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1 BEFORE THE ARIZONA CORPORATION COMMISSION

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3

4 JOHN T. WHEATLEY,)

5 Complainant,)

6 vs.)

7 QWEST CORPORATION,)

8 Respondent.)

9

10 At: Tucson, Arizona

11 Date: July 17, 2002

12 Filed: JUL 25 2002

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

15

Volume II
(Pages 46 through 241)

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ARIZONA REPORTING SERVICE, INC.
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Suite Three
2627 North Third Street
Phoenix, Arizona 85004-1103

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1 BE IT REMEMBERED that the above-entitled
2 and numbered matter came on regularly to be heard
3 before the Arizona Corporation Commission, in Room 222
4 of said Commission, 400 West Congress, Tucson,
5 Arizona, commencing at 10:18 a.m. on the 17th day of
6 July, 2002.

7
8 BEFORE: JANE L. RODDA, Administrative Law Judge

9 APPEARANCES:

10 For the Complainant:

11 Mr. John T. Wheatley
12 in propria persona
13 5201 North Davis Avenue
14 Tucson, Arizona 85705

15 For the Respondent:

16 FENNEMORE CRAIG, P.C.
17 By Ms. Darcy Renfro
18 3003 North Central Avenue, Suite 2600
19 Phoenix, Arizona 85012-2913

20 For the Arizona Corporation Commission:

21 Mr. Jason Gellman
22 Staff Attorney
23 1200 West Washington
24 Phoenix, Arizona 85007

25 CECELIA BROOKMAN, RPR
Certified Court Reporter
Certificate No. 50154

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1 ALJ RODDA: Let's go on the record. This is
2 the time set for the hearing in docket
3 T-01051B-02-0001, John Wheatley versus Qwest
4 Corporation.

5 Good morning, everyone, my name is Jane Rodda
6 and I'm the Administrative Law Judge assigned to this
7 matter. I will be presiding over the hearing today
8 and will render a recommended opinion and order for
9 the disposition of the Commissioners.

10 First thing I'd like to do this morning is to
11 take appearances of the parties.

12 So on behalf of the complainant, state your
13 name for the record.

14 MR. WHEATLEY: John Wheatley.

15 ALJ RODDA: And on behalf of Qwest
16 Corporation.

17 MS. RENFRO: Darcy Renfro.

18 MR. DUFFY: John Duffy from Qwest.

19 ALJ RODDA: I know, because we have some
20 Staff witnesses, Commission Staff employees who have
21 been called as witnesses, we have counsel, do you want
22 to make an appearance?

23 MR. GELLMAN: That's fine, Your Honor, good
24 morning, Jason Gellman from the Legal Division of the
25 Arizona Corporation Commission present.

1 ALJ RODDA: Thank you.

2 We're here for the hearing on your complaint,
3 Mr. Wheatley. As I discussed right before we went on
4 the record, you'll have an opportunity to call the
5 witnesses on your witness list and you present your
6 case first. Qwest then has an opportunity to
7 cross-examine any of the witnesses that you call, and
8 at the conclusion of your case, if Qwest has a case
9 they want to put on, they can then call any witnesses,
10 if you didn't get it on cross, call whatever. Just so
11 you know.

12 Just so everyone is aware, I have pending
13 before me, I have Qwest's motion to dismiss that I
14 still have under consideration. My thought is because
15 it has to go, any motions have to go through the
16 Commission anyway, is to combine it with the order
17 on -- just have one order in this case. So that's my
18 thinking on that.

19 Mr. Wheatley has a request to file written
20 briefs as opposed to oral argument. I haven't heard
21 anything from Qwest. Did you have any comments?

22 MS. RENFRO: We didn't file any opposition,
23 but Qwest opposes that for a couple reasons. The
24 primary one is that it just further delays this
25 continuing proceeding for another 28 days, and -- or

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1 more. Mr. Wheatley has asked for two extensions in
2 this hearing previously, so there's no guarantee that
3 we're actually going to see closing briefs filed in 28
4 days after the hearing.

5 Qwest would like to get this proceeding done
6 as soon as possible and we've been ready for several
7 months to do so.

8 Also, because filing briefs at the end of
9 hearing is not the normal procedure of the Commission
10 in these types of complaints. Usually, closing
11 arguments are done at the end of the hearing, so Qwest
12 opposes it for those reasons.

13 ALJ RODDA: Okay.

14 MR. WHEATLEY: Do I get an opportunity to...

15 ALJ RODDA: Mr. Wheatley, you can but I'm
16 going to grant your request, so I don't think you need
17 to. Normally, as I told you, I've never had anyone
18 request a brief in a consumer complaint, but there's
19 no reason why you can't, and I think if you think you
20 would benefit from it, then I'm going to allow it.

21 So this is the 17th, I think transcripts will
22 be available on or around July 31st, in about two
23 weeks. So if you file your brief on -- you requested
24 28 days. Is there a reason why 28? How about August
25 the 21st? That gives you three weeks after briefs.

1 You've got the two weeks for briefs plus two weeks for
2 transcripts.

3 MR. WHEATLEY: That's acceptable -- two weeks
4 after, that's 14 days, I read very slow, Your Honor,
5 and I write very poorly.

6 ALJ RODDA: August 28th, the briefs will be
7 due. Is there anything else before we get started?

8 MS. RENFRO: Madam Hearing Officer, I would
9 just like to state that I'm here not representing
10 Ms. McCants but I would like to defend her testimony
11 since the activities she's going to be testifying to
12 were things she was doing when she was an employee of
13 Qwest, although she is not anymore, so I'd like an
14 opportunity to defend her testimony when Mr. Wheatley
15 calls her.

16 ALJ RODDA: I think that's acceptable.

17 Okay, Mr. Wheatley, did you have an opening
18 statement?

19 ALJ RODDA: Yes, I did, Your Honor.

20 Problems with this started with my phone
21 service started with my market expansion line I got,
22 and this number I believe was advertised to marketers
23 who were calling me up, and therefore, I needed to get
24 security screening and I had asked, prior to getting
25 security screening, I had asked Qwest if this would

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1 work, and I was told yes, it would.

2 Shortly after that, I was looking at things,
3 I was looking, I didn't want to be missing calls, and
4 I come across an ad for the Everywhere Line service,
5 and I was compelled by this ad to purchase the
6 Everywhere Line service, and in doing so, I don't know
7 whether prior, after sometime in there, I was looking
8 at features, and I thought well, this is really a
9 neat, nifty feature where I can transfer calls, and I
10 got that service also.

11 Qwest knew there were problems in the
12 beginning. First they offered me \$100 indicating that
13 they knew there was some sort of problem with the
14 service, and things weren't functioning properly.

15 However, I didn't feel, considering
16 everything, I didn't feel that this was enough. There
17 were also problems with my Everywhere Line service, or
18 problems that I believe were due to my Everywhere Line
19 service.

20 At an arbitration Qwest offered me \$150, and
21 I still felt that this was not correct. What I had
22 asked for was that they restore my service to what it
23 was. I was unhappy. I felt that I had been misled
24 and that it just wasn't right. You know, they had
25 misled me, and took advantage of me, and one moment

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1 I'm being told, compelled by the ad to buy this
2 service, and the next minute I'm getting a document
3 that's, contains other things than that.

4 It wasn't the same as the ad that compelled
5 me to get the Everywhere Line service. And this
6 document I believe would be considered an
7 authorization agreement. Should I submit evidence
8 now?

9 ALJ RODDA: No, this is just your opening. I
10 want to just say, this is separate from your
11 testimony. When you get into the details of what
12 happened, that should be your testimony.

13 MR. WHEATLEY: That's when I submit the
14 evidence?

15 ALJ RODDA: This is what you sort of want
16 from the Commission.

17 MR. WHEATLEY: Also, through this whole
18 procedure, I feel Qwest did things to make me afraid,
19 that they could gain advantage over me by creating
20 situations of fear, and there were many of them. I
21 guess I'll bring it up in testimony.

22 And that's my opening statement.

23 ALJ RODDA: Thank you. Ms. Renfro.

24 MS. RENFRO: Just briefly, Madam Hearing
25 Officer, just to clarify the issues that Mr. Wheatley

1 touched on.

2 There are really two sets of issues. There
3 are problems relating to a market expansion line
4 Mr. Wheatley had ordered several months, one or two
5 months prior to his ordering or signing up with
6 Qwest's Everywhere Line for business package of
7 services, and the problems with the market expansion
8 line had to do with two features Mr. Wheatley ordered
9 that were incompatible with each other. That was
10 fixed by Qwest. Mr. Wheatley was refunded
11 approximately \$100 for that, and then right about the
12 same time, Mr. Wheatley then ordered the Everywhere
13 Line service packages which included two elements.
14 One is what Qwest calls CustomChoice. It's a package
15 of features that a customer, small business customer
16 can choose from up to 24, if those features are
17 available in that customer's switch. It also includes
18 a separate package of discounted wireless minutes, and
19 some other discounts relating to handsets and that
20 type of thing. So there are two separate services
21 involved in the Everywhere Line marketing package.

22 There was a problem with two features ordered
23 in conjunction with that Everywhere Line service. The
24 call transfer and call forwarding features were
25 incompatible. Qwest discovered that after

1 Mr. Wheatley complained, and fixed that problem as
2 well.

3 This entire set of issues went on for
4 approximately one month, and Mr. Wheatley had a bill
5 of approximately \$143 relating to that one-month
6 period of time, only part of which had to do with
7 these features, the incompatible features from the
8 CustomChoice. That's why Qwest had offered to refund
9 Mr. Wheatley \$100 for his trouble. And Mr. Wheatley,
10 as he just admitted, refused to accept that. And as
11 we'll hear today from the arbitrator in this, in
12 Mr. Wheatley's informal complaint, the offer Qwest
13 made to him at that time was then \$150, which was over
14 the \$143 charges incurred during that month that
15 Mr. Wheatley was having problems, and the arbitrator
16 found that Qwest was reasonable in that offer. But
17 Mr. Wheatley again refused, and that's why we're here
18 today. And that's all. Thank you.

19 ALJ RODDA: Thank you.

20 Mr. Wheatley, want to call your first
21 witness?

22 MR. WHEATLEY: If I can find my witness list
23 I'll know who to call.

24 ALJ RODDA: I think it's in the envelope on
25 the corner of the table, this corner closest to me.

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1 MR. WHEATLEY: Thank you, Your Honor.

2 As my first witness I would like to call Joel
3 Reiker.

4 (Mr. Reiker was duly sworn.)

5 ALJ RODDA: Before you get started, maybe you
6 were going to ask this, would you state your name and
7 your employer, business address.

8 THE WITNESS: Yes, my name is Joel Reiker, I
9 work for the Arizona Corporation Commission in the
10 Utilities Division, and my title is public utilities
11 analyst.

12 ALJ RODDA: I'm sorry, Mr. Wheatley, go
13 ahead.

14

15

JOEL REIKER,

16 called as a witness, having been previously duly sworn
17 by the Certified Court Reporter, was examined and
18 testified as follows:

19

20

DIRECT EXAMINATION

21

22 Q. (BY MR. WHEATLEY) The first question I have,
23 Joel, is I get the feeling that you're not a very
24 experienced arbitrator. This may have been the first
25 case you actually arbitrated?

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1 A. No, it was not the first case. The
2 arbitration program was actually set up about a year,
3 a little over a year ago, and the purpose of it was
4 to, the director of the Utilities Division wanted to
5 choose people who would be arbitrators who were not
6 part of the Consumer Services Section of the Utilities
7 Division.

8 The reason she did that was because she
9 wanted people who were, who would be unbiased and have
10 an objective, going to an arbitration with an
11 objective mind, and not necessarily have the technical
12 knowledge of the various consumer service issues of
13 the utilities. So I've been arbitrating for a little
14 over a year now. This case was not my first
15 arbitration, however.

16 Q. Approximately how many cases have you
17 arbitrated?

18 A. I would say less than 15, more than 10. I
19 don't know exactly.

20 Q. At the beginning of the arbitration, John
21 Duffy asked the question as to what Qwest's position
22 was on this matter; true?

23 A. Can you repeat that question.

24 Q. John Duffy, Mr. Duffy asked what Qwest's
25 position was on this matter to which you responded

1 what do you mean. You wanted more information about
2 what he was asking.

3 ALJ RODDA: I was just going to say, the
4 question doesn't make sense to me. I don't understand
5 the question. I don't know if the witness understands
6 it. Do you understand the question?

7 THE WITNESS: No, I don't.

8 MR. WHEATLEY: I'm going to try and rephrase
9 this. I'll try to make it make sense. I'm not --
10 words are hard for me sometimes.

11 ALJ RODDA: Well...

12 Q. (BY MR. WHEATLEY) What I'm asking is did
13 John Duffy bring up what Qwest's position might be
14 with, as far as the case went?

15 A. From what I recall at the arbitration, John
16 Duffy was one of the representatives of Qwest, as well
17 as Mary Harris Gabrila. One of those parties
18 presented Qwest's position, and I cannot really recall
19 which one of those parties stated their position, but
20 one of them did.

21 Q. But Qwest did ask what their position was?

22 ALJ RODDA: You keep saying Qwest asked. Why
23 would Qwest ask.

24 MR. WHEATLEY: I have no idea, Your Honor,
25 but Qwest asked the arbitrator, Mr. Reiker, what their

1 position was. Why they asked that, I have no idea at
2 this point. I would be speculating to say.

3 ALJ RODDA: You're not testifying. I'll just
4 let you go on.

5 Q. (BY MR. WHEATLEY) And your reply to this was
6 that you wanted to know more about what they were
7 asking, and Qwest responded, either Darcy or Joel
8 responded with we want to know what Qwest can do.

9 ALJ RODDA: Is there a question?

10 Q. (BY MR. WHEATLEY) Yes or no?

11 A. I cannot recall anything specific to what you
12 said. I don't believe Ms. Renfro was on the
13 teleconference during the arbitration, however.

14 ALJ RODDA: Maybe it would be helpful for me,
15 so I take it this was a telephonic arbitration?

16 THE WITNESS: Yes, it was.

17 ALJ RODDA: Do you recall who was present?

18 THE WITNESS: Mr. Wheatley was present
19 telephonically, and Qwest representatives were Mary
20 Harris Gabrila and John Duffy.

21 ALJ RODDA: Then there was you?

22 THE WITNESS: Yes.

23 ALJ RODDA: Those were the parties on the
24 phone?

25 THE WITNESS: Right, all the parties were on

1 the phone.

2 MR. WHEATLEY: I'm sorry, I thought that
3 Darcy was there, but it was Mary, very possibly, I'm
4 not sure. I was very much -- well, I'm not giving
5 testimony here, I'm asking questions.

6 Q. (BY MR. WHEATLEY) So you're saying that you
7 can't remember whether or not the question came up as
8 to what Qwest could do?

9 A. Yes.

10 Q. You don't remember that at all?

11 A. No.

12 Q. Did you have conversation with Mr. Reiker or
13 the other person?

14 ALJ RODDA: I'm sorry, this is Mr. Reiker.

15 Q. (BY MR. WHEATLEY) With John Duffy or the
16 other person who was present, Mary?

17 A. There was conversation between all the
18 parties during the conference.

19 Q. Other than at the conference, at the hearing?

20 A. Other than at the arbitration?

21 Q. Other than at the arbitration?

22 A. I believe I spoke with Ms. Harris Gabrila to
23 schedule the arbitration.

24 Q. But I'm asking after the arbitration.

25 A. After the arbitration, I may have called her

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1 to get her address or to confirm her address, but I
2 don't recall ever having any other kind of
3 conversation with her.

4 Q. So what you're saying is you do recall Qwest
5 asking what their position was?

6 A. No, I'm not saying that.

7 Q. I thought you had just said that you recalled
8 that Qwest asked, you weren't sure which party it was,
9 whether it was John or Mary, but one of the parties
10 did ask?

11 A. I don't recall that. I recall there was
12 conversation in the arbitration between all of the
13 parties, and after the arbitration, I may have called
14 Ms. Harris Gabriela to either confirm an address or get
15 a mailing address for her.

16 MR. WHEATLEY: Your Honor, may I have the
17 minutes reread?

18 ALJ RODDA: He didn't ever recollect.

19 MR. WHEATLEY: I remember the man said he
20 couldn't recall who asked the question, whether it was
21 John or Mary, but he did recall this question coming
22 up.

23 ALJ RODDA: Cece, can you find that question?

24 (Brief pause.)

25 ALJ RODDA: Do we really need to do this.

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1 MR. WHEATLEY: I asked the question and he
2 said he remembered.

3 ALJ RODDA: And I recall he answered he
4 didn't remember.

5 MR. WHEATLEY: He first said I remember
6 somebody asked but I'm not sure whether it was John or
7 Darcy -- or Mary, rather. He said but Qwest did ask
8 this question and I went into, well, Qwest asked this
9 question.

10 ALJ RODDA: Just move on, just ask another
11 question of this witness, please, just ask whatever
12 question you want to ask.

13 Q. (BY MR. WHEATLEY) Okay. I'm just totally
14 lost here.

15 So you're saying now you don't remember the
16 question as to what Qwest's position might be being
17 asked by Qwest?

18 A. I remember that one of the representatives
19 from Qwest stated their position.

20 Q. Stated their position?

21 A. Yes.

22 Q. They didn't ask what their position was as
23 far as what they could do?

24 A. I don't recall that, no.

25 Q. In the notes, in the repair section of the

1 notes as was brought up to concerns of mine at the
2 last hearing -- do I need enter this as evidence, Your
3 Honor?

4 ALJ RODDA: I don't know. What are you going
5 to do.

6 MR. WHEATLEY: I would like to know --

7 ALJ RODDA: Mr. Wheatley is looking through
8 documents that we marked at the last hearing as C-2,
9 if you'll recall. It was basically all the documents
10 that Qwest had produced as of that time.

11 MR. WHEATLEY: Exhibit C-2, Page No. 279 as
12 numbered by me. There's a note, can I show this to
13 the witness?

14 ALJ RODDA: You want to show it to the
15 witness.

16 MR. WHEATLEY: Yes.

17 ALJ RODDA: Do you have those copies where he
18 wrote the numbers?

19 MR. DUFFY: I have one.

20 Q. (BY MR. WHEATLEY) There's a note in here,
21 that 10-17 -- could you read this note for me, please.

22 (Brief pause.)

23 THE WITNESS: Well, it appears to be some of
24 the words are in shorthand, so am I allowed to
25 translate it the way I believe it's supposed to be

1 read.

2 ALJ RODDA: Have you ever seen that document
3 before?

4 THE WITNESS: No.

5 ALJ RODDA: Can you tell me what the document
6 purports to be, do you know, can you tell?

7 THE WITNESS: The top portion appears to be
8 an e-mail correspondence of some kind. The bottom
9 portion looks like notes that somebody made regarding
10 the complaint. I can't tell who made the notes.

11 ALJ RODDA: Mr. Wheatley, are you showing
12 this witness this document because of this last part
13 under 10-17, because it mentions his name.

14 MR. WHEATLEY: Yes.

15 ALJ RODDA: That's what you want him to read
16 into the record.

17 MR. WHEATLEY: I'd like him to read the whole
18 note from 10-17 down.

19 ALJ RODDA: Why are you having this witness
20 do it? Let's go off the record a minute.

21 (An off-the-record discussion ensued.)

22 ALJ RODDA: Back on the record.

23 Mr. Reiker, can you read in that portion
24 where it says 10-17, if you can translate, if you know
25 what the abbreviations mean.

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1 THE WITNESS: Received via mess from Joel at
2 the ACC the customer wants mediation. TT Reg, says --
3 TT Reg, he says features did not work and that this
4 customer is eccentric and has his own perception on
5 how things should work. Called Joel 602-542-0823, and
6 advised 11-7 at 2:00 p.m. would be okay.

7 Q. (BY MR. WHEATLEY) You have no knowledge as
8 to where that note come from?

9 A. No.

10 Q. Was that something that you provided to
11 Qwest?

12 A. No.

13 Q. Thank you very much.

14 MR. WHEATLEY: I have no more questions.

15 ALJ RODDA: Ms. Renfro, did you have any
16 questions for this witness?

17 MS. RENFRO: I think what I'd like to do is
18 get my questions out of the way, then Mr. Reiker is
19 finished, as far as I'm concerned.

20

21 CROSS-EXAMINATION

22

23 Q. (BY MS. RENFRO) Mr. Reiker, you handled the
24 arbitration between Mr. Wheatley and Qwest; correct?

25 A. Yes.

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1 Q. Prior to that arbitration, which I believe
2 was in October of -- November 7th, 2001, had you had
3 any communication with Qwest Corporation?

4 A. I spoke with Ms. Harris Gabriela to coordinate
5 the arbitration and schedule it.

6 Q. So you didn't have any conversations about
7 Mr. Wheatley's complaints with Mr. Duffy?

8 A. Not that I recall, no.

9 Q. At the arbitration itself, did you find that
10 Qwest violated any tariff, law or other provision?

11 A. No.

12 Q. What did you find after the arbitration?

13 A. Can I refer to notes?

14 Q. Sure.

15 (Brief pause.)

16 THE WITNESS: Well, I'll read from what I
17 have. Based on the evidence in the testimony
18 presented, the arbitrator finds that Qwest did not
19 violate the provisions of the service quality plan
20 tariff or Commission rules.

21 Q. (BY MS. RENFRO) What are you reading from?

22 A. I'm reading from the letter of the
23 arbitrator's findings that I wrote.

24 Q. Is that the letter dated November 13th, 2001?

25 A. Yes.

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1 MS. RENFRO: I would like, Your Honor, to
2 move to admit that letter into evidence as
3 Respondent's 1.

4 ALJ RODDA: Qwest's, I'll call it R-1, the
5 arbitration letter, do you have any objection to the
6 admission of that?

7 (Brief pause.)

8 MR. WHEATLEY: No, I do not.

9 ALJ RODDA: R-1 is admitted.

10 Ms. Renfro, do you have anything further for
11 this witness?

12 MS. RENFRO: Yes, a couple more questions.

13 Q. (BY MS. RENFRO) During the arbitration,
14 Mr. Reiker, did you have an opportunity to hear from
15 both parties, the complainant and the respondent,
16 everyone?

17 A. Yes.

18 Q. Did you understand what the complainant's
19 complaints were at the time of the arbitration?

20 A. Well, going into the arbitration, I was kind
21 of unclear about the complaint, but during the
22 arbitration, I became clear to what his complaint was
23 and by the end of the arbitration, I believe I had a
24 very good feeling of what the complaint was.

25 Q. Did Mr. Wheatley, do you recall if

1 Mr. Wheatley, during the arbitration, asked to have
2 his service returned back to what it was prior to the
3 Everywhere Line service package?

4 A. What I remember from the arbitration was at
5 one point I asked Mr. Wheatley if he wanted Qwest to
6 return his service to what it was prior to when he had
7 the Everywhere Line service, and he said that at that
8 time he did not want it put back to the way it was, he
9 wanted to keep it that way until the arbitration and
10 the entire complaint was resolved.

11 Q. Do you recall if Mr. Wheatley, at the time of
12 the arbitration, asked for the \$200 deactivation fee
13 for his wireless phone to be waived by Qwest?

14 A. On that I do recall conversation regarding an
15 activation, a deactivation fee for wireless service.
16 But the specifics, I don't recall.

17 Q. Do you recall Qwest offering Mr. Wheatley
18 \$150 to settle this complaint?

19 A. I have to refer to notes. Yes.

20 Q. Did Mr. Wheatley accept that offer?

21 A. No.

22 Q. Did you understand or were you told why
23 Mr. Wheatley didn't accept the offer?

24 A. From my recollection, I understood that the
25 reason he did not accept the offer was because he

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1 wanted Qwest to refund all charges to date related to
2 the Everywhere Line service.

3 Q. I would like to refer you to Qwest's Exhibit
4 R-1, the third paragraph, if you want to just follow
5 along. At the time -- during the time when
6 Mr. Wheatley ordered the Everywhere Line package of
7 service his bill was already \$143.37, according to
8 your letter; is that correct?

9 A. The sentence that begins with ALJ RODDA's
10 July bill was 143.37, is that correct?

11 Q. Yes. So that's a correct statement?

12 A. Yes.

13 Q. To continue that sentence, of which \$88.57
14 was related to the Everywhere Line phone service; is
15 that correct?

16 A. According to the company representative's
17 testimony, this is correct.

18 Q. And this was your finding as well?

19 A. Right.

20 MS. RENFRO: I have nothing further, thank
21 you.

22 ALJ RODDA: Mr. Wheatley, did you have any
23 other questions for this witness.

24 MR. WHEATLEY: Yes, I do, Your Honor.

25

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REDIRECT EXAMINATION

1

2

3 Q. (BY MR. WHEATLEY) In your statement, in your
4 testimony, you indicated that there was some sort of
5 conversation as to a \$200 rebate being discussed or
6 \$200 fee for early cancellation of cell service that
7 was discussed?

8

9 A. I remember that there was some discussion
10 about a disconnect or reconnect charge for, I think it
11 was cellular service or wireless service. The amount
12 was around \$200 or over \$200. The specifics of that
13 discussion, I don't remember.

13

MR. WHEATLEY: Is this R-1?

14

ALJ RODDA: The letter? I don't know what
15 you're holding up.

16

MS. RENFRO: Yes.

17

MR. WHEATLEY: Yes, the letter.

18

19 Q. (BY MR. WHEATLEY) In R-1, do you make any
20 references that Qwest not only offered \$100 but they
21 offered to not charge me for the \$200 penalty for
22 early cancellation?

22

A. I'll have to review the letter.

23

(Brief pause.)

24

25 THE WITNESS: There's nothing in the letter
related to wireless service reconnect charges or any

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1 kind of \$200 fee, so no.

2 Q. (BY MR. WHEATLEY) Okay, in your notes,
3 anywheres in your notes, do you make note of that
4 Qwest offered me this \$200, not to charge me these
5 \$200 fees for early cancellation of the cell service?

6 A. I need a minute to check.

7 (Brief pause.)

8 THE WITNESS: Okay, the only thing I have in
9 my arbitration notes related to wireless service, was
10 a note that I wrote, and it says asking to credit all
11 wireless service.

12 Q. (BY MR. WHEATLEY) I was asking wireless
13 services be all credited?

14 A. Right.

15 Q. And Qwest refused?

16 A. I don't recall that.

17 Q. In R-1 again, do you make any reference to
18 Qwest offered to refund all cellular services, fees
19 for cellular services?

20 A. No, there's nothing in R-1 related to
21 wireless service, and I don't believe that that was
22 part of the complaint.

23 Q. Okay. Now, when I asked you the question as
24 to whether Qwest asked what their position was, did
25 you refer to your notes?

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1 A. No, I didn't.

2 Q. So you don't think that my question warranted
3 you referring to your notes for accuracy?

4 A. Well, I reviewed my notes yesterday and again
5 this morning, and when you asked the question, I knew
6 that anything to that effect was not in my notes.

7 Q. But you seem to remember Qwest saying
8 something about a \$200 penalty that they were willing
9 to let go, but you have no evidence in your notes of
10 this?

11 A. No, I remember a discussion that was related
12 to a reconnect or a disconnect fee, and I remember
13 that the amount was either 200 or something higher
14 than that. That's all I remember about anything
15 related to any kind of reconnect or disconnect fee or
16 anything related to a \$200 fee.

17 Q. So you were pretty thorough in taking your
18 notes, and in your Exhibit R-1, producing Exhibit R-1?

19 A. Well, I took notes on the items that I
20 believe were related to the complaint. That's my
21 answer.

22 MR. WHEATLEY: At this time, Your Honor, I
23 don't know whether I can or not because I'm not real
24 sure of the rules of evidence, but I would like to
25 object to Mr. Reiker stating that he remembers this

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1 \$200 thing but he has no written evidence of it.

2 ALJ RODDA: You can argue that but you really
3 can't object to a question that you -- he responded to
4 your question, you just don't agree with it. But I'll
5 note your issue of his recollection.

6 Q. (BY MR. WHEATLEY) So this is only your
7 thinking, that this took place?

8 A. As far as anything related to a reconnect or
9 disconnect fee in the range of \$200, I don't have any
10 notes on that. That's just from memory.

11 Q. So you're not sure whether it was a reconnect
12 fee or a disconnect fee or exactly what the
13 circumstances were?

14 A. From what I remember, and it's very fuzzy, is
15 that there was discussion related to some kind of
16 disconnect fee or reconnect fee, and that I remember
17 that I didn't believe it was part of this complaint.

18 Q. So you do remember some things as far as this
19 arbitration, that are not in your notes and not in any
20 written form?

21 A. Yes.

22 Q. After the arbitration, I told you that I was
23 very afraid of this question Qwest asked about what
24 they could do, that I was worried that they might be
25 able to sue me, or this was the nature of the

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1 question, by complaining about my service not being
2 correct, and not being treated fairly, that I was
3 afraid of this question, and I wanted to know what was
4 discussed, and you kind of giggled and laughed and
5 said it wasn't anything like that?

6 ALJ RODDA: Mr. Wheatley, are you testifying
7 or are you going to ask him a question?

8 Q. (BY MR. WHEATLEY) Is that true?

9 A. I don't recall.

10 Q. You can recall that there was some sort of
11 discussion about late fees but you can't recall
12 whether or not there was any discussion, these were
13 two conversations that took place but you can't recall
14 that?

15 A. Well, as I said, I remember that there was
16 discussion related to a reconnect or disconnect fee,
17 but as far as Qwest asking me what they could do, that
18 just didn't ring a bell.

19 Q. And you have no recollection of after the
20 arbitration?

21 A. I remember speaking to you several times
22 after the arbitration.

23 Q. But none of these conversations do you
24 remember me bringing up the subject that I was afraid
25 because of this question?

1 A. It certainly may have come up, I just don't
2 remember.

3 Q. There was something else I wanted to ask
4 here.

5 Do you remember at all me stating or making a
6 claim or is it in your notes that I made a claim to
7 something of the nature of bait and switch?

8 A. Yes, I do.

9 Q. So I was concerned that there were some sort
10 of contractual issues, that I was not given what I had
11 been compelled to buy?

12 A. I remember that.

13 MR. WHEATLEY: Thank you very much.

14 Oh, excuse me, I'd like to enter -- yeah, I
15 want to enter into evidence Exhibit C-1 or is it C-2?

16 ALJ RODDA: C-2 is the big stack.

17 MR. WHEATLEY: Okay, Exhibit C-2, Page 280.

18 ALJ RODDA: This is a different document than
19 the one you discussed with this witness though, right.

20 MR. WHEATLEY: Yes, but it contains
21 information about the bait and switch issue.

22 ALJ RODDA: Don't do it now.

23 Did you have any other questions for this
24 witness.

25 MR. WHEATLEY: I have no further questions

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1 for this witness.

2

3

EXAMINATION

4

5 Q. (BY ALJ RODDA) Let me just ask this. I take
6 from it your testimony the discussion you had with
7 Mr. Wheatley about the \$200 disconnect fee, that it's
8 your understanding that any complaints regarding his
9 wireless service were not part of the arbitration; is
10 that correct?

11 A. That was my understanding. My understanding
12 was that the complaint was related to this Everywhere
13 Line service.

14 Q. So if something had come up relating to the
15 cellular service, you wouldn't have thought that was
16 relevant?

17 A. That's correct.

18 Q. Do you know, is the Everywhere -- I believe
19 Mr. Wheatley obtained wireless service at about the
20 same time he got the Everywhere Line service?

21 A. I don't know.

22 Q. But you don't know. Okay, I won't ask you
23 that.

24 A. Okay.

25 ALJ RODDA: Ms. Renfro, since we're sort of

1 doing a simultaneous direct case, did you have
2 anything?

3 MS. RENFRO: No.

4 ALJ RODDA: Thank you, Mr. Reiker, you may be
5 excused.

6 (The witness was excused.)

7 ALJ RODDA: Mr. Wheatley, do you have another
8 witness.

9 MR. WHEATLEY: Yes, I do, Your Honor. For my
10 next witness I would like to call Reg Lopez, Utilities
11 Division, Arizona Corporation Commission.

12 MS. RENFRO: Madam Hearing Officer, I don't
13 want to disrupt Mr. Wheatley's order of witnesses but
14 he has called Ms. McCants here, who's driven up from
15 Phoenix and I'm noticing that it's almost lunch hour.
16 I'm wondering if Mr. Wheatley, if we could call
17 Ms. McCants first, prior to Mr. Lopez, so that she may
18 go home.

19 In addition to that, I'd like to, at this
20 point, maybe we can do this later, Ms. McCants is owed
21 compensation for her testimony here today. She was
22 subpoenaed by Mr. Wheatley, and I believe under the
23 statute 12-303, Arizona Revised Statutes, Mr. Wheatley
24 owes her \$12.00, 20 cents per mile for her trip here
25 to Tucson today.

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1 ALJ RODDA: \$12.20 per mile?

2 MS. RENFRO: \$12 a day and 20 cents per mile,
3 which is minimal. But nonetheless, it is the
4 compensation she is provided by law.

5 MR. WHEATLEY: Talk about scaring.

6 ALJ RODDA: You know, I had talked to
7 Mr. Wheatley prior to the hearing about whether he
8 wanted to get this witness, because she had come from
9 Phoenix, on and off the stand early, but did you have
10 any objection to taking her out of your order.

11 MR. WHEATLEY: I imagine we could.

12 Ms. McCants has been a good person to me, and she
13 helped me fix my phone service, so I wouldn't want to
14 do anything that would cause her harm.

15 ALJ RODDA: Okay, then let's call
16 Ms. McCants.

17 MR. WHEATLEY: As my next witness, then, I
18 would like to call Ms. McCants.

19

20

21

22

23

24

25

1 EDNA McCANTS,
2 called as a witness, having been first duly sworn by
3 the Certified Court Reporter, was examined and
4 testified as follows:

5

6

DIRECT EXAMINATION

7

8 Q. (BY MR. WHEATLEY) Hi, Ms. McCants, how are
9 you today?

10 A. Just fine.

11 Q. On -- when you first contacted --

12 ALJ RODDA: Before you start with that, let's
13 just, could you state your name for the record and
14 your relationship to Qwest in this case.

15 THE WITNESS: My legal name is Edna McCants
16 and I go by Midge, and right now I'm retired from
17 Qwest, but I worked for them for 24 years.

18 ALJ RODDA: What area did you...

19 THE WITNESS: The last area where I worked
20 with Mr. Wheatley, it was called screening. It's a
21 repair, where they take repair tickets and I fix them.

22 ALJ RODDA: Okay, Mr. Wheatley.

23 Q. (BY MR. WHEATLEY) Edna, in the job you were
24 in at Qwest, when you were dealing with my case, with
25 my complaint, was that -- did you normally deal with

1 little accounts such as mine or did you normally deal
2 with much bigger accounts?

3 A. No. It's a yes and no answer. I actually
4 deal with large business. Most of my customers have
5 100 lines or more, but I also do residence and small
6 business. But the majority of my people that I work
7 with are 100 lines or more.

8 Q. How do you make the determination? Did
9 somebody provide you and say jeez, I want you to fix
10 this phone service or do you look at records?

11 A. No. We have a monitor in front of us and as
12 we go in and we clear a ticket, the next ticket just
13 comes up on our screen and we take it and we work it.
14 We don't get to pick and choose, it just comes up.

15 So apparently the day I was working on your
16 ticket, I was in small business and your ticket came
17 up, your repair ticket. You had called in and made a
18 complaint, and then it comes to myself, which I'm
19 called a screener, and then I fix it.

20 Q. Did you bring any of your notes with you?

21 A. No, but I believe Darcy -- I couldn't bring
22 anything of mine because I no longer work with Qwest,
23 and I could not take those records. I've read them
24 before I left but I do believe either John Duffy or
25 Darcy has them.

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1 Q. Did you go to Qwest and ask that you be
2 allowed to get your records?

3 A. No, because I signed -- when you work there,
4 it tells you what you can do, so no, I did not call
5 Qwest back because I knew that that was against the
6 rules. I am no longer a Qwest employee.

7 Q. But you were provided with a subpoena duces
8 tecum?

9 A. Yes, that is correct.

10 MR. WHEATLEY: Do you have the notes she
11 says, Darcy?

12 MS. RENFRO: They were the repair notes,
13 Mr. Wheatley, that were provided for you in Qwest's
14 February disclosure. It looks like it starts on
15 Page 267 of your Exhibit C-2.

16 ALJ RODDA: Does it start at 267 then go 268,
17 269 or go the other way.

18 MR. WHEATLEY: I believe it starts at 266,
19 Your Honor.

20 MR. DUFFY: In this case, it starts 267 --
21 actually, it starts on the bottom of 266, to be
22 correct. You'll see the 8-4-01 date on the bottom
23 lefthand corner.

24 ALJ RODDA: Yes.

25 MR. DUFFY: That's the start of Ms. McCants,

1 then it goes 267, 268.

2 MR. WHEATLEY: Is it okay if I provide
3 Ms. McCants with the notes?

4 ALJ RODDA: Yes, you may.

5 Q. (BY MR. WHEATLEY) Ms. McCants, would you
6 look at your notes and read them to us and explain as
7 to what they mean?

8 A. Okay.

9 Q. I'm going to give you all these pages here
10 because they were all relevant, John Duffy saying they
11 start right there.

12 MS. RENFRO: Mr. Wheatley, are we starting on
13 Page 266, on the 8-4 entry?

14 THE WITNESS: Yes, that's what he had given
15 me.

16 MR. WHEATLEY: Yes.

17 THE WITNESS: When I first got the repair
18 report, it said that he wasn't getting his one
19 reminder ring on his call forwarding, and that's when
20 I started working on his repair ticket.

21 On August the 4th of '01, at 11:40 a.m. --
22 you want me to go through that now and tell you what I
23 did?

24 Q. (BY MR. WHEATLEY) Everything that's there
25 written. I can't read it because I don't speak the

1 language.

2 A. Basically, all it says, I mean, it says
3 everything was programmed correctly, so what -- and
4 that's down about halfway, No. 16. It says not
5 getting reminder ring, programmed okay. That means
6 that I checked with RCMAC. Everything was working.

7 Q. Exactly what is a CMAC?

8 A. It's RCMAC. It's our programming department.
9 Every department has a name, and so when you get a
10 feature, I don't program, the people that sell it
11 don't program. We actually have a programming
12 department, so I mean, I have to check it and it
13 looked okay, so I went ahead and called.

14 Q. Continue.

15 A. Basically, what I did is we just took
16 everything off of his line and put them back one at a
17 time until it worked, and we found the problem, and I
18 didn't put the problem back on.

19 ALJ RODDA: Okay.

20 THE WITNESS: Ask me some other questions.

21 Q. (BY MR. WHEATLEY) So you took all the
22 features off. What features were on there?

23 A. I got to be honest with you, I don't know all
24 the features. I do know there was a call forwarding
25 and a call transfer, because the call forwarding

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1 wasn't working, you weren't getting the one reminder
2 ring when you forwarded your calls. I went ahead and
3 had that taken off, and all the other features that
4 were on the line. And then one at a time, I added
5 them all back on, and we made test calls. We found
6 out what feature was not working correctly for you. I
7 took it back off and then your service worked.

8 Q. And then my service worked.

9 Was this problem or feature or conflict
10 causing a problem with my One Number service also?

11 A. I would have to say no, only from my
12 knowledge, because that wasn't what I was working on.
13 It had nothing to do with your One Number service.

14 Q. So then you're testifying that my One Number
15 service should have been working?

16 A. I can't even testify that you had it at that
17 time, unless somebody has the records on August the
18 4th, because I don't know what they were.

19 Q. In your work here, or the notes here, it
20 doesn't make any mention as to a switch that was not
21 present?

22 A. A switch, I'm not understanding how you're
23 using the word switch.

24 ALJ RODDA: Let me look through your -- and
25 find what I'm talking about.

1 (Brief pause.)

2 Q. (BY MR. WHEATLEY) The trigger. There is no
3 trigger on this account, not even for the HM link?

4 A. Okay, but that wasn't the repair ticket that
5 I was working on. See, it says here that you're not
6 getting the one reminder ring. That trigger is on
7 your home, on your, for your number one service. I
8 didn't work on this repair ticket here, so this
9 doesn't make any difference. You see, it says not
10 getting reminder ring on call forwarding, programmed
11 correctly. And that is correct. On your home link,
12 you need to have the trigger to do it. But that has
13 nothing to do with your call forwarding.

14 Q. I just read, reminder --

15 MS. RENFRO: Mr. Wheatley, could you state
16 where you're pointing to at this point, so we could
17 follow with you.

18 MR. WHEATLEY: I'll try my best to do that.

19 MS. RENFRO: Give me the page number and
20 about where on the page you're looking at.

21 MR. WHEATLEY: Page 267. As soon as I find
22 the line, I believe there's line numbers on here. As
23 soon as I find the line I shall --

24 MS. RENFRO: Line 27, perhaps.

25 MR. WHEATLEY: Yes, that's it exactly.

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1 ALJ RODDA: What does NAR stand for on this?

2 MR. DUFFY: Narrative.

3 THE WITNESS: Yes. And basically, I think
4 what I was saying at that time was I was working on
5 his call in ordering and he didn't need a trigger for
6 his call forwarding or his call transfer, so we had
7 taken everything off your account. I had taken off
8 your account, and disconnected this trigger for your
9 home link, because I needed to know why the reminder
10 ring was not working.

11 So that's what I'm saying here. I took
12 everything off. So there's not even a, trying out
13 this account. But that was just done during the
14 daytime. I mean everything was put back on when I got
15 done, but I needed to stop it so I knew where the
16 problem was.

17 Q. (BY MR. WHEATLEY) Okay. If you wouldn't
18 mind, these notes here are related to my One Number
19 service not working properly?

20 A. This is another repair ticket, that's
21 correct. This is a repair ticket, this one here is my
22 repair ticket, and it goes all the way down to here.
23 So that's the difference.

24 Q. Approximately how long did it take for us to
25 find this problem with the feature that was causing

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1 conflicts?

2 A. I actually think it took three days, but let
3 me double-check my date. I got this ticket on August
4 the 4th. I took everything off on August the 5th, and
5 it wasn't actually until August the 8th that we
6 realized what the problem was, and that's when we took
7 off the call transfer, and you started getting the one
8 reminder ring again when you call forwarded. And you
9 only got the reminder ring if you call forwarded, not
10 if the home link was on.

11 Q. So in other words, the One Number service, I
12 didn't get the reminder call?

13 A. No, it's not part of the feature.

14 MR. WHEATLEY: Should I enter this into
15 evidence at this time?

16 ALJ RODDA: When you say "this", are you
17 referring to pages 266 to 269.

18 MR. WHEATLEY: Pages 266, 267, 268, I
19 believe, and 269 as to what -- and Midge just gave
20 testimony to, including that there was a complaint and
21 my One Number service was not working.

22 ALJ RODDA: Okay, I'm going -- let's mark
23 those pages 266 through 269 of exhibit formerly known
24 as C-2, we're going to mark that as C-3, and we'll
25 admit it. You don't have an objection to those?

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1 MS. RENFRO: No.

2 ALJ RODDA: We'll admit those.

3 MR. WHEATLEY: That's Page 266 through 269,
4 formerly C-2.

5 ALJ RODDA: It is now C-3.

6 Mr. Wheatley, do you have other questions for
7 this witness.

8 MR. WHEATLEY: Okay, so I do, but I'm
9 looking.

10 ALJ RODDA: I just want to make sure what you
11 were doing is related to this witness.

12 Q. (BY MR. WHEATLEY) So you just gave testimony
13 to the fact that the problem was fixed on 8-8?

14 A. I believe that was the date on Page 269,
15 wasn't it, 8-8?

16 Q. Excuse me, it's 8-7. I apologize, yes, it's
17 8-7.

18 So the complaint began on 8-4?

19 A. Right.

20 Q. And was fixed by 8-7?

21 A. That's correct.

22 ALJ RODDA: Let me just ask you, how can you
23 tell that?

24 THE WITNESS: Here's my date, this is the
25 date right there.

1 ALJ RODDA: The last line, 62?

2 THE WITNESS: Right, I had the order issued,
3 and we took it back to 8-3, to remove this, because
4 this is the problem right here.

5 ALJ RODDA: The little O-E03 is the problem?

6 THE WITNESS: Right, out call forwarding, and
7 that's call transfer.

8 ALJ RODDA: Qwest speak.

9 THE WITNESS: I know.

10 Q. (BY MR. WHEATLEY) These notes indicate to
11 you that you didn't start this repair until, and you
12 didn't contact me at all until 8-4?

13 A. (No audible response.)

14 THE COURT REPORTER: What is your answer?

15 THE WITNESS: Yes. I shook my head.

16 MR. WHEATLEY: It's acceptable, I do believe.

17 ALJ RODDA: No, you can't, for the court
18 reporter. You have to give oral responses.

19 MR. WHEATLEY: I should probably pull out my
20 formal complaint because I believe my notes --

21 MS. RENFRO: I have a copy of your notes, if
22 you'd like them from your formal complaint.

23 MR. WHEATLEY: I should have it right here.
24 Here it is.

25 Q. (BY MR. WHEATLEY) You received the

1 particular out 8-4 and then you contacted me on 8-5?

2 A. Actually, I believe I contacted you on 8-4,
3 because normally as a screener, when we do get a
4 ticket, we call the customer to confirm what the
5 problem is and how it needs to be fixed.

6 So I actually believe that I contacted you on
7 the 4th, and I talked to you every day after that
8 until it was fixed, and sometimes two or three times.

9 Q. Sometimes two or three times, so this was a
10 very involved process in trying to find this thing and
11 received it pretty well. It wasn't an obvious problem
12 as to what was causing my service not to work
13 correctly?

14 A. That is correct.

15 Q. But according to the notes provided by Qwest,
16 this was done by 8-7, you're saying, it was all
17 repaired and fixed and good to go?

18 A. That's correct. The problem I was working on
19 got fixed, that is correct.

20 Q. So we didn't talk, then, on 8-13?

21 A. John, if you have notes that you say we did,
22 because you used to call me quite a lot and leave me a
23 message, and I would call you back, I'm just saying I
24 didn't have another repair ticket from you.

25 MR. WHEATLEY: I would like to enter into

1 evidence my notes.

2 MS. RENFRO: They're part of his complaint.

3 ALJ RODDA: Your notes are part of the
4 complaint.

5 MR. WHEATLEY: So they're already entered
6 into evidence?

7 ALJ RODDA: Yes.

8 MR. WHEATLEY: My notes indicate that the
9 problem was not fixed until 8-11.

10 ALJ RODDA: Do you have a question for this
11 witness? Can you ask a question? Otherwise it's your
12 testimony, Mr. Wheatley.

13 Q. (BY MR. WHEATLEY) Are you sure that this
14 problem was not fixed on 8-11?

15 A. I'm sure that the problem was fixed on 8-7.

16 Q. On 8-7?

17 A. You are talking about the one reminder ring
18 from your call forwarding only; is that correct?

19 Q. I'm talking about the problems with my phone
20 service, that you worked on?

21 A. Okay, the only thing I worked on was the one
22 reminder ring on call forwarding, and I fixed that. I
23 probably fixed it on 8-5, but I actually wrote the
24 order on 8-7 to have the problem removed off your
25 line.

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1 Q. So you didn't call me on 8-11, because the
2 problem was --

3 A. I'm not going to say no, I didn't call you,
4 John, because you've left me quite a few messages, and
5 I know I talked to you probably during the month of
6 August, September, and October, I just don't know what
7 it was, and it was not on my repair ticket. So I
8 don't know that I didn't call you.

9 Q. My notes, Page 4 of my notes --

10 MS. RENFRO: I don't believe Ms. McCants has
11 a copy of Mr. Wheatley's notes or is familiar with
12 those notes.

13 ALJ RODDA: That's a good point. Thank you.

14 Q. (BY MR. WHEATLEY) Could you read this note
15 to the court, please?

16 A. Just continue? You don't want me to start at
17 number one?

18 Q. Yes, you could start at number one because I
19 believe they're all the same day there.

20 A. It says called Midge, and gives the 800
21 number, my extension. She said that she had left word
22 with a programmer to fix on Wednesday 8-8, and the
23 programmer said that they would take care of it. She
24 also said that it wasn't her job to do the things she
25 was doing.

1 Q. Excuse me, Midge, it goes 1, 2.

2 A. I apologize, I went right to 3, okay. Midge
3 called back and said her -- the caller ID, call
4 waiting, and also had call waiting working, but she
5 said that she couldn't get call waiting ID working so
6 I told her to have --

7 Q. To just.

8 A. Oh, to just, okay. Just order to have it
9 done and she said she would. She also said that it
10 wasn't her job to do the things she was doing, but
11 from looking at my records, that others weren't doing
12 their job. The orders were going in but nothing was
13 happening. Then Midge said that she would get my
14 custom ring number working and call me back.

15 Do you want me to finish this?

16 Q. On 8-10, then it starts 8-11. Yes, please.

17 A. Okay, she called back and the custom ring
18 number I had once --

19 Q. I had answered.

20 A. I had canceled -- oh, answered her on, she
21 said no, this is --

22 Q. Shirley.

23 A. I said no, this is, but surely?

24 MR. WHEATLEY: No, she said no, this is
25 Shirley, but Midge had asked her -- may I continue to

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1 read the notes, Your Honor.

2 MS. RENFRO: At this point I'd like the
3 record to reflect this is not her testimony, she's
4 reading Mr. Wheatley's recollection of the
5 conversations between herself and Mr. Wheatley.

6 MR. WHEATLEY: These are notes that I took at
7 the time that these conversations were taking place.

8 ALJ RODDA: Okay. Just pick up where she
9 left off.

10 MR. WHEATLEY: Okay. 8-11, Shirley called on
11 custom ring number. I had answered hello. Midge
12 said -- Midge, I had answered hello Midge, she said
13 no, this is Shirley, but Midge had asked her to call
14 and was standing right next to her. I told her to
15 tell Midge thank you for everything.

16 MS. RENFRO: Madam Hearing Officer, is
17 there -- may I ask Mr. Wheatley what the relevance of
18 this is? Could we possibly get to the point?

19 MR. WHEATLEY: The relevance is that the
20 service was not repaired until 8-11.

21 ALJ RODDA: Is the point to try to refresh
22 her memory of conversations?

23 MR. WHEATLEY: Yes.

24 ALJ RODDA: Do you recall any of this?

25 THE WITNESS: No, but I did talk to him quite

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1 a lot. But what I'm saying is I worked on the repair
2 ticket and because of my job, I've always given people
3 my number to call me back. There should have been
4 another repair ticket so we could have worked out.
5 Instead of doing that, because he was having problems
6 and it seemed like he wasn't getting it fixed, I
7 basically did something I shouldn't have done. I
8 tried to help him, so whatever got cleared on the 11th
9 was not on the one -- the reminder ring for call
10 forwarding. Because yes, I do agree, he called me a
11 lot. There was a lot of things that I did without a
12 repair ticket that is not supposed to be done. That's
13 against everything that we stand for. I mean, we need
14 a repair ticket to follow it, and I didn't do it.

15 ALJ RODDA: So maybe, because he would call
16 you directly, we don't have repair tickets?

17 THE WITNESS: That's correct. He never made
18 another repair ticket. If you go through the repair
19 tickets, there's nothing on there for those because he
20 called me and I fixed them. And I don't have records
21 of that. I really didn't. I didn't mark nothing
22 down. I just fixed when needed to be fixed and helped
23 him, but I don't have a repair ticket. That's the way
24 it was.

25 ALJ RODDA: Thank you.

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1 Q. (BY MR. WHEATLEY) So in clarification, what
2 you just said is that you could see there were
3 problems going on with my phone service and they
4 weren't being repaired, so you had empathy and
5 sympathy for me and you took care of the problem?

6 A. Right, because they didn't have a repair
7 report. Somebody else could have probably done it if
8 there would have been a repair report. But I just
9 think at that time, if I remember right, you were
10 calling the business office, and they were adding and
11 subtracting features, and they were overriding each
12 other, and it was just a mess. That's all it was.

13 Q. In the last conversation we had, you told me
14 I would have to call cellular service to get my One
15 Number service working because it wasn't working at
16 the time, do you recall?

17 A. No. Do you remember why it wasn't working,
18 how it wasn't working?

19 Q. I believe later I found out there was a
20 trigger or something that wasn't there, was
21 malfunctioning or something of that nature.

22 A. Could you not make calls or would it not roll
23 over? I mean, I don't remember the -- if you can give
24 me a little bit more information. How was it not
25 working?

1 Q. I believe it was as you referred to, it
2 wouldn't roll over. It wouldn't go from my home phone
3 to my cell phone, to my voice mail, as it was supposed
4 to.

5 A. Then I'm really surprised that I would have
6 told you to call cellular because I could have called
7 and had them put the trigger back, so I'm not really
8 sure why I would have referred you to cellular.

9 ALJ RODDA: Do you recall referring him to
10 cellular?

11 THE WITNESS: No, I don't, but I could have.

12 MR. WHEATLEY: I'd like to read my notes to
13 hopefully refresh Midge's memory.

14 ALJ RODDA: Okay.

15 Q. (BY MR. WHEATLEY) 8-13-01. 9:40 a.m. called
16 Midge, asked about call waiting ID, said would have to
17 call and ask that these services be turned on. Asked
18 about One Number calling, said that I should call
19 service and have cell people check for problems.

20 Called cell service at 1-800-879, but they
21 wouldn't have anything to do --

22 So does that help you remember at all, Midge?

23 A. No, but I mean it makes sense except the One
24 Number service. I can do that myself. So I'm not
25 understanding why I would have told to call them. I

1 mean, you have it down and I probably did but right
2 now, I just don't remember--

3 MR. WHEATLEY: I thank you very much for your
4 testimony, Midge.

5 I have no further questions at this time for
6 this witness.

7 ALJ RODDA: Ms. Renfro, did you have anything
8 for this witness?

9 MS. RENFRO: Briefly.

10

11

CROSS-EXAMINATION

12

13 Q. (BY MS. RENFRO) Ms. McCants, just to review,
14 you contacted Mr. Wheatley on August 4, 2001 regarding
15 the repair ticket; correct?

16 A. That's correct.

17 Q. What was your understanding of the problem at
18 that point?

19 A. He was not getting the one reminder ring on
20 call forwarding.

21 Q. Then you investigated the complaint and what
22 did you find?

23 A. That he had on his line, he had a feature
24 called call transfer and it is not compatible with
25 call forwarding in the switch that he was in.

1 Q. So how did you fix the problem?

2 A. In the beginning, because I didn't know where
3 the problem was at, I removed all of the features and
4 one at a time -- I put the call forwarding on and one
5 at a time I added the other features and made test
6 calls, and that's when we found out that the call
7 transfer shouldn't be on there, and we just removed
8 it. And from then on it worked.

9 Q. This was on August 7, 2001?

10 A. That's correct.

11 Q. Is it your recollection that Mr. Wheatley was
12 satisfied with the repair that you had done on his
13 phone?

14 A. Yes, because his, now his one reminder ring
15 did work.

16 Q. During this time, August 4th and August 7th,
17 when you were working on Mr. Wheatley's service, was
18 Mr. Wheatley ever without dial tone?

19 A. No.

20 Q. So his phone was working during this entire
21 time?

22 A. That is correct.

23 Q. Mr. Wheatley brought up some conversations
24 with you on August 11th and you stated that you had no
25 repair ticket on that, related to that conversation?

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1 A. That is correct.

2 Q. Do you remember doing, making any repairs at
3 that time?

4 A. I probably did. If he would have told me
5 what was wrong and I knew how to fix it, I would go
6 ahead and fix it instead of making him hang up, call
7 repair, get a repair ticket, somebody else would have
8 had to pick it up, I would have had to call that
9 person, take the ticket away from them. I mean, we're
10 talking eight to ten hours or sometimes days. It's
11 easier for me just to help him and fix it.

12 Q. So you just wanted to speed up the process
13 for him?

14 A. That's correct. So I probably did do
15 something to help him.

16 Q. Is it possible that there was no repair
17 ticket because you investigated his complaint and
18 there wasn't anything wrong?

19 A. That could have been true too, but there
20 probably was something that wasn't programmed. In a
21 DMS 100 switch, they tell you that you can sell 25
22 features and you can really only do 18 or 19 that
23 really work good together. You could have 25 if
24 they're 25 different ones.

25 Q. Available in that particular switch?

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1 A. That's correct.

2 Q. During this time when you were speaking with
3 Mr. Wheatley, around August 11th, was Mr. Wheatley
4 ever without dial tone?

5 A. No.

6 Q. And when you finished with Mr. Wheatley on
7 the 11th, was he satisfied with what you had done with
8 his service?

9 A. Since I can't remember the exact date, I have
10 to say yes or he would have called me back.

11 Q. So he had your direct line?

12 A. Yes, he had my direct line.

13 Q. Just to clarify for the record, the call
14 forwarding and call transfer features that you worked
15 on, on the August 4th through the 7th, are unrelated
16 to the One Number service?

17 A. That is correct, they have nothing to do with
18 each other.

19 MS. RENFRO: Thank you, that's all.

20

21

EXAMINATION

22

23 Q. (BY ALJ RODDA) Let me just ask you because I
24 don't know that someone else is probably going to tell
25 me later, but what exactly is One Number service?

1 A. It means if it's connected to your home phone
2 or your business, whenever you turn on your cell
3 phone, you do not get a call at your home or business.
4 It automatically goes to your cell. That way there,
5 you don't have to forward it. All you have to do is
6 shut off your cell. It's a very good feature.

7 MR. WHEATLEY: Am I going to be given an
8 opportunity to re-question the witness?

9 ALJ RODDA: Let me make sure I have my
10 questions first.

11 MR. WHEATLEY: Okay.

12 Q. (BY ALJ RODDA) When you were helping
13 Mr. Wheatley from the 4th through the 7th, that was
14 the issue related to the one reminder ring?

15 A. Right.

16 Q. And then you don't have an independent
17 recollection of these conversations that occurred
18 after the 7th, but --

19 A. No, I do know that he called me but I've got
20 to be honest with you, I take so many calls, and I
21 didn't have a repair ticket to go back on, so I don't
22 remember exactly what it was.

23 Q. So do you recall what the problem was or just
24 that it was a problem?

25 A. No, just that he would call me and whatever

1 he would tell me was wrong, I'd fix it and call him
2 back, and it would be done.

3 ALJ RODDA: All right, Mr. Wheatley.

4

5

REDIRECT EXAMINATION

6

7 Q. (BY MR. WHEATLEY) Okay, now, Midge, seeing
8 as there was a problem, a conflict and I wasn't
9 getting, when I manually forwarded my phone, I was not
10 getting this ring that usually occurs when you have
11 your phone manually forwarded, if I had -- because my
12 One Number service wasn't working, if I had manually
13 forwarded to my cell phone so that I could run to the
14 bank or for whatever reason, and I accidentally forgot
15 and turned my cell phone off, would I have been able
16 to receive a call?

17 A. No.

18 MR. WHEATLEY: Thank you very much.

19 ALJ RODDA: That's all, Mr. Wheatley?

20 MR. WHEATLEY: I'm thinking. Now, I'm going
21 to do something here and I probably shouldn't; it will
22 compel the truth to come out. Pages -- what do we
23 have entered into evidence here?

24 ALJ RODDA: The ones already?

25 MR. WHEATLEY: Yes, I do believe.

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1 ALJ RODDA: 66 through 269.

2 Q. (BY MR. WHEATLEY) In this, I can't read
3 these, so I'm --

4 MS. RENFRO: Can you please identify what it
5 is you have in your hand, Mr. Wheatley.

6 MR. WHEATLEY: I have Page 265 and 266 in my
7 hand.

8 MS. RENFRO: 265 would be what? It has not
9 yet been identified.

10 MR. WHEATLEY: Page 265 of --

11 THE WITNESS: It's a repair ticket.

12 Q. (BY MR. WHEATLEY) It's the start of my
13 repair tickets. In that repair ticket, I can't read
14 them so I don't know. In that repair ticket does it
15 mention anywheres that my cell phone would not go to
16 my voice mail when it was turned off?

17 A. This repair ticket was dated September the
18 17th of '01, and no, the repair ticket states can't
19 call out, test okay, called sub, a Darlene did this.
20 This doesn't say -- I'm sorry, do me a favor and ask
21 me the question again.

22 Q. I'm wondering if there's anything in here
23 about my cellular service not going to my voice mail
24 or my voice mail not working properly.

25 A. No, you talked to Darlene, and there's

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1 nothing on here that says it's not going to your voice
2 mail.

3 Q. I was just hoping.

4 A. No, there's not a thing on here that says
5 about voice mail at all.

6 MR. WHEATLEY: I have no further questions at
7 this time, Your Honor.

8 ALJ RODDA: Ms. Renfro, do you have anything?

9 MS. RENFRO: Just one clarification.

10

11 RE-CROSS-EXAMINATION

12

13 Q. (BY MS. RENFRO) Ms. McCants, Mr. Wheatley
14 asked you if, on his One Number service, if he had his
15 cellular phone off, he would not receive the forwarded
16 call on that, on his cellular phone; correct?

17 A. He wouldn't receive any call at all.

18 Q. But wouldn't that call then go to his voice
19 mail and to the One Number service?

20 A. Yes, well, or back to his home phone.

21 Normally what you do is you don't pay for voice mail
22 on your cell. It rings once at your house to let you
23 know it's forwarded, it rings four times on your cell
24 and if you don't answer it it goes back to your voice
25 mail at home. If you don't have voice mail at home,

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1 yes, it will go to your voice mail on your cell, if
2 you have that. But he would never get a call at home
3 because it wouldn't give him the one ring, so he
4 wouldn't know anybody was calling. He would have
5 outgoing calls but not incoming.

6 Q. But Mr. Wheatley did have voice mail?

7 A. I don't know. If he did, yes, he would have
8 gotten messages.

9 Q. If he had voice mail, he would not have lost
10 any calls during this?

11 A. That is correct.

12 MS. RENFRO: That's all.

13

14 FURTHER EXAMINATION

15

16 Q. (BY ALJ RODDA) What I understand is because
17 the warning ring wasn't working on the forwarding, he
18 wouldn't know that the calls were being forwarded to
19 his --

20 A. That's correct, then he couldn't have taken
21 them off. See, that's what the warning ring is for.
22 If you've gone shopping and you come home and you're
23 putting away groceries and all of a sudden your phone
24 rings one time and it stops, you can never pick it up.
25 Then you can remember I've got to take it off of call

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1 forwarding, then you take it off of call forwarding
2 and you get your calls. Otherwise, it goes to your
3 cell. If it's turned off it will go to your voice
4 messaging. Now that's different than the One Number
5 service. That's call forwarding.

6 Q. Right, so you wouldn't need them both; right?

7 A. No, not unless, instead of your -- no, you
8 can't because you can't have it automatically go to
9 your Number One service and call forwarding because
10 then the service is confused. It can't do two things.
11 But you can always turn off your Number One service.
12 Let's say that he was going to his mother's house and
13 he wanted the calls forwarded there instead of his
14 cell but he wanted his cell on, he would actually turn
15 off the Number One service on the cell, call forward
16 his numbers to his mom's. When he got home he could
17 turn it off and put the Number One service back on.

18 Q. Is the Number One service something you put
19 on your cell phone or something you put on your
20 landline phone?

21 A. You put it on your landline phone, and it's
22 just a convenience, but you can turn it off and on.
23 The customer has the choice.

24 MR. WHEATLEY: I believe I have a question to
25 ask, Your Honor.

1 ALJ RODDA: Okay.

2

3

FURTHER REDIRECT EXAMINATION

4

5 Q. (BY MR. WHEATLEY) Now, I would receive
6 this -- if my Number One service was not working, then
7 my calls wouldn't transfer from my home phone to my
8 cell phone unless I manually forwarded the call to my
9 cell phone by dialing star 72 and entering in the
10 number of my cell phone?

11 A. That's correct.

12 Q. And if my One Number service was not working,
13 and I had voice mail, would I be able to receive a
14 call through my voice mail, if I had my phone manually
15 forwarded to my cell phone and the One Number service
16 did not work?

17 A. No, because it wouldn't go back to your home.
18 Call forwarding only goes one way. The home link goes
19 two ways, but the call forwarding only goes one way.

20 Q. So if I had One Number service, and it was
21 working, functioning properly, and this One Number
22 service was not only on my home phone, but was on my
23 cell phone also, and I disabled the One Number service
24 on my home phone and I manually forwarded to my cell
25 phone, would the call then be transferred to my voice

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1 mail?

2 A. Only if you're paying for voice mail on your
3 cell phone, because the phone itself doesn't know that
4 you have voice messaging on your home phone, so the
5 call can't go from your home phone to your cell phone
6 back to your home phone. It doesn't know that, so on
7 call forwarding it can't do that. On Number One
8 service, it can do that.

9 Q. So if I had voice mail, or I had --

10 A. On what?

11 Q. On my cell phone?

12 A. Okay.

13 Q. Okay, if I had voice mail on my cell phone,
14 as part of an Everywhere Line package --

15 A. I've got to be honest with you, I never sold
16 cell phones. I didn't know that you could have an
17 Everywhere Line on your cell phone so I'm not going to
18 be able to answer that question.

19 MR. WHEATLEY: Thank you very much.

20 ALJ RODDA: I don't have any questions.

21 Did you have anything to clarify, Ms. Renfro?

22 MS. RENFRO: No, thank you.

23 ALJ RODDA: Thank you, Ms. McCants.

24 (The witness was excused.)

25 ALJ RODDA: Let's go off the record for a

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1 minute.

2 (An off-the-record discussion ensued.)

3 (The lunch recess ensued from 12:14 p.m. to
4 1:00 p.m.)

5 ALJ RODDA: Want to call your next witness.

6 MR. WHEATLEY: At this time I guess I will
7 call Reg Lopez.

8

9 REG LOPEZ,

10 called as a witness, having been first duly sworn by
11 the Certified Court Reporter, was examined and
12 testified as follows:

13

14 DIRECT EXAMINATION

15

16 Q. (BY MR. WHEATLEY) Would you please state
17 your name for the record.

18 A. Reg Lopez.

19 Q. And who do you work for?

20 A. I work for the Arizona Corporation
21 Commission, Tucson office of the Utilities Division,
22 and my title is public utilities consumer analyst.

23 Q. Okay, Reg, these notes here, on Page 279,
24 that seem to indicate they were received from Joel
25 Reiker, would you take a look at them. It starts at

1 10-17, received from Joel.

2 (Brief pause.)

3 Q. (BY MR. WHEATLEY) Do you have any knowledge
4 as to who TT R-e-g would be?

5 A. That's talked to Reg, exactly. But I've
6 never seen this document before.

7 Q. So you didn't make that statement?

8 A. I don't recall making a statement at all.

9 MR. WHEATLEY: Thank you very much.

10 Page 278, I'd like to show this to Reg.

11 (Brief pause.)

12 THE WITNESS: Okay.

13 Q. (BY MR. WHEATLEY) That's a complaint I filed
14 with you, and the utility's response to the
15 complaints?

16 A. That's correct.

17 Q. Would you please read the utility's response?

18 A. 9-26, the customer -- I'll read whatever I've
19 got on here. I don't have this whole thing.

20 The customer had security screen and custom
21 ring which were not compatible. In July we changed
22 the custom ring number and removed the security
23 screen. He then called 7-25 and said the call forward
24 was not giving him the first ring and the One Number
25 service was not forwarding calls to his PCS. They

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1 tried to forward him to wireless and he did not want
2 to talk to them. On 8-2 the rep offered to disconnect
3 the features and put things back the way they were in
4 June. He said okay, but he wants his bill zeroed out.
5 They refused and said they would EBD the order back so
6 that he would only be responsible for the difference
7 in rates. He told them to not do anything then. He
8 spoke to the executive office and they sustained the
9 previous rep's position. He spoke to someone else in
10 the executive office and they offered a \$100 credit to
11 satisfy. He declined but accepted a credit for 23.76
12 regarding 5208882077. From here, I see repair records
13 stating the Number One service was not working from
14 8-4 to 8-16, when a trigger was replaced. The monthly
15 features nor dial tone would have been affected by the
16 issues stated above.

17 I'm sorry, let me read that back again. The
18 monthly features nor dial tone would have been
19 affected by the issues stated above. I am denying the
20 request for a credit in the amount of 291.72. Closed,
21 Mary.

22 MR. WHEATLEY: Thank you very much.

23 I'd like to enter this document into
24 evidence.

25 ALJ RODDA: Is this the complete document?

1 MS. RENFRO: No, I think the complete
2 document starts on Page 277 and goes to Page 280.

3 ALJ RODDA: Just for the record, let me show
4 you 277 to 280, Mr. Lopez. Can you just describe what
5 this is. I guess basically I'm wondering, is this
6 like a Commission -- a complaint that he filed with
7 the Commission and you forward to Qwest or what?

8 THE WITNESS: It's a different format,
9 obviously it's more or less fragmented, but it is the
10 2001-7853 complaint that I addressed with
11 Mr. Wheatley. That is correct. There's some other
12 notes on here. This is not part of the complaint. I
13 don't know where this came from.

14 ALJ RODDA: When you say this?

15 THE WITNESS: This portion there on Page 279,
16 the little portion of it. That's not part of this
17 complaint that I've got here. That has no mention of
18 that at all whatsoever.

19 ALJ RODDA: So your Corporation Commission
20 records don't reflect the information that's on
21 Page 279?

22 THE WITNESS: On the bottom part of 279,
23 that's correct.

24 ALJ RODDA: Do you have any objection to the
25 admission of pages 277 through 280?

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1 MS. RENFRO: No.

2 ALJ RODDA: We'll call those C-4 and admit
3 it.

4 Q. (BY MR. WHEATLEY) So you're saying, Reg,
5 that you never, ever, in the whole time you've known
6 me, had an opinion that I was eccentric and had my own
7 opinion as to how things should work?

8 A. My opinions really don't count here in
9 relation to it, I'm just going by what's on record
10 here. My personal opinions don't play a part in this
11 in relation to -- I'm just going by the facts of what
12 you related to me and what Qwest replied back to me.

13 Q. I believe that's it, Reg.

14 A. Okay.

15 ALJ RODDA: Do you have any questions,
16 Ms. Renfro?

17

18 CROSS-EXAMINATION

19

20 Q. (BY MS. RENFRO) I'd like to ask Mr. Lopez
21 if, when he was talking to Mr. Wheatley about his
22 complaint, was it difficult to understand what exactly
23 Mr. Wheatley's complaint was?

24 A. Initially, yes, I have to admit there was
25 some confusion in my mind considering that I did have

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1 telecommunications experience before.

2 If you'll look at the nature of the
3 complaint, I even put in parentheses there basically
4 in quotation marks regarding his terminology of
5 corrupt, that his dial tone was corrupt, that
6 terminology may be in existence within the
7 telecommunications industry but I've never been
8 exposed to that.

9 Q. Do you believe that Qwest handled this
10 complaint in the same way that it handles most of the
11 other complaints you deal with them on?

12 A. Well, again, we're looking at different
13 complaints dealing with different issues. Are you
14 looking at generalized?

15 Q. I would say Mr. Wheatley's complaints, do you
16 feel Qwest dealt with Mr. Wheatley in the same manner
17 they would deal with any other customer who had a
18 complaint?

19 A. I don't see any difference in their reply,
20 that's correct.

21 MS. RENFRO: I don't have any other
22 questions.

23 ALJ RODDA: I don't have anything. Thank
24 you, Reg.

25 (The witness was excused.)

1 ALJ RODDA: Mr. Wheatley.

2 MR. GELLMAN: Your Honor, just real quick, I
3 wanted to inquire whether Mr. Reiker and Mr. Lopez
4 will be needed further on in this proceeding, so that
5 they may be excused.

6 ALJ RODDA: I don't need them. I think that
7 they've given the information.

8 MR. WHEATLEY: I believe the testimony has
9 been sufficient, I do believe. I hope I don't put my
10 foot in my mouth here 10 minutes down the road.

11 ALJ RODDA: They can be excused.

12 MR. GELLMAN: Thank you, Your Honor.

13 ALJ RODDA: Your next witness.

14 MR. WHEATLEY: My next witness shall be John
15 Duffy.

16

17

JOHN DUFFY,

18 called as a witness, having been first duly sworn by
19 the Certified Court Reporter, was examined and
20 testified as follows:

21

22

DIRECT EXAMINATION

23

24 Q. (BY MR. WHEATLEY) Would you state your name
25 and position for the record?

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1 A. My name is John Duffy, I work with Qwest, I
2 am a policy and law manager in Phoenix, Arizona.

3 Q. Okay, entered into evidence at this time, we
4 have Exhibit C-4, which consists of pages 277 through
5 280.

6 On 279, dated 10-17, do you have copies of
7 this?

8 A. Yes, I do.

9 Q. Dated 10-17, it says that received from Joel
10 at the ACC. Do you have any idea where this come
11 from?

12 A. The date I show is 10-17, received, I'll read
13 it the way I would read the note. Received a voice
14 mail from Joel at the Arizona Corporation Commission.
15 The customer wants mediation. Talked to Reg, he says
16 features did not work at this -- and that this
17 customer is eccentric and has his own perception on
18 how things should work. Called Joel and advised that
19 11-17 at 2:00 p.m. would be okay.

20 This is a note that we would put on our
21 account. Mr. Lopez may not have had that note on
22 there. These are internal records that we keep
23 subsequent to the initial complaint, and it was just
24 stating what we received from Qwest and what the
25 comments were made on the voice mail.

1 Q. What you received from Qwest. The message
2 received from Joel?

3 A. Right.

4 Q. But Joel has no idea about where this message
5 come from, and Reg has no idea where this message come
6 from, so where did it come from? That's what I'd like
7 to know.

8 A. One of our reps talked to Reg.

9 Q. And you're stating that Reg made this
10 statement?

11 A. According to these notes, that is correct.

12 Q. So you're saying that Reg made this
13 statement, but Reg is saying that he has no idea, Joel
14 is saying whoever said this, said the message come
15 from Joel, and that Reg had told Joel this?

16 MS. RENFRO: Your Honor, I'd like to object.
17 I don't think Mr. Duffy can testify as to what
18 Mr. Reiker or Mr. Lopez is saying. I think Mr. Duffy
19 is trying to identify the source of the information on
20 this particular note and it's someone else's
21 interpretation of the phone conversation with
22 Mr. Lopez.

23 THE WITNESS: Whether that was directly from
24 Joel or Reg, I can't tell exactly from this note. I
25 don't know if Joel said it on the voice mail or Reg

1 said it after the voice mail was left.

2 ALJ RODDA: Or if it was a paraphrase?

3 THE WITNESS: Right.

4 ALJ RODDA: Or the rep's own take of
5 something from the message?

6 THE WITNESS: That is correct.

7 ALJ RODDA: Right.

8 Q. (BY MR. WHEATLEY) So might have the rep done
9 this in an effort to compel fear that I wasn't getting
10 a fair shot at this?

11 A. No.

12 ALJ RODDA: Your question presumes -- it's
13 making a presumption, I mean that I don't think is in
14 evidence.

15 MR. WHEATLEY: I'm sorry, I'm being told
16 nobody at the corporate commission seems to know where
17 this come from, yet it's here.

18 ALJ RODDA: The rep that took the message
19 wrote it down; is that right?

20 THE WITNESS: That is correct.

21 Q. (BY MR. WHEATLEY) Who was this rep?

22 A. It could have been anybody from the customer
23 advocacy group, Julie Layne or Mary Harris, it could
24 be one of those two. But it could have been somebody
25 else. These are just some notes that are in our

1 system.

2 Q. So you're saying you don't know who?

3 A. That's correct.

4 Q. So somebody made a note, and made this
5 comment or twisted Reg's words or whatever, that I was
6 eccentric and had my own opinion as to how things
7 work, but nobody seems to know who --

8 ALJ RODDA: Is that a question?

9 MR. WHEATLEY: Yes, yes or no question.

10 Q. (BY MR. WHEATLEY) That's what you're saying?

11 A. Can you ask the question again, please.

12 Q. I'll try. I'll try to make it a little
13 clearer, even. What you're saying is that this note
14 is in Qwest's system?

15 A. Yes.

16 Q. And the note indicates that it come from Reg,
17 and through Joel?

18 A. The way that I read it, yes.

19 Q. But nobody knows who made the note?

20 A. Somebody at Qwest.

21 Q. Somebody, just somebody at Qwest?

22 A. One of our customer advocacy people.

23 Q. At Qwest made this note?

24 A. Correct.

25 Q. On April 29th, 2002, I had called Qwest,

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1 actually, you, and I was having a problem with my
2 services and my features that were on my phone, and
3 you told me that there might be charges because I had
4 called somebody prior to you, and you said there might
5 be charges, you wanted to make sure that wasn't the
6 case. And you said well, let me go and make sure that
7 you don't get charged for these charges; true?

8 A. Yes.

9 Q. Then later on, you called me back in a
10 three-way conference with Darcy Renfro?

11 A. Okay.

12 Q. True?

13 A. Yes.

14 Q. In this three-way conference, you told me
15 that there wouldn't be any additional charges, that I
16 didn't have to worry about that, because the
17 CustomChoice package, I can turn features on and off
18 without charges?

19 A. Certain features that are part of the
20 CustomChoice package, that is correct.

21 Q. But you showed some concern that you wanted
22 to get the correct features, the features that I now
23 wanted on my service, on there?

24 A. Correct.

25 Q. And you asked me to provide you with a list

1 of the services I now wanted on my phone service?

2 A. We've asked that for months in data requests,
3 yes.

4 Q. In my response to Qwest's motion to dismiss
5 for nonpayment of bill -- I can get the date. Are you
6 familiar with what I'm talking about. I can get it
7 for you.

8 MS. RENFRO: I think it's the May 9th
9 response to Qwest's motion to dismiss.

10 MR. WHEATLEY: I should probably pull it up
11 anyway.

12 ALJ RODDA: That's good, it was May 9th,
13 submitted May 9th, received by the Commission May
14 16th.

15 Q. (BY MR. WHEATLEY) In my response to Qwest's
16 motion to dismiss that's dated May 9th, I do believe
17 here, I provided you with such a list, did I not?

18 A. I'd have to look at the document.

19 (Brief pause.)

20 THE WITNESS: Yes, you did.

21 Q. (BY MR. WHEATLEY) When I provided Qwest with
22 this list, I said if there were problems what features
23 were and were not on my line, to let me know.

24 A. Okay.

25 Q. Is that in there?

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1 A. Yes, it is.

2 Q. Did you call and let me know that these
3 weren't features or did you contact me at all
4 concerning these features? Did you turn the features
5 on?

6 MS. RENFRO: Which question would you like to
7 ask, Mr. Wheatley? Can you do it one at a time?

8 Q. (BY MR. WHEATLEY) Did you turn these
9 features on? When you read my response, did you turn
10 these features on?

11 A. There were features that were already on
12 there prior to this letter, and I think we have an
13 exhibit that shows what you wanted and what we have on
14 there right now, if I can ask Ms. Renfro to get that,
15 and that will better help me answer this question.

16 Q. The question, I believe was really simple.
17 Did you respond to this by adding, putting these
18 features on my service? Yes or no.

19 ALJ RODDA: He said he would like to look at
20 the document, refresh his memory.

21 MR. WHEATLEY: I'm sorry, Your Honor.

22 MS. RENFRO: I have what would be Exhibit
23 No. R-2. This was provided Mr. Wheatley several weeks
24 ago in his request for our exhibits, so would you like
25 a copy, Mr. Wheatley.

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1 MR. WHEATLEY: Sure.

2 THE WITNESS: Features requested in May 9th,
3 2002 answer to motion to compel payment, you asked for
4 basic service, you have basic service. What's your
5 document -- you asked for call waiting, you have call
6 waiting. It's call waiting, caller ID. That's 1, 2,
7 and 3. You have caller ID, those features are on
8 there. Custom ringing, you have custom ringing, and
9 it's added on June 6th, from the May 9th.

10 Continuous redial, there's a typo, it
11 shouldn't be custom redial, it should be continuous
12 redial.

13 Three-way conferencing, three-way
14 conferencing, call transfer, we talked about call
15 transfer didn't work, so therefore, I mean that was
16 part of your complaint.

17 Call forwarding and variable call forwarding
18 variable is on there.

19 ALJ RODDA: But in response to his question,
20 is it after the May 9th -- I mean you've got features
21 requested.

22 THE WITNESS: There's other features added on
23 here that were -- Mr. Wheatley also asked to have his
24 phone service back to the way it was. The way it was,
25 if you go back to the features as of June 21st, 2001,

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1 there was last call return and speed dialing. Those
2 two features are part of the CustomChoice package,
3 there are no charges associated with that on there. I
4 did not change them, remove, delete, add, we left them
5 on there.

6 Mr. Wheatley has 30 speed call numbers on
7 there. He can use them, he's been able to use them
8 throughout the whole, and also the last call return.
9 Again, that's no charge to him. It's to his benefit
10 that those features stay on his line. Otherwise, for
11 example, the last call return, I do believe, is a
12 75 cent per charge, and again, it's part of the
13 CustomChoice package. No reason to take them off.

14 Q. (BY MR. WHEATLEY) Okay, so when, exactly,
15 did you provide me with these services that I
16 requested here?

17 A. Prior to June 6th. I don't have the exact
18 date, but I know as of June 6th they were working.

19 Q. So on June 6th, okay, prior to June 6th,
20 okay. And you also added speed dialing?

21 A. No, I did not. Mr. Wheatley, you've asked us
22 to do different things at different times.

23 Q. Well, I was just asking. I was looking at
24 this and I was confused. You said you put last call
25 return and speed dial and stuff on there which was

1 part of it?

2 A. That's not what I said. What I said,
3 Mr. Wheatley, was that you asked us for different
4 things at different times. One of your requests was
5 to return your phone service back to the way it was
6 before you added the cellular service and everything
7 else. We have not touched the last call return or the
8 speed dialing feature on your line for two reasons.
9 One, there's no charge to you to have those two
10 features on there. It is to your benefit, and it's
11 part of the CustomChoice package, and what you
12 wanted -- what you asked for in prior pleadings and
13 concerns. So that's why they were not touched. We
14 did not delete them off your account. It was to your
15 benefit.

16 Q. In prior pleadings and concerns, I asked that
17 you restore my service to what it was prior to the
18 installation of the Everywhere Line service.

19 A. I believe at the prehearing conference,
20 that's what we decided to do, was to bring it back to
21 the features, remove the voice mail, remove the cell
22 phone. We did that.

23 Q. Okay. But I called you with a complaint that
24 these features weren't on my service.

25 A. Which feature was not --

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1 ALJ RODDA: I'm sorry, there's no question
2 there.

3 MR. WHEATLEY: I was going to finish. I need
4 to get information to finish my question.

5 ALJ RODDA: Then he can't start answering.

6 MR. WHEATLEY: Okay, I wasn't expecting him
7 to.

8 Q. (BY MR. WHEATLEY) In the conversation that
9 took place on 4-29, I called you to complain that a
10 customer of mine had told me that she tried get
11 through and she couldn't. She was getting busy
12 signals. And it was determined at that time that
13 these features weren't all on there. True?

14 A. The confusion happened when you added the
15 call waiting, caller ID service.

16 Q. True?

17 A. I'm sorry, ask the question again.

18 Q. Okay. On 4-29-2002 I called you, complaining
19 that a customer of mine had called me and said that
20 she had tried to get through, and got busy signals and
21 couldn't get through; true?

22 A. You called me, yes.

23 Q. So these features, this call waiting and
24 caller ID, call waiting, caller ID, that feature was
25 not there at that time, on 4-29?

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1 A. That's correct. What happened was on that
2 feature, that was added afterwards. That actually was
3 added in August. I think you had it on there and then
4 had it removed in August, because when you talked to
5 Ms. Midge McCants earlier today, there's a note in
6 there talking about adding caller ID, call waiting.

7 The only thing I can think of is I missed
8 that feature when we went through the initial removal
9 of your service. That may have happened at my
10 confusion. You're right. It may have not been on
11 there, because I didn't remove any of the features.
12 The only thing I removed, the only thing I removed was
13 the voice mail and the cellular phone. So if it
14 wasn't there when I removed those two features, you
15 wouldn't have had it for a period of time. We went
16 back and investigated, based on your call on the 29th,
17 and looked back on what you had on the 21st.
18 Subsequently, we added it onto that.

19 Q. Okay.

20 A. You didn't have it for quite a while, and I
21 don't know the date, but it wasn't on there. But we
22 did add it back in on the, right an the 29th of April,
23 at no charge.

24 Q. In the three-way conversation, when you and
25 Darcy returned my call, you asked me to provide you a

1 list of services that I now wanted on my telephone;
2 true?

3 A. True, and we got that in your pleading on May
4 6th.

5 Q. And you got that in my pleading on May 6th?

6 A. May 9th.

7 Q. When you were out of town, I called Darcy to
8 find out why Qwest hadn't responded to my list of
9 features that I had requested be put on my phone
10 service, and Darcy said that she didn't know, but she
11 would make a phone call and try to work this out;
12 true?

13 MS. RENFRO: I'm not sure -- I have to
14 object. I'm not sure Mr. Duffy can answer that
15 question since he was out of town. But he may have
16 had subsequent conversations that he says we had.

17 ALJ RODDA: Do you know, Mr. Duffy?

18 THE WITNESS: I don't know.

19 Q. (BY MR. WHEATLEY) Darcy later returned my
20 call, and --

21 ALJ RODDA: Mr. Wheatley, I'm sorry to
22 interrupt, but I'm having a very hard time to know
23 where this line of questioning relates to your
24 complaint about how your phone was working back in
25 August of last year.

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1 MR. WHEATLEY: It has more to do with
2 problems with my phone service not being restored as
3 Qwest said they would at the procedural conference, as
4 John Duffy just gave testimony to, and Qwest said they
5 would at the procedural conference.

6 MS. RENFRO: I'm going on object on relevance
7 because it's outside the scope of the complaint. I'm
8 not sure how it has to do with anything that happened
9 with Mr. Wheatley in 2001 with respect to his service.

10 ALJ RODDA: Yes, we need to focus the
11 complaint. Your complaint is what you filed back in
12 January of this year. I know we've had discussions
13 with Qwest and procedural conferences about trying to
14 get service to how you like it now, but your
15 complaint, your formal complaint really doesn't, the
16 scope of that complaint is not that wide. I didn't
17 say that very artfully but I just don't see how this
18 is relevant to what happened with your phone not
19 working.

20 MR. WHEATLEY: It's relevant to Qwest filing
21 their motion to dismiss for nonpayment of charges.

22 ALJ RODDA: I thought you were paying
23 charges.

24 THE WITNESS: He is.

25 ALJ RODDA: You're not paying your cellular

1 charges.

2 MR. WHEATLEY: At the current time, yes, I'm
3 paying my charges.

4 ALJ RODDA: You're talking about the earlier
5 motion?

6 MR. WHEATLEY: Yes, May 9th.

7 ALJ RODDA: That's over and gone with.

8 MS. RENFRO: On June 12th, Madam Hearing
9 Officer, my recollection, I have a copy of the
10 transcript here, Qwest stated on the record that it --
11 Mr. Wheatley has in fact paid. We are not pursuing a
12 motion to dismiss for nonpayment on that basis. So
13 that, yes, that issue is now moot. We currently have
14 a subsequent motion to dismiss on other issues before
15 the Commission.

16 ALJ RODDA: That's my understanding too, that
17 previous motion to dismiss based on nonpayment is no
18 longer an issue because you are paying.

19 MR. WHEATLEY: This motion to dismiss created
20 a lot of fear in me. It made me very afraid to where
21 I couldn't sleep nights, it kept me up, and I don't
22 believe this motion to dismiss should have been filed.

23 ALJ RODDA: All right, but let's move on with
24 your complaint.

25 MR. WHEATLEY: Okay, so I'm not going to be

1 able to give evidence as to why this motion to dismiss
2 should have never been filed?

3 ALJ RODDA: When you testify, but let's
4 finish up with this witness, we'll get to that, and
5 see what you're going to testify to. In fact, no, I
6 can tell you now, it's not going to be relevant to
7 your complaint, the motion to dismiss.

8 Q. (BY MR. WHEATLEY) In my formal complaint,
9 John, on the first page, I state that I believe that
10 Qwest violated A.R.S. 44-1547. Refer to Attachment 1.
11 A.R.S. 47 has to do with ancillary service providers;
12 true?

13 MS. RENFRO: That's a legal question to a
14 fact witness. I would object, unless Mr. Duffy -- I'm
15 not sure Mr. Duffy can answer that question.

16 ALJ RODDA: Do you know what A.R.S., what was
17 that, 44-1574?

18 MR. WHEATLEY: 44-1574.

19 MS. RENFRO: It's the slamming and cramming
20 statute. I believe that falls in the jurisdiction of
21 the Attorney General's office, of which I have several
22 copies, if you'd like one. It's under Title 44. I'm
23 not exactly sure.

24 ALJ RODDA: What's Title 44 again?

25 MS. RENFRO: Trade and commerce. It says

1 basically you can't put someone's services on without
2 their permission.

3 ALJ RODDA: Trade and commerce.

4 MR. WHEATLEY: This has to do with trade and
5 commerce, ancillary service provider of the telephone
6 service. There used to be a Title 44-1574. It is no
7 longer, it was moved to some other law that had to do
8 with something about trade and commerce, I believe.

9 ALJ RODDA: Okay.

10 MR. WHEATLEY: But it's a supplement. This
11 44-1574 I believe was replaced sometime in 1990, if
12 I'm not mistaken, by ancillary service provider. I
13 have a copy of the law right here.

14 ALJ RODDA: Well, I have the 1574 with
15 ancillary providers; right?

16 MR. WHEATLEY: Is it with ancillary service
17 providers?

18 ALJ RODDA: Right.

19 Q. (BY MR. WHEATLEY) Okay. Would you do me a
20 favor and read letter C?

21 MS. RENFRO: I'm sorry, Madame Hearing
22 Officer, under Title 44, the definition of ancillary
23 service provider?

24 ALJ RODDA: An ancillary service provider,
25 under the statute, is a person that provides goods or

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1 services other than or in addition to
2 telecommunications services to consumers. And bills
3 consumers through a long distance telecommunications
4 service provider or local telecommunications service
5 provider; right?

6 MS. RENFRO: Right.

7 ALJ RODDA: Mr. Duffy is not a legal expert
8 or is Qwest an ancillary service provider?

9 THE WITNESS: No.

10 Q. (BY MR. WHEATLEY) Is Qwest cellular an
11 ancillary service provider?

12 A. No.

13 Q. Does Qwest cellular provide text messaging
14 when they bill for, through the Everywhere Line
15 service, as my service was set up?

16 MS. RENFRO: Again, relevance objection.
17 Text messaging service is not part of Mr. Wheatley's
18 complaint, unless he can explain how it's relevant to
19 his complaint.

20 MR. WHEATLEY: Text messaging service, if
21 it's provided by Qwest cellular, is a service other
22 than telecommunications.

23 ALJ RODDA: And?

24 MR. WHEATLEY: Meets the definition of
25 ancillary service provider.

1 ALJ RODDA: Are we dealing with Qwest
2 Wireless here?

3 MR. WHEATLEY: Yes, we are the Everywhere
4 Line service. I'll just enter into evidence so we
5 know.

6 MS. RENFRO: What are you entering into
7 evidence?

8 MR. WHEATLEY: It was a document provided
9 with my formal complaint. This is the ad that
10 compelled me. Who do I give this to, just everybody,
11 or somebody first?

12 ALJ RODDA: This is the ad that's attached to
13 the complaint.

14 MR. WHEATLEY: Yes, this is the ad that
15 compelled me to get Everywhere Line service. They
16 clearly advertise as Qwest cellular, as part of the
17 package, and therefore, it is relevant and related to
18 ancillary service provider.

19 MS. RENFRO: I believe Mr. Duffy just
20 testified that Qwest cellular is not an ancillary
21 service provider. Also, Mr. Duffy represents Qwest
22 Corporation, not Qwest cellular.

23 ALJ RODDA: Right, so I'm just not sure what
24 the question is. Do we have a question?

25 Q. (BY MR. WHEATLEY) Does Qwest cellular

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1 provide goods and/or services other than or in
2 addition to telecommunications services that it would
3 bill for through the local phone company in accordance
4 with the ad that compelled me to get the Everywhere
5 Line service?

6 A. The Qwest Wireless bills a separate bill from
7 the Qwest bill. You have a Qwest Corporation bill
8 that has regulated and unregulated service, then you
9 have a separate wireless bill. The wireless bill is
10 considered telecommunications services. I do not
11 understand the question about your inference to text
12 messaging and anything above and beyond that as an
13 ancillary service, I am not aware.

14 Q. Ancillary service provider is somebody who
15 provides in addition to or other than
16 telecommunications services, and bills through the
17 local telephone service provider; true?

18 MS. RENFRO: Objection. You're asking a fact
19 witness to make a legal conclusion. Try a different
20 form of the question.

21 MR. WHEATLEY: I will try to rephrase this
22 question in a way that it's legal to be answered.

23 ALJ RODDA: Just because you don't like an
24 answer doesn't mean you can ask the same question over
25 and over again. I think he's already answered your

1 question that he doesn't know.

2 Q. (BY MR. WHEATLEY) So you work for Qwest
3 Corporate or U S WEST Corporate; true?

4 A. I work for Qwest Corporation, correct.

5 Q. You don't know if Qwest cellular provides
6 text messaging or not?

7 A. I believe they do. You do not have that
8 service, and it's a separate bill from Qwest's
9 regulated business.

10 Q. This is an ad that Qwest put out; true?

11 A. Yes.

12 MR. WHEATLEY: And this should be marked as
13 Exhibit C-4, I believe.

14 ALJ RODDA: C-5. You need to give us the
15 copy, unless you have copies.

16 MR. WHEATLEY: I have copies.

17 Do you need a copy, Darcy?

18 MS. RENFRO: Yes, if you have an extra.

19 MR. WHEATLEY: Actually, I don't. I provided
20 a copy with my formal complaint. If you have a copy
21 with my formal complaint.

22 MS. RENFRO: Would this be Exhibit A-1 to
23 your formal complaint?

24 MR. WHEATLEY: Yes.

25 MS. RENFRO: Okay, I have it.

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1 Q. (BY MR. WHEATLEY) If a person received the
2 Everywhere Line service, and they were to ask Qwest
3 cellular to provide them with text messaging, would
4 the bottom line show charges that were related to the
5 text messaging?

6 A. I don't know, I'm not sure exactly where on
7 the bill it would show up for Qwest messaging, I've
8 never seen it on a bill. You don't have it on your
9 service, I'm not sure -- I've never seen it and I'm
10 not sure of the availability of it either.

11 Q. Would late fees for Qwest cellular be applied
12 to my regulated phone bill or would this -- or would
13 it be on a separate page of the bill?

14 A. The way that Qwest bills, we bill
15 1.5 percent of the total bill. There's only one late
16 charge. Most customers pay their bill, therefore it
17 doesn't apply to most people. Those who don't pay
18 their bill on time get a payment of -- get late
19 payment charges of 1.5 percent on the total bill.
20 There's only one line on that bill for late payment
21 charges based on the total balance.

22 What we have done with your bill,
23 Mr. Wheatley, is calculated out which 1.5 percent has
24 been for the regulated side of the business and the
25 other 1.5 percent which has been on your wireless side

1 of the business. That can be done, it's a
2 calculation.

3 As a matter of fact, now we bifurcated your
4 bill at the request of you and agreed upon all the
5 folks here, and we also moved the late payment charges
6 over to your wireless account. You have two accounts
7 now. One which is your, we'll call it the regulated
8 side, your normal CustomChoice package, then you have
9 a final bill that includes your total wireless
10 charges, plus the late payment charges associated with
11 that over the past seven months back, from when the
12 late payment charges started. And the amount I don't
13 have here, but I have it at my desk. So from an
14 ongoing point from here on out, you'll have your
15 normal bill, the services you have on now, and you'll
16 have a one-time bill that will be static for your
17 wireless bill and the amount of \$380 and --

18 MS. RENFRO: 99 cents.

19 THE WITNESS: 99 cents.

20 Q. (BY MR. WHEATLEY) This bill separation of
21 Qwest cellular charges and late fees, does it include
22 late fees after, let me get the date, does it include
23 all the late fees after my cellular service was turned
24 off?

25 A. Yes, it does.

1 Q. It includes all those late fees?

2 A. I can explain it very briefly how I
3 calculated it.

4 You have a designated wireless amount each
5 month. So you take that amount and multiply, say the
6 first month, you multiply that by 1.5 percent. You
7 have a charge, a late payment charge associated with
8 that. So we take month one, charge plus month one
9 late payment charge, add that together. Next month's
10 bill, you would have another charge for your wireless
11 service. So you add up your total month one, which
12 includes your late payment charges plus the new
13 charges on your wireless. You multiply that by
14 1.5 percent, you would get a month two total late
15 payment charge. You would continue that through the
16 time that you stopped using your cellular service,
17 then you would just only calculate the 1.5 percent
18 based on the total dollar amount that you owed at that
19 time because you were not incurring any more cell
20 phone charges. So it would be only the 1.5 percent on
21 top of the total late payment charges for each month.

22 Q. I'm confused as ever but I'll try to live
23 with it.

24 A. So to answer your question, yes, it includes
25 after your disconnect.

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1 Q. After my disconnect?

2 A. Of your cellular phone, correct.

3 Q. After my disconnect, for several months?

4 A. Yes.

5 Q. For two months. Cell phone charges remain
6 part of my past due?

7 A. That is correct.

8 Q. And there were late fees based on this?

9 A. Correct.

10 Q. That were applied to my regulated bill?

11 A. That we have bifurcated out, since we made
12 that agreement at the time of the last prehearing, the
13 March 6th prehearing.

14 MS. RENFRO: At this point, Madam Hearing
15 Officer, I'd like to object to this whole line of
16 questioning because these are issues that relate to
17 events subsequent to the complaint. It was an effort,
18 an agreement that Qwest made in March 6th, the
19 procedural conference here in Tucson, how to handle
20 Mr. Wheatley's account, so that he could start
21 moving -- so we could move forward, on a forward going
22 basis. I don't know to what this line of questioning
23 does relate to, and if Mr. Wheatley wants to have
24 another, would like to request an oral argument on
25 this set of issues as they may relate to a particular

1 motion or another pending matter before the
2 Commission, that would be fine, but I don't see how it
3 relates to what has gone on in this complaint
4 whatsoever.

5 MR. WHEATLEY: Can I answer her?

6 ALJ RODDA: Yes, go ahead.

7 MR. WHEATLEY: I don't believe that these
8 charges that were removed are correct.

9 MS. RENFRO: Then it's Qwest's position
10 that's a different issue.

11 ALJ RODDA: Right, and I guess it would be
12 helpful to me, do we have a bill that you can look at?
13 You're talking in the abstract. It's difficult to...

14 MR. WHEATLEY: I have two bills, they're both
15 John Wheatley dba Desert Auto Doctor. However, they
16 have different account numbers. I believe this is the
17 total amount that was separated.

18 ALJ RODDA: So you've handed me a Qwest
19 Wireless bill?

20 MR. WHEATLEY: No, that's a Qwest bill. I
21 now have two separate Qwest bills, one contains
22 wireless charges, one contains ongoing charges.

23 THE WITNESS: Can I add something real quick?

24 ALJ RODDA: Yes.

25 THE WITNESS: When we decided to bifurcate

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1 the bill, the bifurcation is in two steps. Step one
2 is to separate just the wireless charges off, and that
3 bill should be \$329 and change, if I'm guessing what
4 he's showing you. The next step is to, that bill has
5 to be there before we can separate the, it was \$51 and
6 change, which happened subsequent to that, and I have
7 a document that shows the \$380.

8 ALJ RODDA: You know what would be, I think,
9 Ms. Renfro, as part of your case were you going to go
10 over the bill that show amounts owing at different
11 times?

12 MS. RENFRO: Madam Hearing Officer, I have
13 three different items that might be useful. One is a
14 summary of the entire bill with everything, and then
15 it demonstrates when the cellular charges were
16 bifurcated and what those amounts are. I have a chart
17 which just specifically lists wireless charges and the
18 late fees associated with those wireless charges by
19 month, and I also have a full set of Mr. Wheatley's
20 bills themselves.

21 ALJ RODDA: Here's what I think would be
22 helpful, Mr. Wheatley, is that Mr. Duffy leave the
23 stand now and you testify, if you're going to be the
24 last witness, and have Ms. Renfro call him as her
25 witness, then you can cross-examine him on the bills,

1 and that way I think is the best way to get at bill
2 amounts.

3 MR. WHEATLEY: I'm just objecting to the
4 amount, is all. I don't believe it's correct and I
5 had no other than my thinking, and looking at the
6 documents I was provided with, as to separation. I
7 believe that there were some charges that were left on
8 there.

9 ALJ RODDA: Okay, but don't you think it
10 would be most helpful if we went through how Qwest got
11 to that amount for you to then --

12 MR. WHEATLEY: They provided me to how they
13 got to that amount earlier and they provided me with
14 documentation. However, this documentation did not
15 include, go beyond -- in other words, interest charges
16 were applied to two other bills, and then they took
17 off this, but these interests sort of got left on
18 there. And it's really no big deal, it really isn't.
19 It's not worth going there, actually. I'm sorry I
20 brought it up at this point.

21 ALJ RODDA: I want to make sure we have the
22 right amounts. I think we might be able to get there,
23 but I also want to sort of finish this hearing today.

24 MR. WHEATLEY: I'll try, Madam Hearing
25 Officer, I will try.

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1 ALJ RODDA: Do you have more questions for
2 Mr. Duffy?

3 MR. WHEATLEY: Yes, I do, concerning billing
4 tariffs and late payments. Can I do this now or
5 should I do this in my own testimony?

6 ALJ RODDA: Since I don't know what it is
7 you're doing, I can't tell you.

8 MR. WHEATLEY: Darcy provided me with the
9 tariffs on late fees and how they should be applied.
10 And in reading this tariff, it became evident to me
11 that there shouldn't be any late fees for charges in
12 dispute, according to the tariff.

13 ALJ RODDA: So you have a witness on the
14 stand, you need to ask him a question.

15 Q. (BY MR. WHEATLEY) Tariff 2.32, letter K,
16 late payment charges. Would you please read 1 through
17 4?

18 A. Late payment charge of one and a half --

19 ALJ RODDA: Slow down.

20 THE WITNESS: A late payment charge of one
21 and a half percent applies to all billed balances
22 which are not paid by the billing date shown on the
23 next bill unless the balance is \$15 or less.

24 With respect to disputed bills resolved
25 against the customer, a late payment penalty will

1 apply where a disputed bill amount or such portion
2 thereof is not paid within five working days or by the
3 next month's bill date, whichever date is later.

4 Collection procedures. Temporary
5 disconnection of service and requirements for deposit
6 are unaffected by the application of late payment
7 charge. Late payment charge does not apply to the
8 following: Billed amounts under dispute, until the
9 dispute is resolved against the customer; bills
10 rendered more than 10 days after the bill.

11 Q. (BY MR. WHEATLEY) Did Qwest apply charges,
12 late payment fees to my disputed bill?

13 A. Yes, with the understanding that Ms. Renfro,
14 and we kind of explained throughout the whole process,
15 those late payment fees will come off once it's been
16 decided by the Hearing Officer or the Commission
17 whether or not who was right and who was wrong. They
18 accrue -- you're in no jeopardy at this time to have
19 your phone disconnected. So having those late payment
20 charges on there is a moot question.

21 Q. Unless, of course -- I can't do that because
22 this would be my testimony so I'm not going to do
23 that.

24 MR. WHEATLEY: At this time I would, I'm done
25 with Mr. Duffy for now.

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1 ALJ RODDA: Ms. Renfro, did you want to do it
2 now or are you just going to wait till later?

3 MS. RENFRO: I would like to call Mr. Duffy
4 after Mr. Wheatley's direct.

5 ALJ RODDA: As long as you promise he's
6 coming back.

7 With that, Mr. Wheatley, are you the
8 remaining witness for your case?

9 MR. WHEATLEY: I believe I am.

10 ALJ RODDA: Let's take like five minutes
11 before we start with your testimony.

12 (A recess ensued.)

13 ALJ RODDA: Mr. Wheatley, you want to be
14 sworn in.

15

16 JOHN WHEATLEY,
17 called as a witness, having been first duly sworn by
18 the Certified Court Reporter, stated as follows:

19

20 STATEMENT

21

22 MR. WHEATLEY: My name is John Wheatley, and
23 I'm the complainant in this case. In my normal
24 complaint I made clear three points. And the points I
25 made clear is that, one, Qwest violated the A.R.S.

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1 44-1574 or I believe they have. I'm not an attorney
2 and I don't believe I have the ability and I'm not the
3 judge. This is something for the judge to decide.

4 In my formal complaint, I state that Qwest, I
5 believe Qwest has violated the ancillary service
6 provider law. Now, I don't work for Qwest, but I know
7 darn well they provide text messaging through their
8 phone service. I get online, I see it there. The
9 evidence is all over the place that they provide text
10 messaging. Why a person who works for Qwest Corp.
11 wouldn't have any idea that they do so --

12 ALJ RODDA: Why do you think with your bill
13 that they violated this statute?

14 MR. WHEATLEY: Because Qwest cellular, by
15 definition, is an ancillary service provider. The law
16 doesn't state or say that a person has to necessarily
17 be getting the services. What it does say, that if a
18 person is ancillary service provider, that they have
19 to meet certain conditions and certain terms for the
20 service to be authorized or considered authorized.

21 ALJ RODDA: Are you saying that someone put a
22 feature or a charge on your bill that wasn't supposed
23 to be there?

24 MR. WHEATLEY: I'm saying that because Qwest
25 cellular is an ancillary service provider, and that I

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1 may have chosen at anytime to add text message to my
2 services, that they go under the law section Y, and I
3 would like to read this to her honor. 44-1574,
4 Section C, an ancillary service provider shall not
5 change a customer's -- shall not change customer
6 through the customer's telecommunications bill. Hold
7 it excuse me. Charge. I'll start over again, I
8 misread that. My reading is not very good.

9 An ancillary service provider shall not
10 charge a customer through the customer's
11 telecommunications bill for goods or services without
12 the customer's authorization to add goods or services.
13 Any person other than the local telecommunications
14 service provider regulated by --

15 ALJ RODDA: I'm sorry, I can't find where
16 you're reading from.

17 MR. WHEATLEY: 44-1475.

18 ALJ RODDA: I found it.

19 MR. WHEATLEY: Paragraph C. Would that be
20 correct?

21 ALJ RODDA: I'm sorry, I was on the wrong
22 statute.

23 MR. WHEATLEY: Should I continue?

24 ALJ RODDA: Yes, please. Sorry.

25 MR. WHEATLEY: I'll try to find my place

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1 here. Any person other than a local
2 telecommunications service provide regulated by the
3 Commission that provides billing services for
4 ancillary service provider is liable under this
5 subsection.

6 F. The billing person knows or should have
7 known through a pattern of course or conduct that the
8 ancillary service provider, telecommunications service
9 provider or other person is participating in charging
10 a customer for goods and services without the
11 customer's authorization, a local telecommunications
12 service provider that is regulated by the Commission
13 is not liable as a billing person pursuant to this
14 section, unless the telecommunications provider --
15 local -- man, this is hard to understand, I know I
16 read it a hundred times.

17 ALJ RODDA: You know, I have a copy, you
18 don't need to read it. I have a copy right here.

19 MR. WHEATLEY: Okay. It also says: B, an
20 ancillary service provider shall not use any written
21 authorization agreement to change or add goods or
22 services to a customer's telecommunications bill
23 unless the authorization is clear, conspicuous and
24 printed in at least 10 point bold pica. The
25 authorization agreement shall be in the same language

1 used in any promotion or inducement materials provided
2 to the consumer. The ad was my inducement.

3 At this time I would like to enter into
4 evidence what I believe to be the authorization
5 agreement, and I do believe I have copies for
6 everybody on this. Yes, I do. This will be Exhibit
7 6, C-6?

8 ALJ RODDA: C-6, yes.

9 MS. RENFRO: Can you tell me what it is
10 you're referring to.

11 MR. WHEATLEY: It was included in my list of
12 evidence.

13 MS. RENFRO: Can you tell me what it is?

14 MR. WHEATLEY: Everywhere Line for business
15 terms and conditions.

16 MS. RENFRO: Where does that come from?

17 MR. WHEATLEY: It was a document that was
18 mailed to me.

19 ALJ RODDA: Mr. Wheatley, she needs to be
20 able to find it. Do you have a copy that you can give
21 her right now?

22 MR. WHEATLEY: Yes, I do. I'm just trying to
23 mark it as to what it is. And we said this was C-6?

24 ALJ RODDA: Yes, but we do the official
25 marking so you're just marking that for your notes?

1 MR. WHEATLEY: For my notes, so I don't lose
2 track. Here's your pen, Darcy, and here's a copy for
3 you, John, and for you.

4 In C-6 I also provided an example as printed
5 in my printer of 10 point bold pica in different
6 fonts. This is clearly, Your Honor, this is clearly
7 an authorization agreement. To the best of my
8 knowledge it's the only one which, in this agreement,
9 if you look, none of it is in 10 point bold pica.

10 The charges, the cellular terms and
11 conditions are on this agreement.

12 ALJ RODDA: When did you get this agreement?

13 MR. WHEATLEY: I provided Qwest with that
14 information, but I have the actual dated envelope
15 here. This agreement was in an envelope that was
16 postmarked June 18th, '01.

17 MS. RENFRO: To who? To you.

18 MR. WHEATLEY: Yes, it was addressed to me,
19 dba Johnny Wrenchit's, 5201 North Davis Avenue,
20 Tucson, Arizona. It included a cover letter which is
21 in 10 point bold pica. However, the actual
22 authorization agreement includes things that are not
23 in the ad, such as a \$200 deactivation fee. It's all
24 pretty clear. It doesn't say I need to get services
25 or ancillary services from the service provider. It

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1 just says that if an ancillary service provider is
2 going to bill me through my local telephone company,
3 that they have to meet certain conditions and terms,
4 and one of those terms is they can't use real fine
5 print where I can't read it or I might not understand
6 it. And it also says that the Everywhere Line or the
7 ancillary service provider, the ad that induces me
8 into entering into such a contract must be similar.
9 It can't be so different. And this is very, very
10 different.

11 ALJ RODDA: How is it different? Show me the
12 examples of how it's different.

13 MR. WHEATLEY: Man, I need to find my
14 glasses, if I can. They're probably out in my truck
15 or at my house, because I can't read this.

16 ALJ RODDA: Can you remember what you thought
17 was different about it, besides the \$200?

18 MR. WHEATLEY: For one, what's the \$200 thing
19 there?

20 MS. RENFRO: May I ask Mr. Wheatley if I can
21 see the entire mailing that contained this document in
22 it.

23 MR. WHEATLEY: Yes, you may. In other words,
24 you're asking to see the original document in the
25 mail?

1 MS. RENFRO: Yes.

2 MR. WHEATLEY: I do believe that is all I
3 got.

4 I don't know how to explain it but if you
5 read this agreement, and you read the ad that
6 compelled me to get this service, there's many things
7 in this agreement that were never even mentioned in
8 the ad.

9 Also, the ad itself contains print that is
10 less than 10 point bold pica. That's my testimony as
11 to that. I have more testimony, though. Oh, there's
12 one more thing concerning this law. As to the remedy
13 for such a violation of this law, they provide the
14 remedy in E, I believe. And E says if a consumer paid
15 for any goods or services that the consumer did not
16 authorize, and this clearly was not authorized because
17 of the authorization agreement and the print that it
18 was done in, and the ad itself, the unauthorized
19 ancillary service provider shall refund to the
20 customer an amount equal to all charges made to the
21 unauthorized ancillary service provider by the
22 customer. Customer may recover reasonable attorneys
23 fees and costs incurred in obtaining a refund from an
24 unauthorized ancillary service provider.

25 ALJ RODDA: Mr. Wheatley, is it your belief

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1 that the Commission can enforce this law?

2 MR. WHEATLEY: I believe the law brings
3 into -- yes, I do, because it says here that
4 telecommunications service providers regulated by the
5 Commission and Qwest is regulated by the Commission,
6 and the fact that it includes the Commission in the
7 law itself is an indication that this is where the
8 court that it belongs at. So the remedy to the law is
9 there. Qwest separated charges and said well, now
10 it's no longer an ACC issue, it's a federal issue.
11 But the -- they kept saying the reason I want a refund
12 on it was because of this. So it was a moot thing.
13 It wasn't really relevant, that these charges being
14 federal. No, it's directly related to the ACC and the
15 Commission. And therefore I shouldn't have to pay for
16 any of them. Anyway, I need to move on because I've
17 given that testimony. I have other testimony to give
18 here.

19 Where is my case. Man, there's just so much
20 here, so much documentation. Sorry. I wish I could
21 just say this is done with, I'll throw it out, I won't
22 need it any longer.

23 ALJ RODDA: Ms. Renfro, do you have any
24 objection to the admission of C-5 and C-6?

25 MS. RENFRO: I think C-5 is this underlying

1 terms and conditions. I would object unless the
2 entire document that was mailed to Mr. Wheatley is
3 included in that admission.

4 MR. WHEATLEY: What document are we talking
5 about?

6 MS. RENFRO: The letter confirming your
7 purchase of Everywhere Line service, that included
8 with it this enclosure of terms and conditions.
9 There's writing on here that doesn't reflect the
10 actual document and I'm not exactly sure this copy
11 reflects it either.

12 MR. WHEATLEY: This writing down here, it
13 says examples of 10 point bold. These are examples of
14 10 point bold pica.

15 MS. RENFRO: I would object, again, unless
16 the entire agreement or purchase confirmation letter
17 is admitted.

18 ALJ RODDA: I'd like to admit the entire
19 letter that came with this.

20 MR. WHEATLEY: Okay, I believe, what Darcy
21 looked at?

22 ALJ RODDA: Right.

23 MR. WHEATLEY: I don't have copies to go
24 around.

25 ALJ RODDA: I'll make copies.

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1 MR. WHEATLEY: Okay, it's a trick, Your
2 Honor, I think. But this is one of the documents that
3 come with that. Here's another document that come
4 with that, and that was the entire.

5 ALJ RODDA: I'll make copies of these later
6 and I will also, for the record, the last page of C-6,
7 which is the Everywhere Line, the Everywhere Line for
8 business terms and conditions has, at the bottom of
9 the page, some examples of 10 point print that
10 Mr. Wheatley had added that weren't part of the
11 original document. So I'm going to admit 5 and 6. 5
12 was the ad.

13 ALJ RODDA, what else is on your complaint?

14 MR. WHEATLEY: In what was originally
15 Exhibit C-2 pages 71, 72 and 73, I'd like to read
16 them. I'd like to enter them into evidence.

17 ALJ RODDA: Do you need to read them or can
18 you just tell me how --

19 MR. WHEATLEY: Basically what it's saying is
20 that I called and I complained and said my One Number
21 service was not working properly, my One Number
22 service didn't work.

23 ALJ RODDA: Did you get it?

24 MR. WHEATLEY: Yes, I did. I called and
25 complained. Qwest knew my One Number service did not

1 work.

2 On 7-25-01 they knew that my service was not
3 working properly. They also knew that I wasn't
4 getting the ring being forwarded. And when I say my
5 One Number service wasn't working properly, my voice
6 mail wasn't being activated by my cell phone. When my
7 cell phone was turned off, the calls were reaching it.

8 ALJ RODDA: Your voice mail on your land
9 phone or your voice mail on your cell phone?

10 MR. WHEATLEY: I'm not really sure where the
11 voice mail was. It was like, I called up and I first
12 noticed that it was, it would ring through my home
13 phone to my cell phone, but -- I first complained to
14 Qwest cellular, and then Qwest cellular transferred me
15 back to Qwest's landline service. Then Qwest landline
16 service told me no, it's a cellular problem you're
17 talking about, and I refused. I had been on the phone
18 a couple hours by that time. I sat down, I thought
19 about it for a day and I said well, you know what,
20 John, you're not getting this ring that's supposed to
21 be coming through when your phone is forwarded to your
22 cell phone, and I said that's definitely a landline
23 problem. This is where we're going to go with this,
24 can I get my service fixed.

25 And after they fixed the problem with the

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1 landline then they were able, Qwest cellular was able
2 to actually replace this trigger, install this
3 trigger. I'm not quite sure what they did but I know
4 that somehow this trigger didn't install right or
5 something, because Qwest cellular had talked to them
6 on the 25th, I believe. I'm not positive.

7 Lots and lots went on. I talked to Qwest
8 cellular a lot more than I'm seeing documents on, or
9 Qwest landline service, rather, more than I'm seeing
10 documents on. I remember calling several times.
11 Every day I would call hoping that the next person I
12 talked to would understand what I was trying to tell
13 them, that I wasn't getting this ring, that people
14 couldn't seem to understand that for some reason. I
15 was trying to explain it, but then again, every time I
16 called it would be like 20 minutes on hold, then
17 finally I'd get through to somebody. It was a
18 nightmare.

19 ALJ RODDA: Anyway, the ring wouldn't work on
20 the -- you wouldn't get the warning ring, it would be
21 transferred to your cell phone and if your cell phone
22 was off, it would not go back to voice mail, is that
23 the problem?

24 MR. WHEATLEY: It wouldn't go to voice mail.
25 I don't know why it wouldn't go to voice mail. Alls I

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1 know is when my landline was forwarded to my cell
2 phone manually because the One Number service wouldn't
3 work, so I couldn't use it, and when I had to go to
4 the bank or this or that, I had to manually forward it
5 to my cell phone, and that would work. It would go to
6 my cell phone manually. However that half a ring
7 wouldn't be there. Then it wouldn't go to my cell.
8 If I had to manually forward it to my cell phone, even
9 if my cell phone was on, it wouldn't go to my voice
10 mail. I called and I complained about it and they
11 said well, it's landline problems. So they
12 transferred me, I do believe they transferred me to
13 the landline people. Landline told me no, no, it's a
14 cellular problem. I really didn't know where to go
15 with the One Number service not working and my voice
16 mail not being able to be reached by my cell service.
17 I didn't know where to go with it but I did know this
18 half ring wasn't going.

19 I kept calling and complaining about it,
20 complaining about it. Finally Midge called me -- I
21 called her. I'm not really sure who called who at
22 this point, but sometime around 8-11, I believe it was
23 8-11, according to my notes, the features like call
24 forwarding and all these features, and the half a
25 ring, when it was forwarded, were all there within a

1 day or two of that, that actually got the One Number
2 service working and everything. By that time I didn't
3 want the service. I started looking at things, I was
4 promised things that weren't there and I just didn't
5 want it. It was just too much hassle for me, and I
6 just wanted my service put back the way it was. I
7 didn't feel I should be billed for all the problems I
8 experienced. I'm sure I lost business out of this,
9 although how do you prove it when people call and
10 there's no answer? I don't know.

11 ALJ RODDA: I can't give you damages anyway.

12 MR. WHEATLEY: I don't really know. Alls I
13 know, in 71 and 72 it's clear. Also, in the document,
14 now, I'm not sure if we entered that as evidence or
15 not, the document that Reg read.

16 ALJ RODDA: Yes.

17 MR. WHEATLEY: Did we enter that into
18 evidence?

19 ALJ RODDA: Yes, C-4.

20 MR. WHEATLEY: C-4, in Qwest's response they
21 say, they know that my One Number service wasn't
22 working. Because of this they were willing to give me
23 a \$100 credit. It just wasn't enough, Your Honor, at
24 that point. I had been put through so much, it just
25 wasn't enough.

1 ALJ RODDA: How much did you pay?

2 MR. WHEATLEY: How much had I paid them at
3 that point?

4 ALJ RODDA: How much did it cost to have
5 Number One service?

6 MR. WHEATLEY: The Everywhere Line service
7 was advertised at \$99 a month plus taxes, and then I
8 guess -- I need to enter some more evidence here. I
9 need to find it, though.

10 ALJ RODDA: Is the Everywhere Line service
11 the same as One Number service?

12 MR. WHEATLEY: I believe it's not, because I
13 had One Number service prior to my Everywhere Line, if
14 I remember correctly. When I got my cell service, I
15 had Qwest cell service for two years. I have gone
16 beyond my contract with them, which they required, I
17 believe at the time it was 100 or 100 and a half for
18 early withdrawal, and they gave me a free cell phone
19 with that, I believe, or a discounted cell phone three
20 years ago, four years ago now, I guess. I already had
21 this service.

22 When I started figuring out, they're giving
23 me exactly the same thing. The only way I was
24 benefiting was voice mail, and I think I was only
25 saving \$3 when I sat down and I figured out the cost

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1 of their CustomChoice package, which I already had
2 with the separate cell phone. I think the difference
3 was only three or four dollars. It really wasn't all
4 that much. If I had bought all the services
5 individually, there would have been a huge savings.
6 But I had CustomChoice prior to that, so it wasn't all
7 that huge of a savings to me.

8 Also, there was a credit on one of my phone
9 bills.

10 ALJ RODDA: I'm going to mark as C-7 --
11 Ms. Renfro is there any reason not to group 71, 72 and
12 73 together as C-7?

13 MS. RENFRO: Those are just a section of BOSS
14 notes, correct?

15 ALJ RODDA: I think so.

16 MS. RENFRO: No, I don't see any reason not
17 to.

18 MR. DUFFY: Which numbers?

19 ALJ RODDA: 71, 72 and 73.

20 MR. DUFFY: If you include 70, we're okay.

21 MS. RENFRO: 70 is, Page 70 would be the --
22 Page 70, the 8-2-01 notes get cut off. The beginning
23 of those, that day's notes are on Page 68. 68 starts
24 the notes from August 2nd, 2001, so I would request
25 that Page 68 through 73 be admitted together.

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1 MR. WHEATLEY: That's why I admit they
2 offered me \$100 and stuff. That just wasn't enough at
3 that point.

4 ALJ RODDA: I'm just trying to make sure that
5 the document is coherent.

6 MS. RENFRO: If you start at 68, it would be
7 a coherent document, no dates would be cut off at that
8 point.

9 ALJ RODDA: Okay.

10 MR. WHEATLEY: At this time, though, at this
11 time, this was all informal complaints.

12 ALJ RODDA: Right.

13 MR. WHEATLEY: And I had to go and look up
14 the actual laws to see exactly my bait and switch or
15 my contractual claims at arbitration, to see as to
16 what the laws were, because I'm not an attorney and I
17 don't know the laws. I just know I had been harmed
18 and done wrong, and that this was not right.

19 ALJ RODDA: Stop talking for a minute.

20 I'm going to admit as C-7, pages 68 through
21 73 of what was formerly C-2.

22 ALJ RODDA: Okay, Mr. Wheatley.

23 MR. WHEATLEY: 68 through 73, I just want to
24 mark this for my own reference. This will be C-7?

25 ALJ RODDA: Yes.

1 MR. WHEATLEY: That's evidence, in evidence,
2 here, is evidence of nonworking service, nonworking
3 number?

4 ALJ RODDA: That's what you're saying it is.

5 MR. WHEATLEY: Yes, it's not evidence to
6 ancillary service provider, it's evidence as to
7 nonworking number, where I couldn't receive calls.

8 MS. RENFRO: I'm sorry, Mr. Wheatley what are
9 you referring to right now? I got lost for a second.

10 MR. WHEATLEY: It's okay, Darcy, I have a lot
11 of time. The Hearing Officer, I don't know, she might
12 get upset, but I have all day.

13 ALJ RODDA: The BOSS notes we just admitted,
14 he was just saying go to his claim of nonworking
15 service, not his ancillary service provider.

16 MR. WHEATLEY: And the penalties for
17 nonworking service are included. The number of days,
18 I don't know, I guess from 7-25 until 8-11, when my
19 service was actually fully restored, or 8-12,
20 actually.

21 ALJ RODDA: Were the features just not
22 working or if you had the call forwarding not turned
23 on would you still get calls?

24 MR. WHEATLEY: If call forwarding was not
25 turned on, I would receive calls.

1 ALJ RODDA: And you could call out?

2 MR. WHEATLEY: I could call out but I was
3 paying for a package that included all these features,
4 and it wasn't working.

5 ALJ RODDA: Right, but that's different than
6 dial tone service under the quality of service tariff.

7 MR. WHEATLEY: I believe, if you read the
8 rules, I believe the rules, where dial tone, the
9 document that Qwest provided to me at the arbitration,
10 if you read it, it says if a person cannot make and/or
11 sand a call -- a call.

12 ALJ RODDA: Okay.

13 MR. WHEATLEY: That's what it says. It
14 doesn't say whether your dial tone is working, you can
15 receive calls sometimes. It doesn't cancel, it just
16 says if you can't receive a call. I believe that's
17 what it's saying, is my service wasn't working.

18 Another claim I made -- where's my formal
19 complaint? I don't want to get out of order here. I
20 also believe the Qwest...

21 In my formal complaint I'm saying that B-1,
22 which was in exhibit or in addition to my formal
23 complaint or the document that was added to it, it's
24 saying -- it's B-1, bill one, on Page 4, Item No. 4,
25 or Item No. 6, rather, that there's a feature charge

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1 added there, and this is on -- see, I had cell phone
2 service and I had this package on my cell phone
3 service that I liked. I just actually changed the
4 package and upgraded a little bit. And when I got
5 this Everywhere Line service, I was concerned because
6 the package they were saying come with Everywhere Line
7 service, or the representative of Qwest said come with
8 Everywhere Line service, was not the package that
9 we're talking about. I don't believe it was this
10 package. It was a 300 minute package or something,
11 you had 300 daytime minutes and then so many weekends.

12 I asked at the time, I said now wait, I just
13 got this package, I have cell service and stuff, I
14 want to make sure that I can keep the same package. I
15 was told I could, then I got charged \$14 for it.

16 ALJ RODDA: Tell me again what page of the
17 bills you're looking at, B-1, Page 4, Item 6, or I
18 guess Item 7 it would be? Where do you see this item?

19 MR. WHEATLEY: I'll show you the original
20 bill. It's kind of hard to copy the way it is. But
21 this is the page we're talking about, Page 4 that was
22 marked. This was also a misrepresentation. I was
23 getting charged charges. If you look at the ad and
24 the authorization agreement for the change to the
25 service, it says that you won't be charged if you get

1 the Everywhere Line service, including cell service or
2 something of that nature.

3 Now, I wanted to get scheduled greetings with
4 my service, and after I was looking through the book
5 of features and things like that, and scheduled
6 greetings was there, and when I talked to the
7 representative, he said well, there was a \$3 a month
8 charge for this, and I said well, that's not my
9 understanding here. I said my understanding is this
10 Everywhere Line service, the business, it's a total
11 package, it includes everything. And he said, well,
12 let me check real quick. He said I'll get back to
13 you. And he either called me back or got back on the
14 line a few minutes later and said I'm very sorry, I
15 made a mistake, this comes with this service. I said
16 okay, great. I believe it's on B-2, I've got to find
17 it. Actually, I should probably just look at the
18 questions I asked Darcy because they put it in there.

19 ALJ RODDA: I see a charge for scheduled
20 greetings on B-2, Page 2.

21 MR. WHEATLEY: This was after, on B-1,
22 Page 3, Item No. 3 says there's a 30-day credit for
23 scheduled greetings. And I asked Qwest in
24 discovery --

25 MS. RENFRO: On Page 3 of which exhibit

1 number?

2 MR. DUFFY: B-1.

3 ALJ RODDA: B-1, Page 3. Did you find it
4 there, Darcy?

5 MS. RENFRO: Okay.

6 MR. WHEATLEY: There's a \$3 credit for
7 scheduled greetings, 30-day credit for scheduled
8 greetings. This is going to be the hard part. I put
9 some documents together this morning and I looked, and
10 they were gone. I was dying.

11 This will probably take me a couple minutes
12 to find it if you'd like to take a brief recess, Your
13 Honor.

14 ALJ RODDA: No, keep looking.

15 MR. WHEATLEY: I'll try to make it as
16 expedient as possible.

17 (Brief pause.)

18 MS. RENFRO: Mr. Wheatley, may I ask what
19 you're trying to get at?

20 MR. WHEATLEY: Somewheres in this pile, I was
21 reading through here this morning and it said that
22 there was a \$3 credit for this because of a mistake or
23 an error of some sorts. I didn't understand it. It
24 just said something about an error, that this is why I
25 got this \$3 credit. I believe the error was I was

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1 misrepresented. I was told there was no charges, and
2 it was decided they'd give me a \$3 credit, I believe,
3 and this is only my belief because even if I'm able to
4 produce this, it just says \$3 credit, an error of some
5 sorts, and I'm not quite sure what it's all about
6 because there aren't that many notes there about it.
7 Just some sort of error and \$3 credit for my voice
8 communications scheduled greetings.

9 ALJ RODDA: Mr. Wheatley, they gave you a \$3
10 credit. Did they keep charging it to you? What was
11 the problem.

12 MR. WHEATLEY: They gave me the \$3 credit for
13 the first month because they had made a mistake, I
14 believe, in telling me that this service came with my
15 service. But I told the guy, I said you know, if this
16 doesn't come with my service -- I believe I only had
17 my Everywhere Line service for a day or two at the
18 time. I said if this doesn't come with it I don't
19 think I want this service because it was that close,
20 you know, it was like I really wasn't saving all that
21 much, and there were a bunch of problems and a bunch
22 of hassles, I found out.

23 ALJ RODDA: So then they charged you the next
24 month? Is that what the problem is?

25 MR. WHEATLEY: Yeah, then they charged me the

1 next month. But what the problem is is that under
2 R14-2-1114, service quality requirements and
3 provisions for competitive services, Paragraph B,
4 Subparagraph 2, shall make known to application for
5 its services, and to its subsidiaries, any information
6 necessary to assist the subscriber or customer in
7 obtaining adequate and efficient reasonably priced
8 service. They provided me with incorrect information.

9 ALJ RODDA: But is this document you're
10 looking for going to help besides you paid money?

11 MR. WHEATLEY: Yeah, it shows that I was
12 given this \$3 credit for some sort of error. Qwest,
13 when I asked ancillary service, my question here --

14 ALJ RODDA: Let me ask Qwest. Ms. Renfro,
15 does Qwest dispute that they gave a \$3 credit?

16 MS. RENFRO: Qwest does not dispute we gave
17 him a \$3 credit. When Mr. Wheatley sent us a data
18 request a few days ago, which we answered on Friday,
19 he asked about the credit, and our answer was that
20 Mr. Wheatley ordered scheduled greetings on or about
21 June 26th, 2001 and he received a \$3 credit for a
22 promotion in his July 2001 bill. It was a promotional
23 month free deal. He continued to keep this. That was
24 our answer to Mr. Wheatley on Friday.

25 He had kept his scheduled -- he ordered it on

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1 June 26th, 2001 and he kept it on until March 12th,
2 2002, so he was -- that month he got a promotional
3 credit then he was charged \$3 subsequent months until
4 it was removed from his service March 12th, and I'm
5 assuming as a result of our March 6th procedural
6 conference, when he decided he didn't want it anymore.
7 But when I show you the CustomChoice tariff in this
8 visual, scheduled greetings has nothing to do with
9 Everywhere Line service or CustomChoice, it's a
10 separate feature you purchase. Yes, we dispute it.

11 MR. WHEATLEY: I'm not disputing that it's a
12 separate feature. What I'm disputing is that it was
13 represented to me incorrectly.

14 ALJ RODDA: Right, I understand that.

15 MR. WHEATLEY: Could I just include this in
16 my brief, the page number and stuff it's on?

17 ALJ RODDA: It won't be admitted.

18 MR. WHEATLEY: As evidence. I see. But, you
19 know.

20 ALJ RODDA: To save time, if you find it you
21 can attach it to your brief; okay?

22 MR. WHEATLEY: And admit it as evidence?

23 ALJ RODDA: And I'll consider it.

24 MR. WHEATLEY: Okay. That sounds fair
25 enough. I'm sorry that I was not more prepared. Like

1 I said, I had written it down on what page it was.

2 ALJ RODDA: That will give Qwest an
3 opportunity to file comments on it if they feel
4 necessary. Let's move on, okay to the next.

5 MR. WHEATLEY: That, I believe, is the end of
6 my testimony.

7 ALJ RODDA: Just so I understand, you weren't
8 satisfied with, seems to me at some point Qwest
9 offered or as a result of the arbitration, I'm not
10 sure which, a \$143 credit.

11 MR. WHEATLEY: This was after they kept my
12 services on that I didn't even want. It was like I
13 want my old service back, they wouldn't give it to me.
14 That's like give me back my old service, and come
15 within the law, because I knew the contracts, I know a
16 little bit about law and it was obvious to me that I
17 had been cheated. This was not fair, and that they
18 needed to put the stuff back the way it was and refund
19 my moneys to me. That's all I wanted.

20 ALJ RODDA: If they had given you \$143 and
21 waived the \$200 deactivation fee would you have been
22 happy?

23 MR. WHEATLEY: If they would have gave me
24 \$143 -- I need to rephrase that. If they would
25 have -- when I first asked them hey, put this back the

1 way it was and don't charge me for it, if they would
2 have done that I would have been happy. I don't know
3 whether I would have been happy but I would have been
4 content. Because I don't think I would have been
5 happy with Qwest. It had hurt me quite a bit.

6 For a week I think my cell phone sat on, my
7 phone sat forwarded to my cell phone. I started
8 thinking why aren't I getting any calls, so I picked
9 up the home line, I called myself and I get told that
10 I'm not answering my cell phone and I think I didn't
11 hear a ring. And I dialed it again and I still didn't
12 hear a ring, then I start thinking well, I have this
13 thing forwarded, where's the ring. Then I started
14 thinking about when I forwarded it, and it was quite
15 some time. It was only after several days, maybe even
16 a week's time that I figured out hey, I'm not getting
17 any phone calls, and that's -- sometimes I don't get
18 many calls for a couple days, but a week? And I
19 started thinking, well, something's wrong.

20 ALJ RODDA: This was back in the July, August
21 time frame of last year?

22 MR. WHEATLEY: It was sometime right around,
23 sometime in July, I would say. It was sometime right
24 around July, middle of July, because it was shortly
25 after that I started calling them. Well, actually, it

1 was that day I started calling them and saying well,
2 wait, where's the half a ring? I'm not getting a
3 ring.

4 ALJ RODDA: After Midge worked on the problem
5 on August 7th, 8th, 9th period, did things get better?

6 MR. WHEATLEY: After Midge got done with that
7 phone service, it was working correctly but I no
8 longer wanted it. I had been put through too much,
9 and alls I wanted was for Qwest to put things back and
10 not charge me unfair charges as the way I was seeing
11 it. And the way I was seeing it was obviously the law
12 supports the way I was seeing it, I do believe.

13 ALJ RODDA: Is there anything else you want
14 to tell me about your complaint?

15 MR. WHEATLEY: What's that?

16 ALJ RODDA: Anything else you want to tell me
17 about your complaint?

18 MR. WHEATLEY: Well, just that many times I
19 was afraid and I was made to be afraid at the
20 arbitrator's meeting. Well, actually, there were a
21 couple disconnect notices that were sent to me, and it
22 was like well, our computers made a mistake. Well,
23 people are responsible for programming the computers
24 to where they don't make mistakes, and I don't see why
25 Qwest wouldn't, you know, why should they, if it

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1 doesn't matter, if they can just go ahead and send you
2 disconnect notices and say oh, it's an accident, I
3 don't see why they shouldn't comply with the law.

4 ALJ RODDA: So when you say you were afraid,
5 you were afraid of being disconnected. Is that what
6 you were afraid of?

7 MR. WHEATLEY: I was afraid of being put out
8 of business, Your Honor. I was afraid that I was
9 going to go to hearing and put all this time and
10 effort into it and that I wasn't going to get a fair
11 trial. And I apologize to you for my thinking. I
12 really do because I was really, you could tell how
13 stressed I was, and whether or not I directly
14 communicated it or not, I'm sure I nonverbally
15 communicated that I was pretty upset. And it was my
16 thinking, and my thinking was incorrect -- and my
17 thinking was incorrect because of notes that come from
18 nowhere. Nobody knows who made them.

19 Qwest filed a motion to dismiss and this
20 motion to dismiss was for nonpayment of a bill.
21 However, on the day I called them is the day they
22 filed this motion to dismiss.

23 Your Honor, you said we should work things
24 out amongst us at the procedural conference. You
25 indicated that we should work things out amongst us

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1 before filing motions to dismiss. Qwest made no
2 effort to ask me what's the problem, why haven't you
3 paid your bill. I don't understand. I read since
4 that time -- my thinking was incorrect concerning Your
5 Honor, and I apologize. I read a documentation called
6 the canons. I stumbled across it online and I started
7 reading the canons. And when I started reading the
8 canons I began to understand things a little better.
9 It opened my eyes. The reason the Hearing Officer
10 said that we should make -- talk to each other and try
11 to settle things without going through the ACC was
12 because of these canons and that the canons suggested
13 that she should compel us to come to a mutual
14 understanding before just jumping out and making
15 accusations without knowing. And Qwest made no effort
16 to communicate with me.

17 I was talking to John on the phone, he didn't
18 say hey, Mr. Wheatley, by the way, you know, I know
19 you're complaining about this, but you haven't paid
20 your bill yet. There is a reason why, you know,
21 what's going on. I was waiting for the bill. I had
22 received one bill, it was \$171, I knew that wasn't
23 right. I received the next bill, it was \$33. I knew
24 that wasn't right. These bills contained late fees on
25 them that Qwest said they were going to keep at

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1 procedural conference. They said they were going to
2 keep the past in the past. And I'm looking at these
3 late fees and I'm going well, this is from the past.
4 And then I get a tariff from Darcy and the tariff
5 itself says they can't charge me late fees, period.
6 Even if I lose this case, I have 10 days to pay them
7 before they can apply late fees to my service,
8 according to that tariff.

9 These fees aren't late, they're in dispute,
10 and I believe that's the difference there, is that
11 these fees are in dispute, they're not late, they're
12 in dispute. That's what the tariff says and that's my
13 opinion of it. I don't know, her honor may have her
14 own opinion that may differ from mine.

15 ALJ RODDA: So just going back, because a lot
16 of your argument on terms of what the law says and how
17 to apply it, are the facts you'll put in your brief.
18 Any more facts that you want to get on the record?

19 MR. WHEATLEY: That Qwest charged me late
20 fees on disputed amounts. They applied late fees to
21 my charges on disputed amounts. If I had known about
22 it at the time I filed my formal complaint, it would
23 have surely been included. I didn't know at the time
24 this was the law, only there's something I was
25 provided by Qwest, I find out, hold it, wait, it's

1 clearly underlined, one part of it where it says
2 they're allowed to charge me late fees, but the part
3 that says not on disputed amounts, there's no marking
4 on that. That was something I started reading the
5 whole thing. It's like well, wait, these are disputed
6 charges. They shouldn't be there.

7 I'm done, Your Honor. If I keep on I'm just
8 going to work myself up and get angry, and I don't
9 want to get angry.

10 ALJ RODDA: This is the time for
11 cross-examination, Ms. Renfro. Do you have any?

12

13

CROSS-EXAMINATION

14

15 Q. (BY MS. RENFRO) Mr. Wheatley, did you
16 authorize Qwest to have CustomChoice put on your
17 account?

18 A. Did I authorize Qwest to have CustomChoice
19 put on my account? When? Be specific about as to
20 when.

21 Q. I have a bill here December 26th, 2000 which
22 has CustomChoice on your account at that point.

23 A. December 26th?

24 Q. 2000. That's the first bill I have in front
25 of me. Did you order CustomChoice?

1 A. At one time, yeah, I had CustomChoice prior
2 to having cell service, so yeah, I was pretty happy
3 with my CustomChoice package.

4 Q. Did you authorize or in other words order
5 from Qwest cellular service?

6 A. Prior to the Everywhere Line?

7 Q. Just period, ever. When you had cellular
8 service with Qwest, did you order it from them?

9 A. I had cell service two years prior to them
10 switching my cell service over to the Everywhere Line
11 service and it became a new contract, and all of a
12 sudden there was a \$200 penalty for something I could
13 go month to month on and there was no penalty.

14 Q. Sir, are you saying that you did not
15 authorize -- are you saying you did not authorize the
16 cellular portion of the Everywhere Line service?

17 A. I'm saying that I was tricked by Qwest,
18 through their advertising and their authorization
19 agreement, into getting the Everywhere Line service,
20 and the CustomChoice package and everything that went
21 with it.

22 Q. Actually, so let's --

23 A. It's a trick.

24 Q. Let's clarify that you're not saying you
25 didn't authorize the services, you're saying you

1 didn't like the services you received?

2 A. No, I am not. I'm saying --

3 Q. You're saying you didn't order the services?

4 A. I'm saying that I was fooled into authorizing
5 services.

6 ALJ RODDA: Mr. Wheatley, don't get upset,
7 just answer the questions. I understand you're
8 emotional but it's not...

9 Q. (BY MS. RENFRO) Let's take it piece by
10 piece. You authorized the CustomChoice service?

11 A. I did not authorize the Everywhere Line
12 service. I didn't authorize any of it.

13 Q. You never ordered any of that?

14 A. I did not authorize the Everywhere Line
15 service, I authorized something, but the fine print, I
16 didn't authorize.

17 Q. Did you order Everywhere Line service and did
18 you order, with that -- did you order the Everywhere
19 Line service from Qwest?

20 MR. WHEATLEY: Your Honor, she's asking me
21 the same question over and over again. How many times
22 am I supposed to answer?

23 Q. (BY MS. RENFRO) Did you order the Everywhere
24 Line service from Qwest?

25 A. Did I order the Everywhere Line service from

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1 Qwest? Of course I did. I ordered it.

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

3 A. But I didn't get what I was told I was going
4 to get.

5 ALJ RODDA: We understand that. We've got
6 that part.

7 Q. (BY MS. RENFRO) Do you currently, today,
8 have all the features that you want from Qwest on your
9 telephone line?

10 A. I'm not quite sure. I think maybe, maybe
11 not. It took me three years of time to put together
12 my CustomChoice package as it was prior to the
13 Everywhere Line service. It took me three years of
14 adding this feature, doing that or doing this, and
15 over a period of time I finally wound up with
16 something I was pretty happy with.

17 Q. Do you recall, on March 6th, the procedural
18 conference, do you recall telling Qwest you needed
19 dial tone, custom ring, caller ID and call forwarding?

20 A. Yes, I remember talking about that. I said
21 those were the minimal, and John Duffy said well, for
22 that price, you can get everything, you can get the
23 whole boat for that price.

24 Q. That's true, Qwest did at the March 6th
25 procedural conference; correct?

1 A. I said this is the bare minimum that I would
2 need, and Qwest said well, for this price, for the
3 same price, you can have everything. I said good,
4 I'll take everything, then.

5 MS. RENFRO: I want to admit the transcripts
6 of the March 6th hearing into evidence but I don't
7 know if I have them, I don't know where my extra
8 copies are.

9 MR. WHEATLEY: I'm not saying that I didn't
10 say this but this was a bare minimal, and John turned
11 around and said John, you can have everything for this
12 price, and I said good, I'll take everything.

13 MS. RENFRO: I'd like to move to admit, and I
14 only have one copy at this point, I can provide the
15 Commission another copy, I'd like to move to admit the
16 March 6th procedural conference transcript as Qwest
17 Exhibit R-3.

18 ALJ RODDA: Yes, R-3.

19 MR. WHEATLEY: Will I be provided with a copy
20 of evidence?

21 MS. RENFRO: Do you have a copy of the
22 transcript?

23 ALJ RODDA: No.

24 MR. WHEATLEY: No, I do not.

25 ALJ RODDA: Is that the complete transcript?

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1 MS. RENFRO: Yes, I'd like to offer the
2 complete transcript.

3 Q. (BY MS. RENFRO) Mr. Wheatley, do you recall
4 a conversation on August 2nd, 2001 with Qwest
5 executive office where they offered, where Qwest
6 offered you \$100 to satisfy your complaint?

7 A. Yes.

8 Q. Do you recall you, at that point, refused the
9 offer; correct?

10 A. It wasn't enough.

11 Q. And Qwest offered to discontinue the current
12 service you had and return your service back to what
13 you had previously; correct?

14 A. But they didn't offer to give me my moneys
15 back.

16 Q. But they offered to return your services back
17 to what you wanted previously?

18 A. They did offer to put my services back and
19 give me \$100 credit, but it was a package deal. Then
20 I had no, I couldn't go on and complain any longer, if
21 I accepted their deal. That was not enough.

22 Q. No one at Qwest told you if you took all this
23 you wouldn't be able to complain any longer, did they?

24 A. If this is the offer, I assumed or it was
25 implied okay, here, this is what we'll give you.

1 Q. As a credit for your --

2 A. It's not enough. You need to -- what I want
3 you to do is put it back. And I believe the
4 difference was like 40 bucks. I couldn't see it for
5 my bill because my bill was a lot huger than \$40. But
6 the difference, it appeared to me that the difference
7 was about \$40. I guess at the arbitration it was
8 brought up the difference was \$40.

9 Q. You refused to let Qwest touch your service
10 at that point?

11 A. I did not refuse to let Qwest touch my
12 service. What I refused was their offer.

13 Q. Which was to return your service back to the
14 way it was?

15 A. And give me \$100 for all my damages, all my
16 troubles.

17 Q. Do you recall the arbitration on November
18 7th, 2001?

19 A. Yes, I do.

20 Q. Qwest at that point offered you \$150;
21 correct?

22 A. Yes, they did.

23 Q. And you refused that offer; correct?

24 A. I refused that offer because Qwest wouldn't
25 have gotten their -- I wouldn't have been spending

1 that much money on my phone service.

2 Q. Just yes or no, please. You refused the
3 offer?

4 A. Yes.

5 Q. And you wouldn't -- at that point you would
6 not let Qwest return your service to the way it was
7 previously?

8 A. I would not let Qwest give me \$140 in return,
9 I wouldn't accept their deal, their package.

10 Q. You wouldn't let them change your service at
11 that point?

12 A. No, not what they were offering me wasn't
13 enough.

14 Q. You did not have dial tone, meaning you had
15 no phone service for approximately one hour during
16 this entire time you were having the problems with
17 Qwest; correct?

18 A. The dial tone itself was only off for
19 approximately an hour, I guess, I don't know. I know
20 I called up and complained and they had it on quickly.

21 Q. You did order scheduled greetings from Qwest,
22 right?

23 A. I called up and I asked scheduled greetings
24 be put on my service, yes.

25 Q. In fact, your scheduled greetings remained on

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1 your line until March of this year; correct?

2 A. It's irrelevant. I've already stated many
3 times that Qwest wouldn't give me a fair offer.

4 Q. You didn't want to pay the \$3?

5 A. I wasn't willing to let anything to happen
6 until after we could get together and decide what was
7 fair.

8 Q. Okay. And after the arbitration, and you
9 refused the offer at arbitration, Qwest again offered
10 subsequent, after the arbitration, before you filed
11 your complaint, Qwest offered you \$150, and in
12 addition to that, they offered to waive the \$200
13 deactivation fee for your wireless; right?

14 A. It's really irrelevant.

15 Q. Yes, it is.

16 A. It's not relevant.

17 ALJ RODDA: Did they, Mr. Wheatley?

18 MR. WHEATLEY: Yes, they did.

19 Q. (BY MS. RENFRO) And you refused to accept
20 that offer; correct?

21 A. I refused to offer because it was not enough.

22 Q. So you kept your cellular service on up
23 through March 6th, when we turned it off at the
24 procedural conference; correct?

25 A. I agreed, let's turn it off at the procedural

1 conference because her honor was there and knew of the
2 dealings, and this was all on record of the dealings
3 that were going on, and that Qwest agreed that this
4 would not harm my case by doing so.

5 Q. And you don't believe that during the
6 informal arbitration, it was going to be on record and
7 that a neutral third party would hear the offer and
8 understand what that meant?

9 A. I don't recall the offer to put my services
10 back the way they were in an effort to move forward
11 and not do away with the past. In other words, we're
12 going to go to hearing on the past charges, we just
13 want to move forward in an effort to pay my bill.

14 Q. I'm talking about at the arbitration.

15 A. The offer was not offered to me at the
16 arbitration.

17 Q. The \$150 offer that was given at arbitration?

18 A. No, the offer in an effort to move forward.
19 You're going to pay future charges and you're still
20 disputing the past and you're going to pay future
21 charges, this offer was not made to me.

22 Q. Qwest didn't offer to return your service
23 back to what you had prior to ordering the Everywhere
24 Line package?

25 A. Qwest offered to turn my service back and

1 give me moneys, but the moneys and offers were not
2 enough.

3 Q. And that would have -- that offer to return
4 your services back would have included disconnection
5 of your wireless; right?

6 A. I do believe I probably would have
7 disconnected my wireless as soon as I could.

8 Q. Because that was part of the Everywhere Line
9 package order?

10 A. I didn't want Qwest's service. I still don't
11 want Qwest's phone service today but I'm forced into
12 it because I can't advertise in the business White
13 Pages my cell phone number, according to Qwest.

14 Q. Mr. Wheatley, did you use your cellular phone
15 from the time you order it in June of 2001 until it
16 was turned off on March 6th, 2,000?

17 A. Are you talking about my cellular phone or my
18 cellular service?

19 Q. It's the same thing. Did you pick up your
20 cellular phone and use it?

21 A. My cellular phone I had gotten two years
22 prior?

23 Q. The cellular service provided to you by Qwest
24 as part of its Everywhere Line package that included
25 cellular minutes. Did you have any other cellular

1 service during that time?

2 A. No, I did not.

3 Q. Did you use your cell phone during that time?

4 A. Yes, I did, but my case is about ancillary
5 service provider and that's not really relevant.

6 Q. What are you asking for with respect to
7 Qwest's charges relating to your CustomChoice
8 features? When I say CustomChoice features, I mean
9 the call forwarding, the call transfer, and I guess
10 all the other features you have currently on your
11 phone.

12 A. I didn't understand the question.

13 ALJ RODDA: Is this R-2 you're looking at?

14 MS. RENFRO: Yes, it's the features
15 requested. It would be R-2, I believe.

16 Q. (BY MS. RENFRO) What is it that you want
17 from Qwest regarding the features you ordered, the
18 features you had, that were associated with your
19 Everywhere Line service?

20 A. My features are not the issue.

21 Q. What do you want, then?

22 A. It's not the issue, it's irrelevant what I
23 want.

24 Q. That's what we're here for. If you don't
25 want anything I guess we can call it a day and go

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1 home.

2 A. The issue is whether Qwest cellular or not
3 was an ancillary service provider and/or is an
4 ancillary service provider and whether it comes under
5 the law, whether or not these rules were broken.

6 Q. Do you want something from Qwest?

7 A. I want Qwest to pay for my damages.

8 Q. What do you consider your damages?

9 A. I would have to figure out what my, according
10 to the --

11 Q. Let me rephrase this. Do you want Qwest to
12 refund you the money that they charged you from the
13 time that you ordered your Everywhere Line service on
14 June 12 -- June 21st, I'm not exactly sure, in June of
15 2001, till March 6th, 2000, when we stopped the
16 service?

17 A. I want Qwest to refund my money as required
18 by the law.

19 Q. Do you want your -- do you want the money
20 refunded from the cellular service you received from
21 the time you ordered the Everywhere Line service to
22 the time it was cut off at the procedural conference
23 March 6th, 2002?

24 A. I want Qwest to refund my moneys and my legal
25 expenses as included in, and I want to do this,

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1 44-1574(e).

2 Q. Assuming that applies, do you have any
3 evidence that you incurred legal expenses? Qwest, I
4 believe asked you that in its first set of data
5 requests, and you said you had none?

6 A. I think I should read (e) again.

7 Q. I don't need you to read it. I'm asking you,
8 what are your legal fees?

9 A. But the law required, says that I can obtain
10 all my expenses in recovery and refund.

11 ALJ RODDA: What are they?

12 MR. WHEATLEY: I haven't sat down and figured
13 out my expenses yet. I have expenses that I haven't
14 even paid out yet. I have a witness I have to pay \$62
15 to. This was an expense.

16 ALJ RODDA: How do you expect my order, if
17 you prevailed, and presuming I could give you legal
18 expenses, how do you expect me to put that in the
19 order if you haven't given us any evidence of what
20 those expenses are?

21 MR. WHEATLEY: I believe I shall provide in
22 my brief my expenses.

23 Q. (BY MS. RENFRO) Qwest doesn't believe that
24 the statute applies, but beyond that, for the record,
25 we object that if Mr. Wheatley hasn't presented any

1 evidence as to legal fees or expenses at this point,
2 that they should not be allowed to be part of any
3 recovery should the Commission determine that that
4 statute does in fact apply.

5 ALJ RODDA: Understanding the complaint, if
6 you are going to do that -- I'm not saying just by
7 doing that you're going to get anything, but if you
8 are, I highly recommend, if you have receipts, you
9 better have evidence because otherwise it's just --
10 otherwise there is no evidence.

11 MR. WHEATLEY: I have receipts. I've lost --
12 there were expenses in recovering a refund here, and
13 the law clearly says that I'm entitled to my expenses
14 or my costs, and I have expenses that I could --

15 ALJ RODDA: We can't give you damages.

16 MR. WHEATLEY: I couldn't work.

17 ALJ RODDA: The Commission does not have the
18 jurisdiction to give you that kind of damages.

19 MR. WHEATLEY: I guess, if I asked for them I
20 won't be given those particular expenses.

21 Q. (BY MS. RENFRO) Mr. Wheatley, one last
22 question for you. You've seen the exhibit I sent to
23 you several weeks ago, which has now been labeled R-2,
24 regarding the features that you requested at various
25 points in time. Have you reviewed this document?

1 A. I looked at it but I didn't see how it was
2 relevant in my case.

3 Q. Okay, do you believe that this is a
4 correct -- do you believe this is a correct
5 description of the features you currently have on your
6 phone?

7 A. I would hope so. I don't know, I haven't
8 checked them all out to see if that's what I currently
9 have. I would hope, if Qwest comes in here and says
10 that's what I have, that's what I have.

11 Q. You really don't know what features you have
12 on your line right now?

13 A. I know I have caller ID. I know I have
14 caller waiting ID because I see these features and I
15 use them. As to -- can I look at your copy or should
16 I dig my own up, because I don't know about all the
17 features. I don't use them. I haven't agreed to do
18 last call return yet and see if I get a 75 cent bill.
19 I haven't tried that. I haven't put it to the test.

20 MS. RENFRO: I think that's all I have.

21 ALJ RODDA: I don't have anything further.

22 Mr. Wheatley, anything else before we put
23 Qwest's case on and Mr. Duffy returns to the stand?

24 MR. WHEATLEY: Nothing further, Your Honor.

25 ALJ RODDA: Let's take a short recess.

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1 (A recess ensued.)

2 ALJ RODDA: Mr. Duffy is already sworn in,
3 right, so whenever you're ready, Ms. Renfro.

4 MS. RENFRO: I am ready. Madam Hearing
5 Officer, there was one other, two items, I'm not sure
6 I moved to admit Qwest exhibits R-2 and R-3.

7 ALJ RODDA: No, they haven't been admitted
8 yet.

9 MS. RENFRO: I'd like to move to admit those.

10 ALJ RODDA: Mr. Wheatley, did you have any
11 objection to R-2 or R-3? R-2 was the feature, the
12 little chart of features, and R-3 was the transcript
13 from March 6th.

14 MR. WHEATLEY: The transcript from March, no,
15 I have no objection. The features, I don't see the
16 relevance. They're not relevant.

17 ALJ RODDA: I'll overrule that objection and
18 admit R-2.

19 MS. RENFRO: If I may, there was another
20 exhibit that I wanted to ask Mr. Wheatley to identify
21 and I'd like to move to admit that as well. It was a
22 communication between myself and him regarding late
23 fees. Would that be okay?

24 ALJ RODDA: Is that the letter that went with
25 the --

1 MS. RENFRO: Yes.

2 ALJ RODDA: Sure.

3 MR. DUFFY: It was actually e-mail.

4 MS. RENFRO: It was an e-mail, and I believe
5 I did copy you on this, but I would like to have it
6 part of the record.

7 Mr. Wheatley, do you recognize this e-mail?

8 MR. WHEATLEY: Yes, I do.

9 MS. RENFRO: Did you receive this e-mail J
10 5125 calm cast dot yet.

11 MR. WHEATLEY: Yes, I did.

12 MS. RENFRO: I would like to move to admit
13 this e-mail from June 25th, 2002 as R-4.

14 ALJ RODDA: Do you have an objection to that
15 e-mail, Mr. Wheatley?

16 MR. WHEATLEY: No, but I would like to also
17 enter in evidence an e-mail in response to that, I
18 believe.

19 MS. RENFRO: Was it the one that you sent to
20 us that's on the back?

21 MR. WHEATLEY: Yes, I believe so.

22 MS. RENFRO: It's all part of the same thing.
23 It was your question to us and our response.

24 MR. WHEATLEY: I believe that's what I'm
25 talking about.

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1 ALJ RODDA: It's already included in R-4?

2 MS. RENFRO: Yes.

3 MR. WHEATLEY: Those were my objections to
4 the amounts there, Darcy.

5 MS. RENFRO: Yes.

6 MR. WHEATLEY: I'm sorry, I do object.

7 ALJ RODDA: You're objecting to what we've
8 marked as R-4?

9 MR. WHEATLEY: Yes, because my case is not
10 about charges. I don't dispute the charges or whether
11 the charges were there or not. What I do dispute is
12 whether or not Qwest is an ancillary service provider
13 and by law, what, this is how charges, I mean that's
14 moot because that's not charges.

15 MS. RENFRO: It's about late fees.

16 MR. WHEATLEY: And charges, and separation of
17 charges.

18 ALJ RODDA: I'll note your objection but will
19 admit the document.

20 MS. RENFRO: Thank you.

21

22

23

24

25

1 JOHN DUFFY,
2 called as a witness, having been previously duly sworn
3 by the Certified Court Reporter, was examined and
4 testified as follows:

5

6

DIRECT EXAMINATION

7

8 Q. (BY MS. RENFRO) Okay, Mr. Duffy how many
9 years have you been working for Qwest Corporation or
10 U S WEST previously, U S WEST?

11 A. Six years.

12 Q. Have you held any different positions than
13 the position you hold now?

14 A. Yes, I was in the home office consulting
15 center as a sales representative, where I would get
16 phone calls from such as Mr. Wheatley on his small
17 business account, take service orders, help him out
18 with his account, explain his bill, so I'm very well
19 aware of the documents that are here today, and
20 Mr. Wheatley's complaint.

21 Q. So you're aware of Mr. Wheatley's complaint?
22 How so?

23 A. I talked to the people who spoke with
24 Mr. Wheatley, such as Midge McCants, Mary Gabriela. I
25 looked at all the documents that were available,

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1 reviewed his bills, reviewed his complaint, researched
2 and talked with Mr. Wheatley and attended all the
3 hearings.

4 Q. To the best of your ability, can you quickly
5 summarize what Mr. Wheatley's complaints are, or
6 complaint is about that's before the Commission?

7 A. Generally, Mr. Wheatley had an issue with
8 some of his services on his CustomChoice total
9 package, and I'll explain that in a minute. He
10 believes that he should get reimbursed or compensated
11 for features being either not working, not activated.

12 The repairs that Mr. Wheatley had have all
13 been fixed. The services that Mr. Wheatley wants on
14 his phone are currently where he wants them, as I know
15 today, just a few minutes ago. He said he didn't
16 know, but as far as I know, that everything is working
17 just fine.

18 Q. There was an issue -- there were two issues
19 that we've been sort of focusing on. One was with
20 respect to custom ring and security screen, then
21 there's call forwarding and call transfer.

22 Can you explain really quickly the security
23 screen and custom ring, and what was the problem
24 there?

25 A. The problem with that was the custom ringing

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1 and security screen was not --

2 MR. WHEATLEY: Objection. My case is not
3 about custom ringing and/or security features. My
4 case is about ancillary service provider, and I wasn't
5 provided with adequate information.

6 ALJ RODDA: And the second part of your case
7 was --

8 MR. WHEATLEY: Obtaining service.

9 ALJ RODDA: -- features not working.

10 MR. WHEATLEY: But it's not about this -- I
11 know that my features did this, what's it called,
12 security screening. I know about the problems with
13 that. And that's not what my case is about and I'm
14 not making any claims about that. Qwest gave me my
15 moneys back on those issues and I accepted that offer
16 on those issues, and therefore my case is not about
17 that.

18 MS. RENFRO: Okay. Then the other set of
19 issues relate to features that were ordered as part of
20 Qwest's Everywhere Line for business package of
21 services.

22 THE WITNESS: Correct.

23 Q. (BY MS. RENFRO) I'm going to show you here
24 what I will have, what I would like to have marked
25 R-5.

1 MR. WHEATLEY: May I see R-5? Exactly how
2 does this relate to ancillary -- it doesn't relate to
3 ancillary service.

4 MS. RENFRO: It relates to the Everywhere
5 Line service, which is the basis of your complaint.

6 MR. WHEATLEY: The basis of my complaint was
7 the Everywhere Line service, and the features on it
8 were malfunctioning and not compatible with each
9 other.

10 MS. RENFRO: This lists the features that are
11 part of the Everywhere Line service package. I'm
12 using it to demonstrate what we're talking about to
13 the Hearing Officer visually.

14 ALJ RODDA: It's fine. I need to know about
15 the Everywhere Line service.

16 Q. (BY MS. RENFRO) Mr. Duffy, can you look at
17 R-5?

18 MR. WHEATLEY: If I don't object it doesn't
19 mean that I'm stating...

20 ALJ RODDA: I know you don't agree but just
21 because I admit it doesn't mean that it's worth
22 anything either. I mean...

23 MR. WHEATLEY: Talking to the people here and
24 there, I've come to learn that people say things and I
25 sit there and say nothing and let them waste their

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1 time, it's an admission.

2 ALJ RODDA: If you have an objection, a
3 legitimate objection to the exhibit, you need to make
4 it.

5 MR. WHEATLEY: I just don't see how it
6 relates to my service not working correctly.

7 ALJ RODDA: I've noted your objection.

8 Q. (BY MS. RENFRO) Do you recognize the exhibit
9 marked as R-5, Mr. Duffy?

10 A. Yes.

11 Q. What is it?

12 A. This is an internal document that we use to
13 help explain the packages for small business customers
14 of CustomChoice, Everywhere Line and total package.
15 What this shows, CustomChoice is what Mr. Wheatley has
16 had for quite some time now, as he testified to. It
17 talks about one business line with the following
18 CustomChoice features, and there's a list of, don't
19 quote me on this, 20 or so that he can choose. Not
20 all of them are compatible with each other, such as
21 three-way calling and call transfer. You can either
22 have one or the other. That package is \$54.95.

23 The Everywhere Line for business is the
24 CustomChoice package plus the business voice message
25 service and wireless. That's all it is. It's just a

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1 marketing tool to sell business voice message plus our
2 cellular service at a discounted rate, along with the
3 CustomChoice package.

4 On the bill, everything is line item
5 separate. You'll have wireless bill, it will break
6 out the voice mail, they'll have the regulated charges
7 separate. That plan is 99.95. If you decide to go
8 with Internet, you would have a total package.

9 Mr. Wheatley has the Everywhere Line for
10 business, which included the choice of products. On
11 one of the charts that we put together, just to show
12 the benefit of the CustomChoice package, if he bought
13 these features on their own, it would be about \$75
14 versus the 54.95, so there is a benefit to bundling
15 the services as well as bundling it to the wireless.

16 Q. Is CustomChoice a tariffed feature Qwest
17 provides?

18 A. Yes.

19 Q. Is the wireless portion of the Everywhere
20 Line service a tariff feature?

21 A. No.

22 Q. I'd like to show you what we marked as R-6.
23 Do you recognize that, Mr. Duffy?

24 A. Yes, this is our tariff.

25 Q. On?

1 A. The package services, Business Customchoice.

2 MS. RENFRO: At this point I'd like to move
3 to admit R-6, the CustomChoice tariff, into evidence.

4 MR. WHEATLEY: I would like to object. I
5 just don't see how it's relevant to my service
6 malfunctioning.

7 ALJ RODDA: I'll note your objection. I'm
8 going to admit R-6.

9 Q. (BY MS. RENFRO) Mr. Wheatley testified --
10 Real quickly, Ms. McCants, earlier this
11 morning -- you were here to hear her testimony;
12 correct?

13 A. That is correct.

14 Q. She testified that August 4th she contacted,
15 she testified she contacted Mr. Wheatley regarding a
16 repair problem he had with respect to his call
17 forwarding; is that your recollection?

18 A. Yes, it is.

19 Q. And has Qwest ever denied that there was a
20 problem with the call forwarding feature at this time?

21 A. No, we never denied there was a problem.

22 Q. What is your understanding of the problem?

23 A. That the call forwarding feature that
24 Mr. Wheatley wanted and the call transfer feature that
25 was currently on his service were incompatible.

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1 Therefore, Ms. McCants removed the call transfer
2 subsequently. Not Ms. McCants, but somebody else in
3 the office put on three-way calling, which is a
4 similar service, at no charge, where he can do
5 three-way calling, which was the closest service to
6 that, at that time, than he had before. That's how it
7 was repaired.

8 Q. To your knowledge, was Mr. Wheatley ever out
9 of service during that time?

10 A. No.

11 Q. How is it that somebody can -- what is your
12 understanding of why the call forwarding and call
13 transfer features were not working on Mr. Wheatley's
14 account?

15 A. Based on the type of switch that Mr. Wheatley
16 has.

17 Q. Does that happen, is that a common
18 occurrence, when someone, the number of features being
19 incompatible at a particular switch?

20 A. It's rare.

21 Q. But that was what happened in Mr. Wheatley's
22 case?

23 A. Correct.

24 Q. I'm going to show you what has already been
25 mark as C-6 and admitted. This portion of C-6 is

1 Mr. Wheatley's Exhibit A to his complaint. Do you
2 recognize that?

3 A. Yes, I do.

4 Q. What is it?

5 A. This is the advertisement that was mailed, or
6 I'm not sure how it was distributed, but based on the
7 letterhead dear small business customer, I assume it
8 was mailed to a small business customer such as
9 Mr. Wheatley.

10 ALJ RODDA: I believe, for the record, that
11 the ad is C-5 and that the C-6 was the package that
12 was mailed to him.

13 Q. (BY MS. RENFRO) Can you quickly, can you
14 read -- at the bottom of that advertisement there is
15 what we call a disclaimer with regards to this package
16 of services we've been talking about, the Everywhere
17 Line service. Could you read that for us?

18 A. Wireless portion of Everywhere Line requires
19 a one-year service agreement. A \$200 fee per phone
20 applies if early deactivation occurs after the first
21 30 days and prior to fulfilling the one-year service
22 agreement.

23 MR. WHEATLEY: Your Honor, I believe that's
24 irrelevant.

25 ALJ RODDA: It's your exhibit.

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1 MR. WHEATLEY: Yeah, but it's the size of the
2 print.

3 ALJ RODDA: I understand your point about the
4 size of the print.

5 Q. (BY MS. RENFRO) You just testified
6 Mr. Wheatley was not out of service during the time of
7 the problem with call forward and call transfer. Was
8 Mr. Wheatley, to your knowledge, ever out of service
9 during this time period that has been, that is part of
10 his complaint?

11 A. For one hour, my understanding.

12 Q. And that was approximately when? Do you
13 remember?

14 A. In July.

15 Q. I would like to show you what I'd like to
16 mark R-7. Do you recognize this document?

17 A. Yes.

18 Q. What is it?

19 A. This is the service quality plan tariff. And
20 what a tariff is, the rules and regulations that Qwest
21 must abide by, these had been approved by the Arizona
22 Corporation Commission. Effectively, these are the
23 rules that we must follow through on, in this case, on
24 this page, the customer billing requirements for
25 billing credits.

1 Q. What does the service quality tariff say with
2 regards to credit, that when a customer is owed
3 credits by Qwest for service problems?

4 A. If I can read number one here.

5 Q. Okay.

6 A. In the event the customer service from the
7 company is interrupted and remains out of service for
8 more than eight hours continuous, for more than eight
9 continuous hours after being reported by the customer,
10 or found to be out of service by the company,
11 whichever occurs first, appropriate adjustments shall
12 be automatically made by the company to the customer's
13 bill.

14 The adjustment will be a credit on the
15 customer's bill, customer's monthly bill equal to
16 one-thirtieth of the company's basic monthly service
17 charge.

18 MS. RENFRO: At this point I'd like to move
19 to admit R-7.

20 ALJ RODDA: Mr. Wheatley, any objection to
21 R-7?

22 MR. WHEATLEY: Is this the entirety of 2.3.2?

23 MS. RENFRO: I don't believe so. It's a
24 portion that relates to service refunds.

25 MR. WHEATLEY: I believe that the whole, you

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1 want to add in, you need to have the whole 2 -- what
2 is it, 2.3.2?

3 ALJ RODDA: I'm going to admit R-7 and will
4 take notice that it's only a portion of 2.3.2 and that
5 I can and will look at the entire section that we have
6 on file here.

7 Q. (BY MS. RENFRO) We were talking about
8 incompatible features, Mr. Wheatley's switch, and that
9 was one reason why sometimes features that the
10 customer orders don't work correctly, because they're
11 just not available in the switch; right?

12 A. Correct.

13 Q. Is there any other reason that you can think
14 of that Mr. Wheatley may have had problems with
15 incompatible features on his account?

16 A. The only thing I can think of is if
17 Mr. Wheatley requested services that he wanted on the
18 line such as call transfer, that wasn't compatible
19 with three-way calling, and again, after we
20 reviewed -- actually after it was reviewed, that he
21 can only have one or the other three-way calling or
22 call transfer, those things come out.

23 Q. I would like to show you what I'd like to
24 mark as Qwest Exhibit R-8. Can you explain what R-8
25 is?

1 A. These are the change orders starting back in
2 May 2001 through June 29th, 2002.

3 Q. On the back of that, back of the first page,
4 what are those?

5 A. Those are the BOSS notes noting the change
6 orders.

7 Q. Do you believe that's an accurate summary of
8 the change orders and the BOSS notes supporting those
9 change orders in Mr. Wheatley's account?

10 A. Yes.

11 Q. Approximately how many change orders did he
12 make in the last year or exactly how many change
13 orders did he make?

14 A. There's 22 change orders. There may be a
15 few -- and I'll give you a perfect example, two
16 examples, that they weren't all done by Mr. Wheatley.
17 There are a few, and I'll point out two. One is what
18 Midge McCants did to fix his service back on the 7th
19 of August. She did the remove call transfer portion
20 of it and somebody subsequently put in the three-way
21 conference. The other -- all of June, Mr. Wheatley
22 wanted to change some of his listings, and after
23 subsequent conversations with Mr. Wheatley and our
24 expert directory listing person, and after
25 Mr. Wheatley found out about not being able to publish

1 on his cellular phone that he's purchased through
2 another company, we worked with Mr. Wheatley I'd say
3 very well through the whole process to get him what he
4 wanted. And those were removed in instances where he
5 didn't really want to have it that way and we added
6 what he really wanted.

7 Q. And would you be able to tell from the BOSS
8 notes provided, that are attached to Exhibit R-8, or
9 the BOSS notes that have been provided to Mr. Wheatley
10 in what is his Exhibit C-2, whether or not he
11 ordered -- made those change orders or they were done
12 as part of a repair such as the ones you described
13 with Midge?

14 A. If you went through each of them, we could
15 talk one by one how they were all set up. But the
16 notes on here do reflect how it was set up.

17 MS. RENFRO: I'd like to move to admit
18 Exhibit R-8.

19 ALJ RODDA: Do you have any objection to R-8,
20 Mr. Wheatley?

21 MR. WHEATLEY: That's the exhibit right here?

22 ALJ RODDA: The change orders.

23 MR. WHEATLEY: I haven't reviewed thoroughly
24 but I don't believe I'll have any objections, I'm not
25 sure.

1 your bills?

2 MR. WHEATLEY: This will be R-9 now?

3 ALJ RODDA: Yes.

4 MR. WHEATLEY: I haven't reviewed the bills,
5 but if they're the original bills, I don't see why I
6 have to object.

7 ALJ RODDA: R-9 is admitted.

8 MR. WHEATLEY: However, I do -- we'll bring
9 it up. It will be my turn soon.

10 Q. (BY MS. RENFRO) Lastly, with respect to the
11 bills, you just testified that those are, to your
12 knowledge, an accurate reflection of Mr. Wheatley's
13 bills from December 2000 to present?

14 A. Yes.

15 MS. RENFRO: I'd like to show you an exhibit
16 marked Qwest Exhibit R-10.

17 Your Honor, I'm going on the record to say
18 R-9, the set of bills, I meant to get a complete copy.
19 I'm going to take Mr. Duffy's set and look through it
20 and make sure that every bill is in there because I'm
21 afraid maybe there are bills that are missing, but I
22 will make sure that they are sent to the Commission
23 and to you, if there are any, in fact. I'd like the
24 Commission to have every bill from December 2000 to
25 present.

1 MR. WHEATLEY: December 2000?

2 MS. RENFRO: December 2000.

3 MR. WHEATLEY: I object. My case isn't about
4 2000, it's what happened in August of 2000, August.

5 MS. RENFRO: We just picked a time.

6 MR. WHEATLEY: I'm objecting. My case is not
7 about bills incurred in 2000.

8 ALJ RODDA: It's noted. If they're
9 irrelevant I won't pay attention to it.

10 THE WITNESS: You should have the full set
11 but we'll go through it and make sure.

12 (An off-the-record discussion ensued.)

13 Q. (BY MS. RENFRO) I believe I just had the
14 piece of paper in front of you marked R-10.

15 A. Okay.

16 Q. Can you tell me what this document is?

17 A. Yes, this document is a summary of
18 Mr. Wheatley's bills broken out by the -- I'm going to
19 go through the left-hand side.

20 Q. I'm going to go ahead and verify it. Did you
21 create this document, Mr. Duffy?

22 A. Yes, I did.

23 Q. How did you create it?

24 A. I reviewed Mr. Wheatley's bills such as the
25 ones he received in the mail.

1 Q. Could you explain, I think the relevant
2 portions, which begins in July of 2001, which is about
3 when Mr. Wheatley ordered -- or July would have been
4 the first month he was billed for the Everywhere Line
5 service he ordered in June?

6 A. That is correct.

7 MR. WHEATLEY: I'm objecting because my case
8 is not about bills, it's not about billing. I don't
9 question Qwest's billing practices, I don't question.

10 ALJ RODDA: I'm sorry, you're asking for
11 refunds of amounts so I need to know what the amounts
12 are; right?

13 MR. WHEATLEY: I am asking for the solution
14 to the problem of ancillary service provider.

15 ALJ RODDA: In addition to that, you are
16 asking for refunds of your bills; isn't that correct?

17 MR. WHEATLEY: I'm not sure, Your Honor, but
18 I don't believe so.

19 ALJ RODDA: I think that you're tired and I'm
20 pretty sure that you're asking for refunds of amounts
21 they charged.

22 MR. WHEATLEY: Okay.

23 MS. RENFRO: If I may, Your Honor. You don't
24 want to pay for those charges; am I right in that
25 assumption?

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1 MR. WHEATLEY: I certainly do not want to pay
2 for the cell charges because that comes under
3 ancillary service provider, and there are other laws
4 concerning authorizations, and these laws were broken,
5 even though I didn't have them in my formal complaint.

6 ALJ RODDA: Let's walk through R-10.

7 Q. (BY MS. RENFRO) I don't think, then, we
8 really need to go through the summary chart step by
9 step, but if you could kind of briefly provide the
10 Commission with an explanation of what these columns
11 are and what, particularly with the bottom part that
12 is marked wireless, why that has been separated.

13 A. That running balance on the left-hand side is
14 kind of an interim category. The total due is what
15 we'll more than likely see what's on Mr. Wheatley's
16 bill. You have a credit of 23.89, which happened to
17 be Mr. Wheatley's market expansion line concerning
18 what he was sent out. There was a 52 cent credit to
19 his wireless account for a dispute with a roaming
20 charge. He had regulated charges. Those are your
21 monthly charges, which includes the late payment
22 charges that are associated with that column.

23 You have an unregulated, which is his voice
24 mail. You have the wireless, and you'll see on the
25 first one of \$54.80. The reason that that's higher

1 than the months past that, back to what Mr. Wheatley
2 said about being charged \$14.10, that's the prorated
3 charge from June 20th through his bill date of July
4 4th, then we bill in advance the 35.25, plus taxes
5 gets to his 54.80. So he wasn't billed above and
6 beyond what he should have been billed. Again, that's
7 his prorated charge.

8 MR. WHEATLEY: 54 -- where are we talking
9 about, exactly?

10 THE WITNESS: If you look on your exhibit,
11 what you filed.

12 MR. WHEATLEY: R-10 are we talking about
13 here?

14 THE WITNESS: No, this is your exhibit that
15 you explain about the \$14.10 on Page 4.

16 MR. WHEATLEY: Okay.

17 THE WITNESS: If you go above Line 7.

18 MR. WHEATLEY: \$14.

19 THE WITNESS: You saw the \$14.10?

20 MR. WHEATLEY: B-1, B-2?

21 THE WITNESS: B-1, Page 4. I apologize. I
22 forgot what exhibit that is.

23 ALJ RODDA: I don't know that we marked it as
24 an exhibit because it's an attachment to the
25 complaint.

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1 THE WITNESS: Okay. Do you have that,
2 Mr. Wheatley?

3 MR. WHEATLEY: B-1, Page 4.

4 THE WITNESS: If you go to the upper
5 right-hand corner, it says Qwest Wireless account
6 summary, Qwest Wireless charges for July, \$54.80. If
7 you scroll a little bit down you'll see description
8 and amount, monthly service and feature charges of
9 35.25. That's your package that you have each month.
10 Underneath that it says equipment one-time charges and
11 credits, \$14.10. But if you scroll back down to where
12 you point out the \$14.10, it says added package at
13 35.25 on 6-20-01. So your prorated bill from 6-20-01
14 through your bill date, which is July 4th, is \$14.10.
15 You have \$35.25 because we do bill in advance for our
16 phone services, plus the \$14, plus taxes and it looks
17 like you've got an air time credit of 35 cents. Total
18 Qwest Wireless charges is \$54.80.

19 MR. WHEATLEY: My case is not about charges.

20 ALJ RODDA: You brought up the 14.10.

21 MR. WHEATLEY: Yes, I did bring up the 14.10
22 because it was inconsistent with the advertising
23 document.

24 MS. RENFRO: That's why Mr. Duffy was trying
25 to explain why the 14.10 was charged that month.

1 Q. (BY MS. RENFRO) Why was it charged that
2 month, Mr. Duffy, why was that amount charged to
3 Mr. Wheatley?

4 A. Because he already had been using that
5 service from June 20th through July 4th, which is his
6 bill date, then we bill a month in advance.

7 Q. So it was a prorated charge for the services
8 he ordered?

9 A. That is correct.

10 Q. Can you explain real quick at the bottom,
11 where it says wireless, what those numbers represent,
12 the bottom of this summary chart, R-10?

13 A. To finish up, so we have the monthly charges,
14 unregulated wireless, and his monthly running bill,
15 then on the right-hand side he paid, in September,
16 yes, September and October time frame, he did make
17 payments, one of \$126.77, and one of \$127.65. Then
18 you could see down further, after hearing in March, he
19 didn't make payments and apparently less the late
20 payment charges on that. That's where he comes up
21 with his dollar amounts, from what I assume, having
22 done the direct math on that. That's why it's
23 different than the monthly charge, just the regulated
24 service.

25 On the bottom you'll see July 4th, 2002.

1 Bifurcated wireless of \$380.99. Total due is the
2 585.67. What we did is per the Hearing Officer and
3 what we agreed to at the March 6th hearing, was to
4 remove the services. And if you take his wireless
5 services and add them up, including the credit,
6 because we do prorate, that's why he got a credit in
7 April, you come out to \$329.86. That's what he was
8 charged for since he had this service.

9 Q. For wireless?

10 A. For wireless. You add the credit, you come
11 out to \$329.34.

12 Based on my calculation of the late payment
13 charges, based on his wireless and the one and a half
14 percent, going back when late payment charges started,
15 I come up with \$51.65 through the July 4th bill. So
16 right now, as of July 17th, all of his wireless
17 charges, including late payment charges, have been
18 separated from his wire line bill.

19 ALJ RODDA: Did you say that the regulated
20 charges include late fees or don't?

21 THE WITNESS: They do. They're in there. In
22 the bills themselves, it describes on the page, if we
23 can pick, it's an easy one to read, October 24th,
24 2001. You pick a month and I'll...

25 ALJ RODDA: October 24th, 2001.

1 THE WITNESS: On Page 2, you see where the
2 double line says Qwest's local services, 74.58.

3 ALJ RODDA: Yes.

4 THE WITNESS: Scroll upwards and you'll see
5 late charge of unpaid balance of 291.72 is \$4.38.

6 ALJ RODDA: So that's just for local service?

7 THE WITNESS: That's for all services.

8 MR. WHEATLEY: Where are we talking about?
9 What bill are we talking about?

10 ALJ RODDA: October 24th -- I'm looking at
11 where it says due date of October 24th.

12 MR. WHEATLEY: R-10 document?

13 ALJ RODDA: R-9.

14 MR. WHEATLEY: October 10th we're talking
15 about?

16 ALJ RODDA: I guess the bill date is October
17 4th.

18 THE WITNESS: Pick any one.

19 MR. WHEATLEY: October 24th, 2001.

20 ALJ RODDA: Are you there.

21 MR. WHEATLEY: What were we saying on here?

22 ALJ RODDA: I asked him whether his chart
23 included late fees, the regulated service, and he was
24 explaining that it does, so he's showing me to look at
25 Page 2 of the bill, where it says 74.58, Qwest's local

1 services. If I scroll up, to use Mr. Duffy's
2 phraseology, I saw it before, now it's including a
3 late charge and unpaid balance of \$4.38.

4 MR. WHEATLEY: I don't see it -- I'm so
5 tired -- I don't see relevance other than the fact
6 that these amounts were in question at the time as to
7 the legitimacy of the amounts and I was disputing the
8 amounts, so there shouldn't be late charges.

9 Q. (BY MS. RENFRO) Can you explain -- actually,
10 Mr. Wheatley has now brought up again the late fee
11 issue.

12 Can you explain how late fees are assessed?
13 Let me ask you first, are you familiar with the tariff
14 regarding late fees?

15 A. Yes, I am.

16 Q. Can you explain how late fees are assessed
17 and -- start there. How are late fees assessed?

18 A. Late fees are assessed on the total bill. As
19 I explained before, 1.5 percent on all charges. They
20 are accrued. For hearing purposes, we're accruing
21 them. We're not in the collection process right now,
22 but we are accruing to track them.

23 Q. So pursuant to the tariff, what is your
24 understanding as to whether or not disputed charges
25 should be assessed late fees?

1 A. I'm sorry, say again.

2 Q. Your understanding as to what happens with
3 disputed charges and late fees.

4 A. All they are doing is accruing. If
5 Mr. Wheatley wins the case and we're directed to
6 remove those late payment charges on the disputed bill
7 amount, Qwest will abide by the Commission order. In
8 the meantime, late payment charges were being accrued
9 through the arbitration, which Qwest did win and so it
10 was expected that Mr. Wheatley pay for those late
11 payment charges.

12 Q. So if he were paying them currently, which
13 he, I don't believe he is; correct?

14 A. He is now paying his monthly bill, but
15 nothing prior to that. But he's not paying his late
16 payment charges on anything new or old.

17 Q. If the Hearing Officer were to rule in
18 Qwest's favor, would, pursuant to the tariff,
19 Mr. Wheatley owe the late fees for the entire amount
20 of unpaid charges?

21 A. Yes.

22 MS. RENFRO: I would like to show you on the
23 late fee issue, because we just talked about --
24 actually, I'd like to move to admit R-10 as a
25 demonstrative summary of Mr. Wheatley's bills from

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1 January 2001 through July 4th, 2002.

2 ALJ RODDA: Are there any objections,
3 Mr. Wheatley?

4 MR. WHEATLEY: I didn't even...

5 ALJ RODDA: R-10, the summary of the bills.

6 MR. WHEATLEY: The company's summary of the
7 bills?

8 ALJ RODDA: Are you objecting to the
9 admission?

10 MR. WHEATLEY: It's about bills. My case
11 isn't about bills other than Qwest is charging me for
12 late fees they shouldn't be charging me for.

13 ALJ RODDA: I'll note your running objection
14 and let them in.

15 Q. (BY MS. RENFRO) I'd like to show you I
16 believe an exhibit which I'd like to mark as Qwest
17 R-11. This particular document was provided to
18 Mr. Wheatley several weeks ago, I believe, when he
19 asked questions about his late fees and his wireless
20 charges and how Qwest was handling the bifurcation as
21 agreed upon in the March 6th procedural conference.
22 Do you recognize that document, Mr. Duffy?

23 A. Yes, I do.

24 Q. Did you create that document?

25 A. Yes, I did.

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1 Q. What did that document demonstrate?

2 A. It just calculates the late payment charges
3 that were moved over to Mr. Wheatley's separate
4 account for wireless charges.

5 MS. RENFRO: I'd like to move to admit R-11
6 as a demonstrative summary of the wireless fees
7 bifurcated from his current bill and the late charges
8 associated with that.

9 ALJ RODDA: Mr. Wheatley, any objection?

10 MR. WHEATLEY: Okay, I missed it again.

11 ALJ RODDA: It's a summary of the amounts
12 that were bifurcated for the wireless.

13 MR. WHEATLEY: Okay, I believe I've already
14 objected to this amount, I don't believe it's correct.

15 ALJ RODDA: I'm admitting R-11.

16 Q. (BY MS. RENFRO) Mr. Duffy, when did you
17 begin to get involved in Mr. Wheatley's complaint?

18 A. Just prior to the arbitration.

19 Q. And you reviewed, in preparation for the
20 arbitration, did you review the BOSS notes regarding
21 the disputed amount and Qwest's offers to Mr. Wheatley
22 on those disputed amounts?

23 A. Yes, I did.

24 Q. Are you aware, can you summarize, if
25 possible, the various offers that were made by Qwest

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1 to credit his account relating to wireless charges,
2 and what the response was?

3 A. On August 2nd, there was a discussion with
4 the executive office customer wanted the whole \$143.80
5 credit and remove all service started again. The
6 offer was to adjust the customer's account \$100, which
7 is outside of what we're normally, what we have to do
8 per the service call quality plan tariff, and fix all
9 issues with service. Customer wants adjustment to his
10 wireless account, states that he should only owe
11 approximately \$3. We looked at his wireless account,
12 said gee, you owe \$30.61. Claims he told, claims he
13 was told Qwest would discontinue service and credit
14 the full amount billed. There's no notes that we
15 have, or anybody has told me that that's what we would
16 do. We did fix his market expansion line, that's
17 where that \$23 refund came through. Again, gee,
18 you're using your cell phone service and your wire
19 line services. You're not even entitled to do any
20 credits per the service calling plan tariff, \$100, and
21 the customer refused.

22 Q. Then what happened at arbitration? Briefly
23 summarize -- actually, I think we covered what
24 happened at arbitration. And could you explain
25 quickly what offers were made post arbitration by

1 Qwest. In fact, I think at this point maybe by you
2 directly.

3 A. Yes, it was actually the first was done by
4 Ms. Gabriela saying gee, we'd be happy to give him
5 \$150, which is above and beyond the \$143, and we'll
6 deactivate his service and not charge him the \$200.

7 Q. And that's for the wireless service?

8 A. That's correct and Mr. Wheatley refused that
9 offer.

10 Q. Okay. Have you reviewed all the BOSS notes
11 and OSCR notes regarding these, I guess I'm not sure
12 if they're BOSS or OSCR notes, regarding these various
13 conversations with Mr. Wheatley and the arbitration?

14 A. Yes.

15 Q. You were involved with the arbitration. Can
16 you tell me quickly who Mary Gabriela is?

17 A. She's a customer advocacy person. She would
18 be one of the initial people to handle a complaint
19 that would go through the Arizona Corporation
20 Commission. Mr. Wheatley would call Reg Lopez, he'd
21 file a complaint, it would go to our customer advocacy
22 group, she would try to help Mr. Wheatley out, fix his
23 services. In this case offered to fix the services
24 back to the way he wanted to, and also offered the
25 \$100.

1 Q. And you talked to Ms. Gabriela about the
2 offers made after the arbitration to Mr. Wheatley?

3 A. Correct.

4 MS. RENFRO: I'd like to show what I'd like
5 to mark as Qwest Exhibit R-12.

6 Q. (BY MS. RENFRO) Could you identify this
7 document and explain what it is?

8 A. Yes, this is a document that I had, somebody
9 that works with me put together, that I reviewed, and
10 the BOSS notes attached to it. It's a summary of
11 offers refused by Mr. Wheatley.

12 Q. And you looked at that document?

13 A. Yes, I have.

14 Q. And the BOSS notes that are attached to it?

15 A. Yes, I have.

16 Q. Is that summary an accurate summary of the
17 BOSS notes, the records on Mr. Wheatley's account
18 relating to the offers to settle, actually, the offers
19 to credit?

20 A. There's only one typo on the 8-2, on that
21 one. 520-888-3003, not 3303 on the document. I don't
22 know if that was caught on the other copies.

23 MS. RENFRO: I would like to move to admit
24 R-12 into evidence as -- the BOSS notes as evidence of
25 Mr. Wheatley's -- of the offers to credit

1 Mr. Wheatley's account and his refusal, and the cover
2 sheet as a demonstrative summary of those offers.

3 ALJ RODDA: Mr. Wheatley.

4 MR. WHEATLEY: What's a demonstrative
5 summary?

6 MS. RENFRO: It's just to summarize. It's
7 not --

8 THE WITNESS: It demonstrates.

9 MS. RENFRO: Demonstrates what is in the
10 actual notes.

11 MR. WHEATLEY: These notes are also in that?

12 MS. RENFRO: They would also be in your
13 exhibits, and we could, if you wanted to, go through
14 and pick them all out.

15 MR. WHEATLEY: Qwest made offers but they
16 weren't enough, so...

17 ALJ RODDA: Hearing no objection, they're
18 admitted.

19 Q. (BY MS. RENFRO) Finally, there is -- I have
20 here, actually, something, it is a Qwest record to
21 mark as R-13. Could you tell me what this is?

22 A. This is Mr. Wheatley's customer service
23 record that shows what services Mr. Wheatley has on
24 his account.

25 Q. As of today?

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1 A. Yes. The only thing that's not as of today,
2 because there were some listing changes that were made
3 after this was printed out, which was two, three
4 weeks, a month ago.

5 Q. That reflects the features he currently has
6 on his service?

7 A. That's correct.

8 Q. Is that a document generated by Qwest
9 Corporation?

10 A. Yes, it is.

11 MS. RENFRO: I'd like to move to admit R-13
12 as, to show what features Mr. Wheatley has on his
13 account currently, based on Qwest's records.

14 ALJ RODDA: The features are those little --

15 THE WITNESS: To make it simple, on the
16 previous exhibit, on the right-hand side we put the
17 USOCs, universal service operation codes, I am not
18 even sure, on the right-hand side that matches up with
19 what's there.

20 ALJ RODDA: Okay. And you moved to admit
21 this; right?

22 MS. RENFRO: Yes.

23 ALJ RODDA: I'm going to admit it.

24 Q. (BY MS. RENFRO) One quick question on the
25 arbitration you were involved with. There was some

1 questioning of Mr. Reiker regarding the discussion
2 about the \$200 deactivation fee. Do you know whether
3 or not an offer to waive that fee was discussed, if an
4 offer -- if that offer was made at the arbitration?

5 A. My understanding and my recollection of what
6 happened concerning that \$200 deactivation fee was
7 Mr. Wheatley, we asked do you want his services to be
8 back to the way it was before. Mr. Wheatley said no,
9 not until the issue has been resolved and it's been
10 done by the arbitrator. I do not remember any
11 discussion of a \$200 amount as part of an offer or a
12 specific request. The request may have been I want
13 you to turn my services back to the way they were. I
14 don't think there was any discussion on the
15 deactivation fee. I think the point wasn't discussed
16 further because he was waiting for the outcome of the
17 arbitration.

18 Q. So his wireless, there would have been no
19 deactivation fee because at that point he wasn't
20 asking for his wireless to be deactivated?

21 A. The general statement was to turn things back
22 to the way they were. Was it a specific statement
23 about his wireless? At that point in time, I don't
24 remember being that specific.

25 Q. But Mr. Wheatley did not want his wireless

1 deactivated or his services returned back at the time
2 of arbitration?

3 A. That is correct.

4 Q. One final thing. If you could briefly
5 explain the relationship between Qwest Corporation and
6 Qwest Wireless, and I guess specifically with regards
7 to billing, what is the relationship of Qwest
8 Corporation and Qwest Wireless with respect to bills
9 generated and sent to customers?

10 A. Qwest Corporation is the communications side
11 of the business or the regulated side of the business.
12 They take orders for wireless as an agent. You have,
13 for example, intraLATA toll, voice messaging, your
14 basic line service is all part of the corporation,
15 Qwest Corporation.

16 Then you have another company, Qwest Wireless
17 L.L.C., they have a separate bill, and it's
18 demonstrated on the bills that there's a Qwest
19 Wireless portion of that bill.

20 There are certain things that Qwest
21 Corporation does for Qwest Wireless, such as take
22 orders. However, the bills have to be separated by,
23 I'm not sure if it's by law, but they are definitely
24 separated for unregulated, regulated, because it is a
25 separate business and company.

1 Q. Why are Qwest Wireless charges on Qwest
2 Corporation's bills in the first places?

3 A. Again, we're the billing agent, just like
4 AT&T, I saw a charge for Vartec on there. Anything
5 like MCI. So there are other companies,
6 telecommunications companies that we, as a
7 convenience, do one bill for.

8 Q. And that is pursuant to a contract with these
9 various companies with Qwest?

10 A. That is correct.

11 MS. RENFRO: I don't believe I have anything
12 further.

13 ALJ RODDA: Mr. Wheatley.

14

15 CROSS-EXAMINATION

16

17 Q. (BY MR. WHEATLEY) There's a document in
18 there.

19 A. I'm sorry, Mr. Wheatley what did you say?

20 Q. Just a document, I don't know where it is,
21 though. It's not relative, actually now that I think
22 about it.

23 ALJ RODDA: I'm sorry, Mr. Wheatley, I know
24 you're tired but you're starting to mumble.

25 MR. WHEATLEY: I'm very, very tired. I

1 should stand up so I don't mumble so much.

2 Q. (BY MR. WHEATLEY) What I pay for my
3 Everywhere Line service or I make payments for my
4 Everywhere Line service, whom might I pay?

5 A. You would send one check, if you may. The
6 way that the bills are taken care of is the dollar
7 amounts go to the regulated side of the business
8 first. All other dollar amounts associated after that
9 would go to Qwest Wireless on that. So the bill that
10 you would send in, just like if you did for AT&T, you
11 would send one bill, we would collect that money then
12 give that money to Qwest Wireless, give that money to
13 Qwest -- AT&T as the billing agent. That's the
14 convenience. And the contract that Darcy brought up
15 for writing just one check or to pay online, whatever
16 you need to do.

17 Q. So in other words, I will pay the local
18 telephone service and the local telephone service
19 would bill me basically for all these other services
20 and providers, and I will pay them and they would
21 distribute the moneys?

22 A. You would pay to the billing agent, Qwest,
23 the total amounts.

24 Q. My local service provider is the same as the
25 billing agent?

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1 A. Well, in this case.

2 Q. Are they two different companies?

3 A. In this case Qwest is your billing agent and
4 your --

5 Q. My local service provider?

6 A. Right.

7 Q. You had given some testimony as to my
8 services and features, and I believe you used that as
9 a diagram somehow. I had incompatible features that
10 were on at the same time?

11 A. Your custom ringing, yes.

12 Q. So they were incompatible features that were
13 on at the same time?

14 A. That is correct.

15 Q. And this caused problems with my service?

16 A. Yes.

17 Q. I know this is a repeat, but somehow I think
18 we missed the point here, maybe. When I would have my
19 landline manually forwarded because when one service
20 didn't work, I couldn't pick up my cell phone and walk
21 out the door and turn it on, so I had to manually
22 forward my landline to my cell phone. If I forgot and
23 turned my cell phone off, then I couldn't receive a
24 call?

25 A. If you call forwarded your phone say from

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1 your landline phone to your wireless phone and you
2 forgot and turned off your cell phone, you would not
3 get a call.

4 MR. WHEATLEY: I guess that's it, Your Honor,
5 I can't -- that's all.

6 ALJ RODDA: Thank you, Mr. Duffy, I don't
7 think I have any questions either.

8 (The witness was excused.)

9 ALJ RODDA: Thank you all for staying late
10 and getting this done today. We're not going to have
11 closing arguments. Instead, at Mr. Wheatley's
12 request, we'll have briefs. I'm wondering --

13 MR. WHEATLEY: Qwest could do a closing
14 argument.

15 ALJ RODDA: I don't have time, I have to pick
16 up kids. I'm really glad you're done.

17 I was thinking that just simultaneous briefs,
18 and I think unless there's something that comes up in
19 the brief, we'll just stick with a one-shot deal on
20 whatever date it was. I think it was August 28th or
21 something.

22 MS. RENFRO: Simultaneous briefs without
23 response?

24 ALJ RODDA: Without response.

25 MR. WHEATLEY: What is simultaneous?

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1 ALJ RODDA: It means you both file on the
2 same date, you don't wait for one party to respond to
3 the other.

4 MR. WHEATLEY: Then I can respond to the
5 brief?

6 ALJ RODDA: No.

7 (The hearing concluded at 5:11 p.m.)

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1 STATE OF ARIZONA)
 2) ss.
 3 COUNTY OF MARICOPA)
 4
 5
 6

7 I, CECELIA BROOKMAN, Certified Court
 8 Reporter, No. 50154 for the State of Arizona, do
 9 hereby certify that the foregoing printed pages
 10 constitute a full, true and accurate transcript of the
 11 proceedings had in the foregoing matter, all done to
 12 the best of my skill and ability.

13
 14 WITNESS my hand this 24th day of
 15 July, 2002.
 16

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