

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Hearing

February 9, 2005  
Jefferson City, Missouri  
Volume 1

In the Matter of a Proposed Rule to Require )  
All Missouri Telecommunications Companies )  
To Implement an Enhanced Record Exchange ) Case No.  
Process to Identify the Origin of IntraLATA ) TX-2003-0301  
Calls Terminated by Local Exchange Carriers )

LEWIS MILLS, Presiding,  
Deputy Chief Regulatory Law Judge  
JEFF DAVIS, Chairman  
CONNIE MURRAY,  
STEVE GAW,  
ROBERT M. CLAYTON, III,  
LINWARD "LIN" APPLING,  
COMMISSIONERS

REPORTED BY:  
Jennifer L. Leibach, RPR, CCR(T)  
MIDWEST LITIGATION SERVICES

## 1 A P P E A R A N C E S

2

3 W.R. (Trip) ENGLAND, III, Attorney at Law  
4 BRIAN T. MCCARTNEY, Attorney at Law5 BRYDON, SWEARENGEN & ENGLAND  
6 312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, Missouri 65102-0456  
(573) 635-71667 FOR: BPS Telephone Company, Cass County  
8 Telephone Company, Citizens Telephone Company, Craw-Kan  
9 Telephone Company, Ellington Telephone Company, Farber  
10 Telephone Company, Goodman Telephone Company, Granby  
11 Telephone Company, Grand River Mutual Telephone Corporation,  
12 Green Hills Telephone Corporation, Holway Telephone Company,  
13 Iamo Telephone Company, KLM Telephone Company, Kingdom  
14 Telephone Company, Lathrop Telephone Company, Le-Ru Telephone  
Company, McDonald County Telephone Company, Mark Twain Rural  
Telephone Company, Miller Telephone Company, New Florence  
Telephone Company, New London Telephone Company, Orchard Farm  
Telephone Company, Oregon Farmers Mutual Telephone Company,  
Ozark Telephone Company, Rock Port Telephone Company, Seneca  
Telephone Company, Steelville Telephone Exchange, Inc.,  
Stoutland Telephone Company15 CRAIG JOHNSON, Attorney at Law  
16 ANDERECK, EVANS, MILNE, PEACE & JOHNSON  
700 East Capitol  
P.O. Box 1438  
17 Jefferson City, Missouri 65102  
(573) 634-3422

18

19 FOR: MITG - Alamo, Chariton Valley, Choctaw,  
Mid-Missouri MoKan Dial, Northeast Missouri Rural

20

21 PAUL G. LANE, Attorney at Law  
22 LEO J. BUB, Attorney at Law  
SBC Missouri  
One SBC Center, Room 3518  
23 St. Louis, Missouri 63101  
(314) 235-2508

24

25 FOR: Southwestern Bell Telephone, L.P. d/b/a  
SBC Missouri



1

## PROCEEDINGS

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

JUDGE MILLS: We're on the record for a comment hearing in Case No. TX-2003-301. I'm going to ask when you make comments, I'm going to ask you-all to come forward to the podium because we are not only making a transcript of this case but we're also video capturing it, and the cameras will be set to get you at the podium.

So without further adieu, we're going to take comments from those generally in favor of the rule first, followed by those that are generally opposed. I realize that it's sometimes hard to categorize your position because it's -- I think most people are somewhat in favor and somewhat opposed both, but I think I'll begin with the Staff of the Commission, and then I'll take a show of hands from those who wish to testify generally in favor of the Commission and we'll go through that list, and then we'll pick up those that are generally opposed to the rule. Are there any questions?

Okay. Let's go ahead with the Staff witness, Mr. Voight.

MR. KRUEGER: Your Honor, I would like to make a few initial comments before asking Mr. Voight to --

JUDGE MILLS: That would be fine.

MR. KRUEGER: Good morning. May it please the Commission. The Staff filed comments in support of these proposed rules on February 2nd. I'm told that at yesterday's

1 agenda meeting, the Staff's comments were characterized as --  
2 the Staff's support for the rules was characterized as  
3 lukewarm. I don't know how we created such an impression,  
4 because I enthusiastically support these rules and I'm sure  
5 that Staff witness, Bill Voight, does also.

6                   We believe that the rules are necessary and  
7 vital. Staff began work on this rulemaking more than three  
8 years ago after the Commission issued its order directing  
9 implementation in Case No. TO-99-593 on December 13th, 2001.  
10 The Staff has worked diligently since that time with all  
11 members of the industry who are willing to participate in  
12 order to draft the best possible set of enhanced record  
13 exchange rules.

14                   As the Staff reported in its comments, the  
15 Staff conducted 5 formal industry workshops, 15 formal  
16 industry meetings, 19 internal Staff meetings, 16 conference  
17 calls with industry officials and filed 4 formal reports with  
18 the Commission since this case was established in March,  
19 2003. Prior to that time, we had done considerable  
20 additional work as well before this case was actually opened.  
21 To me it seems like it was more meetings and conferences and  
22 so forth than that, but that's the way that we've counted  
23 them up.

24                   After working as hard as we have on drafting  
25 these rules to produce the best possible product, I can

1 assure you that the Staff's support for the product that's  
2 produced is not lukewarm. Throughout this process, the Staff  
3 sought to obtain input from all of the segments of the  
4 telecommunications industry in Missouri.

5                   Some members of the industry participated in  
6 virtually all of the meetings. Small Telephone Company  
7 Group, Missouri Telephone Group, Southwestern Bell and Sprint  
8 come immediately to mind, and there may have been others.  
9 The Staff is particularly grateful for the hard work that  
10 these people did and the contributions that they made to the  
11 drafting of these rules.

12                   Whenever anyone present at any of these  
13 meetings would express a concern or a problem with the rules  
14 as then presented, the Staff and the other participants would  
15 thoroughly discuss them, give it serious consideration, and  
16 attempt to resolve the problem. The rules as published  
17 reflect the results of those lengthy discussions.

18                   Other members of the industry have  
19 participated on a more limited basis. For example, there are  
20 about eleven CMRS wireless carriers in Missouri plus an  
21 unknown number of PCS providers, but only four of them  
22 participated in any of our meetings on these rules, and those  
23 four did not participate extensively.

24                   The group known as the joint wireless carriers  
25 was not represented at most of these meetings for the

1 drafting of the rules, but they've now come forward with more  
2 than 20 pages of comments criticizing the proposed rules. I  
3 wish they'd have presented these concerns to me before or to  
4 us before so that we could have thoroughly discussed them in  
5 our meetings and possibly resolved the differences.

6                   Because many of these criticisms from the  
7 joint wireless carriers are new, the Staff will respond to --  
8 to them during this hearing. The Staff will also comment on  
9 a few other issues that had been raised and discussed in our  
10 deliberations and we thought had been resolved but where  
11 concerns have now been voiced in the comments that have been  
12 filed in this case.

13                   Mr. Bill Voight of the Staff will address  
14 technical issues with respect to these rules momentarily, but  
15 before he does so, I'd like to address one legal issue that's  
16 been raised by some of the parties, specifically the question  
17 of the Commission's jurisdiction to make rules that affect  
18 the wireless carriers.

19                   In its comments, Sprint stated the Commission  
20 lacks jurisdiction over wireless carriers. The joint  
21 wireless carriers said the Commission does not have the  
22 authority to apply to wireless carriers any of the proposed  
23 rules. Those blanket statements are incorrect or at the very  
24 least misleading. These commenters argue that the wireless  
25 carriers are not subject to the jurisdiction of the

1 Commission and to the regulation by this Commission because  
2 regulation of the wireless carriers has been preempted by the  
3 Federal Communications Commission.

4           That does not mean, however, that the  
5 Commission does not have jurisdiction to regulate anything  
6 that effects the business of the wireless carriers. The  
7 proposed enhanced records exchange rules do not purport to  
8 regulate wireless carriers as the joint wireless carriers and  
9 Sprint suppose. What the rules would regulate is the  
10 LEC-to-LEC network, not the wireless carriers.

11           I won't respond to all of the arguments on  
12 this point, but analysis of one in particular may be helpful.  
13 Sprint stated in its comments, quote, wireless services are  
14 exempt from Commission jurisdiction under MO Rev. Stat.  
15 Section 386.020.53(c), unquote. That statute actually  
16 doesn't delineate jurisdiction. It's only a definitional  
17 statute which defines the term telecommunications services.

18           But nevertheless, consider what that  
19 definition states. It says telecommunications service does  
20 not include the offering of radio communication services and  
21 facilities when such services and facilities are provided  
22 under a license granted by the Federal Communications  
23 Commission under the commercial mobile radio services rules  
24 and regulations. That is, the service that is exempted from  
25 the definition of telecommunications services is the offering



1 of services by wireless carrier.

2                   The thing that is not subject to the  
3 Commission's jurisdiction is the relationship between the  
4 wireless carrier and its customer. This statute has nothing  
5 to do with what rates, terms, and conditions may be imposed  
6 by those who provide services to a wireless carrier, and it  
7 has nothing to do with rules affecting those rates, terms,  
8 and conditions.

9                   Another illustration may be helpful. The  
10 Commission does not have jurisdiction over the residential or  
11 commercial customers of a telephone company either. But that  
12 does not mean that it cannot approve tariffs that affect the  
13 rates, terms, and conditions of the service that a telephone  
14 company provides to such customers, or it cannot authorize  
15 the disconnection of service to a residential or commercial  
16 customer who doesn't pay his bill or of a residential or  
17 commercial customer who causes damage to a telephone  
18 company's facilities.

19                   The same is true for the residential and  
20 commercial customers of gas, electric, water, and sewer  
21 utilities. The point is that regulation of the utility does  
22 not constitute regulation of the customer of the utility and  
23 regulation of the LEC-to-LEC network does not constitute  
24 regulation of those who place traffic on the LEC-to-LEC  
25 network, such as the wireless carriers.

1                   The Western District of the Court of Appeals  
2 has already decided that the Commission does have  
3 jurisdiction to approve and enforce a wireless termination  
4 tariff. The case is State, ex rel, Sprint Spectrum, LP,  
5 versus Public Service commission, 112 S.W. 3rd 20, decided in  
6 2003. The Court held that federal laws had not preempted the  
7 Commission's authority to approve wireless termination  
8 tariffs.

9                   In that case, the Court said, quote, where  
10 federal statutes establish a comprehensive scheme to address  
11 a particular issue, a state has no authority to use different  
12 procedures than those prescribed by federal law, unquote, but  
13 it added, quote, federal courts have recognized the right of  
14 states to enforce tariff provisions, which are not  
15 inconsistent with the Telecommunications Act, unquote.

16                   Federal statutes do not establish a  
17 comprehensive scheme to address the issue of LEC-to-LEC  
18 traffic, which is the subject of these proposed rules, so  
19 there has been no federal preemption. The Commission has  
20 jurisdiction to adopt the proposed rules.

21                   In the Sprint Spectrum case, the Western  
22 District also said the rural carriers have a constitutional  
23 right to a fair and reasonable return upon their investment.  
24 The Commission cannot allow the wireless calls to continue  
25 terminating for free because this is potentially

1 confiscatory. The rules that the Commission has proposed in  
2 this case are well-reasoned and are calculated to reduce the  
3 amount of unidentified traffic to ensure that sufficient  
4 information about all calls and about all originating  
5 carriers is passed to the terminating carrier to allow proper  
6 billing and to provide a mechanism for the resolution of  
7 disputes.

8                   The Staff urges the Commission to adopt the  
9 proposed rules with the modifications that the Staff has  
10 suggested in its written comments.

11                   JUDGE MILLS: Thank you. Any questions from  
12 the bench? Commissioner Murray?

13                   COMMISSIONER MURRAY: Thank you.

14 QUESTIONS BY COMMISSIONER MURRAY:

15                   Q. There is a pending rulemaking at the FCC on  
16 intercarrier compensation, is there not?

17                   A. I'm not aware of that.

18                   Q. You don't know?

19                   A. I don't.

20                   COMMISSIONER MURRAY: Thank you.

21                   JUDGE MILLS: Anything further from the bench?  
22 Thank you, Mr. Krueger.

23                   Mr. Voight, would you raise your right hand  
24 please.

25                   (THE WITNESS WAS SWORN.)

1                   MR. VOIGHT: Thank you, Judge. I'll keep my  
2 remarks very brief. This 18-page draft rule is full of  
3 technical jargon. I wish there was some other way, and there  
4 have been a lot of efforts to minimize that technical jargon,  
5 and I think we've done the best that we can.

6                   The subject matter that we're dealing with is,  
7 in many ways, esoteric. It seems that there's seemingly very  
8 few people who know a whole lot about the subject matter.  
9 Staff could have never drafted the rule without the  
10 assistance of the industry and we are grateful for that.  
11 There's been extraordinary cooperation in the technical area  
12 of the rule, and I'd like to take a very brief moment to  
13 mention just a few of the names of the key contributors to  
14 this rule.

15                   Sometimes this rule is characterized as the  
16 Staff's rule or the Commission's rule or even Bill Voight's  
17 rule, and none of that is entirely true. The fact of the  
18 matter is with but two relatively minor exceptions, every  
19 idea or concept embodied in this rule is a result of a  
20 telephone company contribution.

21                   In particular, I'd like to name Bill Brown of  
22 Cingular, Billy Pruitt of Sprint PCS. There were also a  
23 couple of other wireless individuals from wireless companies,  
24 AT&T and Alltel that were initially involved, but it was  
25 mostly through Mr. Brown and Mr. Pruitt that we developed the

1 rules on the wireless issues, Joe Murphy and Marlon Hines of  
2 Southwestern Bell, Stan Brower of Sprint Local Services, Matt  
3 Kohly of AT&T, now with Socket, Renee Reeter and Bob  
4 Schoonmaker also contributed substantially to this rule and  
5 I'm sure there are several individuals who I'm leaving out.

6           Lastly, I would like to say that the  
7 Commission's own Staff in the telecommunications department,  
8 we've been working with many of these issues for a good many  
9 years now and there are numerous Staff individuals whose  
10 expert subject matter expertise has grown extraordinarily in  
11 this area. Working on the team to draft this rule was Art  
12 Kuss, who's a cartographer and electrical engineer, Mike  
13 Scheperle, Larry Henderson.

14           And lastly, we could not have done this  
15 without the direction of the department manager, John Van  
16 Eschen, who empowered us to work on this project and gave us  
17 the tools necessary to do the job.

18           That concludes my remarks.

19           JUDGE MILLS: Thank you. Questions from the  
20 bench?

21           COMMISSIONER MURRAY: Yeah, are we doing this  
22 where we're just questioning the person as they come up?

23           JUDGE MILLS: I think so, and certainly if  
24 something comes up and you need to go back to, say,  
25 Southwestern Bell for a comment, we can do it that way, too,

1 but I think we're going to do comments sort of like a  
2 legislative hearing where each witness will come forward and  
3 make their comments and then sit down.

4 COMMISSIONER MURRAY: All right.

5 QUESTIONS BY COMMISSIONER MURRAY:

6 Q. Mr. Voight, are you aware of a -- an FCC  
7 pending rulemaking on intercarrier compensation?

8 A. I'm aware of the issue, Commissioner, I'm not  
9 familiar if it's in a form of a rulemaking or what, but yes,  
10 I'm aware of the intercarrier compensation forums that's  
11 going on at the FCC.

12 Q. Does that have a potential to preempt the  
13 state's?

14 A. I don't know that I'm that familiar with it.  
15 In my opinion, I really don't see how that it could.

16 Q. You don't think that the FCC could set up  
17 intercarrier compensation rules providing, for example, for  
18 bill and keep that would preempt our ability to say that it's  
19 something other than bill and keep?

20 A. I think bill and keep is a wonderful  
21 compensation mechanism.

22 Q. No, I'm asking you about what -- if the FCC  
23 decided that, whether that would preempt us from being able  
24 to decide otherwise.

25 A. No, short answer is no. I don't see how

1 people's property can be confiscated without being paid for  
2 it.

3 Q. Well, that's your interpretation of bill and  
4 keep, but if the FCC determines that that is not a taking and  
5 that that is how carriers will be compensated, doesn't that  
6 preempt the state from making a different -- reaching a  
7 different conclusion?

8 A. I don't -- I just don't think so. It's fine  
9 as long as everyone has someone to bill and some money to  
10 keep, but I don't see that being applicable here.

11 Q. Okay. Mr. Voight, is it not possible that --  
12 or is it not appropriate for the wireless carriers and the  
13 terminating LECs to enter into agreements for termination of  
14 traffic?

15 A. Yes, that's appropriate.

16 Q. And there are only a couple of instances in  
17 which that has not happened in this state; is that right?

18 A. That would be my understanding, yes.

19 Q. And yet we're writing a rule here that will  
20 affect everybody, including large transiting carriers who  
21 have to make significant costly adjustments to their networks  
22 to solve a problem of a couple of ILECs who have not  
23 negotiated with wireless carriers for terminating; is that  
24 correct?

25 A. Maybe I need to explain my previous answer. I

1 did not mean to imply that with the exception of two or three  
2 companies, that all traffic on the network is being exchanged  
3 pursuant to interconnection agreements. It is --

4 Q. Or a tariff, interconnection agreement or a  
5 tariff.

6 A. Correct, yeah. I guess I really don't know  
7 how to respond to your question, Commissioner Murray. I  
8 don't think that the Staff or the -- generally, the industry  
9 has looked upon this process as to satisfy the needs of two  
10 or three companies.

11 Q. Okay. The requirement that the networks of  
12 certain carriers can only be used in a certain way or that  
13 they cannot use their -- well, I'm referring to 29.010,  
14 LEC-to-LEC network, and it has been alleged that that  
15 violates federal law and it also constitutes a takings  
16 without compensation. And I certainly see -- personally, I  
17 see the validity of both of those arguments.

18 Why is it that you think those arguments are  
19 not valid, and you must or you wouldn't think it was a rule  
20 that should be proposed.

21 A. Well, one was takings, and forgive me, I  
22 forgot the --

23 Q. The other one is that it violates federal law,  
24 and I'm -- I didn't write down exactly the federal law that  
25 it violates, but let me see if I can find that.



1                   Well, it may be that that was one in the same  
2 that it was referring to the takings clause as being a  
3 violation of the federal law. I thought there was another  
4 reference to a violation as well, but I haven't found it yet.

5                   A.       I think counsel has attempted to address that,  
6 and he's probably done so better than I could.

7                   Q.       Okay. On 240.020, subsection five, has that  
8 definition been changed or is that no longer an accurate  
9 definition?

10                  A.       There was some comments, and I have it all in  
11 my notice as far as the exact times, but there was some  
12 suggestions by I believe it was Mr. Unruh of SBC, probably  
13 about the August or September timeframe of this year that  
14 suggested some improvements in a small area of that  
15 definition. And so I mean, I guess to answer your question,  
16 we've not had an opportunity to discuss that with them.

17                  Q.       And you haven't looked at it to determine  
18 whether that is still an accurate definition?

19                  A.       Well, I'm -- I don't just depend on Bell, I  
20 depend on the --

21                  Q.       That's what I'm asking have you looked at it.

22                  A.       Yes, yes, I've looked at it.

23                  Q.       And what have you determined?

24                  A.       I've determined that I would like, before  
25 saying if it's appropriate and proper, while I may not have

1 personally any reason to doubt it, I would like to know what  
2 the rest of the industry feels about it.

3 Q. Okay. So you are contemplating continuing  
4 industry discussions for further tweaking of this rule it  
5 sounds like. Is that accurate?

6 A. No, we are -- our recommendation is for the  
7 Commission to pass the rule as it is.

8 Q. And you're not concerned about the costs that  
9 would be incurred for changes to networks?

10 A. Yes, anytime there's a cost, it is something  
11 to be concerned about.

12 Q. And you're not concerned that that may be an  
13 unnecessary change that really doesn't -- one, doesn't solve  
14 the problem, and two, would only be temporary even if it did?

15 A. We think the changes are appropriate and worth  
16 the cost.

17 Q. You think they solve the problem on long-term  
18 basis?

19 A. Yes, I do think they solve that problem that  
20 we were asked to address.

21 Q. And who is compensating the carriers who are  
22 incurring the cost by doing so?

23 A. The network cost of additional trunking  
24 arrangements amount to essentially a regrade with  
25 approximately ten percent addition to not facilities but

1 trunking arrangements. Each carrier involved would bear  
2 their portion of that cost.

3 Q. In other words, we're mandating costs without  
4 compensation?

5 A. There is no -- yes, there's no -- no provision  
6 to the cost recovery in the rule.

7 Q. On 240.29.020(17), the definition of LATA  
8 there, are you still looking at that definition as to whether  
9 that is accurate as it's stated?

10 A. Again, I believe as Mr. Unruh made some  
11 suggested changes there, something to the effect of success  
12 or documents or something, I don't believe there's anything  
13 in this definition that would preclude looking at successor  
14 documents.

15 Q. Why did the Staff decide to place the privacy  
16 provisions in this rule when they're in Chapter 32?

17 A. Well, they were put in the draft versions of  
18 this rule before the events came to being that surrounded  
19 Chapter 32. It has been left in here to make it very clear,  
20 for example, the Commission has recently seen in one case  
21 where the -- there was a dispute on access and the CPN not  
22 being delivered and that sort of thing, and first thing that  
23 the interexchange carrier said was, well, pursuant to the  
24 federal rule on this subject matter, if the originating  
25 caller blocks their CPN, that is one reason that is not

1 delivered down through the network and that simply is not the  
2 case, so that part of this rule goes beyond what is in  
3 Chapter 32 and it deals with some network items that are not  
4 contained in Chapter 32.

5 Q. And the CPNI is addressed in Chapter 33; is  
6 that right?

7 A. I believe that's correct.

8 Q. And didn't we attempt, when we revised those  
9 statutes, to put everything together so that we wouldn't have  
10 various references in various sections, and in other words,  
11 any changes to the CPNI or the privacy should be done in  
12 those rules in which they currently exist?

13 A. I'll accept that, but I honestly wasn't  
14 involved with that. To the extent that the rule -- this set  
15 of rules continues to address that subject matter, I believe  
16 this particular rule was a contribution from -- and I'm going  
17 to mention some names today and forgive me, it's been some  
18 time -- I believe it was MR. ENGLAND's suggestion to put this  
19 in the rule.

20 COMMISSIONER MURRAY: Okay. I'll pass now.  
21 Thank you.

22 CHAIRMAN DAVIS: No questions.

23 JUDGE MILLS: Commissioner Clayton.

24 ///

25 QUESTIONS BY COMMISSIONER CLAYTON:

1           Q.       Bill, how long have you been working on this  
2 rule, this -- this issue?

3           A.       I've been working on this issue --

4           Q.       Start from the beginning.

5           A.       May I get my notes?

6           Q.       Is it going to go back that far? Bill, while  
7 you were looking for that, while you were listing your thank  
8 you's to everybody that participated in the writing of this  
9 rule, you forgot to thank the academy and your family?

10          A.       Well, I'll -- my apologies for that. Oh, I  
11 don't have the notes with me that I was looking for, but I  
12 think it's somewhere in the order of three or four years.

13          Q.       Okay. Well, that's fine. So, what, 2000,  
14 2001, approximately?

15          A.       Actually, I think it's -- the Staff has had,  
16 and the industry has had, involvement with this rule and  
17 prior to that the signaling protocols case and the OBF  
18 issues, I actually think it goes back to 1999.

19          Q.       So 1999 was when a problem was identified and  
20 you and the industry sort of working on some sort of  
21 solution?

22          A.       Yes, what happened, Commissioner, is when the  
23 business relationship was changed, with the elimination of  
24 the PTC plan, the first time that business relationship  
25 changed was in what we call the Dial US case, which was the

1 first CLEC that was certificated.

2                   The Commission made it very clear that that  
3 CLEC was supposed to go get an agreement with the third  
4 party. The Commission made that very clear, that that CLEC  
5 was supposed to go get a -- an agreement with a thrid party.  
6 The Commission made that very clear, and that particular  
7 company no longer is in business, but ever since then, we've  
8 had the same sort of situation with transiting traffic and  
9 it's been an issue at least since the primary toll carrier  
10 plan was eliminated and the business relationship was  
11 changed.

12           Q.       Aside from the reasons behind the problem,  
13 exactly what is the problem?

14           A.       The problem is unidentified traffic, which is  
15 defined in this rule as a compensable call for which no call  
16 detail record was received. That is and has been a key to  
17 the problem. It's basically, if you want to summarize it in  
18 one word, it's transiting traffic.

19                   These rules in no way, we did not intend to  
20 limit Southwestern Bell or Sprint or CenturyTel or anyone  
21 like that. How they make use of their own network facilities  
22 and so forth; however, to the extent that that network is  
23 used to transit traffic to third parties who are not a part  
24 to the agreement, that the transiting carrier engages in  
25 with, that's really what the problem is is transiting

1 traffic.

2 Q. Okay. Now in laymen's terms, tell me what  
3 that means.

4 A. That means traffic that originates on a  
5 carrier's network, it could be a wireless carrier or a CLEC  
6 are the most common examples. It is the point of  
7 interconnection is with either Southwestern Bell, Sprint, or  
8 Centurytel, the call is delivered to them. That carrier  
9 then, in turn, hands it off to a third party.

10 The carrier in the middle is said to be the  
11 transiting carrier because the call neither originates nor  
12 does it terminate on their network. And part of the problem  
13 is the allegations are that that type of traffic is not  
14 recorded, part of the problem is the people placing the call  
15 on to the network, the originating carrier do so in an  
16 attempt to escape otherwise lawfully imposed charges such as  
17 access charges. They attempt to add more calls onto the  
18 network, describe as what should be access traffic as local  
19 traffic.

20 Q. So basically in layperson's terms, phone calls  
21 are being sent to these phone companies and they're not  
22 getting paid for ending those phone calls. Is that a fair  
23 way to put it --

24 A. Exactly.

25 Q. -- without getting to the point of

1 interconnection?

2 A. Those are the allegations, yes.

3 Q. Let's assume for a moment that I haven't been  
4 doing telephone work my entire life.

5 A. Okay. Sorry about that.

6 Q. There are actually two parts of the problem;  
7 one is that the traffic's not being identified as it comes  
8 through the network, and then secondly, this traffic is not  
9 being paid for. Is that a fair characterization?

10 A. Yes, and there's a third problem, and that is  
11 with the current business relationship, it's an issue of  
12 collections. And I don't simply mean chasing people down who  
13 don't pay their bills. What I mean is there are a myriad of  
14 CLECs and wireless carriers nationwide with the current  
15 business relationship, the terminating carrier is required  
16 to, in essence, chase them down and have business  
17 relationships with people whom they've never heard of.

18 Q. So the third prong would be even if you did  
19 identify where the traffic is coming from and to quantify  
20 that into a dollar amount, there would be a problem of  
21 collecting the money from that carrier because of either lack  
22 of jurisdiction or lack of knowledge of where they are?

23 A. Exactly, and there are some interconnection  
24 agreements that are in place. I think it's fair to say by no  
25 means is everyone putting traffic on this network has an



1 interconnection agreement with a third party.

2 Q. You suggested that these problems arose in  
3 1999. Just generally speaking, how many cases have been  
4 opened before the Commission in an attempt to deal with this  
5 issue, do you know? No matter how filed, whether it's a  
6 rulemaking or contested case, an uncontested case, an  
7 investigation.

8 A. I would say six, perhaps twelve.

9 Q. Perhaps twelve different cases trying to  
10 resolve the same issue?

11 A. Yes, sir.

12 Q. Now in 1999, did you write this rule in 1999?

13 A. No, sir.

14 Q. When the problem was identified, what action  
15 did you take in your role as a Staff member of the  
16 Commission?

17 A. Well, we first started approaching the  
18 situation on a case-by-case basis, one case at a time. After  
19 the elimination of the primary toll carrier plan, the  
20 Commission ordered the parties to -- they established a case  
21 in I think it was what's called a signaling protocol's case.  
22 I looked yesterday in a docket system and it seems like there  
23 were 135 entries in that case before we reached a point where  
24 we said, well, this is really not going to solve the problem  
25 either. Let's -- let's have another type of rulemaking which

1 is where we are today, and it all -- throughout that and  
2 interspersed through that time period are numerous  
3 complaints, motions to intervene, and arbitration proceedings  
4 and interconnection agreements, virtually anything to do with  
5 transiting traffic, there's a very extensive record.

6 Q. Did you begin meeting with the industry in  
7 1999 to try to find a resolution? And if not, when did you  
8 begin meeting with the industry?

9 A. Personally, I did not, although other members  
10 of Staff. I was asked to begin my involvement after the  
11 signaling protocols case seemed to be getting nowhere, so  
12 Staff in some way, shape, or form has been involved since the  
13 '98-'99 time frame.

14 Q. So you started meeting with industry in '99,  
15 2000?

16 A. Staff, yeah -- the Staff. I think my  
17 involvement probably was around 2000.

18 Q. Who was the Staff person who was involved in  
19 1999?

20 A. Mr. Kuss, primarily, I believe, Art Kuss.

21 Q. Okay. And could you -- is there a way to  
22 identify or set out the various players that are effected by  
23 this rule in groups?

24 A. The -- the ones who have expressed the biggest  
25 concern are the approximately 40 local exchange carriers

1 represented by Mr. Craig Johnson and MR. ENGLAND. Those are  
2 sometimes referred to as rural LECs or the small LECs,  
3 sometimes they call them the independent LECs. That's  
4 certainly one group.

5                   The competitive local exchange carriers also  
6 have very similar concerns, especially those who put fiber  
7 and facilities in the ground. The only way that they can  
8 recoup those type of capital investments are to have a system  
9 to recover their lawfully imposed charges, frankly access  
10 charges or recip comp or something of that nature.

11                   The third group is the primary toll carriers  
12 themselves. That would be Centurytel, Bell, and Sprint. As  
13 it has been pointed out, they have the very same sorts of  
14 problems with the exception of the collections problem, I  
15 think, is not quite nearly as unique to the primary toll  
16 carriers, but every land line carrier in the industry has  
17 this problem. It is the wireless carriers who don't really  
18 have the problem. I mean, that's the bill and keep  
19 environment and so it's not -- not nearly the problem.

20                   Q.       How does this rule effect wireless carriers  
21 who say that we have no jurisdiction over them?

22                   A.       We worked very hard in this area, especially  
23 with Sprint PCS and Cingular. Without going back through all  
24 of the record, we were, for the last 12 months, have been  
25 very satisfied that we were not doing anything that had any

1 impact on their network whatsoever. We were surprised when a  
2 couple of wireless carriers came forward here at hearing to  
3 tell us otherwise, people who did not participate in the  
4 process, so it would be my understanding, based on three  
5 years of working with the wireless industries, in particular  
6 Cingular and Sprint PCS, that the rule would not impact their  
7 operations.

8 Q. Okay. So you've got -- you have -- you've  
9 suggested four different groups; small ILECs, CLECs, the  
10 traditional large ILECs, and then wireless carriers. Is  
11 there anyone else?

12 A. Well, the Staff has made some suggestions in  
13 the comment period, I mean, this is really -- I think every  
14 party has brought something forth at comment period that we  
15 would like, you know, personally to see put in the rule, and  
16 Staff, one of the things that we wanted to see put into the  
17 rule and the decision was made not to do so at that time,  
18 which was addressed was these Voice over Internet Protocol  
19 telephone companies who engage in what some people  
20 characterize as back door calls onto the network and not  
21 paying for it. So I think it might be appropriate that, like  
22 if Bell and Sprint and CenturyTel wish to negotiate those  
23 types of arrangements, I think that's fine.

24 We don't wish to interfere with that; however,  
25 to the extent that they would impact that traffic and transit

1 it onto the network by a third party who is not a part of  
2 those agreements, I think perhaps this rule should do  
3 something about that situation so that the additional  
4 category would be traffic that originates on the Internet.

5 Q. Internet traffic?

6 A. Yes.

7 Q. Took a long time to answer that question,  
8 Bill.

9 A. Okay. Sorry.

10 Q. We had the same problem last week. Have --  
11 with the exception of the Internet calls, which is a rather  
12 recent phenomenon, have each of the other four carriers been  
13 involved in the discussions since 1999 or 2000 when that  
14 initial case was started?

15 A. Yes, extensively.

16 Q. Even wireless?

17 A. Yes, extensively, especially Sprint PCS and  
18 Cingular.

19 Q. And how many versions or how many ideas have  
20 been floated to try to solve this problem since 1999?

21 A. I couldn't begin to count how many different  
22 versions.

23 Q. Because it's so great?

24 A. Yes, it's just the different versions of the  
25 rule, my e-mail distribution list on this task force was 70

1 or 80 individuals, and we regularly sent out drafts of the  
2 rule, and the strategy that we used involved -- involving as  
3 many parties as we could, some of the tactics that we used  
4 involved putting a straw proposal forth for discussion and  
5 then go back and modify that. It was a continuous process of  
6 refine and modification. I couldn't begin to count the  
7 number of ideas that contributed to that.

8 Q. And the rule or a rule has been -- some  
9 version or some form has been discussed and reworked since  
10 2000?

11 A. I would like, Commissioner, to give you an  
12 exact date on that and it's in my notes. It's been at least,  
13 I think, since 2000.

14 Q. But the rule has been in the works, it's been  
15 discussed, it's been forwarded around by e-mail to all the  
16 various parties?

17 A. Yes.

18 Q. Have you had any workshops where -- where the  
19 industry comes to meet with you and anyone else on your Staff  
20 in trying to develop a solution?

21 A. Yes, we've had, I believe, five industry  
22 workshops and we've had just innumerable telephone calls and  
23 conference calls and meetings with individual segments of the  
24 industry, such as the wireless industry. There were a couple  
25 of those, all day meetings with the wireless folks to iron

1 out the details.

2 Q. It was suggested, maybe six months ago or  
3 eight months ago, maybe even a year ago, I've lost track of  
4 time, but it was suggested that Southwestern Bell had  
5 implemented changes which would help identify traffic that  
6 was being passed over the feature group C network, especially  
7 a specific -- technological changes that would help identify  
8 CLEC traffic, wireless traffic, and I believe UNE-P traffic  
9 was the third category. Have you had an opportunity to  
10 review those changes that they've made and also to evaluate  
11 their effectiveness?

12 A. We've not had at this point in time an  
13 opportunity to evaluate their effectiveness. I'm very aware,  
14 though, that they have instituted these changes and I'm  
15 convinced that they have instituted the changes. It's what  
16 Mr. Bub used to call filling in the holes of the Swiss cheese  
17 when we first eliminated a primary toll carrier.

18 Q. That really doesn't help, Leo. I'm not sure  
19 what it means, but go ahead.

20 A. Well, it means when we started with this new  
21 business relationship, there was virtually no record keeping.  
22 And as time went by, SBC, Sprint, and CenturyTel, as far as I  
23 know, and particularly Bell, has developed a billing  
24 processes to handle the unbundled network element platform  
25 traffic, the wireless traffic, the facility based CLEC-type

1 traffic, the intraLATA toll traffic, and all of that, and  
2 there is a criticism of the record they keep of the wireless  
3 traffic because it does not contain the calling party number.  
4 Bell made commitments to making those network improvements  
5 and they have done so. How effective they are, I'm not sure.

6 Q. So you haven't had the ability to evaluate  
7 their effectiveness?

8 A. No, sir.

9 Q. Okay. Are you aware of -- will anyone testify  
10 for any of the other parties regarding their effectiveness,  
11 do you know?

12 A. I suspect they will, and I also -- I would not  
13 expect them to have any negative reporting about that process  
14 and the effectiveness of it other than the wireless record  
15 that does not contain the CPN. If there's a criticism of  
16 that process, I've not heard it, and I would also -- I don't  
17 know -- I think you would also hear some of the parties say  
18 that it's fine that they're making these records, we need  
19 some additional measures as well.

20 Q. Okay. To the best of your knowledge, does the  
21 problem that existed in 1999 still exist in general today  
22 across the industry?

23 A. Yes. There are still accusations throughout  
24 the industry, very strong accusations, proof that  
25 unfortunately there are players in the industry who seek to



1 escape payment of lawful charges.

2 Q. So the problem still exists today?

3 A. In my opinion, yes.

4 Q. Bill, is there any other solution? Is there  
5 anything else that can be done other than implementing the  
6 rule that you've suggested?

7 A. Yes. The Commission, throughout its history,  
8 is faced with difficult technical issues on the telephone  
9 side of things, and sometimes they like -- when the primary  
10 toll carrier plan was implemented, there was a conceptual  
11 framework that department with the revenue issues of that and  
12 there was technical implementation committees and so forth.  
13 That might be one approach.

14 In other words, we can have a rule that was  
15 not quite so specific, but yet the Commission could direct  
16 the parties to draw up some sort of a technical document and  
17 get back to it within 90 days, but the parties are still  
18 going to disagree over the contents of the technical  
19 documents, so it's a matter if you want to formalize this  
20 into some sort of a conceptual or codify it into a rule,  
21 that's a decision that could be made and looked into.

22 Also, I -- perhaps the federal government will  
23 come up with something that would not -- would not end up in  
24 judiciary or in court somewhere, but I personally don't see  
25 that happening. It's -- seems like no matter what happens,

1 someone ends up tying it up in court, so I don't look for any  
2 quick solutions there.

3 Q. From the FCC you mean?

4 A. Yes.

5 Q. So your opinion we should not wait to see what  
6 the FCC does?

7 A. Respectfully, yes, we should not wait. There  
8 are just too many, from what I read about it, there are just  
9 too many divergent viewpoints. People have even walked out  
10 of the negotiations and that sort of thing.

11 Q. So in your opinion, this is the best solution  
12 to solve the problem?

13 A. Yes, our goal was to, in a word, was to  
14 identify unidentified traffic. More properly, I think, it  
15 was to set forth a system in place where all traffic was  
16 accounted for and in areas where there might be disputes for  
17 some sort of a framework where those disputes could be worked  
18 out in some sort of process, and I think we've done that.

19 Q. Do you know how many minutes per month, I  
20 suppose, in the aggregate are being -- being transited  
21 without compensation to these carriers?

22 A. No.

23 Q. You don't. Okay.

24 A. Unfortunately, one of the reasons that that is  
25 not known is because the parties making those allegations

1 have the burden of proof to prove that they're not being  
2 paid. The problem with that is that they do not have the  
3 very tool that they need in order to meet their burden of  
4 proof specifically CPN, calling party number.

5                   And I don't mean to say that that is reliable  
6 in 100 percent of the time because of cellular roaming and  
7 that sort of thing, but certainly if you have carriers going  
8 around stripping off the CPN, the jurisdictional designators,  
9 you have no idea where the traffic is coming from. At least  
10 with the CPN present, which is one of the thing this rule  
11 requires, the terminating carriers, be they Bell or Sprint or  
12 CenturyTel or a CLEC or one of the small carriers, the  
13 terminating carrier would at least have some idea of where  
14 the call came from.

15                   Q.       Has there ever been a quantification in  
16 dollars of uncompensated calls in the aggregate per month?

17                   A.       I believe about three years ago when we  
18 started this process, the Staff sent out some data requests  
19 asking the small carriers how much money they thought they  
20 were out. Some of them responded and the dollar amounts was  
21 quite -- quite substantial. Many of them were just simply  
22 not able to quantify it. And frankly, sir, it's been a  
23 couple years since I even looked at the data, but I don't  
24 think enough parties responded at that time to give us a very  
25 good idea, but there were individual carriers who reported

1 substantial amounts.

2 Q. What do you consider substantial?

3 A. Oh, I believe it was in the few hundred  
4 thousand dollars on the part of one carrier, as I recall.

5 Q. For a single carrier?

6 A. Yes, annually.

7 Q. Okay.

8 COMMISSIONER CLAYTON: Thank you.

9 JUDGE MILLS: Commissioner Appling.

10 QUESTIONS BY COMMISSIONER APPLING:

11 Q. Bill, how are you doing this morning?

12 A. Fine, sir, how are you?

13 Q. Good. I try to keep things pretty simple.  
14 But that's tough to do in this organization.

15 A. I'll try to keep my answers short.

16 Q. At the end of the day when we walk out of  
17 here, what are you asking us to do here? If you can keep it  
18 in a small box, keep it simple. Tell me what are we looking  
19 for to do here today? And why haven't this large group of  
20 people said before we haven't been able to solve this  
21 problem?

22 A. The Staff is asking the Commission to  
23 establish a framework where people can exchange wholesale  
24 telephone bills.

25 Q. Uh-huh.



1                   JUDGE MILLS: Further questions from the  
2 bench, Commissioner Murray.

3                   COMMISSIONER MURRAY: Sorry, I have a couple  
4 more questions.

5 QUESTIONS BY COMMISSIONER MURRAY:

6           Q.       Mr. Voight, you talked about the possibility  
7 of having a -- rather than a rule, a specific direction to  
8 the parties to develop a technical document. Did you look at  
9 the Texas feature group C network principles that were  
10 attached to SBC's comments?

11           A.       Yes, I did.

12           Q.       And it appears that that has been a process  
13 whereby there were principles set out for the identification  
14 and provision of records for traffic; is that correct?

15           A.       May I look at the document?

16           Q.       Yes, certainly.

17           A.       Yes, that is a document where certain  
18 principles have been set out.

19           Q.       And it looks like they're requiring 92  
20 records. Do you see that?

21           A.       Yes.

22           Q.       But then further down, it says ILECs may  
23 generate 110101 or 920101 call detail records and each ILEC  
24 will focus on converting to 110101 records as soon as  
25 economically practical. Doesn't SBC provide 110101 records

1 in Missouri?

2 A. Yes, ma'am, to those who request it.

3 Q. Okay. So basically what is being set out here  
4 in Texas is already available in Missouri, is it not?

5 A. Oh, as far as the category 92 and category 11  
6 records that's available in Missouri, yes.

7 Q. Okay.

8 A. I mean the document, I think, addresses other  
9 things as well.

10 Q. Well, all right. Let's see what it addresses.  
11 It says the following principles shall be used to guide the  
12 ILEC industry in resolving feature group C network  
13 utilization and compensation. And then the second paragraph,  
14 any ILEC that directly connects to a facility's based CLEC or  
15 CMRS provider and performs a transiting function that places  
16 the traffic onto the feature group C network, will make  
17 available, compensation billing records for that traffic to  
18 all carriers on the call path. Is that right?

19 A. Yes.

20 Q. Okay. And to the extent that SBC receives any  
21 information from the originating carrier, it makes those  
22 records available to the -- all the carriers on the call  
23 path, does it not?

24 A. I don't believe it does. I think specifically  
25 to the extent that SBC receives calling party number from

1 wireless carriers, they do not make that available to the  
2 terminating carrier.

3 Q. They don't make that number available?

4 A. That's what -- that's the evidence that I  
5 have.

6 Q. Okay. I thought the issue was that even  
7 though the number is available, the transiting carrier can't  
8 determine whether it's a local or an interLATA call.

9 A. That may be, but I don't know that that has  
10 anything to do with stripping the number off there in the  
11 first instance.

12 Q. Okay. So you're alleging that somebody is  
13 stripping the number off?

14 A. Well, actually, I believe it's Mr. Johnson  
15 that -- Mr. Craig Johnson that's noticed that. I mean, the  
16 Missouri category 11 records that are created by SBC simply  
17 in no instance that I'm aware of contain a CPN. And we all,  
18 I think, people who have wireless phones know that CPN is  
19 passed from landline to mobile and mobile to land line in  
20 many instances in that environment, but yet the billing  
21 records, allegedly, that number is not there.

22 Q. Okay. I want to ask you about 29.070  
23 provision for wireless originated traffic terminated under  
24 the LEC-to-LEC network in the proposed rule.

25 A. It's 29.010?



1 Q. No, 070.

2 A. I'm sorry. Yes.

3 Q. Now, as I read that, I read that as directly  
4 regulating the wireless carriers. Does that not provide  
5 obligations on the wireless carriers?

6 A. Perhaps I'm not understanding the question.

7 Q. Does that -- does that establish an obligation  
8 for wireless carriers? Is that telling wireless carriers  
9 what they have to do?

10 A. Subpart one?

11 Q. The whole thing, subpart one and two.

12 A. I look upon it as codification of what the  
13 wireless carriers are already doing, but to answer your  
14 question, yes, that does tell them what to do.

15 Q. Okay. And then the second sentence of the  
16 first section, it says that it's acknowledged that technical  
17 limitations of wireless carrier's equipment may render the  
18 establishment of a demarcation point impossible for certain  
19 wireless originated calls, and yet we're telling them they  
20 have to do it; is that right?

21 A. I think it's -- no, we're not telling them  
22 that they have to use the location of the wireless phone at  
23 the time of call placement to be the demarcation point.  
24 Perhaps I'm not understanding.

25 Q. Okay. Let's see what the first sentence in

1 section 1 says. The demarcation point for determining  
2 whether wireless originating calls are intraMTA or interMTA  
3 shall be the location of the cellular site where the mobile  
4 call originates. That's for purposes of determining what  
5 kind of call it is; is that correct?

6 A. Yes, the FCC gave them that choice.

7 Q. Okay. And then in the second sentence, it  
8 acknowledges that the wireless carriers may not be able to  
9 establish what that point of demarcation actually is; is that  
10 correct?

11 A. At the time of call placement, yes, that's  
12 correct.

13 Q. Okay. And then the second section of that  
14 says that interstate interMTA wireless originated traffic  
15 shall be routed by wireless carriers, that's telling the  
16 wireless carriers how they have to route that particular kind  
17 of traffic to the facilities of an interexchange carrier.  
18 Now don't they have to identify the demarcation point before  
19 they can determine whether it's interstate, interMTA,  
20 wireless originated traffic?

21 A. Yeah, their wireless switch knows where it's  
22 located, yes.

23 Q. But you just said above that it's acknowledged  
24 that technical limitations of wireless carrier's equipment  
25 may render the establishment of a demarcation point

1 impossible, and I just asked you if they don't have to know  
2 the demarcation point, and you said yes. Do they have to --  
3 does the wireless carrier have to know the demarcation point?

4 A. It already knows where the cell site is, yes,  
5 it does.

6 Q. Okay. Where the cell site is, but the  
7 demarcation point for determining whether it's interMTA or  
8 intraMTA is the location -- okay. It's the location of the  
9 site where the call originates, and you said they already  
10 know that.

11 A. Yes.

12 Q. They know the location of the cell where the  
13 call originates.

14 A. Yes.

15 Q. And they know that the call originated from  
16 that cell at the time the call is made.

17 A. I think their switch translations are set up  
18 such that it -- the wording of this rule does not come into  
19 conflict with that.

20 Q. Okay. What does the second sentence there  
21 acknowledge?

22 A. It acknowledges that there's going to be a  
23 certain amount of calls that cross an MTA boundary, a certain  
24 amount of calls that cross a LATA boundary, and a certain  
25 amount of calls that cross a state boundary and you cannot

1 restrict it in that manner.

2                   The reason that we have the -- the wording  
3 about the interstate, interMTA language in the rule is  
4 because we -- of the wireless industries that we talk to,  
5 they acknowledge that their switches are programmed in such a  
6 manner, their networks in Missouri are constructed in such a  
7 way that this wording, the rule would not conflict with that.

8                   We have statements from Mr. Billy Pruitt that  
9 says all of Sprint PCS wireless traffic in Missouri, we have  
10 sworn testimony to this effect, does not cross an MTA  
11 boundary. We have statements from Mr. Brown of Cingular that  
12 substantially all of their traffic in Missouri does not cross  
13 an MTA boundary, and we simply took them at their word for  
14 that.

15               Q.       So you're saying that interstate interMTA  
16 wireless originated traffic is clearly identifiable by the  
17 wireless carrier that originates it?

18               A.       Yes.

19               Q.       There's no question that it's interstate,  
20 interMTA traffic?

21               A.       Maybe I'm -- I'm sorry, maybe I'm not  
22 following. There's no question of where a cell site is  
23 located and there's no question of where a terminating call  
24 terminates to. We have -- especially Sprint PCS was kind  
25 enough to sit down with us all day and we have documents we

1 can, you know, pass out and show you how we determined this.

2 Q. Okay. I'm still wanting to know, and I don't  
3 -- I have not heard an explanation that I understand yet for  
4 what is the meaning of sentence number two in subsection one.

5 A. Actually, I'm probably not the best person to  
6 ask that question. Again, it's language that the wireless  
7 industry agrees to. I've seen it written some place else,  
8 and I don't know that it was even our idea to put it in  
9 there. My interpretation of it is that the -- there would be  
10 certain calls that cross an MTA boundary. I mean, that's the  
11 jurisdictional limit. Inside the MTA, it's reciprocal  
12 compensation. Outside that is access, that's what this  
13 acknowledges.

14 Q. Okay. Let's stop there. There are certain  
15 calls that cross an MTA boundary. Those are not the calls  
16 referenced in subsection two; is that right? Or they are the  
17 calls, I'm sorry, they are the calls referenced in subsection  
18 two.

19 A. No, it's with -- certainly the word interMTA  
20 is there, and there's also the word interstate is there. In  
21 other words, subsection two allows calls from, say, you know,  
22 cross an MTA boundary in Missouri, there are two major MTA's.  
23 It allows calls to go across that, which is entirely  
24 consistent with the networks that have been explained to us.  
25 It also allows a call to go across a state boundary. We know

1 that the -- one of the major trading areas in Missouri is all  
2 of western Missouri and eastern Kansas, it goes across that.

3 Q. Okay. I interrupted your explanation of that  
4 second sentence of subsection one, and you just said certain  
5 calls we know go across an MTA boundary.

6 A. Right.

7 Q. Go ahead with your explanation.

8 A. Well, that's the eight percent interMTA factor  
9 that we regularly see in interconnection agreement. That  
10 factor is -- the best way to handle that is through  
11 negotiations and it typically occurs, and there's nothing in  
12 this rule that prohibits that from occurring, crossing an MTA  
13 boundary, and I think that ties in with the second sentence  
14 of number one that simply acknowledges that that situation is  
15 going to occur.

16 Q. But all of those calls are not identifiable;  
17 is that correct?

18 A. At the time of call placement, yeah.

19 Q. Okay. So I --

20 A. For jurisdictional purposes, it's not  
21 identifiable at the time of call placement. As is frequently  
22 pointed out by the end of the billing period, the wireless  
23 carrier certainly has been able to determine the  
24 jurisdictional nature of the call, which is why they bill  
25 people for roaming calls.

1 Q. Okay. But subsection two talks about how the  
2 wireless carrier is going route its calls, that's the time  
3 the call is delivered; is that right?

4 A. Yes, ma'am.

5 Q. Okay. And that's telling the wireless carrier  
6 how it must route certain calls.

7 A. Actually, I mean, that's certainly one way to  
8 characterize it.

9 Q. Well, what's another way to characterize what  
10 that section does?

11 A. The other way to characterize it would be that  
12 is how the wireless industry in Missouri has told us that  
13 their switching mechanisms are already programmed.

14 Q. Okay. But I'm not asking what you anybody has  
15 told you. I'm asking what this rule -- if you read this  
16 rule, which will govern if it is -- if it -- if it's pas,  
17 what does it do? Who does it require to do something?

18 A. Well, it requires the wireless calls to --

19 Q. The wireless carriers?

20 A. I'm sorry, the wireless carriers to -- in a  
21 word, it requires them to utilize the interexchange carrier  
22 network for calls that, for example, start in Florida and end  
23 up in Missouri.

24 Q. Okay. So we're telling the wireless carriers  
25 how they have to route their calls in this rule?

1 A. Yes, there's no question about that.

2 Q. Okay. So in order to do that, it seems to me  
3 that we have to have jurisdiction over wireless carriers.

4 A. I --

5 Q. And I know you're not a lawyer, so I know you  
6 probably can't answer that.

7 A. I just don't know.

8 Q. Assume that we pass this rule and we -- we  
9 give this mandate to wireless carriers and they don't comply  
10 with it. What do we do then?

11 A. It would be up to the -- the effected carrier  
12 what action they would -- they would like to take.

13 Q. Where would they take it? Would they take is  
14 it before us?

15 A. Yes.

16 Q. Could we bring a wireless carrier in and say  
17 you're in violation of one of our rules that we really don't  
18 have jurisdiction over you in the first place, but we --

19 A. Yes.

20 Q. I'm getting into legal discussions with you,  
21 and I probably should not do that. All right. Thank you,  
22 Judge. Thank you, Mr. Voight.

23 JUDGE MILLS: Commissioner Davis -- I'm sorry,  
24 Chairman Davis.

25 QUESTIONS BY CHAIRMAN DAVIS:



1           Q.       Mr. Voight, would it be fair to characterize  
2 your impression of some of the small ILECs' position in this  
3 case that -- that they didn't feel we went far enough in this  
4 rulemaking, did they?

5           A.       That's correct, Mr. Chairman. They would have  
6 preferred to go back to the old business relationship as well  
7 as some other things. It did not go far enough in their  
8 view.

9           Q.       But it would also be fair to characterize that  
10 the position of some of the large ILECs is that we don't need  
11 anything. Would that be fair to say?

12          A.       Yes.

13          Q.       So what we have here is an attempt by the  
14 Staff to craft something in the middle ground. Is that a  
15 fair statement?

16          A.       Yes.

17                   CHAIRMAN DAVIS: No further questions.

18                   JUDGE MILLS: Thank you. Mr. Voight just a  
19 quick question.

20                   QUESTIONS BY JUDGE MILLS:

21          Q.       Hasn't the settlement in the wireless  
22 termination issue mitigated some of the problems identified  
23 in this rule and attempted to be addressed by the rule?

24          A.       Some of it, yes. To the extent that the  
25 concept has now been firmly established and upheld by the

1 courts that wireless carriers, for example, are responsible  
2 for paying for the use of the network and all those issues,  
3 yeah, some of that has been -- has helped them mitigate some  
4 of the issues in this rule.

5 JUDGE MILLS: Thank you. Chairman Davis.

6 QUESTIONS BY CHAIRMAN DAVIS:

7 Q. Mr. Voight, a large ILEC might say we've  
8 upgraded our network and we can pinpoint these calls and  
9 we're providing the small ILECs this information anytime and  
10 everytime they ask for it. Maybe not as quickly as they  
11 would like it, but, you know, any time they let us know  
12 there's a problem, we respond and we get them the information  
13 they need. Accordingly, the rule is not necessarily -- not  
14 necessary. How do you respond to that?

15 A. I would first of all acknowledge the  
16 improvements that have occurred. I don't know that -- I  
17 would take exception to any notion that communication is  
18 always immediate and that sort of thing, because I think  
19 there are some communication problems between the small ILECs  
20 and the large ones.

21 And lastly, I would say the wireless carriers  
22 are -- excuse me, the small carriers are certainly grateful  
23 that improvements have been made, but it still leaves in  
24 place a very awkward business relationship. I would expect  
25 them to say it's sort of like the fox guarding the hen house.

1 People in our economy, people who in industries that incur  
2 costs and expense, they typically generate the bills, and  
3 that's not the type of relationship that we have.

4 In other words, we have a third party  
5 generating a bill and not the -- the entity that is  
6 responsible for providing the service, so a lot of  
7 improvements have been made, a lot of things in this rule  
8 should be codified would be how I would respond to your  
9 statement.

10 CHAIRMAN DAVIS: Thank you.

11 JUDGE MILLS: Thank you. Anything further  
12 from the bench for this witness? Thank you. You may step  
13 down. At this point, why don't we go ahead and take a  
14 five-minute recess, then we'll continue with witnesses that  
15 are generally favorable with the rule, and we've got a lot to  
16 cover today, so I'm going to start promptly in about five  
17 minutes. We're off-the-record.

18 (A BREAK WAS HELD.)

19 (COMPANY EXHIBIT NO. 1 WAS MARKED FOR  
20 IDENTIFICATION BY THE COURT REPORTER.)

21 JUDGE MILLS: Let's go back on the record. We  
22 are planning to call Mr. Schoonmaker next as a witness. In  
23 preparation for that, MR. ENGLAND has had marked an exhibit  
24 which we have marked as Exhibit 1.

25 MR. ENGLAND, would you care to address that?

1                   MR. ENGLAND: Well, yes, sir. It -- Exhibit 1  
2 is a two-page diagram, which I believe Mr. Schoonmaker is  
3 going to reference in his comments, so I thought it best to  
4 hand it out ahead of time rather than after the fact.

5                   JUDGE MILLS: Okay.

6                   MR. ENGLAND: If you want me to offer it now,  
7 I can.

8                   JUDGE MILLS: Why don't we offer it at the  
9 conclusion of the remarks and we will see if there's any  
10 objection to it. Mr. Schoonmaker, if you could step forward,  
11 please.

12                   (THE WITNESS WAS SWORN.)

13                   MR. SCHOONMAKER: Good morning. My name is  
14 Bob Schoonmaker. I am President GVNW Consulting, Inc., a  
15 consulting firm that works with small telephone companies,  
16 and speaking today as a witness on behalf of the small  
17 telephone company group, a group of approximately 30 rural  
18 ILECs here in Missouri.

19                   I wanted to start out by discussing a little  
20 bit more of the history behind where we got. Some of that  
21 was covered by Commissioner Clayton and Mr. Voight, and I'll  
22 try to go through that part of it quickly, and I thought it  
23 would be worthwhile to discuss that briefly in terms of the  
24 -- some of the relationships as they relate to feature group  
25 C and the LEC-to-LEC network versus feature group D, as shown

1 in the exhibit that's been passed out.

2 I suppose the history of this really goes back  
3 to the AT&T divestiture in 1984, and shortly thereafter and  
4 as part of that divestiture agreement, there was agreement  
5 that over a period of a few years, that pre-subscription for  
6 toll service would be implemented. Basically the network  
7 protocol and many of the billing procedures that were  
8 established prior to that time or at that time were under the  
9 feature group C network.

10 The feature group D switching protocol and  
11 some of the rules and procedures related to that were  
12 implemented in the years directly after divestiture to take  
13 into account the offering of pre-subscription where it --  
14 individuals had the chance to choose their interexchange  
15 carrier.

16 As you can see from the first page of the  
17 diagram, the feature group C network, we have ILECs, CLECs,  
18 wireless providers, all generally terminating traffic, and  
19 this is a simplified diagram, it doesn't cover all the  
20 circumstances, into a tandem switch that's most cases in  
21 Missouri owned by Southwestern Bell, now SBC, although Sprint  
22 and Century also have a few tandem switches.

23 And the traffic from the terminating direction  
24 then goes through that tandem switch and out to a variety of  
25 end offices. We've only portrayed one of those here, the

1 ILEC-B end office, which would be a small rural ILEC separate  
2 and apart from the company that owns the tandem. And under  
3 feature group C as indicated on the bottom left, there are a  
4 variety of billing records. Some of those created at the  
5 origination of the call, particularly the ILEC, intraLATA  
6 records, and others for the CLEC and the CMRS-A provider are  
7 created as a tandem carrier location, and then all of those  
8 records are passed on to the ILEC-B for billing purposes.

9                   Interestingly enough, the diagram also shows a  
10 situation where a CMRS-B, a second CMRS provider, rather than  
11 connecting directly to the tandem, chooses to contract with  
12 CMRS-A to provide that terminating service. And in that  
13 case, although the traffic originates at CMRS-B, the carrier  
14 that gets billed for it is CMRS-A because they've  
15 contractually agreed with CMRS-B to do that, and those are  
16 the records that are created in a tandem.

17                   In terms of switching conventions, procedures,  
18 policies related to that feature group C network, ILEC-A,  
19 which again is generally Southwestern Bell, will transit and  
20 terminate traffic to small ILECs throughout the whole LATA,  
21 and regardless of whether there is another tandem switch  
22 involved, and so they terminate to all the ILECs in the LATA  
23 and provide them records.

24                   Under feature group D, which was implemented  
25 with pre-subscription, the switching protocol is somewhat

1 different on the originating site so that the call gets  
2 switched out of the tandem switch to an IXC. The terminating  
3 side is depicted on the right-hand side of the diagram.  
4 Other ILECs, CLECs, sometimes CMRS providers, other  
5 interexchange carriers in many cases contract with an IXC to  
6 terminate their traffic on their behalf.

7                   Now, the IXC-A pop, we've only identified one  
8 IXC. There certainly may be many and typically are, but if  
9 those carriers behind the IXC have terminated with the  
10 contract, IXC-A, which terminates traffic to the ILEC-A  
11 tandem, is responsible to pay for all of the traffic that  
12 they deliver to the tandem, and the carriers do not have to  
13 go to all of these carriers upstream from IXC-A to do the  
14 billing. Somewhat different from what the feature group C  
15 arrangement is.

16                   And in this case, the terminating access is  
17 billed based on records that are created at the ILEC-A  
18 tandem. In the case of feature group D, the switching rules  
19 and protocols related to tandems, IXC-A terminates traffic to  
20 ILEC-A tandem, and it can terminate traffic to end offices  
21 which subtend that tandem switch, but not necessarily  
22 completely throughout the LATA.

23                   And that gets us to the second page of the  
24 exhibit, which shows what happens when an ILEC, and there are  
25 several of them in the state, including Citizens, Kingdom,

1 Chariton Valley, Green Hills, and others have their own  
2 tandem switches. For the feature group C side of the  
3 treatment, the traffic still comes to ILEC-A's tandem, goes  
4 through the -- to the ILEC-B tandem, and on to the end  
5 office.

6 But on the interexchange carrier's side, under  
7 feature group D and under the signaling protocols and the  
8 rules and FCC requirements related to that, if the  
9 independent company has established a tandem switch, the IXC  
10 has to deliver traffic on direct trunks directly to that  
11 tandem switch and cannot go through the Bell tandem, the  
12 ILEC-A tandem. And so the records, then, under this  
13 scenario, are recorded at ILEC-B's tandem and are billed to  
14 the carriers based on the records that are recorded there.

15 And so we get a difference in the way the  
16 feature group C and D networks work. In both cases, I think  
17 it's important to recognize that the physical network that's  
18 identified as a common trunk is the same physical network in  
19 feature group C. In the case of the first diagram, feature  
20 group C and feature group D traffic are intermingled onto the  
21 same cable pairs or fiberoptic equipment to go to ILEC-B, and  
22 in fact, are not separated at all.

23 And the following thing that I think in terms  
24 of that that history and related to divestiture is as  
25 Mr. Johnson points out in his comments, the access tariffs,



1 which were developed include both SBC's and the small  
2 company's tariff indicated that when feature group D was  
3 implemented in an office, that feature group C would no  
4 longer be offered in that office. And that's partially true,  
5 but not completely true in terms of some of the issues that  
6 are before us in this case.

7                   After divestiture, we had a couple of years  
8 where people were sort of observing that. In October of  
9 1987, the Commission issued an order which established the  
10 primary toll carrier, or PTC, plan. SBC, Sprint and its  
11 predecessor, Century and its predecessors, and Fidelity, were  
12 designated as primary toll carriers, and essentially for  
13 intraLATA toll traffic, acted as the interexchange carrier  
14 for intraLATA traffic, paid access charges and so forth.

15                   And that continued for a period of 11 years.  
16 Approximately -- skip the 11 years count. It's 11 or 12  
17 years. In 1996, the Telecommunications Act was passed, which  
18 substantially changed the telecommunications environment.  
19 The FCC implemented new rules in relationship to that, and in  
20 regards to the Missouri environment, one of those rules was  
21 that it required implementation of intraLATA dialing parity  
22 and pre-subscription, whereas before only interLATA  
23 pre-subscription was required.

24                   And in responding to that, the Commission in  
25 June of 1999, issued its order in Case No. TO-99-254, which

1 terminated the primary carrier toll plan, required companies  
2 to implement intraLATA pre-subscription.

3           And as part of that, changed the compensation  
4 in the way that terminating traffic was billed from a  
5 terminating to originating ratio basis to measure the actual  
6 traffic. As part of the termination of the PTC plans, the  
7 primary toll carriers ,such as Bell and Sprint, specifically  
8 testified that they would see substantial cost savings as a  
9 result of terminating the plan. In Bell's case, it was  
10 approximately \$18 million that was testified to; in Sprint's  
11 case, I believe it was 600,000.

12           In that case, the small companies raised  
13 issues regarding to records. The signaling whether feature  
14 group C should be continued to use and what kind of business  
15 relationship and rules should apply to the billing of access  
16 in this new environment. In general, the Commission  
17 recognized that there were problems that need to be addressed  
18 but did not address them in that case. Instead, at the time  
19 the order was issued, within a week or so of that,  
20 established case TO-99-593, which was the signaling protocol  
21 case that Mr. Voight mentioned earlier.

22           As part of the discussions in that case, the  
23 industry and Staff and other parties held discussions and  
24 there was agreement to conduct a test of the network and the  
25 network record process to see what the extent of the problem

1 was, and there were specific procedures established to gather  
2 records. Both those -- the billing records which were  
3 recorded at the originating location, the terminating  
4 records, which individual companies recorded at their own  
5 offices, and then there was -- those were recorded for a  
6 two-day period, and there was a mechanical comparison of  
7 those records, which our firm did some 200,000 records were  
8 compared to find out how many of the records matched and  
9 didn't match.

10                   And out of that test and in the record,  
11 evidence record in that case, the initial results show that  
12 for nine small telephone group companies which participated  
13 in the test, only about -- about 76 percent of the  
14 terminating records, which the companies were recording at  
15 their locations, had a corresponding originating bill record  
16 -- billing record that was coming from the primary toll  
17 carriers. And for one of the companies, it was actually less  
18 than 50 percent of the records had a matching originating  
19 record.

20                   This data certainly supported the concerns  
21 that the small companies had had, that this originating  
22 record system was not adequate, and demonstrated that there  
23 clearly was a problem. Now, within a few weeks of that,  
24 Southwestern Bell determined that one of the reasons that the  
25 originating records were so short is that when they

1 implemented their local plus intraLATA-wide calling plan,  
2 they had incorrectly programmed two of their major host  
3 switches and that encompassed services in some 30-plus  
4 exchanges, and that for the 18 period months that that plan  
5 had been operation, they had been recording none of the  
6 traffic and reporting none of that to the independent  
7 companies.

8                   Even after adjusting for that traffic, and  
9 again as part of the record of that case, the -- after  
10 adjusting for that area of the record, the record still  
11 showed there was in excess of ten percent difference between  
12 the terminating record that the companies were recording and  
13 the originating records that were being provided for billing  
14 purposes.

15                   Testimony was taken in the case, the small  
16 companies proposed a change in billing relationship, which  
17 would be similar to the feature group D billing relationship.  
18 Other parties proposed different solutions. Century's  
19 predecessor, who was GTE, at the beginning of that case, and  
20 Verizon at the end, I believe, purposed that there was some  
21 national rules called OPF rule 2056, which were going to be  
22 implemented the following year that they thought would take  
23 care of this issue. And on December 31st, 2001, the  
24 Commission issued an order in this case which told the  
25 industry to implement OPF 2056 and then come back to see if

1 the problem was solved.

2                   The implementation was completed. And about  
3 August of 2002, when the rule was required to be in place,  
4 and shortly after that, the Staff issued a report to the  
5 Commission indicating that in spite of the fact of  
6 implementation of that, that in fact, that wasn't going to  
7 solve the problem and there will continue to be problems.  
8 And so then, that was in 2003, and January 2003, then the  
9 Commission directed the Staff to proceed with drafting the  
10 rule.

11                   We've had described the effort that the Staff  
12 made to work with the industry to draft the rule, which is  
13 here before us today now in 2005. So we've been dealing with  
14 this issue for an extended period of time. There's been a  
15 number of cases, as Mr. Voight indicated earlier. There have  
16 been individual company complaints and other cases that have  
17 involved the issues here as well. As has been described,  
18 part of the issue is with the wireless carriers and the  
19 efforts that the small companies made to implement wireless  
20 terminating tariffs. And to negotiate with wireless carriers  
21 has helped resolve some of the problems that were evident at  
22 that time.

23                   That gets us, I think, to the current rule and  
24 where we are. The small companies still are concerned. The  
25 network test and other proceedings and other incidents we've

1 had since then continue to demonstrate that there is a gap  
2 and an amount of unidentified traffic for a variety of  
3 reasons, some which we've been able to identify and correct  
4 and others which still have not been corrected.

5                   And one of the concerns -- there's kind of two  
6 concerns that we have. One was mentioned earlier that one of  
7 the difficulties of the current system is that the small  
8 companies have no direct network connection with most of  
9 these carriers. They have no business relationship with  
10 them. Traffic comes over their network. We can't tell whose  
11 traffic it is without looking at the NPA/NXX and having it at  
12 least a chance of identifying it. We can't even from that in  
13 all cases.

14                   And secondly, to the extent that there are  
15 breakdowns in the system, and the upstream people at the  
16 tandem that were supposed to be doing the recording and  
17 passing records don't do that correctly, the small companies  
18 bear a hundred percent of the financial responsibility for  
19 any errors. We don't get the records, we can't bill, and we  
20 lose the money in spite of the fact that it may be a problem  
21 such as it was in local plus where an error was made and  
22 records aren't being recorded by the tandem company and so  
23 forth.

24                   In terms to the proposed rules, our comments  
25 say the rule is a first step to the resolution of the

1 problem. Maybe it should be a second step. There have been  
2 some steps taken to help narrow the problem. We think that  
3 it's a step that's long overdue. And although we were  
4 concerned that it won't completely address the problem, we  
5 believe it's another step, along with others that have been  
6 taken, to help address this very complex and difficult issue  
7 involving signaling protocols, records, business  
8 relationships and contracts with companies and so forth.

9                   The rule has a number of positive aspects, and  
10 in our written comments, we outline those and describe those  
11 further. I'll leave you to read those and won't comment  
12 further on them. Our written comments also propose four  
13 modifications of the proposed rule; one is a simple  
14 modification to the portion of the rule that we believe will  
15 help delineate the fact that feature group C and D calls  
16 travel over the same physical network, although they're  
17 defined differently in the rule.

18                   And we will -- we hope alleviate some of the  
19 concerns expressed by some of the parties that the rule would  
20 require that separate trunk groups would have to be  
21 established for all feature group D traffic. We don't think  
22 that was the intent of the rule. We don't think the rule  
23 does that, but we believe the language which we're proposing  
24 there would help clarify that.

25                   We have suggested an addition to the rule

1 which would allow carriers to build a tandem switch for  
2 unidentified traffic. We've talked about that extensively  
3 before and we've proposed an addition to the rule to do that  
4 so that the small companies do not bear financial  
5 responsibility and financial risk for the problems that are  
6 generally caused by the current system upstream from us and  
7 caused by other people's errors.

8                   There are proposed blocking provisions in the  
9 rules, and we are suggesting some modifications to that to  
10 allow the cost of blocking to be passed on to the originating  
11 carrier. In most circumstances, if blocking has to be  
12 implemented, which we don't anticipate will be done very  
13 often, but we have found it necessary to do that in a few  
14 cases, and then we are proposing the addition of the sunset  
15 provision to review the effectiveness of the rules and to see  
16 if further changes need to be made down the road.

17                   Finally, let me make a few comments on the  
18 responses of other parties. We note that on page six of the  
19 Staff comments, the Staff proposes an addition to rule  
20 29.030, requires all carriers to program its switches with  
21 all changes to the local exchange routing guide. Understand  
22 some of Staff's concerns for doing this, but we have  
23 substantial concern about this addition because we're  
24 concerned that it may be misconstrued that companies would  
25 then have to be provided -- required to provide local



1 transport in relationship to an issue.

2                   That's called a virtual NXX issue where  
3 carriers can, in the LERG, say that a code is located in one  
4 exchange and should be rated there, but that their switch is  
5 in a far distant exchange, somewhere within the LATA, and  
6 that the call needs to be transported to their switch. This  
7 is an area that the Missouri PSC has not issued a ruling on.

8                   The FCC has not, at this point in time,  
9 definitively determined what company is responsible for that  
10 transport, although it's on their agenda for Thursday and we  
11 may see an order in regards to that, but we believe the  
12 proposed rule could have some unattended consequences in  
13 regard to this virtual NXX issues and our concern about the  
14 change the Staff has proposed.

15                   In regards to SBC comments, we acknowledge  
16 that the efforts that SBC has expended since the network test  
17 have resulted in some reduction in the amount of unidentified  
18 traffic. The records that Bell had provided in regards to  
19 UNE-P, in regards to CLEC traffic and so forth have been  
20 helpful. The individual CMRS records, as was mentioned by  
21 Mr. Voight, our concern about the limited helpfulness of  
22 those because of the fact that they do not carry the  
23 originating calling party number but a number that identifies  
24 the carrier only.

25                   But in regards to, and there were some

1 questions earlier about the size of the problem at this point  
2 in time and SBC suggests we should do another test and drag  
3 this out another period of time to see if it's really  
4 necessary. Within the last year, we did a review of several  
5 companies to see whether they, and what the extent of the  
6 unidentified traffic problem that existed currently. And the  
7 range of -- we had about eight or nine companies look at  
8 terminating the data, most of them for a six-month period and  
9 compared to the originating records.

10                   And the differences that were reported ranged  
11 between very small amount, less than one percent, to as much  
12 as six percent in one of the companies. We think that the  
13 lessons of local plus and other incidents that we've had  
14 where errors have been made show that although this gap has  
15 been closed, if full attention isn't given to it, that it  
16 could widen again, and we still believe that the rule is  
17 necessary, an important step in helping to address this  
18 problem. Particularly as we face a new round of carriers  
19 such as cable TV providers and others who may be imposing  
20 traffic on the network.

21                   Several carriers commented about the blocking  
22 provisions and say, gee, there's provisions in wireless  
23 terminating tariffs, therefore we really don't need to put  
24 these provisions in rules. While we have those provisions in  
25 our wireless termination tariffs and the -- apparently SBC

1 has some provisions in their access tariff, they are not  
2 widespread through all tariffs, and we believe that the  
3 proposed rules should be implemented so that they cover all  
4 situations, not just those that are in tariffs.

5 I should also mention that the wireless  
6 termination tariffs, in spite of the fact that they were  
7 upheld by the Missouri courts, some are in place now, there's  
8 a petition before the FCC, filed by T-Mobile a couple of  
9 years ago that has asked that those tariffs be declared  
10 unlawful, and that issue is also on the published agenda for  
11 the Commission's -- the FCC's agenda meeting this coming  
12 Thursday, day after -- tomorrow, I guess it is. What day of  
13 the week is it?

14 There are a number of comments regarding  
15 interconnection contracts and questioning whether the  
16 Commission can require those to be changed. I'm not going to  
17 argue the legality, the legal arguments, but I would note  
18 that most of the interconnection contracts that I have  
19 reviewed contain provisions that if laws or rules are  
20 modified that would change the terms of the contract, that  
21 those contracts will be updated and to comply with changed  
22 laws, so I'm not sure that's as big an issue as has been  
23 mentioned.

24 Finally, three major areas in regards to the  
25 comments of the three wireless carriers. Wireless carriers

1 have a mistaken conception that it is the rural ILECs that  
2 have, quote, chosen to maintain the FGC network or feature  
3 group C network which they declare as an obsolete network.  
4 In fact, Mr. Johnson's comments, which represent some of the  
5 small companies, again, suggest as he has in previous  
6 occasions, that feature group C should be done away with.

7                   It's primarily the large LECs who have  
8 continued to provide intraLATA toll on their own who are  
9 specifically impacted or would be impacted by the elimination  
10 of feature group C, and the protocol in the switches and who  
11 have in past cases testified that that would be a very  
12 expensive and costly transition. I find it particularly  
13 ironic that the wireless carriers suggest that this network  
14 should be done away with.

15                   They are the ones who use the tandem  
16 relationships, who connect only with a Bell tandem and expect  
17 traffic to be terminated throughout the LATA, and probably at  
18 this point in time, very likely to have the largest amount of  
19 traffic on that network. The small ILECs, particularly those  
20 with tandems, would be happy to have the wireless carriers  
21 conform to feature group D kinds of network requirements and  
22 switching requirements and particularly to deliver their  
23 traffic directly to the ILEC tandems as was shown on page two  
24 of my exhibit, rather than to the Bell tandem as they  
25 currently do.

1                   Secondly, the wireless carriers in their  
2 comments suggested that if the small ILECs that simply come  
3 to negotiate that, and it's our fault because we haven't  
4 negotiated with them. We have looked closely to the  
5 Telecommunications Act. We believe that is a responsibility  
6 of the wireless carriers, that they were the ones that should  
7 have approached the LECs. Many of them now have, after our  
8 wireless termination tariffs were put in place.

9                   T-Mobile is one of the three signers of those  
10 comments. This is one that has been particularly hesitant to  
11 deal with this in regards to the terminating traffic until  
12 the Commission's order was issued just a couple of weeks ago,  
13 and at this point in time, still has paid for virtually none  
14 of the traffic they've terminated over the last eight years  
15 to the small rural telephone companies.

16                   Finally, the comments about and particularly  
17 the wireless carriers about the FCC's docket on intercarrier  
18 compensation, which Commissioner Murray asked Mr. Voight  
19 about earlier. There is a docket that was established in  
20 2001. The FCC took comments in 2001. They have been  
21 adjusting those. There is, on the Commission's agenda for  
22 their meeting tomorrow, a notice of proposed rulemaking, a  
23 further notice of proposed rulemaking that we anticipate will  
24 be adopted tomorrow and issued on the text of the order is  
25 finalized. And whether that's within the next few days or a

1 month or two from now remains to be seen.

2                   While we expect that there will be a notice of  
3 proposed rulemaking, there's no clear timetable as to when  
4 rules may ultimately be adopted or over what period of time  
5 they might be implemented. There are various proposals out  
6 there by both small and large companies. Many of those  
7 proposals call for unified common rates where reciprocal  
8 compensation and access and interstate and intrastate access  
9 would be combined into a single rate over some period of  
10 time.

11                   There are many questions as to the legality of  
12 those proposals whether they will fit within the context of  
13 the Telecommunications Act, maybe 1934 Illinois Bell decision  
14 which required compensation for terminating toll traffic, and  
15 so forth. And whether we will have an order in that docket  
16 now or three years from now and what kind of an  
17 implementation time period it may have with it, we would  
18 suggest the Commission should not delay its rules pending the  
19 FCC changing rules because that could drag on for a  
20 substantial period of time.

21                   Thank you. I'll be happy to respond to any  
22 questions that there may be.

23                   JUDGE MILLS: Thank you. Commissioner Murray.

24                   COMMISSIONER MURRAY: I hope I have just a few  
25 questions, Mr. Schoonmaker.

1 QUESTIONS BY COMMISSIONER MURRAY:

2 Q. On your diagram, is that -- this is  
3 representative of the current situation; is that correct?

4 A. Yes.

5 Q. And do the opposite sides of the diagrams, the  
6 sides divided by the broken line down the middle, represent  
7 different trunking mechanisms?

8 A. Partially, yes; partially, no. The trunks  
9 between CMRS provider and the tandem are separate trunks.  
10 Trunks between the CLEC and the separate tandem or the ILEC  
11 tandem are separate trunks. In fact, under most of SBC's  
12 agreements, between a CLEC and the tandem, there would be  
13 separate trunks for local traffic or reciprocal compensation  
14 traffic and intraLATA toll traffic.

15 And similarly, the connections between the  
16 ILEC, CLECs, CMRS and the IXC-B on the right-hand side to the  
17 IXC-A pop would represent separate trunks and connections,  
18 and the connection between IXC-B and IXC-A to the ILEC tandem  
19 would represent a separate trunk. When I get to the common  
20 trunk group between ILEC-A and ILEC-B, and it's down the  
21 center and not divided by the line, it is a common trunk  
22 group, and that traffic, in fact, flows physically over the  
23 same pairs of wires, the same fiber electronic circuits, and  
24 the traffic is, in fact, intermingled.

25 And at that point in the network, there is no

1 way to distinguish whether that traffic was originated as a  
2 feature group C call, feature group D call, and so forth.  
3 The network protocol for both those calls at that point in  
4 the network is the same.

5 Q. So that on the second page of your diagram  
6 where you show the IXC-A pop coming into the ILEC-B tandem,  
7 that is how your differentiating?

8 A. Yes, and that is a separate trunk group.  
9 Typically, it's ordered through a special access tariff. It  
10 may, in fact, be part of the -- the two ILECs facilities, but  
11 it's a separate trunk and separate typically a T-1 circuit  
12 that would connect the IXC-A pop to ILEC-B tandem.

13 Q. Okay. How does this diagram change if this  
14 rule is passed?

15 A. Let me just think just a minute. If the rule  
16 passes, let me go to the end office scenario, first of all.  
17 In terms of the physical diagram, certainly the intent of the  
18 rule is that the diagram, there's no mandatory changes in the  
19 diagram. The -- the rules do contemplate the possibility of  
20 ILEC-B requesting that the feature group C and feature group  
21 D traffic between the ILEC-A tandem and ILEC-B would be put  
22 into two separate trunk groups, and if the carrier requested  
23 that, there could end up being two lines there rather than  
24 one, with one carrying the feature group D IXC traffic and  
25 the other feature group C type of traffic.



1 Q. And that is a request from ILEC-B to ILEC-A?

2 A. Yes.

3 Q. And that is ILEC-A's expense?

4 A. Well, both companies would have expense,  
5 depending on how their -- where their facilities meet, but in  
6 typical situations, somewhere between ILEC-A and ILEC-B,  
7 there would be a meet-point and there would be a fiberoptic  
8 cable, in most cases, that would interconnect at that point  
9 in time and the cost associated with the changes that would  
10 have to be made at the tandem switch could be as simple as  
11 simply turning up another trunk card and equipment that's  
12 already there or it could, in some cases, require the  
13 addition of additional equipment, and maybe in a few cases  
14 there would have to be physical plant put in place.

15 And at ILEC-B's end and up to their  
16 meet-point, they would have to make similar changes and there  
17 may be a new trunk part that's required, depending on the  
18 specific facilities situation. There could be cost involved  
19 at that end.

20 Q. Costs -- but you're saying there would be  
21 costs to both ILEC-B and ILEC-A?

22 A. Yes.

23 Q. And proportionately, how much -- how would you  
24 say they would play out?

25 A. It depends a lot on the carrier.

1 Proportionately, it would, in terms of the physical distance,  
2 the physical distance would be typically greater on ILEC-A  
3 than ILEC-B. The network cards that would be required would  
4 be fairly equal. The time involved in changing the trunking  
5 would be similar at both ends.

6 And, you know, in a lot of these cases, there  
7 would be sufficient physical facility there, so there really  
8 wouldn't have to be addition to the facility, but in some  
9 cases, there might have to be additional cables or fibers put  
10 in.

11 Q. Okay. Okay. Would you agree that the -- the  
12 larger issue here, which really encompasses all these issues,  
13 is access charge reform?

14 A. Well, access charge reform certainly may have  
15 an impact on it, and the whole issue of what should be  
16 charged for the use of the network is related to the -- I  
17 mean, the billing records and the kinds of things we're  
18 talking about are things that are put in place so that the  
19 billing for access or reciprocal compensation, whichever it  
20 is, can be billed. And you know, if there's substantial  
21 access reform, that could change things somewhat.

22 Q. Would you describe the difference between what  
23 your clients charge for terminating calls that are nonlocal  
24 versus terminating those that are local?

25 A. Several different rates. The -- on the local

1 side, which is primarily would be wireless terminating  
2 traffic, we have contracts with -- a number of the small LECs  
3 have contracts with a number of the wireless carriers, and to  
4 my knowledge, the rate in virtually all of those is three and  
5 a half cents. In the wireless terminating tariffs, I believe  
6 the rates range from the three and a half to four cent range  
7 up to about six to seven cents.

8 Q. That's for the nonlocal?

9 A. That's for -- no, that would be for local  
10 under the wireless termination tariff.

11 Q. Oh, okay. I'm sorry, and you said -- what was  
12 the range you indicated?

13 A. Probably around three and a half to four cents  
14 up to seven to seven and a half cents, I think, depending on  
15 the individual company. Then on the nonlocal side or the  
16 access side, the rates for interstate traffic that terminate  
17 over this would be generally in the two to four cent range,  
18 and the rates for intrastate traffic would range from, oh, I  
19 think as low as three-quarters of a cent or so in a couple of  
20 cases up to as much as over ten to twelve cents.

21 Q. And we're talking about per minute?

22 A. Yes.

23 Q. Is that correct?

24 A. Yes.

25 Q. Are there upgrades that the small ILECs could

1 make that would eliminate this problem, upgrades to the small  
2 ILEC's network?

3 A. In most cases, no. I mean, in most cases, the  
4 network upgrades that help with this have been made by the  
5 small ILECs. Almost all of them, maybe all of them, have  
6 S-77 signaling to the end office level, which allows the  
7 calling party number to be transferred to the end office,  
8 provided it's put on the S-77 signaling network.

9 In terms of what the small companies would  
10 need to do with their networks, I think that's pretty well  
11 been done. The issues on the network side relate to how  
12 information is passed across the network by other parties,  
13 whether it's fully passed, and so forth.

14 COMMISSIONER MURRAY: Okay. I think that's  
15 all I have. Thank you, Mr. Schoonmaker.

16 THE WITNESS: You're welcome.

17 JUDGE MILLS: Thank you. At this point, we're  
18 going to take the lunch recess. We'll be off-the-record  
19 until 1:15. We will come back and we'll determine if there  
20 are more questions from the bench for Mr. Schoonmaker. If  
21 not, we'll move on to the next witness. Thank you. We're  
22 off-the-record.

23 (A BREAK WAS HELD.)

24 JUDGE MILLS: Let's go back on the record.  
25 Mr. England.

1                   MR. ENGLAND: Thank you, Judge. Would now be  
2 a good time to offer the exhibit that Mr. Schoonmaker  
3 referred to in his --

4                   JUDGE MILLS: Sure, are there any objections  
5 to the admission of Exhibit 1? Hearing none, it will be  
6 admitted.

7                   (COMPANY EXHIBIT NO. 1 WAS RECEIVED INTO  
8 EVIDENCE BY THE JUDGE.)

9                   JUDGE MILLS: Next, why don't we go to  
10 Mr. Johnson.

11                  MR. JOHNSON: Thank you, your Honor. The only  
12 thing that I was going to call --

13                  JUDGE MILLS: Before you go, I'm going to  
14 swear you in.

15                  (THE WITNESS WAS SWORN.)

16                  MR. JOHNSON: Mr. Voight mentioned that I  
17 might have more knowledge about the current status of the  
18 wireless records that are being received from SBC, and that  
19 was in response to Commissioner Murray's question, and I  
20 would just say that up until July of last year, we were  
21 getting a CTUSR, which only gave us a monthly summary of  
22 wireless terminating minutes per wireless carrier.

23                                 And then approximately July of '04,  
24 Southwestern Bell went to an IXC-type of a wireless record.  
25 About October, November, we realized that that record was not



1 have nothing to say in addition to the written comments filed  
2 by Socket, XO, and Big River. I would be happy to answer any  
3 questions.

4 JUDGE MILLS: I have no questions. Thank you.  
5 Is there anybody else that wants to testify generally in  
6 favor of the proposed rule? Okay.

7 Let me see a show of hands from those that are  
8 planning to testify in opposition of the proposed rule.  
9 Okay. I don't know the two gentlemen in the back, so I'll go  
10 to the one I know first, Mr. Bub. Can you step forward,  
11 please?

12 (THE WITNESS WAS SWORN.)

13 MR. BUB: Good afternoon. For the record, my  
14 name is Leo Bub, and I'm with SBC Missouri. I'd like to give  
15 a brief overview of our comments of what we think should be  
16 done here, but before I do that, I'd like to briefly  
17 introduce three managers from our company who actually have  
18 operational responsibilities for company-to-company billing  
19 records and company-to-company settlements.

20 These folks are not professional witnesses.  
21 They're very knowledgeable in this area and they're actually  
22 involved in the record creation process and intercompany  
23 settlements. The first gentleman I'll introduce is Marlon  
24 Hines. He's our area manager, exchange carrier relations.  
25 He's part of our company's team that worked on this proposed

1 rule from the start, as Mr. Voight mentioned in his comments.

2           A little bit of background on Mr. Hines. For  
3 years, he represented our company at the OBF, that's the  
4 ordering and billing forum, and that's the national standards  
5 body that addresses intercarrier billing and records issues.  
6 Mr. Hines is the head now of our company's project to  
7 identify facility-based traffic that transits our network and  
8 to create full detail records on that traffic for our own use  
9 in billing facility-based carrier.

10           We also, with that project, provide records,  
11 similar records to what we used to the downstream carrier so  
12 they can also bill that originating facility-based carrier  
13 for the portion that the small LEC behind us handles.  
14 Mr. Hines will discuss these records and how our efforts to  
15 create these and other records are consistent with the  
16 principles that have been enunciated at the OBF.

17           Also appearing with me today is Joe Murphy.  
18 Mr. Murphy is an area manager, exchange carrier product  
19 management. And like Mr. Hines, Mr. Murphy has also worked  
20 on this proposed rule from the beginning. Mr. Murphy has  
21 worked in the billing records field for a number of years and  
22 he's very knowledgeable on the entire subject.

23           He will describe the issues that we saw early  
24 on in this process with unidentified traffic, and the  
25 significant efforts that SBC has undertaken to address those



1 issues. In addition to being involved in this rulemaking  
2 process here, Mr. Murphy has also been involved in a similar  
3 process in Texas that led to the creation of the feature  
4 group C network principles documents that we attached to our  
5 comments in this proceeding. Mr. Murphy will discuss these  
6 points and these principles in how they were developed.

7                   Also appearing with me today is Paul Roan.  
8 He's area manager from our finance group. Now, Mr. Roan, he  
9 has responsibility for intercompany settlements between our  
10 company and other carriers. I know over the past couple of  
11 years, there's been a handful of carriers that have expressed  
12 concerns that they were not receiving the appropriate number  
13 of records for the traffic that they terminated. Mr. Roan  
14 worked with these carriers on a one-on-one basis to help  
15 resolve those issues. And in most cases, in working  
16 together, they were able to satisfactorily reconcile.

17                   Now, on a few cases, they weren't able to  
18 narrow the gap, but in most, they were, and even where they  
19 hadn't narrowed the gap, they significantly narrowed the gap.  
20 You have to note that all of these efforts actually created  
21 the new record systems that Mr. Hines and Mr. Murphy will  
22 describe a little bit later.

23                   Since these systems have been in place, we've  
24 not been asked for assistance in reconciling records, but  
25 we're certainly willing to do so with any carrier that has a

1 concern in that area. Mr. Roan, he won't be making any  
2 formal presentation or comments, but he's appeared here to  
3 answer any questions that the Commission may have about these  
4 past reconciliation efforts or to address specific carrier  
5 issues that may arise today.

6                   To turn to our comments, I think you'll see  
7 from them that it's clear that our view that a rule is just  
8 not necessary. And let me tell you why. We believe that a  
9 lot of things have happened since Staff began this process.  
10 We believe that the tools are now in place for carriers to  
11 bill and to be paid for the traffic that they handle.

12                   And my billing folks, Mr. Murphy, Mr. Hines  
13 tell me that there's really three things that you need in  
14 order to bill for traffic. You need to know who to bill, you  
15 need to know the minutes to bill, and you need a rate.  
16 Here, with the systems that we have in place and the records  
17 that are being flowed, carriers will know who to bill and the  
18 minutes to bill.

19                   And with the tariffs that the Commission have  
20 approved recently on wireless traffic, interconnection  
21 agreements that the small companies have with wireless  
22 carriers and the access tariffs that have been in place for  
23 years, we believe that those rates are there now. So with  
24 those things in place, the small companies should be in a  
25 position to bill for the traffic.

1                   One of the concerns that we've heard over the  
2 past years as well, we can, as a small company, send a bill,  
3 but if they don't pay it, we have no hammer to make them pay.  
4 Well, I think recent experience has shown that with the  
5 Commission's approval of the wireless termination tariffs and  
6 those tariffs actually being approved by the courts in the  
7 state, small carriers have the right under those tariffs to  
8 request their tandem company to block wireless carrier  
9 traffic when the small company behind us isn't getting paid.  
10 We've received requests and we've fulfilled those requests in  
11 accordance with the law that we believe we need to follow and  
12 we will follow and do.

13                   Now, there are also provisions in care area  
14 access tariffs. We laid out ours in our comments that when  
15 more than one LEC, like Southwestern Bell being a tandem  
16 company, a small LEC behind us, in a jointly provided access  
17 situation where one of the parties -- one of the terminating  
18 parties isn't getting paid, they can request us also to  
19 block. And under the tariff provisions, we will follow the  
20 tariff and do that. So we believe that the tools are in  
21 place to help a small carrier behind us enforce payment when  
22 they are not getting paid by the appropriate carrier.

23                   One thing I'd like to point out that the  
24 Commission itself has been responsible for bringing some  
25 stability and some order to the process here in the state,

1 and that's with the approval of the wireless tariffs that  
2 I've just mentioned. From my observation over the past  
3 several years, in dealing with this area, most of the concern  
4 has been with wireless traffic.

5                   Simply stated, the small LECs behind us  
6 weren't getting paid and it was a lot of traffic and it was  
7 growing. And now if you look at it, Mr. Schoonmaker is  
8 right, the majority of the traffic that transits our network  
9 that terminates to the small company is wireless. We looked  
10 at it recently, and 60 percent of the traffic is wireless, 30  
11 percent of it is IXC traffic. That remaining 10 percent is a  
12 mixture of our toll traffic, other ILEC traffic, and CLEC  
13 traffic. Our share is less than three percent.

14                   So, you know, we're a very small amount of  
15 traffic that goes to the LECs behind us, and if you look at  
16 that, I think you'll see that we're in a very similar  
17 position and our interests are aligned with the small LECs  
18 here. We only are going to get paid for transiting if we  
19 properly record it so that we can bill that traffic, so we  
20 have every incentive, just like the small LECs behind us, to  
21 make sure that there's an appropriate records creation  
22 process so that we and they can bill the jointly provided  
23 termination services that we provide to originating carriers.

24                   I think you'll see that with one exception on  
25 this wireless traffic, all the wireless carriers are now

1 paying. Some of them are paying under the wireless  
2 termination tariffs that the small LECs have filed, some are  
3 paying under the interconnection agreements that they've  
4 reached with the small LECs.

5 I think the point that we need to recognize is  
6 for the most part with that one exception, that one carrier  
7 that is still involved in a suit, most are now paying either  
8 under the tariffs or the interconnection agreements that they  
9 have. So we think with that one exception, for the most  
10 part, the wireless issue is -- should be behind us. At least  
11 on a going-forward basis, the tools are in place to get the  
12 -- all carriers paid for the traffic for the wireless traffic  
13 that they terminate.

14 We also need to remember that at no time  
15 during any of this dispute on the wireless traffic was that  
16 traffic ever unidentified. From the very beginning, when we  
17 came out with our CTUSR, the Cellular Transit Usage Summary  
18 Report, that traffic was identified. That was a report that  
19 the Commission specifically ordered SBC Missouri to create  
20 and we did.

21 Subsequent to our creation and its use in the  
22 industry, that record creation process was audited by the  
23 small LECs. The Warner Guessinger firm, who represent the  
24 small LECs occasionally before this Commission, audited the  
25 system and found that it satisfactorily captured the wireless

1 traffic. And you'll also see that the CTUSR is actually used  
2 by the small LECs. It was used in each of the wireless  
3 complaint cases that they brought here to the Commission.  
4 They use it to substantiate the minutes of the use that  
5 they've terminated.

6                   You'll also see it mentioned in the wireless  
7 interconnection agreements that they have with various  
8 wireless carriers, and those agreements, they indicate that  
9 that will be used for billing and that it's actually  
10 satisfactory for billing. Mr. Murphy, who will take the  
11 podium in a minute, he'll describe how instead of the CTUSR,  
12 the summary report that we produce, that we've now developed  
13 systems to produce individual detailed records to the  
14 carriers behind us.

15                   Some have complained in the proceeding here  
16 about the format that these records, specifically that they  
17 don't contain the calling party's number, but as Mr. Murphy  
18 will explain, these records conform to the industry standard.

19                   So what is SBC advocating, what should the  
20 Commission do? Here we think that there are two things that  
21 the Commission needs to do and to do them forcefully. First,  
22 the Commission should announce that it will reject any plans  
23 or claim that attempts to make the transiting carriers  
24 responsible for another carrier's traffic.

25                   We'd also recommend that the Commission direct

1 the parties to work together to resolve these intercarrier  
2 billing issues. The Commission doesn't need to get involved  
3 in this level of detail in the carrier's businesses. In very  
4 few states have state Commissions ever had to get involved.  
5 This is something that carriers usually handle on a  
6 business-to-business basis. Something that's handled by  
7 people like Mr. Schoonmaker and Mr. Hines and Mr. Murphy.  
8 Rarely are these type of issues brought to the Commissions.  
9 And when they do, and I'm aware of a couple, one, is the  
10 Montana situation where the Montana Commission came out with  
11 a very simple straightforward rule, and I think that will  
12 speak for itself.

13                   The other I'd like to reference is something  
14 that occurred in Wisconsin. In August this past year,  
15 August, 2004, the Commission there was trying to determine  
16 how to handle this very issue. And Staff of the Public  
17 Service Commission Wisconsin, found that what they -- what  
18 they recommended to the Commission was that the Commission  
19 there adopt four principles to serve as boundaries for an  
20 acceptable resolution of this issue.

21                   And the four principles are No. 1, that the  
22 originating providers pay for terminating traffic. Second,  
23 that the transiting providers must provide adequate  
24 information to the rural LECs behind the tandem companies to  
25 allow the billing of terminating traffic to the originators.

1 Three, that terminating providers must bill originating  
2 providers and not the intermediaries, the transiting  
3 carriers. And four, that it was not sufficient to require  
4 all providers to establish separate trunking arrangements.

5                   Now, Staff in that case said by putting forth  
6 such a plan, Commission would show parties that the status  
7 quo is not acceptable, and once it has established these  
8 boundaries, the Commission should then allow Staff and the  
9 parties to craft a mutually agreeable solution. We believe  
10 if the Commission were to set similar boundaries here, which  
11 are very similar to what occurred in Montana, very similar to  
12 the principles that were agreed to by the industry in Texas,  
13 that the parties knowing those boundaries would be able to  
14 workout an acceptable solution.

15                   Our concern is that unless you close that door  
16 to make the tandem company liable, unless that door is  
17 closed, that you will provide an incentive to work the  
18 process. You'll note that the small companies in this case  
19 have proposed either a two- or three-year sunset period, and  
20 we think it would be very unfortunate if some parties having  
21 undermined the process would later be allowed to argue that  
22 that process doesn't work and that it's now time to change  
23 the billing relationship. We just don't think it's  
24 appropriate to allow these types of incentives to the process  
25 here.



1                   As you can -- as Commission can see from our  
2 comments, the rules as proposed will impose significant costs  
3 on the industry and on SBC. And in closing, I'd like to  
4 indicate that there's just been no showing that there even is  
5 an unidentified problem anymore. And without any showing of  
6 harm or any showing of need, we just think it's very  
7 imprudent for the Commission to adopt the rule as proposed.  
8 And with that I'd like to ask Marlon Hines to come to the  
9 podium.

10                   JUDGE MILLS: We'll do Mr. Hines next, and  
11 then Mr. Murphy, and then I think we'll move onto some other  
12 witnesses.

13                   MR. BUB: Thank you.

14                   JUDGE MILLS: Thank you, Mr. Bub.

15                   (THE WITNESS WAS SWORN.)

16                   JUDGE MILLS: Please go ahead.

17                   MR. HINES: Yes, today I would like to share  
18 with you --

19                   JUDGE MILLS: If you could begin by  
20 identifying yourself for the record.

21                   MR. HINES: I am sorry. My name is Marlon,  
22 spelled, M-A-R-L-O-N, my last name is Hines, H-I-N-E-S.

23                   Today, I would like to provide you with some  
24 history of meet-point billing and the OBF Issue No. 2056. I  
25 also would like to discuss with you a project that I've been

1 working on that allows SBC to record traffic from  
2 facility-based or switch-based CLEC.

3                   The reason why I would like to discuss this  
4 information with you today is because, No. 1, I want to  
5 communicate to the Commissioners that LECs must work together  
6 and share data in order to generate an accurate bill for  
7 jointly provided service. And also working together and  
8 sharing data are consistent with the intent of the industry  
9 documents and SBC's efforts in sharing data with terminating  
10 LECs.

11                   At this time, I would like to move forward and  
12 discuss a little bit of history associated with meet-point  
13 billing and OBF Issue No. 2056. In the mid- and late-1980's,  
14 the FCC required the LECs to implement a billing arrangement  
15 for jointly provided IXE traffic. This billing arrangement  
16 was labeled meet-point billing. There are several meet-point  
17 billing options, but the most common option is called the  
18 multiple bill arrangement.

19                   Under that arrangement, each carrier, each  
20 LEC, provides a bill for its portion of the service to the  
21 interexchange carrier. The FCC also required LECs to put in  
22 their tariffs that they would comply with two industry  
23 documents. One document is the multiple exchange carrier  
24 ordering and design document, and the other document is the  
25 multiple exchange carrier access billing document, which is

1 referred to as MECAB; the first document is referred to as  
2 the MECOD. Both of these documents are maintained at the  
3 ordering and billing forum.

4           As Leo stated, the ordering and billing forum  
5 includes customers, IXE's, providers, example small LECs,  
6 large LECs, CLECs, and wireless providers, and the goal is to  
7 resolve telecommunication industry issues, and that's  
8 associated with access and other connectivity issues.  
9 Prior to OBF issue 2056, the LECs had to work together to  
10 provide or bill access service, jointly provided access  
11 service to the interexchange carrier.

12           We worked together and we shared data to  
13 create an accurate bill. For example, in the IXC world,  
14 prior to OBF issue 2056, we had to exchange records so that  
15 both companies can issue or companies on the route can issue  
16 an accurate bill. The end office company, when a call is  
17 originated from their end user, normally does a recording, so  
18 there is a record created by the end office company for  
19 originating traffic.

20           For terminating traffic from an IXC, and if  
21 it's tandem routed, the tandem company normally performs a  
22 recording. The record exchange process prior to OBF issue  
23 2056 required the tandem company to send the records to the  
24 end office company and they would use, they being the end  
25 office company, would use their records and the records that

1 they receive from the tandem company to issue a bill to the  
2 interexchange carrier.

3           The end office company would then summarize  
4 that data and send summary data to the tandem company so they  
5 can bill the interexchange carrier. This process worked  
6 when, you know, data was shared between each company. Well,  
7 around the 1996-97 time frame, CLECs start operating in the  
8 local industry, and as a result of CLECs becoming a part of  
9 the industry, there was issues that needed to be addressed by  
10 the OBF.

11           One issue was associated with UNE-P's. What  
12 should be the process for billing IXC's and what should be  
13 the process for compensation when calls are placed over  
14 LEC-to-LEC network. Also, at that particular time, we  
15 identified -- the industry identified, not just SBC, that  
16 facility-based CLECs, those that are CLECs that have their  
17 own switch, was -- they didn't want to generate those summary  
18 records and give it to the tandem company, a tandem company  
19 like SBC. Without those summary usage records or summary  
20 data, people like SBC as a tandem company could not bill the  
21 IXC for their portion of the service.

22           And finally, in the industry guidelines, there  
23 were no detailed guidelines to address the compensation in a  
24 LEC-to-LEC environment. So what happened was that we had all  
25 these UNE-P issues and there was a concern that we wanted to

1 make the UNE-P environment decision as far as what the  
2 guidelines should be consistent with switch-based providers,  
3 so that's why issue -- OBF issue 2056 was established for  
4 facility-based carriers.

5                   The bottom line is that the OBF determined  
6 that carriers should bill off of their own recordings, and if  
7 they don't have their recordings, then they should get the  
8 recordings from another provider on the route. For IXC  
9 traffic, as I stated, the end office company performs a  
10 recording normally on originating traffic, and the tandem  
11 company performs a recording for terminating traffic from the  
12 IXC through the tandem switch to the end office.

13                   So in today's environment, we have to share  
14 records in order to bill or send an accurate bill to the  
15 interexchange carrier. So we're still working together,  
16 we're sharing data to create an accurate bill. For  
17 LEC-to-LEC traffic, the MECAB document, the industry  
18 guidelines said you can bill off of your own recordings, but  
19 if you don't have those recordings to generate an accurate  
20 bill, you can get the recordings from other LECs on the  
21 route.

22                   Well, that's fine for LEC-to-LEC traffic, but  
23 what you're going to find out or what you can see is that for  
24 LEC-to-LEC traffic when a terminating carrier performs a  
25 recording and they try to bill the originating carrier, in

1 some cases, they don't have the appropriate recordings to do  
2 that. One example was UNE-P.

3           The UNE-P -- UNE-P's end user places a call  
4 and it terminates to an independent company, the independent  
5 company doesn't know if that call originated from a UNE-P or  
6 if it originated from the LEC that has the switch. So as you  
7 will hear from Joe Murphy, SBC has started sharing UNE-P data  
8 with the industry, so that they can use that information to  
9 bill the appropriate originating carrier, and also you heard  
10 information about cellular traffic.

11           SBC is now sharing data so that the companies  
12 behind us can bill the appropriate wireless provider. So the  
13 position is that prior to OBF 2056, the LECs worked together  
14 and shared data to generate an accurate bill. After OBF  
15 2056, we did -- we're doing the same thing. We're working  
16 together and sharing data to generate an accurate bill.

17           One thing that I did want to point out is that  
18 at OBF, we did address the issue of billing the transiting --  
19 the tandem company for traffic instead of billing the  
20 originating carrier or the IXC. And the billing committee  
21 found that that was inappropriate as an industry standard, so  
22 when you look at the MECAB document, you will find that the  
23 document reflects that the originating carrier is the  
24 responsible party and they should pay the terminating  
25 carriers for providing the jointly provided service. And for

1 IXC's, IXC traffic, the -- they are basically responsible for  
2 the bill. That concludes a general overview of -- of history  
3 associated with meet-point billing and OBF issue 2056.

4 The other issue that I wanted to address that  
5 Leo referred to that I've been working on is the -- a project  
6 called full detail recordings. This project allowed SBC to  
7 record the CLECs interconnecting trunk groups so that we can  
8 bill the CLEC for local and intraLATA toll traffic.

9 We -- I think we took -- it took a couple  
10 hundred hours in translations plus millions of dollars in  
11 order to implement this option. We're now at a point, I  
12 believe it was July, 2004, data, we're sharing that  
13 information, recordings with companies behind us so that they  
14 can bill the CLEC.

15 Again, we're working with the LECs in sharing  
16 data so that they can generate an accurate bill. That  
17 basically concludes the information that I would like to  
18 share with the Commission today.

19 Do you have any questions?

20 JUDGE MILLS: Thank you. Questions from the  
21 bench, Commissioner Appling.

22 QUESTIONS BY COMMISSIONER APPLING:

23 Q. Mr. Hines, I think I just have one question.  
24 Are you -- are you with SBC?

25 A. Yes, sir, I am.

1 Q. Okay. Are you saying that we don't have a  
2 need for this -- this rule?

3 A. My position is -- is that the business  
4 relationships between us and the independent companies should  
5 basically stay as it is. The originating carriers should pay  
6 for -- for terminating the calls. The -- there is no need, I  
7 don't think, for a rule because we're sharing information  
8 with the independent companies behind us, and the CLECs and  
9 the wireless carriers as necessary. So they should have the  
10 necessary information to bill the originating carrier for  
11 LEC-to-LEC traffic.

12 Q. So what I hear you saying is that we don't --  
13 we have a collection problem here.

14 A. That could be a problem.

15 Q. Okay. Thank you.

16 A. Thank you.

17 JUDGE MILLS: Thank you, Mr. Hines.

18 MR. HINES: Thank you.

19 JUDGE MILLS: We'll call Mr. Murphy next.

20 (THE WITNESS WAS SWORN.)

21 MR. MURPHY: My name is Joe Murphy, I work  
22 with SBC in St. Louis, and I'm here to discuss a few things  
23 today.

24 Like Mr. Voight pointed out earlier today,  
25 we've been working on this rule for a long time. I attended



1 -- I think the first meeting I personally attended was back  
2 in March of 2002 where I gave an overview of what SBC was  
3 currently doing and had planned to do with records exchange.  
4 Mr. England brought out of that meeting the Swiss cheese that  
5 we talked about where it was closing the holes in the Swiss  
6 cheese to try to close the gaps in the unidentified traffic.

7                   Since that time, SBC has implemented  
8 transiting records on wireless traffic that goes through  
9 where SBC is directly connected to the wireless carrier and  
10 those records are used for our billing and also to share with  
11 the terminating parties downstream. We have implemented,  
12 through Mr. Hines' FDR process, a record sharing process on  
13 facility-based CLECs and we have also implemented a record  
14 sharing process on UNE-P originating traffic. And all those  
15 are in place, the records are available for companies to use.

16                   One of the other things I've been involved in  
17 is an agreement that was reached in Texas where we sat down  
18 with the independent companies down there under the auspices  
19 of the Texas Telephone Association and the committee down  
20 there was made up of billing and record exchange personnel.  
21 There were no lawyers, no Commission Staff involved. It was  
22 an industry effort to try to resolve what can we do to make  
23 sure everybody's getting compensated for the traffic using  
24 the network.

25                   We came up with a -- what has been referred to



1 committee was to find a way to gather the data so people  
2 could be billed. It doesn't address the rate issues.  
3 Wireless seems to always have an issue with what rate gets  
4 applied to the usage. I understand -- it's my understanding  
5 that that's been addressed for most companies here in  
6 Missouri via a tariff or some kind of an interconnection  
7 agreement.

8 All companies are responsible for getting  
9 those agreements or those tariffs. But as far as gathering  
10 the data, the minutes of use necessary, that was the  
11 objective of the Texas Committee. And it does use, like I  
12 said, different kinds of records to accomplish that  
13 objective. One of the things I've heard here this morning,  
14 and I was involved back in September, is the issue about the  
15 wireless records that we are generating on the traffic that  
16 terminates to the LECs. Specifically, the issue has to do  
17 with the inclusion of CPN in the record for the originating  
18 wireless telephone number.

19 I have a document in front of me that is  
20 produced by Telecordia Technologies, the title of which is  
21 Generic Requirements for Wireless Service Provider Automatic  
22 Message Accounting. This document, which is referred to as  
23 GR-1504-CORE, contains the industry standards for the  
24 creation of wireless records.

25 When we went down the path of generating

1 records for transit traffic, one of the things that was  
2 requested over and over was that we generate industry  
3 standard, category 11 records. The industry standards for  
4 wireless are different than the industry standards for  
5 interexchange carriers.

6                   There's a very simple reason for that. In the  
7 interexchange carrier records, you use the originating number  
8 and the terminating number to determine the jurisdiction to  
9 bill. In wireless records, you do not do that. That is  
10 because in the interexchange environment, the person making  
11 the call is at home or at work. They're not mobile.

12                   In the wireless environment, you have the  
13 issue called roaming. I can sit at home, I can pick up my  
14 cell phone and I can call New York. If we passed the CPN in  
15 the billing record, it would show a call from St. Louis,  
16 Missouri terminating to New York, and they would bill  
17 wireless interMTA, which would be correct in that situation.

18                   However, if I traveled to New York and made  
19 the telephone call to the exact same terminating number, the  
20 CPN would still show that the call originated from my cell  
21 phone, which has a number in St. Louis, Missouri. The person  
22 who got that record would see the originating number as St.  
23 Louis, they would try to bill that as an interMTA call, when  
24 in fact, I was in the building next door.

25                   That's the difference, the fundamental

1 difference in wireless records versus interexchange carrier  
2 records. And the Telecordia document specifically addresses  
3 that when they talk about how to populate the records. And  
4 the document itself talks about populating the -- what they  
5 refer to as, in the originating number fields, shall contain  
6 the billing directory number that's in a Type-I connection.

7                   In a Type-II, it has to do -- it will contain  
8 the per trunk group billing number of the wireless provider  
9 as assigned by the LEC. That is not the calling number of  
10 the person with the cell phone. Now, the same document talks  
11 about the terminating number field, which -- and it says for  
12 the terminating number field, it shall contain the called  
13 party number, which is the location they're calling. So the  
14 document makes it very clear wireless records are different.

15                   Another thing I would like to address is a  
16 footnote that was contained in the Missouri Independent  
17 Telephone Company Group on page four of their comments. They  
18 talked about a Texas Docket No. 21982, and the revised award  
19 that was issued in that docket in 2002. In that docket,  
20 which was an interconnection dispute between SBC and a group  
21 of CLECs, the Commission determined that the CLECs could use  
22 their terminating records to bill reciprocal compensation to  
23 SBC.

24                   However, what is not in the MITC Groups'  
25 comments is the fact that the Commission also made it very

1 clear that the bills that were created off of those  
2 terminating records had to be sent to the originating  
3 carrier. The Commission said on page 64 of that order that  
4 the Commission notes SBC -- SWBT's, S-W-B-T's, for your  
5 benefit, concerned regarding transiting traffic and concludes  
6 that terminating carriers shall be required to directly bill  
7 third parties that originate calls and send traffic over  
8 SWBT's network.

9                   So there was no question in their mind the  
10 originating company was the one that was supposed to be  
11 billed, not the transiting party. This morning,  
12 Mr. Schoonmaker made an assumption that he thought that the  
13 wireless traffic was probably the biggest part of the traffic  
14 that's on the feature group C LEC-to-LEC network. I agree  
15 with Mr. Schoonmaker.

16                   Based on a study that I was shown the other  
17 day, it appears that almost 60 percent of the traffic that  
18 remains on the LEC-to-LEC network comes from wireless  
19 companies. In addition to that, it appears that  
20 approximately another 30 percent comes from interexchange  
21 carriers. So therefore, 90 percent, roughly 90 percent of  
22 the traffic using the LEC-to-LEC network is now coming from  
23 people other than the traditional LECs.

24                   This kind of ties into the comments by the  
25 small company telephone group where they would like to try to

1 make SBC responsible for unidentified traffic. The amount of  
2 toll traffic that we generate on the network has gone down by  
3 approximately 90 percent, since this issue started back in  
4 the late 90's.

5                   That is directly due to the elimination of a  
6 service referred to this morning as local plus, and so our  
7 part of the traffic on the network, we are now roughly ten  
8 percent of what we were back then. When you take that plus  
9 the growth in wireless, it really doesn't make any sense to  
10 me why they would try to charge us for the traffic when  
11 there's a 90 percent probability it belongs to someone else.

12                   I have one other thing that I'd like to try to  
13 clarify, and I think this is a misunderstanding between us  
14 and the Staff, on the issue of record retention. The Staff's  
15 comments, quote, the SBC Missouri tariff in support of a  
16 12-month retention period for all call detail records. We  
17 don't disagree with the Staff that it is appropriate for a  
18 12-month retention period by the company that is doing the  
19 billing off the records.

20                   So if we were doing the billing, we would keep  
21 those particular records for 12 months. What we do disagree  
22 with the Staff on is that we would be required to keep the  
23 copies of the transit records that we send to other people  
24 for 12 months. Normal industry practice is that when you  
25 transmit data to another company, the transmitting company

1 keeps it long enough that if for some reason there was a  
2 problem with the transmission, the data can be resent. That  
3 period is usually 90 days.

4                   We would not be opposed to a requirement that  
5 says that we would keep the transiting data for 90 days. We  
6 would keep the records we billed off of for our bills for the  
7 12-month period. But the way the rule is written right now,  
8 it's our interpretation that we would be required to keep all  
9 records, both our billing and the transiting records, for a  
10 12-month period. And so we would like to hopefully get that  
11 clarified.

12                   Do you have any questions?

13                   JUDGE MILLS: Questions from the bench? No  
14 questions. Thank you. Thank you.

15                   MR. BUB: Judge.

16                   JUDGE MILLS: Mr. Bub.

17                   MR. BUB: Before we go on to the next witness,  
18 if I could ask the Commission's indulgence to have an exhibit  
19 marked. The reason I'm asking is the feature group C network  
20 that we attached to our comments, in discussing with  
21 Mr. Murphy last night, turns out that we attached a close to  
22 time draft of what was done in Texas, but wasn't the absolute  
23 final, so I'd like to have that introduced as a substitute.

24                   JUDGE MILLS: Okay. Go ahead and have the  
25 Court Reporter mark it and pass out copies, please.



1 (SBC EXHIBIT NO. 2 WAS MARKED FOR  
2 IDENTIFICATION BY THE COURT REPORTER.)

3 JUDGE MILLS: We'll mark this as Exhibit 2.

4 MR. BUB: Your Honor, I'd like to offer this  
5 for admission. If there's a problem with foundation, I can  
6 bring Mr. Murphy back up here and he can authenticate it.

7 JUDGE MILLS: Let's see if there's any  
8 objection first. Is there any objection to the admission of  
9 Exhibit 2? Hearing none, it will be admitted.

10 (SBC EXHIBIT NO. 2 WAS RECEIVED INTO EVIDENCE  
11 BY THE JUDGE.)

12 MR. BUB: Thank you, your Honor.

13 JUDGE MILLS: Thank you.

14 MR. BUB: And finally, I didn't have this in  
15 my comments, but one of the things I meant to cover was that  
16 throughout this process, Staff did an incredible amount of  
17 work and exhibited patience, perseverance. And even though  
18 we don't agree with the rule, and certain parts of it we're  
19 firmly against, we do recognize Staff, and that they should  
20 be commended for their efforts.

21 JUDGE MILLS: Thank you. Okay. I know we've  
22 got Mr. Idoux left to testify. Anyone else? Would you raise  
23 your hand, please, if you plan to testify? Okay. Mr. Idoux,  
24 you may step forward.

25 (THE WITNESS WAS SWORN.)

1 JUDGE MILLS: You may go ahead.

2 MR. IDOUX: My name is John Idoux, it's  
3 spelled I-D-O-U-X, and I'm here today on behalf of both  
4 Sprint as well as Sprint PCS. Both Sprint and Sprint PCS  
5 have been extremely active in this docket ever since it was  
6 opened and it has been no secret we've been very clear that  
7 Sprint does oppose this rule.

8 We do not believe it will address the supposed  
9 problems that are facing the Commission and the industry as  
10 is purported to fix. That does not mean that Sprint does not  
11 support the concept that terminating carriers should receive  
12 compensation. Terminating carriers absolutely should receive  
13 the appropriate compensation. Sprint's primary issue with  
14 the proposed rule is that it attempts to fix a problem where  
15 Sprint does not believe a problem exists.

16 Sprint does not believe a demonstration has  
17 been made to justify the adoption of this rule. There have  
18 been a lot of allegations made of unidentified traffic. They  
19 have only been allegations. There have been a lot of  
20 complaining of all the unidentified traffic that was out  
21 there, but this has never been quantified. There have been  
22 no complaints that Sprint is aware of, formal Commission  
23 complaints, regarding unidentified traffic.

24 The complaints made against Sprint, Sprint  
25 PCS, and some of the other parties have been about

1 identifiable but uncollectible traffic. And not once as part  
2 of this proceeding has there been any attempt to quantify the  
3 amount of unidentifiable traffic nor put a financial impact  
4 on that unidentified traffic that is out there.

5                   Now part of this rulemaking process, all the  
6 carriers were asked by Staff to estimate and determine the  
7 physical impact that this rule will have to their company.  
8 Sprint did that, SBC did that, and other carriers did that.  
9 But Sprint noticed that not one carrier came forward and said  
10 this rule will allow them to bill X amount in additional  
11 revenue.

12                   There has been no quantification that this  
13 rule will provide the small carriers with any more revenue  
14 than they're getting today, and before this rule goes into  
15 place, Sprint urges the Commission to require that  
16 demonstration that this rule would address a problem that has  
17 never been defined. That's Sprint's primary issue and  
18 concern with this rule. And we would urge the Commission to  
19 first address that aspect before, you know, proceeding.

20                   Now, Sprint did file comments in this docket.  
21 There were ten primary issues that Sprint brought up. Given  
22 the fact that we've been here almost four hours, I won't go  
23 through those, but give the Commission an opportunity to ask  
24 any questions it may have of Sprint on its comments or its  
25 position in this matter.

1                   JUDGE MILLS: Thank you. Questions from the  
2 bench, Commissioner Appling.

3 QUESTIONS BY COMMISSIONER APPLING:

4           Q.       John, are you telling me we don't have a  
5 problem here?

6           A.       That's exactly what I'm saying, Commissioner.  
7 It's not been demonstrated. There's been a lot of  
8 allegations and a lot of complaining, I agree we've been at  
9 this for a long time, but I have not seen any evidence to  
10 support a overreaching problem to justify a rule of this  
11 nature. We have not seen one company come forward and say  
12 that if this rule goes into effect, we'll be able to bill  
13 this many more minutes at this rate.

14                   Keep in mind a lot of things have changed over  
15 the past 12-24 months to address this problem. Wireless  
16 termination tariffs have been filed by most every small  
17 company in the state and those have been upheld on appeal.  
18 The wireless carriers, pretty much across the board, have  
19 signed interconnection agreements with the small carriers.  
20 Sprint PCS has signed multiple interconnection agreements  
21 with the wireless carriers that address things like, you  
22 know, the interMTA factors that this rule potentially could  
23 undo.

24                   There have been vast improvements in the  
25 record creation process that SBC went through that I won't go

1 into. So there have been improvements over the past 12-24  
2 months to mitigate any potential problem that was out there.  
3 But like I said, there's nothing in this case that you can go  
4 to, or the predecessor case, that shows where there have been  
5 documented harm to the small carriers.

6 COMMISSIONER APPLING: Okay. Thank you.

7 JUDGE MILLS: Thank you, Mr. Idoux.

8 Mr. Dority.

9 (THE WITNESS WAS SWORN.)

10 MR. DORITY: Thank you, Judge Mills. Good  
11 afternoon.

12 For the record, my name is is Larry Dority  
13 with the law firm of Fischer & Dority, and I'm appearing here  
14 today on what behalf of CenturyTel of Missouri, LLC, and  
15 Spectra Communications Group, LLC, doing business as  
16 CenturyTel. My comments will be very brief.

17 First, I would simply refer to and incorporate  
18 the written comments that we filed in this proceeding last  
19 week. Second, I would like to address the new proposed  
20 additions that Staff has set forth in their written comments.  
21 In echo, Mr. Schoonmaker's concerns that Staff's new  
22 revisions could indeed have unintended consequences.

23 Staff's new language is found in Sections  
24 29.010, .020, and .030. While I appreciate Staff's stated  
25 intent to address its concerns regarding Voice over Internet

1 Protocol, or VoIP, companies terminating traffic on the  
2 LEC-to-LEC network in attempting to avoid paying access  
3 charges, Staff's added language may, in fact, facilitate such  
4 an occurrence. Furthermore, such revisions may perpetuate  
5 the use of virtual NXX, again, facilitating the avoidance of  
6 lawful access rates.

7                   Let me briefly explain. In their suggested  
8 revision, Staff seems to be addressing terminating VoIP  
9 originated traffic in their comments. Yet in their proposed  
10 new language, they speak of ISP-bound traffic. These are not  
11 the same thing. VoIP originated traffic is not ISP-bound  
12 traffic. It starts out on an IP network and is bound for the  
13 public switched telephone network, not an ISP.

14                   Our problems with the VoIP traffic is on the  
15 terminating end when our end users receive the calls. Our  
16 problems with VNXX ISP-bound traffic is on the originating  
17 end when our end users originate the calls. The issue with  
18 regard to terminating VoIP originated traffic is whether  
19 access charges or reciprocal compensation rates should apply  
20 when the call comes from outside the local calling area.

21                   Now, clearly, there is debate as to whether  
22 nonlocal is defined by the originating NXX or instead by the  
23 -- I'm sorry, the physical location of the caller. But  
24 regardless of how it is defined, there is such a thing as  
25 nonlocal VoIP originated traffic. The issue currently before

1 the FCC in the Level III forbearance petition is whether such  
2 nonlocal VoIP originated traffic should be subject to access  
3 charges or only subjected to recip comp rates as Level III  
4 would advocate.

5                   Staff says it's taking no position on the  
6 compensation for such traffic, yet it proposes that  
7 compensation should be negotiated in an interconnection  
8 agreement. This, in effect, would appear to accept Level  
9 III's position and reject the ILEC positions. Instead, such  
10 nonlocal VoIP originated traffic should be subject to access  
11 charges until such time as the FCC implements meaningful  
12 comprehensive intercarrier compensation reform.

13                   Finally, I would like to address the small  
14 telephone company group's suggested revision found in its  
15 written comments, briefly touched on again by Mr. Schoonmaker  
16 this morning. Simply put, the proposed revision found at the  
17 top of page 12 of their comments will not address our  
18 concerns about retaining the ability to carry feature group D  
19 traffic over common trunks and the inefficiencies in  
20 increased costs associated with forcing a second trunk group  
21 to be established for IXC traffic.

22                   Thank you. I'd be happy to answer any  
23 questions.

24                   JUDGE MILLS: Commissioner Appling, any  
25 questions?

1 QUESTIONS BY COMMISSIONER APPLING:

2 Q. How are you doing, Larry?

3 A. I'm fine, sir.

4 Q. It seem to me that Staff is here today trying  
5 to fix a problem that they think is a problem. Is there a  
6 need for -- for this rule?

7 A. Commissioner, it's our opinion that while  
8 there's been tremendous amount of work over the years  
9 addressing some very critical issues, we feel that along with  
10 the passage of time, many of those issues have, in fact, been  
11 resolved. And that is our position here today, that it is  
12 our position that, no, there is no need for this sort of a  
13 rule at this particular time.

14 Q. How do you explain you can't ride on a train  
15 without paying?

16 A. Correct.

17 Q. So somebody's losing some money here, and I'm  
18 saying how do you get to the heart of that so that the LECs  
19 don't continue to lose money on this issue? How do you --  
20 how do we fix that problem? You're telling me over time it's  
21 going to fix itself, but --

22 A. No, Commissioner, what I'm suggesting is that  
23 over the course of time while the industry and the Staff and  
24 many others have been involved in what Mr. Voight has  
25 described as a collaborative process, I believe that there



1 have been many opportunities for resolution, and I think  
2 those have, in fact, helped address the problems.

3           As some of the previous speakers have  
4 indicated, the wireless carriers now for the most part have,  
5 in fact, entered into what is termed traffic termination  
6 agreements with the small ILECs to be sure that they are  
7 being compensated for traffic going over the LEC-to-LEC  
8 network. So I would certainly applaud the leadership that  
9 Mr. Voight has shown on this very, very tough issue.

10           We've been at the table throughout the course  
11 of these negotiations over the many years, and I don't want  
12 to diminish that in the least, but what I am suggesting is  
13 that with the passage of time that many of the issues that  
14 were evolving as the collaborative process itself evolved,  
15 that they have been addressed and we do not see the need for  
16 a comprehensive rule right now, specifically given what is  
17 going on at the FCC and what we anticipate will be happening  
18 in the near term.

19           Q.       What are your recommendations to this  
20 Commission? I've heard what you just said, but as the day  
21 come to a close, what are your recommendations that we do  
22 with this rule?

23           A.       At this point in time, we would recommend that  
24 the Commission not adopt the rule as proposed.

25           COMMISSIONER APPLING: Thank you.

1                   JUDGE MILLS: Thank you. Thank you,  
2 Mr. Dority. Is there anyone else who hasn't testified that  
3 would like to step forward and testify? Okay. Seeing no one  
4 ready to come forward, we'll conclude this proceeding and  
5 we're off the record.

6                   WHEREUPON, the recorded portion of the hearing  
7 was concluded.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1	I N D E X		
2	Presentation by Keith Krueger		4
	Questions by Commissioner Murray		11
3			
	Presentation by Bill Voight		12
4	Questions by Commissioner Murray		14
	Questions by Commissioner Clayton		21
5	Questions by Commissioner Appling		36
	Questions by Commissioner Murray		38
6	Questions by Chairman Davis		49
	Questions by Judge Mills		49
7	Questions by Chairman Davis		50
8	Presentation by Bob Schoonmaker		52
	Questions by Commissioner Murray		71
9			
	Presentation by Craig Johnson		77
10			
	Presentation by Matt Kohly		79
11			
	Presentation by Leo Bub		79
12			
	Presentation by Marlon Hines		89
13	Questions by Commissioner Appling		95
14	Presentation by Joe Murphy		96
15	Presentation by John Idoux		106
	Questions by Commissioner Appling		108
16			
17	Presentation by Larry Dority		109
	Questions by Commissioner Appling		112
18			
19			
20	EXHIBITS INDEX		
21	EXHIBIT NO. 1		
	Two-page diagram	51	77
22			
23	EXHIBIT NO. 2		
	Feature Group C Document	105	105
24			
25			