BELLINGER: I don't think you want to
20 necessarily make it --
21 MR. DIXON: My recollection, in my notes,
22 and also in Qwest's notes, reflect that the last CICMP
23 issue was CICMP 18, so it might make sense to at least
24 say -- at least defer it to CM, and create a 19 issue,
25 so we don't lose track of it, per se. I am just making

1 that as a proposal.
2 MR. BELLINGER: What I would like to
3 further have Qwest do, then, is find out, does the
4 CICMP process provide for provisioning intervals of
5 various services including LIS trunks?
6 MS. FORD: Probably can't give you an

7 answer today, because we're developing the CICMP

8 process.

9 MR. BELLINGER: Well, is it on the table?

10 Do you need to find that out?

11 MR. BROTHERSON: That's the issue.

12 MS. FORD: We can find that out.

13 MR. BELLINGER: Is that one that's going

14 to be considered?

15 MR. DIXON: May we go ahead -- and I

16 think the next CM number was 19. Could we kick this as

17 a 19 issue and then close --

18 MR. BELLINGER: We'll kick it

19 provisionally to --

20 MR. DIXON: Exactly. Just like we did

21 earlier, this would be deferred, then, to CM-19 and we

22 won't talk about it further today.

23 MR. BELLINGER: Not today. We might talk

24 about it tomorrow. I want some assurance that Qwest

25 will check and make sure this is a CICMP issue.

1 MS. FORD: Well --

2 MR. BELLINGER: Otherwise we'll bring it

3 back up in the morning. That got us to lunchtime,

4 didn't it?

5 MS. JENNINGS-FADER: Uh-hum.

6 MR. BELLINGER: Okay.

7 (Recess.)

8 MR. BELLINGER: All right. We're ready

9 to go back on the record, I think, on G-15.

10 MR. DIXON: In an effort to maybe

11 expedite the process, I believe G-15 is closed. And I

12 believe it was a forecasting issue that goes back, as I

13 will note the site, to 5.18, if memory is right, is the

14 dispute resolution process section, I think.

15 MR. MENEZES: I think that's right.

16 MR. DIXON: And again, on the assumption

17 we have solved the dispute resolution, which presumably

18 has been done, although I have got to get back to you

19 on it, and on the assumption we have addressed the

20 forecasting, either in our briefs earlier, as WorldCom

21 did, I don't know of any WorldCom issue that relates to

22 G-15. So that's my understanding of what's going on

23 with that. That's not to preclude anyone else, but,

24 understanding it's closed from WorldCom's perspective.

25 MS. FRIESEN: From AT&T's perspective,

1 G-15, I hesitate to say it's closed. Tom Freeburg and

2 I had some discussions in Arizona, and I thought he was

3 going to true up some language with some orders. And

4 that had to do with forecasting. But it was not

5 something that was necessarily bumped into Gs, Ts, and
6 Cs. From AT&T's perspective, G-15 and G-16 and G-17,
7 with respect to forecasting issues, other than the
8 confidentiality discussions we have already had --
9 MR. BROTHERSON: Which is G-8.
10 MS. FRIESEN: Right -- are all closed and
11 don't need to be discussed here.
12 MS. DOBERNECK: That was 15, 16 and 17?
13 MS. FRIESEN: Yes.
14 MS. DOBERNECK: Thank you.
15 MR. DIXON: Actually, I only addressed
16 15.
17 MR. BELLINGER: Yeah. These got in here
18 because we carried them over from the forecasting
19 workshop.
20 MR. DIXON: Right. I guess the issue I
21 have --
22 MR. BELLINGER: So, you feel like,
23 though, they have been handled in the forecasting
24 effort that was the follow-on, I guess. You don't have
25 any issue with them anyway.

1 MS. FRIESEN: That's correct, Hagood.
2 MR. DIXON: Like I say, for WorldCom, I
3 believe those are resolved in the forecasting, and I

4 believe we have addressed our forecasting issues in
5 briefs already. So, I am not aware of anything else,
6 unless someone is going to tell me our briefs didn't
7 count when we talked about it.
8 MS. JENNINGS-FADER: No, it didn't count.
9 You want to do it again?
10 MR. DIXON: So, I would recommend that
11 those also be closed.
12 MR. BELLINGER: Close them.
13 MS. QUINTANA: We really didn't have
14 sufficient discussion on forecasting.
15 MR. BELLINGER: What about 18? Is that
16 also a forecasting one?
17 MR. DIXON: My notes on 18 reflect that
18 whether or not a charge was appropriate was actually
19 Covad's issue, not raised by WorldCom.
20 MR. BELLINGER: That charge was deferred
21 to the cost docket?
22 MR. DIXON: Right.
23 MS. DOBERNECK: The question was how much
24 information we would be provided without being charged.
25 MR. ZULEVIC: More specifically, this

1 gets to the issue of making the purportedly joint
2 planning session more productive by having Qwest

3 provide some additional information in advance to the
4 parties with whom they are going to have the joint
5 planning sessions, so that they can both come better
6 equipped to be able to plan the collocation related
7 issues. This is kind of an offshoot from the transport
8 language commitment that Qwest has made to provide
9 forecast information for LIS trunking, I believe is
10 what it was.
11 And the question was, is Qwest willing to
12 provide similar information relative to their plans
13 with respect to expanding collocation areas, this sort
14 of thing, so that it will enable the parties to do a
15 better job of preparing for the joint planning session.
16 MR. BELLINGER: So, what do we do with
17 it?
18 MR. ZULEVIC: I think that Covad is
19 willing to close this issue. We did have some
20 discussions with Qwest off-line, and they agreed to
21 provide available information to us prior to the joint
22 planning sessions, but would not prepare information
23 that was not readily available. So, if that's still
24 Qwest's position, then I will close the issue here as
25 well.

1 MR. BELLINGER: Very good.

2 MS. HUGHES: I did not participate in
3 those off-line discussions. So, subject to checking
4 with people at Qwest who did participate, you know,
5 obviously we'll be happy to have the issue closed. Our
6 information, it was an issue addressed in other
7 workshops, and it was not ever deferred to this
8 workshop for further discussion. I thought that's the
9 way we left it with Covad.
10 MR. ZULEVIC: Well, these discussions we
11 had in another state south of here, and with Bill
12 Campbell, specifically. And he said that we provide
13 information that was readily available, but not
14 information that would require an extra effort to put
15 together.
16 MR. BELLINGER: Okay. Forecast issues
17 not part of the forecasting discussion workshop, which,
18 I think, occurred in May -- March.
19 MR. DIXON: March 19 to 23.
20 MR. BELLINGER: What we said, they were
21 not actually part of the Workshop 6. We would just go
22 bring them over to the next workshop. That's how they
23 did the issues list. So, if the parties are satisfied,
24 we should close them, because they were not part of
25 Workshop 6 anyway.

1 MR. DIXON: The only thing I would ask, I
2 have never seen -- staff can correct me -- a request
3 for briefs on forecasting and/or a report equivalent to
4 Volume 2, 3 and 4, for example, that is a report on the
5 forecasting workshop. And I don't know if staff
6 intends to do something separate from that.
7 MR. WENDLING: All issues in forecast are
8 done. They were incorporated in staff's report.
9 MS. QUINTANA: Did you get that?
10 MR. DIXON: I didn't try to. I didn't
11 know if it was meant to be on the record or not.
12 MR. WENDLING: Staff of the commission's
13 issues on forecasting were either all resolved or have
14 been issued as part of the previous staff report.
15 MR. DIXON: That's fine. That's my
16 point. There's nothing more to look for is what I am
17 saying.
18 MR. WENDLING: Correct.
19 MR. DIXON: Whole point of my comment.
20 MR. BELLINGER: That makes it easy.
21 Let's move to G-19. I know there is an effort underway
22 to test this test bed.
23 MR. DIXON: Is that the test bed that was
24 developed August 1st? Is that the same test bed?
25 MR. BELLINGER: There was one developed

1 August 1st. There's an issue with it in terms of test
2 bed is for testing on Release 7.0. We just went to
3 8.0. It doesn't make a lot of sense to have a test bed
4 that works with 7.0 when you are trying to go to 8.0.
5 And so I know, in another state, they were going to
6 require that tests be for the system and test bed to at
7 least be for 8.0. And, so, that's where that is.
8 MS. FRIESEN: Well, okay. AT&T has
9 agreed to this language that's been proposed for the
10 sections listed for G-19 in other jurisdictions. So,
11 from our perspective, it's closed.
12 MR. BELLINGER: Okay.
13 MR. DIXON: WorldCom would indicate it
14 was AT&T's issue, but we also agreed to the closing in
15 one of WorldCom -- or in Washington on that, and,
16 therefore, WorldCom has no problem with closing this
17 issue.
18 MR. BELLINGER: All right. I can assure
19 you that will be handled, because the FCC has said they
20 have never approved an application that doesn't have a
21 test bed. So, I wouldn't worry about it too much, if
22 you are concerned about the test bed being there. That
23 moves us to, then, G-20.
24 MS. FORD: I need to make a slight
25 correction to what I have. I had not looked at

1 WorldCom's latest draft definitions. I think that
2 perhaps they are not satisfied with the definition, and
3 so, that's something we need to talk about when you
4 talk about definitions.
5 MR. BROTHERSON: So the Section 4
6 reference would be a definition section.
7 MS. QUINTANA: In G-20?
8 MR. BROTHERSON: Uh-hum.
9 MR. DIXON: Wait a minute. The AT&T G-20
10 cross references Section 4.23, paren A, recognizing, as
11 you will see today sometime, you have to flip through
12 about three COILs here.
13 MS. JENNINGS-FADER: If I am correct, a
14 point at which Qwest's list in 6-Qwest-57 and AT&T's
15 list in 6-AT&T-68 diverge?
16 MS. FRIESEN: C and G.
17 MS. HUGHES: It's not on Qwest's list for
18 6-Qwest-57. It is on AT&T's --
19 MS. JENNINGS-FADER: Right.
20 MS. FRIESEN: It is on Qwest's 6-60.
21 They do diverge, Mana. The SGAT sections that AT&T has
22 cited are the ones I noted a few -- these are the ones
23 wherein the miscellaneous charges came up in the first
24 instance. It appears that Qwest, at G-20, identifies
25 the same issue, but different SGAT sections.

1 MS. JENNINGS-FADER: And calls it closed.
2 MS. FRIESEN: Right. And I call it open
3 only insofar as it hasn't been discussed in this state.
4 On the other hand, I thought we had all reached
5 agreement in Washington.
6 MR. BROTHERSON: And I believe that
7 Ms. Ford's comment was that while she had originally
8 listed it as closed, because we had reached agreement,
9 that the definition of miscellaneous charges, which is
10 in Section 4, based on some conversations she had with
11 WorldCom, is still open. And, so, she doesn't want to
12 misrepresent that it was closed, because, apparently,
13 there isn't agreement on the definition yet, but the
14 language around miscellaneous charges, I would agree
15 with you, we reached consensus on.
16 MR. BELLINGER: So, can we close it here
17 and assume that definition would be discussed when we
18 discuss definitions?
19 MS. FORD: That's fine with Qwest.
20 MR. DIXON: Also fine with WorldCom.
21 MS. HUGHES: That's how we treated it in
22 6-Qwest-60.
23 MR. BELLINGER: Okay.
24 MS. JENNINGS-FADER: I am sorry. Could

25 someone help me out here? I must be looking at -- gee,

1 what a surprise -- an antiquated version of the SGAT.
2 But, should I be looking not at the SGAT version that
3 was filed on June 29th in the state of Colorado, but
4 rather at 6-Qwest-61 to find out what 4.23A is supposed
5 to say?
6 MS. QUINTANA: Yes, because they are not
7 numbered anymore. It's just alphabetical.
8 MR. DIXON: What you have to do now is
9 to -- definitions are alphabetized and numbers have
10 been removed because of the addition and deletions of
11 definitions. We started getting into As and Bs in
12 this. I think, when you get to this particular
13 definition, we're required to use our alphabetical
14 skills instead of our Arabic numeral skills.
15 MS. JENNINGS-FADER: If I am correct -- I
16 did not look at the SGAT of June 29th, but rather at
17 6-Qwest-61.
18 MR. DIXON: And Laura can advise you
19 whether that is even 100 percent current. I don't
20 believe it is.
21 MS. FORD: It is not.
22 MS. JENNINGS-FADER: Okay. Thank you. I
23 just wanted to check.

24 MS. FRIESEN: I would like to add to the
25 confusion by correcting a typo on AT&T 68, under RG-21,

1 where it says, 4.23A. It should be 4.24A. 24A is the
2 ICB definition.
3 MS. JENNINGS-FADER: So, in any event,
4 the point is, at some point we'll be discussing
5 miscellaneous charges, however defined -- I mean
6 however found, alphabetically or alphanumerically, or
7 numerically, when there -- that discussion takes place.
8 MR. DIXON: It's on the marquee as coming
9 up with G-27. Whether we actually take it in sequence
10 may remain to be seen, but it's the G-27 issue.
11 MS. FORD: Right. We'll be handing out a
12 new definition section.
13 MR. MENEZES: Will that be tomorrow, do
14 you think?
15 MS. JENNINGS-FADER: Do we then get a
16 chance to look at it before we start discussing it?
17 MS. FORD: We are working on it as we
18 speak. That's why it's a work-in-progress.
19 MS. JENNINGS-FADER: We had hoped to
20 address definitions maybe first thing tomorrow morning,
21 but if you would like to give us the latest draft this
22 afternoon, we can certainly do that. I don't know if

23 that's enough time or not.

24 MR. BELLINGER: Okay. That moves us to

25 21, G-21. Shows it's open and impasse on AT&T's list.

1 MS. FORD: Yeah. That's G-11.

2 MR. BELLINGER: Looks like we got

3 consensus on it being at impasse.

4 MS. FRIESEN: I think what happened is we

5 had some overlapping issues, and in the issues list

6 such that I think that we have actually already

7 discussed G-21, especially as it relates to Section 17.

8 MR. DIXON: Precisely.

9 MR. BROTHERSON: I believe AT&T, says see

10 also G-11. I think when we did it in G-11, we

11 addressed it.

12 MR. DIXON: Let me ask a couple of

13 questions. I think we can close this one. First of

14 all, I don't think the issue of -- that's on AT&T's

15 list proposed the revision of the fiber and high

16 capacity loops on an ICB basis. That issue is not an

17 issue for general terms and conditions. We have

18 addressed that in the loops portion of the checklist

19 item workshops.

20 My suspicion is what was at issue here

21 was reference again to ICB, which takes us back to

22 G-11, and just some concerns about ICB and in general,
23 and lack of provisions. So, I don't think G-21 is an
24 issue for WorldCom beyond how we have discussed it in
25 G-11, and beyond how we have addressed it in our briefs

1 regarding the loop workshop. From our perspective, I
2 think it's not an issue here that needs any further
3 action.
4 MS. QUINTANA: Is the ICB general
5 question captured somewhere else?
6 MR. DIXON: Yes. In other words, the
7 issues that have been raised in ICB, and here
8 particularly, Exhibit I, and one of which I still have
9 a takeback on, that is the lack of the language we
10 asked for specifically, and then comparing to 5.18.
11 We'll address this issue one way or the other.
12 MS. QUINTANA: Those would be in G-11.
13 MR. DIXON: Under G-11, yes. So I would
14 have no objection to closing G-21 from WorldCom's
15 perspective. I don't think there's an impasse under
16 that section that isn't otherwise addressed in
17 section -- Issue G-11, or in the loop brief.
18 MR. BELLINGER: You have agreement on
19 that? Is AT&T in agreement that that was on your list?
20 MS. FRIESEN: Yes.

21 MR. BELLINGER: Okay. G-21.

22 MS. FRIESEN: 22.

23 MR. BELLINGER: Sorry about that. Wanted

24 to see if you were all listening. You are listening.

25 MR. BROTHERSON: The G-21 issue is the

1 pick and choose issue outlined in the language in

2 Section 1.8. I think there are two elements with

3 relation to pick and choose that are at issue between

4 the CLECs and Qwest.

5 (Whereupon discussion was had off the

6 between Ms. Hughes and Mr. Brotherson.)

7 MR. BROTHERSON: I thought I said G-22.

8 It's G-22 I am addressing.

9 MR. BELLINGER: G-22.

10 MR. BROTHERSON: Basically, there are two

11 sections. One has to do with the term issue, that is

12 to say, if you pick a section utilizing pick and

13 choose, you pick a section of the contract out of

14 another document, when does that section that you have

15 chosen expire. The other part of the pick and choose

16 that is at issue is the requirement that there be a --

17 that the related sections go with that section that

18 there's a pick and choose on.

19 As to the first one, the expiration date,

20 I guess I would start off by saying we're in agreement
21 on the language in 1.8. We're disagreeing about
22 application of that language or how it's applied under
23 the law. But with respect to the expiration date,
24 Qwest believes that the language should be tied to the
25 termination date of the underlying agreement from which

1 you have chosen the section, the reason being that any
2 other interpretation would permit clauses to continue
3 in perpetuity, as it were, independent of any
4 commission decisions or order to the contrary, by
5 simply saying, well, that's the new law, but we'll
6 continue to pick language out of old agreements that
7 are still in existence and continue to roll those
8 forward and independent of any decisions that are to
9 the contrary.
10 So we believe that to the extent that you
11 choose a section out of contracts, that that section
12 expires when that underlying contract that it was
13 chosen from expires. Obviously, if there's not been
14 any changes, then those are going to be -- continue to
15 be available to pick from in other documents as well,
16 but if in fact the section has changed, then there
17 would come a point in time, at some point in time,
18 where that underlying provision would expire, would no

19 longer be available for pick and choose.

20 MS. FRIESEN: And AT&T's response to that

21 is that, to the extent that an agreement has a two-year

22 term, and that two-year term would apply, not the term

23 that's remaining for the original CLEC, and the

24 distinction here that Qwest believes, in order to, what

25 I will call sunset these agreements, that the CLEC

1 doesn't, in fact, get the original term but rather gets

2 the term remaining for the original CLEC. And I would

3 suggest to you that that is not the way the FCC applies

4 this provision, and that the FCC's rules themselves

5 clearly highlight and identify for Qwest how it can

6 sunset certain provisions or agreements.

7 If you look at 46 CFR, Section 51.809, it

8 identifies three avenues that Qwest can employ to pluck

9 provisions out or make them not available or sunset

10 them, to the extent that it needs to do that, and it's

11 consistent with what the rule allows. Let's say, by

12 and large, most of the interconnection agreements, the

13 general terms and provisions out of these

14 interconnection agreements in the SGAT, as it sits

15 today, probably don't need to be sunsetted, so to

16 speak, anytime soon.

17 So, for Qwest to want to place the burden

18 on CLECs to have provisions in their contracts that
19 would be expiring at different times, simply because
20 they used the pick and choose mechanism to adopt those
21 provisions, is, from a business perspective, enormously
22 impractical.
23 MR. BELLINGER: Go ahead, Mana.
24 MS. JENNINGS-FADER: First of all, could
25 you tell me where --

1 MS. FRIESEN: 1.8.
2 MS. QUINTANA: 1.8 what?
3 MS. FRIESEN: Section 1.8 in the SGAT is
4 the language on pick and choose.
5 MS. QUINTANA: Right, but where in
6 particular is the language about truncating the period
7 of time during which the chosen piece of another
8 agreement can be used?
9 MS. FRIESEN: It's not in the SGAT
10 language itself. It is in what Qwest has said in
11 the -- and attached to Mike Hydock's testimony in this
12 proceeding, on the record in other states, about how it
13 interprets the SGAT or its pick and choose obligation,
14 excuse me. So you are not going to find it in the
15 language itself, but I will find the evidence under
16 oath, by, I think, Mr. Munn, Qwest -- a Qwest attorney

17 saying how they -- how this provision operates. If you
18 look at Mr. Brotherson's testimony as well, his
19 rebuttal testimony, you will see there that he is
20 confirming that the term expires according to the
21 original CLEC, not according to the original agreement.
22 MS. JENNINGS-FADER: But there's no such
23 provision in the SGAT?
24 MS. FRIESEN: Absolutely right. It's a
25 matter of how they are interpreting. This is conduct

1 as opposed to language.
2 MR. BELLINGER: Are you recommending
3 language should be included?
4 MS. FRIESEN: We have not, no. We think
5 the language says what it should say. But they were
6 interpreting it to mean something else. And we have
7 seen this problem before. This is not the first time
8 where Qwest's interpretation and conduct, in accordance
9 with what it believes to be the proper interpretation
10 of the SGAT is, is opposed to what we think the SGAT
11 says, or what the law is.
12 MS. JENNINGS-FADER: Mr. Brotherson,
13 could you please point me to the language in Section
14 1.8 which Qwest is interpreting to mean that if you
15 choose a piece from something else, that the chosen

16 piece takes the termination date of the contract or
17 agreement from which it was chosen? Where is that in
18 here?
19 MR. BROTHERSON: I don't believe there's
20 language specifically to that section. It would be in
21 the general application of the pick and choose rules of
22 either the FCC or the statute. For example, you pick a
23 paragraph out of an expired contract. That's not
24 spelled out, per se, but the commissions have generally
25 said no. It's in the reading of the language, but not

1 specific clauses.
2 MR. WENDLING: Warren Wendling of staff.
3 If I read the first sentence of what I think is the
4 latest SGAT of 1.8.1, "When opting into a provision,
5 Qwest may require a CLEC to accept legitimately related
6 provisions to ensure that provision retains the context
7 set forth in the SGAT." So are you saying that the
8 term of the offering can be considered a portion of
9 retaining the context?
10 MR. BROTHERSON: That would be one
11 application. I think my testimony, which is part of
12 the record, spells out the basis for our reading the
13 FCC's decision in the way that we do. And so, I would
14 say that the FCC's pick and choose rules would also be

15 a basis for that.

16 MS. JENNINGS-FADER: Well --

17 MR. WENDLING: Question from staff. In

18 Colorado, we have adopted rules that provide for

19 expedited approval of the commission's amendments to

20 contracts when they are amendments that are, in fact,

21 pick and choose. Do not those motions contain terms of

22 the adoption of a pick and choose in and of themselves,

23 by the term of that contract or that adoption of that

24 provision?

25 MR. BROTHERSON: I apologize. I am not

1 sure I understand the question, sir.

2 MR. WENDLING: All right. AT&T wants to

3 opt into a provision that MCI has in their contract.

4 Under rule -- under 1.8, can you -- would not AT&T have

5 to execute with Qwest an adoption of that and spell out

6 what sections of MCI's contract apply to that

7 provision?

8 MR. BROTHERSON: Yes.

9 MR. WENDLING: Is it not common practice

10 to have a paragraph at the end that spells out the term

11 of that adoption?

12 MR. BROTHERSON: I have not been directly

13 involved in preparing those amendments that are filed

14 with the commission, so I don't know if, in fact, they
15 have added that clause to the bottom or not. I know
16 that that is the way that Qwest read the FCC's rules,
17 and Qwest interprets pick and choose. So I would not
18 be surprised if that's in there, but I don't prepare
19 those, so I can't respond.
20 MR. WENDLING: If I were to represent to
21 you that perhaps they didn't have that, wouldn't a
22 solution to this problem, meaning that the FCC said
23 it's not reasonable to have an offering that goes on in
24 perpetuity, but it's also reasonable that a competitor,
25 a CLEC, should have a reasonable period of reliance on

1 an opt in and that, in fact, any amendment or opt in
2 portion that's filed for approval with the commission
3 would have the agreed upon terms of the opt in right in
4 it?
5 MR. BROTHERSON: That would -- it would
6 have to be very clear to all of the parties what the
7 position of the various parties are, yes.
8 MR. WENDLING: Just by way of friendly
9 suggestion. Would that address the CLECs' concern
10 about the difference of agreement on what the length of
11 the opt in adoption would be?
12 MS. FRIESEN: I think what it might do is

13 just delay the dispute, but the FCC has said that you
14 get the terms from the other agreement that existed in
15 the original agreement. So, for example, if the term
16 was, in the original, a two-year term, at this point we
17 wanted to adopt a provision on blocking reports, which
18 we have done in Wyoming, Qwest will either allow us to
19 get those blocking reports and amend our contract to
20 pick out the piece of the SGAT that describes the
21 blocking reports, and allow that to live as long as our
22 contract lives, or they can try and stick it to us and
23 say, well, this other contract had two years, a
24 two-year term, so you can only get this for two years.
25 That's not what they are doing. What

1 they are doing is, if I take the blocking report
2 provision out of, for example, the MCI contract, and
3 MCI has two weeks left on that contract, Qwest's
4 testimony in other jurisdictions -- and
5 Mr. Brotherson's confirms this -- I get that blocking
6 report for two weeks. I don't get the original
7 two-year term that that contract came out of, and I
8 don't get that to sync up with the term that's left in
9 my own contract.
10 Now, as a practical matter, I don't think
11 Qwest always says here, if you want this, you have to

12 have this term too. That's not been our experience.
13 It has been our experience that in these workshops, and
14 in this setting, that's Qwest's intent, so --
15 MR. WENDLING: Let me posit a different
16 hypothetical.
17 MS. FRIESEN: Okay.
18 MR. WENDLING: Being an engineer, I am
19 more thing-oriented. Let's say I am Qwest and I have
20 been offering a certain specific kind of service that
21 is only provided by a specific doohickey. My specific
22 doohickey is now manufacturer discontinued, which
23 means, on March 31st of 2002, I can't get anymore. So,
24 I think the FCC's rule that you quoted about -- would
25 allow Qwest the option, in contracting with CLECs, to

1 say, that's it. I can't do this anymore, because I
2 can't get it anymore.
3 MS. FRIESEN: That's right.
4 MR. WENDLING: When you come along on
5 January 31st, saying we have got two years worth of
6 doohickeys, therefore, I want two years of doohickeys,
7 well, after March 31st, there are no doohickeys. You,
8 on the other hand, maybe Qwest has a position that they
9 could say, yeah, we only bought it and can only get
10 enough doohickeys to last through March 31st. We can

11 only give it to you for two months.

12 MS. FRIESEN: Maybe you are not

13 understanding our position, because I don't disagree

14 with it, and I think the FCC says clearly here, if it's

15 technically infeasible to have doohickeys, you can't

16 get anymore, we're not saying we should be able to get

17 anymore. That's a proper sunset provision. But, in

18 fact, for everybody else doohickeys are still

19 available, everybody else is using doohickeys, if I

20 pick it out of this particular contract that has a

21 two-year term, and it's an MCI contract, they have got

22 two weeks on it, do I get the doohickey for the

23 original two-year term or do I get the doohickey for

24 two weeks? Qwest's answer is two weeks. The FCC's

25 answer, I think, is two years.

1 MR. WENDLING: Let me ask Qwest if, in

2 fact, that their -- that other issue.

3 MS. JENNINGS-FADER: Is that your final

4 answer?

5 MR. WENDLING: The FCC might add, who has

6 the management authority or who gets the management

7 authority? Does the CLEC manage Qwest or does Qwest

8 have an inability, within its own management, to decide

9 its business plan and when it can or wants to continue

10 offering something or not. I mean, not only is there
11 technical infeasibility, but there's the management
12 discretion of the running company. So, maybe Qwest can
13 answer these two kind of hypothetical questions.
14 MS. JENNINGS-FADER: First, can we get a
15 simple answer as to whether the doohickey example of
16 AT&T, doohickeys are available in MCI's contract, two
17 weeks left in that contract, AT&T wants to opt in to
18 the doohickey provision, is the doohickey provision
19 available for two weeks or for two years?
20 MR. BROTHERSON: Two weeks.
21 MS. JENNINGS-FADER: Thank you. Now.
22 And I guess the example that Mr. Hydock or Ms. Friesen
23 gave is that, if I can highlight exactly what the issue
24 is with this thing, if we write a contract in 1999 that
25 provides certain terms and conditions and provisions,

1 and we have not continued to offer those for the last
2 two years, and they are no longer available in the
3 SGAT, which will be changed, according to 252 of the
4 act, they are no longer available in any exhibits or
5 contracts that are being negotiated today, but there is
6 a contract out there with the two weeks left to run
7 before it expires, which we continue to honor, the
8 question is, will that contract go through its normal

9 expiration period and that provision no longer be
10 present, or does it continue to remain in existence
11 even though, with all other respects, Qwest is no
12 longer providing this certain issue, and continue to
13 roll forward in perpetuity, that is to say, the next
14 company opts into that one, and that one, and in
15 effect, it never is withdrawn, even if the Colorado
16 commission, for example, permits the change of the SGAT
17 itself, and it's no longer a part of the generally
18 available terms and conditions. That's the heart of
19 the issue, and there's a difference in the
20 interpretation.
21 MS. FRIESEN: I don't think that is the
22 heart of issue. AT&T is not saying you have to offer
23 things in perpetuity. We're saying you have to comply
24 with the FCC's rules. The FCC rules say three things,
25 technically infeasible, you can yank it off the table,

1 no more doohickeys. You are not offering the service
2 anymore. You have pulled it two years ago, you can
3 pull that out. The FCC says, if it's too expensive for
4 a particular CLEC in a new area, you can pull that out.
5 The FCC says that you have to offer these contracts for
6 reasonable periods of time. You have to make them
7 available.

8 Now, I pose to you, if it's a service
9 like interconnection trunks, it's doubtful for me that
10 you ever will be able to sunset provisions allowing for
11 interconnection trunks. Maybe it will. I don't know.
12 But, it's not AT&T's position you have to offer things
13 in perpetuity. It's AT&T's position that, to the
14 extent we're opting into a contract that is in full
15 force and effect today, and you are still offering the
16 stuff in that kind of contract, you can't prematurely
17 sunset that provision based on what's left in time for
18 the existing CLEC in the original contract. That's our
19 position. It's not that you can't sunset things at
20 some point.
21 MR. BROTHERSON: Well, the example I gave
22 was that, you know, first of all, if there's only two
23 weeks remaining on a particular contract, but it's
24 still available in the SGAT as a generally available
25 term, then AT&T or any other CLEC continues to have the

1 right to take the language that's in the SGAT. So,
2 this scenario would arise, if it's no longer available
3 in the SGAT, but still exists in a contract that is
4 ready to expire. And I think that's at the heart of
5 what we're talking about. That's the impasse.
6 MS. JENNINGS-FADER: Letty, could you

7 help me understand how it is that AT&T's position does
8 not result in an offering being made in perpetuity?
9 MS. FRIESEN: Let's use Larry's example.
10 He gave an example of a service that they had pulled,
11 that they no longer are offering but for this two
12 week-period left in this contract. Legitimately, I
13 think that the FCC's rules would then apply in that
14 context. If they are only offering it for this one
15 CLEC left standing, and they are not offering it
16 anywhere else, I think it's a question of feasibility.
17 If they don't have the product available anywhere else,
18 and we can't go in -- I mean, it seems to me that
19 there's a good argument there for Larry to say that
20 it's -- now it's infeasible because this is no longer
21 offered, the doohickey is no longer available.
22 MS. JENNINGS-FADER: I don't think that
23 was his example, though. I mean, that's to say, let's
24 assume that it's not -- and I am looking here. I think
25 it's technical infeasibility, not just infeasible.

1 So --
2 MS. FRIESEN: Okay.
3 MS. JENNINGS-FADER: Let's assume that
4 doohickey is still available, but, for whatever reason,
5 Qwest has determined that it won't offer this product

6 or this thing anymore, irrespective of the technically
7 infeasibility, they just decided, as a matter of
8 discretion, managing their company, they are not going
9 to do it anymore. Now we have the contract, two weeks
10 left on it. I think I need to understand why that
11 doesn't result in perpetually offering the service.
12 MS. FRIESEN: Because the FCC says, in
13 51.80, it's subPart C, that they have -- that provision
14 shall remain in effect for a reasonable period of time.
15 Now, if Qwest has pulled or yanked this product,
16 whatever it is, and it's still technically feasible,
17 but they are not going to offer it anymore -- let's say
18 it's an obsolete thing. That's probably a good
19 example. Then they could say to us, you know what,
20 that provision has been offered for a reasonable period
21 of time and it's no longer available under the pick and
22 choose obligations. And I think they would have a
23 legitimate argument. At that point, we would have to
24 go to the dispute resolution process if we believe, for
25 some reason, they should still offer it, but I think

1 the FCC has allowed for them to sunset things, and to
2 the extent the scenario is the service has become
3 obsolete, we're not offering it anymore, so it's no
4 longer available, it was available for a reasonable

5 period of time, then I think, you know, the argument is
6 over for us.
7 MS. JENNINGS-FADER: So you think that 47
8 CFR 51.809(C) is the provision which allows the
9 company, any ILEC, really, that sort of management
10 discretion to stop offering the service or the product
11 piece of that rule?
12 MS. FRIESEN: Right.
13 MS. JENNINGS-FADER: Thank you.
14 MR. BROTHERSON: I guess I think in my
15 testimony I cited the FCC Footnote 25 in the decision
16 that read, "In such circumstances, the carrier opting
17 into an existing agreement takes all of the terms and
18 conditions of that agreement or portions of the
19 agreement, including the original expiration date." So
20 I think that's -- I mean that's the impasse issue that
21 we're at. I think that was In Re: Global Nabs, Inc.
22 and it's cited in my testimony, rebuttal testimony on
23 page 7.
24 MS. FRIESEN: I would just like to point
25 out, the first report and order, on paragraph 1315,

1 which is on point, says, "We conclude that the same
2 terms and conditions that an incumbent LEC may insist
3 upon shall relate solely to the individual

4 interconnection service or element being requested
5 under 252I, and the same terms and conditions that were
6 supposed to be acquired."
7 What Mr. Brotherson has cited to you is
8 an FCC opinion that is -- he's pulled some dicta of a
9 footnote, and while I think that the dicta supports our
10 position, I think, if you want clarity on how pick and
11 choose is supposed to work, you should look at the
12 first report and order, paragraphs 1314, 1315 and so
13 forth. That's where it tells you exactly what we're
14 supposed to get.
15 MR. BROTHERSON: I think this would be
16 one case where I would defer to the lawyers and
17 Ms. Hughes and Ms. Friesen.
18 MS. JENNINGS-FADER: Duke it out.
19 MR. BROTHERSON: Handle it on the
20 briefing side, although, on the testimony side, I find
21 it difficult to respond to Ms. Friesen's testimony as
22 opposed to Mr. Hydock's. So I think, from a legal
23 issue perspective, I would defer to the lawyers.
24 MS. FRIESEN: If you want go to
25 Mr. Hydock, that's fine.

1 MS. HUGHES: I think maybe we would
2 request, to the extent possible, we hear from AT&T's

3 witnesses on these issues, to the extent that AT&T is
4 presenting testimony here. My understanding, in the
5 past, is that the lawyers have been specifically asked
6 to have the witnesses present the issues, and we
7 certainly tried to do that with Mr. Brotherson today,
8 and I know AT&T does have a witness. Can we ask, to
9 the extent AT&T is testifying today, we hear from its
10 witness rather than its lawyers. I think that would
11 be --
12 MS. JENNINGS-FADER: I wasn't aware we
13 were discussing any factual questions.
14 MS. FRIESEN: Neither was I.
15 MS. JENNINGS-FADER: That's neither here
16 nor there. G-22 is shown as closed. Is it really at
17 impasse?
18 MR. BELLINGER: Impasse. There's A and B
19 on AT&T's list.
20 MS. JENNINGS-FADER: My mistake. I was
21 looking at Qwest 6-Qwest-60 for guidance.
22 MR. BELLINGER: G-22 is sill at impasse,
23 at least the A part is, more specifically defined by
24 AT&T's list. What about the B part?
25 MS. FRIESEN: We haven't discussed the B

1 part yet.

2 MR. BELLINGER: You want to split G-22
3 into A and B?
4 MS. FRIESEN: Yes.
5 MR. BELLINGER: The A part we know is at
6 impasse.
7 MR. BROTHERSON: That's the expiration
8 date. We had expressed that.
9 MR. BELLINGER: That's the term. How
10 about the B part?
11 MR. BROTHERSON: Section B deals with
12 legitimately related provisions. I think the law is
13 clear that legitimately related provisions can be
14 required. I think the language is not in dispute. I
15 think the dispute we have had, to date, is in AT&T's
16 disagreement with how we have applied that. And it
17 seems to me that that's not something that's resolved
18 through the SGAT language, other than to continue with
19 the language that's in the SGAT and say that which we
20 think reflects, I think, what the law is, which is to
21 say that when you pick and choose a section of the
22 contract, that legitimately related -- other
23 legitimately related sections can be required as well.
24 The fact that we may dispute what those
25 other legitimately related provisions are, if, in fact

1 there's a dispute, is something that we can handle
2 through the dispute resolution process. I don't
3 think -- I don't know how we're going to write language
4 that says we won't disagree.
5 MS. FRIESEN: The issue here is, as
6 Mr. Brotherson points out, not one of SGAT language but
7 rather one of conduct. The conduct and facts are laid
8 out in Mike Hydock's testimony; that conduct has not
9 been reputed. Upon review, I think you will recognize
10 that it doesn't comply with the law. So, I think the
11 issue is that they don't practice what they preach in
12 their SGAT.
13 MR. BROTHERSON: We have a dispute with
14 AT&T. I think that's addressed by both sides in the
15 testimony. We have also had pick and choose going on
16 for a long time with CLECs. And I think there have
17 been CLECs opting into provisions of contracts for a
18 considerable amount of time. Those have been filed
19 with the commissions. So I think the, other than our
20 dispute with the AT&T on this matter, I think our
21 records would speak for itself in terms of the
22 specific --
23 MS. FRIESEN: Excuse me, Mr. Brotherson.
24 What record would speak for itself?
25 MR. BROTHERSON: Our behavior would speak

1 for itself.

2 MS. FRIESEN: Your behavior. And what

3 evidence of behavior, other than what you just said on

4 record today, is there in this record?

5 MR. BROTHERSON: What I just said here

6 today. We have had CLECs electing to pick and choose

7 language out of various agreements for a number of

8 years. We have not had the problems we have had with

9 AT&T on this, as a general statement.

10 MS. FRIESEN: Are you responsible for

11 conducting those pick and choose negotiations?

12 MR. BROTHERSON: For a period of time I

13 was. I have not recently.

14 MS. FRIESEN: What period of time was

15 that?

16 MR. BROTHERSON: Through about mid-99.

17 MS. FRIESEN: Mid-'99. Okay. And why

18 don't you just give me some specifics. Who did you

19 work with? What CLECs and what offerings?

20 MR. BROTHERSON: I know there were a

21 number of CLECs that opted into opt ins before. The

22 cageless collocation sections, I don't remember their

23 names now. And many of them opted into provisions of

24 existing contracts that were already on file.

25 MS. FRIESEN: What states?

1 MR. BROTHERSON: Colorado would have been
2 one I am sure, but numerous states.
3 MS. FRIESEN: You don't recall who those
4 CLECs were; is that correct?
5 MR. BROTHERSON: No.
6 MS. FRIESEN: What was your role in those
7 opt-in negotiations?
8 MR. BROTHERSON: At that time, I was
9 acting as attorney in the wholesale organization.
10 MR. BELLINGER: Mana.
11 MS. JENNINGS-FADER: Approaching this
12 from different language, do you have some language that
13 AT&T would like to offer or provision, or how would you
14 like to define it? A legitimately related, maybe.
15 MS. FORD: Letty, we do have a definition
16 that we have been working on, and I believe Mitch has
17 agreed to two sentences in there, but it's at impasse.
18 MS. FRIESEN: Yeah. I think legitimately
19 related is the sentence that Mitch has agreed to mirror
20 what the FCC or even -- the statute or the FCC has
21 said. And to the extent that that's in there, I think
22 that's fine. I think the problem, Hagood, is that it
23 doesn't matter what the language says. It's the
24 conduct that we're having a hard time policing. If you

25 look at the example in Mike Hydock's testimony, we had

1 hoped to solve a problem with blocking issues on
2 trunks. And we wanted to opt into the blocking report
3 provision of the SGAT, and it was an unbelievable
4 nightmare. They said that we had to, you know, opt in
5 to the forecasting provision as well. And things that
6 were totally unrelated to the blocking reports.
7 And, so, I don't know that you can write
8 language that will make them comply with their
9 obligations. I believe the obligations are pretty darn
10 clear. That terms and conditions have to relate solely
11 to the individual services is what that FCC order says.
12 That's not what they are doing. So, I don't know how
13 to remedy this situation.
14 MR. McDANIEL: Letty, did -- this is
15 Paul. Did you take that to arbitration, that dispute?
16 Did you take it to the commission, whether it was
17 Colorado or the other states?
18 MS. FRIESEN: Actually, we took it to the
19 271 process and lo and behold, as soon as we did, it
20 got fixed.
21 MR. McDANIEL: The normal thing would be
22 to go to arbitration, if you had an issue.
23 MS. FRIESEN: Frankly, I can't believe we

24 would have to arbitrate a simple provision like that.
25 Maybe, if that's one way to deal with the --

1 MR. McDANIEL: If it's a question of
2 conduct, maybe you should take it to, an argument that
3 simple, that clean, take it to the commission.
4 MS. FRIESEN: The 271 process is also for
5 that. It's an investigation into your actions, not
6 just the words in your SGAT. So we brought our
7 experience through Mike Hydock to this forum. This is
8 the commercial experience of AT&T. And that's why we
9 brought it here, to show you the difficulty we have
10 been having. So --
11 MR. McDANIEL: If it's a real live
12 contract issue, it should have gone to the commission.
13 MR. BELLINGER: Mana wants to be in on
14 part of this discussion.
15 MS. JENNINGS-FADER: I am having trouble
16 with this discussion in the context of the way in which
17 the issue is framed in the issue log. The issue log,
18 it seems to me to be asking what are the legitimately
19 related provisions that must be included to opt into
20 language. That does not appear to be the problem that
21 we're discussing. It's not what language is
22 reasonable -- is legitimately related or what

23 provisions. That's not the problem, or is it. Or is
24 the problem that the conduct of Qwest as to whether or
25 not it's honoring its, in the opinion of some of the

1 parties, whether or not Qwest is honoring its -- the
2 requirements as set out in the SGAT.
3 And, so, I am hearing two different
4 things sort of all mushed together, and I am not sure
5 what the problem is that you are discussing.
6 MS. FRIESEN: We have tried to approach
7 this question in a couple of ways. That's probably why
8 the issue itself isn't articulated in a very clear
9 manner. In earlier workshops, we tried to ask
10 questions, what do they do to define the legitimately
11 related terms? In other words, what process do you go
12 through to define them.
13 MS. JENNINGS-FADER: Excuse me, and let
14 me just ask one question. Is that because it's AT&T's
15 beliefs or its experience has led it to believe that it
16 is -- that Qwest is overincluding, in other words?
17 MS. FRIESEN: Yes.
18 MS. JENNINGS-FADER: It's hanging too
19 many ornaments on the Christmas tree.
20 MS. FRIESEN: Exactly. It's not just
21 AT&T's experience.

22 MS. JENNINGS-FADER: So that helps me to
23 understand a little bit of how it started. So, I am
24 sorry. Go ahead.
25 MS. FRIESEN: And the example that was in

1 Mr. Hydock's testimony is the blocking report. You
2 will see in there business records from Qwest that say,
3 AT&T, if you want these blocking reports, you have got
4 to also opt into all of this forecasting stuff, okay?
5 Now, in a effort to try and figure out what they were
6 doing on their side of the fence, what the process was
7 for determining that those forecasting provisions were
8 somehow connected in earlier workshops, we had asked
9 them to define for us what the process was. They could
10 not do that. It's a case by case, which sounds rather
11 arbitrary, but I will let them put their own evidence
12 in the record.
13 So, then, the issue has sort of morphed
14 into what it is now, which is it's the arbitrary
15 decision on that side of the house, and it's usually
16 that they are hanging more ornaments on the tree than
17 is appropriate, which is inconsistent with what the FCC
18 says they are supposed to do, the legitimately related
19 items. Those legitimately related items relate solely
20 to the service that the provision sought. It's bigger

21 than that.

22 MS. JENNINGS-FADER: So, is AT&T's sort

23 of bottom line issue here that, in the implementation

24 of the SGAT slash -- in the implementation of the SGAT

25 and in its business dealings, Qwest is not complying

1 with the requirements of the law and therefore should

2 not get 271 approval until it brings its conduct into

3 line with the law. Is that really sort of the bottom

4 line issue?

5 MS. FRIESEN: Yes.

6 MS. JENNINGS-FADER: Thank you. I just

7 wanted to understand the issue. Now everybody can talk

8 about it.

9 MS. FORD: I was involved in both of the

10 situations that AT&T or Michael Hydock describes in his

11 testimony. The first one on the blocking reports was a

12 miscommunication. They take issue with that. They

13 said they wanted something. We thought they really

14 wanted something else. So we said you should take this

15 section.

16 MS. FRIESEN: Okay. I am going to object

17 here, because Mary Rose won't allow our attorneys to

18 testify. This is outside counsel testifying to facts.

19 She is not a sworn witness. I think that the documents

20 connected to Mr. Hydock's testimony speak for
21 themselves. They are business records offered in the
22 ordinary course of the business, not in preparation for
23 legal litigation or this 271 process.
24 So, while I appreciate they would like to
25 chalk it up to miscommunication, I think if you look at

1 those documents, they are pretty clear on their face as
2 to what AT&T wanted, what Qwest said we have to do in
3 response.
4 MS. JENNINGS-FADER: Do we have a sworn
5 witness from Qwest, one who has either been sworn or
6 who could be sworn who could testify from Qwest's
7 perspective about the facts?
8 MR. BROTHERSON: It's in my testimony. I
9 responded, not to Ms. Friesen's statement, but to
10 Mr. Hydock's testimony in my testimony that I had
11 filed -- in my rebuttal testimony that I filed.
12 MS. HUGHES: Ms. Ford was also involved
13 in this, and I think that we are, as near as I can
14 tell, pretty flexible here in allowing attorneys to do
15 a fair amount of talking and testifying as well.
16 Ms. Ford has personal knowledge and was personally
17 involved in the only two issues that AT&T has raised in
18 connection with this whole pick and choose issue. So,

19 I suggest it would be appropriate to hear her on this.
20 But, again, the facts and Qwest's response to the
21 allegations raise the only two issues raised by AT&T in
22 this entire pick and choose discussion, and is also
23 contained in Mr. Brotherson's testimony, if the
24 position of AT&T is that Ms. Ford ought not to be
25 heard. It's also addressed in the testimony.

1 MS. JENNINGS-FADER: I just wanted to
2 know if there was a sworn witness who already said
3 something about this, or you can swear her in and she
4 can give that.
5 MS. FORD: It's a dilemma. If I could
6 just make one brief statement about another situation.
7 We ended up not agreeing, but at least coming up with
8 an amendment on the single POI in a LATA issue in
9 Wyoming. And it's -- we initially said we think that
10 these sections are legitimately related. We talked to
11 AT&T and we narrowed them down in scope considerably.
12 And we think we can -- we complied with the law.
13 MR. BELLINGER: Anyway, it sounds like
14 we're at impasse, and not getting anywhere, but we're
15 not offering anything new, other than what's on the
16 record. So --
17 MR. BROTHERSON: Agreed.

18 MR. BELLINGER: I think it's still at
19 impasse.
20 MS. JENNINGS-FADER: If we could get a
21 little clearer statement about what the issue is, since
22 I think the way B is stated is not really what the
23 issue -- what the real problem is. If we can get some
24 better statement, if that's possible, on what the issue
25 is.

1 MR. BELLINGER: Mitch, Letty, do you want
2 to take a stab at that?
3 MS. JENNINGS-FADER: You are not asking,
4 if I am correct, you are not asking for them -- for
5 Qwest or anyone else to identify each and every
6 provision -- all other provisions which are
7 legitimately related provisions. That's not really
8 what you are looking to do. But that's the way it's
9 stated here, so if we could have a little restatement,
10 that would be helpful.
11 MR. MENEZES: I will try to. Is Qwest in
12 compliance with the law in the way it identifies
13 provisions as being legitimately related to provisions
14 that a CLEC seeks to adopt pursuant to 252I of the act.
15 MS. HUGHES: I am sorry, Mitch. Could
16 you restate that?

17 MR. MENEZES: I don't know.

18 MR. BELLINGER: I think the court

19 reporter can read it.

20 (Whereupon the statement on page 78,

21 line 11 was read back.

22 MR. BELLINGER: Okay. Sounds like she

23 got it. Everybody get that?

24 MS. HUGHES: I am sorry. I didn't get it

25 all.

1 (Whereupon the statement on page 78,

2 line 11 was read back.

3 MS. HUGHES: Thank you.

4 MR. BELLINGER: Okay. Why don't we take

5 a 15-minute break?

6 (Recess.)

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1 MR. BELLINGER: Okay, go back on the

2 record.

3 We're on G-23.

4 MR. BROTHERSON: Okay.

5 MR. BELLINGER: I assume from the -- from

6 AT&T -- no, this is Qwest-57. It was a blank --

7 supposed to be G-23.

8 MR. BROTHERSON: I believe that's

9 correct. I think that was just omitted.

10 The issue being the --

11 MR. BELLINGER: Okay.

12 MR. BROTHERSON: -- language in Section

13 2.1 of the SGAT; and with respect to that, an issue

14 arose -- raised, I believe, by WorldCom; and after --

15 after the testimony was filed, we've attempted to
16 address that in 2.1. I think we've resolved WorldCom's
17 concerns in language that was handed out this morning
18 as an exhibit.
19 MR. BELLINGER: What was the exhibit
20 number?
21 MR. DIXON: 6-Qwest-62, I think is what
22 he's talking about.
23 MR. BROTHERSON: Thank you. I didn't
24 have a number on my copy.
25 MR. BELLINGER: Okay, 6-Qwest-62?

1 MR. BROTHERSON: Uh-huh.
2 MR. SCHNEIDER: This is Michael Schneider
3 from WorldCom.
4 I've reviewed that language and it does
5 not resolve our concerns.
6 MR. BELLINGER: All right, do you have
7 some --
8 MR. DIXON: Okay, just a second.
9 Before Michael speaks, I want to note
10 that in WorldCom's prefiled testimony, filed months
11 ago, we specifically addressed this issue. So Michael
12 is going to supplement what's already in the record
13 rather than repeating that testimony.

14 The fundamental issue is one that we've
15 alluded to earlier; and, in fact, Qwest struck the
16 reference to -- the reference to tariff, and that's the
17 fundamental issue with 2.1, as written. There
18 continues to be references to tariffs.
19 With that, Michael will have at it.
20 MR. SCHNEIDER: That's basically the crux
21 of what I was going to say.
22 If they could take tariff out of the
23 middle of 2.1, I think we would be satisfied with that
24 paragraph.
25 MR. BELLINGER: Do you want to comment on

1 why you want tariff out?
2 MR. SCHNEIDER: Yes, sir. Well, you will
3 see in the language that it says that the agreement is
4 all the exhibits and additions to the agreement --
5 that's fine. And it says, unless the context shall
6 otherwise require any reference to any tariff,
7 technical reference, technical publication, et cetera
8 shall be deemed to be a reference to the most recent
9 version or edition, including any amendments,
10 supplements, addenda, or successors of that statute,
11 regulation, rule, tariff, technical reference, et
12 cetera.

13 The reason we object to that is because
14 they can make a unilateral change to the tariff; and
15 that would, in effect, amend the interconnection
16 agreement in a unilateral fashion. And as you will
17 notice down in the section that they added, they talk
18 about, well, okay, there is a change in law, rule
19 regulation or interpretation that would materially
20 change this agreement, then that will be handled by the
21 change in law provisions. And there will be an
22 amendment, however they don't include tariff, as well
23 they shouldn't, because we don't consider a change in a
24 tariff as a change in law.
25 MR. DIXON: What our proposed revision to

1 the new section 2.1, found in 6-Qwest-62 would be very
2 simple: If you start with the beginning of Section 2.1
3 and count down eight lines, the line that begins,
4 Agreement or, which is underlined; if you completed
5 that sentence which ended with the words, Of this
6 agreement; everything from thereafter we believe should
7 be stricken. And the reason for that, the introductory
8 language -- the unless language creates the exception.
9 Then the language which is at the end of the section as
10 presently drafted, Provided however, is an exception to
11 the exception.

12 So we think if you eliminate the, Unless,
13 you don't need the However. And the introductory
14 language, the first eight lines that we're willing to
15 go with in Section 2.1 is sufficient in and of itself
16 and we don't need the two areas that are subsequently
17 addressed.
18 And I guess, from a legal perspective, I
19 would point out in this state, Colorado can't even
20 adopt a rule or regulation from another commission,
21 from the FCC, or another agency without clearly stating
22 that it's adopting the rule that is currently in
23 effect. And each time the Colorado Commission cross
24 references a rule in another rule, it has to go to
25 the -- it has to identify the particular version it is

1 approving. And in order to modify to a more current
2 version, it has to open a rulemaking to do that. It
3 may be nothing more than a perfunctory action, assuming
4 no one objects; but it nonetheless, by State statute,
5 is required to in fact modify its rules to update
6 current versions.
7 And so that also presents a problem from
8 a legal perspective. So we have the same concern that
9 effectively the state legislature said, that is,
10 putting people on notice what it is they are in fact

11 incorporating.

12 MR. BROTHERSON: I believe that in -- a

13 couple of responses: First of all, I believe that to

14 adopt WorldCom's position would -- would freeze the

15 document in time. And if the Colorado Commission

16 promulgates new rules, they would apply to everyone

17 except someone under an old -- under a contract where

18 the contract tries to operate under previous rules and

19 not the rules that are then in effect.

20 If -- if -- I would take issue with

21 Mr. Schneider's comments that we could unilaterally

22 change tariffs. I think Qwest's tariff process is a

23 little more complicated than that and requires

24 Commission approval; but to the extent that Qwest

25 changes its tariff rates on products and services, I

1 think the resale discount is based off of that, then

2 it's the current retail rate not whatever was a retail

3 rate two years ago or three years ago when a contract

4 was opted into.

5 I think if there is a requirement that

6 access charges apply, they are whatever the current --

7 the current access charges that the Colorado Commission

8 has established are, not what they were at some earlier

9 point in time. So I think the references to the then

10 current rules, regulations, and tariffs is an
11 appropriate one.
12 And I think that to take the position
13 that WorldCom has proposed would -- would freeze each
14 interconnection agreement in time and not allow it to
15 operate under the current Colorado rules and tariffs
16 and regulations.
17 MR. BELLINGER: Okay, Mana?
18 MS. JENNINGS-FADER: Mr. Brotherson, I'm
19 looking at what I hope is a correct version of Section
20 2.2, which -- I'm looking at 6-Qwest-61. And I note
21 that there's been extensive rewrite of 2.2 which is the
22 change I'm -- I'm going to refer to as the change in
23 law provision.
24 MR. BROTHERSON: Uh-huh.
25 MS. JENNINGS-FADER: If I'm reading this

1 correctly, on page 8 the new language that's been
2 added, it seems to me that the sentence that reads, to
3 the extent that the existing rules are vacated,
4 dismissed, stated, materially changed or modified, then
5 this agreement shall be amended to reflect such legally
6 binding modification or change of existing rules. And
7 I think existing rules refer to State Commission rules
8 or Federal Communications Commission rules.

9 Anyway -- and I think there is some other
10 language in there that talks about change of statutory
11 provisions.
12 So my question is, what is it that is
13 added by the language in 2.1 that is not already
14 incorporated into the amended 2.2? What do you --
15 what's -- what more is added by 2.1?
16 MR. BROTHERSON: Well, I think that 2.1
17 is intended to make the document a living document, if
18 you will, in terms of the technical references,
19 technical publications, tariffs, technical standards;
20 all of those shall be deemed whatever are the current
21 ones in place, with the caveats that we have at the
22 bottom about changing party's rights under the
23 agreement.
24 I think that the Section 2.2 language
25 that you are addressing just states, we're -- it's

1 intended to be in compliance with the existing state of
2 the law, rules, and regulations and interpretations
3 thereof. And I think to the extent that we've seen
4 court decisions that have interpret some of these rules
5 or regulations that have necessitated that the parties
6 go back and change their agreement, we've done so up
7 until now. And I think this is just a reflection of

8 the fact that we would continue to do so.

9 MS. JENNINGS-FADER: So with respect to

10 statutes, regulations, and rules, am I correct that 2.1

11 is duplicative in some degree to 2.2, putting aside

12 technical references, publications, and so forth, just

13 talking about statutes, rules, and regulations?

14 MR. BROTHERSON: To the extent that they

15 require an amendment to the agreement -- and I think

16 that's what the language in the lower half of 2.1

17 would -- would address. I think it said, if any change

18 in the law, rule, regulation, or interpretation thereof

19 would materially change this agreement, 2.2 shall

20 prevail and we would go through the amendment process.

21 I think there could also be scenarios

22 where it may not materially change; but the rules will

23 continue to be updated by a commission, and to the

24 extent that they are related under this agreement, we

25 would be operating under the current Commission rules,

1 tariffs, and regulations.

2 MS. FRIESEN: I think that's a change in

3 law, is it not? When the Commission updates it's

4 rules, is that a change in law?

5 MR. BROTHERSON: Yeah, it could be a

6 change in law, but not necessarily one that would

7 materially change the agreement or impact the parties
8 under the agreement. A change on the address that you
9 mail a notice provision, for example, may constitute a
10 change in law, but not necessarily have a material
11 change under this agreement that would require
12 exercising the provisions of 2.2; but 2.1 says you
13 would operate under whatever are the then current rules
14 and regulations, so you would abide by whatever the
15 current notice mailing requirement is.
16 MS. FRIESEN: And using that example,
17 what -- what are you suggesting, that the SGAT somehow
18 touches on the Commission's notice requirements? Where
19 in the SGAT are the Colorado Commission's notice
20 requirements implicated? I don't understand.
21 MR. BROTHERSON: I can't --
22 MS. FRIESEN: They are not,
23 Mr. Brotherson. They are not.
24 MR. BROTHERSON: I can't think of a
25 specific example. I know that there are obligations

1 for us to file with the Commission, for example; and we
2 would comply with whatever the then current Commission
3 rules for filing are. That may or may not -- how we're
4 supposed to file something or how many copies we're
5 supposed to file may or may not directly impact this

6 document.

7 MR. WENDLING: Warren Wendling of staff.

8 If you look at Qwest's proposed language

9 in Rule 1.7 -- or Section 1.7, the third sentence,

10 their suggested language does talk about the

11 Commission's -- in other words, Qwest shall also

12 request that the Commission notify all interested

13 parties of the filing. Well, our --

14 MS. FRIESEN: That's fine, but it doesn't

15 suggest how that notification needs to be accomplished.

16 MR. WENDLING: Well, they are trying to

17 tell us how to do our notice. When our -- Colorado's

18 Rule 44 on approval of interconnection agreements

19 already contains very explicit provisions, and it's not

20 the Commission that notices it, specifically. We do a

21 web-based notice. So that's not an individual notice

22 that this would imply.

23 To your point, Where does their SGAT tell

24 the Commission how to do notice? Well, there's your

25 example.

1 MR. MENEZES: That's not what that

2 language is intended to do and I don't think that's

3 what it does do. We wanted to be sure that in the

4 event Qwest were not going to provide notification to

5 CLECs, that it would affirmatively request of the
6 Commission -- the Commission can do whatever it decides
7 to do, it doesn't have to comply with that request. We
8 recognize that.
9 But we wanted to be sure the Commission
10 was made aware and asked the question and it's more to
11 ensure that if the Commission doesn't want to provide
12 notice; it would say to Qwest, You provide that notice;
13 that's a good idea, go ahead and go it.
14 MR. WENDLING: Well, yeah.
15 MR. MENEZES: I think this is probably
16 the only place you will see it in the SGAT and there
17 was particular concern that brought that on. But I
18 would -- I agree with Letty in that this does not
19 require the Commission to do anything or do it in any
20 particular fashion.
21 MR. WENDLING: Well, let me just say
22 this: As an engineer reading this you are placing
23 false hope with the Commission. We ain't got the
24 bucks. There are 200 LECs out there now, we're not
25 going to generate a notice to them. We've striven to

1 make the notice obligation be on the part of whoever
2 the filing party would be.
3 So if we want to make -- and I could

4 understand the legitimate point about getting effective
5 notice out there; we might as well rethink about
6 language in the SGAT that puts the burden where it's
7 going to be placed. We might as well put it on Qwest
8 now and get it over with, in my opinion.
9 MR. MENEZES: And it is --
10 MS. HUGHES: And it is on Qwest now.
11 MR. MENEZES: It's also on Qwest to
12 provide notice through the CiCMP, through that process.
13 You know, we're putting faith in this
14 document, I guess in some respects. We're putting a
15 lot of time into it to try to improve it and these are
16 things we're trying to put in there to try and help and
17 make it -- ensure that notice and information is
18 flowing to avoid letting the ball drop. I think that's
19 essentially what we've done here in that particular
20 section.
21 MS. FRIESEN: Getting back to the issue
22 of changes in Commission rules and changes in tariffs
23 and things like that, I think the primary stumbling
24 block, from AT&T's perspective, is these are our
25 contracts and we ought to have a right to rely on these

1 contracts.
2 Qwest should not be able to make changes

3 in its interconnection tariffs in its collocation
4 tariffs and those things and have those go into effect
5 by operation of time, rather than anything else; and
6 then thereby amend all the ICAs that are out there.
7 Rather, if Qwest wants to change a provision, under the
8 Constitution of the United States, the contracting
9 clause, it needs to come to us. And under the states'
10 own case law on contracts, it needs to come to the
11 CLECs and say we need to modify this agreement.
12 MR. BROTHERSON: And I believe that's
13 what the underlined added language in 2.1 -- the bottom
14 of 2.1 addresses in each of the examples Ms. Friesen
15 has given. Those are specific provisions that -- tied
16 to this interconnection agreement; collocation has a
17 whole section on it.
18 So the language that says, in the event
19 of a change in the law, rule, regulation or
20 interpretation thereof that would materially change
21 this agreement, the terms of 2.2 shall prevail; 2.2
22 being the process to amend the agreement for the change
23 in law.
24 MS. FRIESEN: And I appreciate that. I
25 think the sticking point is, What constitutes material

1 versus what is immaterial? And to the extent that we

2 have a contract that says X, we should get X until our
3 contract says Y. And our contract should not be
4 amended, whether Qwest decides that Y is immaterial or
5 material, without our agreeing to the amendment.
6 MS. FORD: Letty, I think material was
7 your word. If it doesn't work, maybe we need to
8 discuss it.
9 MS. FRIESEN: I think the whole idea
10 that -- I think that these three sections are
11 internally inconsistent. I don't think that changes in
12 tariffs, changes in whatever automatically change all
13 these executed agreements. That's what 2.1 seems to
14 suggest will happen.
15 Material changes, whatever those might
16 be, have to go through an amendment process. And what
17 I'm struggling with is trying to understand what the
18 distinction between material and immaterial is and
19 question that maybe you don't need it at all in 2.1.
20 Maybe 2.2 is sufficient because that does accomplish a
21 change in law.
22 And, Larry I think you agreed that a
23 change in the Commission rule is a change in a
24 Commission rule -- is a change in law. So to the
25 extent that a change in rule implicates the SGAT or an

1 executed interconnection agreement such that we need to
2 amend, then we should look to the amendment process.
3 MR. BROTHERSON: I don't think all -- I
4 don't know that I would agree all change in law is
5 necessarily, A, material or, B, would materially affect
6 this agreement. And I tried to give an example where
7 there might be a change of a mailing address or
8 something. Certainly that could be a change in the
9 Commission's rules, but would not necessarily require
10 an amendment of the interconnection agreement. So I
11 don't think they are necessarily synonymous terms.
12 What I was trying to say -- or what I was
13 trying to stress was, to the extent that we change
14 something that impacts the interconnection agreement,
15 the language in the bottom half of 2.2 was attempting
16 to say, you go -- excuse me, in the bottom half of 2.1,
17 it says, well, then you have to amend the agreement
18 under Section 2.2. And that becomes the carving out of
19 the exception for the general provisions in 2.1 that
20 talk about, whenever we talk about tariffs, technical
21 references, technical pubs or pubs of the industry,
22 administrative or technical standards, we mean the then
23 current standards.
24 MR. BELLINGER: Tom?
25 MR. DIXON: I guess I could take these

1 individually, but -- there are a couple of them I want
2 to take individually. Technical references and tech
3 publications will go through CiCMP -- that's our
4 understanding.
5 MR. BELLINGER: Uh-huh.
6 MR. DIXON: This language might be
7 workable if there was some reference to technical
8 references or technical publications that have gone
9 through CiCMP and subsequently been approved through
10 that process. And then, as you may recall from our
11 earlier sections, anything done in CiCMP that affects
12 the SGAT results in an amendment to the SGAT anyway.
13 So part of the reason I was striking this
14 is we have some amendment requirements, even through
15 CiCMP. In fact, CiCMP will address amendments. So
16 again, simply and unilaterally saying, We get the most
17 current version of something has -- at least when it
18 comes to a technical publication that's referenced in
19 this document -- which is what we're talking about,
20 changes in that have to go through CiCMP. If the SGAT
21 is going to be amended, that has to go through CiCMP --
22 that's by various sections in here.
23 So that's why I think this is both
24 inaccurate and to some degree contrary to other
25 processes that are contemplated in the SGAT.

1 With respect to telecommunications
2 industry administrative or technical standards, I can
3 assure you that Qwest and the CLECs have a variety of
4 definitions of when those are affected. For example,
5 some of those bodies take votes; some of those bodies
6 put a seal on them; some of those bodies don't do
7 either; some of those standards aren't really
8 standards, they are kind of guidelines. And it's not
9 clear what the difference is, particularly to the
10 regulatory people -- it may be more clear to engineers,
11 but regulatory people have a real concern about
12 standards, versus guidelines, versus wish lists.
13 But the bottom line is, these concepts
14 are not without difficulty because of the lack of
15 definition that each individual body has when their
16 various -- whatever they are called, standards,
17 guidelines, et cetera, are in fact an effective version
18 or addition.
19 In addition, it's my understanding that
20 these very same bodies tend to give leeway to the
21 people that are complying with them. And I think the
22 best example of that is the very last clause of your
23 proposed 2.1, where you note, The existing
24 configuration of each party's network may not be in
25 compliance with these very documents we say are the

1 most recent and effective for purposes of the SGAT.
2 And that is because -- my understanding, again, is that
3 the technical standards do give companies some leeway
4 in how they design their networks within those
5 standards.
6 So that's why I believe all of this is
7 way too vague and leaves nothing but potentially
8 mischief -- quite frankly for both parties, a CLEC
9 claiming the standard is this, Qwest claiming the
10 standard is something else. And if I didn't have real-
11 life experience with this which we could deal with --
12 I'll be more than happy to ask people some questions
13 and deal with it that way.
14 The practical effect of this is I think
15 it's too vague and leaves too much room for problems,
16 which is why I've made our proposal.
17 My suggestion would be, I don't want to
18 legally argue this any more. I'm more than willing to
19 take some testimony on it, if that will be helpful, and
20 then declare it an impasse and rock and roll, so we
21 cannot stay late every night -- that would be my goal.
22 I don't want to cut everybody else off, I'm talking me
23 personally.
24 MR. BROTHERSON: I think we're at

25 impasse.

1 MS. JENNINGS-FADER: What factual
2 information?
3 MR. DIXON: First of all, I would like to
4 just ask some questions of Mr. Brotherson, if I could,
5 on that.
6 Mr. Brotherson, are you familiar with the
7 various standards bodies that establish technical
8 standards?
9 MR. BROTHERSON: No.
10 MR. DIXON: And would you know, when
11 Qwest uses in this term, what is deemed to be the most
12 recent version or edition of one of those standards
13 when that actually does occur as a practical matter --
14 not by date, but what function constitutes an effective
15 version or edition?
16 MR. BROTHERSON: No, I wouldn't.
17 MR. DIXON: Okay.
18 MR. BROTHERSON: That would be something
19 with the technical people.
20 MR. DIXON: You indicated that the
21 Colorado tariff process is a little more complex than
22 that Mr. Schneider referenced in his comments. Can you
23 describe for us your understanding of how a tariff in

24 Colorado is addressed by the Colorado Commission and
25 what action a CLEC can do to prevent a tariff from

1 going into effect, if you know?
2 MR. BROTHERSON: It's a broad statement.
3 MR. DIXON: Let me ask -- you are right.
4 It's more than one question. I'll withdraw it and ask
5 one question.
6 Can you describe the tariffing process in
7 Colorado for Qwest, what it has to do?
8 MR. BROTHERSON: I'm not specifically
9 familiar with the specific sections of the rules, just
10 generally the process of filing tariffs and getting
11 rates approved.
12 (Pause.)
13 MS. JENNINGS-FADER: Tom?
14 MR. DIXON: Yes, I'm trying to see if I
15 have anything else -- I may be done with my question.
16 MS. JENNINGS-FADER: Mr. Brotherson,
17 what's your general understanding, without reference to
18 statute or rule what, do you understand has to happen
19 in Colorado?
20 MR. BROTHERSON: Well, normally -- let's
21 talk about our retail tariffs, for example. Normally
22 when Qwest files to change the retail rates that it

23 charges its customers, commissions normally set that up
24 in the form of a rate case or rate docket. Sometimes
25 if it's a rate reduction, they don't -- they don't do

1 so and they let the rate reduction go into effect. But
2 as a general rule, they would set that up as a rate
3 case and there would be a hearing; witnesses would file
4 cost models or cost studies; testimony would be taken;
5 and the Commission would rule on the appropriateness of
6 changing those retail tariff rates.
7 MS. JENNINGS-FADER: What about adding or
8 subtracting -- adding or deleting product offerings?
9 What's the process and what's your understanding?
10 MR. BROTHERSON: I'm not that familiar
11 with that process.
12 MR. DIXON: I just have a couple further
13 questions for Mr. Brotherson.
14 Do you happen to know if Qwest has to
15 seek CLEC input to modify a tariff, as a matter of law
16 or rule, under Colorado rules?
17 MR. BROTHERSON: No, I think the -- the
18 approval is in the hands of the Commission, and then
19 any party that wants to provide input to the Commission
20 has a right to provide their input.
21 MR. DIXON: Do you know if the party who

22 wants to provide input to a tariff has a right to a
23 hearing?
24 MR. BROTHERSON: It would depend. I
25 don't --

1 MR. DIXON: Again, we're talking Colorado
2 specific -- I'm sorry.
3 MR. BROTHERSON: I don't know.
4 MR. DIXON: Okay.
5 MR. BROTHERSON: Based on those facts you
6 have just given me, I don't know.
7 MR. DIXON: Do you know if the Commission
8 can approve a tariff over the objection of a CLEC
9 without a hearing in Colorado?
10 MR. BROTHERSON: I would imagine that the
11 commissions may have that authority.
12 MR. DIXON: Okay, I think I've covered
13 all my questions I had of Mr. Brotherson on that issue.
14 MS. FRIESEN: A couple more questions.
15 Mr. Brotherson, are you familiar with
16 Qwest's wholesale tariffs in the state of Colorado?
17 MR. BROTHERSON: Generally -- not item by
18 item.
19 MS. FRIESEN: What -- could you define
20 for me generally what tariffs are on file in

21 Colorado -- wholesale tariffs?

22 MR. BROTHERSON: I think Colorado is

23 unique in that what I will call the Schedule A type

24 prices of a cost docket for LIS or other kinds of

25 wholesale products normally available to CLECs, those

1 are in Colorado handled through a tariffing process --

2 at least they have been up to date. And so certain

3 CLEC products and services would be -- that are offered

4 under the SGAT here would be covered by tariffs

5 approved by the Colorado Commission.

6 MS. FRIESEN: Have you compared Qwest's

7 SGAT to the tariffs it has on file -- the wholesale

8 tariffs to confirm that the two are consistent in terms

9 of terms and conditions?

10 MR. BROTHERSON: No. Not on a line-by-

11 line basis. We have implementation teams that as

12 language is agreed to or as a Commission order comes

13 out on an impasse issue, defining how something is

14 going has been handled. One of the things that that

15 implementation team does, I believe, is in determining

16 how they are going to implement the language or the

17 Commission decision, is to take a look at anything

18 related to that product and process. And one of those

19 things, I believe, would be what's the current --

20 what's in current existing interconnection agreements
21 as well as Colorado rules?
22 MS. FRIESEN: Do you know the last time
23 Qwest amended its wholesale tariffs in the state of
24 Colorado?
25 MR. BROTHERSON: No.

1 MS. FRIESEN: Thank you.
2 MR. BELLINGER: I think we decided we
3 were at impasse.
4 MR. DIXON: Right.
5 MR. BELLINGER: I don't think there is
6 any more to add.
7 Why don't we move to G-24. It sounds
8 related.
9 MS. JENNINGS-FADER: Yeah.
10 MR. BROTHERSON: G-24 is Section 2.2, the
11 appropriate process for updating the -- the SGAT.
12 I think Qwest's language that we have
13 proposed in the SGAT simply provides that the process
14 have some sort of parameters around it, such that if
15 the parties can't agree on what the change in law
16 means, that they will sit down and try to negotiate
17 changes.
18 And if they can't get those changes

19 negotiated, if they can't get them resolved, they will
20 go to the dispute resolution. And also that one of the
21 first issues in the dispute resolution that they would
22 ask the -- either the Commission or whoever is
23 resolving the dispute to resolve what would be the
24 interim operating standards or provisions that they
25 would operate under while we're trying to decide what

1 this change of law means.
2 I think at the heart of this is that, you
3 know, a change in law may come down that Qwest doesn't
4 particularly find appealing or that a CLEC doesn't
5 particularly find appealing; and we're simply saying
6 that we don't want either side to drag out indefinitely
7 the process of talking about it and disagreeing about
8 it or arguing about it and never amend to reflect what
9 is in fact the change in law.
10 We would like a parameter that says, at
11 some point -- if the law has changed, at some point the
12 parties have to reach agreement as to what the new
13 language should be or go to the Commission and have the
14 Commission or the dispute resolution process tell them
15 what the new language should be; but that the matter
16 does have parameters around it and cannot go on
17 indefinitely. That's the intent of Qwest's proposed

18 language in 2.2.

19 MR. BELLINGER: Mana?

20 MS. JENNINGS-FADER: Mr. Brotherson, I

21 have a question about the language as proposed by

22 Qwest. I'm looking at page 8 of Exhibit 6-Qwest-61,

23 which is, I think, where the new amended language you

24 are talking about is found. And I think the

25 language -- about three-quarters of the way down, the

1 discussion in 2.2 talks about the if the parties fail

2 to agree on an amendment during the 60-day negotiation

3 period; is that the -- and there will be an interim

4 operating agreement as part of the dispute resolution

5 process. Is that the parameter that you are talking

6 about?

7 MR. BROTHERSON: Yes.

8 MS. JENNINGS-FADER: And then -- I hope

9 I'm understanding this correctly -- the next sentence

10 talks about the parties agree that the interim

11 operating agreement shall be determined and implemented

12 within the first 15 days of the dispute resolution.

13 And the parties will continue to perform their

14 obligations in accordance with the terms and conditions

15 of this agreement until the interim operating agreement

16 is implemented.

17 Now, am I correct that what that means is
18 that during the 60-day negotiation period, that the
19 terms of the agreement -- as it exists will continue in
20 effect, irrespective of the change in the rule; and
21 then after that 60-day initial period has ended, then
22 to -- if there is -- well, when there is a dispute
23 resolution process implemented, that the agreement as
24 it exists will continue in effect until the interim
25 operating -- interim operating agreement is determined?

1 So, in other words, until the interim
2 operating agreement goes into effect or is determined
3 that the agreement as it existed, irrespective of the
4 change in the rule, will continue in effect?
5 MR. BROTHERSON: Yes.
6 MS. JENNINGS-FADER: Thank you.
7 Now, I just want to be sure I understood
8 the context. Everybody else chime in now.
9 MR. BELLINGER: Go ahead, Tom.
10 MR. DIXON: I would like to identify the
11 language that WorldCom would have some concerns with
12 and then make some comment on that.
13 If you go to -- I'm looking now at 6-
14 Qwest-61; and I'm on page 8, which is the continuation
15 of Section 2.2, I believe. And I'm down about 12

16 lines. And just to kind of direct your attention, it's
17 the line before the line that says the number 2.2. And
18 I'm referring to the line that begins with, That this
19 agreement will be.
20 WorldCom -- first of all, does everybody
21 see where I am? If anybody doesn't, raise your hand
22 and I won't go on.
23 (No response.)
24 MR. DIXON: With that understanding,
25 WorldCom would ask that the language that begins,

1 Corrected or if requested by CLEC, be stricken. We
2 believe that the, Expressly understood that this
3 agreement will be amended, is sufficient and we don't
4 need to make a reference to, Corrected or if requested;
5 that just should be done and that's what's contemplated
6 under 2.2 -- and particularly within the language we
7 have no objection to.
8 Then if you will continue down
9 approximately seven more lines to the language that
10 begins, This agreement for up to 60 days -- and again,
11 if anybody can't find where I'm at, please raise your
12 hand and I'll wait until you get there.
13 Seeing no hand raised, after the words,
14 This agreement, WorldCom would insert a period and

15 would strike from that point on to the last sentence;
16 that is, not including the last sentence, but up to the
17 last sentence of this section, which begins, For
18 purposes of this section.
19 So, in other words, WorldCom would not
20 propose striking, For purposes of this section, and
21 that entire last sentence; but we would propose
22 striking, For up to 60 days, and the following -- that
23 line plus approximately seven lines of material.
24 And the reason for that is, I have now
25 reviewed the dispute resolution process. And Section

1 5.18, among other remedies, indicates it does not
2 preclude taking action before the Commission. This
3 particular Commission has some rather expedited and/or
4 accelerated complaint procedures that in fact would
5 make the 60-day provision totally unnecessary.
6 What's more, it's my belief that based
7 upon the dispute resolution language that Qwest is in
8 complete control whether anything goes 60 days or
9 longer because it can, under the dispute resolution, go
10 to the Commission and/or go to the arbitration
11 procedures that are outlined in here.
12 In Colorado, in particular, the expedited
13 complaint procedures indicate that if a complaint is

14 made -- let's take for Qwest -- asserting that a CLEC
15 has wrongfully refusing to amend an agreement, that
16 matter has to be ripe for hearing within 45 days, which
17 beats the 60 days already listed in here.
18 In addition, it's clear, looking at
19 Section 5.18.3, which is part of the dispute resolution
20 in the current SGAT, that there is a whole series of
21 ways that you can get to arbitration within a pretty
22 quick period of time and also should be able to beat
23 the 60-day time frame contained in here.
24 So we believe this language is
25 unnecessary and that in fact Qwest has remedies that

1 will allow it to get what it wants faster than the 60
2 days proposed here.
3 MS. JENNINGS-FADER: Actually 75 days.
4 MR. DIXON: Excuse me?
5 MS. JENNINGS-FADER: Are we really
6 talking about 75 days in here?
7 MR. DIXON: If you add -- I just looked
8 at the 60 -- you are right, you could add things up and
9 come up with longer than 60 days.
10 MS. JENNINGS-FADER: Tom, you want to
11 strike everything having to do with the interim
12 operating agreement?

13 MR. DIXON: Excuse me?

14 MS. JENNINGS-FADER: Strike everything

15 having to do with the interim operating agreement?

16 MR. DIXON: Yes. For the reasons stated,

17 we don't think it's necessary.

18 MR. MENEZES: I want to chime in on Tom's

19 modifications. I had marked my SGAT similarly.

20 I have one further suggested language

21 change, to make clear that the terms of the agreement

22 in effect -- continue not only through the negotiation

23 but also through the dispute resolution, should you end

24 up in dispute resolution. So if we go up 12 lines from

25 the bottom of Section 2.2, the line begins, During the

1 pendency of any negotiation; after the word, Amendment,

2 I would propose inserting, Or dispute resolution. So

3 that line would read -- up to the comma it would read:

4 During the pendency of any negotiation for amendment or

5 dispute resolution pursuant to this Section 2.2, to

6 make clear that if you end up there, the existing terms

7 continue in effect all the way through the dispute

8 resolution and you maintain that certainty until the

9 change is determined.

10 MS. JENNINGS-FADER: And then am I

11 correct that because the Section 2.2 implicitly,

12 although not explicitly, references the dispute
13 resolution Section 5.18, that it is not necessary to
14 also reference 5.18?
15 MR. MENEZES: I'm sorry, Mana, would you
16 mind --
17 MS. JENNINGS-FADER: Well, the reason --
18 I'm just trying to figure this out. Dispute resolution
19 is not actually dealt with in 2.2. Dispute resolution
20 is actually dealt with in Section 5.18.
21 MR. MENEZES: Correct.
22 MS. JENNINGS-FADER: There is no
23 reference in 2.2 to the dispute resolution Section
24 5.18.
25 MR. MENEZES: Right -- well, not to the

1 section number, but there is --
2 MS. JENNINGS-FADER: Right. It says,
3 Dispute Resolution, capital D, capital R --
4 MR. MENEZES: True.
5 MS. JENNINGS-FADER: -- earlier on in
6 Section 2.2.
7 MR. MENEZES: It says: In accordance
8 with the dispute resolution provision of this
9 agreement.
10 MS. JENNINGS-FADER: Right.

11 MR. MENEZES: And it would be fine to
12 reference Section 5.18, if that's your --
13 MS. JENNINGS-FADER: I don't care one way
14 or the other. I wanted to know whether the reason you
15 didn't have a reference to 5.18 in your proposed
16 language is because it is implicitly already there by
17 that reference?
18 MR. MENEZES: Now I'm following.
19 Yes.
20 MS. JENNINGS-FADER: Thank you.
21 MR. MENEZES: Thank you.
22 MR. BELLINGER: Okay. Does Qwest have
23 any response to those?
24 MR. BROTHERSON: Just a couple: I think
25 in terms of striking the word, Corrected, in the --

1 whatever it was 12th line down, I think that sentence,
2 The agreement will be corrected in this section to
3 reflect outcome of generic proceedings by a Commission,
4 was intended for address scenarios where we've already
5 had the dispute resolution process, if you will. In
6 other words, we have, right now, a cost docket going
7 on. I think the parties that are all in this hearing
8 room today are also parties to that cost docket. So
9 the question becomes, after we get a Commission order

10 in the cost docket, do we go through -- can we simply
11 correct the SGAT to reflect that or do we go through
12 negotiations and amendment process, dispute resolution,
13 if we disagree on what the order says and then continue
14 to operate under the old rates until such time as
15 the -- as the Commission has ruled?
16 I think the other comment I have is the
17 provision for the interim or the -- Within the first 15
18 days, an interim process be established, our intent
19 there is that to the extent the parties take an
20 extended amount of time to hammer out their
21 differences, that one of the things that needs to be
22 requested is that the Commission and/or the arbitrator
23 make clear how the parties operate in the interim.
24 And I think excluding that provision of
25 an interim process takes away the ability for a

1 Commission or an arbitrator to -- to establish how the
2 parties will do business while the proceeding is taking
3 place.
4 MS. FRIESEN: Now, from AT&T's
5 perspective, I think that's just an inefficient and
6 cumbersome way to deal with the dispute. The parties
7 already have in place a mechanism for operating as
8 between the two, prior to the change in their agreement

9 and during the pendency of the dispute, and that is the
10 current agreement. It doesn't make a lot of sense for
11 us to have a jump through multiple hoops and create
12 interim agreements and have essentially an arbiter
13 decide in advance of the real decision, how the parties
14 are to operate with respect to the new law.
15 So, you know, to the point that Tom
16 stated earlier, certainly in Colorado there are
17 mechanisms for expedited dispute resolution with
18 respect to interconnection agreements, which you can
19 include the amendment process in.
20 And I think it doesn't make a whole lot
21 of sense to make the parties arbitrate several issues
22 and several agreements when really all they are going
23 for is a single change in a contract related to a
24 particular dispute; and they have an existing contract
25 under which they can operate under until the dispute is

1 resolved. So it's a matter of efficiencies and use of
2 resources, as well.
3 MR. McDANIEL: Tom, identification one
4 quick question for you: I can't remember -- and you
5 may know -- I thought you had to go through dispute
6 resolution before you could use the 45-day expedited
7 complaint process.

8 MR. DIXON: Pardon me?

9 MR. McDANIEL: I thought you had to go

10 through dispute resolution in a contract before you

11 could use the 45-day expedited compliant process in

12 Colorado.

13 MR. DIXON: You have to go through the

14 vice presidential contact; you have to identify the

15 parties that have the dispute between one another; you

16 have to identify the subject matter of the dispute

17 specifically, and citing a particular agreement or

18 sections of the agreement that are in dispute. Then

19 you have to certify that you have given the party

20 notice that obviously you have not reached resolution;

21 and within in ten days you will file for expedited

22 compliant under Rule 61-K of the Rules of Practice and

23 Procedure.

24 MR. McDANIEL: I thought this was kind of

25 talking about before you took it to dispute resolution.

1 MR. DIXON: I don't think that's

2 required -- specifically, I know the new rules don't

3 even address SGATs, so the expedited rules don't

4 address SGATs.

5 MR. McDANIEL: I saw the 60 days

6 occurring unless you had 15 continuous days, and then

7 to dispute resolution, then you could move to
8 expedited. I didn't see these as overlapping, I saw
9 them as sequential.
10 MR. DIXON: I will tell you, off the top
11 my head, the rule says what the rule says; and I think
12 having used it at least once recently, I'm pretty close
13 to what it requires.
14 MS. QUINTANA: I would agree.
15 MS. JENNINGS-FADER: Yes.
16 MR. DIXON: If I could make a couple
17 quick comments, and then I'm out of this: As far as
18 I'm concerned, we can declare it impasse, if you want
19 to.
20 First of all, your own language which you
21 already agreed to clearly states that any amendment
22 shall be deemed effective upon the effective date of
23 the legally binding change or modification of the
24 existing rules. So if we're amending the agreement
25 because of a rule change, we know in Colorado when that

1 date is, it's when it's published in the Colorado
2 Register. And we've gone through the various
3 processes, so there is no prejudice during the 60 days;
4 we don't need and interim agreement.
5 If the parties choose to continue

6 operating under the existing agreement and subsequently
7 the CLEC is deemed to be wrong, your relief will go
8 back to the date the rule was changed, not to the date
9 something was filed or something was acted upon by the
10 arbiter. So I believe, under those circumstances,
11 there is no harm and no reason for an interim operating
12 arrangement.
13 I also believe, as I said, that there is
14 enough process in this agreement that there is no
15 reason for this to take 60 or more days unless parties
16 are just sitting on it.
17 MR. SCHNEIDER: That same argument goes
18 for the corrected language, too, Or if request
19 requested by CLEC. Mr. Brotherson stated that that's
20 meant to come into effect if there is, you know, a cost
21 proceeding and that's already occurred, then you don't
22 have to go through the negotiation and the amendment
23 process and things of that nature. And that language
24 also takes care of that, too, that it does go back to
25 the effective date of the legally binding change.

1 MR. BELLINGER: Okay.
2 MR. DIXON: And also WorldCom had no
3 objection to AT&T's proposed modification.
4 MR. BELLINGER: Oh, that's good.

5 Okay, any further comment?

6 MR. BROTHERSON: No, I think we're at

7 impasse.

8 MR. DIXON: Are you at impasse on the

9 dispute resolution modification that AT&T proposed,

10 just so we know what the impasse is? I know, mine,

11 we're at impasse.

12 MR. BROTHERSON: Yes. To the extent they

13 are saying they don't want any interim provision and

14 during the dispute resolution processes the old

15 contract terms apply, which is what I understood was

16 the point that AT&T was trying to make, then we would

17 be at impasse on that as well.

18 MR. BELLINGER: Okay.

19 MR. BROTHERSON: The next issue number

20 is --

21 MR. BELLINGER: 25.

22 MR. BROTHERSON: -- 25, which is the

23 language in Section 2.3; and again Qwest has offered an

24 exhibit and the number is -- is that 63?

25 MR. DIXON: 63.

1 MR. BROTHERSON: Yes, the number is Qwest

2 63, which is new 2.3 language.

3 This has to do with conflicts between the

4 SGAT and any other Qwest documents. Again, this has
5 several sub-parts to it that we've struggled with;
6 Should a Commission order, which by its terms
7 supersedes a provision in the SGAT, should that prevail
8 over the SGAT; should the status quo be maintained in
9 the event of a conflict; what's the appropriate way to
10 describe a variance between documents?
11 We've tried to address the concerns
12 raised by providing in here that in cases of a conflict
13 between the SGAT and Qwest's tariffs, PCAT, M&Ps, tech
14 pubs, policies, et cetera, that the -- then the rates,
15 terms, and conditions of the SGAT prevail if there is a
16 conflict.
17 The only exception to that would be if a
18 Commission specifically determines to the contrary, in
19 a -- that the Commission order would -- would prevail;
20 which is the clause, Unless otherwise specifically
21 determined by the Commission, which was inserted.
22 And then it goes on to say: In cases of
23 a conflict between the SGAT and Qwest's tariffs, PCAT,
24 methods and procedures, technical pubs, policies,
25 product notifications, or other Qwest documents

1 relating to Qwest's or CLECs' rights or obligations
2 under this SGAT, then the rates, terms, and conditions

3 of this SGAT will prevail.

4 MS. JENNINGS-FADER: Am I correct,

5 Mr. Brotherson, that the difference between the

6 language in Section 2.3 in 6-Qwest-61 and 6-Qwest-63 is

7 the addition of 2.3.1?

8 MS. HUGHES: Correct.

9 MR. BROTHERSON: Yes.

10 MS. JENNINGS-FADER: Thank you.

11 MR. BELLINGER: Any comments on this

12 proposal?

13 MR. DIXON: If I may have a minute --

14 just give me a moment.

15 MR. BELLINGER: Go ahead.

16 MR. DIXON: Let me point out, first of

17 all, that there is lengthy testimony filed by WorldCom

18 when Michael Schneider filed his testimony -- again, I

19 think it was May -- I don't have my cover sheet in

20 front of me, so I'm relying on that to support our

21 position on how we feel about 2.3.

22 We don't believe that the proposed

23 language addresses our concerns. We've always

24 appreciated the fact that Qwest very clearly was

25 stating that if the SGAT is in conflict with one of

1 these various documents, that clearly the SGAT

2 prevails. The issue has always been when something is
3 issued that has -- is not so much in conflict but tends
4 to clarify or tends to provide additional information,
5 whatever it maybe, that somehow this is translated into
6 an obligation under the SGAT.
7 WorldCom had put in some pretty specific
8 language in the testimony of Mr. Schneider that clearly
9 precluded that from occurring. And we think that's
10 still appropriate. We don't think what's proposed in
11 2.3.1 solves our issue -- while it certainly is better
12 than it was, and we want to acknowledge that it's an
13 improvement -- it doesn't go and address the concern we
14 have. And that concern is nothing new, it's the
15 concern that a contract is a contract.
16 With respect to Section 2.3, itself, we
17 would specifically request that the introductory
18 clause, Unless otherwise specifically determined by the
19 Commission, be stricken. We think that the language
20 should speak for itself. So we would ask that that be
21 stricken, first of all, and that it be clear that the
22 SGAT is the controlling document.
23 With respect to 2.3.1, the introductory
24 language helps; but as I said, it doesn't really end up
25 saying that Qwest cannot, one way or another,

1 indirectly or otherwise, modify some document and
2 therefore impact the rights of a CLEC under the SGAT.
3 So we don't think the 2.3.1 goes far enough.
4 MR. BELLINGER: Mana?
5 MR. DIXON: And Michael may have a couple
6 things to add, as well -- Michael Schneider -- excuse
7 me, Ms. Jennings.
8 MS. JENNINGS-FADER: No, that's --
9 MR. BELLINGER: No, go ahead.
10 MR. SCHNEIDER: Just another addition to
11 the language in 2.3, that last sentence, To the extent
12 another document abridges or expands the rights or
13 obligations of either party under the agreement; well,
14 we're saying that it doesn't necessarily do that. So I
15 would like to add, To the extent another document
16 purports to abridge or expand the rights or obligations
17 of either party.
18 MR. BROTHERSON: We would agree with
19 that -- no?
20 (Pause.)
21 MR. BROTHERSON: Yeah, I think that's
22 right; so, no, I don't think we can agree to that.
23 MR. DIXON: I was going to accept your
24 agreement.
25 MR. BELLINGER: You are withdrawing that?

1 MR. BROTHERSON: I'm withdrawing that.

2 MR. DIXON: Never mind.

3 MR. BROTHERSON: That's right, we're

4 going to get into a debate of the legal term of whether

5 or not it purports to versus whether or not it does

6 abridge. It may purport to and not abridge.

7 MR. BELLINGER: Any reaction -- go ahead,

8 Mana.

9 MS. JENNINGS-FADER: No, that's okay.

10 You all finish that up, because I want to go to

11 something completely different. I want to go to 2.3.1.

12 MR. BELLINGER: Any reaction to

13 WorldCom's proposal?

14 MR. BROTHERSON: I think we're at impasse

15 on the issue. We've addressed -- we've put in language

16 to address what happens in a conflict. I think ours is

17 appropriate language. I think WorldCom disagrees.

18 MR. BELLINGER: Megan?

19 MS. FRIESEN: I think.

20 MR. BROTHERSON: Go ahead.

21 MS. FRIESEN: Could I --

22 MR. BELLINGER: Wait a minute, Megan had

23 a point.

24 MS. DOBERNECK: I have one question about

25 2.3, and it relates to -- and I simply don't know if

1 you can answer this, but I'll ask the question anyway:
2 To the extent that there is a conflict within the SGAT
3 or between the SGAT and either the QPAP, as a
4 standalone document, or incorporated into the SGAT --
5 Qwest Performance Assurance Plan -- what prevails
6 between those two?
7 MR. BROTHERSON: I think if you are
8 asking if there's two sections in an agreement that are
9 in conflict, that would be something that if the
10 parties can't agree, a Commission is going to have to
11 resolve. That would be something different than if a
12 new document is proposed and it conflicts with or
13 abrogates someone's rights, we can be very clear that
14 the SGAT would prevail over that new document.
15 But to the extent that any plan is
16 approved that is part of the SGAT, then that would be a
17 conflict of two parts of an existing document. I think
18 that would be resolved by the Commission.
19 MS. DOBERNECK: Okay. And I don't know
20 if this changes your answer at all, but the specific
21 example I'm thinking of is the intervals we have in
22 Exhibit C may be different, for example, than an
23 interval that Qwest has agreed -- that is included in
24 the Performance Assurance Plan and there is a

25 difference. Does that change your answer at all?

1 MR. BROTHERSON: No.

2 MS. DOBERNECK: Okay, thank you.

3 MR. BELLINGER: Okay, Letty?

4 MS. FRIESEN: Larry, I would like to turn

5 your attention to Section 2.3.1; and I'm trying to

6 understand sort of the significance of -- in the fourth

7 line down, there is a little clause that says, And the

8 change has not gone through CiCMP. Do you see where

9 that is?

10 MR. BROTHERSON: Right.

11 MS. FRIESEN: Why -- why is that in

12 there? What is the purpose of that? What difference

13 does it make whether the change has gone through CiCMP

14 or not?

15 MS. JENNINGS-FADER: I'm sorry, actually,

16 Letty, I would like to back your question up one step.

17 How can there be a change to any of this that hasn't

18 gone through CiCMP -- which was the question I was

19 going to get to in 3.2 -- 2.3.1.

20 MR. BROTHERSON: Well, I guess I would

21 use as an example, industry standards may not be

22 something that was developed by Qwest or the CLEC but

23 is something that's out there; that might be a change

24 that didn't go through CiCMP but is nevertheless a
25 change. And then the parties would either agree to

1 incorporate it or could have a legitimate dispute about
2 it.
3 MS. FRIESEN: So that I really understand
4 this, is it your position that if the change has gone
5 through CiCMP, it's one of those many release
6 notifications that you guys issue, is it your -- is it
7 your position that if that change conflicts with the
8 SGAT and it has gone through CiCMP, does that change
9 automatically amend all the interconnection agreements
10 and the SGAT; or is that something that still has to go
11 through this dispute resolution process?
12 MR. BROTHERSON: Give me a second on that
13 one because --
14 (Pause.)
15 MR. BROTHERSON: I -- I think, to the
16 extent that it's in conflict -- and we're back up in
17 2.3. To the extent it's in conflict, the SGAT would
18 prevail. So it is -- if the CLEC disputes it and says,
19 No, we think this is in conflict with the SGAT; then
20 the SGAT's provisions would prevail at least until we
21 resolve the dispute. So it wouldn't unilaterally
22 change something if it's different than what's in the

23 SGAT and it's in dispute; the SGAT would prevail.

24 MS. FRIESEN: What if it doesn't

25 conflict? What if the release notification merely

1 attempts to add to an existing ICA or the SGAT?

2 What -- and that release notification, for example, has

3 gone through CiCMP; is it -- I'm trying to understand

4 how all of these provisions work together, how 2.1,

5 2.2, and 2.3 work together and how CiCMP interfaces

6 with those. What --

7 MR. BROTHERSON: Well, again, if I can go

8 up to 2.3, To the extent another document abridges or

9 expands the rights or obligations, the rates, terms and

10 conditions of this agreement shall prevail.

11 In -- if there is a dispute that this

12 somehow has expanded a right that wasn't present before

13 and there is dispute over that, then the SGAT would

14 prevail. So that scenario I don't think could -- I

15 think the SGAT would prevail in the scenario you gave

16 me. Let's put it that way.

17 But when you say, How would it work; it

18 seems to me that you could have -- for example, have

19 changes in methods and procedures on filling out a line

20 on an LSR -- it's gone through CiCMP and it doesn't

21 expand rights, it doesn't mitigate, it doesn't change;

22 it's things that are in the SGAT but it nevertheless is
23 an M&P that has gone through CiCMP and the parties have
24 agreed to. I think it just goes into effect.
25 MS. BEWICK: Let me ask a question

1 because I think I'm confused, as well: Nowhere in here
2 does it talk about existing ICAs that I can see; but
3 the way I heard you answer Letty was that if there was
4 a difference between an existing ICA and this SGAT,
5 that the SGAT prevails -- and that's what you said.
6 MS. HUGHES: I don't -- I don't think so.
7 MS. BEWICK: That's what he said, but
8 that's not what he meant -- I hope that's not what you
9 meant, because otherwise that is not an optional item
10 here.
11 MR. BROTHERSON: That certainly wasn't
12 what I intended. I don't recall saying it in that
13 phrase, but you could be correct.
14 I'm talking about the change is
15 inconsistent with the agreement, then the agreement
16 prevails. I don't think the word SGAT is there. I
17 think, to the extent any document abridges or expands
18 the rights of the party -- of either party under this
19 agreement, the rates, terms, and conditions of this
20 agreement shall prevail is the language and was my

21 intent.

22 MS. BEWICK: Okay, because one of my

23 concerns is that -- and we -- we deal with this on a

24 regular basis in another -- not in another state south

25 of us actually, another state west of us that isn't

1 even Qwest, where we get in the mail assessable letter

2 that automatically changes the terms and conditions of

3 our interconnection agreement without any sort of

4 amendment to the interconnection agreement -- it just

5 kind of happens. And so --

6 MR. McDANIEL: From the Commission?

7 MS. HUGHES: From the Commission?

8 MS. BEWICK: All the CiCMP processes that

9 are out there, if I have an existing interconnection

10 with Qwest -- I have a very simple question: If I have

11 an existing interconnection agreement with Qwest, can

12 any of the hooey in here change it?

13 MR. BROTHERSON: I would qualify with the

14 first clause in 2.3.

15 MS. FORD: No.

16 MR. BELLINGER: The answer is no.

17 MS. HUGHES: May we have a second?

18 MR. BROTHERSON: Who writes the letter?

19 MS. BEWICK: No, you.

20 MR. BELLINGER: That's not the question.

21 (Discussion off the record.)

22 MS. JENNINGS-FADER: I'm curious to know

23 how this other provider does that.

24 MS. BEWICK: We're trying to find that

25 out, too.

1 MR. BROTHERSON: If I --

2 MS. JENNINGS-FADER: I figured --

3 MS. BEWICK: And your answer was no,

4 Larry?

5 MR. BROTHERSON: My answer is no.

6 MS. BEWICK: Thank you.

7 MS. FRIESEN: Um, Mr. Brotherson, with

8 respect to the assessability letter that Ms. Bewick was

9 just referencing, are you familiar with a CiCMP release

10 notification dated March 20th, 2001, wherein Qwest

11 notified CLECs that certain changes would be taking

12 place to their ICAs and gave them an effective date

13 upon which those ICAs would be changed unilaterally by

14 Qwest?

15 MR. BROTHERSON: I don't know if I am or

16 not. Is that the decommissioning of collocation space?

17 MS. FRIESEN: No.

18 MR. BROTHERSON: Okay, then I'm not

19 familiar with that particular reference. Do you -- no.

20 MS. FRIESEN: So while you are not

21 familiar with this particular letter notification to

22 the CLECs, are you familiar with any others offered in

23 through CiCMP that purport to automatically change

24 interconnection agreements?

25 MR. BROTHERSON: There have been disputes

1 with CLECs in the past over whether or not terms around

2 a product conflict with the SGAT and what is the effect

3 of that. And this language is intended to address

4 those concerns.

5 MS. FRIESEN: I'm not asking about that.

6 I'm sorry, let me make clear what I'm asking you.

7 Ms. Bewick brought up an assessability

8 letter that actually had gone through CiCMP; and in

9 going through CiCMP, what it purported to do was

10 automatically amend ICAs. And I'm asking you, because

11 you said you were not familiar with that, if you are

12 familiar with any other release notifications or things

13 that have gone through CiCMP that purport to

14 automatically amend interconnection agreements,

15 abridge, add to, whatever?

16 MR. BROTHERSON: No.

17 MS. FRIESEN: Okay.

18 MR. BELLINGER: Any more discussion on
19 this?
20 Mitch?
21 MR. MENEZES: I just would like to point
22 to some specifics things in 2.3.1 that I think if they
23 were deleted might make the language more acceptable.
24 In 2.3.1, the qualifiers to go to dispute
25 resolution are in the fourth line down, This change

1 abridges or expands the CLEC's rights under the SGAT
2 and that change has not gone through CiCMP. And it
3 seems to me that even if a change has gone through
4 CiCMP, there may be a dispute about whether it abridges
5 or expands the rights under the agreement -- the SGAT
6 adopted by the CLEC and the CLEC should still have the
7 right to pursue dispute resolution to get that
8 clarified. So my first suggestion is the deletion of
9 the words, And that change has not gone through CiCMP.
10 MR. HYDOCK: Mike Hydock, AT&T.
11 And at this point we're not even clear
12 what that CiCMP process is going to look like, so it's
13 impossible to modify the section saying CiCMP, when we
14 don't know what CiCMP is.
15 MR. MENEZES: Right.
16 And then continuing on the fifth -- the

17 fifth line down, The parties will attempt to resolve
18 the matter under the dispute resolution process. I
19 think, Attempt to, should be deleted. It will be
20 resolved under that process.
21 And then going down -- ten lines down,
22 the line begins, Obligations in accordance with the
23 terms and conditions of this agreement. I would put a
24 period after, Agreement, and delete the rest of the
25 paragraph. And for the same reasons that we --

1 WorldCom proposed and AT&T agrees, in Section 2.2, that
2 that interim operating agreement concept is
3 inappropriate and administratively going to be
4 burdensome and unnecessary.
5 MR. BROTHERSON: We would agree to delete
6 the, Attempt to; but otherwise, I think we're at
7 impasse on this language.
8 MR. MENEZES: So the only one of my
9 proposals you will accept is deletion of, Attempt to?
10 MR. BROTHERSON: Yes.
11 MR. BELLINGER: That one was fairly easy.
12 MR. MENEZES: Thank you.
13 MS. JENNINGS-FADER: I'm sorry.
14 MS. FRIESEN: So --
15 MR. BELLINGER: Go ahead, Mana.

16 MS. JENNINGS-FADER: The first line of
17 2.3.1 ends in the word, Tariffs. So I'm curious to
18 know whether Qwest intends that its proposed tariff
19 changes would go through the CiCMP process or whether
20 the addition of the word, Tariff -- whether you intend
21 tariff to be there -- you, Qwest?
22 MR. BROTHERSON: I think it was intended
23 to relate to the expands -- or relates to Qwest's or
24 the CLECs' rights or obligations. I think we were
25 trying to say, whether it's a tariff or anything else

1 that may impact rights and obligations that --
2 MS. JENNINGS-FADER: See, I don't -- I
3 truly do not understand how -- does Qwest intend to
4 tell the CLECs about proposed changes to Qwest's
5 tariffs and thereby trigger a dispute resolution
6 process or proposed changes to tariff language; because
7 I think that's what this says. And I'm confused by
8 that.
9 (Pause.)
10 MS. JENNINGS-FADER: It reads like a
11 preventing of tariff language.
12 MS. FRIESEN: Which is fine, really, from
13 our perspective.
14 MS. JENNINGS-FADER: It strikes me as

15 odd, that's all. I'm just trying to understand that.

16 MS. HUGHES: I think that's a helpful

17 comment and we believe that the word, Proposed, should

18 be deleted.

19 MS. JENNINGS-FADER: So you are still

20 leaving, Tariff language, subject to dispute

21 resolution?

22 MR. MENEZES: Because it won't go through

23 CiCMP.

24 MS. HUGHES: Well, the issue is whether

25 there is a conflict. Or --

1 MR. MENEZES: Well, dispute resolution is

2 premised on whether the change abridges or expands the

3 rights under the SGAT and that change has not gone

4 through CiCMP. So either you are going to put the

5 tariff through CiCMP or you are not. And if you are

6 not --

7 MS. JENNINGS-FADER: Then you always are

8 going to have dispute resolution on the tariff

9 language.

10 MS. FRIESEN: Or maybe not, because --

11 MS. HUGHES: Maybe not.

12 MS. FRIESEN: I thought Mr. Brotherson,

13 when I asked this question earlier on why that language

14 was in there, said that you go back to 2.3, which means
15 that to the extent that something has not gone through
16 CiCMP and it abridges or expands, then the SGAT
17 prevails or whatever, maybe -- the interconnection
18 agreement prevails over the --
19 MS. JENNINGS-FADER: Tariff.
20 MS. FRIESEN: Yes, tariff -- over the
21 thing that hasn't gone through CiCMP and apparently
22 abridges or amends.
23 MS. JENNINGS-FADER: That's problematic
24 in Colorado; because in Colorado, tariffs are
25 substantive law. So I'm confused now as to how the

1 interconnection agreement prevails -- I'm confused --
2 well, this will be an interconnection agreement -- how
3 the SGAT prevails over substantive law. So now I'm
4 really confused.
5 MS. FRIESEN: That's what I thought I
6 understood you to say when I asked you about this CiCMP
7 process and what would happen if something did not go
8 through CiCMP and yet it either abridged or amended --
9 or does go through CiCMP and it either abridged or
10 amended; what happens?
11 MR. BROTHERSON: Maybe -- I'm thinking
12 about her comment and trying to respond to your

13 question. I don't know if they are the same thing.

14 MS. JENNINGS-FADER: I think they are

15 slightly different points.

16 MR. BROTHERSON: I've got to be sure I'm

17 responding to the right one.

18 I think what we're trying to say, in

19 cases of a conflict between the SGAT and the tariff,

20 for an example, to the extent another document abridges

21 or expands -- the other document abridges or expands;

22 but I'm not so sure a tariff would always abridge or

23 expand a party's rights under the interconnection

24 agreement.

25 MS. FRIESEN: All right, let me back up.

1 If -- you don't usually send your tariffs through

2 CiCMP, do you.

3 MR. BROTHERSON: No, not to my knowledge.

4 MS. FRIESEN: To the extent a tariff

5 abridges or expands -- the CLEC, in good faith,

6 believes that that may be the case, then it would go

7 through the dispute resolution, as I read 2.3.1,

8 correct; is that your understanding?

9 MR. BROTHERSON: Yeah, I think --

10 MS. FRIESEN: Okay.

11 MR. BROTHERSON: -- if you believe that a

12 tariff abridges a right you have under the SGAT.

13 MS. FRIESEN: Now, if -- if the release

14 notification, assessability letter, goes through CiCMP

15 and it expands or abridges the rights under my

16 SGAT/interconnection agreement, if that's what I've

17 adopted, then what do I do?

18 MR. BROTHERSON: I'm not -- what's the

19 term again, release?

20 MS. FRIESEN: The release notification or

21 the change -- this policy statement, these things you

22 guys issue through CiCMP.

23 MR. BROTHERSON: Okay.

24 MS. FRIESEN: Okay, if it goes through

25 the CiCMP process and it does abridge or amend the SGAT

1 and I've adopted the SGAT as my ICA, for example, what

2 happens; which prevails, the SGAT or the release

3 notification that's gone through CiCMP?

4 (Discussion off the record.)

5 MR. BROTHERSON: I think the -- yeah, I

6 keep thinking there is something I should be reading

7 into this, but I think the language says the SGAT

8 prevails.

9 MS. FRIESEN: Okay.

10 MR. BELLINGER: Okay, anything else on

11 this?

12 MS. JENNINGS-FADER: Okay, now --

13 MR. BROTHERSON: I don't know if I

14 responded.

15 MS. JENNINGS-FADER: My question is

16 different than that and I didn't get an answer to that.

17 And my question is: In the event of a dispute between

18 tariff -- because also, Tariff, is in 2.3, the second

19 line of 2.3; in a dispute -- in a case that there is a

20 dispute between a tariff and the SGAT language, the --

21 and the tariff -- where is the language -- and the

22 tariff -- where is it?

23 Well, conflicts, anyway, whatever;

24 then -- then the SGAT language prevails?

25 MS. HUGHES: Excuse me a second.

1 MS. JENNINGS-FADER: Let's take it

2 section by section. Let's go to 2.3, first, and focus

3 on that. And there it clearly says, in case of

4 conflicts between SGAT and Qwest's tariffs, the SGAT

5 prevails, correct?

6 MR. BROTHERSON: Unless otherwise

7 specifically determined by the Commission.

8 MS. JENNINGS-FADER: Okay. So does that

9 mean every time the Commission issues -- every time the

10 Commission issues an order with respect to a tariff
11 offering of Qwest's, the Commission -- or a change in
12 either a new offering or a change in a term and
13 condition or a change in the price or anything else,
14 the Commission has to make a specific determination
15 that the SGAT language is superseded by the
16 Commission's tariff finding?
17 MR. BROTHERSON: No, I wouldn't think
18 that at all.
19 MS. JENNINGS-FADER: Well, what --
20 MR. BROTHERSON: I would think most
21 decisions of the Commission would not necessarily be in
22 conflict with anything in the tariff -- excuse me, in
23 the SGAT.
24 MS. JENNINGS-FADER: Okay. Now, actually
25 there -- this actually breaks down into two pieces; and

1 now this is getting more complicated for me as
2 Commission counsel, trying to understand how this works
3 with tariffs; because tariffs can go into effect by
4 operation of law, in which event the Commission has
5 never done anything; it's just a passage of time that
6 brings it into effect. Or it can be suspended for
7 investigation by the Commission, in which event there
8 would be a specific Commission order which -- that

9 implements or that puts that tariff into effect or
10 denies the tariffs going into effect, whatever the
11 decision is.
12 So now I'm confused. Let's talk about
13 operation of law. How does the Commission make a
14 specific determination -- how does it know about a
15 conflict? How does it make a specific determination as
16 to which documents prevails in the instance in which a
17 tariff filing by Qwest goes into effect by operation of
18 law?
19 MR. BROTHERSON: Well, the Commission may
20 or may not -- the parties may or may not know; but if
21 there is a good-faith dispute between the CLEC and
22 Qwest that one party or the other says, hey, we believe
23 that the effect of this tariff is that it's in conflict
24 with the SGAT; then we're going to try to get the
25 matter resolved and I'm down in the language in 2.3.1.

1 And if we have to, we'll go through the dispute
2 resolution process and that there will be a
3 determination as to whether or not it is in fact in
4 conflict. And our language provides that there will
5 even be a provision of how the parties are to operate
6 on an interim basis while the matter is being resolved.
7 MS. JENNINGS-FADER: Okay. So -- okay.

8 And that's true, irrespective of whether it's gone into
9 effect by operation of law or gone into effect as a
10 result of suspension and investigation.
11 MR. BROTHERSON: Yes.
12 MS. JENNINGS-FADER: And in the interim
13 period, either the expedited dispute resolution process
14 or Qwest's proposal found in 3. -- 2.3.1 for the
15 interim operating agreement, however that works out;
16 during that interregnum period, the SGAT prevails over
17 the tariff.
18 MR. BROTHERSON: Yes.
19 MS. JENNINGS-FADER: Okay. Am I also
20 correct that 2.3.1 only gives the CLEC the opportunity
21 to raise the point of conflict; Qwest doesn't have that
22 right?
23 MS. HUGHES: That's an interesting point.
24 Could we take a minute or two?
25 MS. JENNINGS-FADER: Sure. Caucus away.

1 (Recess.)
2 MR. BELLINGER: Okay, you had your
3 caucus -- you had long enough?
4 MS. HUGHES: We have.
5 MR. BELLINGER: And -- nothing?
6 MR. BROTHERSON: I -- we just kept

7 reiterating, to make it very clear, in cases of
8 conflict --
9 MS. JENNINGS-FADER: Okay.
10 MR. BROTHERSON: -- that the SGAT
11 prevails.
12 MS. JENNINGS-FADER: Okay.
13 MR. BELLINGER: You had a question,
14 Megan?
15 MS. DOBERNECK: I do. And I cross my
16 fingers, this is not a difficult one: 2.3.1, that
17 first line, If a CLEC disputes -- and jump over a lot
18 of verbiage, but as I read it, it is if CLEC disputes
19 whether its rights or obligations under the SGAT are
20 abridged or expanded -- I mean, to me that doesn't make
21 any sense. I don't think the CLECs can be disputing
22 whether it abridges or expands; the CLEC will believe
23 it bridges or expands. I don't think there is a
24 dispute over what the impact is -- the CLEC will be
25 saying, This does abridge or expand. So I don't think

1 using, Dispute, makes any sense. And I would propose,
2 If the CLEC believes, in good faith; it seems to me
3 that captures actually what we're talking about.
4 MS. FORD: We can make that change.
5 MS. HUGHES: Delete, Disputes, and

6 insert, Believes?

7 MR. DIXON: Can you restate -- if CLEC

8 disputes --

9 MR. MENEZES: Beliefs, strike --

10 MR. BELLINGER: Okay, I think we finished

11 that.

12 I would suggest we move on to -- I would

13 suggest, by the way, we at least go to 6 and see how we

14 do.

15 MS. HUGHES: Before we leave 2.3.1, one

16 of the issues we discussed over the break was Mana's

17 suggestion as to whether 2.3.1 should be reciprocal or

18 the question about -- right now, it is not reciprocal.

19 Qwest would propose to change it to make it reciprocal

20 so that both CLECs and Qwest would equally have the

21 ability to bring the matter to dispute resolution under

22 2.3.1.

23 MR. BELLINGER: Okay.

24 MS. JENNINGS-FADER: At the risk of going

25 backward in time, I think there was a similar --

1 whatever the other issue was we discussed about going

2 to dispute resolution a little earlier, also with CLEC

3 only --

4 MS. HUGHES: Is it 2.2?

5 MS. JENNINGS-FADER: I don't know -- one
6 issue back or something.
7 MS. HUGHES: 2.2?
8 MR. BELLINGER: I think we're going to
9 change the subject when we go to G-26.
10 MS. JENNINGS-FADER: You might want to
11 take a look at that, because I think that also was CLEC
12 only, not Qwest initiated -- it's just a note.
13 MR. BROTHERSON: Okay.
14 MR. BELLINGER: G-26, one indication is
15 it's closed, but AT&T indicates it's open but agreed
16 to.
17 MS. FORD: We used different terminology.
18 When I say, Closed, it means the same thing as their,
19 Open and agreed to, 99 percent of the time.
20 MR. BELLINGER: You are indicating it
21 hadn't really been discussed here.
22 MR. BROTHERSON: Agreed to elsewhere, but
23 open.
24 MR. BELLINGER: Can you just kind of
25 summarize the issue real quick?

1 MS. FRIESEN: Are we on G-20 --
2 MR. BELLINGER: '6.
3 MS. JENNINGS-FADER: '6.

4 MS. FRIESEN: I can do this, Larry.

5 MR. BELLINGER: All right.

6 MS. FRIESEN: If you take a look at

7 Qwest's 6-Qwest-60, their G-26, AT&T had questioned

8 what part of this thing called a CLEC Questionnaire was

9 necessary to be filled out; and there was some

10 confusion over precisely what version of the CLEC

11 Questionnaire there was. In another workshop, Qwest

12 brought forward Version 16 of a CLEC Questionnaire and

13 went through that to define what portions of that thing

14 had to be filled out, which I think they have reflected

15 in 6-Qwest-60, with respect to G-26. And AT&T agreed

16 with that clarification.

17 MR. BELLINGER: Okay.

18 MS. JENNINGS-FADER: Okay, just a quick

19 question: Is the language shown in G-26 the actual

20 Section 3 language already reflected in 6-Qwest-61?

21 MR. BROTHERSON: Yes.

22 MS. JENNINGS-FADER: Thank you.

23 MR. BELLINGER: Okay.

24 MR. DIXON: On behalf of WorldCom,

25 WorldCom is also satisfied that G-26 is closed.

1 We did raise some issues about Section 3

2 and in Mr. Schneider's testimony; however, the language

3 that has been proffered on pages 9 and 10 of 6-Qwest-61
4 solves that issue.
5 I will note there is a typographical
6 error on page 10, under Section 3.2.2, the word,
7 Occurred, is misspelled. It's about the --
8 MR. BELLINGER: Where are you, Tom?
9 MR. DIXON: I'm on page 10 of the SGAT.
10 MS. JENNINGS-FADER: Of the SGAT?
11 MR. BELLINGER: Oh, the SGAT, 61.
12 MR. DIXON: 6-Qwest-61, the SGAT; there
13 is a section now numbered 3.2.2. It's all the
14 underlined information that followed what used to be
15 3.3. And on the fourth line, there is a the word,
16 Occurred, which is misspelled.
17 MR. BROTHERSON: We've got it.
18 MS. HUGHES: We've got it.
19 MR. BELLINGER: Glad you got that.
20 Okay. So that means we could move to
21 G-27.
22 MR. BROTHERSON: Right.
23 G-27 is definitions; and --
24 MR. BELLINGER: That is the one you want
25 to do in the morning.

1 MR. BROTHERSON: That's the one we want

2 to do in the morning. We'll have additional parties
3 here.
4 MS. FORD: We would like to hand out a
5 working draft that we have been using. We would like
6 to hand out a working draft that addressed definition
7 that everybody can look at this evening.
8 MR. MENEZES: This is revised from the
9 last draft that was shared among CLECs?
10 MS. FORD: It has the two changes you-all
11 agreed to today in it; but otherwise, it's what went
12 out on Friday.
13 (Discussion off the record.)
14 MR. BELLINGER: Okay, G-28.
15 MR. BROTHERSON: G-28, we simply deleted
16 5.1.1 and everyone agreed.
17 MR. BELLINGER: What was the concern?
18 MR. BROTHERSON: Will comply with an
19 implementation schedule, and there is no implementation
20 schedule.
21 MR. BELLINGER: What was the
22 implementation schedule for?
23 MR. BROTHERSON: I don't remember what
24 the implementation schedule was because it was removed
25 very early on and there is no implementation schedule

1 as part of the SGAT. So any reference to it was
2 deleted and the parties agreed to it.
3 MS. JENNINGS-FADER: This was decided at
4 some point --
5 MR. DIXON: Let me help you out. I'll
6 take you -- there was an implementation schedule
7 discussion in Section 3.
8 MR. MENEZES: Right.
9 MR. DIXON: And that is some of the
10 language that was stricken. And so by striking it in
11 Section 3, the corresponding change would be in Section
12 5.1.1.
13 This way maybe we can get out sooner
14 tonight.
15 MR. BELLINGER: Okay.
16 G-29?
17 MR. BROTHERSON: G-29, 5.1.3, had to do
18 with service impairment. The original language -- I
19 think we had discussions here on this issue, as well,
20 because I recall Wendell --
21 MS. HUGHES: We did have discussion.
22 MR. BROTHERSON: And I think we
23 incorporated the changes that the Commission staff
24 proposed and I think that issue was closed.
25 I think the parties agreed to the

1 language. And also Wendell had a couple comments and
2 we incorporated those in the last round.
3 MS. FRIESEN: I think that's correct.
4 AT&T -- we had started a preliminary discussion with
5 Warren.
6 MR. BROTHERSON: With Warren, yes.
7 MS. FRIESEN: And it went to other
8 jurisdictions and it was ultimately closed as a result.
9 MR. BELLINGER: Okay, we can do that.
10 MR. BROTHERSON: That affects 29-A.
11 MR. BELLINGER: What do you mean, 29-A --
12 you mean 30?
13 MR. BROTHERSON: 29 is closed.
14 G-30 -- G-30 was also closed.
15 MR. BELLINGER: Can you just -- why
16 don't -- all I need is something about what the issue
17 is.
18 MR. BROTHERSON: We had a two-year term
19 in the contract. WorldCom wanted a three-year term.
20 We made the change to three year.
21 MR. BELLINGER: The SGAT is a three-year
22 document?
23 MR. BROTHERSON: Uh-huh, yes.
24 MR. BELLINGER: Okay.
25 MR. DIXON: There's a little more to it,

1 though.

2 MR. SCHNEIDER: Right.

3 MR. DIXON: First of all, we want to

4 thank Qwest for agreeing to our three-year term. The

5 issue, though, that we also have becomes how long the

6 agreement is effective; and that gets into Section

7 5.2.2 that I assume appears to still be under

8 Section -- or G-30. And we do have concerns with the

9 5.2.2, which my witness can elaborate on.

10 Michael?

11 MR. SCHNEIDER: Basically the way this

12 happened was, we were arguing for the three-year term;

13 and I got an E-mail that said that they agreed to the

14 three-year term. And this is the first time I've seen

15 the language for the -- for the term section, itself.

16 I had proposed language that we -- or

17 that I proposed in my testimony, back I think in May of

18 this year, that has term language in it -- that has the

19 three-year term that provides for either party being

20 able to request negotiations after the three-year term

21 expires. However the agreement will continue to be in

22 full force and effect until it's superseded by a

23 subsequent agreement that we have negotiated and the

24 Commission has put into effect.

25 MR. BELLINGER: Is that in 5.2.2.1?

1 MR. SCHNEIDER: 5.2.2.2.

2 The way this language is, it is that

3 either party can request negotiations 160 days after

4 the agreement -- the term runs out. And it says, The

5 date of this notice will be the starting for 160-day

6 negotiation window under Section 252 of the Act.

7 The ILEC doesn't have the authority,

8 under Section 252 of the Act, to start the 252 clock;

9 that's the CLEC that starts that clock. So, again, I

10 would propose the term language in my testimony that's

11 on file.

12 MR. BROTHERSON: Well, I think, first of

13 all, that by agreeing to this the parties can agree the

14 clock would start at the request of those negotiations.

15 Short of that, if the CLEC never requests to negotiate,

16 and then there is no clock that starts -- even if Qwest

17 requests to negotiate, there is no clock that starts

18 and the contract never proceeds to arbitration.

19 MR. DIXON: Well, let me suggest some

20 thoughts on that. We all have what are called

21 evergreen clauses -- I say all, I can't speak for every

22 CLEC, but I can speak for a number of contracts I've

23 seen that have what are known as evergreen clauses in

24 the interconnection agreements. Those evergreen

25 clauses are not unlimited. They do have the ability of

1 the parties to request negotiation of one another. And
2 our suggestion would be to try and incorporate what
3 this Commission previously approved in both the
4 MCImetro and the AT&T contract which addressed this
5 very issue; that those contracts both have three-year
6 terms; but what they also have is a concept that those
7 agreements continue in full force and effect until a
8 contract replaces those agreements that have been
9 approved by the Commission.
10 And those agreements also have some
11 concepts about the parties acting in good faith and
12 requesting -- negotiating with one another within one
13 year prior to the expiration of the contract date, for
14 example.
15 So our suggestion would be -- we did
16 provide specific term language, as Mr. Schneider
17 referenced by cross-referencing our own definition of
18 term in the agreement. So it's the MCI boilerplate
19 language that we've talked about before that's attached
20 to Mr. Schneider's testimony. But the other place I'm
21 suggesting you might look would be at some
22 interconnection agreements. And we would suggest
23 language that's previously been approved by the

24 Commission as appropriate here.

25 We also suggest that because this SGAT,

1 while it's a statement of generally available terms,
2 has the ability to become an interconnection agreement
3 by merely putting your name on the dotted line. So at
4 that point, particularly how long this contract is
5 going to exist has some relevance. And the concern we
6 have is that with Qwest's proposed language, one, we
7 don't believe Qwest has the right to initiate an
8 arbitration -- I believe they can initiate negotiation.
9 And using what's in the existing contracts, the good-
10 faith retirement applies as well.
11 We believe that addresses and mitigates
12 Qwest's concern about us just sitting there forever
13 with effectively a contract that violates the rule
14 against perpetuities.
15 MR. BROTHERSON: You know, I just don't
16 believe that it's appropriate to -- to let something
17 like that ride on statements of good faith; to say,
18 well, you know, the contract should have a definite
19 expiration date, if -- if we don't have the right to --
20 if the parties can't agree that the clock is going to
21 start upon request, because that's a unilateral -- or
22 that that's something an ILEC can't do. Then, in

23 effect, this contract could go on in perpetuity or
24 until such time as a CLEC requested arbitration.
25 And to say we would exercise good faith,

1 I think is just not good drafting. I think the
2 appropriate thing to do, then, if it's the position of
3 MCI that this language wouldn't trigger an arbitration
4 date, is to just have the contract expire at the end of
5 three years, end of story. The parties would then have
6 to negotiate new language.
7 I think we'll just to go impasse on this.
8 MS. JENNINGS-FADER: Okay. So is -- is,
9 A -- well, is there an A and a B here; A is the three-
10 year term, and B is the extension of the contract or
11 the due -- or the renegotiating of the contract?
12 MR. BELLINGER: Why don't you just state
13 what you understand it to be -- Tom, do you want to do
14 B?
15 MR. DIXON: Pardon me?
16 MR. BELLINGER: What is your impasse
17 over?
18 MR. DIXON: Our impasse issue deals with
19 specifically Section 5.2.2. And the impasse issue is
20 whether Qwest can initiate arbitration under Section
21 5.2.2, and thereby limit the CLEC rights. And -- that

22 might be just sufficient unless you want more.

23 MR. BELLINGER: Limit CLEC rights?

24 MR. DIXON: Yes, under the Federal Act.

25 MS. HUGHES: I'm sorry, Tom, could you

1 state -- frame the issue again as you would frame it?

2 MR. DIXON: Could I ask my friend

3 Mr. Midyett to read it back.

4 (Whereupon, the pertinent statement was

5 read back.)

6 MS. JENNINGS-FADER: I think you added

7 later, under the Act, to make it specific to what

8 rights you were talking about.

9 MR. DIXON: Yes.

10 (Pause.)

11 MR. DIXON: Are we okay?

12 MR. BELLINGER: Okay.

13 MR. BROTHERSON: I'm okay with the issue

14 going to impasse.

15 MR. DIXON: Right, that's what I mean.

16 MR. BROTHERSON: I think your

17 interpretation of 5.2.2 raises an issue, then, whether

18 or not we would continue to proffer two -- 5.2.2 as

19 language, if your reading of it is that the agreement

20 continues until such time as a only the CLEC requests

21 new negotiations.

22 Our reading of it initially was that the

23 parties, by agreeing to this language, would create

24 what the date is that the clock starts. And if it is

25 your reading that this language will not create a start

1 date for the clock, that the clock will not start until

2 the CLEC chooses to start it, then -- then we would

3 want to qualify the offering of 5.2.2.

4 MR. DIXON: Let's do this. We'll leave

5 it at impasse. We'll certainly go back and compare

6 this language to our interconnection agreement. We're

7 willing to go along with what we've done before, it

8 just seemed this was different. I don't have our

9 interconnection agreement with us, so we'll take a look

10 at it to confirm.

11 MS. JENNINGS-FADER: Tom, you don't have

12 it on your computer?

13 MR. BELLINGER: You have everything else.

14 MR. DIXON: I was forced to unload some

15 things off of my computer. It was getting much too

16 slow, even for me.

17 MR. BROTHERSON: Right. I think also,

18 if -- you know, we thought we had closed this issue,

19 Tom, in Washington. And I think if -- if we haven't --

20 and we're at impasse, I think we'll just go to impasse
21 on 5.2.2 and withdraw the three years, as well; because
22 I think that -- that impacts a lot of other things in
23 terms of how we would present our arguments.
24 MR. DIXON: I understand.
25 As I said, if we could reach agreement --

1 to the extent you believe you are in agreement in
2 Washington, I cannot confirm that.
3 MR. BROTHERSON: Okay, I have --
4 MR. DIXON: But I will independently
5 review this and go over it; and if we change our
6 position, we'll let you know. And if you don't hear
7 differently, we'll be at impasse. And your offer to
8 give us a three-year term will have lapsed, as I
9 understand it.
10 MS. HUGHES: Tom, you may want to review
11 the record in Washington. And as Larry said, it was
12 our understanding by agreeing to the three-year term,
13 we had completely closed the issue. So if that's not
14 the, case then we would withdraw the --
15 MR. DIXON: I understand.
16 MS. HUGHES: -- three years.
17 MR. DIXON: I understand, one was in
18 exchange for the other.

19 MR. BELLINGER: Okay. We'll go to G-31

20 then.

21 (Discussion off the record.)

22 MR. BROTHERSON: G-31 is the payment

23 section. I believe this was discussed and agreed to

24 here. Is that what your notes reflect?

25 MS. JENNINGS-FADER: Nope.

1 MR. BROTHERSON: No?

2 MR. BELLINGER: I don't think so.

3 (Discussion off the record.)

4 MR. BROTHERSON: It was discussed here.

5 MS. FRIESEN: Yes.

6 MS. BEWICK: We did talk about it here.

7 MS. HUGHES: I think we did talk about it

8 here.

9 MS. FRIESEN: I looked at the transcript.

10 I think we did.

11 MS. BEWICK: I don't know that we closed

12 it here.

13 MS. JENNINGS-FADER: With this language?

14 MR. MENEZES: I think there have been

15 language changes since then.

16 (Discussion off the record.)

17 MS. JENNINGS-FADER: Okay, if it was

18 discussed in Colorado, my question is, Was it discussed
19 in Colorado with the language as it now appears on
20 pages 16, 17, 18, 19, and 20 of Exhibit 6-Qwest-60; is
21 it?
22 MS. BEWICK: My recollection is that the
23 language has shifted.
24 MR. McDANIEL: Is that the same as
25 changed?

1 MS. HUGHES: That's the same as changed?
2 MR. BELLINGER: Larry, are you all going
3 to comment on this or --
4 MR. BROTHERSON: Yeah, we proposed
5 initial language; comments were filed by both WorldCom
6 and AT&T. And in addition, there have been a lot of
7 both on-the-record and off-the-record discussions. We
8 have made a lot of the language reciprocal where it was
9 one way or the other. We've limited to the -- the
10 process to only those charges that are in dispute.
11 We've made it clear that parties have rights to -- to
12 seek additional remedies. We've addressed -- we've
13 tried to make it clear that this is for only disputed
14 charges; that is to say, we're not disputing them, we
15 just aren't going to pay them -- that type of scenario,
16 as opposed to, we have a good-faith dispute over an

17 issue.

18 We've talked about the time frames to

19 respond to the disputes. We clarified the terms

20 relevant to services; when we talked about, if you

21 don't pay for the -- pay for a service, we won't work

22 the order on that service.

23 We talked about applicable late charges.

24 If a party pays the disputed charge and then it turns

25 out that the dispute is resolved in their favor, we

1 talked about providing for interest on the moneys that

2 were paid.

3 I think that's the bulk of the changes

4 that are reflected in 5.4.

5 MR. BELLINGER: I think New Edge had a

6 lot of comments on this section.

7 MS. BEWICK: I did. And a lot -- most of

8 my -- I haven't reviewed this language since we talked

9 about it here; and so when we talked about it here,

10 most of my issues were resolved in the language

11 changes. But I have to look at it again because I

12 don't know if when it -- the traveling SGAT moved, if

13 anything that we agreed upon got changed by somebody

14 else.

15 MR. MENEZES: One of the things that

16 changed that we did talk about here is 5.4.4.3. And,
17 Penny, you were part of that discussion, I think, which
18 if we dispute a charge and we discover the error after
19 the bill has been paid, there are other ways to go
20 about disputing it other than the audit process.
21 MS. BEWICK: Okay.
22 MR. MENEZES: So you may want to take a
23 look at that to make sure that satisfies the concern
24 you had.
25 MS. BEWICK: Okay, thank you.

1 MS. FORD: There is a related issue on --
2 MR. McDANIEL: We have to wait for
3 Michelle.
4 MS. HUGHES:
5 MS. FORD: Oh, okay. We'll hold on that.
6 It's way back.
7 MS. QUINTANA: She's not coming.
8 MR. McDANIEL: Michelle not coming?
9 MS. QUINTANA: I'm handling it. I was
10 going to wait until G-57, but we can do it now.
11 MS. FORD: That was it, G-57, add
12 language that allows the Commission, on a confidential
13 basis, to receive notification from Qwest if it is
14 discontinuing processing orders or disconnecting a

15 company. So we have inserted that language into 5.4.2
16 and 5.4.3.
17 MS. QUINTANA: Well, that's the issue,
18 though: You haven't. The COIL says that you have, but
19 it's not in --
20 MS. FORD: It's not in there yet, right,
21 because we filed that before I came up with this. But
22 we'll get it in there.
23 MS. JENNINGS-FADER: So the language --
24 MR. McDANIEL: We haven't agreed to it on
25 the record.

1 MS. JENNINGS-FADER: The language that
2 appears on pages 41 and 42 of 6-Qwest-60 will be
3 incorporated into the SGAT; is that the proposed
4 language?
5 MS. FORD: Yes.
6 MS. JENNINGS-FADER: Okay. Thank you.
7 MS. QUINTANA: And how do you propose
8 doing that? Will we get an exhibit -- because we've
9 heard this before --
10 MS. FORD: We can do an exhibit.
11 MS. QUINTANA: -- since the resale --
12 MS. FORD: We'll do an exhibit.
13 MR. McDANIEL: But we've never gotten

14 formal agreement from the rest of the group that it's
15 okay. So we would like to get that on the record that
16 they agree and are okay with it.
17 MS. QUINTANA: And one change, though,
18 that Paul and I discussed off line that the CLECs
19 should be aware, with the changes in these two sections
20 5.4.2 and 5.4.3 that are now contained in the SGAT Lite
21 filed for this workshop, 61, the Qwest obligation has
22 changed to the billing party. So my assumption from
23 that is that potentially it could be the CLEC or Qwest
24 that is the billing party.
25 And if it is in fact the CLEC, then the

1 CLEC would also have this obligation to notify the
2 Commission, on a confidential basis, in the event that
3 the CLEC is stopping provisioning of service and/or
4 disconnecting another party.
5 MR. DIXON: Help me out, just of -- to
6 see if my memory is still working, is this the issue
7 that was raised by the Office of Consumer Counsel
8 during resale?
9 MS. QUINTANA: It is.
10 MR. DIXON: And there were a number of
11 concerns about how to address the Office of Consumer
12 Counsel's issue and there was a meeting held

13 subsequently. And this is the issue that was agreed to
14 in the resale workshop, correct?
15 MS. QUINTANA: Correct. But it was
16 unfortunately never put into the SGAT. And so this is
17 just a cleanup from that.
18 But as Paul stated, Qwest would like an
19 affirmation from the CLECs that this language is okay.
20 MR. DIXON: Let me just ask one further
21 question: Was this issue not, though, a COIL issue for
22 the resale workshop?
23 MS. QUINTANA: It was.
24 MR. DIXON: There was it was an issue
25 that theoretically could have been addressed in the

1 briefs that were filed relative to Workshop 2?
2 MS. QUINTANA: No, because it was closed
3 in that workshop.
4 MR. DIXON: That's my point, it was
5 closed because of agreement.
6 MS. JENNINGS-FADER: To move it to here.
7 I'm talking now on the -- it was closed
8 because of an agreement; and then when the language
9 subsequently didn't appear in the SGAT, we -- in any of
10 its subsequent iterations, there needed to be a place
11 to put it. And so here it is.

12 And, furthermore, this language is a
13 change since the original agreement, right -- the
14 original agreement didn't say, Billing party, right?
15 MR. DIXON: Now, as I understand it, the
16 5.4.2 and 5.4.3 language that, first of all, is the
17 operative language as between the Office of Consumer
18 Counsel issue and the resolution reached in the resale
19 workshop is that which is underlined in -- on page 42
20 of 6-Qwest-60; am I correct? That's the business that
21 says, And the Commission on a confidential basis,
22 meaning they will be notified?
23 MS. QUINTANA: Yes.
24 MR. DIXON: That was the agreed-upon
25 language.

1 MS. QUINTANA: Correct.
2 MR. DIXON: That's fine.
3 From WorldCom's perspective, 5.4.2 and
4 5.4.3 is acceptable to WorldCom as a formal affirmation
5 of our position.
6 With respect to making reciprocal -- just
7 out of curiosity, can you tell me what services you
8 think we might disconnect you on -- I'm just curious --
9 under the SGAT now, as opposed to any other
10 arrangements we might have? Is there something in

11 particular somebody was thinking about?

12 MS. QUINTANA: The only reason I brought

13 that up, Tom, is the changes in 5.4.2 and 5.4.3 used

14 to -- it used to say, Qwest may discontinue, blah,

15 blah, blah, blah, blah. Now it says, One party -- or

16 the billing party. And so I can't personally think of

17 any circumstances where the CLEC would be disconnecting

18 Qwest --

19 MR. DIXON: I was just curious.

20 MS. QUINTANA: -- but the Commission

21 would want to know if that's going to happen.

22 MR. DIXON: I don't believe, at this,

23 point WorldCom can shut Qwest down by turning our

24 billing system off; but be that as it may, I don't

25 foresee a problem with that change either.

1 MS. QUINTANA: We would be concerned with

2 that.

3 MR. DIXON: I just couldn't think of an

4 example.

5 MS. BEWICK: I would love to get that

6 complaint.

7 MR. DIXON: Wouldn't that be great?

8 MS. HUGHES: So --

9 MR. DIXON: With that, there were two

10 nits in this section that we -- I wanted to raise.

11 MS. QUINTANA: Well, before we go on,

12 Tom, does everyone else agree with that language?

13 MR. MENEZES: AT&T is okay with it.

14 MS. QUINTANA: So Qwest will do an

15 exhibit, please, and circulate it with that language?

16 MS. JENNINGS-FADER: How about other

17 CLECs?

18 MS. QUINTANA: I saw heads nodding.

19 MR. BELLINGER: New Edge and Covad are

20 okay?

21 MS. BEWICK: Yes.

22 MR. ZULEVIC: Yes.

23 MR. BELLINGER: Okay.

24 MR. DIXON: May I address those nits,

25 then -- just a minute.

1 MR. BELLINGER: Go ahead.

2 MR. DIXON: On Section 5.4.5, there is a

3 discussion about halfway through about repeatedly

4 delinquent, in which that section is in quotation

5 marks. Do you see where I'm working, first of all?

6 MS. JENNINGS-FADER: I'm sorry, are we

7 now back talking about issue G-32?

8 MR. BELLINGER: 31.

9 MR. DIXON: 31, not 32.

10 MS. JENNINGS-FADER: I'm sorry, 31.

11 MR. DIXON: Yes, I'm going back to --

12 MS. HUGHES: We're finished with G-57?

13 MR. DIXON: As far as I knew, unless

14 there was somebody else that want to comment.

15 MR. BELLINGER: No, that was okay.

16 MR. DIXON: So G-57 is closed, with

17 language to come.

18 All right, on 5.4.5, in the middle of

19 that paragraph, after all of the underlined language,

20 there is a discussion regarding, Repeatedly delinquent,

21 in quotes. And if you continue on down, you will see

22 that there is a reference to -- I'll just read the

23 place I'm at: Repeatedly delinquent means any payment

24 received 30 days or more after the due date. I would

25 recommend before the word, Due date we, insert,

1 Payment, because payment due date is a defined term in

2 Section 5.4.1.

3 MS. HUGHES: I think it's just, Due date.

4 MR. DIXON: So I would recommend we

5 insert, Payment due date. You will see that in 5.4.1.

6 MS. HUGHES: Can we have a second to look

7 at that?

8 MR. DIXON: Sure.

9 MS. JENNINGS-FADER: Tom, I'm confused.

10 (Discussion off the record.)

11 MS. JENNINGS-FADER: I am confused about

12 something.

13 MR. DIXON: Okay.

14 MS. JENNINGS-FADER: Where is -- where

15 is, Payment due date, defined?

16 MR. DIXON: Okay, first, you need to go

17 to 6-Qwest-61, which is the SGAT Lite.

18 MS. JENNINGS-FADER: See, I'm confused

19 because I thought the language that we were working off

20 of, for this section, is found in 6-Qwest-60, where the

21 entire section is restated.

22 MR. DIXON: I apologize. It may well be

23 there, but I thought let's work from the SGAT instead

24 of the other documents. So I understand your

25 confusion.

1 MS. JENNINGS-FADER: So now I go to 54 --

2 I can do this.

3 MR. DIXON: 54.1. And my first

4 suggestion, Mana, to direct your attention, would be to

5 go to page 20 --

6 MS. HUGHES: 1.

7 MS. JENNINGS-FADER: Yeah.

8 MR. DIXON: -- of that section; and if

9 you look in 5.4.1, you will see reference to something.

10 MS. JENNINGS-FADER: It's a

11 parenthetical. So it's not capital P, capital D,

12 capital D.

13 MR. DIXON: Apparently we didn't follow

14 the same approach that we have historically -- but you

15 make a good point, that it should be fixed by someone

16 that gets this all consistent.

17 Turning to 5.4.5, which is what I was

18 raising --

19 MS. JENNINGS-FADER: Thank you.

20 MR. DIXON: -- there is a reference to

21 due date; and the due date we were referring to, I

22 believe, is -- parenthetical payment -- due date, which

23 has a non-capital P, non-capital D, non-capital D

24 definition.

25 Perhaps someone should fix that, given

1 your definition.

2 MR. BELLINGER: That was a hard nit. Do

3 you have another one?

4 MR. DIXON: It wasn't intended to be

5 hard.

6 The second one was -- these were comments
7 that were provided to me by my Washington attorney
8 before she left, which is why I had these.
9 Continuing with that same section, right
10 below that, the next sentence begins, The deposit may
11 not exceed the estimated total monthly -- does
12 everybody see where I'm at? And if not, if you will
13 raise your hand --
14 MS. QUINTANA: I'm sorry, which section?
15 MR. DIXON: We're still in 5.4.5.
16 MS. QUINTANA: Thank you.
17 MR. DIXON: It says, The deposit shall
18 not exceed the total monthly charges for a two-month
19 period within the first three month -- three months for
20 all services. It was my understanding that that was
21 actually changed from the first three months to the
22 most recent three months. Does that -- is that
23 consistent -- as I said, this was provided me from
24 Washington, not from anything I did. So I'm
25 reporting -- I'm providing legal hearsay from another

1 lawyer -- that's something other than what's here.
2 MS. BEWICK: Some of us may prefer the
3 first three months, Tom.
4 MR. DIXON: I'm simply indicating I was

5 advised that was something that had been done in
6 Washington.
7 MS. BEWICK: Thanks for the help.
8 MS. HUGHES: May we just have a moment?
9 MR. DIXON: Huh?
10 MS. HUGHES: May we have a moment to
11 reflect on that?
12 MR. DIXON: I will also say this, if
13 we're in error or the Colorado group didn't want to do
14 this, I don't care. I raised it because it was simply
15 brought to my attention that this was the only problem
16 with this section.
17 MS. HUGHES: If you can give us a minute,
18 I think we can respond.
19 (Exhibit No. 6-ATT-72 marked for
20 identification.
21 (Discussion off the record.)
22 MR. DIXON: Let's go on the record.
23 I'll withdraw the request. My cohorts
24 have said no, so I'm fine. I don't want to raise a red
25 haring, so we'll leave it as is.

1 And with that, WorldCom will accept
2 Section 5.4 as written.
3 MS. JENNINGS-FADER: What about, Payment

4 due date?

5 MR. DIXON: That is, I understand, agreed

6 to.

7 MS. HUGHES: The second comment -- we've

8 had a chance to look at it -- we don't reflect that the

9 suggestion you made was in fact made. So I think we're

10 clear we will leave the language as it is.

11 MR. BELLINGER: That's what the other

12 CLECs wanted, too. I'll leave it as it is.

13 MR. BROTHERSON: We got you off the hook,

14 Tom.

15 MR. DIXON: I'm saying 5.4, with the

16 adding of the word, Payment, WorldCom is willing to

17 walk away from it.

18 MS. JENNINGS-FADER: So it's still

19 closed.

20 MR. BELLINGER: Any other comments on

21 G-31?

22 MR. MENEZES: Well --

23 MR. BELLINGER: Okay.

24 MR. MENEZES: -- I do --

25 MR. BELLINGER: I'm sorry?

1 MR. MENEZES: This is, again, probably a

2 nit; but in 5.4.6, fourth line down, there is a

3 reference to a two-year term. And I guess it depends
4 on where we end up with term, based on the conversation
5 we had. But it should be consistent, I think; if it's
6 a three-year term under 5.2, then I think that should
7 be a reference to three-year term.
8 MS. QUINTANA: Not any more.
9 MR. BROTHERSON: Why don't we just say
10 the term of the agreement?
11 MR. MENEZES: Expiration of the term? Is
12 that what it is?
13 MR. DIXON: Can you clarify -- maybe
14 Qwest can -- were you referring to the two-year term of
15 the agreement or some other two-year term; because it
16 doesn't say the earlier of the two-year term of the
17 agreement or -- do you know if that was the intent --
18 MS. HUGHES: Just a second.
19 MR. DIXON: -- or if there is some other
20 two-year term referenced?
21 MR. BROTHERSON: I think it was the two-
22 year term -- let me go back and double-check.
23 (Discussion off the record.)
24 MR. BROTHERSON: No, there wasn't, Tom.
25 MR. BELLINGER: What did you decide?

1 MR. BROTHERSON: He asked if there was a

2 reference somewhere else to a two-year period in that
3 section, and I don't believe there is. It's just the
4 two-year term. And my recollection -- in fact, I'm
5 sure that that relates to the term of the agreement.
6 MR. BELLINGER: So would you like to
7 change it?
8 MR. BROTHERSON: Well, actually we've
9 withdrawn the three-year offer in the earlier section,
10 in light of the fact we're at impasse on that issue; so
11 I think it reads correctly, as far as Qwest is
12 concerned. But to the extent that a Commission would
13 rule differently on the term of the agreement, it would
14 impact this section.
15 MR. BELLINGER: Mana?
16 MS. JENNINGS-FADER: Could I suggest
17 something along the lines of what AT&T, I think,
18 suggested? And that is that we take out a specific
19 year reference and just make it the term of the
20 agreement, if that's what it is, so we don't have to go
21 back and change it in the event something happens?
22 MS. FORD: That's a good idea.
23 MR. BELLINGER: I thought that's what
24 Larry was going to do.
25 MR. BROTHERSON: That's fine.

1 MS. HUGHES: So we're just going to
2 delete the reference to the two year; delete the,
3 t-w-o, parenthetical numeral 2?
4 MS. FORD: And insert --
5 MR. BELLINGER: Of the agreement?
6 MR. BROTHERSON: Of the agreement.
7 MS. HUGHES: Insert, Of the agreement,
8 after the word, Term.
9 MS. JENNINGS-FADER: Then we don't have
10 to go back and fix anything.
11 MS. HUGHES: Joanne, did you get that?
12 MS. JENNINGS-FADER: Of course.
13 MR. BELLINGER: Okay. Are you ready to
14 go to 32?
15 MS. HUGHES: I think we are finished with
16 31.
17 MR. BROTHERSON: 32, AT&T raised concerns
18 about the language being one-sided; we made the
19 language reciprocal.
20 I guess we also added some language at
21 the end of 5.5 that says we'll cooperate if there is a
22 tax audit by some taxing authority.
23 (Pause.)
24 MR. BROTHERSON: Closed?
25 MR. BELLINGER: So this one -- is it

closed then?

MR. BROTHERSON: Yes.

MR. BELLINGER: Everybody agrees?

MR. DIXON: Hang on a second, we're just double-checking.

MR. BELLINGER: Oh, go ahead.

MR. DIXON: In the spirit of cooperation, WorldCom believes Section 5.5, as presently written, is acceptable and we would recommend closing this section from our perspective.

MR. BELLINGER: Thank you, Tom.

G-33?

MR. DIXON: Does that allow us to quit ten minutes before 6?

MS. JENNINGS-FADER: No.

MR. BELLINGER: That took too much time.

MR. DIXON: Do you want to discuss it a little longer?

MR. BROTHERSON: 33 is language in 5.6, dealing with insurance. At the CLEC's request, we made it reciprocal and we added a provision at AT&T's request dealing with self-insurance.

We've provided that certificates of insurance only be made available upon request.

I think we hammered out language that

1 everybody's agreed to in 33.

2 MS. FRIESEN: AT&T agrees.

3 MR. DIXON: WorldCom agrees.

4 MR. BELLINGER: Okay.

5 G-34?

6 MR. BROTHERSON: Yeah, 34 was the

7 language in 4.7; force majeure. I think the only

8 issue -- or a couple of the issues: One of the CLECs

9 requested the removal of equipment failure as a force

10 majeure act, which we did. The other change that was

11 added was to make it clear that failure to -- failure

12 of transportation, for example, has to be something

13 that was beyond the control of the parties, and we

14 added that language. And I think that closed force

15 majeure.

16 MS. FRIESEN: AT&T concurs.

17 Could I make a suggestion? Could we go

18 to G-36 and leave G-35 for tomorrow? That's a hotly

19 contested one and we can probably get through some of

20 these others in the few minutes remaining.

21 MR. BELLINGER: Okay.

22 MS. JENNINGS-FADER: Okay.

23 So we closed 34.

24 MR. DIXON: I'm trying to look at

25 something here.

1 MR. BELLINGER: WorldCom hasn't closed it
2 yet.
3 MS. JENNINGS-FADER: We're being
4 efficient, Letty.
5 MS. FRIESEN: Huh?
6 MS. JENNINGS-FADER: So we're being
7 efficient?
8 MS. FRIESEN: Yes, indeed.
9 MR. MENEZES: Or we could just stop at
10 G-35 and take that up tomorrow morning?
11 MR. DIXON: Let me tell you the focus on
12 of my issue on 34: I believe the language may be
13 acceptable, but the reason I hesitate is I spent last
14 week in a QPAP meeting, where force majeure was
15 discussed at length -- that's Quest's PAP, as opposed
16 to Colorado PAP. And force majeure was discussed at
17 length; and there was quite a discussion on this that
18 causes me to want to maybe -- if we're going to stop
19 tonight, stop here, so I can just review my notes from
20 the QPAP discussions we had last week so we can see --
21 there were some changes made and I want to be sure it
22 didn't affect this language.
23 MR. BELLINGER: What we could do is hold

24 it, do 36, then quit. Does everybody agree to that?

25 MR. DIXON: We could close it subject to

1 me reopening it. I think it's okay, but there were

2 some very specific issues raised about force majeure.

3 The people in the QPAP learned more than they ever

4 wanted to learn about that language.

5 MS. FORD: What is that?

6 MR. DIXON: That's your term for the

7 Qwest Performance Assurance Plan, the QPAP.

8 MS. JENNINGS-FADER: That's the

9 multi-state version?

10 MR. DIXON: That's the nine state,

11 multi-state version; but it does have force majeure

12 language in it. And because it got heavily discussed

13 last week, it caused people to reevaluate force majeure

14 language in the SGAT. And that's what was the issue,

15 so I just want to double-check. And there were a

16 couple people that were present here from that

17 workshop --

18 MR. BELLINGER: Okay, let's go to 36.

19 MR. DIXON: -- is what I'm saying.

20 And then with that, if you want to skip

21 35 --

22 MR. BELLINGER: We can skip it and we can

23 go on to 36.

24 MR. BROTHERSON: Issues 36 was the

25 language of 5.10, dealing with intellectual property.

1 We incorporated AT&T's requests on a number of

2 different areas. We excluded, for example, the

3 intellectual property stuff from the traditional

4 dispute resolution at their request because they felt

5 that was unique and specialized.

6 We made changes to indemnity associated

7 with patent infringement. We agreed to caveats that

8 made reciprocal and will address what will occur if the

9 indemnified party is not able to obtain path rights.

10 We incorporated all of those changes, I think in part,

11 through conversations with AT&T's intellectual property

12 attorney and our intellectual property attorney. And I

13 think we've incorporated everything and met the needs

14 of the parties.

15 MS. FRIESEN: AT&T concurs.

16 I have to confess, I haven't had a chance

17 to get through all the SGAT language. I'm assuming, if

18 we find a mistake, we can take care of it off line.

19 MR. BROTHERSON: Yeah.

20 MR. DIXON: Apparently WorldCom has no

21 problems with this.

22 MS. QUINTANA: Apparently.

23 MR. DIXON: We obtained the language, but

24 it was in a different form, because it was an AT&T

25 exhibit; so it's, once again, assuming that Qwest is

1 representing it accurately.

2 MR. BROTHERSON: Right.

3 Shall we move to 37?

4 MS. QUINTANA: We can.

5 MR. BROTHERSON: 37 is warranties.

6 AT&T had requested that the warranty

7 section be modified to cover warranties provided in

8 other parts of the SGAT. We made those changes, Except

9 as expressly provided in this agreement, the parties

10 agree, et cetera, et cetera. So it was to carve out

11 that if we made some statements elsewhere in the

12 agreement, that that was not somehow modified by the

13 Section 5.11.

14 And I believe 5.11, Issue G-37, is

15 closed.

16 MS. FRIESEN: AT&T concurs.

17 MR. SCHNEIDER: I think, agreement,

18 should be capitalized.

19 MR. DIXON: Did you hear that? Your

20 reference to, agreement, probably needs to be

21 capitalized again; but other than that, we're fine with
22 it.
23 MS. HUGHES: 5.11.1?
24 MR. BROTHERSON: Okay.
25 MS. JENNINGS-FADER: Letty, you had an

1 exhibit that goes to the next issue, right?
2 MS. FRIESEN: I do. I have handed out
3 what's been marked for identification as 6-ATT-72, and
4 it's AT&T's proposed language for SGAT Section 5.12.2.
5 And that really goes to the issue of sale of exchanges.
6 MS. HUGHES: Are you going to mark this
7 as an exhibit?
8 MS. FRIESEN: Yeah, it's 6-ATT-72.
9 MR. BELLINGER: This is Issue 38?
10 MS. FRIESEN: Yes.
11 MR. BROTHERSON: Do you want -- shall we
12 move on to that or shall we deal with 38 right now?
13 We're on it, we've got the exhibit.
14 MR. BELLINGER: Well, I don't know, it's
15 an impasse, it looks like.
16 MS. FRIESEN: Part of it is --
17 MS. FORD: Part of it is closed.
18 MS. FRIESEN: -- agreed to and part of it
19 is at impasse. So maybe we ought to --

20 MR. BELLINGER: Why don't we stop here.

21 MS. FRIESEN: Okay.

22 MS. QUINTANA: And we can read it.

23 MS. JENNINGS-FADER: And pick up tomorrow

24 with 35, right, which I think we skipped over?

25 MR. DIXON: Once we get off the record,

1 we have a couple comments that we want to make that

2 don't need to go on the record.

3 MR. BELLINGER: Okay, we're off the

4 record.

5 (Discussion off the record.)

6 (Whereupon, the workshop recessed at 6:00

7 p.m.

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1 CERTIFICATE

2 KRISTY TURNER, JAMES L. MIDYETT, and

3 HARRIET S. WEISENTHAL, Certified Shorthand Reporters in

4 and for the State of Colorado, do hereby certify that

5 we reported the foregoing proceedings in the first

6 instance, and that later the same was reduced to

7 typewritten form under our direct supervision and

8 control; we further certify that the foregoing is a

9 true and complete transcription of our stenographic

10 notes then and there taken.

11 Dated _____, 2001.

12 _____
KRISTY TURNER

13

14 _____
JAMES L. MIDYETT

15

16 _____
HARRIET S. WEISENTHAL
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17 Denver, Colorado 80203

18 (303) 894-2825

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

Docket No. 97I-198T - Workshop 6

* * *

IN THE MATTER OF THE INVESTIGATION OF US WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SS 271(c) OF THE TELECOMMUNICATIONS ACT OF 1996.

Pursuant to continuation, the Technical Workshop was held at 8:35 a.m., August 22, 2001, at 3898 South Wadsworth Boulevard, Lakewood, Colorado, before Facilitators Hagood Bellinger and Martin Skeer.

APPEARANCES

(As noted in the transcript.)

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

2 (Exhibit Nos. 73 and 74, and 6-Covad-75

3 and 76 were marked for identification purposes by the

4 court reporter.)

5 MR. BELLINGER: Let's go on the record.

6 Start with appearances. I'm Hagood

7 Bellinger with DCI.

8 MR. SKEER: Martin Skeer with DCI.

9 MS. DOBERNECK: Megan Doberneck, Covad.

10 MR. ZULEVIC: Mike Zulevic, Covad.

11 MS. BEWICK: Penny Bewick, New Edge

12 Networks.

13 MR. SCHNEIDER: Michael Schneider,

14 WorldCom.

15 MR. DIXON: Tom Dixon, WorldCom.

16 MR. MENEZES: Mitch Menezes, AT&T.

17 MS. FRIESEN: Letty Friesen, AT&T.

18 MR. HYDOCK: Michael Hydock, AT&T.

19 MR. McDANIEL: Paul McDaniel, Qwest.

20 MS. HUGHES: Mary Rose Hughes, Qwest.

21 MR. ORREL: I am Barry Orrel, Qwest.

22 MS. STILES: Bridget Stiles, staff of

23 the Commission.

24 MS. QUINTANA: Becky Quintana, staff.

25 MR. WENDLING: Warren Wendling, staff.

1 MS. JENNINGS-FADER: Mana Jennings-
2 Fader, Commission counsel.
3 MR. BELLINGER: I guess we have one new
4 witness we need to swear.
5 (Barry Orrel was sworn to state the
6 whole truth.)
7 MR. BELLINGER: We are going to take up
8 the maintenance and repair issues that are left on the
9 issue list. All of them were discussed in Colorado
10 except there was one left open, I'm showing, and one
11 at impasse.
12 MR. DIXON: My notes reflect that
13 maintenance and repair 10 was impasse but it was on the
14 misdirected call issue and it's already been briefed.
15 Whatever resolution was done in the resale report would
16 be applied here. It's an issue we don't have to brief
17 but it's at impasse for similar resolution. MR-38 was
18 the one I had open.
19 MS. FRIESEN: We did resolve one, the
20 switch conversion issue, whatever issue that was.
21 MR. ORREL: MR-33.
22 MS. QUINTANA: We'll need to discuss
23 that one briefly, because I believe as we left it in
24 Colorado it was open and it looks like you added new
25 language since then. If we could discuss that one

1 briefly and then Covad's issue, we'll be fine.
2 MR-33 and 38.
3 MR. BELLINGER: Which one do you want
4 to start with?
5 MR. ORREL: Let's do it in sequence;
6 MR-33.
7 MR. DIXON: Qwest added the language
8 that has been at issue, am I correct, for 10?
9 On 12.3.8.1.5 --
10 MS. JENNINGS-FADER: Again.
11 MR. DIXON: 12.3.8.1.5 was the issue on
12 misdirected calls. What AT&T and WorldCom have been
13 seeking is the addition of the words "seeking such
14 information." In 6-Qwest-61 that language has been
15 added so presumably it's not even at impasse anymore.
16 MR. BELLINGER: Are the CLECs okay with
17 the new language?
18 MR. DIXON: Absolutely. It's what we
19 wanted, at least WorldCom.
20 MS. FRIESEN: Did you add that to
21 Section 6 too, do you know?
22 MS. HUGHES: I have no idea.
23 I'm seeing this for the first time.
24 I agree with WorldCom that I do see
25 the requested words "seeking such information" added to

12.3.8.1.5. I believe here in Colorado we have left this as an impasse issue that we've agreed we will deal with it as it's resolved in connection with briefing elsewhere. I don't believe it's been resolved in Colorado.

MS. JENNINGS-FADER: Yes, it has.

MS. HUGHES: It has been resolved? I apologize. I think the issue is in fact closed, which probably accounts for why the language has been added.

MS. JENNINGS-FADER: Actually, no. Because the Commission's decision with respect to this issue was that neither party had to inform the caller placing the misdirected call about anything. In fact, there's no requirement that the person, specifically misdirected caller, specifically state that it is seeking information. This is beyond what the Commission has decided.

MS. FRIESEN: Qwest has conceded this point in other states.

MS. JENNINGS-FADER: I thought what Mary Rose was saying, it was consistent with the Commission's decision, and it is not. That's why I'm trying to understand what Qwest's position is in Colorado on this question.

1 MR. DIXON: On the assumption Qwest
2 hasn't made an error on the language that's added with
3 respect to MR-10, that issue is closed so I guess we'd
4 say unless Qwest advises us that language has been
5 mistakenly inserted, we could close MR-10 and maybe
6 when we get a chance we could figure out whether this
7 has been done in the resale section and whether Qwest
8 has simply made the change because of orders in several
9 other states which went the opposite direction of
10 Colorado. That would be my guess, but I can't speak
11 for Qwest.
12 MS. HUGHES: I would propose we
13 designate this closed subject to check. I will make
14 inquiries at the next break and we'll get back to this
15 group with Qwest's position.
16 MS. JENNINGS-FADER: Closed as the
17 language now appears in the SGAT?
18 MS. HUGHES: Correct.
19 MS. JENNINGS-FADER: Okay. Thank you.
20 MR. DIXON: That's acceptable to
21 WorldCom as a resolution.
22 MR. BELLINGER: Okay. Sounds good.
23 We suggested that back in February, I believe it was.
24 You said MR-33, I believe?
25 MR. ORREL: MR-33, to refresh

1 everybody's memory, had to do with the language
2 Qwest -- had to do with service order processing
3 during switch conversion service order embargo periods.
4 Specifically AT&T had represented some issues it had
5 had with the not-so-recent conversion in the Denver
6 north central office. Qwest was asked by the
7 Commission counsel, I believe, to pursue developing
8 a solution to the specific problem that AT&T had at
9 Denver north and to look at the service order
10 processing environment in general associated with
11 switch embargoes tied to switch conversions.
12 Since the last time we talked about
13 this in Colorado, AT&T and Qwest have collaboratively
14 developed some language that fits the need for both
15 parties. Other CLECs have reviewed the language and
16 felt that it fit their need as well.
17 Specifically, the issues around the
18 Denver north conversion, to refresh memory, had to do
19 with L and P orders, disconnect orders that were worked
20 even though AT&T had requested that they not be worked.
21 In a new section, 12.3.24, new language now exists that
22 identifies the types of orders that are actually
23 processed during not only switch embargoes but also
24 during the quiet period just before the switch -- and
25 after the switch conversion. That language now

1 appears to meet the requirement to allow for specific
2 activities up to and right after the conversion or the
3 switch conversion data. That will allow orders that
4 have been -- either pending or have been worked to be
5 backed out of the system.
6 Additionally, AT&T felt that our
7 moratorium periods before the switch conversion having
8 to do with LIS trunks was too long. We had a 45-day
9 embargo period associated with that. Section 12.3.24
10 now indicates that there's a 30-day period associated
11 with that and I believe AT&T, from a consensus
12 perspective, feels that's appropriate.
13 MS. FRIESEN: The language is fine.
14 Barry fairly represents what has occurred.
15 MR. BELLINGER: Any other comments,
16 questions?
17 MR. DIXON: This was not a WorldCom
18 issue but we have no problem with the language either.
19 MR. BELLINGER: Okay. That one is
20 closed, then.
21 The last one was 37, I believe?
22 MR. ORREL: MR-38. This was a Covad
23 issue which I think the issue has kind of evolved since
24 our last meeting and, Mike, would you like to take us
25 through that and show us where we are?

1 MR. ZULEVIC: Sure.

2 Issue 38 has two parts. Part A deals

3 specifically with a continuity testing within the

4 central office primarily to confirm that the wiring

5 for a new UNE or a line shared service has been done

6 correctly. Qwest has agreed to put language in

7 12.3.6.5 --

8 MR. BELLINGER: It's not in there yet;

9 is that correct?

10 MR. ZULEVIC: They've agreed to.

11 I believe it's in here. It is in 6-Qwest-61, page 64,

12 toward the bottom, 12.3.6.5 which reads, "Qwest shall

13 test to ensure electrical continuity of all UNEs

14 including central office demarcation point and services

15 it provides to CLEC prior to closing a trouble report."

16 With that language, that closes part A

17 of MR-38.

18 Part B of MR-38, after further

19 discussions with Qwest Covad agrees that the language

20 in 12.3.4.3 takes care of that issue, which deals

21 primarily with the application of a maintenance of

22 service charge. Covad has received further assurances

23 that this charge would only apply in the case where

24 Covad declined to do any trouble isolation testing

25 whatsoever and requested that Qwest do that on its

1 behalf.

2 MR. ORREL: That would be any CLEC that

3 requested that?

4 MS. QUINTANA: What was the section

5 reference?

6 MR. ORREL: 12.3.4.3.

7 MR. BELLINGER: Any other comments on

8 this?

9 AT&T okay with this? This was a big

10 issue with AT&T at one point.

11 MS. FRIESEN: Yes.

12 MR. BELLINGER: Okay.

13 MR. DIXON: If I might ask a clarifying

14 question. Could someone remind me where maintenance

15 and service was actually finally defined? I know we

16 talked about it in the SGAT. Did that end up in the

17 definition section?

18 MS. FRIESEN: Maintenance of service

19 charges is in the definition section.

20 MR. DIXON: Tells the difference

21 between basic, premium, and overtime?

22 MS. FRIESEN: No. It's pretty

23 simple --

24 MR. BROTHERSON: That's the kind

25 of thing that I think that would be in the terms of the

1 contract, they would put all of that in the definition.
2 MR. DIXON: At least on page 14 of
3 6-Qwest-61 there's somewhat of a definition of basic,
4 overtime, premium, so I'm assuming that continues
5 through.
6 MS. JENNINGS-FADER: The most current
7 definitions don't have it, based on the document that
8 was handed out last night.
9 MR. DIXON: We may have to revisit
10 that, then.
11 MR. BELLINGER: It's on the bottom of
12 page 14.
13 MS. JENNINGS-FADER: That basic
14 and premium and all that other language is not in
15 maintenance of service charges as of last night.
16 MS. FORD: Not in the definition,
17 right.
18 MR. DIXON: Trying to figure out where
19 it is in the SGAT. We can deal with that off line.
20 Make sure it goes back in somewhere.
21 MS. JENNINGS-FADER: Let us know.
22 MR. BELLINGER: Anymore maintenance and
23 repair issues to be discussed?
24 You did good Barry.
25 MR. ORREL: Thank you, Hagood.

1 MR. BELLINGER: We'll go back to the
2 general terms issues. I think we have some exhibits to
3 mark first.
4 MS. DOBERNECK: I have handed -- I gave
5 to the court reporter to mark as 6-Covad-75 the
6 comments --
7 MR. BELLINGER: Tell us what 73 is,
8 first.
9 MS. HUGHES: You should all have what
10 we've passed out as the new language conforming to our
11 discussions yesterday on 5.4.2 and 5.4.3. We had
12 agreed to make that language an exhibit, and it is
13 reflected as 6-Qwest-73.
14 The next exhibit that we've handed out
15 is language for Section 9.7.5.2.2 relating to unbundled
16 dark fiber loop rate elements. We've marked this
17 language as 6-Qwest-74. This is language that is
18 relevant to an issue raised previously here by Yipes
19 and an issue we'll be discussing a little bit later
20 this morning.
21 MS. DOBERNECK: 6-Covad-75 are the
22 CICMP -- or the comments that Covad submitted to the
23 CICMP group and then circulated to the parties in this
24 proceeding in June, and I'm looking for the specific
25 date in which I sent it out to everybody.

1 MS. JENNINGS-FADER: Do you have any
2 additional copies?
3 MS. DOBERNECK: I have five extra
4 copies for anybody who would love to have them. It was
5 e-mailed June. I'm looking for the specific date.
6 I can't remember if I sent it out or somebody else did.
7 MR. DIXON: I would suggest it's
8 probably in July because it came out after ours
9 and I sent ours out July 2nd.
10 MS. DOBERNECK: I will double check.
11 MS. JENNINGS-FADER: July 19th.
12 MS. DOBERNECK: Thank you.
13 MR. BELLINGER: We skipped G-35.
14 I didn't know if we wanted to pick up there or not.
15 MR. BROTHERSON: That's fine.
16 G-35 is the language in 5.8 dealing with limitation of
17 liability. We're at impasse on the language generally
18 and on some specific sections.
19 First, the language as Qwest proposes
20 limits the liability for performing the service or
21 function under the contract to the price of the service
22 or function which is standard in the telecommunications
23 industry. It's a very common limitation of liability
24 and provision of telecommunications services. The
25 CLECs as well as Qwest have similar limitations to

1 their end-users. This language would carry that
2 forward and have a limitation of liability between
3 Qwest and the CLECs for the services performed or the
4 failure to perform those service.
5 For other types of liability, and let's
6 say a fire in a central office that is caused either by
7 the CLEC installer, that damages a Qwest equipment or
8 Qwest employee that damages the CLEC equipment,
9 something outside of the offering of the service,
10 the liability is limited to the total amount charge
11 under the interconnection agreement in any given year.
12 Again, normally, business is on a commercial cap and
13 a certain amount of definition of certainty as to the
14 liabilities of both parties. This is of reciprocal
15 language so it benefits to Qwest in terms of providing
16 a maximum amount of exposure they know they're
17 operating under.
18 We've also inserted language into the
19 limitation of liability section that makes it very
20 clear that nothing in this section is going to limit
21 anything that comes out of the PAP and any penalties
22 associated with the PAP.
23 Finally, there is a request by AT&T to
24 expand. We have excluded from any limitations willful
25 misconduct by Qwest. I think AT&T has proposed to

1 expand that to gross negligence as well, which we
2 believe is not appropriate. We believe that willful
3 misconduct shouldn't be covered by any limitation of
4 liability. When you get into the area of negligence,
5 you get into an area of definition and argument that
6 is not appropriate.
7 I think the exclusion should only deal
8 with willful acts and shouldn't be protected by any
9 limitation of liability but shouldn't be expanded
10 beyond that.
11 MR. MENEZES: I would direct folks to
12 the comments we filed, Michael Hydock's comments -- I
13 don' have an exhibit number.
14 MS. FRIESEN: It's 6-ATT-12 and they're
15 contained on page 33.
16 MR. BROTHERSON: Of direct?
17 MR. MENEZES: Yes. Starts on page 33.
18 This contains language -- AT&T marked
19 up the language that was in Qwest's initial filing, and
20 this reflects what we're after. It essentially seeks
21 the ability for either party to recover direct damages
22 from the other in 5.8.1.
23 5.8.2, there is a limit with respect
24 to indirect, incidental, consequential, or special
25 damages.

1 In 5.8.3 we've stricken that entirely
2 because of the caps that Qwest has inserted there.
3 We do not agree there should be a dollar cap, but a
4 cap relating to the type of damage. Essentially we've
5 limited it to direct damages, so that's the only kind
6 of parameter around what is recoverable in that regard.
7 In 5.8.4 we've proposed changes.
8 Qwest in its draft we're looking at today, 6-Qwest-61,
9 struck "intentional." The phrase was "willful or
10 intentional misconduct," and Qwest struck
11 "intentional." We of course want to leave that in
12 so that there is no limit for intentional or willful
13 misconduct, but we've also added the concept of gross
14 negligence as a parenthetical there. We also seek that
15 damage is not limited for bodily jury, death, or damage
16 to tangible real or tangible personal property.
17 In 5.8.6 with respect to fraud,
18 we've made some changes there simply to make the party
19 responsible for the fraud liable for the fraud, which
20 is a change of a few words there. That essentially
21 summarizes what's in those comments. I would look to
22 those to see what AT&T has put forward and we would not
23 support the caps that Qwest wants to impose relating to
24 -- seems to me there are two levels in the SGAT Lite.
25 One is a cap relating to the service or function not

1 performed or improperly performed, so it's the price of
2 that service or function that isn't performed properly.
3 That's all for a CLEC in the case of Qwest's
4 nonperformance could recover. There's an aggregation
5 in the last sentence of the 5.8.1 of the SGAT Lite that
6 limits total amounts recovery under the contract to the
7 total amount charged to the CLEC during the contract
8 year because neither of these bear any relationship to
9 the damage that a CLEC might incur for nonperformance
10 answer on the part of Qwest. The way AT&T has proposed
11 it, it is reciprocal. Similarly, if a CLEC fails to
12 perform based on the AT&T proposal, there would not be
13 this limitation based on the price of the service.
14 It would be the direct damages incurred by Qwest.
15 MS. FRIESEN: I'd like to note a couple
16 other observations. In the multi-state proceeding,
17 under oath, Liz Stang indicated the PAP that's not
18 adopted in Colorado would be the exclusive remedy.
19 As you know, that PAP is a two-tiered remedy that
20 aggregates problems and may or may not even be a remedy
21 at all or provide any remedy for the CLEC in these
22 limitations of liability restricted as well. At least
23 the way Qwest has those two documents structured at
24 present, a CLEC may stand to recover nothing for its
25 damages.

1 With respect to the PAP that Colorado
2 has adopted, that may not be the case because I don't
3 think that's the exclusive remedy. Suffice to say,
4 however, if these limitations of liability go in,
5 the CLEC can be harmed, competition can be completely
6 destroyed in the state, and there is no recompense if
7 these limitations of liability are in place to the
8 CLEC.
9 MR. DIXON: Those of you who recall,
10 6-WorldCom-9, testimony of Michael Schneider, you'll
11 find our discussion of this section which is
12 substantially similar to comments that have been made
13 by Mr. Menezes, so I won't repeat them, except to note
14 we share the concerns that were raised by AT&T as is
15 east from our comments.
16 I would point out that we
17 appreciate some changes made by Qwest in this document,
18 particularly to Section 5.8.3. At the time we were
19 reviewing the documents, our comments were related to
20 the section as it was previously written.
21 As Ms. Friesen has pointed out, the
22 status of the Colorado Performance Assurance Plan, also
23 known as the CPAP, is at best executory right now as we
24 await a Commission decision. As Ms. Friesen notes, the
25 special master enunciated specific remedies that were

1 not limited by virtue of acceptance of the Colorado
2 QPAP. Qwest has challenged those exclusions in their
3 final comments. It's not clear at this point whether
4 the PAP will become an exclusive remedy or not, at
5 least under the final report it would not be, but of
6 course we're awaiting Commission decision. I think
7 because it's still executory it's difficult to know the
8 impact of the PAP as it relates to the limitation of
9 liability section until we see it.
10 Our concerns relate predominantly to
11 Section 5.8.1 and our concern of limitations based on
12 negligence of any kind, which presently stands in that
13 section.
14 5.8.2 for the same reasons, again,
15 related to negligence of any kind.
16 Our concerns about 5.8.3 are somewhat
17 mitigated but still up in the air by virtue of the
18 Colorado PAP. I'm assuming, for the record -- there's
19 a reference to a docket number but it's blank at the
20 end of that line, and assuming the intent is to use
21 the docket from the Colorado PAP docket, and if so I
22 believe that number is 01I-041T. If it is the intent
23 to use the Colorado PAP number, that would be the one
24 from memory I believe is that number.
25 We agree with AT&T on Section 5.8.4

1 that gross negligence needs to be added to that
2 section.
3 Those were our primary concerns we've
4 raised on this section, so it appears we're at impasse.
5 But we did provide the stock WorldCom limitation of
6 liability language as an attachment to Mr. Schneider's
7 6-WorldCom-9, which is available for your perusal in
8 the event you want on look at some alternative
9 language.
10 MR. BELLINGER: Is the language you
11 provided what's in your interconnection agreement?
12 MR. DIXON: No. It is language--
13 Mr. Brotherson referred to it way back when--is model
14 contract language that WorldCom or MCI would probably
15 throw on the table in our first negotiation session,
16 and we have somewhat of a throwing passing documents to
17 one another as to what we think we want and that would
18 be the starting point.
19 MR. SCHNEIDER: Add to what Tom said.
20 We did submit our model language but I think it more
21 closely resembles what is standard limitation of
22 liability language than what Qwest has proposed in its
23 limitation of liability section.
24 Again, we do disagree with a cap on
25 damages that Qwest is attempting to place here.

1 Also, on 5.8.4 we agree that gross
2 negligence ought to be included in here and also
3 "repeated breaches of the material obligations of the
4 agreement" should also be included.
5 Also, 5.8.6 I have never seen a
6 standard limitation of liability with a fraud section,
7 so I think that ought to be struck.
8 MS. DOBERNECK: Covad concurs in the
9 positions of AT&T and WorldCom on this issue.
10 MS. BEWICK: New Edge concurs as well.
11 MS. JENNINGS-FADER: Mr. Schneider,
12 with respect to striking 5.8.6, what would be the
13 effect of that if there's no reference whatsoever to
14 fraud in the contract?
15 MR. SCHNEIDER: I think there is some.
16 Is there not a fraud section in the SGAT?
17 MS. JENNINGS-FADER: If 5.8.6 is
18 struck, then to what does -- where then does the
19 contract refer to fraud so that one would know what to
20 do and what, if any, liability there would be in that
21 fraud?
22 MR. SCHNEIDER: I think that the SGAT
23 has a fraud section. I'm not sure which section that
24 is.
25 MR. BROTHERSON: I'm not sure we do.

1 In fact, I'm not familiar with it.

2 MR. SCHNEIDER: If it doesn't, I would

3 think that it needs a fraud section in that it ought

4 to be dealt with a little bit more thoroughly than a

5 little blurb in the limitation of liability section.

6 MR. DIXON: That's a good question.

7 What I might suggest -- we think there's several

8 places. Network security may address some of these

9 issues. I believe there's discussion throughout the

10 SGAT about being responsible for each others' acts but

11 would go to a lesser degree of culpability. If you

12 want to wait for a break, we can point those out.

13 MS. JENNINGS-FADER: I know under

14 General Terms and Conditions there's no specific sub

15 section that discusses fraud, so I was curious what

16 would happen.

17 MR. MENEZES: I'm not sure there's a

18 specific section that does. There might be something

19 in the network security section.

20 However, as a general response,

21 if we delete 5.8.6, just looking at this quickly,

22 it seems to me that if the fraud -- let's say it's

23 fraud perpetrated on a CLEC by some third party --

24 I don't think this is going to fraud that Qwest

25 perpetrates or that the CLEC perpetrates. It's a third

1 party. If this third party perpetrates a fraud against
2 AT&T or a CLEC, for example, and the reason they were
3 able to do that successfully is because of an act or
4 omission of Qwest, I think we would look at 5.8.1 and
5 say based on the CLEC proposal a certain level of
6 responsibility, based on the Qwest proposal a different
7 level of responsibility, perhaps. But I think that
8 would be characterized as an act or omission on the
9 part of Qwest and it would be dealt with that way.
10 It depends on how it comes up.
11 For example, if it happens but Qwest
12 has not failed to perform under the agreement, has
13 done everything it's supposed to do including network
14 security and things like that, then it may be that the
15 CLEC, if it's a CLEC customer, has to deal directly
16 with that third party and doesn't have recourse against
17 Qwest. Reciprocally I think that's true.
18 I don't know if other CLECs have other
19 thoughts or if Qwest has a different read on that.
20 MR. SCHNEIDER: You also notice that
21 the fraud section is just one way. There's a fraud by
22 a Qwest end-user customer, we're maybe transporting
23 some of that traffic over our network, we're
24 unprotected here as well. It also says very clearly
25 Qwest will take no responsibility, will make no

1 adjustments to CLEC's account in case of fraud.
2 In addition to being improper for the limitation of
3 liability section, it's basically unfair.
4 MR. BROTHERSON: I think we're at
5 impasse on this.
6 It's very common in the
7 telecommunications industry that -- if you're in the
8 telephone business that you're going to be responsible
9 for any fraud associated with your service. Whether
10 you're a long-distance carrier or local provider,
11 whatever, it's an inherent part of offering service,
12 and this simply is making it very clear that if someone
13 has fraud associated with the service to its customers,
14 that it's the responsibility of that carrier.
15 MS. JENNINGS-FADER: What about the
16 last point Mr. Schneider made, that this provision,
17 5.8.6 as worded, runs only one way?
18 MR. BROTHERSON: I think we could make
19 that reciprocal. That's not a problem.
20 MR. HYDOCK: I'd like to turn your
21 attention to the network section, 11.34, revenue
22 protection. "Qwest shall make available to CLEC
23 all present and future fraud prevention or revenue
24 protection features." That seems to be a little bit
25 more all-encompassing than the flavor left by 5.8.6

1 where Qwest is essentially saying if there's fraud
2 perpetrated on the CLEC we're really not going to
3 cooperate unless we have some advance knowledge of
4 that fraud.
5 MR. MENEZES: It seems to me we now
6 have a conflict the way Qwest has proposed 5.8.6.
7 Qwest has a duty to make available to CLECs present and
8 future fraud protection or revenue protection features.
9 If Qwest fails to do that and there's a fraud, 5.8.6
10 says basically the CLEC is responsible to deal with the
11 fraud, notwithstanding the fact that Qwest may have
12 failed to perform under 11.34. That's one specific
13 example and I could probably find more why it may be
14 better to delete 5.8.6.
15 MR. SCHNEIDER: I'm looking at our MCIM
16 interconnection agreement in Colorado, and it doesn't
17 have a fraud provision under limitation of liability
18 section at all.
19 MR. BELLINGER: Do you have a fraud
20 section in that?
21 MR. SCHNEIDER: Pretty sure we've got a
22 network security section.
23 MR. BELLINGER: Something like 11.34?
24 MR. SCHNEIDER: I'll have to get back
25 with you on that.

1 MR. BELLINGER: If you find it, let us
2 know.
3 Larry, what is your comments on the
4 seeming conflict between those two paragraphs?
5 MR. BROTHERSON: I'm not sure there's a
6 conflict. I think 5.8.6 deals directly with the fraud
7 of the end-user. I think 11 -- the network security
8 section in Section 11 is the statement that we'll make
9 available any fraud protection devices that are on the
10 network to CLECs, as well as to ourselves. I think if
11 we fail to perform under that section of the contract,
12 we're going to be liable under the liability section.
13 I think it's independent of the responsibility for the
14 fraud to the end-user. I think that there could be a
15 reading of the two sections that would be consistent
16 with that. One would be limitation of liability for
17 failure to perform a service, the other would be toll
18 fraud that occurs on someone's network.
19 MS. BEWICK: You said you would be
20 liable under the network security section pursuant to
21 the terms of the liability language in the SGAT is the
22 way I heard you say that. What would you be liable
23 for?
24 MR. BROTHERSON: If we failed to
25 perform a service or an obligation under the contract,

1 we'd be liable for the price of the service.

2 MS. BEWICK: Tell me how that relates

3 to network security, though. If there's fraud because

4 of some lack of compliance with the network security

5 section but your limitation of liability language only

6 goes to the provision of products or services but it's

7 beyond that, the fraud that takes place because of

8 Qwest's lack of compliance with the network security

9 section is beyond just the simple provision of a

10 product or service, what's your liability?

11 MR. BROTHERSON: I think maybe we're

12 talking two different scenarios.

13 I think the section we talked about in

14 11.34 was the service we were going to make available.

15 I think your question dealt more with what it's not a

16 service. I think it's not a service that falls under

17 the other half of the limitation of liability which

18 would be the annual revenues of billed to the CLEC.

19 I'm really probably not the witness

20 to be talking about what are the legal outcomes of a

21 dispute between two companies on a breach of contract

22 case. I can give you my general statements as to how

23 the sections would apply.

24 I guess in terms of saying the CLEC is

25 always going to be liable in this scenario and Qwest is

1 always going to be liable in that scenario is going
2 father than what a judge might agree with. The
3 limitation of liability for the services is limited to
4 price of the service. If it's outside of that, if it's
5 the actions of the employees, and I gave the example of
6 the installer but it's not a service-related act, then
7 it would be limited to or capped at the annual
8 billings. That's a reciprocal language for either
9 party. It would fall under one of those two scenarios.
10 If there's an obligation in the contract that we fail
11 to meet, it would either be service-related or
12 nonservice-related.
13 MS. BEWICK: You're a lot closer being
14 able to answer than I am since you, by training, are a
15 lawyer and I, by training, am not. I play lawyer but
16 I'm not a lawyer.
17 So it seems to me, not being a lawyer,
18 there's a huge hole here that there's a lot of stuff
19 that can fall through the interpretation of this.
20 That's purely from a nonlawyer perspective.
21 From a lay person's perspective, I look
22 at that and can envision the argument right now as to
23 what happens in the scenario where the network security
24 section is not complied with and how do we go about
25 that. The scenario I envision is, sue me.

1 So that's my concern. I can't speak to
2 it -- there's a lot of lawyers in this room and maybe
3 I'm crazy, but that's, as a lay person, what I see.
4 MR. SCHNEIDER: I've found the security
5 attachment of our MCIM Colorado interconnection
6 agreement. It's Attachment 9. It does have a pretty
7 substantial revenue protection section, Section 3,
8 that's about four or five paragraphs that deals with
9 fraud. I could propose that language to put in the
10 network security section of the SGAT if you'd like.
11 MR. BELLINGER: If you would like.
12 MR. SCHNEIDER: I would like.
13 MS. JENNINGS-FADER: It would be
14 difficult for us to find that language otherwise.
15 Mr. Brotherson?
16 MR. BROTHERSON: Clearly we're at
17 impasse on this --
18 MS. JENNINGS-FADER: I have a question
19 for you.
20 MR. BROTHERSON: I'm sorry. I thought
21 you were asking for comments.
22 MS. JENNINGS-FADER: Can you explain
23 briefly were Qwest thinks it's important a limitation
24 of liability provision.
25 MR. BROTHERSON: Yes. I think it's

1 in virtually all business relationships there is some
2 provision in a contract between two companies that
3 spell out their relationship in terms of liability
4 and in virtually every interconnection agreement, not
5 only in our 14 states with all of the CLECs but to my
6 knowledge in every other interconnection arrangement
7 in the other RBOCs as well, there is a provision for
8 limitation of liability to make it clear the parties'
9 responsibilities on both sides for acts and actions.
10 I think it's sound commercial practice to provide for
11 that.
12 I think the debate then becomes, what
13 is the appropriate terms and provisions? I think we're
14 at impasse among ourselves on those.
15 In terms of -- that's in response to
16 your question.
17 MS. JENNINGS-FADER: Can you give us a
18 little idea of how Qwest came to its determination that
19 the appropriate level of the limitation of liability is
20 as set forth in Section 5.8. Why those levels?
21 MR. BROTHERSON: In terms of liability
22 for failure to perform the service, that's been a
23 standard cap on liability in the telecommunications
24 industry going back 50 years or better. It's usually
25 been in the retail end, which is to say the end-users

1 -- normally if someone is out of service, your
2 liability is limited to the price of the service.
3 The CLECs, as does Qwest, have such limitation of
4 liability for their end-users so the question becomes,
5 if that loop is out of service, what's the business
6 relationship between us and the CLEC, not the end-user.
7 I think it's a totally reasonable position to say it
8 should be the price of the service.
9 MS. JENNINGS-FADER: If the price of
10 the service you're talking about is an interconnection
11 service which affects the ability of the CLEC to
12 provide service to a number of people, end-users,
13 although what they're buying from -- what the CLEC buys
14 from you is the service of interconnection, can you
15 explain why that's a reasonable limitation.
16 MR. BROTHERSON: I still think it's a
17 reasonable expectation in the business. I think if
18 somebody goes out there a with a back hoe and cuts a
19 cable, it might isolate a town. I think that's part
20 of the provision of telecommunications service.
21 It's inherent in the industry. I don't think it's
22 appropriate that CLECs claim all of their lost revenues
23 in that scenario. They're compensated for the price of
24 the service while the service is out, much the same as
25 an end-user is compensated along those same lines.

1 MR. DIXON: I have a comment in
2 response to what he said if you're going to move
3 to another subject.
4 MR. WENDLING: I'm going to stay on
5 that issue.
6 Historically, up until five or six
7 years ago, Qwest, formerly known as US West, formerly
8 known as Mountain States, was and had in Colorado an
9 exclusive grant over monopoly. The limitation of
10 liability you have been quoting as standard utility
11 telephone practice were established for many, many
12 years under that exclusive grant of monopoly.
13 Why in your opinion in a competitive
14 market would this visitage of a monopoly market
15 continue to be appropriate?
16 MR. BROTHERSON: I'm not sure
17 it is unique to a monopoly industry. I think
18 the long-distance business, for example, has been
19 competitive for a number of years and yet the tariffs
20 of long-distance carriers like WorldCom and AT&T
21 contain those same limitation of liability provisions
22 in their tariffs.
23 MR. WENDLING: Since they have no
24 tariffs, could you please respond to that with the FCC?
25 The tariffs are the long-distance carriers as of

1 August 22nd have all been removed.

2 MR. BROTHERSON: As of August 22nd

3 they've been removed.

4 Historically in the industry it's been

5 common in the tariffs of long-distance carriers as well

6 as local providers, so I'm not sure that I would say

7 that it's unique to monopoly. I would say it is common

8 in the telecommunications industry. I think even with

9 the withdrawal of tariffs I believe that the practice

10 is still to limit the liability to the price of the

11 service for an end-user when you're out of service.

12 To do otherwise, and I think I gave the example if a

13 stock broker's telephone is out of service, whether it

14 was long-distance or local, to say that it is sound

15 business practice to enter into a business relationship

16 that would expose the company to the loss of all of

17 those stock losses it could have incurred because of an

18 inability put in a sell or buy order would be such that

19 a party wouldn't enter into a business relationship

20 with that kind of a company with that kind of exposure.

21 Normal commercial practice would be that you would

22 enter into the business and price your service based

23 upon some limitation of liability arrangement.

24 MS. JENNINGS-FADER: Am I correct that

25 the limitation of liability provision we're talking

1 about is reciprocal provision?

2 MR. BROTHERSON: Yes.

3 MS. JENNINGS-FADER: Thank you.

4 MR. DIXON: Mr. Wendling was good

5 enough to address my issue. We were both thinking on

6 the same train.

7 I was going to cite People v. Goddard

8 which talked about the monopoly reasons and the reasons

9 ratepayers were not expected to pay the payments that a

10 monopoly regulated utility incurred, because the fact

11 one ratepayer might be benefited would work to the

12 detriment of all ratepayers, and that doctrine is

13 rapidly changing as the telecommunications market

14 becomes competitive.

15 On the other hand, I do agree that

16 companies, when they establish contracts, will

17 frequently attempt to agree to a limitation of

18 liability. The difference here is, this is one company

19 putting forth a document that will become effectively

20 approved, at least that's the goal, by the Commission,

21 and the Commission effectively will be substituting its

22 judgment for all of the individual companies who might

23 negotiate their own limitation of liability language.

24 This will become the template presumably for any

25 company that wants to adopt the SGAT as an

1 interconnection agreement.

2 So I think the Commission has to

3 closely look at the market and say, is a limitation of

4 liability of this nature appropriate in a competitive

5 market as opposed to a market that was operated under

6 the doctrine of regulated monopoly?

7 While I agree certain long-distance

8 price exists probably in Colorado, I don't think we

9 have tariffs, may have limitations of liability, all

10 of those are subject to Commission regulation and

11 therefore to the extent those exist, they exist by

12 the Commission's grace, if you will, and not either

13 suspending or revoking those price lists one way or

14 another.

15 Once again, I think because of the

16 competitive nature of the telecommunications market,

17 there are a number of cases in other states that

18 suggest the old limitations of liability may no longer

19 be appropriate in a competitive market because those

20 limitations were a tradeoff for the monopoly position

21 the provider held.

22 MS. FRIESEN: There's a dramatic

23 difference between a mass marketed product like

24 telecommunications service to end-users--AT&T has

25 millions of end-user customers--and a contract between

1 carriers. There are far fewer contracts between
2 carriers. Limitations of liability between big
3 companies are standard industry practice but they're
4 also a lot more balanced and more fairer than what
5 you're seeing in Qwest's SGAT.
6 It seems to me you cannot compare
7 this mass marketed service and what happens between
8 end-users and the carriers to what's happened between
9 two big companies that serve huge customer bases.
10 I don't think that's an apt comparison in terms of
11 limitations of liability.
12 MS. BEWICK: I'd like to echo a little
13 bit about what Mr. Dixon just said.
14 Larry made a very good point that
15 limitation of liability language that he has been
16 quoting that's in the current SGAT is the same language
17 that's been out there for over 50 years. As Warren
18 mentioned, he was asking about whether the market was
19 the same as it was 50 years ago. I would say that
20 it's probably inappropriate it was that same language.
21 However, the longer we keep that kind of liability
22 language in an SGAT, the closer the competitive market
23 is going to become the way it was 50 years ago.
24 The market, while it is trying to become competitive,
25 is becoming less competitive in many areas because

1 companies are having a difficult time getting their due
2 results from Qwest when performance is not good.
3 So I would just say that if we want to
4 keep a market where it was 50 years ago, then let's
5 keep liability language where it was 50 years ago.
6 If that's our goal, then this language accomplishes it.
7 If our goal is to have a competitive market and to move
8 forward in competitive landscape, think we need to take
9 a look at changing it.
10 MR. BELLINGER: Okay. I think we have
11 an impasse.
12 MR. BROTHERSON: I wanted to respond to
13 a couple issues.
14 First of all, I think this a pretty
15 common cause. Similar to clauses that have been
16 approved in Southwestern Bell and their 271 and I
17 believe others.
18 I think also that the cap has a
19 benefit to smaller companies. In particular I think
20 one cable cut without a limitation of liability if it
21 was caused by New Edge without some kind of limitation
22 of liability negotiations could virtually wipe out,
23 in terms of legal exposure, a company of that size.
24 I think putting limits around the maximum amount of
25 exposure that a company can have is not a bad thing for

1 the industry, especially if it's starting up, but in
2 fact probably something that should be considered.
3 I think also -- I think that's my
4 comments.
5 MR. BELLINGER: I would suggest we make
6 this two issues. A is the limitation -- looking at
7 6-Qwest-57, there are broken down, doesn't have them
8 divided up -- there are A, B and C issues.
9 A is clear; it's the one we've been
10 discussing. I'm not sure that B is really an issue.
11 C is one we've discussed. I would suggest A we hold on
12 as G-35A. Make C G-35B, and make G-35C which is the
13 fraud issue.
14 MS. JENNINGS-FADER: Referring to
15 6-Qwest-57 issue G-35B as is stated in the document
16 is or is not an issue for this workshop?
17 MR. BELLINGER: I think it is an issue
18 for the CPAP.
19 MR. DIXON: The PAPs reference in
20 5.8.3, not 2. 5.8.2 is a separate issue and is an
21 appropriate -- if we're going to break it down by
22 section, is an appropriate B issue. C would really be
23 the PAP issue and that would be 5.8.3, which is where
24 Qwest has stricken everything in 5.8.3.
25 MS. JENNINGS-FADER: 5.8.3 as

1 originally worded is left intentionally blank?
2 Is that what you're referring to?
3 MR. DIXON: 35.8.3 is now gone. 5.8.2
4 is the issue that relates to -- it has a PAP in it.
5 5.8.4, the issue has been raised as to whether willful
6 misconduct --
7 MR. BELLINGER: We're holding onto
8 that. The question is whether we want to continue
9 to hold B as an issue.
10 MR. MENEZES: The question there -- and
11 it's a question of how does Qwest's proposal deal with
12 the situation where, for example, a CLEC has to pay to
13 the state or to an end-user a certain amount based on
14 state rules? You have to pay $100 to the customer
15 because state rules say you do because there was a
16 failure of performance. You can trace that back to
17 Qwest. And that $100 is more than the cost of the
18 service he receives from Qwest.
19 MR. BELLINGER: The CLECs do not pay,
20 any of the PAP plans I've seen.
21 MR. MENEZES: I'm talking about service
22 quality rules.
23 MS. FRIESEN: I don't think PAP
24 addresses service quality rules at all.
25 MR. BELLINGER: But there's some PAP

1 language that does refer to it.

2 MR. DIXON: The Qwest-proposed PAP --

3 MR. BELLINGER: I understood what

4 you were saying in terms of the performance rules,

5 Mitch. I was trying to help the group decide whether

6 they wanted PAP to be part of that as well.

7 MR. MENEZES: I understand that service

8 quality rule concept that under the construct here that

9 Qwest has proposed they're limited to paying us CLECs

10 only for the cost of this service where a CLEC under

11 state service quality rules may have to pay more.

12 MR. BELLINGER: You might want to

13 modify this a little bit.

14 MS. JENNINGS-FADER: If you look at

15 57B. Exhibit 57, G-35B, I don't believe that the

16 language here reflects that issue as you stated it,

17 Mitch. If we could work with the language a little

18 bit and pull B and add D from fraud.

19 MR. MENEZES: The accepted from LOL --

20 all the words may not capture the thought, but that I

21 think came up in the context of which service quality

22 rules if you have to pay.

23 MR. BELLINGER: How would you like to

24 reword this?

25 MR. MENEZES: If a CLEC is required

1 to make payments to a customer or a state agency under
2 service quality rules or other regulatory requirements
3 and those amounts exceed the limits of liability
4 expressed in 5.8.1 of Qwest's SGAT Lite, will those
5 payments fall outside the limitation of liability so
6 that a CLEC is made whole where the failure results
7 from Qwest's nonperformance?
8 MS. JENNINGS-FADER: I have a question
9 with respect to what you just articulated and that is,
10 if one talks about service quality rules or other
11 regulatory requirements does that automatically
12 incorporate a Performance Assurance Plan?
13 MR. MENEZES: It wasn't my intention
14 to incorporate it.
15 All I was trying to get at is, is there
16 any other way other than service quality rules, maybe
17 service quality rules or similar regulation?
18 MS. JENNINGS-FADER: I wanted to
19 know if you wanted it as expansive as including a
20 Performance Assurance Plan or if you're trying to
21 exclude that because that will be dealt with in the
22 plan itself, one hopes.
23 MR. MENEZES: That probably needs to be
24 a separately stated issue.
25 MS. JENNINGS-FADER: I was trying to

1 understand what you were saying.

2 MR. MENEZES: In my mind it probably

3 needs to be a separately stated issue because I'm not

4 sure that --

5 MS. JENNINGS-FADER: Never mind. I was

6 corrected. CLECs don't pay Performance Assurance Plan,

7 so never mind.

8 MR. BELLINGER: Would someone like

9 to make a stab at articulating D on terms of fraud?

10 Mr. Schneider, would you like to make a succinct issue

11 statement for fraud? That would be G-35D.

12 MR. SCHNEIDER: How about something

13 like, is the fraud section of the limitation and

14 liabilities proper for a limitation of liability or

15 should revenue protection language be included in the

16 network security section of the SGAT?

17 MR. BELLINGER: Everybody okay with

18 that?

19 MR. BROTHERSON: There is a

20 revenue protection section in the contract and it

21 was negotiated in the earlier workshop. The provision

22 was that they would make available to the CLECs the

23 same fraud protection equipment that they use for

24 themselves. I think we're talking now about going

25 back into a closed section.

1 MR. BELLINGER: I think it's really any
2 conflicts between a fraud section and the revenue
3 protection section which is 11.34.
4 MR. SCHNEIDER: Sounds good to me.
5 MS. HUGHES: Could you restate the
6 issue.
7 MR. SCHNEIDER: Does the fraud section
8 of the limitation of liability section conflict with
9 the revenue protection language of the SGAT?
10 MS. JENNINGS-FADER: The first issue
11 you raised is, is it appropriate at all to have a fraud
12 provision in the limitation of liability section?
13 So the issue is, is 5.8.6 an appropriate section at
14 all? Then if it is an appropriate section, is there
15 a conflict between 35.8.6 and Section 11.34?
16 I think it's really both of those things.
17 Your main issue right off the bat was,
18 it shouldn't even be there, so I don't want to lose
19 that.
20 MR. MENEZES: To append to that,
21 it shouldn't be here given the already expressed
22 obligations throughout the SGAT and then the second
23 part of yours follows.
24 MR. BELLINGER: Any conflicts?
25 I think we've got enough here. Okay.

1 Why don't we take a 15-minute break.

2 (Recess taken.)

3 MR. BELLINGER: We'll go back on the

4 record.

5 My notes indicate G-38 would be the

6 next one.

7 MR. BROTHERSON: I did have one last

8 comment on 35.

9 I wanted to also respond to the comment

10 about the limitation of liability being something out

11 of a monopoly world and not carried forward into a

12 competitive market. I wanted to make the point for the

13 record that Qwest remains heavily regulated in terms of

14 the prices for the products that we're going through a

15 cost docket right now, and the prices for the services

16 that Qwest will charge are not reflective of

17 competitive market and the ability of a company to

18 price to individual purchasers based on what they feel

19 -- how much risk they want to assume. I wanted to

20 point out in response to --

21 MS. FRIESEN: How many access lines in

22 the state of Colorado does Qwest have?

23 MR. BROTHERSON: I couldn't answer

24 that.

25 MS. FRIESEN: Would 2.7 million be

1 about right? How many access lines do competitors have
2 in the state?
3 MR. BROTHERSON: I don't know that for
4 a fact.
5 MR. DIXON: This is argument as opposed
6 to factual statements.
7 I would point out that with respect
8 to Qwest being heavily regulated for the underlying
9 wholesale products and the concept of regulated
10 monopoly regulation, Qwest is no longer a rate of
11 return regulated company. Because it's no longer a
12 rate of return regulated company, it has agreed that
13 it will effectively go where the competitive forces
14 dictate. It will take whatever the consequences are
15 of being a price flexibility or regulated on a price
16 flexibility basis.
17 What that means is, from a
18 wholesale perspective Qwest continues to have at least
19 substantial market power which is in the cost case and
20 all the matters we deal with in this proceeding
21 already. Therefore, whether or not Qwest continues
22 to hold monopoly position in the wholesale side of the
23 house is something that is being addressed both in the
24 cost docket and is something that's been addressed in
25 the pricing flexibility docket in this state. In fact,

1 has been ruled upon. I would also point out, it's the
2 reason in part why its wholesale rates are so heavily
3 regulated.
4 Again, there is some monopoly history
5 that may have relevance here. The fact that Qwest is
6 no longer rate of return regulated is another reason
7 why the limitation of liability provisions may not have
8 as much applicability as they did when Qwest was rate
9 of return regulated irrespective of its monopoly,
10 or not, position.
11 MR. BELLINGER: Can we move to G-38?
12 MS. HUGHES: Because we have a witness
13 here to address the definition section, if it's okay,
14 I would propose that we go to definitions next. That's
15 G-27, which we deferred yesterday.
16 MR. DIXON: We did hand out a -- there
17 was a working draft handed out last night for the
18 definitions. Are those going to be marked as an
19 exhibit or what's your pleasure on this working draft
20 and where it fits in relation to the definitions
21 contained in 6-Qwest-61?
22 MS. FORD: It's going to be quite
23 different from what's in there.
24 MR. DIXON: If one wants to follow
25 along in their program, should we stop looking at

1 6-Qwest-61 definitions and focus exclusively on the
2 working draft in our discussions for definitions today?
3 MS. FORD: Yes.
4 MR. DIXON: With that understanding,
5 it would seem to me that probably should be marked as
6 an exhibit to benefit all parties. I believe we're up
7 to No. 76, according to my notes. If Qwest has no
8 objection, I would suggest we mark this 6-Qwest-76,
9 this being a working draft that was handed out last
10 night.
11 MS. FORD: That's fine.
12 MR. DIXON: It's my understanding any
13 definition that was found in 6-Qwest-61, which is the
14 SGAT that was handed out yesterday, we should totally
15 eliminate Section 4 from that document from our
16 consideration any further. This would become the
17 substitute for Section 4 in 6-Qwest-61, assuming it was
18 approved as written; would that be a fair statement?
19 MS. FORD: Yes. It needs to be cleaned
20 up; it's got a lot of comments on it and that type of
21 thing.
22 MR. DIXON: That's why I assume it's
23 referred to as a working draft. It's more, we can take
24 things off our table and figure out what we should be
25 looking at.

1 I'll be happy to report Mr. Schneider
2 will take the lead on our definition discussions for
3 WorldCom. He has been working diligently with
4 Ms. Ford, off hours, night, all sorts of stuff,
5 to try and reach resolution on these issues.
6 MS. FORD: Mr. Christiansen will be
7 taking the lead for us, and I don't believe he's been
8 sworn in.
9 (Larry Christiansen was sworn to state
10 the whole truth.)
11 MR. BELLINGER: What do we do with
12 these?
13 MS. FORD: I don't know if we want to
14 go through each one of them or look at the ones that
15 are in dispute.
16 MS. JENNINGS-FADER: I have questions
17 based on my reading of the definitions. I don't know,
18 frankly, except for the bolded language on access
19 tandem switch, apparently that's an issue, so I'm not
20 sure whether the comments and questions that I have are
21 related specifically to subjects at issue.
22 MS. FORD: As we go through, if you
23 have questions --
24 MS. QUINTANA: Can we start with an
25 explanation of the different changes that are tracked.

1 For instance the bolding, what does that mean? What
2 does the underlining mean? What does the highlighted
3 mean? If you know.
4 MS. FORD: Yes. The underlined
5 definitions are primarily WorldCom definitions which
6 they have proposed and we have accepted to various
7 degrees. The bolded language are notes about the
8 status of that definition. Who's got questions about
9 it, in effect. Then I think as Tom may have mentioned
10 earlier, on the Qwest definitions, which are the ones
11 that are numbered and struck through, we would like to
12 remove the numbering because you end up with As, Bs
13 and Cs. The highlighting is just to show you where
14 something is at issue.
15 MR. DIXON: In 6-WorldCom-9 Attachment
16 B was a list of definitions that WorldCom proposed be
17 added to the SGAT. We do have a factual basis for
18 every definition so we're not pulling these out of the
19 air.
20 As Ms. Ford represented, many of the
21 definitions that now are contained in the SGAT as
22 opposed to what the number was, which was basically in
23 the sixties in Qwest's original SGAT we're now pushing
24 a couple hundred definitions, have come from WorldCom
25 documents, which we can generally represent and subject

1 to Qwest's agreement have generally come from either
2 FCC's or industry standards and they've been run behind
3 the Qwest people as well the WorldCom people so we're
4 not making them up as we go. We're looking at pretty
5 traditional definitions that are located in either a
6 standard industry pub, in an FCC rule, or otherwise.
7 In addition, as a general rule, if a
8 term is defined in the SGAT, rather than repeating the
9 definition in the definition section, as a general rule
10 we cross-referenced that section. For example, we
11 might say whatever a service is that we identify in
12 here we may direct you--Centrex is a good example--to
13 the section where Centrex is discussed in the resale
14 portion of the SGAT, for example. Again, the idea
15 being sometimes putting in too much in a definition
16 can conflict with what's in the substantive section.
17 To avoid that possibility we attempted to just direct
18 peoples attention to where they should look for an
19 explanation of a concept or a term. I think that's a
20 general rule of how these definitions have come into
21 existence.
22 WorldCom probably took the lead on
23 this. It started in Arizona. However, we've tried to
24 keep all parties involved, not only in this group here
25 today, which includes the CLECs represented here, but

1 these have also bounced through the Washington people
2 which also brings in some CLEC involvement. Even some
3 of these definitions may have been modified by a
4 request for some attorney or some CLEC in Washington
5 state. Again, those have been done to try and get a
6 uniform set of definitions across all the states.
7 That's what's happened in this process.
8 As I indicated, Michael Schneider has
9 been the lead working on these definitions for us.
10 MR. BELLINGER: The intent of this
11 discussion is either to reach consensus or take them
12 to impasse on definition?
13 MR. DIXON: We would hope we wouldn't
14 have to go through each one.
15 Where we've reached consensus, not just
16 WorldCom and Qwest in theory, is, everybody, subject to
17 anybody that may or may not have a dispute we're not
18 aware of, our goal would be to focus on the ones where
19 there may still be some dispute unless someone has a
20 reason to address it otherwise, and we believe the
21 factual basis for that definition if it's not in
22 dispute is contained both in the testimony and attached
23 definitions that were provided by WorldCom, as well as
24 any testimony that was provided by Qwest or any other
25 party that could come up yet today.

1 MR. BELLINGER: The goal is to reach
2 consensus or impasse?
3 MR. DIXON: That would be the goal.
4 I can represent we're going to have -- 90 percent of
5 these definitions will be consensus. The goal was not
6 to put the are entire definition section at impasse but
7 specific definitions at issue.
8 MR. BELLINGER: We'd list the
9 definitions that are impasse and you'll brief those
10 definitions?
11 MR. DIXON: Yes. That would be
12 WorldCom's suggestion, assuming that's consistent with
13 everyone else's understanding. That's how we've all
14 approached it, I think.
15 MR. BELLINGER: What is the first one?
16 MS. FORD: The one where there's an
17 issue is access tandem switch. It may have been both
18 AT&T and WorldCom who wanted to include the highlighted
19 language among other things.
20 WorldCom has made a counter-proposal
21 that you might want to address, Larry.
22 MR. CHRISTIANSEN: WorldCom was
23 proposing that perhaps if we added that the access
24 tandem switch can be used for the exchange of local
25 traffic when used as a CLEC single point of

1 interconnection.

2 MR. BELLINGER: Where are you reading

3 from?

4 MR. CHRISTIANSEN: This is information

5 that we got from Michael Schneider in our efforts to

6 try to bring these to resolution.

7 MR. BELLINGER: Would you read the

8 definition. I'm trying to figure out, is this the

9 proposed definition you're giving?

10 MS. FORD: Access tandem switch is a

11 proposed definition. The issue is the inclusion of

12 the highlighted language, among other things.

13 MR. BELLINGER: That's not what I heard

14 just now from the witness.

15 MR. SCHNEIDER: Basically we had had --

16 among other things, they said that were too open-ended,

17 and Dana Garvin, who is my definitions expert, who I

18 went back to through e-mail to get her input on this,

19 has written back an e-mail to say, can we say that the

20 access tandem switch -- when asked what do you mean by

21 "among other things," can we say the access tandem

22 switch can be used for the exchange of local traffic

23 when used as a CLEC single point of interconnection.

24 I think that, to me, looks like it's already covered

25 when it says, at the very last of this definition, that

1 an access tandem switch may be used for the exchange of
2 local traffic. I think I'm okay with taking out
3 "among other things."
4 MR. DIXON: That definition goes to
5 consensus; am I correct?
6 MR. SCHNEIDER: Correct.
7 MR. MENEZES: AT&T can go along with
8 that.
9 MR. DIXON: We'll strike "among other
10 things" and obviously the editorial comment.
11 MS. JENNINGS-FADER: I have a question
12 on the next definition. I'm curious as to why it's
13 limited only through the '96 amendment. Why isn't it
14 just the federal -- the communications act of 1934 as
15 amended?
16 MS. FORD: I'm trying to think if there
17 have been any amendments to the Act that impact what
18 this document covers since '96. I don't know of any.
19 We could say "as amended."
20 MS. JENNINGS-FADER: The document is
21 not only as of this minute but it's a going-forward
22 document that folks should be able to opt into, and
23 I always understood that it would include amendments
24 after 1996, and this raises a question particularly
25 which the rest of the definition goes on to talk about

1 "as from time to time interpreted in the rules and
2 regulations of the FCC." That seems to be raising
3 the possibility of confusion.
4 MR. DIXON: Would your problem be
5 solved if we struck the reference to the telecom act of
6 '96 and just say as amended, covers that act and not
7 only occurs subsequent?
8 MS. JENNINGS-FADER: Curious as to why
9 it's limited.
10 MS. FORD: This was a US West
11 definition that was adopted right after the Act,
12 and so that was the time frame they were thinking
13 about.
14 MR. DIXON: Delete the reference to the
15 telecom act of '96 we can solve that problem?
16 MR. BROTHERSON: Do you want to go with
17 the then current version, Tom?
18 MS. FORD: To address Mana's
19 concern, we're proposing, and I think WorldCom agrees,
20 and AT&T, in what was 4.3 that we strike "by the
21 Telecommunications Act of 1996." So it would just be
22 the act meets the communication act of 1934 with the
23 cite as amended and as from time to time interpreted
24 through the rest of that definition.
25 MR. DIXON: We also globaled the

1 definitions to be sure they were actually used in the
2 document. It's our belief that every definition in
3 here as that term has been used in this document.
4 To the extent you'll find MCI definitions that were not
5 included in our -- that were in our testimony are not
6 here, it was we couldn't find the use of that in our
7 document.
8 MS. FORD: The next where there's
9 an issue is automatic location identification or ALI.
10 AT&T had requested that we refer to both E911 and 911
11 in this definition. My experts tell me that ALI is not
12 used for 911, only E911.
13 MR. MENEZES: We can go ahead and
14 delete the highlighted language "emergency services"
15 and the parenthetical "(E911/911)" and reinsert the
16 stricken language "Enhanced 911 (911)." That holds
17 true for the next definition as well, on the automatic
18 location identification/data base management system.
19 MR. SCHNEIDER: WorldCom is agreeable
20 to that.
21 MS. JENNINGS-FADER: Top of page 2,
22 ATIS. The last sentence, ATIS standard and guidelines
23 as well as the standards of other industry are
24 referenced here as base line requirements,
25 documentation.

1 Isn't that a separate definition of
2 base line requirements documentation and shouldn't that
3 be a capitalized defined term? It realize as you've
4 combined two definitions in one to the extent that base
5 line requirements documentation is used in this
6 document. If it's not, it's not a problem.
7 MS. FORD: I think everyone is
8 comfortable with this unless you've got a very
9 strong concern about it.
10 MS. JENNINGS-FADER: I'm reading this
11 as a person who has not been involved in discussions.
12 I'm reading it more like a new competitive local
13 exchange carrier is reading it to try to understand
14 what's going on. I don't care one way or the other.
15 I just don't know if "base line requirements
16 documentation" is a term which is used in the document.
17 MS. FORD: Unfortunately, I don't know
18 either. I'd have to search.
19 MR. MENEZES: I just did a search.
20 It's not a Colorado SGAT because I don't have a
21 complete Colorado SGAT on my c: drive, but I did not
22 find it.
23 MS. JENNINGS-FADER: In which case one
24 wonders why it talks about the standards are referenced
25 here in as base line requirements documentation.

1 MS. FORD: Do you have any comments,
2 Michael?
3 MR. SCHNEIDER: We can strike it.
4 That would fix it.
5 MS. FORD: Strike the last sentence?
6 MR. SCHNEIDER: Right.
7 MS. QUINTANA: How about just the
8 last phrase in that sentence? Strike "as base line
9 requirements documentation" and just put a period
10 after "referenced herein"?
11 MR. SCHNEIDER: That will work too.
12 MR. DIXON: When we talk about some of
13 these things may not appear in the SGAT per se. The
14 SGAT includes a ton of exhibits. You'll find some of
15 these terms in the exhibits and not just the SGAT.
16 I suspect ATIS at one time may have been cross-
17 referenced in some of the CICMP exhibits.
18 MR. BELLINGER: The reference was
19 really to the base line requirements documentation.
20 MR. DIXON: The fact it's even in here
21 may be beyond the actual SGAT document and may be a
22 term used in an exhibit as well. I also think the
23 PIDs are going to have a lot of terms that are
24 cross-referenced.
25 MR. BELLINGER: Are we in agreement on

1 that last?

2 MR. DIXON: Yes.

3 MS. FORD: That definition is at

4 consensus.

5 MR. BELLINGER: You're on the ALI data

6 base management system I think we were talking about,

7 right?

8 MS. FORD: AT&T had agreed to make the

9 same type of change that they made above and limit it

10 to Enhanced 911. Then the highlighted language, "to

11 determine to which public safety answering point to

12 route the call and used," was language AT&T wanted to

13 add and that I think all the parties are comfortable

14 with, in agreement on.

15 MR. BELLINGER: You're going to leave

16 that phrase in and everyone is okay with that? Okay.

17 MS. FORD: Those two definitions,

18 ALI and ALIDBMS, are also closed and consensus.

19 MS. JENNINGS-FADER: I have a question

20 on page 3. Why is "bona fide request" no longer a

21 defined term?

22 MS. FORD: That goes along with the

23 guideline that Tom had talked about. If a term is

24 defined in the SGAT then we don't necessarily include

25 a definition.

1 MS. JENNINGS-FADER: I think the for
2 identification line Tom talked about and the convention
3 I've noticed is that if the term is defined somewhere
4 else in the SGAT, the definition refers you to the
5 section where the definition is found.
6 MS. FORD: We could certainly do that.
7 MS. JENNINGS-FADER: Seems to me it's a
8 term that's used a lot in the SGAT.
9 MR. SCHNEIDER: WorldCom agrees with
10 that, thinks it ought to be referenced it.
11 MR. DIXON: I think what happened here,
12 we took bona fide request, SRP, and ICB and struck them
13 all together because we were still working on that and
14 intended to go back and fix that. We knew the
15 definitions weren't what we were going to use because
16 of what was going on in the discussions with those
17 three concepts.
18 MS. FRIESEN: Are you going to
19 reference Section 17 for the BFR definition?
20 MS. FORD: Yes.
21 MR. DIXON: That would be my
22 presumption. When we get to SRP we'll reference
23 Exhibit F.
24 MS. JENNINGS-FADER: ICB is also
25 stricken in this version.

1 MR. BELLINGER: What's the next one
2 that's at impasse?
3 MS. FORD: None of these are really at
4 impasse because they haven't been thoroughly discussed.
5 We hope to close them.
6 MR. BELLINGER: What's the next one you
7 want to discuss?
8 MS. FORD: Tandem office, under central
9 office switches, page 3 and 4.
10 That definition is at impasse in the
11 related workshop. But for Colorado we do now have a
12 decision as to what that means. So you will see that
13 as the second definition. I don't know if people have
14 had a chance to look at that and cross-reference the
15 order or not.
16 MR. MENEZES: I've sent it to have
17 someone do that but I haven't gotten an answer yet.
18 I expect to have that today.
19 MS. JENNINGS-FADER: The language that
20 follows, "For example, for Colorado I would suggest,"
21 is the language which Qwest believes comports with the
22 Commission's order?
23 MS. FORD: Yes.
24 MR. DIXON: I think we'd agree given
25 the fact that the Hearing Commissioner has issued a

1 specific definition of this probably would be
2 ill-advised to use something different.
3 MS. JENNINGS-FADER: One certainly
4 could if one wished to do that.
5 MR. DIXON: I believe the definition
6 that he proposed was last addressed in his order
7 addressing motion to modify that was filed by AT&T
8 and WorldCom, and he did make a further change to
9 this particular definition, so that would be the last
10 version of the definition that I think we should be
11 using. I was trying to make a comparison while we were
12 walking through, and later when I get that done, I'll
13 let you know.
14 MS. FORD: Is it fair to say this is a
15 consensus and closed subject to check?
16 MR. DIXON: Yes, from WorldCom's
17 perspective.
18 MR. BELLINGER: Anything else on this
19 page you want to discuss?
20 MS. JENNINGS-FADER: Yes. Under
21 carrier liaison committee, the last line, OBF and NIM,
22 what is NIM? It's not one of the listed groups.
23 MS. FORD: Michael, can you help us out
24 with that?
25 MS. JENNINGS-FADER: It's not otherwise

1 defined either that I can find.

2 MR. DIXON: If we can't find it we'll

3 get a definition -- we'll get you a definition of what

4 those initials mean even if it's not in the SGAT.

5 MS. JENNINGS-FADER: I was wondering

6 if it should be in that list that includes OBF that

7 precedes it.

8 MR. DIXON: I don't know off the top of

9 my head. Need to follow up on that one. We'll get you

10 an answer.

11 MS. FORD: We're moving to page 5.

12 WorldCom has now stated, Michael, that you're okay

13 with the definition of cross-connection?

14 MR. SCHNEIDER: That's correct.

15 MR. MENEZES: AT&T is okay with it as

16 well.

17 MS. FORD: So it's closed and

18 consensus. We'll of course take the comments out.

19 Page 6, any questions?

20 MR. MENEZES: Dark fiber, the

21 cross-reference, 9.7.1. I don't think there is a

22 9.7.1.

23 MS. JENNINGS-FADER: At the end of

24 current service provider, the definition needs to

25 have a period at the end.

1 MR. DIXON: "Day" clarifies once and
2 for all what a day means and effectively says it's
3 always a calendar day unless it clearly states in the
4 body of the SGAT it's something else. That's been one
5 we've dealt with across all workshops, so we thought
6 we'd create a default definition.
7 MR. BELLINGER: What did you put for
8 dark fiber?
9 MS. FORD: 9.7.1. (sic)
10 Moving to page 7.
11 MS. JENNINGS-FADER: Under digital
12 subscriber line access multi-plexer, the ever popular
13 DSLAM, the fourth line where it says DSLAM, I think
14 there shouldn't be an apostrophe there.
15 MS. FORD: We'll delete that
16 apostrophe.
17 Moving to page 8.
18 MS. JENNINGS-FADER: Under directory
19 listings. Telecommunications carrier is, I believe,
20 the defined term as is affiliate and therefore would
21 have to be capitalized.
22 MS. FORD: You're right.
23 MS. JENNINGS-FADER: And
24 telecommunications carriers in two places and affiliate
25 in one.

1 MS. FORD: Okay. I've got those.

2 Moving to page 9, disturber had been at

3 issue. It's now consensus and closed.

4 MS. JENNINGS-FADER: The shaded

5 language is accepted?

6 MS. FORD: Yes.

7 On electronic bonding, WorldCom has now

8 agreed to accept the alternative definition.

9 MR. BELLINGER: Which is the one after

10 the bold type?

11 MS. FORD: Right.

12 MR. DIXON: Strike the first definition

13 for electronic bonding and all the editorials.

14 MS. FORD: Are the other parties okay

15 with that?

16 MR. MENEZES: That's fine for AT&T.

17 MS. FORD: That issue is closed to

18 consensus -- that definition is.

19 We move down to enhanced services

20 and --

21 MS. JENNINGS-FADER: The last line of

22 end-user customer, I believe the C in "carriers" should

23 be capitalized.

24 MS. FORD: Okay. That's done.

25 The next question is in enhanced

1 services. That's really a question between AT&T and
2 WorldCom. Should we use subscribers as the FCC rule
3 does or should we use end-user customers which is the
4 term we've used in the SGAT?
5 MR. MENEZES: That's fine to use
6 "end-user customer."
7 MS. FORD: That issue is closed to
8 consensus.
9 MS. FORD: Moving to page 10, exchange
10 access. I'm going to turn this one over to Larry.
11 MR. CHRISTIANSEN: There are have been
12 some suggestions by WorldCom to expand the definition
13 of exchange access. Actually change it to what the
14 definition is in the Act.
15 Qwest's concerns associated with that
16 is, Qwest agrees with WorldCom that Qwest did not use
17 the exact definition that the FCC in the Act uses in
18 exchange access.
19 However, as part of the workshops of
20 Section 7 discussing all of the interconnection issues,
21 Mr. Freeberg was quite open with but the definition
22 was somewhat different, and attempted to try to break
23 that down into multiple items. Therefore, all of the
24 Section 7 is basically approved or at impasse based on
25 the definition that Qwest has used for exchange access.

1 We're concerned that if now we come back in and change
2 the definition here that in fact it modifies Section 7
3 in various ways.
4 What we're asking for at this point
5 in time is to leave the existing exchange access to
6 comply with the way Qwest has used it in Section 7,
7 referencing it as specifically intraLATA toll versus
8 essentially just the terminology of toll that the FCC
9 has used.
10 MR. BELLINGER: Are you proposing this
11 definition?
12 MR. CHRISTIANSEN: We're proposing to
13 leave the definition as it is.
14 MS. FORD: We also put in an alternate
15 definition, so you're seeing two of them in there.
16 Larry is now saying we prefer to keep what used to
17 be 4.30 and strike the alternate definition.
18 MS. FRIESEN: Larry, I don't quite
19 understand why you want to do that.
20 MR. CHRISTIANSEN: Purely because
21 of all of the work that was done in Section 7 was
22 basically using the definition as purely intraLATA toll
23 when we were using the terminology of exchange access.
24 Exchange access intraLATA toll is referenced numerous
25 times in Section 7.

1 MS. FRIESEN: We would change the
2 definition here to include interLATA toll as well.
3 It's Qwest's understanding that would change it
4 throughout Section 7?
5 MR. CHRISTIANSEN: We would believe
6 that changes the meaning of Section 7 which has gone
7 through the workshops. We believe it creates a problem
8 that then reopens Section 7 issues.
9 Again, in my discussions with
10 Mr. Freeberg, he indicated that there was discussion
11 about this terminology and that it wasn't quite the
12 same definition that the FCC uses. But there was no
13 further resolution in the workshop there and we
14 continue to use it as per our definition here.
15 MR. SCHNEIDER: We'd like to keep
16 this one open and go back and check with a subject
17 matter expert on this. This wasn't included in the
18 definitions that I checked with Dana Garvin on
19 yesterday, so if we could keep this open.
20 MR. BELLINGER: When would you complete
21 that?
22 MR. SCHNEIDER: I would like to have
23 that completed tomorrow. I can send out an e-mail this
24 afternoon.
25 MR. BELLINGER: We need it before we

1 finish the workshop.

2 MR. DIXON: If I understand Qwest's

3 position, the alternate definition is now not on the

4 table from Qwest's perspective?

5 MR. CHRISTIANSEN: That's correct.

6 MR. DIXON: The definition that Qwest

7 would prefer would be the very first one up to the

8 editorial comments, the three lines?

9 MR. CHRISTIANSEN: Correct.

10 MR. DIXON: You've indicated part

11 of your reason for wanting that definition relates

12 to Section 7. So even if we were to accept your

13 definition, we're going to have to take a look at

14 Section 7 to see if we could understand your concern

15 as it relates to that section, how it's being used.

16 That may take a little effort beyond having our

17 subject matter expert look at the definition. Now it's

18 application really what's at issue, not just the terms

19 definition.

20 MR. CHRISTIANSEN: Tom, I was clear in

21 the discussions of Section 7 in those workshops as to

22 how Qwest was using that terminology.

23 MR. DIXON: My concern is, we could

24 probably live with the definition that came out of the

25 telecom act. I'm getting the sense that is not what

1 you would like because of your concerns of how it was
2 applied in Section 7. That's what I'm getting at.
3 The obvious definition would be a definition that
4 exists.
5 MR. BELLINGER: Would a compromise be
6 this is a definition used in Section 7, however the
7 definition from the telecom act is such-and-such and
8 that's what it is?
9 MR. DIXON: I don't know whether
10 exchange access -- the term is used in any place other
11 than Section 7 so I don't know if it has a broader
12 application somewhere else.
13 Secondly, if we're going to limit the
14 definition somehow, it might be more appropriate to put
15 that limitation in Section 7, and the definition of
16 exchange access for purposes of Section 7 means one
17 thing and is not the global definition that's found
18 in the Act.
19 We may have to go back and revisit this
20 one given its application implication.
21 MR. BELLINGER: Your LATA part was
22 another way to say what I said, just referenced
23 Section 7 in terms of issues.
24 MS. JENNINGS-FADER: The definition of
25 fiber meet. The sentence that starts, "Each party is

1 responsible for the cost of facilities," and goes to
2 the end of that section, I'm curious as to why that's
3 the definition and not a term or condition.
4 MS. FORD: I think you a have good
5 point. Perhaps WorldCom could address that.
6 MR. BELLINGER: What is the need for
7 the second sentence?
8 MR. SCHNEIDER: Just to make it very
9 clear on a fiber meet, like a mid-span meet, each party
10 is responsible for the cost of its facilities.
11 MR. BELLINGER: We understand what
12 you're trying to say. Why is that part of the
13 definition?
14 MR. DIXON: We'll take that back,
15 because there's, one, been a Commission decision that
16 addresses the concept that fiber meet. We'll look at
17 that and see how that impacts our concern about costs.
18 We'll get back to you on it whether we can strike that
19 concept because of what's happened since we discussed
20 all these definitions.
21 MR. SCHNEIDER: Could I ask if Qwest
22 or any of the CLECs have a problem keeping this in?
23 I thought we were in consensus on this definition.
24 MS. FORD: We had agreed to it.
25 MR. DIXON: One of my suggestions may

1 be we move this concept to a different point in the
2 SGAT, to address Mana's concern that it maybe more
3 properly belongs in the substantive section of the
4 SGAT addressing meet points.
5 MS. FORD: You may find it there.
6 MR. DIXON: If it is, we can strike.
7 MS. JENNINGS-FADER: I'm not suggesting
8 it be removed. I'm wondering why it's there.
9 MR. DIXON: It's the belts and
10 suspenders approach to issues.
11 MR. SCHNEIDER: Can Qwest tell me which
12 section of the SGAT this is?
13 MS. FORD: Section 7.
14 The next one is finished services, and
15 WorldCom has agreed to strike the portion that Qwest
16 wanted stricken.
17 MR. BELLINGER: We're okay with this?
18 MS. FORD: If everyone else is. That's
19 closed and at consensus.
20 MS. JENNINGS-FADER: Provider, same
21 page. Common challenge signaling is a defined term?
22 MS. FORD: Right.
23 MS. JENNINGS-FADER: Then another
24 question: Everything after LIDB, is that a definition
25 or something else? It doesn't look like a definition

1 to me and maybe it is.

2 MR. DIXON: I'm lost on where you are.

3 MS. JENNINGS-FADER: Hub provider.

4 MR. BELLINGER: The question had to do

5 beginning with the second sentence, the need for that

6 or why it's there.

7 MS. FORD: Michael, could you address

8 that.

9 MR. SCHNEIDER: Talking about hub

10 provider. I can tell you why from my perspective it's

11 in there: because my SME said it should be in there.

12 MS. JENNINGS-FADER: It doesn't look

13 like a definition, is looks like what the hub provider

14 does with messages. That's why it's confused.

15 MR. DIXON: Use of a hub provider is in

16 the UNE Section 9.15. You've made a good point that

17 maybe we should put this type of language in Section

18 9.15 somewhere and take it out of the definition.

19 My suggestion will be that at the

20 moment, without being able to say where in 9.15 and

21 recognizing no one else may be following the SGAT

22 because I have to have it with me, why don't we leave

23 it open and take a look if there's an appropriate way

24 to handle it in Section 9.15.

25 MS. FORD: We've got a concern about

1 going into closed sections of the SGAT. We'd much
2 prefer that we either leave it here or take it out.
3 MR. DIXON: Issue being raised on the
4 proprietary being a definition yet everybody agrees to
5 the concept being in the SGAT. The concept is, how do
6 we address the concern that Mana has raised?
7 Let's leave it open and we can talk
8 about that later instead of beating ourselves to death
9 at the moment.
10 MR. BELLINGER: I think that's a good
11 move.
12 MS. FORD: We've already talked about
13 reinserting ICB, so I'm moving to page 12.
14 MS. JENNINGS-FADER: On information
15 service, third line, telecommunications is a defined
16 term?
17 MS. FORD: Okay. Should we make the
18 same change on the next line?
19 MS. JENNINGS-FADER: Yes.
20 MR. SCHNEIDER: This is a consensus
21 definition and needs to be taken out of the little
22 AT&T comment at the bottom.
23 MS. FORD: Yes.
24 Moving to page 12, the first definition
25 at issue is "legitimately related." I'm going to turn

1 this over to Larry.

2 MR. CHRISTIANSEN: I understand that

3 originally WorldCom wanted to include as determined

4 by the Commission --

5 MR. SCHNEIDER: Tell Laura that's fine.

6 We don't need that in there.

7 MR. CHRISTIANSEN: The language at

8 issue is, these rates, terms, and conditions are those

9 that when taken together are necessary rates, terms,

10 and conditions for establishing the business

11 relationship between the parties as to the particular

12 interconnection service element. These terms and

13 conditions would not include general terms and

14 conditions to the extent that the CLECs'

15 interconnection agreement already contains requisite

16 general terms and conditions. I believe WorldCom is

17 proposing to strike that language.

18 MR. SCHNEIDER: AT&T is proposing to

19 strike the language and WorldCom agrees.

20 MR. CHRISTIANSEN: Our sense is that we

21 feel that that identifies what's legitimately related

22 and concerned about striking that.

23 MR. MENEZES: My concern is that this

24 sort of takes license with what the FCC has written

25 or maybe it has not actually written. It has the

1 potential to narrow the meaning of what -- because
2 there is no, that I found, definition of legitimately
3 related in the FCC's rules. There are discussions in
4 the FCC's orders. I want those discussions to live
5 with respect to this agreement and not be narrowed or
6 constrained in any way by this agreement. That's the
7 reason for striking that.
8 The first part of the definition is
9 almost directly from the First Report and Order, so
10 that was why I left it in.
11 I would be happy to have "legitimately
12 related" simply refer to the interpretation given it
13 by the FCC, because I think when you start playing
14 with trying to create a definition from the FCC's
15 discussions that cover pages, we have the potential
16 for leaving important things out.
17 MR. CHRISTIANSEN: This was our attempt
18 to clarify as to what -- as we get into negotiations,
19 as we get into requests for opt-ins, et cetera, to
20 identify that language that we would include. Are you
21 suggesting that we'll deal with those at the time that
22 we then disagree with "legitimately related"?
23
24
25

1 MR. MENEZES: I think that's right. I
2 think that -- I mean, that's the point of my concern.
3 I don't want this paraphrase that Qwest has drafted to
4 direct how we conduct ourselves in understanding what
5 legitimately related means, and I want the FCC's orders
6 to do that. And if we, you know, we may disagree on
7 what it means for terms to be legitimately related.
8 And I think the application of the law is what we need
9 to resolve that dispute, rather than the application of
10 a definition that seeks to interpret the law.
11 MR. CHRISTIANSEN: After some discussion
12 with counsel, I think Qwest would recommend that this
13 is just going to impasse then. We'll brief.
14 MR. MENEZES: That would be fine.
15 MR. DIXON: Our first impasse.
16 MR. MENEZES: Thank you. I get credit.
17 MR. DIXON: Mana, I have a -- if we could
18 come back, I can at least report on the exchange access
19 definition.
20 MS. JENNINGS-FADER: NIM.
21 MR. DIXON: Not NIM. I haven't gotten to
22 that one yet. I just wanted to -- the question of
23 exchange access definition, I think this is going to
24 involve a little more ability, on the part of Qwest,
25 than maybe we had initially contemplated. I globaled

1 the June 29th, fully final, 100 percent complete SGAT
2 as of that date. And what Qwest did, it would refer to
3 access exchange frequently, and, in parenthesis, put
4 intraLATA toll, close parenthesis. And as a general
5 system, it did something like that or akin to that
6 throughout Section 7.
7 However the term, "exchange access," is
8 also used in Section 9, and in the SGAT. So, and at
9 that point it is not limited to intraLATA toll. So I
10 think that when we get to addressing this particular
11 definition, Hagood's proposal may have more merit than
12 we may have contemplated. That is because it has
13 apparently a limited meaning in Section 7, where it was
14 consistently used with a parenthetical almost all of
15 the way through. We may need to have a definition for
16 exchange access that is relevant to Section 7, and then
17 a definition of exchange access that is relevant to the
18 agreement as a whole. So, I am going to just suggest
19 that -- to give you a report back on the use of that
20 term, and in the SGAT. And I think if you do the same
21 globally, you will find what I am talking about.
22 MR. CHRISTIANSEN: Okay.
23 MR. DIXON: That may help you in how we
24 need to work on that particular definition.
25 MS. FORD: Qwest will draft up a new

1 definition along those lines.

2 MR. DIXON: Great.

3 MR. MENEZES: I would like to go back, if

4 I could, to legitimately related, just for a moment,

5 since it's at impasse. I would like to ask a question.

6 Mr. Christiansen, the language that's highlighted and

7 struck through in 6-Qwest-76, and the definition of

8 legitimately related, can you tell me where Qwest got

9 that language from? Was it taken from an order or from

10 a rule of the FCC?

11 MR. CHRISTIANSEN: I don't believe it was

12 an extract of an order. It's our interpretation of the

13 orders.

14 MR. MENEZES: So, from interpretation by

15 Qwest's attorneys as to what it is.

16 MR. CHRISTIANSEN: Qwest attorneys, Qwest

17 contract people, yes.

18 MR. MENEZES: Okay. And is it an

19 interpretation of the first report and order or is

20 there any other orders that Qwest has referred to in

21 coming to this language?

22 MR. CHRISTIANSEN: I wouldn't be able to

23 say one way or the other on that.

24 MS. FORD: It was primarily the first

25 report and order.

1 MR. MENEZES: Okay. Thank you.

2 MS. FRIESEN: Can you define "necessary"

3 as used in this strike-through?

4 MS. FORD: Oh, dear. I did look that up

5 in the dictionary, and I cannot remember what it said.

6 After looking it up, it seemed like the right term.

7 MR. DIXON: A male definition and female

8 definition, to be sexist, right?

9 MS. FRIESEN: Necessary as defined in one

10 source.

11 MS. FORD: Right.

12 MR. BELLINGER: Okay. Mana had

13 something.

14 MS. JENNINGS-FADER: Can we go back up to

15 page 12 a little bit to integrated services digital

16 network, BRI and PRI. The last two lines, presumably

17 that means basic rate ISDN, but if you look under basic

18 rate ISDN, there's no parenthetical that further shows

19 it. And the same thing is true for primary rate ISDN.

20 Is my supposition correct? Is that what it's referring

21 back to? It's supposed to be referring back to those?

22 MS. FORD: That's certainly my

23 understanding. We can add the parenthetical.

24 MR. BELLINGER: Okay.

25 MS. JENNINGS-FADER: Next thing has to do

1 with interoperability. OSS is not defined. So could
2 we just add a definition for operational support
3 systems, OSS, because I think it is used a lot.
4 MS. FORD: That's probably going to be
5 one that -- where we will refer to Section 12.
6 MS. JENNINGS-FADER: That's fine. I just
7 think there's just not a definition for operational
8 support systems.
9 MS. FORD: Is everyone okay with that?
10 MR. SCHNEIDER: WorldCom is okay with
11 that.
12 MR. MENEZES: Yes. AT&T is okay.
13 MS. DOBERNECK: Covad is okay with that.
14 MR. BELLINGER: Okay. Which one do you
15 want to go to next?
16 MS. FORD: Just a second. I am making a
17 note. Anything on the rest of page 13? Page 14? Page
18 15. On the definition of miscellaneous charges, we
19 have had a disagreement among the CLECs and I think
20 WorldCom also had made a counterproposal.
21 MR. DIXON: Actually, before we get to
22 that, we do want to address maintenance-of-service
23 charges.
24 MS. JENNINGS-FADER: I had a note.
25 MS. FORD: Okay.

1 MR. DIXON: My recollection, and, again,
2 we specifically requested -- and I think, actually,
3 that was done in the loop workshop -- that
4 maintenance-of-service charges be defined within the
5 body of the SGAT, because the pricing of
6 maintenance-of-service charges was based on a basic
7 rate and an overtime rate and a premium rate, and there
8 was nothing in Exhibit A, the price list, which
9 distinguished, from an objective standpoint, for when
10 those applied. As a result, this will be the one
11 exception I can think of at the moment.
12 If you take a look at 6-Qwest-61, you see
13 where maintenance-of-service and a description of how
14 basic, overtime and premium were determined. That was
15 actually the language that I believe Kara Sacilotto
16 provided to us, as a Qwest takeback, to address that
17 concern. So, it seems to me that language that's in
18 6-Qwest-61, addressing those concepts, belongs
19 somewhere in the SGAT.
20 Understanding that Qwest may or may not
21 want to go back and look at where the term is used in
22 the body of the SGAT, I would have no objection
23 describing -- putting that language back in the
24 definition of maintenance-of-service charges here. And
25 by that language, I am talking the language in

1 6-Qwest-61 that has the maintenance and service
2 description of basic, overtime and premium.
3 So, I do think that needs to go back in
4 or needs to be placed in somewhere. That was
5 specifically asked for by not only CLECs, but I think
6 almost uniformly in the that particular workshop, which
7 is why it came into issue, in other words.
8 MS. FORD: I am not following up if
9 that's already set forth in Section 12.
10 MS. JENNINGS-FADER: It's not in 12.
11 MR. DIXON: It's not. That's what was
12 missing. In other words, it isn't even just Section
13 12. You will find the reference to
14 maintenance-of-service charges throughout the SGAT, in
15 general. It's not just limited to Section 12. It
16 happened to come up when we were discussing loops.
17 When it came up, though, we -- also, the way it came up
18 is, when we discussed loops there was the reference to
19 an assessment of maintenance-of-service charges. Then,
20 when you go to Exhibit A, which is Qwest's listing of
21 prices, maintenance-of-service charges were broken down
22 as basic maintenance of service carried one price,
23 overtime maintenance of service carried a second price,
24 and premium maintenance service carried a third price.
25 We could not find in the SGAT anywhere,

1 and, ultimately, after everybody globaled it, how you
2 would know when overtime was applied, when premium was
3 applied. As a result, Kara gave us this information
4 which, in turn, was placed into the definition of
5 maintenance of service, which continues to be in
6 6-Qwest-61, but has been removed from the working
7 draft, and I think that if we --
8 MS. FORD: It finally clicked.
9 MS. HUGHES: We just weren't following.
10 MR. DIXON: Go to 6-Qwest-61 under
11 maintenance of service.
12 MS. FORD: Under the definition?
13 MR. DIXON: Under the definition, yes.
14 MS. FORD: I believe that AT&T had
15 suggested this definition. Am I correct on that,
16 Mitch? Isn't this one you worked on?
17 MR. MENEZES: Maintenance of service?
18 MS. FORD: Uh-hum.
19 MS. FRIESEN: Oh, sure. Blame it on us.
20 MR. DIXON: Maybe, while AT&T is looking,
21 do you see the language I am referring to in
22 6-Qwest-61?
23 MS. FORD: Right.
24 MR. DIXON: Under this definition.
25 MS. FORD: Since this is Qwest-provided

1 language, Larry, we're okay with it. AT&T is okay with
2 it.
3 MR. DIXON: In theory, it came from
4 Qwest's tariffs. That's where Kara was looking for it.
5 It was simply saying we need to have the same concept
6 in the SGAT.
7 MR. BELLINGER: You are going to put the
8 6-Qwest-61 definition in there?
9 MS. FORD: Yes.
10 MR. BELLINGER: Is that okay with the
11 CLECs?
12 MR. MENEZES: Just to respond to the
13 question that was posed to me by Ms. Ford. No, AT&T
14 didn't propose this definition of
15 maintenance-of-service charge. I think that we did
16 talk about it, and did change this definition in an
17 earlier workshop, but it's never showed up here in the
18 SGAT Lite, and I don't --
19 MR. BELLINGER: That's okay.
20 MR. MENEZES: It's what's in -- I am
21 sorry. Are you referring to the SGAT Lite or to
22 6-Qwest-76?
23 MS. HUGHES: 6-Qwest-61.
24 MR. MENEZES: Okay. No.
25 MS. HUGHES: The definition of

1 maintenance of service isn't in there. The proposal is
2 to import that definition to the new definition
3 section.
4 MR. MENEZES: Okay.
5 MR. DIXON: So I guess the proposal on
6 the table, from WorldCom, we retain the definition of
7 maintenance of service as found in 6-Qwest-61, which
8 not only said --
9 MR. BELLINGER: Qwest was agreeable to
10 that. We're waiting for AT&T to decide whether they
11 are agreeable.
12 MR. DIXON: If you need time, we can
13 certainly just hold it open. I don't want to force
14 anybody to do anything on the spot. AT&T.
15 MR. BELLINGER: Say yes and we'll move
16 on.
17 MS. QUINTANA: But no pressure.
18 MR. DIXON: I think this is an --
19 MR. MENEZES: I think this one is okay.
20 If you don't hear from me later about it, AT&T passes
21 on it, but I want to take a closer look at it, if I
22 could.
23 MR. DIXON: Sure.
24 MR. BELLINGER: Mana.
25 MS. JENNINGS-FADER: We're done on that?

1 I have a question about meet-point, and then mid-span
2 meet, okay? In mid-span meet, there is the statement
3 that, "The meet-point is the demarcation establishing
4 ownership of," so forth and so on. Okay. Is that
5 meet-point the same meet-point as is defined above?
6 And if so, why does it need to be defined twice?
7 MS. FORD: Michael, can you address this
8 for me?
9 MR. SCHNEIDER: I was afraid you would
10 say that.
11 MR. CHRISTIANSEN: Michael, I might be
12 able to provide some history. Meet-point billing is an
13 industry standard.
14 MS. JENNINGS-FADER: I am not talking
15 about meet-point billing. I am talking about
16 definition of meet-point.
17 MR. CHRISTIANSEN: The definition of
18 meet-point?
19 MS. QUINTANA: Within mid-span meet.
20 MS. JENNINGS-FADER: There's a definition
21 of meet-point, and then within mid-span meet, the
22 second sentence appears to be a definition of
23 meet-point.
24 MR. BELLINGER: Which means we have two
25 definitions.

1 MS. JENNINGS-FADER: Two definitions and
2 they are not the same.
3 MR. CHRISTIANSEN: Right. Okay.
4 MS. FORD: This is a WorldCom issue.
5 MR. DIXON: Let's make this easy.
6 MS. JENNINGS-FADER: We'll strike it.
7 MR. DIXON: We'll strike the sentence in
8 mid-span meet that begins, "The mid-point is," to the
9 end of the definition. That will solve the problem,
10 because, indeed, we are referring to the same
11 meet-point that's defined above. And this is a good
12 example where, when you focus on the parts, sometimes
13 you oversee the whole, how they all fit together.
14 MS. JENNINGS-FADER: Thank you.
15 MR. DIXON: Thank you.
16 MS. FORD: So that is closed and
17 consensus.
18 MR. DIXON: I am assuming no one has a
19 problem. It's closed from our perspective.
20 MR. BELLINGER: I think, miscellaneous
21 charges.
22 MS. FORD: That is an issue among the
23 CLECs. So, I will turn it over to them.
24 MR. DIXON: Let me take a shot at this
25 one first. And, again, I am not trying to -- I don't

1 even know if XO is here. This issue has been
2 actually --
3 MR. BELLINGER: I don't think they are.
4 MR. DIXON: This issue has been raised in
5 Washington, but let me explain.
6 MR. SCHNEIDER: I have a comment on that.
7 MR. DIXON: Let me explain, first of all,
8 where we were coming from in Colorado. There was a
9 final -- we have discussed miscellaneous charges again
10 in the checklist item workshops. And the idea of
11 defining miscellaneous charges to include and specify
12 what they were was because Qwest has committed that the
13 definition of miscellaneous charges is limited to
14 what's identified. And so, back in those checklist
15 workshops, the concern was how did we know what
16 warehouse charges might be applied in the future. And
17 the answer was, we will identify them, Qwest will be
18 limited to those. And any future effort to expand the
19 definition would require an amendment to the SGAT. And
20 so, that is my recollection of how we addressed this in
21 Colorado, and why, in Colorado, we actually delineated
22 the various miscellaneous charges.
23 Now, I have not gone back and compared
24 the miscellaneous charges in Exhibit A to this listing
25 in the definition. To the extent that they are

1 identical, then the language can go away, because by
2 identifying Exhibit A, if these, in fact, are the same
3 identified Exhibit A, then we're fine. And I think
4 it's form over substance. So, what I need to do,
5 frankly, is just get back and compare Exhibit A for the
6 identification of these services in the definition, and
7 if these lists are the same, I don't have any problem
8 striking the language from that perspective.
9 Now, Michael may have some comments on
10 miscellaneous charges over and above that point that
11 we're addressing here.
12 MR. SCHNEIDER: Well, my client stated
13 that if we add, at the end of the first sentence,
14 after, "such as cancellation charges," add, "additional
15 labor and maintenance," she would be okay with that
16 with the other strikeout.
17 MR. DIXON: Additional labor and
18 maintenance was the proposed addition.
19 MR. SCHNEIDER: Right.
20 MR. CHRISTIANSEN: And Qwest would be
21 okay with that.
22 MR. SCHNEIDER: Okay.
23 MS. FORD: Okay.
24 MR. SCHNEIDER: Is that all right with
25 you, Tom?

1 MR. DIXON: Let's do this. Let's close
2 it, subject to reopening, for example, if you find a
3 distinction between what's in Exhibit A and this list,
4 and I think we saw another party's issue in this
5 proceeding, namely XO's, but we have worked with them.
6 MR. BELLINGER: Okay. What's the next
7 one?
8 MS. FORD: Okay. Page 16, anything?
9 MS. JENNINGS-FADER: Yep. Thank you.
10 Under near real-time performance indicator
11 descriptions, it is not defined.
12 MR. DIXON: I am sorry. You are on which
13 one?
14 MS. JENNINGS-FADER: Near real-time, the
15 definition on page 16, the last line and a half.
16 Performance indicator descriptions, PID, is not
17 defined, in my recollection, the definitions anyway,
18 not descriptions. But, irrespective of that, is this a
19 term that needs to be defined?
20 MR. DIXON: Actually the performance
21 indicator, and you are right, definitions are Exhibit B
22 to the SGAT. So, maybe what we should do is just
23 simply say, "As contained in the performance indicator
24 definitions found in Exhibit B," would solve that
25 problem.

1 MS. JENNINGS-FADER: I don't know if it
2 needs to be a separate definition.
3 MS. FORD: We can do the --
4 MR. SCHNEIDER: Reference Exhibit B.
5 MS. FORD: Reference Exhibit A. Just add
6 a definition. We reference Exhibit A.
7 MS. JENNINGS-FADER: Thank you.
8 MR. McDANIEL: Change the definition.
9 MS. HUGHES: Change the description.
10 MS. FORD: Right. Get the words right.
11 I am going to make a note real quickly.
12 MR. DIXON: I would suggest that go on
13 page 18, the definition of PIDs.
14 MR. BELLINGER: Yes. I thought that was
15 what we were doing.
16 MR. DIXON: After physical collocation.
17 MS. FORD: Okay. Anything else on 16?
18 MS. QUINTANA: Just that I think
19 there's -- our definition of NIM on it should be NIMC,
20 according to this.
21 MS. FORD: Uh-huh.
22 MR. BELLINGER: Add a parenthetical.
23 MS. QUINTANA: Just a C to the other.
24 MS. JENNINGS-FADER: Going back to my
25 original question, which is on page 4.

1 MR. DIXON: Let's put a C after NIM.

2 MR. BELLINGER: You got a C on one of

3 them. Maybe you need a parenthetical, NIM or NIMC.

4 MR. DIXON: Presumably.

5 MS. JENNINGS-FADER: Go back to page 4,

6 after A, add C after NIM.

7 MR. DIXON: Right, because it would be

8 the committee that issues the standards.

9 MS. JENNINGS-FADER: Thank you.

10 MR. DIXON: Solved that one.

11 MS. FORD: Page 17. Okay, page 17. Page

12 18. WorldCom has now withdrawn its comments on parity.

13 So, I believe that is also closed and at consensus.

14 MS. JENNINGS-FADER: I am sorry. On

15 parity?

16 MR. DIXON: That was an editorial comment

17 on the definition of parity. It's all bold. It should

18 be stricken.

19 MS. JENNINGS-FADER: It's okay as

20 written.

21 MR. SCHNEIDER: Okay as written.

22 MS. JENNINGS-FADER: I have a question

23 about the definition of packet switch. Is

24 "packetizing" a word?

25 MR. DIXON: Excuse me?

1 MS. JENNINGS-FADER: Is packetizing a
2 word?
3 MR. DIXON: Let's see. It's probably
4 like productizing.
5 MR. WENDLING: To some engineers.
6 MR. BELLINGER: To some engineers,
7 packetizing is a word.
8 MS. JENNINGS-FADER: Okay.
9 MR. SCHNEIDER: It's really part of the
10 packet switch definition.
11 MS. FORD: Okay. Page 19. I am sorry.
12 MR. BELLINGER: You moved on then?
13 MS. FORD: Okay. Can we move onto page
14 19?
15 MR. DIXON: Did we answer Mana's
16 question?
17 MR. BELLINGER: Yes, we did.
18 MS. JENNINGS-FADER: No.
19 MR. DIXON: I am looking at Mana.
20 MS. JENNINGS-FADER: I got an answer to
21 the question.
22 MR. DIXON: Mana, do you want to do
23 something with it?
24 MS. JENNINGS-FADER: I got an answer to
25 the question.

1 MR. DIXON: What was the answer?
2 Newton's --
3 MS. JENNINGS-FADER: The answer is to
4 some people, it's a word.
5 MR. BELLINGER: It's a word.
6 MR. DIXON: Belt and suspenders term.
7 MS. FORD: On page 19,
8 project-coordinated installation and Larry has a few
9 comments on this.
10 MR. CHRISTIANSEN: Yes.
11 MR. BELLINGER: Which one is it?
12 MS. FORD: Project coordinated
13 installation.
14 MS. JENNINGS-FADER: Before we have the
15 comments, what's the sentence that --
16 MS. FORD: They now kind of have given a
17 counter, if we can move to their counter in the
18 exchange of E-mails we did last night.
19 MS. JENNINGS-FADER: Okay.
20 MR. CHRISTIANSEN: The counter was, can
21 we say that, "Project-coordinated installation allows
22 CLEC to coordinate installation activity as prescribed
23 in Sections 9.2.2.9.7, and 9.2.4.10." And we would be
24 acceptable to that change, other than the fact that I
25 think 9.2.4.10 does not standalone as the ability to do

1 project coordination or project-coordinated
2 installation, because that's after-hours coordination.
3 And off-hours coordination is available for even single
4 line cuts which are not project cuts.
5 So, I what I was thinking that we could
6 do is as set forth in Section 9.2.2.9.7, including out
7 of hours, if you feel that you want out of hours
8 covered.
9 MR. BELLINGER: Where would you put that
10 in the section itself? Is that what you are saying?
11 MR. CHRISTIANSEN: No. What it would
12 ultimately read is, "Project-coordinated installation
13 allows CLEC to coordinate installation activity as
14 prescribed in Section 9.2.2.9.7, including out-of-hours
15 coordination."
16 MR. DIXON: The term is actually used in
17 9.2.2.9.7. Is that where the term,
18 "Project-coordinated installation" is referenced?
19 MS. FRIESEN: Larry, I am sorry. Would
20 you read that one more time.
21 MR. CHRISTIANSEN: Challenge me here.
22 "Project-coordinated installation allows CLEC to
23 coordinate installation activity as prescribed in
24 Section 9.2.2.9.7, including out-of-hours
25 coordination."

1 MR. SCHNEIDER: WorldCom is okay with
2 that.
3 MS. FORD: Is AT&T okay?
4 MR. MENEZES: Assuming I got it down
5 right, yes.
6 MR. DIXON: Including out-of-hours
7 coordination.
8 MR. MENEZES: Out-of-hours coordination
9 or installation at the end?
10 MR. CHRISTIANSEN: Coordination.
11 MS. FORD: Is everyone okay? All right.
12 That's closed at consensus. Anything else on 29?
13 MS. JENNINGS-FADER: Yes. A nit. Under
14 premise -- premises rather, excuse me. Loop
15 concentrators is a defined term.
16 MS. FORD: Okay. We will capitalize
17 that, the C.
18 MS. JENNINGS-FADER: And under
19 provisioning, Unbundled Network Elements I think all
20 need to be capped.
21 MS. FORD: Right. We're going to have to
22 go through this SGAT at sometime and catch all of
23 these. This is not just in the definitions where
24 things are not capitalized.
25 MR. DIXON: I was going to say, we used

1 to find this in the checklist items, and I think the
2 warrant was, subject to the limited liability
3 provisions, Section 5.8, is Qwest will go back and
4 global the document to make sure we have
5 capitalizations where appropriate, where, you know,
6 definitions are done, et cetera. So, we certainly
7 brought this up at the checklist item workshops. The
8 same approach would apply throughout the definitions as
9 well as the attachments that will be making up the
10 SGAT.
11 MS. FORD: Right.
12 MR. BELLINGER: I was going to suggest
13 you really double-check that loop concentrator and see
14 if you can -- if you have got a better term.
15 MR. DIXON: You mean the definition of
16 premises?
17 MR. BELLINGER: I believe --
18 MR. DIXON: I believe this definition
19 comes right out of the FCC definition. I think we all
20 spent a fair amount of time debating what premise
21 should say. While I might agree with you, Hagood, I
22 think, because the FCC did it this way, we decided
23 let's not fight the FCC.
24 MR. BELLINGER: I wasn't aware of that.
25 MR. DIXON: This comes right out of the

1 FCC ruling.

2 MS. JENNINGS-FADER: Many brainstems took

3 a dive on this definition.

4 MR. DIXON: I think this got into

5 subloop, all sorts of fun topics.

6 MS. JENNINGS-FADER: Starting on the

7 bottom of page 19, under rate center, if you look at

8 the top of 20, the sentence starts, "The rate point is

9 a geographic location." If you look down two

10 definitions, there's a rating point definition. Are

11 they intended to be the same thing?

12 MS. FORD: WorldCom.

13 MR. DIXON: Hang on. We'll take a look.

14 MS. JENNINGS-FADER: It looks to me as if

15 they are the same thing. So one wonders whether we can

16 get rid of one.

17 MS. HUGHES: Sure. Looks like it's the

18 same to me.

19 MR. DIXON: Let's strike, rating point,

20 otherwise, as a separate definition. We'll stay with

21 the way rate centers includes a description of it, if

22 that's acceptable.

23 MS. JENNINGS-FADER: Rate point is not a

24 defined term? It doesn't need a separate definition?

25 MR. DIXON: Certainly what we can do --

1 what WorldCom is willing to do, to make this easy, is,
2 let's take the last sentence of that definition in rate
3 center, and make that a definition of rate point. And
4 then we haven't done anything but moved one, and then
5 strike, "rating point," as a definition.
6 MR. BELLINGER: I think that's a good
7 suggestion.
8 MS. FORD: Everyone agree?
9 MR. BELLINGER: Actually just respelling
10 rating to rate.
11 MS. JENNINGS-FADER: And moving the other
12 definition down.
13 MR. DIXON: What I need to do, and Mitch
14 rightfully pointed out, maybe you just need to global
15 the SGAT to see if they use rating or rate point in it.
16 I will do that while you all keep having fun and games
17 and get back to you.
18 MS. FORD: Okay. Looking further down in
19 page 20, ready for service, Larry.
20 MR. CHRISTIANSEN: I guess I am -- I
21 would like to hear what WorldCom is suggesting on this.
22 MR. BELLINGER: Which one is this?
23 MR. DIXON: Ready for service.
24 MR. SCHNEIDER: Can you confirm that
25 8.5.3.1 stays? That billing will commence upon CLEC's

1 acceptance of the collocation cage?

2 MS. JENNINGS-FADER: I have it.

3 MR. CHRISTIANSEN: I think, as I recall,

4 there were two alternatives there, two scenarios.

5 MS. JENNINGS-FADER: This is the June

6 29th SGAT. Take a look at it.

7 MR. BELLINGER: Want to come back to that

8 maybe?

9 MR. SCHNEIDER: No. We can fix this

10 right now. Okay. We can, on ready for service, we can

11 strike our proposed addition.

12 MS. FORD: Okay. That's closed and

13 consensus.

14 MR. DIXON: Thank you. I will report

15 back on rate point and rating point.

16 MR. BELLINGER: All right.

17 MR. DIXON: Neither term is used in the

18 SGAT, except in the definition of rate center, so --

19 MS. QUINTANA: Would you look, also, Tom,

20 for rate center area?

21 MR. DIXON: Sure.

22 MS. QUINTANA: Thank you.

23 MR. DIXON: I say that with the

24 understanding that I have globaled these terms in the

25 SGAT, and, hopefully, have found it, have done that

1 properly. Actually, rate center area I can't find in
2 the SGAT. I think I find it only in the definitions,
3 so, maybe --
4 MS. QUINTANA: I wonder why that would be
5 used.
6 MR. DIXON: Maybe this is one that
7 slipped by us. We have tried to global these terms and
8 make sure they were used. There's two explanations.
9 It may be in an exhibit. I am only looking at the
10 SGAT. Secondly, it may have once been in the SGAT, and
11 the sentence has been removed. Why don't we put rate
12 center area -- excuse me. Rate center area as well as
13 rating point or rate point, we'll simply put on the
14 table for -- and we'll come back to it, either take
15 them out or figure out how to use them.
16 MR. CHRISTIANSEN: Is rate center --
17 MR. DIXON: My suggestion, we may work on
18 the rate center definition. The point is, we need to
19 just simply maybe spend a few minutes on it instead of
20 doing it on the fly right now.
21 MS. FORD: Okay. Then let's move on.
22 Remote premises.
23 MS. QUINTANA: I have one question before
24 that, Laura.
25 MS. FORD: Okay.

1 MS. QUINTANA: For the remote call
2 forwarding, I understand that the reason this is for
3 Oregon and Idaho only is because it's used in INP, but
4 is there a need for a definition for remote call
5 forwarding, other than INP?
6 MS. FORD: I don't believe so.
7 MS. QUINTANA: Would it be used as a
8 feature or list of features or anything else that would
9 need a definition?
10 MS. FORD: We do have a definition of
11 custom calling features.
12 MR. CHRISTIANSEN: Not of each
13 individual.
14 MS. QUINTANA: That's fine.
15 MS. FORD: Okay. Remote premises.
16 WorldCom wants to add, "but are not limited to," and
17 Qwest disagrees.
18 MS. JENNINGS-FADER: Disagrees?
19 MS. FORD: Disagrees.
20 MS. JENNINGS-FADER: Thank you. Okay.
21 If we could have just a quick statement as to the basis
22 of the disagreement.
23 MR. SCHNEIDER: There's no disagreement.
24 We stated in the response to that definition that we're
25 okay.

1 MS. FORD: Okay. So I missed that. All
2 right. That's closed.
3 MR. DIXON: We're striking the effort to
4 add, "but are not limited to," and the editorial
5 comment from that.
6 MS. FORD: Right.
7 MS. JENNINGS-FADER: You will also be
8 striking, "as defined in 4.46A," correct?
9 MR. DIXON: Yes. Simply because there is
10 no 4.46A per se.
11 MS. FORD: That's a good catch.
12 MR. DIXON: I suspect we want to say, "as
13 defined," et cetera, then we want to start the legal --
14 MS. JENNINGS-FADER: No. It's a
15 capitalized term. This means it's defined.
16 MS. FORD: So just, "as defined" comma?
17 MR. DIXON: "Remote premise means Qwest's
18 premise, other than" -- okay.
19 MS. FORD: That's right. Okay. Closed.
20 Remote terminal, is this the one where you came back to
21 us, Larry, or this may be one that you even had her
22 look at. This is one where Qwest believes that we have
23 got a term and condition in here. We should just
24 strike it. And also that it refers to transport and
25 what we're defining is the remote terminal.

1 MR. CHRISTIANSEN: Right.

2 MS. JENNINGS-FADER: The reference in the

3 notation is WorldCom wants to add the highlighted

4 language at the end of the second sentence, but I don't

5 have any highlighted language at the end of the second

6 sentence.

7 MR. CHRISTIANSEN: It's the, "and may be

8 shared or dedicated."

9 MS. HUGHES: But it's very hard to see.

10 MR. CHRISTIANSEN: It's highlighted,

11 which doesn't copy very well.

12 MS. JENNINGS-FADER: Oh, thank you.

13 MR. CHRISTIANSEN: As we reviewed that,

14 we felt that whole sentence really was describing

15 transport, not to the remote terminal, not the remote

16 terminal itself, and didn't feel it was appropriate to

17 be included there.

18 MR. SCHNEIDER: Can we keep this one

19 open, subject to check on your strike?

20 MS. FORD: How about closed subject to

21 check?

22 MR. SCHNEIDER: I prefer open subject to

23 check.

24 MR. CHRISTIANSEN: Yeah. Again, our

25 issue is you are trying to define the transport that

1 feeds the remote terminal, which, quite honestly, could
2 even be wireless, potentially, so --
3 MR. SCHNEIDER: We have the definition of
4 transport?
5 MR. DIXON: We have dedicated transport.
6 MR. BELLINGER: Okay.
7 MR. DIXON: We'll take a look at it and
8 get back to you.
9 MS. JENNINGS-FADER: Yeah. There's no
10 definition for transport.
11 MS. FORD: Okay. Then moving on to page
12 21.
13 MS. QUINTANA: Reserve numbers. It is my
14 understanding that Qwest does not allow the reserving
15 of numbers either internally or externally anymore.
16 MR. CHRISTIANSEN: We'll check.
17 MS. FORD: Okay. Anything else on 21?
18 Twenty-two.
19 MR. DIXON: I am sorry. I apologize.
20 You struck reserve numbers.
21 MS. FORD: No, we did not.
22 MS. JENNINGS-FADER: Qwest is going to
23 check.
24 MR. DIXON: Okay. Thank you.
25 MS. FORD: Twenty-two.

1 MS. JENNINGS-FADER: Just under signaling
2 transfer point packet switch, packet switch is defined,
3 I believe.
4 MS. FORD: It is. Okay. Page 23.
5 Actually, it's at the top of page 22, the definition of
6 switch. WorldCom wanted to, and also Covad, to include
7 packet switches, and we added some language that they
8 would like to know what we mean by it, Larry.
9 MR. CHRISTIANSEN: Well, I think we
10 wanted to make sure that this was not being confused
11 with our requirement to offer packet switching, per se,
12 and what the packet switch unbundled element is in
13 relationship to this switched definition.
14 MS. FORD: So the language we added was,
15 "Packet switches, to the extent required by FCC or
16 commission order."
17 MR. MENEZES: That doesn't mean anything.
18 MR. DIXON: Starting to sound like a term
19 and condition.
20 MR. MENEZES: What do you mean by
21 "required"? Required to what?
22 MS. FORD: Required to be unbundled.
23 MR. MENEZES: But this definition -- this
24 definition doesn't say anything about unbundling, does
25 it?

1 MS. FORD: No.

2 MR. MENEZES: I think I agree with Tom.

3 You are making it a term and condition. Somewhere in

4 the body of the SGAT, it says how you deal with packet

5 switches.

6 MR. DIXON: 9.20 in particular. And I

7 know we spent a great deal of time when we dealt with

8 packet switching, debating what the FCC had said and,

9 in fact, Qwest's Section 9.20 purportedly contains all

10 of the four criteria under which it has to provide

11 packet switching, et cetera. So, I think this would

12 fall into the same category of, you are kind of

13 chastising us for putting a term and condition within a

14 definition, which is already addressed in the SGAT. I

15 know it's a belt and suspenders approach, and Warren is

16 gone, so you can't get the benefit of that. But just

17 who is wearing the pants here.

18 MS. FORD: Okay. We will take it out.

19 Closed and consensus.

20 MS. QUINTANA: Take out the entire

21 highlighted portion?

22 MS. FORD: For the packet switching?

23 MS. JENNINGS-FADER: I am sorry, what?

24 MS. DOBERNECK: You mean the phrase, "to

25 the extent required"?

1 MS. FORD: Right.

2 MR. DIXON: Probably, just for good

3 English, we ought to insert, "and packet switches."

4 MR. MENEZES: And remove the "and" after

5 "remote switching modules."

6 MS. FORD: Okay. Closed. Page 23.

7 MS. JENNINGS-FADER: Can we go back up to

8 22? Did you all put in special request.

9 MR. DIXON: Yes, we did. Special request

10 needs to go back in as defined in Exhibit F.

11 MS. JENNINGS-FADER: Or special request

12 process, or whatever it is.

13 MS. FORD: Okay.

14 MR. DIXON: Thank you. Twenty-three.

15 MS. JENNINGS-FADER: Under switched

16 access service," in the fifth line there's a sentence

17 that starts, "Switched access traffic as specifically

18 defined," blah, blah, blah, "is traffic that" -- my

19 question, is that a separate definition?

20 MS. HUGHES: That's fine. We'll make it

21 a separate definition.

22 MR. DIXON: We've got to go back -- I am

23 not arguing. I am simply saying we got the same

24 problem. If we make it a separate definition, is it a

25 term that's used in the SGAT.

1 MS. FORD: Switched access is used.

2 MR. DIXON: I will point out, this

3 particular definition did get a lot of play in the

4 checklist item workshop, which is probably why it's

5 left, why we didn't monkey with it, to be truthful.

6 MS. JENNINGS-FADER: Okay.

7 MR. DIXON: I will global and see if

8 there's switched access traffic used as a term, and if

9 so, if it would make sense to have it as a separate

10 definition. Unfortunately, assuming my globalling

11 techniques are good, it suggests that may not be a

12 term. Let me do one other concept to it.

13 MS. FRIESEN: Switched access.

14 MR. DIXON: Okay. I have found it in --

15 well, I found something called, "Jointly provided

16 switched access traffic." So, I think that will do it.

17 So why don't we make it --

18 MR. MENEZES: That's defined somewhere

19 else, I think.

20 MR. DIXON: If it's going to be defined,

21 it's probably going to be Section 7, and I am looking

22 at the SGAT from June 29th.

23 MS. FORD: There's a whole section in

24 Section 7.

25 MS. JENNINGS-FADER: It's not defined,

1 jointly provided switch access traffic is not.

2 MR. MENEZES: I know it's not under J.

3 But I have this recollection, in the back of my mind,

4 that was something -- or jointly provided.

5 MR. DIXON: Hold on. Look in Section

6 7.5.1, meet-point billing.

7 MR. MENEZES: Meet-point. I am

8 vindicated. Meet-point billing.

9 MS. JENNINGS-FADER: Not even.

10 MR. MENEZES: Or MPB or jointly provided

11 access.

12 MS. JENNINGS-FADER: Not jointly provided

13 switched access traffic.

14 MS. DOBERNECK: Oh, boy.

15 MR. MENEZES: I think -- I guess we need

16 to ask Qwest. I am thinking that has a definition,

17 switched access traffic.

18 MR. DIXON: Well, maybe we can take this

19 one and do the same as we have done with the other one,

20 which is just get back to it. We keep it as a

21 placeholder, try and fix it.

22 MS. FORD: Excuse me. On these

23 takebacks, we need an answer by the time we're done,

24 hopefully, today, if that's possible.

25 MR. DIXON: Right. And, this one, we're

1 actually giving it to you, the takeback.

2 MS. FORD: All right. We'll get it.

3 MR. DIXON: There is an effort in the

4 SGAT that says, "Jointly defined switched access

5 traffic is defined in Section 7.5.1," and that is

6 stated in Section 7.2.1.2.3. My concern is I am not

7 sure I can find a 7.5.1. That's what I kept looking

8 for.

9 MR. MENEZES: I did find one use of it so

10 far. It's 7.2.2.9.3.2. Exchange service, paren, EAS

11 local traffic and switched access, including traffic --

12 including jointly provided switched access traffic may

13 be combined on the same trunk group. So, it is used.

14 MR. DIXON: Are we in agreement we'll

15 make switched access traffic a separate defined term

16 and pull that sentence out of switched access service?

17 Is that sufficient?

18 MS. FORD: Yes.

19 MR. DIXON: We're okay with that. I did

20 find jointly provided switched access service is

21 defined in Section 7.5.1.

22 MS. FORD: Okay.

23 MR. BELLINGER: Moving right along. Page

24 24.

25 MR. DIXON: I am assuming that -- I am

1 waiting for them.

2 MS. FORD: We need to go back on

3 switched. We need to leave that open for some more

4 discussion.

5 MR. DIXON: Which one?

6 MR. McDANIEL: Packet switching.

7 MS. FORD: We're taking out the language,

8 "To the extent required by FCC or commission order."

9 MR. CHRISTIANSEN: We need to go back and

10 do some validation of how we've used the term "switch,"

11 the existing definition in the SGAT language.

12 MR. BELLINGER: So you are going to leave

13 that open.

14 MS. FORD: Yes.

15 MR. CHRISTIANSEN: Yes.

16 MS. FORD: Okay. On page 24, we'll

17 change, "subscribers" to "end-user customers" per our

18 normal agreement, so that will close.

19 MR. DIXON: Telexchange service.

20 MS. FORD: Telephone exchange service.

21 MR. DIXON: So we're going to use

22 "end-user customer" as we did earlier.

23 MS. FORD: Right. Okay. Moving down to

24 Unbundled Network Element Platform. What Qwest has

25 done with this definition is we said that it is a

1 combination of Unbundled Network Elements as set forth
2 in Section 9.23. In Section 9.23, for each UNE-P, we
3 do list the UNEs that make up that platform. And we
4 thought that perhaps that was a way to get through this
5 issue.
6 MR. DIXON: Well, subject to check, we'll
7 close that issue. If for any reason we have a concern,
8 we'll come back to it. That's from WorldCom's
9 perspective.
10 MS. FORD: Is AT&T okay?
11 MR. MENEZES: I think I want to do a
12 similar check.
13 MS. FORD: Okay.
14 MS. JENNINGS-FADER: With respect to the
15 same definition, if the reference then is to the
16 section, whatever the section is, 9.23, or whatever,
17 does the sentence, "There are several forms of UNE-P,"
18 need to be in the definition? In other words, not
19 necessarily. Qwest is agreeable to striking it, if
20 everyone else --
21 MR. DIXON: I am sorry. I didn't hear.
22 MS. JENNINGS-FADER: If the reference is
23 back to the section number, does the sentence, "There
24 are several forms of UNE-P," need to be in the
25 definition section?

1 MR. DIXON: That's what we're looking at.
2 I am looking at Section 9.23.3, which provides some
3 identification of various UNE-P services, POTs, PBX,
4 ISDN. Our concern may relate to the issue of are --
5 those are what's defined today. What happens if UNE-P
6 has a broader concept in the future. That's the issue
7 we're trying to deal with, so --
8 MS. JENNINGS-FADER: Let me ask you,
9 going to that point, Tom, does the language in the
10 definition that's the sentence, "There are several
11 forms of UNE-P, including but not limited to," in any
12 way address or alleviate that concern?
13 MR. DIXON: The, "but not limited to"
14 piece of it, what we might want to suggest is, "UNE-P
15 is a combination of Unbundled Networks Elements as set
16 forth in Section 9.23," and putting something that
17 says, however, that's not the exclusive definition of
18 UNE-P should future definitions arise. So -- for the
19 FCC. So we need to work on some language, and then
20 propose it back.
21 MR. CHRISTIANSEN: Our thought, Tom, was
22 that if in fact we need to expand UNE-P as a result of
23 future activities --
24 MR. DIXON: Right.
25 MR. CHRISTIANSEN: We would come back and

1 include that as part of the definition or as part of
2 Section 9.23.
3 MR. DIXON: I think our amendment to the
4 SGAT provisions in Section 2.2 may address this issue.
5 That's what I am hoping. So we may able to go with
6 your proposal and that UNE-P definition, the first --
7 what's left of the first two lines, "is a combination
8 of Unbundled Network Elements as set forth in Section
9 9.23," period, end of definition. We will review that
10 and get back to you.
11 MS. FORD: Okay. I show that as the last
12 contested-by-the-parties definition.
13 MR. BELLINGER: All right.
14 MR. DIXON: May I point out, with that
15 statement, there's one --
16 MR. BELLINGER: One at impasse.
17 MR. DIXON: I count one at impasse.
18 Couple we're still researching. Some of us deserve a
19 round of applause.
20 MS. JENNINGS-FADER: At the risk of
21 throwing a wrench into the works, page 6, I was just
22 wondering, under customer premises, premises equipment,
23 we, throughout this document, one also reads the term
24 "CPE." So, could we just add, or quotations, CPE,
25 close quote?

MS. FORD: Sure. Done.

MS. JENNINGS-FADER: Now we can do a round of applause.

MR. BELLINGER: I would suggest we be back at 1:30.

(Recess.)

MR. BELLINGER: We're about ready to start. Everybody ready?

MR. SCHNEIDER: Is AT&T ready?

MR. MENEZES: Yes.

MS. BEWICK: New Edge is always ready.

MR. BELLINGER: Good. We'll go back on the record. I think we are now currently back to G-38, I believe.

MS. QUINTANA: Just before we do, just as a cleanup issue, the exhibit that Qwest passed out in response to G-57, the exhibit number is 6-Qwest-73, does conform with the language for the notification for the commission, and is what we thought, so we agree with that exhibit, and it should be closed, I believe, according to staff, anyway.

MR. McDANIEL: And OCC.

MS. QUINTANA: And OCC. I am representing OCC as well.

MR. BELLINGER: Okay.

MS. FRIESEN: What was the issues number on that, Becky?

MS. QUINTANA: It was G-57, but we discussed it with the -- just a second.

MS. HUGHES: We discussed it with the G-31.

MS. QUINTANA: Thank you.

MR. BELLINGER: Larry, you ready to go?

MR. BROTHERSON: I am ready to go. We'll move onto G-38, which deals with SGAT language in Section 5.12, assignment. We made considerable changes to that section, specifically in 5.12.4, and we deleted 5.12.2, which dealt with mergers of two CLECs, how that would be handled. That's now potentially left blank. We spelled out for 5.12.3 the specific right to opt into other contracts. And so, with respect to the language that's presented in the SGAT, I think that we have responded and generally have consensus on that language.

There remains an impasse issue and the impasse issue is reflected in AT&T's exhibit, AT&T-72, if my memory is correct, which is the new 5.12.2 language, and is a list of the conditions that AT&T seeks to impose on Qwest when it sells assets or exchanges. And we're at impasse on this issue, and

1 Qwest objects to this and believes that the sale of
2 exchanges is very different than the standard available
3 terms of an SGAT for CLECs to opt into, simply has no
4 place in the SGAT. As a general principle, that this
5 matter should be handled by the commission in a sale of
6 assets hearing pursuant to Colorado law and not be
7 addressed in the SGAT.
8 More specifically, beyond the matter of
9 principle, if you will, I think more specifically we
10 object to the language because it imposes conditions on
11 a buyer without even at this point knowing who a buyer
12 is. If an independent, for example, comes and wants to
13 buy exchanges from Qwest here in Colorado, AT&T's
14 proposal would impose upon that new buyer all of the
15 obligations that this commission may have sought fit to
16 impose on the company like Qwest, such as PIDs or CICMP
17 process or audit or whatever the various sections are.
18 Those may or may not be appropriate for a new buyer.
19 And I think the time to make that determination is when
20 the new buyer comes in and files a petition, and
21 Qwest -- a new buyer comes in and files a petition for
22 exchange of -- sale of assets.
23 AT&T and others have the right to
24 participate in that hearing. We think that's the
25 appropriate place to address that and not

1 predetermining anything in the SGAT. Some of the
2 specifics of the AT&T exhibit, if you look at 5.12.2A,
3 we need written permission from AT&T before the
4 transfer takes place, in a form and substance
5 reasonably satisfactory to AT&T. I think, in Section
6 E --
7 MR. BELLINGER: Where are you reading
8 from.
9 MR. BROTHERSON: AT&T-72, their proposed
10 language.
11 MR. BELLINGER: Okay.
12 MR. BROTHERSON: And I think in 5.12.2.A,
13 they are asking us to agree in advance not to assert
14 any rights that we may have. I think, to the extent
15 that Qwest has a right, we should have the right to
16 raise any objections that we have a legal standing to
17 raise and should not be required to waive those in
18 advance in any SGAT language. So --
19 MS. FRIESEN: Larry, could I ask you one
20 question for purposes of clarification?
21 MR. BROTHERSON: Right.
22 MS. FRIESEN: I thought, in the
23 multi-state, and I think if you go back and look at the
24 transcript there, Qwest had agreed to subPart C and D
25 of 6-AT&T-72. Do I understand your testimony today to

1 be recanting that agreement?

2 MR. BROTHERSON: I am, yes, not

3 recanting. I believe we agreed that we would work with

4 the CLEC on any transfer. This is what was contained

5 in B. I do not recall -- in fact, I do recall

6 discussions on whether or not we should waive our

7 rights in advance, and I am not sure that the wording

8 in this section reflects what we agreed to. But,

9 setting that issue aside, the transcript would speak

10 for itself.

11 (Whereupon discussion was had off the

12 between Ms. Hughes and Mr. Brotherson.)

13 MR. BROTHERSON: Yeah. I believe what we

14 said, we found them less objectionable. I don't know

15 that -- as we posed the issue.

16 MS. FRIESEN: I think you may have gone

17 as far as to agree with at least those two. I would

18 cite you to the multi-state transcript of June 28th,

19 2001. Page -- just a second. Pages 196 through 209

20 and pages 210 through 211.

21 Also, I just want to, for purposes of

22 clarification, to understand, AT&T was going to take

23 back subPart B as you recall, and modify it to see if

24 we could get closer to something Qwest could appreciate

25 or approve of. And AT&T has done that by the

1 underlined language which you see in subPart B. Have
2 you -- do you still find it as objectionable as you did
3 in the multi-state or has that resolved any of your
4 issues?
5 MR. BROTHERSON: No. I still find B
6 objectionable. It still requires Qwest to provide
7 notice within 180 days prior to the transfer. It does
8 say provided -- if Qwest cannot provide notice prior to
9 the completion. And I think that still raises the
10 issue of interpretation of that clause, if the
11 interpretation is until such time as the commission has
12 approved a sale, we don't know if a transfer is going
13 to take place. And at the same time of the commission
14 hearing, you know, there is a notice of hearing. Any
15 notices prior to that of potential buyers or various
16 parties, we would be negotiating with, I think goes
17 beyond any obligations that should be imposed in the
18 SGAT for interconnection agreements.
19 MS. FRIESEN: So, as far as you were
20 concerned today, then, if I understand your position,
21 all of these subparts are at impasse?
22 MR. BROTHERSON: Well, yes.
23 MR. BELLINGER: Referring to 5.12.2.
24 MS. FRIESEN: Yes, as proposed by AT&T.
25 MR. BELLINGER: As proposed by AT&T.

1 MS. FRIESEN: In 6.

2 MR. BELLINGER: AT&T-72, as far as A, B,

3 C, D and E.

4 MS. FRIESEN: Correct.

5 MR. BROTHERSON: That's correct.

6 MR. BELLINGER: Becky.

7 MS. QUINTANA: Qwest, with respect to

8 subparagraph B, is the notice itself objectionable or

9 the timing of the notice or both?

10 MR. BROTHERSON: I think it would be

11 both, in this respect. I think, if we have an approved

12 deal, then I think providing notice that we have an

13 approved deal is not objectionable. I think providing

14 any notice of -- it talks about written notice of any

15 agreement or understanding related to any proposed

16 transfer. And we do, for example, ask for

17 confidentiality agreements. If people want to sit down

18 and talk to us, you know, we certainly would not agree

19 to make public any notices of any potential inquiries

20 or that type of thing.

21 So, I think it's going beyond a notice

22 that we have a buyer and that we're proposing to sell

23 an exchange. I think that comes forth after long and

24 extensive negotiations with many potential parties.

25 You wind up, then, with a deal that you take to the

1 state commission to seek an approval. It's only at
2 that time that you find out whether or not you are
3 going to have a sale of the exchange.
4 MS. QUINTANA: You would not agree to any
5 type of notice to CLECs until a deal is approved by the
6 commission? Is that the timing?
7 MR. BROTHERSON: Not necessarily
8 approved, but until we have identified the buyer and
9 are prepared to go to the commission and seek approval,
10 yes.
11 MS. QUINTANA: So, the filing of a
12 transfer or a sale with the commission? I am just
13 trying to get --
14 MR. BROTHERSON: Yes. I think that would
15 clearly be a point in time where we have gone public
16 with something and would be willing to make public
17 notice of that.
18 MS. QUINTANA: All right. Thank you.
19 MS. BEWICK: Go ahead. I am sorry, Mike.
20 MR. HYDOCK: Michael Hydock, AT&T. I
21 guess this is directed at Qwest. Essentially what
22 we're trying to look at here is the situation -- and it
23 comes on two sides here. When Qwest decides it's going
24 to essentially break the agreement with AT&T or another
25 CLEC with respect to certain exchanges, that is it's

1 going to move these exchanges to another party, is
2 there any other place in the agreement where, if AT&T
3 suffers financial harm from that transaction, it has an
4 ability to recover those financial damages? For
5 example, if the transfer of exchanges necessitates a
6 change in the network architecture of Qwest, such that
7 the remaining Qwest exchanges become more expensive for
8 AT&T to interconnect, to serve, whatever, what is
9 AT&T's recourse. If we're not, you know, you are not
10 willing to accept some attempt to protect your
11 customers, where do we go?
12 MR. BROTHERSON: Well, first of all, at
13 the time of a sale of an exchange, if there are issues
14 that would impact AT&T, AT&T would have an opportunity
15 to raise that in any hearing on the sale of an
16 exchange. And I think that the language that AT&T is
17 proposing in the SGAT, trying to impose the obligations
18 of, in the contract, on the new buyer, goes beyond
19 anything that would be appropriate in terms of a
20 previous determination of what this new buyer should be
21 obligated to do. I think that's the role of the
22 Colorado commission, to decide whether Citizens, or
23 some other independent company that comes in, to decide
24 what the obligations of the new buyer would be.
25 MR. HYDOCK: Where in this language are

1 we forcing the purchaser to take on new obligations?
2 MR. BROTHERSON: It would be in 5.12.2A,
3 "Obtain written agreement from transferee prior to the
4 transfer in form and substance reasonably satisfactory
5 to AT&T. That transferee agrees to be bound by
6 interconnection and intercarrier compensation
7 obligations set forth in this agreement with respect to
8 the portion of Qwest's telephone operations so
9 transferred until interconnection agreement between
10 CLEC and the transferee become effective."
11 MR. HYDOCK: That's the extent of forcing
12 the purchaser to take on new additional obligations?
13 MR. BROTHERSON: Yes.
14 MS. FRIESEN: Could I ask you two
15 questions, follow-up questions? If you can answer
16 Mr. Hydock's question, if the Colorado Public Utilities
17 Commission denies intervention into the sale of
18 exchange approval, okay, what is the answer to
19 Mr. Hydock's questions? In other words, what is AT&T
20 or the CLEC's recourse at that juncture if we're denied
21 intervention in a sale of exchange application?
22 MR. BROTHERSON: I think that's going to
23 be up to the commission. If they deny the
24 intervention, then I think, when Qwest sells an asset,
25 I don't think there is recourse for the sale of the

1 asset. I think that's just part of the evolution of
2 the adding and disposing of assets by a company.
3 MS. FRIESEN: In your mind, does Qwest
4 have any obligation to the end-user customers that
5 either the CLEC serves or that Qwest used to serve
6 within the exchanges that it's selling?
7 MR. BROTHERSON: Yes. Those are the kind
8 of issues that a commission would normally address in
9 the transfer or sale of an exchange.
10 MS. FRIESEN: And what -- well, apart
11 from what the commission might or might not do, what's
12 Qwest's position on what it would do in relation to
13 those end-user customers, if anything, other than just
14 cut them loose?
15 MR. BROTHERSON: I don't believe we have
16 gone on record that the transfer of exchanges, for
17 example, the Citizens, which is now not a viable deal,
18 but, with the transfer of customers to Citizens, if we
19 met the commission's expectations, and ours, there
20 would be a viable telephone company serving that
21 particular town.
22 MS. QUINTANA: Letty, could I ask you a
23 couple of questions just related to your questions to
24 Qwest. First of all, with your question on
25 intervention, can you foresee any circumstances where

1 the commission would deny an intervention if a CLEC is
2 operating in the same exchange? Wouldn't that be an
3 intervention by right?
4 MS. FRIESEN: Well, I would assume so,
5 but, as you might recall, we attempted to intervene in
6 the merger case, and we were met with a lot of
7 disapproval with respect to those interventions, and I
8 am not even sure we were heard. So, I wouldn't be at
9 all surprised if the same sort of theories carried
10 forward in the sale of their exchanges, even though the
11 merger case has a direct impact on us, because of our
12 agreements with Qwest and U S West.
13 I think, likewise, we have the same
14 situation. We have got interconnection agreements in
15 those exchange areas. So, I don't think it's at all a
16 certainty in this state anymore that our interventions
17 would be granted as a matter of right.
18 MS. QUINTANA: Okay. As a follow-on to
19 that, I would like to hear either from you or from
20 Mr. Hydock, or whoever, with the language in 6-AT&T-72,
21 what is it that you feel you gain from A through E that
22 is not contained in the commission's rules on
23 applications for transfer or sale -- and sale.
24 MR. HYDOCK: Generically, what we're
25 trying to do here is gain some breathing room, that

1 basically leaves the status quo in place with respect
2 to network architecture and the payments for
3 interconnection, till we can sit down and negotiate a
4 new agreement with the new purchaser. So, in other
5 words, if Qwest were to sell exchanges to Alltel, we
6 don't have an agreement with Alltell anywhere in the
7 country. We would have to sit down, brand-new, and
8 work with Alltel to have an agreement in place. Two
9 years is basically maintain the status quo, allows us
10 to sit down with a new buyer and come up with the new
11 agreement, take it to the commission for our
12 arbitration and come back and have something in place
13 so there's no disturbance of the service.
14 MS. QUINTANA: Now, realistically, would
15 you begin this negotiation prior to commission approval
16 of that transfer or sale?
17 MR. HYDOCK: I don't think we could until
18 the deal was closed.
19 MS. QUINTANA: So, you're wanting notice
20 180 days prior to completion, for what purpose?
21 MR. HYDOCK: Advanced notification.
22 Maybe we can do some things upfront prior to the actual
23 transfer of control. The 180 is half a year. We have
24 tried to work agreements in similar situations where we
25 have a two year phase-in for a new contract.

1 MS. QUINTANA: Thank you.

2 MR. HYDOCK: But I am not sure if I have

3 answered your question with respect to the commission

4 rules. So, I will leave that to Letty to discuss, if

5 you need more information.

6 MS. QUINTANA: It would be helpful if

7 there's more that you had in mind.

8 MS. FRIESEN: There is. I would like

9 Mitch to have an opportunity to talk about what this

10 does for us in relation to our ICAs, because I think

11 that's really important. We do have contracts in place

12 in these exchanges. We have an underlying facility

13 arrangement and financial arrangement with Qwest that

14 gets upset. And I think it's good public policy to

15 protect the end-users so that, you know, Day 2 of the

16 sale, their rates don't skyrocket. We simply pull out

17 because we can't come to agreement with the new owner.

18 MS. QUINTANA: Well, to that point, now,

19 don't you think that is part of the commission's

20 responsibility in approving the application.

21 MS. FRIESEN: I think it may be part of

22 the commission's responsibility. I think it is also

23 part of our responsibility. They are our end-user

24 customers. We have service agreements with some of

25 them. We have a contract which I think is also our

1 right and responsibility to know when they are going to
2 walk away from it or breach it. So, anyway, if Mitch
3 could --
4 MR. MENEZES: Okay. I don't know what
5 the Colorado rules are. I am going to be operating on
6 a bit of an assumption of what they do and don't say.
7 Just from familiarity with the rules, I would not
8 expect that the Colorado rules puts an affirmative duty
9 on Qwest to afford a transition type of agreement which
10 is 5.12.2A. That's my assumption. We have to verify
11 whether the rules do that or not.
12 So, what that does, it provides us with,
13 as Mike put it, breathing room, an interim period where
14 we have certainty that there will be continuity and no
15 disruption. And it allows us to negotiate with a new
16 carrier. If we can negotiate with them ahead of time
17 and do the preliminary work, I think we would want to
18 do that. That would reduce the period of this interim
19 type of arrangement. And it would facilitate, you
20 know, getting into business with that new carrier
21 closer to the time of the transfer rather than later,
22 which is important, because we'll have to work
23 internally as well, to evaluate what are the exchanges,
24 what lines are there, what customers are impacted. If
25 we aren't actually operating in a particular exchange,

1 we may have business plans to be there in a few months.
2 And, so, we need to verify that. So there's a lot of
3 checking within the company to do, and the sooner we
4 know -- and that kind of goes to B.
5 MS. QUINTANA: Can I ask you a question
6 on E first?
7 MR. MENEZES: Sure.
8 MS. QUINTANA: Even in the situation
9 where there's a sale of exchanges, for instance, if the
10 sales to Citizens had gone through, or if Qwest decides
11 to sell those to another company at some point in the
12 future, what -- and this is the legal question, so,
13 it's completely up to all of you. What is the FCC's
14 obligation or requirement of that new company
15 purchasing the exchanges? Are those obligations and
16 requirements the same as for Qwest?
17 MR. MENEZES: It depends on who the
18 purchaser is.
19 MS. JENNINGS-FADER: Let's assume it's
20 Citizens.
21 MR. MENEZES: I don't know the number of
22 lines they have to determine whether they meet the
23 rural exemption, that type of thing. So, I mean,
24 there's that question. But if they are not an ILEC, a
25 RBOC --

1 MS. JENNINGS-FADER: Uh-hum.

2 MR. MENEZES: -- they would be treated

3 differently. We would have to look at the act and

4 rules to tell specifically how they would be treated

5 differently. They're a rural carrier. They have

6 certain other rights as well. And, you know, certain

7 avenues under the act to be exempted from certain

8 things.

9 MS. QUINTANA: Thank you. Okay. Move

10 onto B.

11 MR. McDANIEL: Just FYI, in Colorado we

12 did have interconnection agreements in some of those

13 sold exchanges. It was an issue we had to address when

14 we both put together the joint application as well as

15 it was addressed throughout the hearing, how those

16 interconnection agreements would be handled.

17 MR. MENEZES: When you say, "we," you

18 mean Citizens and Qwest.

19 MR. McDANIEL: Citizens and Qwest, when

20 they filed the joint application, so we did address

21 that issue. As I understand, they tried to begin

22 negotiation prior to the filing of the application,

23 when we identified the companies we had interconnection

24 agreements with.

25 MR. DIXON: I just -- I do think this

1 presents an interesting legal issue, because, for
2 example, the certificate that MCI was granted back in
3 1996 was coincident with Qwest's territory, excuse me,
4 U S West's territory at that time.
5 MS. JENNINGS-FADER: I think actually
6 most of the --
7 MR. DIXON: Exactly.
8 MS. JENNINGS-FADER: -- CLEC authorities
9 are similarly limited.
10 MR. DIXON: Now what happens -- and some
11 of the regulatory types will recall this -- we used to
12 get into this issue of what happens when your
13 certificate is based on geographic description of an
14 existing town, and it goes out and annexes something.
15 Does that mean your taxi authority now goes out to the
16 annexed territory? And the Colorado commission very
17 clearly said, no. Your certificate is defined in a
18 place and time with a geographic description such as it
19 is in time.
20 So, arguably, the fact that Qwest has
21 sold exchanges to a rural teleco, which under the
22 federal act it is not obliged to enter into an
23 interconnection agreement except under certain
24 circumstances, one could certainly contend that our
25 service territory now includes that rural teleco, that

1 they bought the exchange, and therefore our right to
2 serve that territory cannot be abridged by a third
3 party contract that happens to have some, you know,
4 this company's now a rural telephone company, and under
5 the FCC rules, certain different standards apply for
6 interconnection, et cetera. And the fact of the matter
7 is, I don't know that that issue has been litigated,
8 and I suspect largely, because at some point there's
9 probably no CLEC that's been ready to jump in and serve
10 a very rural exchange that was being sold, but as
11 companies start serving, with the exception of New
12 Edge -- I don't know if you litigated it. Perhaps you
13 have.
14 MS. BEWICK: (Shaking head in the
15 negative.)
16 MR. DIXON: The point being that until
17 someone litigates that issue, and I can speak for
18 Colorado in particular, because I know the Colorado
19 rules, I can't speak for the other 13 Qwest states,
20 it's not clear what happens on sale, pure and simple,
21 and I don't think it's an automatic that that territory
22 suddenly takes on a new legal position simply because
23 Qwest and a rural teleco decided to transfer that
24 exchange. I don't think that can abridge our
25 certification, based on prior commission rulings that

1 we still have a certificate that is coincident with
2 Qwest's or then U S West's, serving territory and in
3 our case it was like December 18th, 1996, I mean,
4 there's a --
5 MS. QUINTANA: What about the obligation
6 of that new provider?
7 MR. DIXON: That's the point. I think,
8 as with any frequently -- I am going to go a little out
9 of my headlights, but, going back to some stuff I
10 remember talking about years ago, it seemed to me, when
11 someone bought assets and sometimes they bought them
12 subject to existing liens and security obligations, and
13 such like, and there might be a parallel argument that
14 could be argued that if Citizens, for example, as a --
15 assume for the moment that a rural telephone company,
16 under the federal act, purchases an exchange area, that
17 they took that exchange subject to whatever were the
18 conditions that existed relative to interconnection
19 obligations, because WorldCom at that time had the
20 authority to serve that exchange, and I don't think a
21 sale of an exchange can take away constitutional
22 property rights we have under a commission decision.
23 So, I just think it's not a, first of
24 all, it's not an academic issue. It's not something
25 that, necessarily, that there's an answer out there

1 for. And so, for AT&T to propose an issue like this is
2 putting it squarely in the parties' hands to try and
3 address what I think is still somewhat open and will
4 some day likely face a rather litigious, tortured trail
5 of activity. It might come to resolve that in part.
6 By that, I mean 6-AT&T-72.
7 MR. McDANIEL: Let me make two quick
8 comments. We did discuss, in the Citizens CPCN, some
9 issues for the CLECs. What we came down to here --
10 this was not the case with Citizens, because we had an
11 interconnection agreement with companies operating in
12 there, but the CPCN we kind of thought would be defined
13 to be U S West territory at the time you got the CPCN.
14 So it's -- you still would be certified. Then,
15 generally, you wouldn't upset too much rural exemption,
16 as long as you got the operating authority in that
17 exchange under the Colorado rules. So, we thought --
18 that's how we kind of read whether or not impacts would
19 be --
20 MR. DIXON: I think, for example, if New
21 Edge were truly out in that area -- I am not suggesting
22 they wouldn't pick an exchange New Edge is operating
23 in. If they had that territory prior to the sale, I
24 don't think New Edge is going to feel particularly
25 happy that they now have to go back to the commission

1 and get approval from the commission to enter into
2 interconnection agreements with that new carrier, using
3 the rural telephone exemption, and demonstrate that
4 it's economically feasible. I don't think that's New
5 Edge -- if I were working for New Edge, I would
6 certainly not take the position that somehow I now have
7 to go through more hoops when I thought I already had
8 the authority to serve that territory. On the other
9 hand, if I am New Edge, I would be intervening in every
10 sale of exchange and making sure that point is
11 addressed clearly every time.
12 MR. MENEZES: I just have a question.
13 Paul, you had said we talked about CPCN.
14 MR. McDANIEL: This was Citizens. Then
15 on -- I don't know if we discussed it with staff on --
16 I can't recall -- at some of the meetings.
17 MR. MENEZES: Part of what I was hearing,
18 there was a lot of discussion between Qwest and
19 Citizens, but CLECs who have interconnection agreements
20 with Qwest in the exchanges being sold, who may have
21 customers there, were not part of those discussions.
22 And that's really the, you know, big issue about this
23 language, is that it doesn't seem to me to be soon
24 enough that CLECs first find out when a filing is made
25 with the commission. We have an agreement with Qwest

1 that we're relying upon to conduct business. And our
2 customers are relying upon it as well, indirectly, but
3 we need it to serve them. If something happens to this
4 agreement, it affects us. It affects our customers.
5 What we're asking for is the
6 consideration that there is a transition built in, that
7 there's a time period, notice, that there's
8 cooperation, that that's essentially what this language
9 does. It is not uncommon, in commercial contracts,
10 when you are obtaining services from a provider of
11 services, to attach an obligation, that if they are
12 going to sell these assets or sell the means by which
13 they provide the service, that assignment of that
14 agreement and obligations associated with that
15 agreement go with the assets or at least partial
16 assignment. And that I think would be appropriate here
17 as well. We haven't proposed that. We proposed what
18 we have here, I think, in A. 5.12.2A simply asks that
19 interconnection and intercarrier compensation be
20 provided for on an interim basis until we can negotiate
21 with the new carrier. It isn't asking that every
22 obligation under the interconnection agreement with
23 Qwest be imposed on the purchaser. It's not what that
24 language says.
25 And, so, we haven't proposed that if they

1 want to sell exchanges, they have to get our consent
2 and they have to assign the interconnection agreement.
3 I think that that would not be an unreasonable thing,
4 because that is another method of promoting certainty
5 and ensuring that, at least for the term of the
6 agreement, you get the benefit of the bargain. What
7 we're asking for is, essentially, notice, cooperation
8 and one condition, really, I think A is the sole
9 condition; that we have a way of continuing to conduct
10 business with that new carrier until we can reach our
11 own arrangement with them. So, I guess I would
12 characterize it more in that way.
13 MR. BELLINGER: Mana.
14 MS. JENNINGS-FADER: I have a sort of lot
15 of questions of AT&T, and notwithstanding the very nice
16 presentation that you just did about why this is
17 necessary. I just want to understand what the language
18 means. So, let's talk about, if I could just go
19 through it section by section or subsection by
20 subsection. SubSection A, am I correct that there's no
21 time within which the new interconnection agreement
22 must be negotiated so that, in theory, it could, this
23 transition period could be of infinite length?
24 MR. MENEZES: There is no language in A
25 that sets a time period for it. I think we could go

1 there. We could talk about that. Qwest is not -- has
2 not been interested in negotiating these terms. So, I
3 would be open to talking about it.
4 MS. JENNINGS-FADER: The next thing is,
5 let's assume -- let's go back to a hypothetical we were
6 talking about not too long ago where there is two weeks
7 to go on the ICA before it expires, and then there's a
8 sale of exchanges that includes a piece that is related
9 to this ICA. Would the ICA expire at the end of the
10 term or the term with Qwest, that is at the end of two
11 weeks?
12 MR. MENEZES: I don't know that I can
13 answer that.
14 MS. JENNINGS-FADER: I am just trying to
15 understand the proposals.
16 MR. MENEZES: I think our desire would be
17 that similar terms or some terms for interconnection
18 would exist with that new carrier. If we get early
19 notice, then maybe we have the opportunity to negotiate
20 that ourselves. We don't have to rely on A. But
21 that's, to me, that question is -- I am not sure I can
22 answer it, because if we were in the position of
23 allowing an agreement to expire, I just don't see us
24 there with Qwest without having some contingency --
25 MS. JENNINGS-FADER: Okay. And then I am

1 curious as to whether this is Qwest's obligation to do
2 this?
3 MR. MENEZES: To do which?
4 MS. JENNINGS-FADER: A, all of these
5 first questions related to A. So, then I will move on
6 and go -- I mean as opposed to being an obligation of
7 the CLEC, if the CLEC gets notice.
8 MR. MENEZES: Okay. It's an obligation
9 of Qwest, because Qwest is obligated under this
10 interconnection agreement. Qwest has the duties to
11 provide service, and it seeks to terminate this
12 agreement as to the exchanges that its selling. And
13 so, AT&T's view is that it is its obligation, in the
14 first instance, to provide service. It seeks to alter
15 that obligation by selling exchanges. It should have
16 the obligation to ensure, at least for some period,
17 that there is some continuity.
18 MS. JENNINGS-FADER: Okay. And last
19 question with respect to this, would you accept as a
20 friendly amendment to your proposal, "CLEC," instead of
21 "AT&T" in the third line?
22 MS. FRIESEN: Well, if you insist.
23 MS. JENNINGS-FADER: A.
24 MR. MENEZES: That would be just fine.
25 Thank you.

1 MS. JENNINGS-FADER: Okay. Now I have
2 some questions about B. First of all, the way I read
3 this, the trigger date is 180 days prior, and I guess
4 we need a "to" there, prior to written notice of the
5 completion of transfer. So the way I read that, that's
6 the day of the actual signing of the deal and transfer
7 of the assets. I don't think that's what you are
8 talking about. I mean my -- because the assumption is
9 that one would have already gone through the
10 application process, it would have been approved by the
11 commission, all that stuff would be already done.
12 MR. MENEZES: Understanding all of that
13 stuff is done.
14 MS. JENNINGS-FADER: Prior to completion
15 of transfer.
16 MR. MENEZES: 180 days prior to the
17 completion of transfer.
18 MS. JENNINGS-FADER: My point is, I am
19 curious as to why you chose completion of the transfer
20 as opposed to, for example, I don't know, the filing of
21 the application or something. It seems to me that by
22 the time you are talking about completion of the
23 transfer, 180 days, you would have already gotten the
24 notice, because you would have known of the application
25 filing. So, what's the point of B?

1 MR. MENEZES: I am not sure I know that.
2 I am sorry.
3 MS. JENNINGS-FADER: In Colorado, I can
4 pretty much assure you that there will be regulatory
5 proceedings that will be going on from the time the
6 application is filed to the completion of the transfer.
7 That time period will exceed 180 days.
8 MR. MENEZES: Okay.
9 MS. FRIESEN: May. Don't you think it's
10 just a, may exceed 180 days.
11 MS. JENNINGS-FADER: Well --
12 MR. MENEZES: It's more likely than not
13 to exceed 180 days.
14 MR. McDANIEL: That's a pretty safe bet.
15 MS. JENNINGS-FADER: So, because we're
16 talking about from the filing of the application to the
17 closing of the deal. So you have gone through all of
18 the regulatory approvals before you close the deal.
19 Isn't that what you were talking about, completion of
20 the transfer?
21 MR. MENEZES: Yes.
22 MS. JENNINGS-FADER: So, I am not
23 understanding -- I do not understand why you chose
24 completion of the transfer, and count back 180 days
25 from that event. Because it seems to me you would have

1 already gotten that notice when you found -- when you
2 got notice that the application to transfer had been
3 filed with the commission.
4 MR. MENEZES: It may be that that's the
5 case in Colorado. I am not sure that's the case in
6 every state. So, I won't say we chose 180 days for
7 Colorado. This is the proposal we give for every
8 state.
9 And I think, in further answer to your
10 question, if that is the case, that the filing made
11 with the commission is 180 days or more before the
12 completion of transfer, then B is satisfied by Item D,
13 I think.
14 MS. JENNINGS-FADER: Okay. All right.
15 Now, can you explain to me -- the commission, rather --
16 what you mean -- what AT&T means when it talks about
17 appropriate written notice. Is that like within so
18 many days of an agreement being struck, or what is
19 that?
20 MR. MENEZES: What is "prompt" mean?
21 MS. JENNINGS-FADER: Uh-hum.
22 MR. MENEZES: I don't know. I may have
23 to pull out Webster's to tell you, from the definition,
24 I mean.
25 MS. JENNINGS-FADER: You didn't have

1 anything in mind.

2 MR. MENEZES: Not a particular time

3 period. I think it's going to be, you know, something

4 that's reasonable, which would be an objective standard

5 under the law.

6 MS. JENNINGS-FADER: Now, going on to

7 "Any -- "Any agreement or understanding related to any

8 proposed transfer." I really like to have some clearer

9 view of what that is supposed to encompass.

10 MR. MENEZES: I think what we intended,

11 there is an agreement that has been reached from the

12 standpoint of all material terms have been reached

13 between the parties, between Qwest and the purchaser.

14 I think that if you are back up to the point of a term

15 sheet -- and there's a lot of negotiation to go through

16 to get the final or definitive agreement, or whatever

17 term you want to use, I don't think that's what we

18 mean. And if we need to tighten up the language on

19 that regard, we can. But, I think we're talking about

20 when I get -- when Qwest gets to the point of really

21 having concluded an agreement, that it has got the

22 wheels going to start preparing for the filing with the

23 commission.

24 MS. JENNINGS-FADER: That would just be

25 the original agreement, but any, I presume, any

1 subsequent agreements or understandings that are
2 reached even after the deal is struck.
3 MR. MENEZES: That would change the
4 agreement initially reached, yes.
5 MS. JENNINGS-FADER: With respect to C,
6 what does AT&T believe it's getting by asking Qwest to
7 use its best efforts?
8 MR. MENEZES: You want to answer?
9 MS. JENNINGS-FADER: To facilitate the
10 discussions.
11 MR. MENEZES: What do we believe we're
12 getting?
13 MS. JENNINGS-FADER: What is it that
14 this -- this obligation, what would it entail?
15 MR. MENEZES: You know, I think I would
16 answer that in the same way I did A. That they need --
17 they are the party obligated to perform under this
18 agreement, and they want to alter what they are doing.
19 What their obligations are with respect to certain
20 exchanges.
21 MS. JENNINGS-FADER: Let me -- I am
22 sorry, let me just ask you this. Let me give you a
23 hypothetical. You can tell me if this is using best
24 effort to facilitate, because it's --
25 MR. MENEZES: Okay.

1 MS. JENNINGS-FADER: Qwest says, seller,
2 or excuse me, purchaser, meet CLEC, CLEC meet
3 purchaser, and walks away.
4 MR. MENEZES: I would not consider that
5 best effort.
6 MS. JENNINGS-FADER: How much beyond that
7 is best effort to facilitate the discussion?
8 MR. MENEZES: I think it would include
9 notification. It would possibly include introductions.
10 It may include participating in discussions,
11 negotiations, with the purchaser. I mean, purchaser
12 CLEC and Qwest, together. And it would, I think,
13 extend possibly -- well, it does extend, because it
14 relates to A, to certain actions to ensure continuity.
15 I am not sure what all those would be.
16 MS. JENNINGS-FADER: Okay. I have only
17 one question about --
18 MR. MENEZES: I am getting whispered in
19 my ear.
20 MR. BELLINGER: Careful what you say.
21 MR. MENEZES: And I think it, I mean,
22 just along the lines of what I just said, it may
23 include terms, and in their contract with their
24 purchaser, that ensure, you know that purchaser's
25 reasonable cooperation or best effort cooperation with

1 the CLEC, that kind of thing.

2 MS. JENNINGS-FADER: D, I actually don't

3 have anything. E.

4 MS. QUINTANA: Just on D, I understand

5 that CLEC is requesting a copy of the actual

6 application, other related regulatory documents. Does

7 that refer to anything filed in that proceeding then?

8 Related material? How far does that go?

9 MR. MENEZES: Well, I think the documents

10 that are filed in the docket for the sale of the

11 exchange, we would want copies of.

12 MS. JENNINGS-FADER: For example, well

13 just, at least my experience has been in other sales of

14 exchange situations involving Qwest in Colorado, that

15 Qwest filed the application and the testimony, all of

16 the supporting documentation at the time it filed its

17 application. Is that what you are talking about?

18 MR. MENEZES: Yes. And if they're

19 agreement is filed with the commission.

20 MS. JENNINGS-FADER: That would -- I am

21 sorry -- would have been part of it.

22 MR. MENEZES: Right.

23 MS. JENNINGS-FADER: And last, with

24 respect to E, as in Edward, I understand the first

25 part, "not oppose a CLEC intervention." I do not

1 understand the second half of that with respect to the
2 challenge to the commission's authority.
3 MR. MENEZES: You don't understand it?
4 MS. JENNINGS-FADER: Uh-hum. (Nodding in
5 the affirmative.) Are you saying that to the extent
6 that Qwest believes it has a challenge to the authority
7 of the commission, that it's waiving its right to raise
8 that challenge?
9 MR. MENEZES: I think that's what the
10 language says.
11 MR. McDANIEL: Can I ask one quick
12 question? These terms would apply even if you had no
13 customers in certain exchanges and had no intention of
14 serving customers in certain exchanges.
15 MR. MENEZES: The way it's written right
16 now, yes, it has to do with exchanges that essentially
17 fall under this interconnection agreement.
18 MR. McDANIEL: So, it would have to be
19 where you actually had customers or you had no --
20 MS. FRIESEN: Not necessarily.
21 MR. MENEZES: Not the way it's written
22 now.
23 MR. McDANIEL: Even if you had no
24 intention of going there, you had no customers today,
25 we would have to abide by this?

1 MR. MENEZES: I think that's something we
2 could discuss.
3 MS. QUINTANA: Implicit in this, is it
4 not, is that you have operating authority and are
5 actually operating in those exchanges?
6 MS. FRIESEN: That you do have operating
7 authority, that do you have your CPCN. In other words,
8 you have your CPCN.
9 MS. JENNINGS-FADER: You have
10 interconnection --
11 MS. FRIESEN: An interconnection
12 agreement with Qwest, but not necessarily that you are
13 actively providing service yet.
14 MR. McDANIEL: That's a good question,
15 because operating authority, usually the way companies
16 have been doing it, they don't get operating authority
17 until they are ready to go into a set of exchanges.
18 They get the --
19 MS. QUINTANA: It's actually different
20 now, Paul, then --
21 MR. McDANIEL: Is it?
22 MS. QUINTANA: Right now, CPCNs,
23 operational support of the CPCN is granted on a
24 Qwestwide basis as well. Just recently.
25 MR. McDANIEL: Because I have seen some

1 companies that have come in with getting orders for
2 certain exchanges.
3 MS. QUINTANA: Older companies. New
4 CLECs are getting the entire area.
5 MR. HYDOCK: Just as a matter of
6 clarification, the sale of exchanges may have an impact
7 on architecture just outside that boundary. So, that's
8 what -- we're not saying we have to have customers
9 there. It may be an issue that we have customers in
10 adjacent areas where homing arrangements need to be
11 changed.
12 MR. MENEZES: If I could add, Mana, we
13 talked about this some beforehand, and we were further
14 conferencing on it. The last part of E, that second
15 clause, "and not challenge the commission's authority."
16 You know, if that would make this more attractive to
17 Qwest, we would be fine with deleting that language.
18 MR. BELLINGER: Okay.
19 MS. JENNINGS-FADER: I have just -- and I
20 assume that AT&T, the fact that -- well, it says
21 nothing about what the commission would or would not
22 consider on such an application, right?
23 MS. FRIESEN: Right.
24 MS. JENNINGS-FADER: This says nothing
25 about what the commission would in fact consider in the

scope of such a transfer application, correct?

MR. MENEZES: Correct.

MS. JENNINGS-FADER: Thank you very much.

MR. MENEZES: I would like to make one further comment, so we're not under the impression that this is new language. It was filed in Michael Hydock's initial comments. Thanks.

MS. JENNINGS-FADER: My apologies, Mr. Hydock. I did not focus on it.

MR. HYDOCK: That's all right. No problem.

MR. BELLINGER: He didn't mind, I don't think.

MR. DIXON: Please don't let it happen again.

MS. BEWICK: I would like to make a comment, just because I would like to address this in the real as opposed to the hypothetical, because New Edge has been impacted by this, the sale of exchanges, and I can't say necessarily in the state of Colorado, but I have no reason to believe that our experience would be any different here than it would be in other locations. And while I don't necessarily, all of the language that AT&T has here, I don't know that I necessarily need to have.

1 I just want to reiterate an exchange that
2 I had with Wayne Lafferty of Citizens at the ROC in
3 Portland about the sale of exchanges, and Citizens'
4 potential purchase of some of those exchanges. And I
5 asked him some questions, and I believe it was in the
6 public forum that we had, I asked him some questions
7 about the ICAs, and about Citizens' commitment to the
8 commissions to adhere to the existing ICAs, which they
9 had done in several jurisdictions. And he said, well,
10 yes, they planned on doing that. And so then -- and
11 then -- but then he went on to say, however, we plan on
12 contacting the CLECs to try to renegotiate -- not
13 renegotiate, to make changes to some of the existing
14 ICAs, because some of these ICAs are different than the
15 others, and we would like to operate off of one ICA.
16 And I said, what kind of changes are you talking about?
17 And his comment was, he said, well, first, for
18 instance, there are some things we can't do that
19 U S West/Qwest does. For instance, some of their
20 electronic interfaces, and some things like that. And
21 he said, what we would do is we would be encouraging
22 the CLECs that we're dealing with today to do things
23 like go ahead and fax their orders in, because that's
24 what they currently do for Citizens today, is fax their
25 orders in. We don't have these expanded and expensive

1 systems in place today to enable us to do a lot of
2 electronic interfacing. And he says, and that
3 shouldn't be a problem.
4 And so he said, it's things like that
5 that we're looking at, things that work for Citizens
6 today, in Citizens' environment, that we would like to
7 then change in the current ICAs that are out there.
8 And I said, who is going to make the determination that
9 it works? Is it Citizens who is going to say, well,
10 this is no big deal for the CLEC or is it Citizens who
11 is going to have to sit down with the CLEC. He said,
12 well, sort of. Depends upon the situation. If we
13 don't have the capability of doing it, we'll simply
14 make the change. And I said, and you will make that
15 change, even though in the spirit of your commitment to
16 some of the commissions you stated that you would
17 comply with the ICAs that were in place today. And he
18 said, well, we believe that that is within the spirit.
19 And as long as we can process the orders, it shouldn't
20 matter what systems we use to process the orders.
21 So, anyway, that was an exchange I had
22 with him at the Portland ROC. So, it's not on the
23 record anywhere, because, obviously, those type of
24 forums are not recorded. However, I might encourage
25 that next time. So, that's just -- I just wanted to

1 make sure that folks are aware of that and that's where
2 some of my concern is. I have very real experience in
3 other forums -- I have been out of here half of the
4 morning, not because of Qwest, because of the sale of
5 exchanges by another RBOC where we're now dealing with
6 the small company who I consistently get, well, we
7 don't have the processes and procedures in place in
8 order to process your orders.
9 So, my concern is that there is something
10 in place, since we have spent time ad nauseam trying to
11 put together an SGAT, that all of a sudden we get this
12 in place, and then six months down the road, the
13 exchanges particularly New Edge's interested in,
14 because we're in a lot of these exchanges that are not
15 as profitable and have more of a tendency to be sold.
16 I don't want to have to go through this again, you
17 know, and have to go through the fight. It's hard
18 enough for us to do business today. And if you read
19 USA Today yesterday, you would have seen that. It's
20 hard enough for us to do business today, let alone then
21 having to re-create the ICA. I support AT&T's effort
22 in trying to get some language into the SGAT that deals
23 with this issue of sale of exchanges in some form, and
24 like I said, I don't know that I personally need all of
25 this language. I don't even understand a lot of it,

1 even after Mana's questioning. But I think we do need
2 something to give it some more teeth for us to be able
3 to do business and not have to re-create an ICA and
4 grind to a halt in the future. So, that's my spiel and
5 I --
6 MR. DIXON: I am sticking with it.
7 MR. BELLINGER: Qwest, do you have any
8 response to --
9 MR. BROTHERSON: Yeah. I have a few
10 comments. And I think my first notation would be
11 that -- and I think we've seen this in the responses to
12 some of these questions. That the language is much
13 more restrictive than perhaps the summaries of what the
14 language means would lead us to believe. And as far as
15 concern about customers, and I understand that, but
16 this language is much broader. It's going to cover all
17 sales of exchange, whether any CLEC is doing business
18 there.
19 There's been a number of issues or
20 hypotheticals raised by AT&T, by WorldCom, by New Edge.
21 It's almost impossible to write language around all of
22 these, and I think this is the very reason that these
23 solutions to these issues should not be addressed in
24 the SGAT. They should be addressed by the commission
25 in the sale of exchanges proceedings to determine

1 what's best for the customers in that community when
2 the sale of exchanges proceeding takes place, as to
3 what kind of transition is going to be necessary. But
4 I think that's the appropriate place and not in the
5 SGAT to deal with hypothetical questions about rural
6 exchanges exemptions or ICAs, or, I mean, excuse me,
7 the certification boundaries or the like.
8 MS. FRIESEN: Could I make --
9 MS. DOBERNECK: Could I just add one
10 thing? I would just like to add that as Penny pointed
11 out, it is not a hypothetical. Covad is encountering
12 the exact same scenario with the sale of certain
13 exchanges to Citizens that impacted Covad. And it's
14 not a hypothetical. We got a consent saying, will you
15 agree to the assumption by Citizens of this
16 interconnection agreement, and, by the way, you're
17 faxing your orders to us. So, I mean, it's not a
18 hypothetical. It is a real problem. And luckily for
19 Covad, it's become a moot issue, because the sale fell
20 through. But, it is something that makes operating a
21 business very difficult.
22 MR. BELLINGER: Mana.
23 MS. JENNINGS-FADER: Thank you,
24 Mr. Brotherson. Then will Qwest agree that in a sale
25 of exchanges docket, that these issues are pertinent

1 issues that will -- that will be and should be
2 addressed in that docket?
3 MR. BROTHERSON: Yes. When you say,
4 "these issues," I mean, the kind of things we're
5 discussing today, yes.
6 MS. JENNINGS-FADER: Yes, sir.
7 MR. BROTHERSON: If there's customers of
8 CLECs in that town, and these are issues that are
9 there, yes, I would agree.
10 MS. JENNINGS-FADER: I am sorry. I think
11 the decision was beyond if there are customers there.
12 I think the discussion was irrespective of whether
13 CLECs are actually serving customers. So, let's
14 broaden to the broader context where there's a CLEC
15 with an interconnection agreement who are certificated
16 to serve that -- some or all of the exchanges that are
17 being sold. Irrespective of whether that CLEC is
18 serving customers, will Qwest agree that the issues
19 that we have been discussing this afternoon are issues
20 that should be addressed in the sale of the exchange
21 docket?
22 MR. McDANIEL: I am not sure I understand
23 the question. Are you saying that -- wait a minute.
24 Just a minute. You are saying that the issues
25 themselves, to the extent that any CLEC is serving

customers, and those issues could be brought up in a case.

MS. JENNINGS-FADER: I am assuming no CLEC is serving customers because the issues, as I believe Mr. Hydock pointed out, may arise even in the absence of serving customers within a particular exchange being sold. So, it's really a broad -- my question is broad.

MR. McDANIEL: I understand. His host/remote issue as well.

MR. BROTHERSON: The host/remote issue as well. That would certainly make it an issue in the sale of that exchange, yes.

MR. DIXON: All right. I am sorry. I am trying to understand, is there a point at which -- let me come at it the other way. Is there a point at which Qwest thinks that the issues we have been discussing today in this workshop are, since lunch, narrow it, are not appropriate to be raised in a sale of exchanges docket?

MR. BROTHERSON: I could envision the sale of an exchange of 2 or 300 people with the Central Office that no CLEC is serving and no CLEC has indicated they are going to serve, and whether or not we're going to impose on that purchaser an

1 interconnection agreement that looks like the SGAT,
2 with PIDs and performance penalties and electronic
3 interface. We may raise an argument that none of that
4 is relevant to the sale of this exchange, and it should
5 not prohibit those customers from being transferred.
6 Now, whether a commission would agree with us or not
7 would be a totally different issue. But, I am
8 reluctant to say that there would never be a situation
9 where we would not raise the argument that the SGAT is
10 irrelevant to the transfer of some assets or even
11 portion of the assets of an exchange.
12 MS. JENNINGS-FADER: Thanks.
13 MR. BELLINGER: Okay. Tom.
14 MR. DIXON: I just have a couple of
15 questions, foundational, hopefully, maybe.
16 Mr. Brotherson, have you ever been involved in the
17 transaction of selling an exchange between Qwest and a
18 rural telephone company as that term is defined in the
19 federal act? And I am saying in your capacity with
20 Qwest.
21 MR. BROTHERSON: Yes.
22 MR. DIXON: Would you agree with me --
23 MR. BROTHERSON: I am not sure -- I was
24 involved in the exchange of properties with GTE's
25 predecessor in Iowa, they swapped us an exchange in one

1 part of the state, with Qwest, which was then in the
2 Northwestern Bell or U S West property in the other
3 part of the state.
4 MR. DIXON: In that process, were you
5 involved in the preparation of due diligence
6 representations?
7 MR. BROTHERSON: In that specific
8 exchange, no.
9 MR. DIXON: Okay. Are you familiar with
10 the concept of due diligence representations and
11 warrants that are made in what's called a due diligence
12 report?
13 MR. BROTHERSON: I have not been directly
14 involved in due diligence.
15 MR. DIXON: I am going to take one last
16 shot. I assume you are probably going to give the
17 answer. I don't know, but I will take the shot. Do
18 you have any sense as to whether perhaps disclosure of
19 the existence of interconnection agreements between
20 CLECs and Qwest that might impact the sale of exchanges
21 would be something that would be disclosed in a warrant
22 or representation in a due diligence report?
23 MR. BROTHERSON: I don't know what's
24 involved in due diligence reports. All of our
25 contracts are filed with the Colorado commission.

1 MR. DIXON: Thank you.

2 MR. BELLINGER: Okay.

3 MS. BEWICK: I have one more brief

4 comment. That is that, like Megan said, my

5 conversation with Mr. Lafferty of Citizens was not a

6 hypothetical, unless I was in Oz. And it was -- he was

7 very succinct with me as far as what was going on. And

8 the other thing is that I think that one of the

9 considerations needs to be as far as whether or not

10 there's actually customers in a Central Office. When

11 you have a company like New Edge, who has been very

12 vocal with the commission, as well as publicly, that,

13 you know, we're not in Denver. We're in the more rural

14 exchanges, and our plan is if we can survive, our plan

15 is that, as we grow and as we turn our business

16 profitable in the exchanges that we're in today, is to

17 go deeper into the rural exchanges, not to go into

18 Denver but to go deeper into the rural exchanges.

19 So, I think we have been very clear in

20 our business plan that that is what we intend to do in

21 the state of Colorado, as well as everywhere else that

22 we are. So, while I just want you to consider that I

23 know when you are saying, you know, I am not talking

24 about the exchange that has, you know, the extreme,

25 which is 200 people in it and that's it. I am talking

1 about other exchanges, and so forth, that are being
2 sold. So, in light of what AT&T was saying and, again,
3 I don't need to go as far as to what AT&T is saying.
4 That's one of the things I would like you to consider,
5 that we're not talking about the 200 people in a little
6 tiny town that may not impact New Edge. We're talking
7 about rural exchanges.
8 MR. BROTHERSON: I understand. And Qwest
9 is not saying there shouldn't be a transition. We're
10 saying that should be a matter that the commission
11 decides in the sale of exchange hearing, not in the
12 SGAT language.
13 MR. BELLINGER: I think we spent a lot of
14 time on this. Built quite a record. Extensive and
15 fair. I was looking at AT&T's issue list. 6-AT&T-69.
16 And you are showing three issues here, A, B and C,
17 5.12.1, and you show it as was agreed. I assume we
18 haven't talk about it, so I am -- I assume that's
19 agreed with no concern. The issue you show as 5.12.2,
20 which has been taken out, but then you filed 6-AT&T-72,
21 but it says impact of mergers.
22 MS. FRIESEN: Right. That was --
23 probably should have been changed to sale of exchanges.
24 MR. BELLINGER: Which is what you have in
25 C.

1 MS. FRIESEN: Those two probably ought to
2 be compressed.
3 MR. BELLINGER: I want to make it clear
4 we're not talking about mergers but sale of transfer
5 and exchanges.
6 MS. FRIESEN: That's right. 38C.
7 MS. JENNINGS-FADER: I'll go from there
8 and take a wild guess that's at impasse.
9 MS. FRIESEN: Apparently.
10 MR. BELLINGER: Okay. Moving right along
11 to G-39.
12 MR. BROTHERSON: No parties filed
13 testimony on that, I don't believe.
14 MR. BELLINGER: How did it get to be an
15 issue? Well, anyway. Moving right along. G-40.
16 MR. BROTHERSON: We just -- this was tied
17 to the term of the agreement issue. We changed it, the
18 phrase, "completion of the two year term," to,
19 "termination of the agreement." And with that change,
20 the matter is closed. The language in 5.17.
21 MR. BELLINGER: You changed -- I am
22 sorry. You changed what?
23 MR. BROTHERSON: The language that we
24 struck, the phrase "upon completion of the two-year
25 agreement," and inserted "upon the termination of the

1 agreement."

2 MR. BELLINGER: All right. Okay.

3 MR. BROTHERSON: I don't know if there

4 was an issue here.

5 MR. BELLINGER: G-41.

6 MR. BROTHERSON: G-41 is dispute

7 resolution. AT&T had proffered an alternative to the

8 dispute resolution clause to MCI. Basically the end

9 product is the amalgamation of provisions of all

10 parties, as we exchanged counter language in numerous

11 drafts back and forth, to finally arrive at the dispute

12 resolution language that is laid out in Section 5.18.

13 And we finally reached consensus on it. There were

14 questions about whether Triple A or JAMS rules would

15 apply. I think now we have got both. There were

16 provisions around so many days to dispute or raise up a

17 dispute. There were provisions for how the arbitrators

18 decision would be handled. We added, to make very

19 clear, which was the position of all of the parties,

20 but it was felt it was not spelled out clearly, so we

21 added 5.18.6, which says, nothing in the sections is

22 intended to preempt (sic) or limit the jurisdiction and

23 authority of the commission or the FCC as provided in

24 state and federal law. I think that was sort of a

25 putting it in writing statement of fact, but we have

1 added that to make it very clear that in no way
2 preempts any commission right and jurisdiction.
3 And I think, in 5.18.8, the parties
4 agreed today to carve out, in the arbitration process,
5 intellectual property rights, because of the unique
6 specialists type of process. And I believe, in the
7 intellectual property section, it's been provided for
8 how would we handle disputes on the intellectual
9 property. That pretty well summarizes the dispute
10 resolution.
11 MR. BELLINGER: Any other comments on
12 this, Mana?
13 MS. JENNINGS-FADER: Mr. Brotherson, I
14 just have a question with respect to 5.18.6. Can you
15 explain -- can you explain the -- will everything go to
16 arbitration? Will some things not? I am unclear about
17 what the dispute resolution process is. I mean, I
18 understand through the vice presidential level, and, I
19 mean, that internal try to work it out. Once it has to
20 go to an external group to reach a decision, is that
21 group always arbitration, Triple A arbitration or is
22 that go to the commission for the commission to resolve
23 it or what?
24 MR. BROTHERSON: It's not always dispute
25 resolution. And there have been examples for where

1 parties have gone directly to the commissions and the
2 commissions have heard the case. There are other
3 instances where there's been a technical dispute or
4 monetary dispute over an amount of charge, or something
5 where the parties have just said, we'll let you know
6 the factual question, and we can quickly dispense of it
7 by putting the bills on record and did it get paid or
8 not paid, or whatever the nature of the dispute is.
9 So -- and it offers a quick way of resolving a dispute.
10 Generally dispute resolutions are commercial documents
11 that parties use to have a quick and cost-effective way
12 to resolve a dispute.
13 MS. JENNINGS-FADER: My question really
14 goes to this language. I am sorry.
15 MR. MENEZES: Maybe -- I am sorry. Maybe
16 you already see the language. I was going to point you
17 to the language in 5.18.1.
18 MS. JENNINGS-FADER: Go ahead.
19 MR. MENEZES: "Dispute resolution under
20 procedures provided in this Section 5.18 shall be the
21 preferred but not the exclusive remedy." Is that what
22 you were looking at?
23 MS. JENNINGS-FADER: There was that.
24 That was followed on by language at the top of page 29
25 of 6-Qwest-60, where it talks about -- actually, it's

1 on the bottom of page 28. You have gone through the
2 vice presidential hoo-ha. That hasn't worked. Then
3 the parties may request that the dispute be settled by
4 arbitration, notwithstanding, the foregoing parties may
5 request that dispute be settled by arbitration two
6 calendar days after, so forth, so on, dah, dah. What's
7 unclear to me, as a result of that language, once a
8 request is made for arbitration according to those
9 terms, that is Triple A arbitration or single arbiter,
10 or three arbiters, does that foreclose the opportunity
11 for parties to go to the commission to have the dispute
12 arbitrated by the commission? That's my question.
13 MR. BROTHERSON: I believe the answer to
14 the question is, no. I am trying to find the language
15 so I am sure I am responding to your specific question.
16 MS. JENNINGS-FADER: For the record, I
17 was reading from 5.18.3.
18 MR. BROTHERSON: No, I believe not, and I
19 believe that the question is, if you have elected to go
20 to arbitration rather than the commission, because I
21 think we have stated in one that you can go to the
22 commission. The question is, if you elected to go to
23 arbitration rather than the commission, can you, at any
24 time in the proceedings, you pull out of arbitration
25 and opt to go into the commission, and, you know, it's

1 not something that we discussed. It's not something
2 that came up. It's clearly the commission retains
3 jurisdiction and we can put that language in there.
4 So, I am not sure the contract would prohibit it. This
5 language was intended to lay out the procedures of how
6 you would handle the arbitration if the parties elect
7 arbitration, and it isn't -- certainly doesn't address
8 that question.
9 MS. JENNINGS-FADER: Actually, now that
10 you pointed it out to me, Mitch, continue reading
11 5.19.1. There's a sentence beginning in the sixth
12 line, the sentence reads, "Each" -- again, I am
13 referring to 60. "Each party reserves the right to
14 resort to the commission or to a court agency or
15 regulatory authority of competent jurisdiction." It
16 goes on, in this Section 5.18, "The rights of either
17 Qwest or CLEC, upon meeting the requisite showing to
18 obtain provisional remedies are," blah, blah, "however
19 once a decision is reached by the arbiter" --
20 "arbitrator," excuse me, "such decision shall supersede
21 any provisional remedy." So it seems to me --
22 MR. BROTHERSON: That would be the
23 injunction.
24 MS. JENNINGS-FADER: So, am I correct
25 there that until the time that there's a decision by

1 the arbitrator, one could go to the commission or to
2 the court, that once that decision is reached, that the
3 arbitrator's decision is reached, that's it. I am just
4 trying to understand what this means.
5 MR. BROTHERSON: I think the phrase
6 "provisional remedy," was intended to address
7 injunctive relief.
8 MS. JENNINGS-FADER: Okay. And, I mean,
9 this is of some interest to the commission, as you can
10 imagine. I just --
11 MR. BROTHERSON: I understand. We start
12 out by saying nothing here would stop you from going to
13 the commission, and then we get into the procedures of
14 how the arbitration would play out if you do the
15 arbitration rather than do that. And I think the
16 section that you were referring to here says that
17 nothing in 5.18 would limit a party seeking an
18 injunction while this is going on. However, once a
19 decision is reached by the arbitrator, the decision
20 would supersede the injunction, the provisional remedy.
21 It was simply addressing how you would, you know, that
22 injunctive relief or provisional remedy would be
23 handled in the event of an arbitration. I don't think
24 it was -- had anything to do with carving the
25 commission out of anything.

1 MS. JENNINGS-FADER: Just so I am clear,
2 I am going to ask everybody if that's also their
3 understanding. Even after the arbitration is final, a
4 party could choose to go to the commission.
5 MS. HUGHES: No.
6 MS. JENNINGS-FADER: I was trying to get
7 that straightened out.
8 MS. HUGHES: Mitch may want to step in
9 here as well. But I think it's clearly our intent that
10 what this dispute resolution provision is, a party
11 would have the option of having a dispute resolved by
12 filing of a complaint with the commission, and thereby
13 having it resolved by commission or having it resolved
14 through arbitration. But I don't contemplate that we
15 would have the same dispute taken to two different
16 forums. I think that it would be Qwest's intent -- I
17 think it's clearly the reading of this language that if
18 a party opts to have the dispute settled in
19 arbitration, the party is going to be bound by the
20 results of that arbitration.
21 MR. BROTHERSON: If both parties elect to
22 use the dispute resolution process, yes.
23 MS. JENNINGS-FADER: So, for example,
24 hypothetical question. Qwest, there's a dispute,
25 CLEC/Qwest dispute about something. Qwest wishes to go

1 to arbitration. CLECs says, no, I would rather file a
2 complaint with the commission. End of arbitration. Go
3 to the commission.
4 MS. FRIESEN: Yes.
5 MR. MENEZES: I think that's right.
6 MS. FRIESEN: It's got to be a mutually
7 agreed to arbitration.
8 MR. MENEZES: The way the language reads
9 in 5.18.3 it is a request. A party can request to
10 arbitrate. And the way it reads under 5.18.1, each
11 party reserves the right to pursue a different course.
12 So, the other parties could reject that request and
13 say, no, either, you know, sue me, go to court or I
14 will take this to the, you know, a different forum,
15 forum of my choice.
16 MS. HUGHES: If the parties agreed to
17 handle the dispute by arbitration, they, under this
18 language, one party is then not simultaneously
19 permitted to say, oh, I changed my mind, I now want to
20 have it handled by the commission.
21 MR. MENEZES: Although I think Larry said
22 it, there could be a situation where you seek a
23 provisional remedy in the course of arbitration, like
24 injunctive relief, or something like that.
25 MS. HUGHES: That's addressed in the

1 language.

2 MR. MENEZES: Yes. It is.

3 MR. BELLINGER: Okay.

4 MS. FRIESEN: Mana, the language in here

5 was crafted because there are some state regulatory

6 bodies that can't grant injunctive relief. So that's

7 why that kind of is open-ended.

8 MS. JENNINGS-FADER: That's fine. I am

9 just trying to understand how this process -- how

10 parties believe this process will work, because as I

11 said, this is an area of interest, particularly to the

12 commission with respect to what the parties believe the

13 commission should be able to do in terms of arbitrating

14 or resolving disputes arising out of the SGAT. So,

15 that's just what I am trying to understand here.

16 MR. BELLINGER: Okay. Want to go to

17 G-42?

18 MR. BROTHERSON: G-42 was --

19 MR. DIXON: Have we closed that issue?

20 MR. BELLINGER: Yeah.

21 MR. DIXON: Let me just address one thing

22 on that point. I was waiting for the appropriate time.

23 WorldCom has no problem with Section 5.18. That was

24 one of the issues we talked about yesterday. And I

25 have resolved that. However, that does not address the

1 issue in Exhibit I completely. I just wanted to let
2 you know, on the ICB issue, so we'll come back to that
3 at some point but not now.
4 MR. BELLINGER: Okay. G-42.
5 MR. BROTHERSON: Forty-two was a minor
6 change. It used to say, "The contract will be offered
7 and accepted in accordance with the contract." Now it
8 says, "and applicable law." Kind of a style change,
9 more than style, substance, minor change in a short
10 paragraph in 5.19.
11 MR. BELLINGER: Okay.
12 MR. BROTHERSON: We agreed to.
13 MR. DIXON: Also I think, we put "in
14 Colorado." It said "Arizona."
15 MS. QUINTANA: No. I double-checked the
16 SGAT Lite. It does say Colorado.
17 MR. DIXON: It does now. There was a
18 time when it used to have Arizona in it, and I thought
19 that was more of a substantive change.
20 MR. BELLINGER: Trying to stir up
21 something, Tom? Forty-three.
22 MR. BROTHERSON: That's a WorldCom
23 section. Tom, do you want to --
24 MR. DIXON: Hold on. I am going to make
25 this one easy. Let me get to my notes. I believe

1 we're satisfied with 5.20 as now written, but I want to
2 confirm that.
3 MR. BELLINGER: We just like the
4 description of the issue.
5 MR. DIXON: We'll be happy to give you
6 the description of the issue. We had competing
7 language as to how to handle the issue of environmental
8 contamination. We had provided language from our model
9 contract with the 6-WorldCom-9. And after much
10 haggling by Qwest, we came to an agreement that we
11 would accept the language that presently is contained
12 on the assumption that it does, in fact, address the
13 issue of responsibility for environmental contamination
14 fully and fairly. And therefore we would recommend
15 that the commission adopt Section 5.20 and its subparts
16 in toto.
17 MS. JENNINGS-FADER: Let me understand
18 that, Mr. Administrative Law Judge. Is that your
19 recommended decision?
20 MR. DIXON: It is indeed. It is my
21 advocacy position as an advocate.
22 MR. BROTHERSON: That's your last
23 opportunity to summarize.
24 MR. DIXON: Just another opportunity to
25 bring up suck eggs.

1 MR. BELLINGER: Want to handle G-44,
2 Larry?
3 MR. BROTHERSON: We made the changes to
4 the notice provision, predominantly adding E-mail and
5 fax numbers in addition to the normal mailing addresses
6 at the request of one of the CLECs. I think that was
7 the primary substance there.
8 MR. BELLINGER: Okay.
9 MR. BROTHERSON: Everyone was in
10 agreement with that change, and I believe that's
11 closed.
12 MR. BELLINGER: G-45.
13 MR. BROTHERSON: G-45 was a standard
14 contract language, that there were no third party
15 beneficiaries to the contract. WorldCom's model
16 agreement said it differently than Qwest's agreement.
17 Basically, we made the changes to reflect what their
18 issues were, but both the provisions provided that
19 there were no third party beneficiaries to the
20 contract. And that issue is closed with -- we have
21 agreed to their proposed language.
22 MR. DIXON: We appreciate that summation
23 and are pleased to accept the language that is in 5.23
24 as now written.
25 MR. BELLINGER: Okay. G-46.

1 MR. BROTHERSON: G-46 is closed.
2 WorldCom withdrew their comments on that provision,
3 and, with that, I don't think we had an issue with
4 anyone on 5.27.
5 MR. BELLINGER: Okay.
6 MR. BROTHERSON: The same with G-47. The
7 language in 5.28, no objections to that language, and
8 that issue is closed. As originally proposed, G-48 is
9 the entire agreement language, 5.31, and, again, it was
10 reworded to make that statement in a different way, but
11 it says what it's always said. That the entire
12 agreement and exhibits and subordinate documents
13 constitute the whole undertaking, and that matter is
14 closed.
15 MR. BELLINGER: Okay. G-49.
16 MR. BROTHERSON: G-49 was deleted. 5.32
17 was deleted. It was duplicative of some issue that
18 were thoroughly discussed in another section. There is
19 no 5.32.
20 MR. BELLINGER: G-50 looks like it's
21 closed. Looks like it wasn't --
22 MR. BROTHERSON: That was the network
23 issue that Mr. Orrel addressed. I don't know what he
24 specifically stated about them this morning, but I
25 believe those were discussed in the Colorado workshops.

1 MS. JENNINGS-FADER: I don't believe so.

2 MR. DIXON: It is with deep regret that I

3 advise you I do not recollect it.

4 MR. MENEZES: I don't think it was

5 discussed here.

6 MS. HUGHES: I think that's correct; that

7 the network security provisions were not addressed

8 here. And I think we had Mr Orrel here this morning.

9 I neglected to ask that we review it while he was here,

10 the network security agreements amongst the parties,

11 but I think they are extremely straightforward. They

12 were not at all controversial, and perhaps I can just

13 review them for the commission. The CLECs did request

14 that we make reciprocal the provision on deliberate

15 sabotage or disablement of equipment, and Qwest agreed

16 to make that provision reciprocal.

17 CLECs also requested that the

18 environmental health and safety regulations, as well as

19 the fire and state regulations that would govern the

20 Central Office employees, people working in the Central

21 Office, apply to Qwest employees as well as CLECs

22 employees. And we agreed to make that change. And

23 then I think the remainder of the changes went to the

24 issue of providing CLECs notice in advance of things

25 that Qwest believed jeopardized personal safety or

1 raised potential safety or property damage issues, so
2 that CLECs would have advanced notice of that and would
3 have an opportunity to remedy the situation before
4 Qwest took the step of denying access or before Qwest
5 took the step of stopping the work activity because of
6 the safety concern.
7 So, Qwest agreed to add those notice
8 provisions and the opportunity to cure.
9 MS. JENNINGS-FADER: That's in 11.19. I
10 guess I am curious as to why that's there, since it
11 starts out talking about smoking is prohibited in the
12 buildings, then it goes into an elaborate discussion
13 about noise and everything, which I think goes beyond
14 worrying about smoking in the building.
15 MR. DIXON: Or in the boys room.
16 MS. HUGHES: All I can tell you, that
17 these changes were requested by CLECs and we agreed to
18 accommodate them.
19 MS. JENNINGS-FADER: Can we make it a
20 different section? I mean, I think that this whole
21 discussion you are talking about goes beyond smoking is
22 not allowed in Qwest's buildings.
23 MR. BELLINGER: Looks like it's
24 important. That's quite a mass -- quite a provision
25 with it. Seems like it ought to be somewhere else.

1 MS. BEWICK: Long smoking cigarette.

2 MR. DIXON: May I make a suggestion?

3 MR. BELLINGER: Sure.

4 MR. DIXON: First of all, because network

5 security has not formally been discussed, WorldCom did

6 provide some proposed changes to this section in

7 6-WorldCom-30, and at this point I am not -- I have not

8 compared our 6-WorldCom-30 language against the 5

9 section we are dealing with in our exhibit, and would

10 suggest maybe if we took a break, that we might take a

11 minute to just --

12 MR. BELLINGER: We wanted to, immediately

13 following -- but we will grant your suggestion and

14 we'll take it now.

15 MR. DIXON: Take it now and kind of look

16 at our language to see if we can put this one to bed or

17 not. That would be our goal.

18 MS. HUGHES: I think the smoking issue

19 was an open flame issue.

20 MS. FORD: It could burn down the CO.

21 MR. BELLINGER: We understand the issue.

22 MS. JENNINGS-FADER: I understand, but

23 the description goes beyond open flame. I am not --

24 smoking in the building probably is not good on lots of

25 levels. But it's the added language about the notice

1 and hazardous activity, and so forth and so on. I
2 think that's notice beyond something related
3 specifically to smoking. That's all I am -- or is it
4 only smoking?
5 MS. FORD: It's only smoking in that
6 section. If you look at 11.23, you see something
7 similar.
8 MR. BELLINGER: If you want to smoke, you
9 have to give 5-day notice.
10 MS. FORD: No. If you do smoke, Qwest
11 will give you notice that you need to stop.
12 MS. FRIESEN: I think, as I recall our
13 discussion on this point in the multi-state, I think
14 the issue was, if you get -- if you have an AT&T
15 employee, for example, that is caught smoking or
16 violates this open flame rule, and they get ejected
17 from the wire centers, how do you get them unejected?
18 How are they ejected? And I think that's where all of
19 that additional language that's a little bit confusing
20 came from.
21 MR. MENEZES: The very last clause of the
22 black text, the nonunderlined text, assumptions, CLEC
23 denial of unescorted access. And so, if we're going to
24 be denied access, we want notice, we want the
25 opportunity to cure that. So that was -- I don't know

1 if that's answering your question there, Mana.

2 MR. BELLINGER: Seems like you would

3 start out with -- the paragraph with talking about

4 CLEC, hazardous CLEC work activities and you can put

5 in, including smoking and open flame and whatever else

6 you want to put. I think that would help.

7 MR. MENEZES: To the original drafting of

8 Section 11.19, I mean, we reacted.

9 MR. BELLINGER: You clarified it, but I

10 think you need to start this out differently.

11 MS. FORD: You are only talking about

12 11.23. I think we wanted something specific on

13 smoking.

14 MS. BEWICK: That was brought up -- I

15 recall the conversation as well. And that was brought

16 up because I think that the reaction of CLECs was it

17 appeared as though, by the language, that you could

18 have somebody who was caught smoking and they were like

19 86ed from the building, and there was nothing in here

20 that said how we could fix that. And that was the only

21 place, I mean, they could walk in with flammable liquid

22 or they could do other things, and they couldn't --

23 they weren't going to be thrown out of the building

24 forever. It just seemed to be that that was going to

25 happen in the smoking section. So I do remember there

1 was extensive conversation about it. Now whether it
2 makes sense to change it or not --
3 MR. BELLINGER: I think you could start
4 back out by, you know, CLEC work activity -- hazardous
5 CLEC work activity includes smoking and other open
6 flame, or whatever and then -- makes more sense, I
7 think.
8 MS. QUINTANA: Where then is the
9 provision for notification to the CLECs of potentially
10 hazardous work situations?
11 MS. FORD: 11.23.
12 MS. QUINTANA: That seems to go to the
13 CLEC employee problem as well.
14 MS. HUGHES: It relates to both.
15 Personal safety or potential for damage to the
16 building, equipment or services.
17 MR. MENEZES: Becky, do you mean notice
18 from Qwest to CLEC that Qwest is undertaking
19 hazardous --
20 MS. QUINTANA: I thought I understand
21 Mary Rose's synopsis of the new language to include,
22 for instance, what I was thinking in my mind is if
23 there's hazardous waste spilled within a CO, and notice
24 to the CLECs to not go in for a certain amount of time,
25 or whatever.

1 MS. JENNINGS-FADER: That too.

2 MS. QUINTANA: This doesn't seem to cover

3 that, because maybe I was just not interpreting her

4 statement correctly.

5 MS. FORD: That's really 11.15.

6 MR. BELLINGER: We can take a break.

7 (Recess.)

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1 MR. BELLINGER: Okay, we were -- any
2 more -- we were kind of in the middle of -- towards the
3 end of G-50, and we were concerned about smoking. Do
4 you all have any proposals you want to make on smoking?
5 MS. FORD: Yes, it be banned -- no, I
6 can't say that to you.
7 MR. McDANIEL: There will be forgiveness
8 for smoking; don't worry about it, I'll get it back in.
9 MS. HUGHES: You have a patron saint if
10 you smoke.
11 MS. QUINTANA: A patron saint of smoking?
12 MS. HUGHES: I think a response -- I
13 don't know if AT&T has comments or not.
14 We did discuss this extensively elsewhere
15 and this is the language we agreed upon.
16 With respect to 11.19 on smoking, we do
17 believe that smoking and open flames in a -- in the
18 buildings is a real problem. And the original
19 language, as you can see from the strike-outs, said
20 that failure to abide by this restriction on smoking
21 and open flames will result in immediate denial of
22 access.
23 That raised concerns on CLECs' parts --
24 on the part of CLECs about how we might -- how they
25 might have notice in advance of a denial of access. We

1 understand that and so we inserted the language that
2 you see there about Qwest providing to CLECs' prior
3 written notice.
4 MR. BELLINGER: I guess it's just the
5 inconsistency between the way this paragraph starts,
6 Smoking, and then the underlined section, you talk
7 about hazardous CLEC work activity; it just seems like
8 they ought to be consistent if that's the remedy.
9 MS. QUINTANA: In other words, I guess,
10 is this the only hazardous CLEC activity that you are
11 talking about or are there others that should be
12 referenced?
13 MS. HUGHES: No, I think other activity
14 is picked up in 11.23.
15 MS. QUINTANA: Okay.
16 MR. BELLINGER: So, you know, that
17 section is awkward the way it's written. I don't --
18 MS. FRIESEN: I think 11.23, Mary Rose,
19 is probably something a little more serious than
20 smoking. So maybe what we ought to do is rework 11.19
21 slightly so it identifies you get five days' notice and
22 here are the kind of things that Qwest considers
23 hazardous work activities that are subject to this
24 five-day notice; one of them is smoking, one of them is
25 open flames.

1 MR. BELLINGER: Any others that want to
2 go in there?
3 MS. FRIESEN: I think that's -- I think
4 that's where Becky is going.
5 MS. QUINTANA: It is.
6 MR. BELLINGER: Yeah, it is.
7 MS. HUGHES: And --
8 MR. BROTHERSON: And I think the five
9 days --
10 MS. HUGHES: No, I think the five-day
11 notice would apply to -- would still apply.
12 So Becky, do you have a --
13 MS. QUINTANA: Don't ask me for a
14 proposal.
15 MS. HUGHES: -- a proposal or -- I think
16 what we would like to do is deal with it.
17 MR. BELLINGER: Why don't you just start
18 out the paragraph -- instead of, Smoking, say,
19 Hazardous CLEC work activity including smoking, use of
20 open flames, et cetera?
21 MS. HUGHES: That's exactly what we'll
22 request.
23 MR. McDANIEL: I like that better, too.
24 MS. FRIESEN: Why don't we start the
25 paragraph -- we have an easier fix.

(Discussion off the record.)

MR. BELLINGER: Wait a minute, one at a time. We're on the record.

MR. MENEZES: May I?

MS. HUGHES: Please.

MR. BELLINGER: Go ahead.

MR. MENEZES: Okay, six lines down -- assuming I understand the issue, there is a reference to hazardous CLEC work activity; but the paragraph talks about smoking and open flames. Can we just replace the words, Hazardous CLEC work activity, with, violation of this provision; so that: Qwest shall provide written notice within five calendar days of the violation of this provision to CLEC. Does that take Becky's interest --

MR. BELLINGER: That will work.

MS. HUGHES: That will work. Just -- I'm concerned about globally including hazardous work activity, it connection off -- well, it kicks it off wherever you put it.

MR. MENEZES: And I think 11.23, as Laura referred to earlier, is a broader provision on safety and goes to hazardous work activity.

MR. BELLINGER: Okay, Mitch's suggestion --

1 MS. FORD: That's right. And we had
2 fixed 11.23 along the lines that you are talking to for
3 11.19.
4 MR. SCHNEIDER: But you still didn't fix
5 11.23 as I requested in 6-WorldCom-30 with regard to
6 making this reciprocal.
7 MR. BELLINGER: Well, let's finish 19,
8 please.
9 MR. SCHNEIDER: Okay.
10 MR. BELLINGER: So you are going to
11 change 19 like Mitch has? As Mitch suggested.
12 MS. HUGHES: We will. We will delete, in
13 the sixth line, the words, Hazardous CLEC work
14 activity; and we will insert, Violation of this
15 provision.
16 MR. BELLINGER: Okay.
17 MS. QUINTANA: There are actually a
18 couple different places in that paragraph that you need
19 to do that replacement.
20 MS. DOBERNECK: Can you repeat that
21 change?
22 MS. QUINTANA: I think, Megan, it's just
23 to replace, CLEC hazardous work activity, with,
24 Violation of this provision.
25 MS. DOBERNECK: Oh. Thank you.

1 MR. MENEZES: We may have a few more
2 changes to make through there, but why don't we kind of
3 do it on the side and come back with it. Is that -- I
4 can kind of mark it as we talk about 11.23 because that
5 may take a few minutes.
6 MR. BELLINGER: Okay, very good.
7 Okay, 11.23.
8 Michael?
9 MR. SCHNEIDER: Can we do 11.22, first,
10 because I have a comment on that too?
11 MR. BELLINGER: Okay, go ahead.
12 MR. SCHNEIDER: That should be fairly
13 easy. In 6-WorldCom-30, we had proposed some language
14 at the end of 11.22 that says, Provided however nothing
15 in Section 11 shall prevent CLEC, its employees or
16 agents, from performing modification, alterations,
17 additions, or repairs to its own equipment or
18 facilities. And I was wondering if Qwest would --
19 MS. FORD: That's fine.
20 MR. BROTHERSON: No.
21 Just so I understand, you are saying that
22 any of the stuff in here about hazardous activities or
23 anything like that, none of that would apply if they
24 are working on their own facilities in the building?
25 MR. SCHNEIDER: No, nothing in here will

1 prevent us from performing modifications or alterations
2 to our own facilities as this, you know, may in imply
3 in 11.22.
4 MR. BROTHERSON: Oh, I see.
5 MS. FORD: That's fine.
6 MR. BELLINGER: Okay, do you have
7 something else, Mike?
8 MR. SCHNEIDER: Yes, 11.23.
9 MR. BELLINGER: Okay.
10 MR. SCHNEIDER: I had also proposed some
11 modifications to 11.23 in 6-WorldCom-30. And it
12 doesn't look like those have been made and I was
13 wondering what the objection to the WorldCom
14 modifications was.
15 MS. FORD: Could you walk us through
16 those?
17 MR. SCHNEIDER: Sure. Basically it is to
18 make this reciprocal. It says here: Qwest employees
19 may request CLEC employees, agents, or vendors to stop
20 any work activity that in their reasonable -- and I
21 inserted -- good faith judgment, is a jeopardy to
22 personal safety or poses potential for damage to the
23 building, equipment, or services within the facilities.
24 And it goes on. But I would think that in addition to
25 CLEC employees, you know, performing work activities

that may jeopardize the safety of Qwest equipment, Qwest employees could also perform hazardous work activities that could jeopardize the collocated CLEC equipment, which can be worth millions of dollars as well. So a CLEC, in its good-faith judgment, should be able to stop that type of work activity as well.

MR. DIXON: Maybe just to help you, do you all have 6-WorldCom-30 with you? That was that exhibit that was brightly colored that we actually put all this stuff in for you so you would know -- so we don't have to go through it line by line.

MR. McDANIEL: No.

MR. DIXON: That's what I was afraid of.

MS. JENNINGS-FADER: I have a copy.

MS. QUINTANA: I do.

MR. DIXON: It might help to have that in front of you instead of in the abstract. I thought you might have it with you.

MR. BROTHERSON: Is this an open issue then?

MR. DIXON: Well, it's been out there since -- you've got to remember, we've had this open since Colorado. We provided this back as an exhibit in June 19 to June 20.

MS. JENNINGS-FADER: Right.

1 MR. DIXON: And I understand your
2 perception that whatever happened in other states may
3 or may not have resolved this; but in Colorado we're
4 not finished with it. I don't know what happened in
5 another state.
6 MS. JENNINGS-FADER: Do you want to use
7 6-Qwest-30?
8 MS. HUGHES: Tom, if I could respond to
9 that, it was our understanding that this issue -- all
10 network securities issues were closed based upon our
11 most recent discussion of these issues with -- with
12 other CLECs, including WorldCom's agreement to all of
13 this consensus language in Washington. Certainly your
14 suggestion -- and we did have Mr. Orrell here this
15 morning, and I would have kept him here if I had
16 anticipated that there were open network security
17 issues. If there are, I know Qwest would like to have
18 its witness available.
19 I can give you what I think is our
20 response and that is that we certainly have considered
21 all of this language. It's been out, as you indicated,
22 for a quite a while. And I know Mr. Orrell has
23 reviewed it carefully. And as 6-Qwest-60 reflects, we
24 have made numerous changes to the sections that have
25 been requested of us by CLECs. And as I said, we

1 thought that all of this language was consensus
2 language. But if we are going to create the record
3 here about a potential disagreement now on this
4 language, we would like to have our witness here.
5 MR. DIXON: Why don't we do this --
6 MS. HUGHES: I'm not --
7 MR. SCHNEIDER: Can I --
8 MS. HUGHES: I'm not sure what our
9 position is, if you are asking, did we consider it or
10 you are suggesting it's an impasse issue that needs to
11 be considered.
12 MR. BELLINGER: Why don't you see what
13 his suggestion is.
14 MR. SCHNEIDER: I don't recall at all
15 discussing this in Washington. And if you can show me
16 a portion of the transcript where we did, I would like
17 to see it because Letty said she reviewed the
18 transcript and --
19 MS. FRIESEN: I couldn't find the
20 Washington discussion of this. Do you recall what
21 session that was in?
22 MS. QUINTANA: The only two references
23 are Qwest's COIL and multi-state.
24 MR. DIXON: And we are not a participant
25 in multi-state.

1 MR. BROTHERSON: You are in Arizona.

2 MR. DIXON: We are in Arizona, but we

3 haven't addressed it in Arizona; because when we last

4 discussed it in Arizona, we were going to import it

5 from Colorado. So we have not had a workshop on this

6 and we never had a workshop in Arizona. And I can

7 attest to that.

8 MS. JENNINGS-FADER: That's a relevant

9 observation. Becky just pointed out the Arizona cite

10 is one page, one line; so I doubt there was an

11 extensive discussion.

12 MS. QUINTANA: But I could be wrong.

13 MS. FRIESEN: I thought we got through

14 this in the multi-state.

15 MS. JENNINGS-FADER: But WorldCom, they

16 didn't participate.

17 MR. DIXON: I have been told what

18 happened in the multi-state, so -- I don't know if we

19 want to go there, but I was advised in the multi-state

20 that since WorldCom was not present, no one really

21 cared about WorldCom's concerns that it had raised in

22 other states on general terms and conditions, which

23 would certainly explain why Section 11 was not

24 discussed.

25 MS. BEWICK: And I --

1 MR. DIXON: I'm going to stand on the
2 record.
3 My suggestion would be this, I have no
4 objection to having Mr. Orrell review what we have done
5 off line and see if we can reach agreement. We don't
6 have to have him come now or even tomorrow. We had
7 given very clear and specific language that we wanted
8 in Colorado. Whether you choose to put it in the
9 multi-state, given what I heard, is your business
10 because we weren't participating. But to my knowledge,
11 this has never been discussed.
12 And my suggestion would be, let's not
13 address the issues that WorldCom has raised here, let's
14 let you have a chance to go back to Mr. Orrell,
15 determine if it presents a problem. And then, if so,
16 we can schedule a time to have Mr. Orrell and
17 Mr. Schneider square off.
18 MS. BEWICK: And I will say that in the
19 multi-state AT&T did bring to the floor a couple of
20 WorldCom issues and Mr. Antonuk very clearly stated
21 that if WorldCom wanted their issues to be discussed in
22 the multi-state, they should have someone there to
23 discuss them and wouldn't allow AT&T to bring those
24 issues forward.
25 MS. FRIESEN: And that was also Qwest's

1 position. So it's not as though --

2 MR. DIXON: That was my understanding.

3 MR. BELLINGER: I think Tom's suggestion

4 is the way we should go.

5 MR. DIXON: That was what was reported to

6 me.

7 MR. BELLINGER: Have him review it and

8 have discussion a with WorldCom; and if we need to

9 build some record -- which I think we probably do -- I

10 would suggest you might want to do that first thing in

11 the morning.

12 MS. JENNINGS-FADER: So -- I'm sorry.

13 MR. BELLINGER: Or in the morning, not

14 first thing.

15 MS. HUGHES: And Qwest is agreeable to

16 that. I think it would be helpful, for planning

17 purposes, if WorldCom would identify for us those

18 sections of the network security provisions that it

19 takes issue with and we can be prepared to address

20 them.

21 MR. SCHNEIDER: Sure. That's fine.

22 11.23, considering we've already agreed -- you have

23 already agreed to add the language in 11.22. That one

24 is closed.

25 Then also 11.34, my comment on 11.15 -- I

1 just made a comment down at the bottom of that sheet on
2 6-WorldCom-30 that generally this whole network
3 security section deals with physical security of the
4 network and really doesn't deal with software type
5 security and security of the network from hackers or
6 fraud.
7 Now, it does have a small revenue
8 protection section in 11.34, but I submitted a little
9 bit more thorough language that I would request be
10 in -- substituted for the revenue protection language
11 in 11.34. I just submitted that by E-mail and asked
12 Laura if she could have that printed.
13 MS. FORD: Okay, because we're not
14 finding that in the package we have.
15 MR. DIXON: That's as a result of the
16 this morning's discussions.
17 MS. FORD: Did you send it to Joanne -- I
18 hope.
19 MR. SCHNEIDER: I believe I sent it to
20 you.
21 MS. FORD: Do you mind sending it to her?
22 MR. SCHNEIDER: Yeah, as soon as I can
23 get on line.
24 MS. JENNINGS-FADER: Excuse me,
25 Mr. Schneider, is that the language which was the

1 attachment to the WorldCom interconnection agreement,
2 the three or four pages that you mentioned earlier
3 today?
4 MR. SCHNEIDER: Well, it was in
5 Attachment 9, that's correct. And it's about three or
6 four paragraphs.
7 MS. JENNINGS-FADER: Paragraphs, yes.
8 Thank you.
9 MR. DIXON: It was not in 6-WorldCom-30,
10 it was a part of our morning discussion.
11 MS. JENNINGS-FADER: Yes, the discussion
12 this morning.
13 MS. QUINTANA: But is this tied to in
14 6-WorldCom-30 the discussion on the page for 11.15?
15 MR. SCHNEIDER: Yes.
16 MS. QUINTANA: Is it tied to that?
17 MR. SCHNEIDER: Yes. And the only other
18 provisions from the language -- the network security
19 language that WorldCom proposed in MWS-1 would be to
20 add Sections 20.1.1, through 20.1.3 into this language
21 somewhere.
22 MR. BELLINGER: In the Section 11, you
23 mean?
24 MR. SCHNEIDER: In Section 11, correct.
25 MS. JENNINGS-FADER: So Section 11.20.1

1 through --

2 MR. SCHNEIDER: Well, it would --

3 MS. JENNINGS-FADER: I'm sorry.

4 MR. SCHNEIDER: In MWS-1, we proposed

5 some WorldCom language.

6 MR. BELLINGER: What's MWS-1?

7 MR. DIXON: That's 6-WorldCom-9. That's

8 his prefiled testimony and the attachment.

9 MR. BELLINGER: Oh, okay.

10 MR. DIXON: The attachment was MWS-1.

11 MR. SCHNEIDER: A lot of that had to do

12 with branding a whatnot. I know that's already covered

13 in other sections of this SGAT.

14 So looking at that just a few minutes

15 ago, the only sections of that other than the revenue

16 protection language that we've already talked about

17 that I think should be included in Section 11 were

18 20.1.1 through 20.1.3 of our proposed language.

19 MR. BELLINGER: Okay. Qwest, do you have

20 that?

21 MR. BROTHERSON: Do we have his testimony

22 with the exhibit attached?

23 MR. BELLINGER: Yes, so you can cover it

24 with Mr. Orrell?

25 MR. BROTHERSON: Yeah, I believe I do,

1 but let me just check.

2 MR. DIXON: We would refer you to not

3 only 6-WorldCom-30 and 6-WorldCom-9 and our discussion

4 in there, which was our prefiled direct testimony of

5 Michael, and the attachments that are relevant to that.

6 MS. JENNINGS-FADER: Okay.

7 MR. BELLINGER: So I'll call this one

8 open?

9

10 MR. SKEER: An impasse?

11 MS. JENNINGS-FADER: No, to be discussed.

12 MR. BELLINGER: Okay.

13 (Discussion off the record.)

14 MS. HUGHES: Is there anything else?

15 MR. DIXON: Not on Section 11.

16 MR. BELLINGER: That winds up G-50 for

17 now?

18 Okay, Mitch.

19 MR. MENEZES: If we want to go back to

20 11.19 and see if I've marked some changes here.

21 MR. BELLINGER: Okay.

22 MR. MENEZES: I can read them out and try

23 to close that.

24 Five lines down in 11.19, Qwest shall

25 provide written notice within five calendar days of --

1 this would be the first insert -- a CLEC violation of
2 this provision. That's a little different from what I
3 had said before -- I added a CLEC. So -- Days of a
4 CLEC violation of this provision, striking the
5 Hazardous CLEC work activity. Then it would continue
6 as written, To CLEC prior to denial of access and such
7 notice shall include, 1, identification of the -- and
8 then insert here Violative conduct and the personnel
9 involved. And then strike Hazardous work activity
10 there.
11 And then I would say -- and, 2 -- so you
12 would insert And there. And then strike the rest of
13 the line, Identification of the safety regulation
14 violated. And on the next line strike And 3. And then
15 keep the language that's there, Date and location of;
16 insert Such and strike Safety.
17 Right. Is that, everybody -- CLECs --
18 the language continues as written: CLEC will have five
19 calendar days to remedy any -- again insert Such and
20 strike Safety; and the rest of that line remains the
21 same.
22 On the next line down, starting with,
23 Remedy -- Remedy any such safety violation. I would
24 strike Safety.
25 And with those, I think it now works.

1 MS. FORD: Mitch, could you possibly type
2 that up -- it's hard to --
3 MR. MENEZES: How about if I hand it to
4 Joanne? Would that work?
5 MR. DIXON: It would. And then she'll
6 burn it.
7 MS. RAGGE: No, I'll do it. Give it to
8 me.
9 MS. FRIESEN: I'll do that.
10 MS. RAGGE: No, give it to me now so I
11 can type it and send it to Barry tonight.
12 MS. FRIESEN: Thank you.
13 MS. DOBERNECK: Could I ask a clarifying
14 question about this provision? We talk about an
15 individual who violates the particular rule,
16 regulation, what have you; and then it talks generally
17 about the CLEC will be denied unescorted access. Is
18 that all of the CLEC's employees in the CO or that
19 particular individual that violated whatever particular
20 provision we're concerned about?
21 MR. BELLINGER: I read the word
22 individual --
23 MR. McDANIEL: Plus their attorney?
24 MR. BELLINGER: On the third -- the
25 beginning of the second line, that individual --

1 MS. DOBERNECK: I was looking, for
2 example, where the CLEC fails to remedy the violation;
3 it says, CLEC shall be denied unescorted access. And
4 we're talking the individual -- maybe we should insert
5 the individual --
6 MR. BELLINGER: The CLEC individual?
7 MS. DOBERNECK: I don't care, I would
8 just like to make clear that it's not all employees,
9 it's just the bad person.
10 MR. BELLINGER: Is that okay, Mitch, with
11 your changes?
12 MR. MENEZES: I don't have it in front of
13 me. So -- I'm afraid I didn't hear it. It sounded
14 like you just wanted to say a particular individual.
15 MS. DOBERNECK: Or the CLEC individual or
16 the individual, just because it talks generically about
17 the CLEC, which --
18 MR. BELLINGER: I think the concern is in
19 the middle of the third line. It says, subjected CLEC
20 to denial.
21 MS. DOBERNECK: Right.
22 MR. BELLINGER: I think you want to make
23 that CLEC individual.
24 MS. DOBERNECK: Or that CLEC employee.
25 MS. FRIESEN: Or should it be employee,

1 agent, or vendor?

2 MS. DOBERNECK: Yeah.

3 MR. BELLINGER: Subjecting that CLEC

4 employee or vendor.

5 MS. DOBERNECK: Employee, agent, or

6 vendor?

7 (Discussion off the record.)

8 MS. DOBERNECK: Right. So the change --

9 if anybody's listening -- would be on the fourth line

10 down -- the fourth line from the top, Subjecting CLEC

11 to denial of unescorted access; as well as the third

12 line from the bottom, which also talks about CLEC shall

13 be denied unescorted access. Both of those need to be

14 modified to provide CLEC employee agent or vendor.

15 MS. FORD: Okay.

16 MS. DOBERNECK: And I'm fine by that

17 obviously.

18 MR. BROTHERSON: Yes, we are.

19 MS. FORD: We're fine.

20 MR. BELLINGER: Okay.

21 MS. FORD: Is there anything similar in

22 .23 -- no, that's dispute resolution. I think it's all

23 right.

24 MS. BEWICK: Yeah, I think so.

25 MR. BELLINGER: Okay, is that it for

1 G-50?

2 Should we come back to it?

3 (No response.)

4 MR. BELLINGER: All right, do you want to

5 go to G-51?

6 MR. BROTHERSON: If we've captured all of

7 Mike's comments that he changed, yes.

8 MR. BELLINGER: He gave you the

9 references.

10 MR. BROTHERSON: Right. I want to be

11 sure we had them all.

12 MR. DIXON: What we're going to do -- and

13 Michael is willing to meet after our meeting today to

14 talk to you and Laura to make sure everything is clear

15 and make sure we've got all the issues on the table.

16 MR. SCHNEIDER: Yeah, just let me make

17 one correction: I suggested language out of our

18 proposed language 20.1.1 through 20.1.3; let me correct

19 that to say 20.1.1 through 20.1.4.

20 MR. BELLINGER: I think we're on G-51.

21 MR. BROTHERSON: Yes, G-51 deals with the

22 language in Section 18.

23 MR. BELLINGER: We need one conversation,

24 please.

25 (Pause.)

1 MS. QUINTANA: We do need one.
2 MR. BELLINGER: Pick one.
3 (Pause.)
4 MR. BELLINGER: Okay, go ahead then.
5 MR. BROTHERSON: Issue G-51 deals with
6 the language in Section 18, Audit process. The
7 heart -- the primary issue here is what is intended to
8 be covered by an audit. The purpose of the audit
9 section as originally proposed -- and which Qwest
10 believes is the appropriate purpose -- is to review
11 billing information between the parties. If the
12 parties have concerns about performance or
13 nonperformance of other sections of this contract,
14 whether in the SGAT, whether it's network security or
15 some other section, that that matter is more
16 appropriately handled through a dispute resolution not
17 an audit, and that audit should be limited to the
18 billing information which is exchanged by the parties.
19 And if there are other disputes, they
20 should be handled in the form of dispute resolution or
21 a complaint. And the compliant would be limited to the
22 specifics of whatever that complaint is. So our first
23 issue is that we are at impasse over the scope of what
24 can be audited; and it's Qwest's belief that the
25 appropriate scope of an audit is the billing

1 information exchanged between the parties.

2 With -- there were also issues raised by

3 AT&T with respect to confidential information and Qwest

4 added language saying that if in the course of an audit

5 confidential information is discovered by the parties,

6 it will be used just for purposes of the audit which we

7 think addresses that concern, but we're not sure.

8 And we are perhaps still at impasse on

9 that issue as well.

10 MR. BELLINGER: Would you say what that

11 one is again?

12 MR. BROTHERSON: Well, I'm looking at

13 my --

14 MS. FORD: I think we did not pick up a

15 section in 6-Qwest-60 -- we didn't.

16 It's Section 18.3 is what he's talking

17 about now, in 6-Qwest-61.

18 MS. DOBERNECK: When you say 18.3 is what

19 Larry is talking about now, you mean the scope?

20 MS. FORD: The confidentiality --

21 MS. DOBERNECK: The confidentiality;

22 okay, thank you.

23 MR. BROTHERSON: Which was the other

24 issue that we are perhaps at impasse on that the

25 proposed language is shown in Qwest.60 as the last

1 underlined section, Information provided in an audit or
2 examination may only be reviewed by individuals with a
3 need to know such information for purposes of the
4 Section 18 and who are bound by the nondisclosure
5 obligations set forth in Section 5.16, in no case shall
6 confidential information be shared with the party's
7 retail, marketing, sales, or strategic planning. That
8 language was added in response to concerns by AT&T
9 about who would have access to information during an
10 audit. And that's our proposed language to address
11 that concern.
12 MS. JENNINGS-FADER: I apologize, I'm
13 looking at -- it's not in 6-Qwest-60, right?
14 MS. FORD: Right.
15 MS. JENNINGS-FADER: Who has to look at
16 6-Qwest-61?
17 MR. BROTHERSON: The SGAT Lite, yes.
18 MS. FORD: Yes.
19 MR. BROTHERSON: The one that was filed
20 dated August 21 through 24 --
21 MS. JENNINGS-FADER: Thank you.
22 MR. BROTHERSON: -- Paragraph 18.3.
23 MS. JENNINGS-FADER: Can I ask a question
24 about the additional language in 18.3?
25 MR. BROTHERSON: Uh-huh.

1 MS. JENNINGS-FADER: Is there anything in
2 18.3 or elsewhere in 18 which limits the ability to use
3 information obtained during an audit or examination in
4 the course of a regulatory proceeding or arbitration;
5 in other words, is there a limit -- you can't -- you
6 can't use it there? Is there anything like that or is
7 there -- is, one, can use it if the appropriate
8 nondisclosure agreements are signed or -- what's the
9 connotation?
10 MS. FORD: You need to go back to Section
11 5.16 on that -- 5.16.4-G.
12 MR. MENEZES: Actually I think we have
13 expressly dealt with that in 5.16.5.
14 MS. JENNINGS-FADER: Okay, thanks.
15 MS. FORD: Oh, right.
16 MR. MENEZES: It's the underlying text
17 there. And the connection is made in 18.3, that refers
18 back to 5.16.
19 MS. JENNINGS-FADER: Okay, that's fine.
20 I just wanted to know if there was some specific
21 treatment that allows this information to be used in a
22 subsequent arbitration or regulatory proceeding or
23 judicial proceeding as necessary.
24 Thank you.
25 MR. MENEZES: That's my reading of it.

MS. JENNINGS-FADER: Qwest agrees.

MS. FORD: Qwest agrees.

MS. JENNINGS-FADER: Thank you.

MR. BROTHERSON: Without waiving confidentiality to any confidential provisions involved, of course.

MS. JENNINGS-FADER: Right. That would assume the people that are looking at it also signed appropriate agreements.

MR. BROTHERSON: Exactly.

MS. JENNINGS-FADER: Which leads me to this question: Would that require the Commissioners to sign the nondisclosure agreement?

MR. BROTHERSON: I don't know how Commissions have in the past handled -- companies routinely file confidential information in their proceedings, and I'm not sure how the Commission handles it.

MS. JENNINGS-FADER: In Colorado, the Commissioners do not sign nondisclosure agreements.

MR. McDANIEL: That would be, no, Larry.

MR. BROTHERSON: If that's the process, then the answer would be no.

MS. JENNINGS-FADER: I'm just trying to understand it. I don't want to get crosswise with

1 anybody on anything.

2 MR. BELLINGER: Okay.

3 MS. JENNINGS-FADER: By the way, Paul,

4 that was the A answer.

5 MR. McDANIEL: I figured that part out.

6 I'm a little slow, but I figured that part out.

7 MR. BELLINGER: AT&T, do you want to make

8 any comments on this --

9 MR. MENEZES: Yes.

10 MR. BELLINGER: -- since you are the one

11 showing impasse?

12 MR. MENEZES: AT&T has one language issue

13 and one conduct issue in this section.

14 In 18.1.2 -- well, let me back up. In

15 18.1, there are two subparagraphs, one which states

16 what an audit is and the other states what an

17 examination is. The audit, as written, is of books --

18 comprehensive review of books, records, and other

19 documents used in the billing process for services

20 performed. Examination, as currently written, is an

21 inquiry into a specific element or process related to

22 the above, referring to the audit. So as written, I'm

23 not sure that the examination gives you anything more

24 than you get in the audit.

25 And AT&T's proposal has been to delete

1 the word Above in 18.1.2, on the second line at the end
2 of that first sentence, and replace it with Services
3 performed under this agreement. So it would read:
4 Examination shall mean an inquiry into a specific
5 element or process related to the services performed
6 under this agreement.
7 And, you know, this allows us to examine,
8 for example, how certain processes are being managed at
9 Qwest; for example an LSR, whether an LSR is in fact
10 going to the right people who should be seeing an LSR,
11 or if it's going outside that processes to others, and
12 who should or should not be seeing the LSR.
13 And I think the Tade affidavit that we
14 handed out yesterday -- I've got to find it to
15 6-ATT-71 -- is an example of where we are led to belief
16 that information that shouldn't be going to the retail
17 side of the Qwest business is improperly going there;
18 and how are we able to know that -- and I think an
19 examination is one way to be checking to find out and
20 make sure that the processes are flowing the way they
21 should under the SGAT on the interconnection agreement.
22 MR. BELLINGER: Mana?
23 MS. JENNINGS-FADER: Um -- I'm sorry.
24 Can you explain -- Audit, I absolutely understand. I
25 got that. I do not understand what an examination is.

1 I take it it is something other than simply reviewing
2 the books and records of another party to the
3 agreement. So what is it? Is it interviewing people?
4 Is it -- what -- I'm just -- that's to everybody.
5 It seems to me that this gets to be not
6 unlike what Liberty is doing for the ROC OSS in terms
7 of -- I'm sorry, KPMG is doing with respect to
8 interviewing people to find out what the process is and
9 making sure the process is being followed and all that
10 stuff. So is that the breadth of what you are talking
11 about here?
12 MR. MENEZES: I think it is along those
13 lines. I don't know that it's as broad as what Liberty
14 is doing.
15 MS. FRIESEN: It's only insofar as the
16 two parties to the particular agreement are concerned.
17 So AT&T wouldn't be going in there to look at the
18 panoply of things Qwest is doing, it would be a focused
19 examination.
20 MS. JENNINGS-FADER: But -- well, I'm
21 sorry -- see, I probably screwed it up by bringing in
22 the analogy to what KPMG and Liberty are doing -- no.
23 But is what -- is what's thought to be an
24 examination, does it include interviewing people; does
25 it -- what does it include since it's obviously

1 something separate and apart from looking at books and
2 records, because that's an audit.
3 MR. MENEZES: The audit is books and
4 records used in the billing process, so it's limited to
5 billing.
6 MS. JENNINGS-FADER: Okay.
7 MR. MENEZES: Those services as written.
8 MS. JENNINGS-FADER: Okay.
9 MR. MENEZES: So the examination is
10 beyond billing. It may -- as I say, it may be the
11 process that is used within Qwest for an LSR or the
12 process -- the BFR process; and it may be going in --
13 it may be talking to people who are involved in those
14 processes, looking at the process flow documents.
15 If we have an example like this Tade
16 situation trying to see the records relating to that
17 and what was the flow, how did it end up in the hands
18 of the retail side of the Qwest business?
19 MS. JENNINGS-FADER: And this process --
20 audit and examination process is a reciprocal -- is a
21 reciprocal agreement; that is to say, each party agrees
22 that it won't open -- it will open itself up for audit
23 and examination.
24 MS. FRIESEN: It is not uncommon in
25 contracts, particularly software development contracts,

1 where you are exchanging trade secrets like what we're
2 doing here for entities to go in and audit each
3 other -- or examine each other to make sure those
4 things are being protected in the manner they should.
5 So --
6 MS. JENNINGS-FADER: Okay.
7 MS. QUINTANA: That must not be Qwest's
8 definition of an examination.
9 MR. BROTHERSON: This is the very impasse
10 I mentioned -- the first part of the impasse which is
11 the scope of an audit. Our proposal is to -- as was
12 originally proposed in the language was an audit would
13 be to review the bills of the -- review the billing
14 information between the parties; and the proposal now
15 is to expand it to.
16 MS. JENNINGS-FADER: I'm sorry.
17 MS. QUINTANA: So what is your
18 distinction between an audit and examination, since you
19 have examination language as well?
20 MR. BROTHERSON: Well, we've talked about
21 this slippery slope, I guess, before; but we proposed
22 language for an audit. The then evolved discussion
23 about examinations that were not as full and complete
24 as a full-blown audit, but would be an examination.
25 Then we got into the discussion of what the examination

1 could go beyond billing information and into other
2 areas. We come back full circle to say the audit is
3 for purposes of reviewing the records and other
4 documents used in the billing process for the services
5 performed.
6 The examination, to the extent that it is
7 something less than a full-blown audit, is still
8 limited to the above, meaning the billing records
9 addressed in the audit.
10 The CLECs have -- we're obviously at
11 impasse on that, and the CLECs wish to expand that to
12 other -- other areas. And as I've said, we believe
13 that to the extent -- and to the extent that parts have
14 an issue with the performance of our agreements here,
15 that matter -- the remedy for that is not auditing, is
16 not AT&T or other CLECs going around interviewing
17 internally Qwest employees; it is through a complaint
18 process, if they believe there is a violation. And the
19 complaint normally requires the parties investigate the
20 specific facts and respond.
21 We think that's the appropriate method to
22 enforce performance under the agreement.
23 MS. JENNINGS-FADER: Okay. So may I --
24 I'm sorry.
25 MS. QUINTANA: Well, just one follow-up

1 on that: So do you think that there is really a
2 necessity for a distinction between audit and
3 examination or is examination pretty much covered under
4 audit?
5 MR. BROTHERSON: I believe it is limited
6 to the same materials. And I believe at one point
7 there was some language talking about the examination
8 was not as broad as the audit -- I can't recall if
9 that's still in there since we've kind of moved into
10 this new expanded area; in which case there would be no
11 need for the phrase examination.
12 MS. JENNINGS-FADER: Well, it's not --
13 there is nothing there that indicates an examination is
14 more or less limited than an audit; it simply says, at
15 present, Examination shall mean an inquiry into a
16 specific element or process related to the above. So
17 assuming that the above refers back, as you just said,
18 to the billing process for services performed, it seems
19 to me a distinction -- a different without a --
20 MR. BROTHERSON: I would agree we would
21 simply delete the examination in that scenario then.
22 MR. MENEZES: Well, I think Qwest's
23 original SGAT had both. So I guess that begs the
24 question.
25 MR. BROTHERSON: No.

MS. FORD: No, we picked this up from WorldCom.

MR. MENEZES: You only started out with audit.

MR. BROTHERSON: Yeah.

MR. McDANIEL: It's Tom's fault.

MR. BELLINGER: Mike?

MR. SCHNEIDER: WorldCom has even more fundamental disagreement than that. In my --

MR. DIXON: 6-WorldCom-30.

MR. SCHNEIDER: -- 6-WorldCom-30, we had included language that has an audit cover services performed under the agreement as well; and, in fact, in our interconnection agreement in Colorado, the audit provisions also cover a comprehensive review of services performed and the agreement.

And we disagree with Qwest's attempt to limit audit just to the billing processes for services performed. And we had inserted language that hasn't been included in this SGAT Lite, requesting that an audit cover services performed under the agreement.

MR. BROTHERSON: Yes, that's the impasse that we're at, is the -- whether or not the audit should be for the billing or should be expanded to --

MR. BELLINGER: I've heard more than one

impasse though.

MS. JENNINGS-FADER: Yes, there are a lot.

MS. FRIESEN: I think there is just one impasse. And I think it's a -- because I think what Mike just mentioned was the scope of the audit, which is the same thing as AT&T has mentioned in relation to the definition of examination.

So I think we might be arguing the same point only under different provisions, perhaps; is that right, Mike?

MR. DIXON: It's the scope --

MR. BELLINGER: Who would like to try to frame the issue?

MR. DIXON: Well, first of all, let me do two things: We do have a scope issue. WorldCom also proposed some language changes to this section that were never incorporated by Qwest. And those language changes are found in the -- in the nice brown print in 6-WorldCom-30. And I have compared that against the SGAT we're working with, 6-Qwest-61; and I do not find those changes.

So we -- in addition to the scope, we have some language changes which my sense is I don't know that we've ever discussed this language once again

1 and therefore --

2 MS. FORD: I --

3 MR. DIXON: -- if they are rejected,

4 that's fine; but some of them include the reference to

5 audit or examination. And I thought if we included

6 examination, some of that language would have been

7 pretty automatic.

8 MR. BROTHERSON: It was discussed in

9 Arizona.

10 MS. FORD: At length. If you will

11 recall, we had Mr. Tom Stebell on the phone and we went

12 through the whole Section 18. And I believe, outside

13 of the impasse issues, this was the language that was

14 agreed to.

15 MR. DIXON: Well, I'm looking at my

16 Arizona notes and I don't deny that those people were

17 on the phone, but we weren't completed with the audit

18 issues.

19 MS. DOBERNECK: My recollection --

20 MR. DIXON: And the language we provided

21 in 6-WorldCom-30 came after the Arizona workshop and

22 was filed in Colorado. The Arizona workshop was held

23 prior to the Colorado workshop. So, you know, again

24 whatever was done in Arizona, we've imported -- I'm not

25 disputing that. But I don't show in my notes that we

1 reached closure on Section 18 audit.

2 Are you suggesting it was closed?

3 MS. FORD: No, no.

4 MR. BROTHERSON: We're at impasse, but I

5 guess --

6 MR. DIXON: Okay.

7 MR. BROTHERSON: I guess the question is,

8 we've -- we have said the impasse issues were the scope

9 of the audit, whether it goes beyond the billing; and

10 includes this examination of everything inside the

11 business; or is there something -- and I might add, the

12 proposed language, which I don't think we've gotten to

13 yet in 18.3 around the confidential information.

14 I don't know if we responded totally to

15 that yet; but outside of the scope of the audit, are

16 there other issues that MCI has that we have not

17 captured on the issues list that we are at impasse on?

18 MR. DIXON: Well -- and maybe I'll just

19 review the language and then -- I thought the language

20 hadn't been included; but I may have been looking at a

21 wrong version, so let me double-check, if we can hold

22 for the moment.

23 MS. QUINTANA: While Tom is looking at

24 that, Larry, I have a question in how this gels with

25 the PAP. Under the proposed PAP in Colorado, there are

1 audit provisions -- and I don't have that in front of
2 me right now, but I know that there is, for instance, a
3 policy about going back a certain number of years and
4 how many audits can be done in a twelve-month period --
5 MR. BROTHERSON: Right.
6 MS. QUINTANA: -- and things like that.
7 And I don't know if this is consistent
8 with that, but my primary question is, is this separate
9 and apart from anything in there? And if so, I think
10 that in 18.1 where we are defining audit; instead of
11 saying, Everything covered under this agreement,
12 basically we should have an exclusion for that exhibit
13 to the agreement.
14 MR. BROTHERSON: You are right. And I
15 would certainly agree with that. I think we did
16 something similar to that -- perhaps it was limitation
17 of liabilities that said nothing in this section will
18 supersede whatever comes out of the PAP. And you are
19 correct in that there is a whole process involved in
20 the PAP that I'm not directly involved in, that is
21 looking at how they are going to audit different
22 provisions -- and we're certainly not trying to
23 foreclose that. And to the extent they develop those,
24 those would be additional rights to look at what's
25 going on in the business above and beyond the audit of

1 bills.

2 However, the language that we're at

3 impasse over in here would -- would technically negate

4 anything needing to be added to the PAP because it

5 basically says they can examine anything provided under

6 the contract.

7 MS. DOBERNECK: Well --

8 MS. QUINTANA: But there is the

9 restriction of two per twelve-month period and those

10 kinds -- what I would like to see is something at the

11 introductory paragraph level saying that -- as you

12 said, nothing in this section shall supersede the

13 provisions of Exhibit -- what is it, K, or whatever,

14 for the PAP or something along those lines?

15 MS. DOBERNECK: This is Megan Doberneck

16 with Covad.

17 And I certainly want to add that I concur

18 with AT&T and WorldCom in that the scope of this audit

19 provision should go beyond just billing and should

20 include services provided under the SGAT. The -- and

21 I -- I agree with Becky that we need to address the

22 QPAP audit provisions. But one of the problems I

23 foresee -- and it's -- it relates to the mechanism of

24 how to incorporate it -- incorporate the PAP into the

25 SGAT as Exhibit K or what have you. But to the extent,

1 for example, that a CLEC picks and chooses and decides
2 for whatever reason it doesn't want Exhibit K, it would
3 prefer to go with wholesale services quality.
4 In that scenario, then that particular
5 CLEC would have no opportunity, because it didn't go
6 with the CPAP, to audit Qwest's performance in a
7 provision of services as I understand the interaction
8 between the two; because I think if you opt into
9 Exhibit K, which is the PAP, you forego your other
10 service rights and remedies such as wholesale service
11 qualities.
12 That's my understanding. And so -- I
13 mean, somehow we need to pull the PAP into the --
14 reconcile it with the audit provision because you can
15 choose -- you can choose it or not.
16 MS. QUINTANA: Right. I guess what --
17 I'm not -- I don't think what I was saying is
18 inconsistent with that.
19 MR. BELLINGER: It didn't sound
20 inconsistent.
21 MS. QUINTANA: I don't want this -- the
22 provisions in the auditing section to somehow limit the
23 audit provisions contained in the PAP.
24 MS. DOBERNECK: Okay. I see. I see. I
25 misunderstood then.

1 MR. BELLINGER: And I think if we do it
2 the way she said, you are okay. What I hear, you, on
3 the side of WorldCom and AT&T, want services to be
4 audited.
5 MR. SCHNEIDER: Right.
6 MR. BELLINGER: And that's what the
7 impasse issue is.
8 MR. SCHNEIDER: Well, just to talk about
9 the impasse issue, it looks to me like in 6-Qwest-60,
10 they have -- the impasse issue is WorldCom requesting
11 that the concept of examinations be added to the audit
12 section. And I think that's part of it, but we're
13 requesting that services be added to the scope of the
14 audit and we're asking that the examination concept
15 also be added.
16 MR. BELLINGER: That's why I was -- where
17 I was a while ago.
18 MR. SCHNEIDER: Right.
19 MR. BELLINGER: Either Mitch or Tom or
20 Michael, would you try to give me an issue statement,
21 what the impasse issue is?
22 MR. DIXON: I can probably put something
23 out if no one else wants to. I'll take a shot at it.
24 Whether the audit or examination
25 contemplated under Section 18 should be limited to a

1 comprehensive review of the billing process for
2 services performed -- or question -- we say it should
3 be more than that. Qwest limits it to that. That
4 sounds fair to Qwest as an issue.
5 MR. MENEZES: I would like to back up a
6 little bit. In Qwest's initial SGAT -- or filed with
7 its supplemental testimony on May 11th, and the
8 language is here in the SGAT Lite, it's just struck
9 through, so it's a little hard to read, but it defined
10 audit to mean a comprehensive review of two things:
11 One, data used in the billing process for services
12 performed; and then the second thing is data relevant
13 to provisioning and maintenance for services performed
14 or facilities provided by either of the parties for
15 itself or others that are similar to the services
16 performed or for facilities provided under this
17 agreement for interconnection or access to UNEs,
18 unbundled loops; and it goes on.
19 My -- my question to Qwest is, how is the
20 second part of that really different from the
21 examination that we are seeking? How do you see it --
22 how do you see a difference?
23 MR. BROTHERSON: A couple things: One, I
24 think they are addressing -- we're going through a
25 whole separate process in the PAP, I think, in light of

1 that, the -- this withdrawing something here is
2 appropriate. Secondly, I think the language is struck
3 because Qwest believes that the audit section should be
4 limited to the billing records.
5 And if there is a dispute over the way
6 the contract is being performed, that that is more
7 appropriately handled through a complaint process on a
8 particular behavior that there is a dispute over.
9 MR. MENEZES: So Qwest made this initial
10 filing; and then at some point during this process, you
11 are saying that Qwest decided to withdraw that second
12 concept?
13 MR. BROTHERSON: Yes.
14 MR. MENEZES: Okay, thank you.
15 MR. DIXON: You know, I want to bring up
16 something about the PAP that keeps getting thrown
17 around, the audit process and the PAP. And I think it
18 should be worth noting that, first of all, the audit
19 process has not been established by the Hearing
20 Commissioner; but the Qwest audit process is limited to
21 two things in the PAP. And I think people need to
22 realize that it's a very limited audit: The first is
23 under Section 15.1 of the PAP, I believe, the -- the
24 CPAP, Colorado PAP.
25 MS. JENNINGS-FADER: I'm sorry, are you

1 referring to the proposal by Dr. -- Professor Weiser,
2 are you referring to Qwest's proposal?
3 MR. DIXON: Qwest's proposal.
4 MS. JENNINGS-FADER: Okay, let's be
5 clear.
6 MR. DIXON: We're talking the Qwest
7 proposed PAP as opposed to anything else, because
8 nothing else has been adopted.
9 MS. JENNINGS-FADER: Nor has the Qwest
10 proposal been adopted.
11 MR. DIXON: But my belief is Qwest's
12 advocacy position is what I'm saying, and that's what
13 I'm trying to address, their advocacy -- and how that
14 relates to their advocacy here.
15 MS. JENNINGS-FADER: Thank you.
16 MR. DIXON: In the Qwest CPAP, as Qwest
17 proposes it, there are two audit concepts: One is,
18 Qwest is creating a financial system and that financial
19 system under Section 15.1 of the Qwest PAP is what is
20 audited. And it is audited simply to determine whether
21 payments have been made as required under the various
22 performance indicator definitions that are used in the
23 PAP.
24 So effectively what that means, just to
25 translate it into a concept, the PAP contemplates, for

example, for a Tier 1 low penalty, a $25 payment. And assume with me -- and I'll just pick a measure out. Assume with me MR-7, which relates to maintenance and repair, calls for a Tier 1 low remedy of $25. The audit of the financial system is to ensure that if there is a failure, a miss on the performance measure, hence what Qwest calls a payment opportunity; then, in fact, the CLEC is paid 25 bucks -- not $75 or not $200, but that the payment matches the required payment. So that's what that audit is all about.

I like to think it is not unlike auditing a balance sheet or income statement. It's checking numbers to be sure that the rules of the payment are in fact applied properly. So it is not any kind of review of whether the PAP is working or anything like that, just matching numbers. That's the first audit.

The second audit contemplated under the QPAP is found in Sections 15.2 and its remaining sections of that particular section. And that one deals with what are sometimes referred to as mini -- as m-i-n-i audits, as opposed to many audits. And in that circumstance, each CLEC under the Qwest PAP is limited to two mini audits per year for two performance measures. And the purpose of that audit is solely to determine whether data has been collected properly,

1 whether it has been recorded properly, and whether it's
2 been reported properly.
3 And so, once again, it is an audit solely
4 to check, have we done what the PAP calls for us to do
5 when it comes to collecting, recording, and reporting
6 data?
7 (Discussion off the record.)
8 MR. DIXON: So to make it clear for the
9 record, recording is what they keep, reporting is what
10 they send to us.
11 So there is nothing in the audit by Qwest
12 to determine if they are in fact doing what is
13 contemplated under the PAP. And I'll leave it to the
14 parties to argue in the briefs what the PAP is supposed
15 to be for.
16 So I'm not here to argue that point; but
17 the point is, the audit in the PAP is incredibly
18 limited from a CLEC perspective; and it's not an audit
19 intended to modify the PAP in any fashion, it's simply
20 to make sure the PAP is doing financially what the PAP
21 is supposed to be doing and that the underlying data
22 that results in financial activity and payment
23 opportunities is in fact being collected, recorded, and
24 reported properly.
25 That's a far cry from suggesting that

1 that is going to somehow review the service -- somehow
2 review services that are being provided under the SGAT.
3 MR. BELLINGER: Okay. So your statement,
4 I think, is that the -- they should be kept
5 independent?
6 MR. DIXON: One, they are independent.
7 MR. BELLINGER: And that goes to what
8 Becky suggested a while ago that this provision
9 shouldn't supersede any provisions of the PAP, audit,
10 and maybe we ought to make it vice-versa.
11 MS. FORD: I have a proposed.
12 MR. DIXON: Let me respond to that -- and
13 I'll make it easy -- not to misrepresent Qwest's
14 position, Qwest contemplates and has so stated that its
15 audit provisions in the PAP are independent of any
16 audit provisions found in the SGAT. So I don't want to
17 suggest that --
18 MR. BELLINGER: Okay.
19 MR. DIXON: -- that they have somehow
20 suggested Section 18 applies to the PAP. That is not
21 Qwest's position. I understand that and I don't want
22 to suggest they are. Nor do they suggest the PAP audit
23 provisions have any impact beyond the PAP.
24 So they are clearly intended by Qwest,
25 based on statements made in the workshops, to be

1 independent of one another and not to supersede or
2 implement the other.
3 MR. BROTHERSON: I think they are
4 independent of each other.
5 MR. BELLINGER: Okay.
6 MR. BROTHERSON: I think we will take the
7 suggestions from staff and come up with language that
8 makes that clear.
9 MS. FORD: I have a suggested sentence,
10 go right in the very beginning: Nothing in this
11 Section 18 shall limit or expand the audit provisions
12 in the Performance Assurance Plan, PAP.
13 MR. BELLINGER: Okay.
14 MS. QUINTANA: That's fine.
15 MR. BROTHERSON: And I think whatever
16 comes out of the PAP will -- will come out of that
17 proceeding. And we're not here to debate it here.
18 And I think we're back to the impasse
19 issue that we have here, which is the scope of the
20 audits under Section 18. It is Qwest's belief and
21 Qwest's position that that should be limited to the
22 financial data; and that if there is a problem with
23 performance under the agreement, that that should be
24 handled through dispute resolution or a complaint or
25 the standard means that a party would exercise if they

1 disagree with the way a service is being performed.

2 MR. BELLINGER: So did anybody have a

3 problem with the statement that Tom gave on the issue?

4 MR. DIXON: I would be happy to repeat it

5 or --

6 MR. McDANIEL: Mitch had a problem.

7 MS. HUGHES: I didn't hear it.

8 MR. BELLINGER: Mitch, go ahead.

9 MR. MENEZES: The thing it doesn't do is

10 say that nothing in the PAP will limit or broaden the

11 audit provisions here. There is the potential that the

12 PAP -- language in the PAP could say, This is the

13 exclusive audit right under the agreement. And we're

14 not dealing with it here -- we have to deal with it at

15 some point. So that's my only comment that it only

16 works one way. This doesn't limit the PAP; but could

17 the PAP limit this?

18 MR. BELLINGER: I had the word

19 vice-versa; you might want to consider that.

20 MS. HUGHES: Well --

21 MR. DIXON: And Qwest has represented

22 that the --

23 (Discussion off the record.)

24 MR. BELLINGER: And I was referring to

25 the language you were suggesting that the audit in the

1 PAP, you may make it -- a statement such that it goes
2 both ways.
3 MR. DIXON: And I was going to say, Qwest
4 has represented, at least in the PAP workshops that, it
5 is not its intent for its PAP audit provision to impact
6 this one. And so I think the vice-versa is
7 appropriate.
8 If you go back and check with your
9 people --
10 MR. BROTHERSON: We can go back and
11 check.
12 MR. DIXON: Yeah.
13 MR. BROTHERSON: Normally we haven't been
14 putting language in the SGAT about the PAP or how it
15 works. That's been addressed in the PAP. That's my
16 only pause.
17 MS. FORD: We'll just add a flip
18 sentence.
19 MR. BELLINGER: Okay.
20 MR. DIXON: So the issue I crafted -- if
21 you want me to repeat it -- was whether the audits or
22 examination -- excuse me, whether the audit or
23 examination process should be limited to a
24 comprehensive review of books, records, and other
25 documents used in the billing process for services

performed?

MR. BELLINGER: Any problem with that?

MR. DIXON: Pardon me?

MR. BELLINGER: I was asking anybody else if they had a problem with that statement.

MR. MENEZES: No, that sounds fine.

MR. BELLINGER: So I make that G-51-A. And then I think there is a B, I guess. Did we resolve the other issue which was confidentiality?

MR. BROTHERSON: 18.3?

MR. BELLINGER: 18.3.

MR. DIXON: Well, Hagood, I don't want to belabor it, but we do have language we provided. And I don't know how we're going to address that. It's never been incorporated -- most of it -- I shouldn't say most of it -- some of it went to adding examination where they had added it some places and missed it in others. And either we're at impasse or they are unwilling or haven't looked at our language lately -- maybe through oversight -- but at the moment we have an impasse on the proposed language in 6-WorldCom-30 that was highlighted in brown on that exhibit.

MR. BELLINGER: Okay, which makes it --

MR. DIXON: I hope it could go away.

MR. BELLINGER: We'll make that B. Do

1 you want to make a statement on that?

2 MR. DIXON: We have proposed language in

3 6-WorldCom-30 that, first of all, attempted to bring

4 the word examination in; wherever the word audit was

5 used, we said or audit or examination.

6 MS. FORD: We've done that.

7 MR. DIXON: That was found in 18.2,

8 18.2.3, consistent with -- just so it's clear for the

9 record, consistent with the scope of the audit issue,

10 we had also proposed references to services performed

11 in both 18.1.1 and 18.1.2. That's a language issue,

12 but it really goes to the first issue G-51-A. So I

13 don't want to at least confuse anybody.

14 On the second -- on Section 18.2.7, we

15 recommended that the period of 24 months be extended to

16 36 months. And that was the section that stated, All

17 transactions under this agreement which are over --

18 Qwest has language, 24 months, will be considered

19 accepted and no longer subject to an audit. We had

20 suggested the 24 be changed to 36.

21 We had recommended in Section 18.2.9 some

22 language that is pretty customary, The party requesting

23 the audit may request that the audit be conducted by a

24 mutually agreed upon -- excuse me, agreed to

25 independent auditor. We proposed the following

1 language, Which agreement will not be unreasonably
2 withheld or delayed by the non-requesting party.
3 That's pretty standard language when we're doing these
4 mutual agreements. And apparently Qwest doesn't want
5 to include it.
6 MS. FORD: No, that one is okay.
7 MR. DIXON: Okay. And then 18.2.10, we
8 had requested be stricken.
9 MS. FRIESEN: Unreasonably withheld or
10 delayed?
11 MR. DIXON: Unreasonably withheld or
12 delayed.
13 I have been asked a question about
14 18.2.9 -- since the court reporter has no clue whether
15 we're on the record, we'll be sure it is. To repeat
16 our language, our proposed language in 18.2.9 is, Which
17 agreement will not be unreasonably -- it should be
18 unreasonably withheld or delayed by the non-requesting
19 party. I make the reference to unreasonably because
20 our actual exhibit had unreasonable instead of
21 unreasonably.
22 And then we requested our next change in
23 the language was to delete 18.2.10. This deals with
24 the fact that the audit costs should be shared by --
25 equally by the parties. And we've already touched base

1 on the Arizona record. We had previously talked in
2 Arizona about how to allocate the cost of an audit and
3 whether it should be allocated, so to speak, to a
4 losing party versus a winning party; something that is
5 a concept in the PAP audit provisions.
6 So we think that the same concept that
7 Qwest wants to use in the PAP might also conceptually
8 be used here, that somehow we allocate the cost of an
9 audit between the winner and the loser, if there is
10 discovered an error.
11 MR. SCHNEIDER: And another reason we
12 wanted to delete 18.2.10 is because it states that in
13 the event the non-requesting party requests that the
14 audit be performed by an independent auditor, the
15 parties shall mutually agree to the selection of the
16 independent auditor; we thought that that allowed the
17 non-requesting party to delay the entire audit process.
18 I think that it's sufficient that the requesting party
19 can request the audit be conducted by an independent
20 auditor.
21 MR. DIXON: On Section 18.2.13, WorldCom
22 had suggested that the section survive the expiration
23 or termination of this agreement for a period of three
24 years instead of two.
25 And that was the extent of our language

1 proposal in 6-WorldCom-30.

2 In view of workshops we have had on the

3 PAP, I do want to point out that the concept of what is

4 an independent auditor -- this is an issue we've not

5 raised before, but the only reason I'm raising it now

6 is it came up last week in the multi-state PAP

7 proceeding. It might be helpful to define what

8 constitutes an independent auditor because Qwest, in

9 the PAP, suggests it can select an independent auditor

10 and that will be a third-party auditor; and then they

11 use certain parameters which do not define

12 independence; but, instead, say what constitutes the

13 parameters for an independent auditor. And they

14 propose something -- national firm with experience in a

15 specific telecommunications area, et cetera.

16 So in view of some recent comments by

17 Qwest on what is or isn't an independent auditor, I

18 also now believe we have some concern about what is an

19 independent auditor. And we may need to define that

20 concept in the SGAT. So that will take care of

21 WorldCom's concerns on Section 18 language.

22 MS. FRIESEN: Tom, to the extent that

23 Qwest is refusing to make those changes, are you taking

24 those particular sections that we've gone through to

25 impasse?

1 MR. DIXON: I think that --

2 MR. BELLINGER: I was going to suggest,

3 can you give us a -- can you write up G-51?

4 MR. DIXON: Sure, G-51-B, I'll write up.

5 (Discussion off the record.)

6 MR. BELLINGER: Well, anyway, where we

7 were is Tom is going to write up G-51. The next --

8 with the WorldCom language that you want to take to

9 impasse.

10 MR. DIXON: I'm also hoping when we get

11 done with the workshop, maybe Laura and Mike and anyone

12 else can sit down and see, are we truly at impasse on

13 all of these sections? I thought some of them were

14 pretty ministerial, but maybe I'm wrong. But I would

15 be more than happy to write an issue.

16 MS. FORD: I really think we are. I

17 think we discussed almost all of this in Arizona. And

18 we've also discussed this provision at length with --

19 maybe with AT&T. And except for the impasse issues

20 we've described, we're in agreement; so --

21 MR. BELLINGER: Well, you-all get

22 together and we'll leave it open.

23 MR. DIXON: Thank you. We'll address the

24 issue.

25 We did understand though that there was

1 agreement to include --

2 MR. BELLINGER: Well, it will be at

3 impasse, I guess.

4 MR. DIXON: But we do have agreement on

5 Section 18.2.9 about not unreasonably withholding or

6 delaying.

7 MS. FORD: Yes.

8 MR. DIXON: That is closed -- Section 18

9 is closed -- 18.2.9 is a closed section.

10 MR. BELLINGER: So you will bring back

11 what is at impasse.

12 MR. DIXON: I will, indeed.

13 MR. BELLINGER: Okay. And then we still

14 have the confidentiality issue. Is that an issue -- is

15 AT&T okay with that?

16 MS. FRIESEN: That is an issue for us.

17 We're okay with the language. This goes back to --

18 maybe now is the appropriate time to discuss the Tade

19 affidavit, the remainder of the issue contained in

20 Section 5.16, which I think has been designated as

21 G-62. Alternatively, we can wait until later; but the

22 problem is one of conduct, not SGAT language.

23 MS. QUINTANA: I assume that this was not

24 information gathered in an audit.

25 MS. FRIESEN: What?

1 MS. QUINTANA: This was not use of
2 confidential information that was gathered as a result
3 of an audit, the Tade affidavit?
4 MS. FRIESEN: That's correct.
5 MS. QUINTANA: So this is not --
6 MS. FRIESEN: It's misuse of confidential
7 information generally.
8 The Tade affidavit is just one aspect
9 that indicates to us that they are not doing what they
10 are supposed to do under the Act or probably under
11 this.
12 MR. BELLINGER: I think we are discussing
13 audit process though.
14 MS. FRIESEN: We can --
15 MS. QUINTANA: We're just trying to
16 understand if there is still an issue G-51-C.
17 MS. FRIESEN: Okay.
18 MS. JENNINGS-FADER: So specific to the
19 treatment of material obtained during the course of an
20 audit and/or examination, depending on how that issue
21 falls out, right? Right?
22 MS. QUINTANA: Right.
23 MR. BELLINGER: All right.
24 MS. FRIESEN: You know, there really
25 isn't an issue. The SGAT defines for us how we would

1 hope they would treat it.

2 MS. JENNINGS-FADER: Okay. So for the

3 audit --

4 MS. FRIESEN: We can limit our other

5 issues to G-62.

6 MR. BELLINGER: Okay.

7 MS. JENNINGS-FADER: Okay.

8 MR. BELLINGER: So there is no C then.

9 MS. FRIESEN: Yeah.

10 MR. BELLINGER: Okay, we got rid of G-51.

11 MS. QUINTANA: C.

12 MR. BELLINGER: Well, they handled G-51

13 and it got ride of G-51-C.

14 MS. QUINTANA: Right.

15 MR. BELLINGER: I think we're finished

16 with G-51 for now.

17 MS. JENNINGS-FADER: Can I -- and so just

18 so I understand, on 6-ATT -- AT&T-68, there are on the

19 last page, on page 7, a lot of issues having to do with

20 G-51, Section 18. Has whatever you all had listed

21 there been taken care of, either closed or subsumed

22 within the two issues we've defined at impasse?

23 MS. FRIESEN: That's correct. They have

24 been subsumed within those two issues.

25 And just for clarification, the things

1 that say open and agreed are the things that AT&T has
2 to agreed to in other jurisdictions. And I'm not sure
3 we're taking those to impasse, but WorldCom may have
4 impasse issues on those.
5 MS. JENNINGS-FADER: Okay, thank you.
6 MR. BELLINGER: Okay, do you want to go
7 to G-52?
8 MS. FRIESEN: Before we start that one, I
9 would like to point something out with respect to
10 AT&T -- or 6-ATT-68. G-52 is where my notes start to
11 diverge in the G issue numbers from what Qwest is
12 showing on its 6-Qwest-60. So although I had the same
13 issues after G-52, the numbers are -- are different.
14 And, in fact, G-52, itself, is different in my notes.
15 So I wanted to -- I stopped on our issues
16 list from doing the G numbers and I think we should
17 refer after G-52 solely to Qwest stuff because we do
18 agree those are the issues. The numbers are just
19 different.
20 MS. JENNINGS-FADER: Thank you.
21 MR. BELLINGER: All right.
22 MS. FRIESEN: The other thing I would
23 like to point out, though, is G-52 for us had to do
24 with the signature page. Early on, I think WorldCom
25 had some issues with the signature page which have

1 since been settled. And Qwest is showing G-52 as a
2 1.8, disagreement -- disagreement on pick and choose,
3 which has already been discussed. That point has been
4 beaten to death much earlier in this proceeding.
5 So that's where the discrepancy is
6 between what I have and what Qwest had.
7 MR. DIXON: Does anybody have a
8 preference on what we want to make G-52?
9 MS. QUINTANA: My records show that
10 Qwest's issue -- Exhibit 60 is the same numbering
11 scheme as was used in the June workshop here in
12 Colorado. So I would prefer that we stick with how
13 Qwest has it, because that's what we already have.
14 MR. BELLINGER: We have been working off
15 of 6-Qwest-60 all the way through.
16 MS. FRIESEN: So we're going to continue
17 to call G-52 1.8?
18 MS. QUINTANA: Yes.
19 MS. FRIESEN: Even though we already
20 discussed that as another G number earlier this week?
21 MS. HUGHES: It was referenced under
22 G-22. You may recall, early on some of these issues
23 overlapped; and we just carried them forward, even
24 though they overlapped. So we have addressed it
25 already under G-22; but we also cross-referenced it to

1 G-52.

2 MS. FRIESEN: Did you? Okay.

3 MR. BELLINGER: So what do we do with it

4 under G-52?

5 MS. FRIESEN: We probably ought to close

6 it.

7 MR. BELLINGER: Okay, you got everything

8 addressed in A?

9 MS. HUGHES: Yes.

10 MR. BELLINGER: As long as you got it

11 addressed somewhere else. So G-52 is now.

12 MR. BROTHERSON: Subsumed into --

13 included in G what?

14 MS. FORD: 22.

15 MR. DIXON: 22.

16 MR. BELLINGER: Okay, put it in G-22.

17 MS. JENNINGS-FADER: And close, under G

18 52.

19 MR. BELLINGER: And G 52 itself is

20 closed.

21 MR. DIXON: G-22 is at impasse; is that

22 right?

23 MS. JENNINGS-FADER: Well --

24 MS. FORD: No, it's not G-22. G-22 is

25 the signature page.

1 MS. HUGHES: G-22 is the signature page.

2 MR. DIXON: Well, I'm not going to argue

3 with you, but when we talked about G-22, we talked

4 about Section 1.8. I'm looking at --

5 MS. DOBERNECK: They are intimately

6 related.

7 MS. FRIESEN: In the SGAT sections, we

8 did talk about 1.1 through 1.8 under G-22.

9 MS. FORD: That's right. Yes, I took --

10 what I did on our G-22 was to take 1.8 out and put it

11 in G-52.

12 MS. FRIESEN: Why don't we -- since we

13 discussed it under G-22, since we discussed 1.1 through

14 1.8 and G-22 --

15 MS. JENNINGS-FADER: Yes.

16 MS. FRIESEN: -- why don't we keep that

17 as G-22 and move the signature page, which is Section

18 22, back to G-52 and leave it alone, call that closed?

19 MS. HUGHES: Okay.

20 MS. FORD: That's fine.

21 MR. DIXON: Nice suggestion. WorldCom

22 agrees.

23 MR. BELLINGER: We have G-22-A and G-22-B

24 both at impasse. Okay.

25 So we are still closing G-52?

1 MR. DIXON: Yes. And we're going to
2 identify --
3 MS. JENNINGS-FADER: The signature page?
4 MR. DIXON: -- Section 22, signature
5 page; and we will close it.
6 WorldCom had made a request and Qwest has
7 done it.
8 MR. BELLINGER: Okay. Does that go to
9 G-53 then?
10 MR. DIXON: That's what I show next.
11 MR. BELLINGER: This shows it open.
12 MS. JENNINGS-FADER: What is for 7?
13 MR. DIXON: Forecasting Issue 7.
14 MR. BELLINGER: Forecasting?
15 MS. HUGHES: We believe that all the
16 forecasting issues are closed.
17 MS. FORD: But it was shown as open at
18 the time I put this together.
19 MS. FRIESEN: That's our belief, as well.
20 MS. FORD: It's since closed.
21 MR. BELLINGER: Okay, everybody agrees
22 this is closed?
23 MR. DIXON: I'm just taking a quick look
24 at my Arizona notes.
25 MS. QUINTANA: This was a Covad issue;

1 wasn't it used with the joint planning meetings?

2 MS. DOBERNECK: For that, it was the

3 joint planning meeting as well as the obligation to use

4 the forecast; but that went away when the UNE forecast

5 was withdrawn.

6 MS. JENNINGS-FADER: Right. So this is

7 closed.

8 MS. DOBERNECK: Yes.

9 MR. DIXON: This is closed.

10 MR. BELLINGER: Okay, G-54.

11 Larry, do you want to give us an overview

12 of what the issue was?

13 (Pause.)

14 MR. BELLINGER: I don't remember this

15 one.

16 MR. BROTHERSON: This was part of the OSS

17 discussion and I believe it was closed in the OSS.

18 MS. FRIESEN: It was. And we had a

19 lengthy discussion in the multi-state about a problem

20 that we were having associated with this. So maybe we

21 want to leave this for tomorrow -- or we can tell you

22 it's closed and --

23 MS. HUGHES: Unless you want to narrate

24 it for us?

25 MR. BELLINGER: We just want a succinct

comment on what it is.

MS. QUINTANA: I think we can handle it tomorrow, though. I think it is OSS-3 -- it is the same -- or 4, sorry -- 3 or 4. I don't know about the numbering scheme.

MS. DOBERNECK: It's 3.

MS. QUINTANA: It's the same issue.

MS. FRIESEN: We just note this as deferred to OSS-3.

MR. DIXON: And close it here?

MR. BELLINGER: Deferred to OSS-3 and closed.

G-55?

MR. BROTHERSON: G-55 was a loop issue that was still hanging around, I guess, and not resolved when this workshop opened up. I believe since then the loop workshop closed that, if I'm -- AT&T withdrew the issue is what my notes reflect.

MS. FRIESEN: And I'll just have to -- do you know who withdrew it off line?

MS. FORD: All the last three here -- this was my recollection and so you probably want to check as to --

MS. FRIESEN: Who did you talk to, do you remember?

1 MS. FORD: I can't remember.

2 MS. BEWICK: Probably Becky -- Becky or

3 Sara.

4 MS. FRIESEN: I'll confirm. If there is

5 a problem, we'll let you know tomorrow.

6 MR. BELLINGER: So it's closed unless we

7 hear from you?

8 MS. FRIESEN: Right.

9 MR. BELLINGER: Okay. G-56.

10 MS. FORD: I actually think we --

11 MS. DOBERNECK: I thought this was a

12 Covad issue, actually.

13 MS. FORD: Oh.

14 MS. DOBERNECK: But it was resolved in

15 the line splitting context with the addition of

16 additional language, if I'm correct.

17 MS. FORD: Resolved in line splitting

18 context. Closed?

19 MS. DOBERNECK: If --

20 MR. DIXON: Okay.

21 MS. DOBERNECK: The Covad issue we had

22 with regard to the use of existing is resolved and it

23 is closed from our perspective.

24 MR. DIXON: And --

25 MS. DOBERNECK: From Covad's

1 perspective --

2 MS. FORD: It probably is Covad, DSL.

3 MR. DIXON: It is a WorldCom issue, as

4 well; and let me see if I can check one thing and I'll

5 confirm that it's closed.

6 (Pause.)

7 MR. DIXON: I was looking at the

8 June 29th SGAT; and the problem is still in it, so I

9 have to now go to notes.

10 (Pause.)

11 MR. BELLINGER: Are you still checking,

12 Tom?

13 MR. DIXON: Give me just a moment -- I

14 found it.

15 First of all, it was Loop Splitting Issue

16 13 in the loop workshop, and that's what I'm after. I

17 show this issue closed in the loop workshop --

18 MR. BELLINGER: Okay.

19 MR. DIXON: -- for WorldCom, Loop

20 Splitting 13. And therefore, I frankly don't know why

21 it would have carried forward to G-56. And it would be

22 consistent that we were drawing it off line, based on

23 what my notes show on the very underlying issue. So I

24 would agree it's closed.

25 Sorry about the delay, it took me a

minute to find the note on it.

MR. BELLINGER: We've already closed G-57.

MR. BROTHERSON: Yes.

MR. BELLINGER: G-58 is next?

MR. BROTHERSON: That issue was withdrawn.

MS. DOBERNECK: Yes.

MR. BROTHERSON: Closed.

MR. BELLINGER: Okay.

MR. BROTHERSON: I think the same is true with G-59. WorldCom has withdrawn the issue. It's closed.

MS. QUINTANA: Well, I don't even show G-59, 60, or 61 in Colorado. So I'm not sure --

MS. HUGHES: Thank you.

MS. QUINTANA: -- if it's withdrawn -- it's not here.

MS. DOBERNECK: 60 would have to be a Washington issue.

MS. BEWICK: XO hasn't been participating in Colorado.

MR. DIXON: Let me suggest what may be G-59 -- I'll work from memory. You may recall when we had our lengthy discussion about Qwest using aggregated

1 forecast data --

2 MR. BELLINGER: Oh, yes.

3 MR. DIXON: -- that the issue was, it was

4 using CLEC data in an aggregated fashion to develop --

5 to make presentations that they were allegedly

6 presenting in Washington to the legislature.

7 The issue WorldCom raised is, how would

8 you feel if WorldCom took your data that we have and

9 flip-flopped it --

10 MR. SKEER: That's correct.

11 MS. JENNINGS-FADER: That's right.

12 MR. DIXON: -- and instead of Qwest

13 taking aggregated data, we took our WorldCom data and

14 put it with your -- Qwest -- data; would we be

15 permitted to go march off to the legislature and make

16 presentations using Qwest data with ours called

17 aggregated? Would that be okay?

18 That's the issue of G-59.

19 I don't know who withdrew the issue; but

20 the point is, you were going to get back to us, whether

21 we were talking about the use of aggregated forecasted

22 data. And I hear people now saying, oh, I remember

23 that.

24 MS. JENNINGS-FADER: Yeah, that's exactly

25 it.

1 MR. DIXON: So the issue was a take-back
2 to Qwest as to whether, when you intend to allow use of
3 aggregated forecasted data, is that reciprocal; and may
4 I get your data and mine -- and I get data all the time
5 from you. May I take yours and mine and march off to
6 the legislature and use it?
7 MS. QUINTANA: I'm sorry, I shouldn't
8 have said a word.
9 MS. FORD: That would come under the easy
10 to identify exemption.
11 MR. DIXON: What if I aggregated with
12 other CLECs, because I get aggregated CLEC data every
13 single month in reports from you guys on performance
14 measures, for example?
15 MR. BROTHERSON: We'd be happy to
16 withdraw giving you those reports, as well, but that's
17 another story.
18 MR. DIXON: So all I'm saying is that the
19 point was, how does the reciprocal apply and what
20 limitations do we have if you wish to do that?
21 MS. FORD: We would agree to this under
22 the same provisions that we've outlined for use of CLEC
23 aggregated data.
24 MR. DIXON: Is there some place you can
25 include that in the SGAT when we're talking about it,

1 then, and putting some language that, quote, agrees
2 with this?
3 MS. FORD: We can make it reciprocal, but
4 it's at impasse. Our language is at impasse.
5 MS. FRIESEN: Laura, so I understand the
6 reciprocity you are giving us, is it with respect to
7 forecasts only or is it with respect to all
8 confidential data that we obtain from you?
9 MS. FORD: This is forecast data. So --
10 and that's what we've talked about.
11 MS. FRIESEN: Is it your opinion that
12 Qwest's right, according to you, to aggregate
13 information and distribute it to whomever and disclose
14 it to whomever is likewise limited to forecasting? Can
15 you take our confidential data that does not constitute
16 a forecast and distribute it to whomever you want if
17 you aggregate it?
18 MS. FORD: As far as I know, the only
19 thing we've talked about with aggregation is forecast
20 data and that's what this talks about.
21 MR. BELLINGER: The reference to Tom's
22 comment on service results, that is public data, I
23 believe. This is aggregated CLEC data, but it's also
24 public.
25 MR. DIXON: I don't know that the Qwest

retail is public though.

MR. BELLINGER: Yes, it is.

MR. DIXON: Is it?

MS. JENNINGS-FADER: Uh-huh.

MR. DIXON: All the Qwest retail results?

MR. BELLINGER: That report is a public report. It comes out monthly, it's on the website.

MS. FRIESEN: Well, we get data from them that is not.

MR. BELLINGER: You get an AT&T report in addition to that.

MS. FRIESEN: I'm talking separate and apart from those particular reports --

MR. BELLINGER: Right.

MS. FRIESEN: -- the confidential data?

MR. BELLINGER: The aggregated CLEC report and Qwest's retail is public information.

MR. DIXON: Then my suggestion would be, with respect to G-59, that in view of Qwest's statement that it will include it with what was G-50 -- or G-8 -- that's the use of confidential aggregated forecasting -- that we close 59; that we note that Qwest agrees to make the use of aggregated forecasted data reciprocal, and kick it all into G-8, deferred G-8, and close 59. And G-8 continues to be at impasse.

MS. FRIESEN: I'm sorry, but I've forgotten what forecast does Qwest supply to the CLECs?

MR. DIXON: In theory.

MR. BELLINGER: Trunking.

MR. DIXON: If my memory is right, Qwest is supposed to provide forecasting data for the joint planning meetings.

MR. BELLINGER: That's correct.

MR. DIXON: That's so -- so that is at least my one recollection of Qwest providing forecasting and I think that relates to LIS trunks.

MR. BELLINGER: Well, it's trunking forecast --

MR. DIXON: Right, trunking.

MR. BELLINGER: -- not just LIS trunks.

MR. DIXON: Yes.

MR. BELLINGER: Okay, G-60; what do you want to do with that?

MS. JENNINGS-FADER: It's not a Colorado --

MR. BELLINGER: Not a Colorado issue?

MR. BROTHERSON: It's not a Colorado issue.

MR. BELLINGER: 61?

MR. BROTHERSON: Not a Colorado issue.

1 MS. DOBERNECK: Not a Colorado issue.
2 MR. BELLINGER: AT&T agrees with that.
3 MR. MENEZES: It was an AT&T proposal,
4 but it's closed.
5 MR. BROTHERSON: AT&T is on that, as
6 well. I saw XO --
7 MR. BELLINGER: What did AT&T do with it?
8 MR. BROTHERSON: They made a proposal and
9 we accepted it.
10 MR. MENEZES: And it is in the SGAT Lite
11 so --
12 MS. HUGHES: Is that closed then?
13 MR. MENEZES: We won't ignore, it we'll
14 just say that it's closed.
15 MR. DIXON: Just out of -- apparently
16 there has been changes made because of it, so it's
17 closed because there were changes made.
18 MR. BELLINGER: Right.
19 MR. DIXON: That's my understanding. And
20 either -- while we were rather flip on G-60, we
21 probably should note for Colorado some changes were
22 made to the SGAT Section 5.25 in response to a party
23 that's not in this proceeding; and at least, yes, its
24 closed, but we're not really ignoring what that party
25 wanted. It's been accommodated as I understand it.

1 MS. HUGHES: That's correct.

2 MR. BELLINGER: So is that all the

3 issues?

4 MR. DIXON: Well, we did create a 62.

5 MS. JENNINGS-FADER: 62. That's

6 confidential -- confidentiality in general. That's the

7 Tade affidavit, that's the --

8 MR. DIXON: Right.

9 MS. JENNINGS-FADER: -- the behavior of

10 Qwest as opposed to the word of Qwest; is that --

11 MS. FRIESEN: That's right.

12 MR. DIXON: Well, there were a couple

13 things. At least what I wrote down --

14 MR. BELLINGER: That's right.

15 MR. DIXON: -- G-62 addressed the issue

16 of -- we were in Section 5.16.

17 MS. JENNINGS-FADER: Yes.

18 MR. DIXON: And the issue was the use of

19 confidential information and how confidential

20 information, in general, as opposed to the forecasting

21 information would be treated. So it was the whole

22 issue of need to know.

23 MR. BELLINGER: We have that down.

24 MR. DIXON: That's the issue.

25 I frankly have not gotten language

1 together to propose. Mary Rose Hughes asked me to do
2 that. I have not. I have several sources I'll cite to
3 people that I will look to and my help people in their
4 evening research. I'll look at the confidentiality
5 rules found at 4 CCR 723-16.3 -- 4 CCR 723-16.3.
6 I will also look to a protective order in
7 Arizona that was just issued in the 271 proceeding.
8 And I think --
9 MS. JENNINGS-FADER: For those of us who
10 don't have access to what goes on in a state to the
11 south of us -- Tom throw your quarter in -- what do we
12 do?
13 MR. DIXON: I'm just saying I will be
14 looking there and I'll come back with language.
15 MS. HUGHES: Tom, is it your proposal we
16 discuss G-62 tomorrow --
17 MR. DIXON: Yeah.
18 MS. HUGHES: -- with the benefit of your
19 language?
20 MR. DIXON: I hope to be -- with the
21 understanding that assuming the creek hasn't dried up,
22 tomorrow I'll come back with language.
23 MS. HUGHES: And so.
24 MS. FRIESEN: We would like to discuss at
25 least our piece of the issue tonight because our

1 witness can't be here tomorrow to discuss the Tade
2 affidavit.
3 MR. DIXON: I don't have any problem with
4 that.
5 MR. BELLINGER: All right.
6 MR. BROTHERSON: That's fine.
7 MR. BELLINGER: Where -- is that 62?
8 MS. JENNINGS-FADER: Uh-huh.
9 MS. FRIESEN: That is issue G-62, the
10 Exhibit --
11 MR. BELLINGER: 6-ATT-71?
12 MS. FRIESEN: -- 70 something.
13 MR. DIXON: 71.
14 MS. FRIESEN: Okay, AT&T-71, yes.
15 MS. DOBERNECK: Before we go there, am I
16 safe in assuming CiCMP won't be this evening so I can
17 let my East Coast witness know?
18 MS. QUINTANA: (Nods head.)
19 MS. HUGHES: Well, we have our witness
20 here, another witness on stand by on the phone, and
21 Mr. Crain here who cannot now be available tomorrow.
22 So we were hoping that in accordance with the --
23 MS. JENNINGS-FADER: No, I think we'll
24 have Andy -- Andy, tonight, if he can't be here
25 tomorrow, and push the rest of it off until tomorrow.

1 I mean, I'm -- is that --

2 MS. DOBERNECK: Yeah, that's fine. I

3 just would like to let him know.

4 MS. HUGHES: That's fine with Qwest.

5 MR. BELLINGER: Okay.

6 MS. HUGHES: So should we perhaps break

7 now and go to CiCMP?

8 MR. BELLINGER: We need to take their

9 witness, too. Their witness can't be here tomorrow

10 either -- is that what I heard?

11 MS. FRIESEN: I don't think this issue is

12 going to take more than ten minutes.

13 MR. BELLINGER: Okay, go ahead.

14 MS. JENNINGS-FADER: Let's do it.

15 MR. HYDOCK: Michael Hydock for AT&T.

16 I'm quickly getting the sense that I

17 should be brief.

18 MR. BELLINGER: I was hoping people would

19 get that all day.

20 MR. HYDOCK: It just dawned on me, I

21 hope.

22 MS. BEWICK: Just don't let Dixon talk

23 and we'll be out of here.

24 MR. HYDOCK: Late in 2000, AT&T started

25 marketing digital local phone service via AT&T

1 Broadband in the Minnesota -- Minneapolis suburbs --
2 Minneapolis, St. Paul, and the suburbs.
3 The normal process when a customer calls
4 Broadband to order phone service, is all the
5 information is taken from the prospective subscriber.
6 A date for initiation of the service is set, and
7 Broadband then goes and requests from Qwest that that
8 number, as of a particular date, be ported to the AT&T
9 Broadband-TCG switch. And then it's all -- all calls
10 are delivered to the customer.
11 So essentially there is a -- five to
12 seven days prior to the cutover, Qwest is notified this
13 customer needs local number portability. The only
14 logical conclusion is that customer is moving to
15 another carrier.
16 In this affidavit, Mr. Tade was notified
17 or called by Qwest almost at the same time that the
18 local number portability request was put in, Why are
19 you leaving Qwest; wouldn't you like to stay with us?
20 So it suggests that the flow of
21 information from a competitor of proprietary sensitive
22 process, local number portability, was quickly relayed
23 to the residential service center that then put
24 Mr. Tade on the list to be called for a win-back. So
25 it suggests that at the very least there is not a well

1 defined set of policies among the actual working level
2 at Qwest as to what is confidential information, what's
3 proprietary to the CLEC, and what needs to be
4 protected.
5 MS. FRIESEN: And, Mr. Hydock, is it your
6 understanding that when a number port is requested, it
7 is sent over in what's called a local service request
8 or an LSR to Qwest.
9 MR. HYDOCK: That's correct. It would be
10 done by an LSR.
11 MS. FRIESEN: Suffice it to say we think
12 because Qwest's service representatives that deal with
13 the retail customers are located in centers and because
14 these LSR go to centers, that this is something that is
15 broader than what's happening in Minneapolis. We have
16 had calls from other customers in the state of
17 Colorado, as well, wherein they can conduct win-backs
18 before the customer is ever switched.
19 So we think this is evidence of misuse of
20 confidential information and a violation of 47 U.S.C.
21 Section 222 that says Qwest cannot misuse this
22 information for its own purposes; and in particular, it
23 can't give it to retail -- it's retail side of the
24 house.
25 And so we think and we are asking the

1 Colorado Commission to investigate what they are doing
2 with confidential information and to not find Qwest in
3 compliance with 271 unless and until it can prove to
4 this Commission that it has put in place something that
5 will prevent this kind of thing from happening on a
6 going-forward basis. Whether it means Qwest cannot
7 begin win-backs until the customer is switched or
8 something, that it can prove to this Commission that
9 it's not violating confidential information and the
10 Federal Act on confidential information.
11 MS. QUINTANA: Mike, as is -- as in the
12 case of switching toll providers, does the end-use
13 customer not have to call Qwest for a disconnect or is
14 it all done through --
15 MS. FRIESEN: It is all done through the
16 LSR. And Mr. Tade at no time contacted -- did you ask
17 him?
18 MS. JENNINGS-FADER: Yeah.
19 MS. FRIESEN: Sorry.
20 MR. BROTHERSON: Thank you.
21 MS. FRIESEN: Sorry. Do you want to --
22 MR. HYDOCK: No, go ahead. You are right
23 on.
24 MS. JENNINGS-FADER: Actually, I think we
25 would like to hear from the witness.

1 MR. HYDOCK: Well, in the attempt to
2 minimize the disruption for the new customer, we take
3 care of everything, soup to nuts; and so the disconnect
4 is handled through us, as well.
5 Qwest -- if you want to make the analogy
6 to the long-distance world, Qwest should be notified
7 when the bill -- the last bill is rendered, there is no
8 more usage; and a PIC change has been processed through
9 and verified and all that is said and done.
10 The other question comes in with local as
11 to if Qwest is the local number portability
12 administrator, do they have more advantageous knowledge
13 of those requests than other CLECs? In other words, we
14 picked up the customer, but XO has no knowledge, but
15 Qwest does. So there is that other secondary issue, as
16 well.
17 MS. QUINTANA: Because it was a Qwest
18 customer, not because they have any administration as
19 far as numbering goes -- not any administration
20 responsibility.
21 MR. HYDOCK: That's correct.
22 MS. JENNINGS-FADER: Mr. Hydock, I want
23 to ask you some questions: With respect to the centers
24 to which the local service request goes -- the LSR
25 goes, is that the same service center as the service

1 center that would be -- if there is such a service
2 center where the folks who are doing win-back and
3 retail operations would be found?
4 MR. HYDOCK: I think Qwest would be the
5 more accurate way to get at that question. There are,
6 I think, three whole sale centers -- one major one up
7 in Cheyenne. I don't know if they are in the same
8 location as other residential retail centers.
9 MS. JENNINGS-FADER: Thank you.
10 Qwest -- Mr. Brotherson or whoever --
11 factual person can answer that question.
12 MR. BROTHERSON: And I will get you that
13 answer. And I will have it tomorrow, but I don't know
14 the answer where the centers are physically located.
15 So I have to run that down.
16 I do have general comments on the
17 affidavit, but I gather you still have more.
18 MS. JENNINGS-FADER: I do.
19 MR. BROTHERSON: Okay.
20 MS. JENNINGS-FADER: Mr. Hydock, has AT&T
21 made an effort, aside from bringing this issue to
22 this -- and I gather other similar fora -- this forum
23 and other similar fora; have you, AT&T, made an effort
24 to investigate through using -- asking Qwest about this
25 through some sort of dispute resolution process or

1 whatever else may be available, to bring -- to escalate
2 this issue and bring it to Qwest's attention?
3 MR. HYDOCK: Not that I'm aware of, but I
4 can't speak for the Broadband organization which
5 handles its relationships with Qwest on its own,
6 basically.
7 I can speak to the fact that in many
8 cases Broadband is operating under the Qwest-TCG
9 agreement; and the Qwest-TCG agreement will be silent
10 on this type of issue -- it's 40 pages long and only
11 gets to the essentials of interconnection. So I'm not
12 aware whether that has gone to Qwest or not.
13 MS. JENNINGS-FADER: Thank you.
14 (Discussion off the record.)
15 MR. DIXON: May I -- I've tried to go
16 through the SGAT, just to make sure that every section
17 that WorldCom might have issues with have been
18 addressed in the various G issues that we've
19 identified. I just want to point out that Sections
20 5.24, concerning reference documents; 5.30, concerning
21 amendments; and 5.31, address issues that are also
22 discussed in Sections 2.1, 2.2, and 2.3 that deal with
23 issues of amendments. They deal with what constitutes
24 the extent of the agreement -- that's 5.3 1. And 5.24
25 discusses referenced documents.

1 I just bring it up to say that any
2 resolution of Sections 2.1, 2.2 and 2.3 may require
3 corresponding changes to those three sections, even
4 though they have not been specifically language -- the
5 language has not been specifically discussed. So I
6 just want to point that out.
7 We can take it up tomorrow if it becomes
8 an issue just as --
9 MS. QUINTANA: Just as a little aside
10 or --
11 MR. DIXON: My suggestion will be that
12 depending upon how those three sections, 2.1, 2.2 and
13 2.3, are resolved --
14 MS. QUINTANA: Good.
15 MR. DIXON: -- that impacts what those
16 sections say.
17 5.30, for example, addresses how you make
18 an amendment and a 60-day period and dispute
19 resolution.
20 MS. JENNINGS-FADER: Okay.
21 MR. DIXON: Those issues are being
22 discussed in 2.2, 5.24.
23 MS. QUINTANA: Tom, that's fine. My
24 comment -- sorry for being sarcastic -- is, we were in
25 the middle of the Tade affidavit.

MR. DIXON: I thought we were done with it.

MS. JENNINGS-FADER: No.

MR. BELLINGER: No.

MR. DIXON: Sorry. Never mind.

MS. JENNINGS-FADER: That's all right, we're fine.

MR. BROTHERSON: I have comments on the Tade affidavit. Specifically, this is an affidavit of an AT&T employee in Minnesota. And I think we mentioned yesterday that this has come up before in Washington. And in response to this affidavit, we did a search going back to the last year in the states of Washington, Arizona, Colorado, and Minnesota. We have had no complaints --

MR. BELLINGER: Wait a minute, Larry. I'm not sure Letty is listening to you.

(Discussion off the record.)

MS. JENNINGS-FADER: In response to the -- let me see if I've got it, in the response to the affidavit, Qwest went back and did a search one year back -- and I don't remember the states.

MR. BROTHERSON: Washington, Colorado, Arizona, and Minnesota, going back through June of last year.

1 We have had no complaints in these four
2 years of any activity similar to that alleged by AT&T
3 in the affidavit made to -- made to Qwest.
4 Qwest does comply with its obligations.
5 We take them seriously and we protect the
6 confidentiality of the information. And I think that
7 the evidence of Qwest's behavior is reflected in the --
8 in those facts.
9 And, Paul, did you have anything?
10 MR. McDANIEL: Well, I was just going to
11 briefly talk -- I don't know about the situation in
12 Minnesota, but I'll talk about how we dealt with a CLEC
13 who discontinued service in Colorado and why I ended up
14 having to essentially -- me and my team had to manage
15 this because we had retail activity and wholesale
16 activity. And since they can't talk to each other, the
17 two had to be handled by the regulatory group to be
18 sure we got things done.
19 The issue basically was, we're going to
20 transfer back a bunch of residential resold customers
21 back to us. The issue became -- the way we normally do
22 that in a win-back -- and it was handled by our
23 win-back group -- is they have to call all these
24 customers and issue orders on them to take service; so
25 actually the Commission order, in effect, becomes the

1 LOA that we would rely on.

2 MS. FRIESEN: I appreciate that.

3 I'm wondering if this isn't a little off

4 the topic.

5 I will object, one, he's not a sworn

6 witness; and number two, I think it's off topic.

7 MR. McDANIEL: I know it's exactly on the

8 topic.

9 MS. FRIESEN: We're not talking about a

10 Commission ordered switch back of various retail

11 customers because a CLEC has gone out of business. And

12 I'm not sure that that's relevant to this particular

13 issue. So --

14 MR. McDANIEL: I think if you will let me

15 finish, you will see where it's relevant.

16 MS. FRIESEN: And then you should be a

17 sworn witness.

18 MR. BELLINGER: I think we swore him.

19 MS. HUGHES: Mr. McDaniel was sworn

20 yesterday.

21 MR. McDANIEL: In any event, the win-back

22 group has to call all these customers; and, of course,

23 they do that to try to take tear their. The problem

24 comes in on what we call the default customers. The

25 default customers are those that aren't calling any

1 provider.

2 ICG sent out a bunch of notices. We

3 tried to call them, nobody could get hold of them.

4 With those customers, we run into real problems because

5 we don't know what service they really want, regardless

6 of what service they have with ICG. And the win-back

7 group, because we don't have the customer service

8 record on the retail side -- so the issue came up where

9 we were really only willing to put them back on a

10 primary line. We also agreed to do the toll PICs --

11 interLATA and intraLATA PICs if the CLEC would provide

12 us with their PICs; and under the Commission order --

13 we had the order, we loaded the PICs, whatever the CLEC

14 gave us.

15 Now, of course, that's a longer process

16 on the default customers because we actually have to

17 issue orders, new connects for these customers.

18 And one point we were actually asked by

19 the CLEC, Can't you move this faster because you could

20 just go get the CSRs? And we had to tell them, No, we

21 can't, because the CSRs are on the wholesale side. So

22 simultaneous with that, they were very concerned about

23 not being billed any longer of a July 31st -- the CLEC

24 by us.

25 So what we had to do -- we made a

1 commitment to them, we would stop billing on these
2 customers -- I made that commitment. And so what we
3 had to do was our -- my group really had to manage
4 taking the customer names that they could not find and
5 we hadn't received the information from the CLEC to get
6 the orders in on the PICs, to take those customers.
7 And ICG -- or the CLEC -- strike that. The CLEC also
8 had the name of the customers that hadn't been hooked
9 up yet.
10 We told them to go ahead and issue
11 disconnect orders on the wholesale side, their side, as
12 of July 31st. We did take those names we couldn't get
13 on the retail side; we did pass them to the wholesale
14 side to make sure those disconnect orders went through
15 so we could stop the billing on this customer.
16 So I know those CSRs are separate because
17 we had to manage that at least in Colorado, from the
18 regulatory side because of the fact that we could not
19 easily pass -- we couldn't pass CSRs from wholesale to
20 retail. So that's what I know about Colorado.
21 MS. FRIESEN: I have two points I would
22 like to make: First, in regard to Mr. Brotherson's
23 allegation that no customers have complained in the
24 states that he's checked, therefore this must not be a
25 problem, by and large customers don't know that Qwest

1 shouldn't be conducting win-backs before they are
2 switched to a new carrier.
3 And I would suggest to you that we have
4 brought to this Commission's attention in past
5 dockets -- not the least of which was the jamming
6 complaint; you will recall at the inception of
7 intraLATA toll parity, AT&T brought forward a church
8 customer that had four lines that were to be switched
9 and they were receiving win-back calls before those
10 lines were switched.
11 Likewise, in previous dockets -- one in
12 particular I would like to have administrative notice
13 taken of the transcript from this docket, and this
14 docket is 97C-432T. I will supply a copy of that
15 transcript. There, a witness, Mr. Gary Klug, testified
16 that when he received the retail account records from
17 Qwest of his telephone number, that Qwest was able to
18 tell that MCI had particular tests that MCI had run --
19 that MCI had touched that account -- touched Mr. Klug's
20 account; he knew the date and when. He did not -- MCI
21 did not switch Mr. Klug's account to MCI; rather, it
22 simply looked at that -- at that record. And Qwest, I
23 believe, was able to tell that its retail marketing
24 folks were able to tell that from the records that they
25 were able to pull up on their computers.

1 So I would like to take administrative
2 notice of that testimony and that transcript and I will
3 bring that forward as an exhibit.
4 So I think whether or not -- back to
5 Mr. Brotherson's point, whether or not there are
6 customer complaints about win-back is irrelevant. Most
7 customers are not sophisticated enough to know that
8 they shouldn't be solicited before they are switched.
9 MS. QUINTANA: I think -- can I -- sorry,
10 Mana.
11 MS. JENNINGS-FADER: No, no.
12 MS. QUINTANA: Just to your first
13 example, Letty, with the jamming complaint, that was a
14 toll situation; and I'm not sure that the same rules
15 apply to toll customers as to local service customers
16 under the FCC requirements.
17 MS. FRIESEN: Our -- it was intraLATA
18 toll.
19 MS. QUINTANA: Correct.
20 MS. FRIESEN: And our switch orders go
21 through the same ASR process as the LSR.
22 MS. QUINTANA: But I don't know that the
23 same win-back restrictions --
24 MS. FRIESEN: They are. Section 222 of
25 the Federal Act applies in all cases.

I guess that's it. We need to move to CiCMP.

MS. JENNINGS-FADER: Actually, I have some questions for Mr. Brotherson.

MS. DOBERNECK: I'll go after you. I think -- I suspect you may be asking a couple of the questions I was concerned about.

MS. JENNINGS-FADER: Mr. Brotherson, first of all -- first -- I think you said two different time periods. Did you go back -- did someone at Qwest go back one year in four different states or go back four years? Because I think you said four years at one point.

MR. BROTHERSON: If I said that, I misspoke. It was four states. It was from, I think, July 2000 to June 2001 -- it was July 2000 to June 2001.

MS. JENNINGS-FADER: When you said there were no complaints, what do you mean by there were no complaints; no retail customer complaints; no wholesale customer complaints; or no record of any contact?

MR. BROTHERSON: There was no record of any complaints either to the Commission -- including Minnesota, where this occurred, or to -- allegedly occurred, or to the Qwest executive complaint lines, as

1 well. And those were the files that were checked.

2 MR. BELLINGER: Could I ask you, quickly,

3 were there any complaints to account managers?

4 MR. BROTHERSON: No -- I don't know the

5 answer to that question.

6 We did not contact the account managers.

7 We went through the people that handle Qwest

8 complaints, which would have records of what went to

9 the Commission and also what went to executives to

10 track for complaints -- customer complaints.

11 MS. JENNINGS-FADER: So complaint --

12 okay, we got that.

13 Now, when Qwest first got, in whatever

14 form it may have received it, the Tade affidavit, did

15 Qwest go back and do an investigation to determine --

16 first of all, do you have any reason to believe that

17 what Mr. Tade says in the affidavit isn't true?

18 MR. BROTHERSON: I have no knowledge one

19 way or the other about Mr. Tade's affidavit.

20 MS. JENNINGS-FADER: So did Qwest do or

21 not do an investigation into the statements contained

22 in Mr. Tade's affidavit the first time that Qwest saw

23 the affidavit in a 271 -- I presume a 271 forum or

24 wherever it may first have seen it?

25 MR. BROTHERSON: I did not. My -- my

1 response was to contact the person that handles
2 complaints within Qwest to determine if we had received
3 complaints on this activity. I did not take on
4 Mr. Tade or his recollection of anything that occurred
5 with this.
6 MS. JENNINGS-FADER: I'm curious as to
7 why Qwest chose not to go beyond calling or checking
8 with the executive complaint lines and checking with
9 whether or not there had been formal complaints filed
10 with commissions. Why -- why did Qwest stop there in
11 sort of doing a back-check about what had happened?
12 MR. BROTHERSON: I think because we had
13 one affidavit from one AT&T employee. And the issue,
14 as it was couched in the hearings, was that this was
15 somehow evidence of an activity or a pattern of
16 behavior, if you will. And I think it is -- my feeling
17 was that to rebut the pattern of behavior response
18 through an investigation as to whether or not we had
19 complaints like Mr. Tade's.
20 MS. JENNINGS-FADER: Why, if you were
21 looking to -- first of all, let me say that my
22 understanding of the executive complaint lines is that
23 those are available for you, in general -- available
24 for use by Commission personnel to contact -- to
25 escalate, if you will, complaints which are received by

1 Commission personnel; is my understanding correct?

2 MR. BROTHERSON: I think that would be

3 one use of that line, yes, informal handling of

4 matters.

5 MS. JENNINGS-FADER: Right. So if one

6 were a wholesale customer of Qwest, would one -- would

7 you expect that wholesale customer to use the executive

8 complaint line?

9 MR. BROTHERSON: No, I wouldn't expect

10 AT&T to use that. I think AT&T would go directly to a

11 Commission. They wouldn't come to us.

12 MS. JENNINGS-FADER: Would they go to

13 their account manager?

14 MR. BROTHERSON: Perhaps, yes.

15 MS. JENNINGS-FADER: And you didn't check

16 with the account managers?

17 MR. BROTHERSON: I -- no, I don't know if

18 AT&T went to their account manager or not.

19 MS. JENNINGS-FADER: I didn't ask you

20 whether AT&T did --

21 MR. BROTHERSON: No.

22 MS. JENNINGS-FADER: -- I asked whether

23 Qwest did, as part of looking at this question, go to

24 the account managers?

25 MR. BROTHERSON: No.

1 MS. JENNINGS-FADER: Thanks, that's all.

2

3 Megan?

4 MR. BELLINGER: Megan, go ahead.

5 MS. DOBERNECK: You covered my questions.

6 And I would just simply add to the record

7 that Covad's first point of contact when it does

8 receive a complaint or a concern from its end-user

9 customers about contact with Qwest is always the

10 account manager. And I would suspect that that is the

11 case for all of the CLECs here, that that is our point

12 of contact; that is the person we look to to get things

13 done when there are problems.

14 MR. BELLINGER: Okay.

15 Has anyone looked at -- if this was a

16 contact by the win-back group, has anybody looked at

17 their source of information in terms of where they get

18 sources to call?

19 MR. BROTHERSON: First of all, the

20 win-back group does not have access -- I'm not familiar

21 with -- I guess I would say I'm not that familiar with

22 the win-back process to get into any kind of detail.

23 MR. BELLINGER: You may want to look at

24 what is their source of information, so when they call

25 the to win-back customers --

1 MR. BROTHERSON: I know it's not the LSRs
2 because we know that that is -- that they don't have
3 access to that. But if you are asking me, How do they
4 put together their list; I can't respond.
5 MR. BELLINGER: Okay, I think you might
6 want to look.
7 Any more on this issue at this point?
8 MS. JENNINGS-FADER: I have a question --
9 one last question for AT&T.
10 MR. BELLINGER: Sure.
11 MS. JENNINGS-FADER: Letty, I believe it
12 was you who said that AT&T is asking the Commission to
13 investigate Qwest's actions with -- in terms of the
14 general treatment and use of confidential material.
15 What is it precisely -- what is it you want the
16 Commission to do?
17 MS. FRIESEN: I think that Qwest, if it
18 is abusing the confidential information that it
19 receives from the CLECs, is creating an enormous
20 barrier -- aside from being anticompetitive, is
21 creating an enormous barrier to competition, one that
22 needs to be removed.
23 MS. JENNINGS-FADER: Well --
24 MS. FRIESEN: So I'm asking the
25 Commission to ensure, as part of the 271 process, that

1 it removes that barrier. And it can remove it by -- am
2 I going the wrong direction?
3 MS. JENNINGS-FADER: No, I understand
4 what you -- what AT&T wants in terms of what they hope
5 the Commission would do, okay? I don't understand how
6 we get there. I mean, are we supposed to hold -- do
7 you want the Commission to hold a hearing? Do you want
8 the Commission to issue audit? Do you want -- what is
9 it -- when you say, investigate, I'm completely unclear
10 about the process that you are suggesting.
11 MS. FRIESEN: The process that we seek is
12 for the Commission to issue audit and find out exactly
13 what Qwest claims it's doing; because at this juncture,
14 we have no way of getting inside.
15 And obviously one of the best ways to do
16 this is to adopt the SGAT language that we're proposing
17 with respect to audit. If that's -- if that's
18 proactively adopted, then we can go in and look at what
19 they are doing with our stuff. If the Commission
20 doesn't want to give us that authority, then we're
21 asking to you take that authority and to check and to
22 check now.
23 MS. JENNINGS-FADER: Okay, thanks.
24 MR. BELLINGER: Okay.
25 MS. JENNINGS-FADER: And I'm going to

1 take one wild guess and think that perhaps Qwest
2 opposes that kind of an idea, think that is
3 unnecessary. Would that be pretty much it?
4 MR. BROTHERSON: Yes -- based on one
5 affidavit in Minnesota, yes.
6 MS. JENNINGS-FADER: Okay, thanks.
7 MR. McDANIEL: Or at least we would like
8 an unbiased look.
9 MR. BELLINGER: Let's take a very quick
10 five-minute break.
11 Well, hear from Andy and go from there
12 with the CiCMP process.
13 MARK STEVEN ROUTH,
14 having been called as a witness, being
15 first duly sworn, testified as follows:
16 MR. BELLINGER: Obviously we won't be
17 able to do as much with CiCMP tonight as we had planned
18 to do; so we'll continue CiCMP in the morning, but what
19 we wanted to do is, understanding Andy was here and
20 directly involved in the CiCMP process, give him an
21 opportunity to speak to the group and go on the record.
22 MR. CRAIN: Sure.
23 And Mark Routh, who is with me, is
24 actually one of the people who is in the negotiations
25 of our enhancements to the CiCMP process.

1 I think, as we stated last time, we have
2 had a Change Management Process in place for quite some
3 time now. When we got the testimony from the parties
4 in these workshops, we went through and tried to
5 decide, okay, where can we meet the CLEC's needs and
6 requests here? And we ended up saying, well, we could
7 do this, we could do this -- we could do virtually
8 everything they are talking about. But when we talked
9 about it further, we realized we couldn't make those
10 decisions and make those commitments here in the
11 workshops, that actually has to be done through the
12 Change Management Process itself.
13 So that those discussions had begun to
14 take place every two weeks. From all accounts, they
15 are going very well. I do think that we are addressing
16 the issues that are raised by the CLECs in their
17 testimony. When I go through the Change Management
18 issues list here, we are addressing all of the issues
19 on the issues list, save two. The two issues that are
20 not being addressed are, should the Change Management
21 Documents, themselves, be attached to the SGAT, which
22 are unique Colorado issues, CM-14 and CM-15, which I
23 don't think require significant discussion.
24 Our suggestion would be that when we go
25 through this list, we think that the issues that were

1 raised by the CLECs will be addressed in the September
2 discussions. And there's actually discussion the first
3 week of October, October 2 and 3. We would suggest
4 that following that -- those CiCMP discussions, that
5 week we will file something with the Commission
6 indicating what has been resolved, how these issues
7 have been addressed, and allow the parties to comment
8 on our filing at that time.
9 I think that the issues here -- the
10 issues that have been raised are being addressed
11 through two processes: One is through those
12 discussions in the Change Management Process; the
13 second place they are being addressed is through the
14 OSS testing.
15 In the ROC OSS test, there is an actual
16 totally separate test dedicated to the evaluation of
17 the Change Management Process. The Change Management
18 Process is being completely evaluated in that -- in the
19 OSS test, including the sufficiency of the process and
20 our performance in Change Management.
21 KPMG has actually been attending all of
22 the discussions for the negotiations, has been
23 attending all of the discussions on how to enhance the
24 Change Management Process.
25 So the Change Management Process will be

1 thoroughly evaluated through these two processes, one
2 which is us filing the results of our discussions and
3 having people allowed to file comments regarding that;
4 and in addition, will be completely evaluated in the
5 OSS test.
6 Yes?
7 MS. JENNINGS-FADER: Andy, with respect
8 to this October filing that you were talking about --
9 perhaps I misunderstood, but I thought that the Change
10 Management Process -- the process for changing, itself,
11 won't be completed until the latter part of the year
12 maybe in December. So I was confused -- first, is that
13 incorrect; and, secondly, if it's true, then what's the
14 October filing?
15 MR. CRAIN: The significant issues that
16 have been raised in testimony and raised in these
17 workshops will be addressed in time to make a filing --
18 will be resolved, I believe, in time to make a filing
19 the first week of October.
20 There will be additional discussions
21 regarding details of things that will go on past that
22 time frame -- and to be honest, the way that Change
23 Management Process has worked, it's always going to be
24 a moving target; there are always going to be
25 suggestions on how to change it. There are set

1 processes on how CLECs can submit proposals at any time
2 to change the Change Management Process. So it's
3 always going to be a moving target. Things are always
4 going to be changed; but the significant issues that
5 are going to be raised will be addressed in September.
6 MS. QUINTANA: Are those not just
7 surrounding the OSS piece of the CiCMP, though?
8 MR. CRAIN: The principle issues that
9 have been raised and will be addressed, I believe, will
10 be handled; things like, What kind escalation and
11 dispute resolution process is there will be -- will be
12 discussed and resolved for all of Change Management,
13 both the -- both the OSS piece and the product in
14 processes.
15 MS. BEWICK: Andy?
16 MR. CRAIN: Yes, Penny?
17 MS. BEWICK: A quick question: Is part
18 of the discussion going to revolve around -- the issue
19 of what generally is happening in CiCMP revolves
20 around, a lot of time, technical specific type issues
21 that are being changed and how that relates to the
22 regulatory, legal type processes; sort of that gap of
23 CiCMP is designed, as I understand it, predominantly to
24 be addressing operational issues, but sometimes the end
25 result of what can come out of that process can make a

1 change that impacts an ICA or something like that. And
2 we may not have the people who can address that
3 particular decision on those -- in the CiCMP meetings
4 because you are dealing with operational people. So is
5 that sort of concept, that gap, being addressed
6 anywhere in this redesign look?
7 MR. CRAIN: I would say it's addressed in
8 two ways: First of all, it has been addressed in these
9 workshops by inserting language into the SGAT that
10 indicated that the contract language controls over
11 anything that could come out of the Change Management
12 Process -- a contract is a contract, and I believe
13 that's the same for any other ICA, as well.
14 Contractual issues, themselves, would not
15 be addressed in the Change Management Process; but
16 there will be some kind of dispute resolution process
17 that will be discussed and I believe implemented to
18 address particular issues of dispute between the
19 parties. Now, whether or not something that comes out
20 of Change Management is something -- if something out
21 of Change Management is in contradiction to what's in
22 the SGAT, then the SGAT controls. If it's in your --
23 your agreement, then I believe your agreement would
24 control, unless there is a different agreement between
25 the parties themselves.

1 MS. BEWICK: Okay.

2 MR. BELLINGER: Tom?

3 MR. DIXON: First, I apologize for being

4 a minute late; unfortunately I had a couple people

5 bugging me on the phone.

6 My understanding is that the proposal

7 here is to defer any discussion of CiCMP until this

8 October report is issued.

9 MR. CRAIN: Yes, and then allow a comment

10 period after that.

11 MR. DIXON: Okay.

12 MR. BELLINGER: We can discuss it

13 tomorrow some, but that's not what you meant right?

14 MR. DIXON: Right, but -- I've reviewed

15 some CiCMP material off the internet, as well as things

16 that have been issued by you. And all of the CiCMP

17 activity I've seen seems to focus on OSS interfaces

18 which we've alluded to. And you indicated it's

19 obviously going to have other roles under Section 1.7,

20 I believe, of the SGAT; CiCMP is a vehicle that's used

21 to amend the SGAT.

22 Is Qwest going to develop some sort of

23 process to address how amendments to the SGAT are done

24 through CiCMP? And I'll read you the section, just so

25 you know. 1.7 reads: Once this SGAT is approved or

1 permitted to go into effect, any amendment to the SGAT
2 by Qwest will be accomplished through Section 252 of
3 the Act. When Qwest files an amendment to the SGAT
4 with the Commission Qwest shall provide notice of such
5 filing through CiCMP.
6 So this implies that CiCMP has a role in
7 amending the SGAT in Section 1.7.
8 MR. CRAIN: It -- I don't believe that is
9 the proper reading of that -- well, it says that we
10 will provide notice through the CiCMP process. The
11 question was, How would we know if you are going to be
12 filing something with the Commission so we can go to
13 the Commission and say, We think this is appropriate or
14 not.
15 We've committed that since this
16 proceeding may not necessarily be going forward at that
17 point, we will make sure that all of those will be
18 notified -- noticed through the Change Management
19 Process.
20 MR. DIXON: So if I understand your
21 position, the CiCMP process will be used only to
22 provide notice of an amendment to the SGAT that Qwest
23 files at the Commission and that CiCMP will have no
24 role in amending the SGAT.
25 MR. CRAIN: And I believe if you read the

1 next sentence in what -- in the language you are
2 talking about, it says "Amendment to the SGAT filed by
3 Qwest shall have no effect on the SGAT either to
4 withdraw or replace effective provisions or to add
5 provisions until such amendment is approved by the
6 Commission or goes into effect by operation of law."
7 MR. DIXON: Right -- and I'm not
8 disputing what the language says. The goal -- my
9 question was raise to do -- we're giving notice to
10 CiCMP that seems to imply CiCMP -- that this amendment
11 would be given to the CiCMP participants, all right,
12 and that somehow it was going to be addressed in CiCMP.
13 MR. CRAIN: And I pointed out the next
14 sentence because I believe to the two need to be read
15 together. The first is, how do we get notice -- how do
16 we get notice of any amendment? The second is, how
17 does any amendment go into effect?
18 MR. DIXON: Right. So my --
19 MR. CRAIN: And the question was, if --
20 if it -- if Qwest is committing that an amendment won't
21 take -- won't be effective until -- through Section
22 252, it's either approved by the Commission or goes
23 into effect in the 60-day period that's set forth
24 there; how do we know about that happening and how do
25 we go in and have proper notice to go into the

1 Commission and say, This is appropriate or this is not
2 appropriate?
3 MR. DIXON: Right.
4 MR. CRAIN: Therefore, we send out the
5 notice to the participants in Change Management,
6 because that's generally the CLEC community; so that we
7 make sure that when that happens, the CLEC community
8 gets notice of those kind of changes.
9 MR. DIXON: And so the answer to my
10 question is apparently no, if you remember my question.
11 MR. CRAIN: Much more eloquently stated,
12 yes, it's no.
13 MR. DIXON: The second issue I have with
14 respect to CiCMP is you may recall you actually helped
15 draft the stipulation that talked about tech pubs,
16 methods and procedures, underlying documentation, et
17 cetera, would also go through the CiCMP process in some
18 fashion. I don't have the stipulation in front of me,
19 but I can pull it up. Can you just elaborate on what
20 role CiCMP has there and how that will be defined or
21 identified since the stipulation is not, per se,
22 language included in the SGAT?
23 And I assume you know what stipulation
24 I'm talking about, that was the 45-day --
25 MR. CRAIN: It was the 45-day --

1 MR. DIXON: Right, that's the one.
2 And I can pull it up if it will help get
3 the language.
4 MR. CRAIN: We committed to providing --
5 to providing documentation that indicated commitments
6 made in these workshops and we have been sending out a
7 slew of those notices -- I'm sure you have seen quite a
8 few of them lately. Those are sent out to the Change
9 Management forum. They are also being filed or being
10 sent to the service list in the workshops.
11 I need to get back to you in terms of
12 what exactly the effect of it is in Change Management
13 and what the process is right now. I --
14 (Pause.)
15 MR. CRAIN: Actually, I have a witness
16 here who can address that.
17 MS. JENNINGS-FADER: Oh, my God.
18 MR. DIXON: If it will help both you and
19 the witness, let me quote from that stipulation -- not
20 all of it, just the part that's relevant to CiCMP, and
21 maybe that will at least help: Qwest will then submit
22 the updated technical publications, product catalog,
23 and product documentation to the Change Management
24 Process (CiCMP). When Qwest submits the documents to
25 CiCMP, Qwest will file a notice in this proceeding

1 indicating that the documents have been updated and how
2 to obtain copies.
3 So that appeared to be the role of CiCMP
4 in this stipulation. I'll be happy to read it all, but
5 I think those are the operative sentences.
6 MR. CRAIN: Right.
7 MR. DIXON: I'm sorry, I didn't --
8 Mr. Routh, thank you.
9 Can you explain what role CiCMP plays in
10 updating these technical publications that were
11 addressed in this stipulation Qwest made?
12 MR. ROUTH: For the product aspect of
13 CiCMP, when the publications are updated, they are
14 reviewed in the CiCMP meeting with the CLECs as well as
15 distributed to all the CLECs -- most of which don't
16 attend the meeting -- so that they are aware of the
17 changes going into effect. I believe that there is a
18 40 -- a minimum of 45-day notification period to the
19 CLEC body for that change, during which time they can
20 make comment about the change or request delays to the
21 change.
22 MR. DIXON: Now, is that --
23 MR. BELLINGER: Before we get too far
24 into this, we are going to pick up with CiCMP tomorrow
25 and we can have this kind of discussion.

1 MR. DIXON: I just didn't know who was
2 available.
3 MR. BELLINGER: Andy is the only one --
4 everybody else, I assume, will be available tomorrow;
5 is that right -- that's what we had said.
6 MR. DIXON: I do have one last question.
7 MR. BELLINGER: You are looking at me
8 puzzled. We're not going to finish CiCMP tonight.
9 MS. HUGHES: No, we understand that and
10 Mark is available tomorrow.
11 Judy Schultz is available by phone
12 tonight. She went home sick today. Presumably she
13 will be available at least by phone tomorrow.
14 MR. BELLINGER: What we wanted to do is
15 give Andy a chance to speak to the group, say anything
16 he wanted to about CiCMP, and see if you had specific
17 questions for Andy.
18 MS. HUGHES: But Andy will not be
19 available tomorrow.
20 MR. BELLINGER: He won't be here.
21 MS. HUGHES: Which is why we were hoping
22 anyone who had questions or issues that Andy could
23 answer --
24 MR. BELLINGER: That's why I jumped into
25 the middle.

1 MR. DIXON: That's fine. I was actually
2 directing my questions it Andy. He, in turn, did a
3 hand-off to Mark.
4 Let me just ask one other question of
5 Andy, at least that I see -- if he throws it off,
6 that's great, but I don't want to lose Andy.
7 I'm looking at the Rules of Order for the
8 Redesign Working Sessions. And under that, I'm looking
9 at something called Meeting Ground Rules and something
10 also called Guiding Principles. I don't know if you
11 wrote those, Andy, or who, or if you are familiar with
12 them. Are you generally familiar with what I am
13 talking about?
14 MR. CRAIN: I am generally familiar. I
15 don't know who wrote them.
16 MR. DIXON: And I don't need to know who
17 wrote them.
18 It indicates that the participants
19 discuss the following proposed guidelines; and one of
20 them is that the operational level working sessions are
21 not regulatory or legal. And the question I have, does
22 this preclude regulatory and legal people -- let's read
23 that lawyers or attorneys -- from showing up at CiCMP,
24 and participating in this process?
25 MS. BEWICK: Or even regulatory

1 representatives for a company?

2 MR. CRAIN: Are you talking about the

3 redesign meetings or the Change Management meetings,

4 themselves?

5 MR. DIXON: This happened to work -- I'm

6 reading from your document. And it appears to --

7 that's why I read the caption, Rules of Order for the

8 Redesign Working Sessions.

9 MR. CRAIN: But you -- your question was,

10 Does this preclude people from showing up to CiCMP?

11 MR. DIXON: Sorry, okay.

12 MR. CRAIN: The answer to that is, I

13 believe, no, because that's relating to the redesign

14 meetings.

15 MR. DIXON: Let me restate my question.

16 Does this preclude regulatory personnel within a

17 company and/or, for that matter, Commission regulatory

18 personnel or lawyers from within a company appearing at

19 the redesign working sessions?

20 MR. CRAIN: And I'll have Mark respond.

21 MR. ROUTH: The answer to your question,

22 in an eloquent manner, is no.

23 MR. DIXON: Okay, good.

24 MR. ROUTH: I can elaborate on that if

25 you want me to.

1 MR. DIXON: I'll be happy to have you do
2 it tomorrow, if you want to get Andy out of here.
3 MS. QUINTANA: Well, they didn't kick me
4 out.
5 MR. BELLINGER: You can explore that
6 since, Mark seems to be aware.
7 MS. BEWICK: Can I ask a question that
8 relates to that?
9 MR. BELLINGER: Sure.
10 MS. BEWICK: What about regulatory
11 company representatives in the regular CiCMP --
12 whatever you all them, system --
13 MR. ROUTH: Meetings?
14 MS. BEWICK: -- meetings?
15 MR. ROUTH: The CiCMP meeting, both the
16 regular monthly CiCMP meeting and the CiCMP process
17 augmentation redefine -- whatever you want to call
18 it -- meeting are open to anybody. The guideline that
19 was defined for the redesign meetings was just to
20 emphasize the fact that what we were trying to
21 accomplish was an operational goal, not a legal goal or
22 regulatory goal. And to that end, we -- we don't want
23 that to become a legal battlefield or regulatory
24 battlefield. We do have regulatory participants; and,
25 in fact, one of the CLECs does Brian attorney -- not in

1 a legal capacity, but nevertheless an attorney.

2 MS. BEWICK: Uh-huh.

3 MR. ROUTH: In fact, two of the CLECs are

4 represented by attorneys.

5 And our only stipulation there is we want

6 this to maintain an operational attitude.

7 MS. BEWICK: Okay, understood.

8 MR. ROUTH: That's why we made that

9 statement.

10 MR. DIXON: I recognize the names Karen

11 Clauson and Vince D'Jarlais as both being attorneys.

12 MR. ROUTH: That's correct.

13 MR. DIXON: But they appear to be members

14 of the something called the core team members.

15 MR. ROUTH: That's correct.

16 MR. DIXON: And as I understand this

17 process, there are up to three representatives per

18 CLEC?

19 MR. ROUTH: That's correct.

20 MR. DIXON: So and -- and is that three

21 representatives per CLEC for the core team or beyond

22 that?

23 MR. ROUTH: For the core team.

24 MR. DIXON: Go ahead, I'm still looking.

25 MS. HUGHES: I think Megan is waiting.

1 MS. DOBERNECK: Going back to the October
2 filing -- just so I know what you anticipate that
3 filing being about, based on what you said, it would be
4 whatever documentation is responsive to the issues
5 raised in the prefiled testimony in this proceeding or
6 whatever might -- whatever might be responsive to those
7 issues?
8 MR. CRAIN: I actually would anticipate
9 that it would be a filing explaining exactly what has
10 been done and including all of the documentation of the
11 Change Management Process at that point.
12 MS. DOBERNECK: Okay. So --
13 MR. CRAIN: We wouldn't necessarily limit
14 it to, we're only going to give you this little piece.
15 MS. DOBERNECK: I guess what I just want
16 to be clear, to the extent that the redesign process
17 has not been completed as far as what will this
18 operational forum look like, that may or may not be
19 included in the October filing?
20 MR. CRAIN: It would -- I believe that
21 the -- I believe that the significant issues that were
22 addressed in filings would be included at that point
23 and would be documented by that process by that point.
24 MS. DOBERNECK: Okay.
25 MR. DIXON: I did have one last question.

1 MS. DOBERNECK: To wherever you are at
2 that point?
3 MR. CRAIN: Yeah.
4 MS. DOBERNECK: So if there is additional
5 work to be done --
6 MR. CRAIN: Yeah.
7 MS. DOBERNECK: -- there would be a
8 supplemental filing to finish out the process?
9 MR. CRAIN: I think we could probably
10 discuss that at that point. I don't know if we -- this
11 process probably is never ending, so I'm not sure how
12 we can handle that point.
13 MS. DOBERNECK: I'm thinking of the
14 wrap-up of sort of the official redesign process as
15 where we have the special -- the special extra
16 meetings --
17 MR. CRAIN: Special extra -- oh.
18 MS. DOBERNECK: I mean, there are
19 separate --
20 MR. CRAIN: I understand what you mean.
21 I understand.
22 My anticipation, right now, is only the
23 October filing; but we can continue to file the change
24 documents on a periodic basis if that would help as
25 well.

1 MS. QUINTANA: I'm just not sure how
2 realistic that early October filing date is. I mean, I
3 wasn't in the redesign meeting last week because I was
4 in a hearing; but it was my understanding that we
5 weren't even going to get to product or process until
6 the October time frame, and therefore it has not even
7 been discussed yet, but from an OSS perspective. And
8 while I understand what you are saying, that the
9 escalation process and things of that nature might be
10 similar, that incorporation of how tech pubs are dealt
11 with and notification of those and all of those issues
12 will not even be discussed, as far as I understand,
13 until October, November.
14 MR. CRAIN: I guess my proposal would be,
15 let's make our filing in October and then decide at
16 that point if there needs to be something further after
17 that.
18 And if you want to us to commit that we
19 will regularly file the change documents as they are
20 agreed to, we're fine with doing that as well.
21 MS. FRIESEN: I had some follow-up
22 questions.
23 Andy, I'm not understanding the purpose
24 of the October filing. Is the point just to give the
25 Commission a status report as to the redesign and it's

1 progress or is it your view that that is the end all,
2 be all, because it allegedly addresses the issues on
3 the issues list and therefore nothing more will be
4 needed?
5 MR. CRAIN: It's my anticipation that
6 that filing, and then possibly periodic filings of the
7 updates of those meetings, along with the results of
8 the OSS testing, is what the Commission needs.
9 MS. FRIESEN: Is what the Commission
10 needs? For what?
11 MR. CRAIN: To make a recommendation to
12 the FCC regarding whether we should be allowed to
13 provide long distance in Colorado.
14 MS. FRIESEN: So your goal is to do these
15 periodic filings with the expectation that the CLECs
16 are supposed to comment on them or forever hold their
17 peace; and then at the conclusion of your final filing
18 and maybe the ROC testing -- and I'm assuming when you
19 say ROC testing, you are expecting KPMG to have tested
20 a completed and implemented redesign CiCMP process; is
21 that piece -- is my understanding correct?
22 MR. CRAIN: The CiCMP process is
23 implemented already. It is being enhanced as time goes
24 on through these meetings and these processes. We've
25 actually already implemented some of the new proposals

1 in the -- in the Change Management Process. For
2 example, we have just -- we have just begun the process
3 of having CLECs rank and vote upon -- prioritize --
4 that's the word I was looking for -- our change -- or
5 change requests, as well as their change requests for
6 their -- for the IMA and EDI systems. So it is being
7 implemented as time goes on and it is a
8 forever-changing process.
9 But KPMG will have evaluated that
10 processes at the time this testing is completed. And
11 part of the completion of the testing is that we need
12 to resolve any observations or exceptions that arise
13 from the analysis of the Change Management Process.
14 MS. FRIESEN: So it's your position that
15 KPMG is currently evaluating at least this new process
16 you described for prioritizing OSS CSRs; is that
17 correct?
18 MR. CRAIN: And they are attending all of
19 these meetings.
20 MS. FRIESEN: So KPMG, by attending these
21 meetings, in these redesign meetings is thereby
22 evaluating, you think, the redesign?
23 MR. CRAIN: I believe I said --
24 (Discussion off the record.)
25 MS. FRIESEN: Is this a simultaneous

1 evaluation?

2 MR. CRAIN: I don't believe at any time I

3 said that is all they are doing. They are continuing

4 to evaluate our Change Management Process through

5 that -- that section of the test.

6 MS. FRIESEN: Okay, I don't understand

7 your response. So let me back up and take my questions

8 apart.

9 Let's go back to the prioritization --

10 MR. CRAIN: Okay.

11 MS. FRIESEN: -- of the CiCMP process.

12 Has KPMG evaluated the effectiveness of that test today

13 and where can I find the result?

14 MR. CRAIN: Are you asking where the

15 report is or are you asking if they are doing the

16 evaluation as time goes on?

17 MS. FRIESEN: Are they doing the

18 evaluation right now?

19 MR. CRAIN: Yes.

20 MS. FRIESEN: KPMG is?

21 MR. CRAIN: Yes.

22 MS. FRIESEN: Have they issued a report?

23 MR. CRAIN: No.

24 MS. FRIESEN: How are they evaluating

25 this new process that you have just implemented? What

1 are they looking at to evaluate --

2 MR. CRAIN: Can you --

3 MR. ROUTH: They have been evaluating the

4 Change Management enhancement process, which includes

5 the ability for the CLECs to prioritize all of the

6 change requests -- both those that they submit and

7 those that were generated internally by Qwest.

8 MS. FRIESEN: Where are they

9 evaluating -- you told me they are. How they are

10 conducting the evaluation of the newly implemented

11 process? I know they have evaluated the old CiCMP.

12 I'm asking you how and when did they begin to evaluate

13 the new prioritization that you have just implemented?

14 MR. ROUTH: They are evaluating that new

15 process as it is implemented.

16 Since we just initiated it last

17 Wednesday, the new change request prioritization

18 process with the CLECs, that process is still in

19 progress and will be concluded at the end of this day.

20 They are evaluating the effectiveness of that processes

21 by looking at the end result that is then passed back

22 to the CLECs.

23 MS. FRIESEN: In an effort to --

24 MR. CRAIN: If I could address that

25 issue, too?

1 You said, I know they evaluated the old
2 one; how are they evaluating the new one? They didn't
3 go through an evaluation and then stop and then they
4 are going to go sit around for a while, later, and then
5 redo their -- they are continuing to evaluate our
6 Change Management Process and will continue to evaluate
7 our Change Management Process all the way along through
8 this testing. It's a continuing process, it is not
9 something that stops, starts, stops, starts.
10 MS. FRIESEN: Counsel, how can they
11 evaluate a yet-to-be-implemented process?
12 MR. CRAIN: They are evaluating the
13 process as it is being implemented over time. And
14 we're not talking about something that is going to
15 be -- they are evaluating how we perform under Change
16 Management. They are evaluating the process as it
17 develops and will continue to do that as it develops.
18 MS. QUINTANA: And if I can add to this a
19 little bit and help Qwest out, I think it's my
20 understanding also, from talking with KPMG, that it's
21 actively listening; and on the redesign meetings, they
22 are also evaluating the fairness and collaborativeness
23 of the redesign process, itself. So not only the
24 results of the process, but the process of the
25 redesign, itself, to make sure the CLECs have proper

1 input and it's facilitated correctly.

2 MS. FRIESEN: That was going to be my

3 follow-up question, because I have some concerns about

4 the role of KPMG in these meetings. It does seem to me

5 they are doing more than merely evaluating as a silent

6 observer, but that they are also participating, making

7 recommendations. And so I guess I would like to get

8 what Qwest's view is of KPMG's role -- and this is

9 directed to Andy. So I would like to know what your --

10 I'll talk to you tomorrow, Mark.

11 MR. CRAIN: I'm not sure I can answer.

12 MS. FRIESEN: Well, I'm asking you as the

13 lawyer who will be representing the CiCMP process, and

14 I would like to know what your perception is of their

15 role during these CiCMP redesign meetings.

16 MR. CRAIN: KPMG is participating as --

17 as a neutral third-party, evaluating the process. The

18 issue that has been -- that has been raised by AT&T has

19 been that on a couple of occasions the KPMG

20 representative, because of his or her experience, has

21 made some suggestions about, Hey, gee, do you guys want

22 to consider this or that; which I think is entirely

23 appropriate.

24 If you go through this testing process

25 and watch this testing process and how it works, that's

1 essentially what they are doing with us on everything;
2 which is, you know, you do this, you do that; they send
3 out observations and exceptions, you have done this,
4 you ought to change this or that. Just -- I think
5 it's -- their role in the meetings is as -- is as a
6 neutral third-party. The fact that they want to --
7 that they feel it appropriate every once in a while to
8 make some suggestions, I think is entirely appropriate.
9 MS. FRIESEN: So the neutral third-party,
10 it's appropriate -- if I'm understanding what you are
11 saying, for them to not only judge the process but
12 create the process or at least assist in the creation
13 of the process; right?
14 MR. CRAIN: They can make suggestions to
15 the parties. The parties are doing it on a
16 collaborative basis. The parties have all -- have the
17 right to say yes or no to those suggestions. The
18 parties are developing the process.
19 KPMG has made a couple of comments and
20 suggestions about things that the parties ought to
21 consider. So it is not KPMG developing the process; it
22 is the parties developing the process with occasional
23 input and suggestions from KPMG representatives.
24 MS. FRIESEN: So then it is all right for
25 a third-party independent -- independent third-party

1 evaluator to participate in the development of the
2 process, correct?
3 MR. CRAIN: It is okay for the
4 third-party evaluator to make some suggestions, as it
5 observes the meeting, to give his expertise to the
6 parties as they are developing the process.
7 MS. FRIESEN: Thank you. I think you
8 have answered my question.
9 MR. BELLINGER: Okay.
10 MS. DOBERNECK: I just -- Andy, is the
11 criteria or -- sort of the objective of KPMG in
12 evaluating the CiCMP process contained in the Master
13 Test Plan or is there -- you know, like when we looked
14 at the raw loop data tool, there is certificate of
15 criteria objective; is that somewhere?
16 MR. CRAIN: In the Master Test Plan,
17 there is an entire Master Test Plan; and I believe it's
18 test -- I don't know, I was thinking 24, but that
19 sounds too high. It is in the -- between, I think, 18
20 and 24 or something. It's an entire test in the Master
21 Test Plan and then the test requirements document.
22 MS. DOBERNECK: And --
23 MR. CRAIN: They are both on the ROC
24 website.
25 MS. DOBERNECK: And then just a quick

1 follow-up of the -- to the extent you know, Becky was
2 talking about looking at this enhancement, the degree
3 of collaborativeness; is that currently contained in
4 the Master Test Plan or is it up -- is it already
5 encompassed by the Master Test Plan or sort of the
6 guiding documents; or are those being updated to sort
7 of capture whatever the objective or the criteria by
8 which KPMG is looking at the enhancement -- and using
9 Becky's example of sort of the degree of
10 collaborativeness?
11 MR. CRAIN: The objectives of the test
12 have not changed. So they are all contained in the
13 Master Test Plan and test requirements document.
14 MS. DOBERNECK: Okay, thank you.
15 MR. BELLINGER: Mana?
16 MS. JENNINGS-FADER: I -- on process,
17 Andy -- I would like to go back to the concept of the
18 October filing.
19 MR. CRAIN: Okay.
20 MS. JENNINGS-FADER: So Qwest will make a
21 filing as you described it; and then what?
22 MR. CRAIN: The parties would have a
23 certain amount of time to comment.
24 My anticipation is that we'll be meeting
25 the needs of CLECs and there won't be significant

1 comments, but I have been surprised in the past.

2 MS. JENNINGS-FADER: What is your

3 understanding of the FCC's requirements with respect to

4 a Change Management Process prior to 271 approval?

5 MR. CRAIN: The FCC orders contain

6 discussions of the Change Management Process --

7 Processes. It is my recollection of those orders they

8 have focused entirely upon the OSS section of the

9 Change Management Process, if you look at those orders

10 closely. And they have basically -- I don't know -- I

11 can't read you off the top of my head the exact

12 standards they use, in terms of what kind of OSS

13 processes are -- they view favorably. But, so far,

14 they have viewed the Change Management Processes that

15 have come before them in the Texas and New York

16 applications in a favorable light.

17 MS. JENNINGS-FADER: And have those

18 processes been in effect so that the commissions who

19 were reviewing those processes -- meaning, the state

20 commissions looking at those processes were able to

21 determine the efficacy of those processes?

22 MR. CRAIN: Yes and no. I think it is

23 not entirely unlike the process we're in right now.

24 Those processes were changing right up to the minute

25 that the RBOCs filed. But the RBOCs had history in

1 terms of how they had performed in the Change
2 Management Process.
3 MS. JENNINGS-FADER: Now I would like to
4 switch to discussing how this Change Management
5 Process -- and I'm going -- when I talk about it now,
6 I'm going to talk about the broadened Change Management
7 Process where it's no longer Operational-Support-
8 Systems focused, but the broader -- how technical
9 publications are changed or product offerings or
10 whatever else -- the big picture.
11 MR. CRAIN: That's fine, with the
12 explanation that that is not new to our Change
13 Management Process. That has been in place since, I
14 believe, the first of the year.
15 MS. JENNINGS-FADER: Understanding that
16 we're talking about a process that has been in effect
17 since plus or minus the 1st of January 2001 --
18 MR. CRAIN: Yes.
19 MS. JENNINGS-FADER: -- so talking about
20 that process, how does that process, if it does,
21 interact with the proposed -- with Professor Weiser's
22 Performance Assurance Plan?
23 MR. CRAIN: The -- it's my understanding
24 that that product is in process -- the Change
25 Management Process is separate from any process to

1 review changes to the performance measures over time.

2 I know that Professor Weiser had some

3 suggestions about Change Management and how it ought to

4 be handled in his proposed report. And -- but I -- the

5 short answer is I don't know, but I don't think they

6 are the same. But if you want, we can try to get you

7 an answer on that.

8 MS. JENNINGS-FADER: I actually would

9 appreciate that, because to the extent that the -- this

10 is just me thinking off the top of my head.

11 MR. CRAIN: Yes.

12 MS. JENNINGS-FADER: To the extent that

13 there is a connection between the Change Management

14 Process used by Qwest and the Colorado Performance

15 Assurance Plan, then my next-level question is, if the

16 plan -- if the Change Management Process is not

17 completed until the end of the year and it's tied into

18 the Performance Assurance Plan, how does the Commission

19 hook those two up?

20 MR. CRAIN: I believe it is not tied into

21 the Change Management -- to the Performance Assurance

22 Plan. Change Management, I think, is being evaluated

23 during that -- there are some performance measures that

24 relate to Change Management. I -- to be honest, I'm

25 wadding into an area that I think I need to get you

1 further response on.

2 MS. JENNINGS-FADER: Okay, thanks. That

3 will be fine.

4 MR. BELLINGER: Tom?

5 MR. DIXON: I have a couple follow-up

6 questions; and I can maybe help Andy on that if you

7 want to hear a little bit about it.

8 MR. CRAIN: Okay.

9 MR. DIXON: Last time I helped you, it

10 didn't help.

11 Let me comment -- I would note, first of

12 all, I don't think Professor Weiser has in fact ordered

13 the PAP to go through the Change Management Process.

14 MS. JENNINGS-FADER: No, that is not what

15 I was saying.

16 MR. DIXON: But what I was going to ask

17 about is, the performance measures in the PAP will be

18 reviewed -- you said a six-month review process that's

19 not defined in terms of where that -- how that process

20 is organized. My question to you is, would you

21 anticipate that CiCMP would be used for that six-month

22 review process to address performance measures?

23 MR. CRAIN: No.

24 MR. DIXON: Okay. The next question is,

25 would the -- it's my understanding that all performance

1 measures that are used in the OSS test and those that
2 are used in the PAP must go through the ROC OSS process
3 at the present time -- the ROC OSS testing process.
4 MR. CRAIN: Um, in terms of possible
5 changes to those measures?
6 MR. DIXON: Changing them, adding
7 measures, deleting measures; changing diagnostic
8 measures to actual measures.
9 MR. CRAIN: Well, diagnostic measures are
10 measures; but, yes, they are -- they are being
11 currently handled through the ROC TAG.
12 MR. DIXON: All right.
13 MR. CRAIN: I believe we're going to be
14 talking about some on Thursday.
15 MR. DIXON: Excuse me?
16 MR. CRAIN: I think we're going to be
17 talking about some on Thursday.
18 MR. DIXON: Thursday, meaning at a ROC
19 meeting?
20 MR. CRAIN: A ROC TAG meeting.
21 MR. DIXON: Good.
22 The question I have is, does Qwest
23 anticipate that the ROC TAG will exist for -- let's
24 just -- instead of perpetuity, maybe another two years
25 where these matters will continue to be addressed?

1 MR. CRAIN: No.

2 MR. DIXON: All right. So where would

3 Qwest anticipate discussions about the addition or

4 deletion of PAP -- performance measures -- that are an

5 outgrowth of the OSS testing process, where does Qwest

6 anticipate that will be addressed?

7 MR. CRAIN: Those are addressed in the

8 six-month reviews provided for in various plans.

9 MR. DIXON: Right. But I'm saying --

10 MR. CRAIN: Each plan, I believe, has a

11 six-month review process in it.

12 MR. DIXON: And I think we just went in a

13 nice circle. My point was -- let me restructure the

14 question.

15 Assume for the moment the ROC TAG is

16 dead; it no longer exists for us to go to, and we're

17 no --

18 MR. CRAIN: I'm smiling because that

19 means it is over.

20 MR. DIXON: And that probably means you

21 have 271 approval --

22 MR. CRAIN: Yes.

23 MR. DIXON: -- potentially. And you have

24 already the LD market, so its even effective.

25 So let's make that assumption -- and now

1 we're going to do a six-month review in the PAP to
2 address whether to add, delete, or modify performance
3 measures which is contemplated under the PAP.
4 MR. CRAIN: Yes.
5 MR. DIXON: Will that process be assigned
6 to CiCMP or does Qwest envision some other body doing
7 that?
8 MR. CRAIN: Qwest envisions another body
9 doing that, that it would not be the CiCMP process.
10 MR. DIXON: The last two issues I have
11 are not on PAP relation, they are much broader.
12 As I understand what you handed out as
13 6-Qwest-51, two workshops back in June, there was --
14 there appeared to be a continuing use of CiCMP to
15 address product, process, and technical publication
16 changes -- not just for purposes of a stipulation, but
17 on a going-forward basis as Qwest issues tech pubs,
18 methods and procedures, product notes; those run
19 through CiCMP ad infinitum until Qwest changes the
20 philosophy; is that still correct?
21 MR. CRAIN: And that has been since
22 January of this year.
23 MR. DIXON: My question is, does that
24 continue on indefinitely?
25 MR. CRAIN: Yes, that is -- yes.

1 MR. DIXON: Okay, the next question I
2 have is process, as it relates to the workshop and the
3 CMP -- CiCMP. We have in CiCMP an issue list; and so
4 the question I have, are we supposed to defer acting on
5 anything in the CiCMP issue list until the October
6 filing on the assumption that either it will be
7 addressed in the October filing, and then we'll all
8 agree that these issues are resolved or we'll address
9 them in our comments; or are we supposed to talk about
10 this tomorrow -- or at some future date?
11 MR. BELLINGER: We are going to talk
12 about it tomorrow.
13 MR. DIXON: Excuse me?
14 MR. BELLINGER: We will talk about it
15 tomorrow.
16 MR. DIXON: The 18 issues, we will go
17 through one by one tomorrow?
18 MR. BELLINGER: We will go through the
19 list and make sure the CiCMP process is handling them.
20 I think Andy's opening comment was that they all would
21 be handled except 14 and 15.
22 MR. DIXON: Right.
23 MS. JENNINGS-FADER: Does that include
24 19, by the way?
25 MR. CRAIN: There is one that I didn't

1 understand, 18.

2 And what is 19?

3 MS. JENNINGS-FADER: The one we came up

4 with while we were here this week.

5 MR. DIXON: 19 relates to Section 7.4.7

6 of the SGAT, wherein it was stated that LIS trunk

7 intervals will be determined in the CiCMP process

8 because LIS trunks are measured in the performance

9 measures on a parity basis.

10 MR. CRAIN: Which was GA-14?

11 MS. JENNINGS-FADER: G-14.

12 MR. CRAIN: G-14.

13 I have an E-mail here from a Mr. Tom

14 Dixon of --

15 MR. DIXON: Wait a minute, let me get to

16 it.

17 MR. CRAIN: -- of WorldCom.

18 MR. BELLINGER: What was the date of that

19 E-mail?

20 MR. DIXON: Go ahead.

21 MR. CRAIN: His June E-mail to Tom

22 Freeberg, addressing this very same issue in Arizona --

23 MR. DIXON: Right.

24 MR. CRAIN: -- indicating that WorldCom

25 is satisfied with the language found in Section 7.4.7

1 of the SGAT, dated 2-12-01, addressing LIS trunk
2 intervals and agrees to close issue G-14.
3 MS. JENNINGS-FADER: AT&T brought it up
4 yesterday.
5 MR. DIXON: It wasn't brought up by us.
6 MS. JENNINGS-FADER: I was going to say,
7 I think we closed G-14 --
8 MR. DIXON: Right.
9 MS. JENNINGS-FADER: -- with the
10 understanding that the provision interval would be
11 established in the Co-provider --
12 MR. DIXON: Right.
13 MS. JENNINGS-FADER: -- Industry Change
14 Management Process, and therefore we made it CM-19.
15 And here we have it.
16 MR. DIXON: Let me clarify what you just
17 read -- I'm not disputing the language in Section
18 7.4.7. That's not the issue. And to the extent you
19 have been led to believe that I was challenging the
20 language, that's a misunderstanding of the issue.
21 The language in Section --
22 MR. CRAIN: Well, wait. I know the
23 language -- actually, I'm having it -- what is the
24 difference in the issue? How is the issue stated
25 differently? Because when I read G-14, it said that

1 those intervals would be deferred to CiCMP or
2 something.
3 MR. DIXON: Right.
4 MR. CRAIN: And I believe that the way we
5 addressed that issue about that being deferred was to
6 address 7.4.7, which is closed it for the general terms
7 and conditions workshop in, at least, Arizona. And all
8 7.4.7 says is, If there are going to be changes to the
9 LIS trunk intervals in Section 20, those will be
10 handled through the Change Management Process.
11 MR. DIXON: Right. And that's what
12 became G-19.
13 MS. DOBERNECK: CM.
14 MR. DIXON: I'm sorry, CM-19. I'm sorry.
15 MR. CRAIN: So the fact that we've
16 committed in the SGAT that if those intervals change,
17 those intervals will go through the Change Management
18 Process is the only issue, I believe, that was and is
19 out there -- and I'm not sure what the remaining issue
20 is.
21 MS. QUINTANA: I think the parties just
22 wanted verification that those are in fact being
23 handled through the CiCMP process. The language is
24 obviously there, but they just want some follow-through
25 from the people in the CiCMP process to indicate that,

1 yes, they are in fact taking up the intervals issue.

2 MR. BELLINGER: And your redesign of the

3 CiCMP process, does it include a way of changing

4 intervals --

5 MS. JENNINGS-FADER: Intervals, right.

6 MR. BELLINGER: -- for LIS trunks?

7 MR. CRAIN: If intervals are going to be

8 changed for LIS trunks, those go through the Change

9 Management Process. What -- the language we've added

10 to the SGAT is that if we do change those and if we're

11 going to propose changes to those intervals, those

12 changes go through the Change Management Process. I'm

13 not aware of any proposal --

14 MR. BELLINGER: The question, though --

15 the question is, in the redesign of the CiCMP process,

16 how does that -- how is that handled? How do you do

17 it? Is it being addressed in terms of how -- in terms

18 of how the change of LIS trunks intervals would be

19 brought to CiCMP and how they would act on them.

20 MR. CRAIN: It would be brought to CiCMP

21 through any other -- through -- the same way any other

22 process change is brought and any other document

23 changes are brought. Currently it's noticed to the

24 CLECs with comment period and discussion within the

25 Change Management Process. That's the current PAP and

1 will be the practice going forward. And that -- those
2 sorts of changes will be addressed in these -- in these
3 enhancements meetings, as well.
4 MR. BELLINGER: That's the question --
5 MR. CRAIN: Yes.
6 MR. BELLINGER: -- are they going to be
7 handled --
8 MR. CRAIN: Yes.
9 MR. BELLINGER: -- in the redesign?
10 And that was -- that's why it's on the
11 list, is it going to be handled --
12 MR. CRAIN: Yes, it is.
13 MR. DIXON: That was the sole issue,
14 Andy; it wasn't debating --
15 MR. CRAIN: I started getting all feisty
16 here.
17 MR. DIXON: I can tell 7.4.7 is not the
18 issue. The issue is, how does it get rolled into
19 redesign?
20 MR. CRAIN: Okay.
21 MR. DIXON: Because it doesn't appear to
22 be in the notes I've gotten so far on the redesign
23 process -- I'm not saying it isn't, just the ones I've
24 seen.
25 MS. HUGHES: But is IT still an issue?

1 MR. BELLINGER: Well, we'll see whether
2 it's an issue tomorrow or not, if our witness tomorrow
3 says, Yes, we're going to handle it this way for
4 changing LIS trunks intervals, it will be handled in
5 the redesign process and it's a process that will be
6 established for how you do that --
7 MR. CRAIN: We can answer it now if you
8 want.
9 MR. BELLINGER: -- then we'll defer it.
10 MR. DIXON: I'm ready to go home.
11 MR. BELLINGER: Then we'll say that issue
12 is --
13 MS. JENNINGS-FADER: Closed.
14 MS. HUGHES: Closed.
15 MR. BELLINGER: -- referred to the
16 redesign process.
17 MR. CRAIN: Thank you.
18 MS. JENNINGS-FADER: That's all.
19 MR. BELLINGER: That's all we need there.
20 And we would hope, when you do make your
21 filing, you will let us know how it got handled.
22 MR. CRAIN: Sometimes it takes me a while
23 to figure out what we're really talking about.
24 MR. BELLINGER: Okay, any more questions
25 for Andy?

1 MR. MENEZES: I just have one, and it
2 bears on this -- if Mark can answer it tomorrow, that's
3 fine, once he hears the question: What documentation
4 does Qwest envision having at the end of this process
5 that explains what's CiCMP is, how it works, what's the
6 scope?
7 MR. CRAIN: There are currently two
8 documents that explain what the process is, what the
9 scope is -- those documents are being changed. And
10 there are extensive documents that are being developed
11 and being discussed in these meetings. Those can be
12 found -- do you know the website?
13 MR. ROUTH: Yes.
14 MR. CRAIN: -- at the website that Mark
15 will be telling you here.
16 MR. BELLINGER: I think we can get that
17 tomorrow.
18 MS. DOBERNECK: Yeah.
19 MS. FRIESEN: Well, can I just ask a
20 follow-up question, then?
21 What is the filing in October going to
22 constitute, if it's not going to be a portion of those
23 documents? Is it something else?
24 MR. CRAIN: It will be those documents --
25 MS. FRIESEN: It will be?

MR. CRAIN: -- with explanation.

MR. BELLINGER: Okay.

MR. CRAIN: Okay.

MR. DIXON: We're looking forward to October.

MR. BELLINGER: We appreciate you coming. We'll see Mark again tomorrow.

MR. ROUTH: What time?

MS. QUINTANA: 8:30.

MR. BELLINGER: No, I think we've got the ROC update.

MS. QUINTANA: Can we go off the record?

MR. BELLINGER: We're off the record.

(Discussion off the record.)

(Whereupon, the workshop recessed at 7:10 p.m.

1 CERTIFICATE

2 KRISTY TURNER, JAMES L. MIDYETT, and
3 HARRIET S. WEISENTHAL, Certified Shorthand Reporters in
4 and for the State of Colorado, do hereby certify that
5 we reported the foregoing proceedings in the first
6 instance, and that later the same was reduced to
7 typewritten form under our direct supervision and
8 control; we further certify that the foregoing is a
9 true and complete transcription of our stenographic
10 notes then and there taken.

11 Dated _____, 2001.

12 _____
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