

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION

3
4 HEARING

5 January 16, 2002
6 Jefferson City, Missouri
7 Volume 4
8

9 In the Matter of the Petition of)
MCImetro Access Transmission)
10 Services LLC, Brooks Fiber)
Communications of Missouri, Inc.,) Case No.
11 and MCI WorldCom Communications,) TO-2002-222
Inc., for Arbitration on an)
12 Interconnection Agreement With)
Southwestern Bell Telephone)
13 Company Under the)
Telecommunications Act of 1996.)
14

15 BEFORE:

16 VICKY RUTH, Presiding,
17 SENIOR REGULATORY LAW JUDGE.
SHEILA LUMPE,
18 CONNIE MURRAY,
STEVE GAW,
19 BRYAN FORBIS,
20 COMMISSIONERS.

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P R O C E E D I N G S

(EXHIBIT NOS. 50 THROUGH 52 WERE MARKED FOR
IDENTIFICATION.)

JUDGE RUTH: Let's go ahead and go on the
record, please. Good morning. We are here for
day three of the hearing in TO-2002-222.

Before we get started, let me remind you that
if you have a cell phone, go ahead and turn it
off -- off or on vibrate.

And we are going to start with the redirect of
Mr. Hampton. Then we'll move on and perhaps have a few
housekeeping measures. Then we will take Ms. Rogers
out of turn; is that correct?

MR. LANE: Yes, Your honor. Thank you.

JUDGE RUTH: Proceed, then, Mr. Lane.

JERRY HAMPTON testified as follows:

REDIRECT EXAMINATION BY MR. LANE:

Q. Good morning, Mr. Hampton.

A. Good morning.

Q. You were asked some questions by Mr. Morris
yesterday concerning Issue 3, unbundled -- or excuse
me -- combinations of unbundled network elements. Do
you recall those questions?

A. Yes, I do.

Q. And the thrust of one or more of the questions

1 concerned whether the unbundled network element
2 platform would be available to a CLEC if Southwestern
3 Bell didn't do the combinations of those elements. Do
4 you recall those questions?

5 A. Yes. Yes, I recall those questions.

6 Q. Are all of the unbundled network elements that
7 comprise the UNE platform available to CLECs either --
8 if -- if they combine them themselves, are they still
9 available to all of the CLECs?

10 A. Yes. As -- as we were discussing in that
11 particular question, the question was if the combined
12 elements would be available. But it should always be
13 remembered that even if the elements aren't available
14 in combination, the unbundled elements are still
15 available, and the CLEC has the opportunity to combine
16 those to provide service at that location as well,
17 so --

18 In -- in some manner, shape or form unbundled
19 elements are available for the CLEC to provide service
20 to the customer in those locations and situations.

21 Q. Are you familiar with the FCC rule which
22 pertains to combinations of unbundled network elements?

23 A. Yes, I am.

24 Q. Okay. And do you have a copy in front of you?

25 A. No, I don't.

1 MR. LANE: May I approach the witness, Your
2 Honor?

3 JUDGE RUTH: Yes.

4 BY MR. LANE:

5 Q. Mr. Hampton, I've presented to you a copy of
6 the FCC rules, Section 51.315, which has Sections A
7 through F. Are you familiar with that rule?

8 A. Yes, I am.

9 Q. And which portions of that rule have been
10 determined to be unlawful and vacated by the Eighth
11 Circuit Court of Appeals?

12 A. The Eighth Circuit vacated, as I understand
13 it, all of Rule 315; however, it's my understanding
14 that the Supreme Court reinstated Rule 315B.

15 Rule 315B is the rule that -- and I'll just
16 read it here. It says, except upon request an
17 incumbent LEC shall not separate requested network
18 elements the incumbent LEC currently combines.

19 So 315B is a rule that basically puts the LEC
20 in a situation, unless it's requested of separating
21 unbundled network elements.

22 Q. What --

23 A. See --

24 Q. I'm sorry. In Sections 51.315C through F,
25 those -- do those remain vacated by the Eighth Circuit

1 Court of Appeals?

2 A. Yes. They remain vacated. I -- I was just
3 going on to that. They remain vacated, and I think
4 it's particularly important if you look at 315C.

5 315C was the rule that basically caused
6 combinations to occur both in situations -- basically
7 all forms of combinations, including, you know -- the
8 discussion here has been currently combined, ordinarily
9 combined, but it's the rule that actually put forth
10 ordinarily combined combinations as well. But that
11 rule does remain vacated. All of C through F remains
12 vacated.

13 Q. Are all of the portions of 51.315C through
14 F -- do all of those impose an affirmative obligation
15 on a -- on an incumbent LEC to perform combinations
16 when requested by the CLEC?

17 A. Yes, they all do.

18 Q. Okay. And with regard to Section 51.315B that
19 remains in place, that rule reads, except upon a
20 request, an incumbent LEC shall not separate requested
21 network elements that the incumbent currently combines.

22 In your opinion, is it reasonable to interpret
23 the obligation not to separate requested network
24 elements into an affirmative obligation to combine
25 those elements?

1 A. No, I don't believe "not separate" means as --
2 as to combine. I -- no, I don't.

3 Q. In the UNE Remand Order that the FCC issued on
4 November 5th of 1999, did the FCC address whether
5 Section 315B should be interpreted to require
6 incumbents to affirmatively combine unbundled network
7 elements?

8 A. No. In fact, they, I believe, stated -- and
9 let me just check my testimony here. Yeah, both in my
10 direct and my -- my rebuttal I speak to the fact that
11 they actually were requested to reaffirm that it did
12 mean the same thing and stated that it did not. I cite
13 paragraphs 479 and 480 of the re-- UNE Remand Order as
14 confirmation of that.

15 Q. And in section -- paragraph 480 of that UNE
16 Remand Order, is that where the FCC expressly says that
17 it was not interpreting Section 51.315B as requiring
18 incumbents to combine unbundled network elements that
19 are ordinarily combined?

20 A. That's correct.

21 Q. You were asked some questions by Mr. Morris
22 yesterday on behalf of WorldCom concerning what happens
23 when a customer moves from Southwestern Bell to a CLEC
24 and whether that customer's usage changes. Did you
25 remember those questions?

1 A. Yes.

2 Q. Okay. Is it always true that the level of
3 usage that a particular customer has with regard to
4 switching will remain the same if they switch their
5 local provider?

6 A. I don't believe so, and I believe that was the
7 way I answered that question.

8 Q. Could you provide an example of an area where
9 a customer's usage could increase after switching to a
10 different local usage provider?

11 A. I -- I think there's probably several
12 examples. The one that's probably -- the -- the one
13 that comes to mind first deals with internet providers.
14 You know, if the CLEC would -- or anyone for that
15 matters would offer its service to those end users that
16 would in some way cause the price to go down for them
17 to pro-- have access to the internet, that is -- is one
18 manner in which it would go up.

19 The other thing we have to remember is -- is
20 that when you're talking about unbundled local
21 switching, we're not only talking about just their
22 local phone calls but all usage.

23 So any packages like those offered by the IXC's
24 that would increase their intraLATA toll or their
25 interstate toll -- any of those things that we see

1 being marketed in today's environment will cause user's
2 usage to go up.

3 And -- and, you know, I talk about, you know,
4 the competition market in my testimony being
5 innova-- causing innovation, et cetera. All those
6 things point to causing usages to increase. So, yes, I
7 believe that they're all indicators that usage would go
8 up.

9 Q. Assume for a minute that usage doesn't change
10 and that a customer moves from Southwestern Bell to
11 a -- to WorldCom for its local service. In your view
12 from Southwestern Bell's perspective, is that a -- a
13 neutral shift?

14 A. No, I don't believe it is. There's a
15 difference between a situation where you have a -- a
16 company, whether it be Southwestern Bell or a CLEC,
17 whomever it is, you have a company that has a group of
18 customers and -- let's say end users in this particular
19 situation, where the usage situation just shifts around
20 internal to the customer -- to the company.

21 That's much different than a situation where
22 if a customer was from one company to another and you
23 shift the cost causation between companies.

24 Q. Does the FCC's rule concerning unbundled local
25 switching and the rate structure for that permit the

1 type of permanent use plus a flat rate for charge that
2 Southwestern Bell currently operates under in its
3 interconnection agreements in Missouri?

4 A. Yes, it does.

5 Q. Do you remember which section that is?

6 A. Let me look at my testimony here and see if I
7 can find it.

8 Q. That -- that's fine. Let me ask it this
9 way --

10 A. Okay.

11 Q. -- Mr. Hampton.

12 Are you generally familiar with how the
13 majority of states have treated the issue of recovery
14 in terms of rate structure of unbundled local switching
15 charges?

16 A. Yes. The majority of the states, as I state
17 in my testimony, recover that on a usage basis.

18 Q. And with regard to all of the companies that
19 have received Section 271 approval from the FCC as
20 being in compliance with Sections 251, 252 and 25-- and
21 271, and will all those companies utilize the same flat
22 port rate plus the usage-sensitive charge that
23 Southwestern Bell utilizes in Missouri?

24 A. To the best of my knowledge, yes, that's true.

25 Q. With regard to Issue No. 6 concerning

1 unbundled dedicated transports you were asked some
2 questions by Mr. Morris on behalf of WorldCom
3 concerning the possibility of using unbundled dedicated
4 transport to link an office or a premises of WorldCom
5 with the office or premises of another CLEC. Do you
6 recall those questions?

7 A. Yes.

8 Q. And he was using rhythm, I think -- rhythms in
9 his example, was he not?

10 A. Yes, it was -- was two rhythms.

11 Q. Does the FCC's definition of unbundled
12 dedicated transport extend to that type of connection
13 between the central office of WorldCom and the central
14 office of another local exchange provider --
15 competitive local exchange provider?

16 A. No, it does not.

17 Q. Under the definition of unbundled network --
18 unbundled dedicated transport, does one of the ends of
19 the transport always have to be a -- an ILEC central
20 office or premises?

21 A. No, it -- it does not. As we stated -- you
22 know, as the rule states -- the FCC rule, which is what
23 we believe is the correct language that -- that should
24 be in here. It -- it speaks of going between the wire
25 centers or switches of a LEC and the wire centers or

1 switches of the requesting carrier or the -- and I'm
2 not reading it here -- or the wire centers and switches
3 of the requesting carrier.

4 So what you wind up with, if you look at that
5 definition, is you basically have three situations.
6 You have the ability for dedicated transport between
7 two of -- in our example SWBT's offices or wire
8 centers. You have the situation between SWBT and the
9 CLEC or you have the ability for the CLEC to the CLEC
10 where SWBT would have that transport.

11 So as the example that we were talking about
12 with WorldCom and rhythms, should WorldCom have a
13 switch or wire center so that that location is -- is
14 actually also a WorldCom center, you would have the
15 ability to have transport between WorldCom and
16 WorldCom.

17 Q. But not between WorldCom and rhythms?

18 A. But not between WorldCom and rhythms. That's
19 outside of the definition.

20 Q. And is WorldCom or another CLEC permitted to
21 make that type of connections itself if it so chooses?

22 A. Yes, they can do that.

23 Q. Okay. And is a special access under tariff
24 service also available if a -- a CLEC requests it in
25 that particular circumstance?

1 A. Yes, it is.

2 MR. LANE: That's all I have. Thank you,

3 Mr. Hampton.

4 JUDGE RUTH: Mr. Hampton, you may step down.

5 At this time you are not excused.

6 MR. LANE: Your Honor, do you -- do you

7 believe that there might be some additional questions

8 for him or -- or might he be excused later on this

9 morning?

10 JUDGE RUTH: It's possible he may be excused

11 later on this morning.

12 MR. LANE: Thank you, Your Honor.

13 JUDGE RUTH: Okay. Mr. Lumley, I believe you

14 indicated you had a matter you wanted to take up now.

15 MR. LUMLEY: Yes, Your Honor. I'd like to

16 offer the transcript exhibits that we discussed earlier

17 in the hearing, just to make the record a formal offer.

18 JUDGE RUTH: Okay.

19 MR. LUMLEY: First, I offer what's been

20 marked as Exhibit 48. It is the cross-examination

21 of Southwestern Bell Witness Avera in Case

22 No. TO-2001-438. And specifically within the document

23 I'm offering the testimony at page 111, line 17, and

24 page -- and then the testimony from page 115, line 16

25 to page 166, line 8.

1 Do you want me to go through the whole list
2 first?

3 JUDGE RUTH: Let's.

4 MR. LUMLEY: Okay. Next I would offer what's
5 been marked as Exhibit 49, the cross-examination of
6 Southwestern Bell Witness Naughton in Case No. 438, and
7 specifically the testimony at page 172, line 4, and
8 from page 173, line 14 to page 185, line 9.

9 Next I offer what has been marked as Exhibit
10 50, cross-examination of Southwestern Bell Witness Cass
11 in Case No. 438, and specifically the testimony at
12 page 314, line 11, and then from page 350, line 4 to
13 page 383, line 15.

14 Offering Exhibit 51, cross-examination of
15 Southwestern Bell Witness Ries, R-I-E-S, in Case
16 No. 438, and specifically the testimony at page 413,
17 line 13, and the testimony from page 415, line 13 to
18 page 533, line 9.

19 And finally, Exhibit 52, cross-examination of
20 Southwestern Bell Witness Barch in Case No. 438, and
21 specifically the testimony at page 386, line 5, and
22 from page 393, line 5 to page 412, line 12.

23 And I just incorporate my prior arguments and
24 won't rehash all of those as to why we think that this
25 information should be received.

1 JUDGE RUTH: Can I ask, Mr. Lumley, will there
2 be more excerpts from 438 that you intend to offer or
3 it will be -- at this point you believe it will be
4 limited to 48, 49, 50, 51 and 52?

5 MR. LUMLEY: That's all of it, Your Honor.

6 And also I have in this box the copies for the
7 Commission, and just let me know what you want me to do
8 with them.

9 JUDGE RUTH: We'll get to that in just a
10 moment, then.

11 MR. LUMLEY: And if you want me to take them
12 up to 8th floor --

13 JUDGE RUTH: Have you given the ones to the
14 court reporter?

15 MR. LUMLEY: Yes.

16 JUDGE RUTH: Okay.

17 MR. LUMLEY: And the parties have theirs.

18 But if you'd like me to -- to take this up to
19 the 8th floor for you, I'll be happy to do that.

20 JUDGE RUTH: Well, we can carry it. Thanks.

21 COMMISSIONER LUMPE: It's the 9th floor.

22 JUDGE RUTH: Yes, that's true. It's the
23 9th floor, not the 8th floor.

24 MR. LUMLEY: Right.

25 JUDGE RUTH: We have had some prior discussion

1 on Mr. Lumley's proposal to admit portions of the
2 tes-- of the transcript from Case No. TO-2001-438. And
3 for the record I'll note that there was quite a bit of
4 discussion on January 14th regarding those. Mr. Lumley
5 has incorporated his -- his reasons for wanting that in
6 at this time.

7 Mr. Lane, are you willing to incorporate your
8 objections that were stated --

9 MR. LANE: Yes, Your Honor.

10 JUDGE RUTH: -- on the 14th?

11 MR. LANE: Yes.

12 JUDGE RUTH: So I'll note for the record that
13 you -- that Southwestern Bell does object to each -- to
14 the admission of each of those documents. Okay. For
15 Exhibits 48, 49, 50, 51 and 52, they've been offered,
16 Southwestern Bell has objected and the objections are
17 sustained. Those exhibits are marked for
18 identification purposes, but are not received into the
19 record.

20 Mr. Lumley, did you have any other matters you
21 wanted to take up at this time?

22 MR. LUMLEY: No, Your Honor.

23 JUDGE RUTH: Then we will move on to the next
24 witness, which, I believe, will be Southwestern Bell's
25 Jan Rogers, taking this witness out of order.

1 Ms. Rogers, would you raise your right hand,
2 please?
3 (Witness sworn.)
4 JUDGE RUTH: Thank you. Please be seated.
5 Ms. MacDonald, proceed.
6 JAN ROGERS testified as follows:
7 DIRECT EXAMINATION BY MS. MACDONALD:
8 Q. Good morning, Ms. Rogers.
9 A. Good morning.
10 Q. Would you please state your name for the
11 record.
12 A. My name is Jan Rogers.
13 Q. And could you tell us by whom you're employed
14 and in what capacity?
15 A. I'm employed by Southwestern Bell Telephone
16 Company and --
17 Q. And did you cause to be prepared -- or prepare
18 direct testimony, which -- which has been marked as
19 Exhibit 45?
20 A. Yes.
21 Q. And did you prepare or cause to be prepared
22 rebuttal testimony, which has been marked as
23 Exhibit 46?
24 A. Yes, I did.
25 Q. And do you have any changes to either of those

1 exhibits?

2 A. One change. In the table of contents of my
3 original direct testimony there is a reference to
4 Exhibit A -- stipulation regarding branding. That is
5 not included in my testimony here.

6 Q. So in Exhibit 45, page, little i,
7 Exhibit A should be stricken?

8 A. That is correct.

9 Q. If I ask you the same questions today that are
10 contained in Exhibits 45 and 46, would your answers be
11 the same?

12 A. They would.

13 Q. And are these answers true to the best -- true
14 and correct to the best of your knowledge, information
15 and belief?

16 A. Yes, they are.

17 MS. MACDONALD: I would offer Exhibits 45 and
18 46 at this time and tender Ms. Rogers for
19 cross-examination.

20 JUDGE RUTH: Thank you.

21 Exhibit 45, Ms. Rogers' direct testimony, and
22 Exhibit 46, her rebuttal have been offered. Are there
23 any objections to them being received in the record?

24 MR. BATES: No objection.

25 JUDGE RUTH: Okay. Seeing no objections, they

1 are received.

2 (EXHIBIT NOS. 45 AND 46 WERE RECEIVED INTO
3 EVIDENCE.)

4 JUDGE RUTH: I -- I believe WorldCom is
5 scheduled to start cross.

6 MR. CURTIS: Thank you.

7 CROSS-EXAMINATION BY MR. CURTIS:

8 Q. Good morning, Ms. Rogers.

9 A. Good morning.

10 Q. My name is Lee Curtis. I'm one of the
11 attorneys representing WorldCom, et al. I would like
12 to start by referring you to your rebuttal testimony at
13 page 2, and this is regarding Issue 26, emergency
14 notification for non-published listings?

15 A. Yes.

16 Q. Okay. You're with me. At line 13 on
17 page 2 --

18 A. Yes.

19 Q. -- you say supervisors, not operators, go to
20 extra efforts to access non-published numbers. Then
21 call the non-published subscriber and relay a message
22 and telephone member of the person who needs to --
23 would that -- need -- needs to reach the subscriber on
24 an emergency basis; is that correct?

25 A. That is correct.

1 Q. What -- can you tell me a little bit about the
2 extra effort that a supervisor would go to?

3 A. In the instance where an end user has
4 non-published service -- this is a non-published
5 service for both our retail customers --

6 Q. Uh-huh.

7 A. -- as well as our CLEC subscribers.

8 Q. Right.

9 A. That information -- that telephone number of
10 that non-published subscriber is not available to our
11 operators. That -- it is not available to them. They
12 cannot give it out. It is not available to them.

13 When we have an emergency situation where
14 someone is trying to reach a non-published customer, a
15 supervisor, not an operator, has to go to a special
16 database and -- and call in, request the information,
17 provide a security pin before they can even have access
18 to that non-published number.

19 Q. Okay. How long does that take?

20 A. I do not know that.

21 Q. Okay. What does Southwestern Bell charge for
22 an unlisted publication for an end user?

23 A. Are you talking retail?

24 Q. Yes.

25 A. I do not know that price here in Missouri.

1 I'm sorry. I don't know it off the top of my hand.

2 Q. Okay. What does Southwestern Bell charge or
3 propose to charge WorldCom or a CLEC to utilize the
4 emergency notification procedure for non-listed
5 numbers?

6 A. I believe the proposed wholesale price for the
7 process to contact a non-published customer, whether
8 this customer is a CLEC customer or a SWBT customer, I
9 believe the proposed price of it's \$12.50.

10 Q. Per -- per usage?

11 A. Per usage.

12 Q. Whether --

13 A. That includes two attempts as detailed in our
14 CLEC handbook.

15 Q. Okay. Now, so that is what Southwestern Bell
16 would propose to charge a CLEC?

17 A. On a wholesale basis.

18 Q. And also -- and WorldCom, rather?

19 A. Correct.

20 Q. Okay. What does Southwestern Bell charge
21 itself?

22 A. Southwestern Bell is not a wholesale customer
23 of itself --

24 Q. Okay.

25 A. -- so we do not charge ourselves.

1 Q. So there's no --

2 A. This is a wholesale service that we're

3 providing to another carrier.

4 Q. I understand. So there's not even an

5 imputation of a charge to Southwestern Bell for this?

6 A. I do not know the answer to that question.

7 Q. Okay. Has Southwestern Bell ever done a cost

8 study on -- on providing this emergency notification

9 service?

10 A. I have not seen a cost study.

11 Q. And you're proposing to charge a wholesale

12 rate, not a market-based rate; is that correct?

13 A. In this instance it is a market-based rate for

14 a wholesale operator service.

15 Q. Okay. Turn to page 6 of your rebuttal

16 testimony, if you would, please. And I think here we

17 are on Issue No. 47, which begins at page 4, is that

18 correct, regarding DA listings?

19 A. That's correct.

20 Q. Let me refer you to page 6 to your line 11

21 where you say, In addition, Southwestern Bell charges

22 itself the market-based prices for DAL as required by

23 the FCC's NDA order; is that correct?

24 A. That is correct.

25 Q. Okay. The -- when you use the term

1 "market-based rate," is this for the national

2 DA listing service?

3 A. The Federal Communication Commission has set
4 only one pricing standard for name, address and
5 telephone number. That is through an order that they
6 issued in September of 1999 where they set a
7 presumtable (sic) -- presumptively reasonable price
8 for name, address and telephone number.

9 Subsequent to that order, which listed four
10 and six cents as presumptively reasonable prices for
11 name, address and telephone number provided on a
12 wholesale basis, the FCC issued a national directory
13 assistance order to SBC on April 11th of 2000.

14 In that national directory assistance order
15 Southwestern Bell is required to provide to
16 unaffiliated entities all the listings it uses to
17 provide directory assistance services at
18 non-discriminatory rates, terms and conditions, and we
19 must charge ourselves for that same directory
20 assistance listing.

21 That is part of the federal cost allocation
22 manual. Cam filing is done every year. So that is
23 done under the Federal Cam rules.

24 Q. So Southwestern Bell does charge itself
25 market-based rates for DA listings in Missouri?

1 A. That is correct.

2 Q. Okay. How did -- how did Southwestern Bell
3 arrive at the market-based -- based rates?

4 A. Interestingly the market-based rate that is
5 contained in the M2A agreement is 5.85 cents. That
6 price was negotiated with AT&T back in 1996 when we
7 negotiated that original base agreement.

8 That was the market-based price that
9 Southwestern Bell offered at that point and that AT&T
10 agreed to. Therefore that 5.85 cents is part of all of
11 our X2A agreement.

12 Subsequent to the FCC's order on subscriber
13 listing information on September 9th of 1999 where the
14 FCC sent four -- set four and six cents as the
15 presumptively reasonable price for name, address and
16 telephone number.

17 We now offer under our generic agreements four
18 and six cents. But interestingly, that 5.85 cents is
19 right between what the FCC has designated and
20 presumptively reasonable.

21 Q. Okay. And you still believe the 5.85 cents is
22 presumptive -- is -- is reasonable?

23 A. Absolutely. Of course, we do offer the four
24 and six cents rate through our generic agreement --

25 Q. All right.

1 A. -- if a CLEC decides it would prefer to have
2 that price.

3 Q. But only through the -- the M2A?

4 A. 5.85 is available in the M2A, yes.

5 Q. Okay.

6 A. Four and six cents is also available.

7 Q. Okay. Does the DAL agreement cover numbers on
8 Southwestern Bell's national DA database?

9 A. Southwestern Bell does not own a national DA
10 database. We have --

11 Q. Oh, it doesn't?

12 A. -- directory listings for our territory only.
13 We access another database for our national directory
14 assistance service.

15 Q. Where is that database located?

16 A. It's located in, I think, Rochester, New York,
17 now, at this point.

18 Q. Okay. So there -- there is no database
19 actually located in Missouri?

20 A. No national directory database is located in
21 Missouri that we access.

22 MR. CURTIS: Thank you.

23 I have nothing further.

24 JUDGE RUTH: Mr. Bates, do you have cross?

25 MR. BATES: Yes, I do. Thank you, Your Honor.

1 CROSS-EXAMINATION BY MR. BATES:

2 Q. Good morning, Ms. Rogers.

3 A. Good morning.

4 Q. I just have a few questions for you. I'd like
5 to refer you to your rebuttal testimony, specifically
6 page 3 in lines 20 and 21.

7 A. Yes, sir.

8 Q. I believe you state there that WorldCom's
9 generic language would not allow Southwestern Bell its
10 rights when a DLI contract is breached; is that
11 correct?

12 A. The breach of contract language that is
13 proposed by Southwestern Bell is reciprocal, so the
14 language there is correct for both parties -- both
15 Southwestern Bell and MCI WorldCom.

16 Q. Okay. What rights does Southwestern Bell have
17 when a DLI contract is breached?

18 A. My understanding is if a breach of the
19 agreement between the parties, which is reciprocal
20 where we purchase listings from each other -- let me
21 back up. The FCC requires and the federal law requires
22 all local exchange carriers to make available to
23 requesting competing carriers its DA listings under
24 section 251B3; therefore, this agreement is reciprocal.

25 If one party breaches their agreement,

1 naturally that agreement then becomes void and the use
2 of the service -- the information provided under that
3 agreement should also be ended.

4 Q. What would be an example of a DLI breach?

5 A. I can't off the top of my head think of one.

6 Q. Okay. Do you know of your own knowledge if
7 there's a specific DLI breach of contract language in
8 the M2A?

9 A. There is some limited language; however, keep
10 in mind that two things have happened since that
11 original agreement was negotiated. Again, this
12 DLI DAL appendix was negotiated in '96 originally with
13 AT&T and the marketplace has changed.

14 One of the issues is the provisioning of
15 DA services in the marketplace in general. But the
16 most important is that the FCC has issued an order that
17 does not allow local exchange carriers to enforce any
18 use restrictions of that DAL.

19 We have an appendix now to our attachment or
20 now appendix DLI DAL that, in fact, restates that
21 subject to any subsequent decision or order by the FCC
22 or court, SBC telephone companies will comply with the
23 FCC's order and will not enforce restrictions on the
24 use of directory assistance listings information.

25 So did that answer your question?

1 Q. I think so.

2 A. Okay.

3 MR. BATES: Thank you very much.

4 THE WITNESS: Okay.

5 JUDGE RUTH: Thank you.

6 Commissioner Lumpe, do you have questions?

7 COMMISSIONER LUMPE: Just -- just one.

8 QUESTIONS BY COMMISSIONER LUMPE:

9 Q. When Ms. MacDonald was asking you your name

10 and who you work for and she also asked you in what

11 capacity, and then I think she went on without you

12 being able to state what the capacity was. I assume it

13 hasn't changed from your testimony?

14 A. No, ma'am.

15 COMMISSIONER LUMPE: All right. Thank you.

16 JUDGE RUTH: Okay. Will there be recross

17 based on the questions from the Bench from WorldCom,

18 Staff?

19 MR. BATES: No, thank you.

20 JUDGE RUTH: And redirect then.

21 REDIRECT EXAMINATION BY MS. MACDONALD:

22 Q. Good morning, Ms. Rogers.

23 A. Good morning.

24 Q. Can you tell me is emergency notification a

25 UNE?

1 A. Operator services in general are not unbundled
2 networks elements per the FCC's UNE Remand Order.

3 Q. And, therefore, is TELRIC pricing applicable?

4 A. No. Since op-- Southwestern Bell provides
5 custom routing today, operator services and directory
6 assistance services, including emergency non-published
7 services wholesale basis are not UNEs and should not be
8 TELRIC priced.

9 Q. Okay. And because it's not a UNE and
10 emergency notification is not TELRIC priced, would
11 there be any reason for Southwestern Bell to perform a
12 cost study?

13 A. I'm not aware of any reason.

14 Q. Okay.

15 JUDGE RUTH: Ms. MacDonald, would you please
16 move the microphone so that it's catching your voice?

17 MS. MACDONALD: Sorry.

18 BY MS. MACDONALD:

19 Q. And can you tell me with regard to Issue
20 No. 24, the use restrictions which you discussed with
21 Mr. Bates this morning; you indicated that Southwestern
22 Bell has issued a DAL amendment saying it will not
23 enforce the use restrictions; is that correct?

24 A. That is correct.

25 Q. And because we've issued that DAL amendment,

1 did we believe that Issue 24 -- and do we believe

2 Issue 24 is resolved?

3 A. Frankly, yes. I don't understand why it's
4 being arbitrated. We have -- we're not enforcing usage
5 restrictions per the agreement that we've provided to
6 our CLEC customers.

7 MS. MACDONALD: Thank you.

8 That's all I have.

9 JUDGE RUTH: Okay. Thank you.

10 Ms. Rogers, you may step down.

11 MS. ROGERS: Thank you.

12 JUDGE RUTH: We will return to the scheduled
13 order for our witnesses. I believe that means,
14 Southwestern Bell, you had planned to call Timothy --
15 is it Oyer?

16 MR. LANE: Yes, Your Honor.

17 Can Ms. Rogers be excused, Your Honor?

18 JUDGE RUTH: Not at this point.

19 MS. ROGERS: Thank you for allowing me to come
20 in today.

21 JUDGE RUTH: Mr. Oyer, would you raise your
22 right hand?

23 (Witness sworn.)

24 JUDGE RUTH: Thank you.

25 Mr. Lane, you may proceed.

1 MR. LANE: Thank you, Your Honor.
2 TIMOTHY OYER testified as follows:
3 DIRECT EXAMINATION BY MR. LANE:
4 Q. Would you state your name for the record,
5 please.
6 A. Timothy Oyer.
7 Q. And, Mr. Oyer, by whom are you employed?
8 A. SBC Management Services, Inc.
9 Q. And what's your position with SBC Management
10 Services, Inc.?
11 A. Area Manager-Network Regulatory.
12 Q. And, Mr. Oyer, did you prepare direct
13 testimony in this case, which has been marked as
14 Exhibit 21?
15 A. Yes.
16 Q. Do you have any changes to that direct
17 testimony?
18 A. Yes, I do have one change.
19 Q. What page is that on?
20 A. Page 13, footnote 5 where I cite the UNE
21 Remand Order, Appendix C, the FCC Rules 51.319, I have
22 a1. It is actually d1 -- little d -- small case d.
23 Q. Do you have any other changes to your direct
24 testimony?
25 A. No, I do not.

1 Q. And, Mr. Oyer, did you also prepare rebuttal
2 testimony in this case that's been marked as
3 Exhibit 22?

4 A. Yes.

5 Q. Do you have any changes to that testimony?

6 A. No, I do not.

7 Q. With the change in Exhibit 21 in mind, if I
8 were to ask you the questions that are contained in
9 Exhibits 21 and 22 today, would your answers be the
10 same?

11 A. Yes, they would.

12 Q. And are those answers true and correct to the
13 best of your knowledge and belief?

14 A. Yes.

15 MR. LANE: Your Honor, at this time we would
16 offer Exhibits 21 and 22 and tender Mr. Oyer for
17 cross-examination.

18 JUDGE RUTH: Okay. Exhibit 21, Mr. Oyer's
19 direct, and Exhibit 22, his rebuttal, have been
20 offered. Any objections to the documents being
21 received?

22 (No response.)

23 JUDGE RUTH: Seeing no objections, they are
24 received into the record.

25 (EXHIBIT NOS. 21 AND 22 WERE RECEIVED INTO THE

1 RECORD.)

2 JUDGE RUTH: Worldcom, are you ready for

3 cross?

4 MR. MORRIS: Yes.

5 CROSS-EXAMINATION BY MR. MORRIS:

6 Q. Good morning, Mr. Oyer.

7 A. Good morning.

8 Q. In your direct testimony on page 16 you

9 address Issue 14 involving digital cross connects?

10 A. Yes.

11 Q. Do -- do you see that testimony?

12 A. That was page 14, you said?

13 Q. It's Issue 14 on -- on my copy it's page 16 --

14 A. Okay.

15 Q. -- of your testimony.

16 A. Yes.

17 Q. And I believe you mentioned that a -- a DCS,

18 I'll call it shorthand for digital cross connection,

19 can be used to cross connect to a transport or other

20 electronic equipment, correct?

21 A. Can you point me to the line?

22 Q. It's -- I -- line -- starting on line 5.

23 A. Okay.

24 Q. DCS is a digital switch comprised of

25 terminations or ports that will be connected to one

1 or -- to one another by the network switching component
2 of the DCS?

3 A. Yes. Yes, that's -- that's my testimony.

4 Q. And isn't it true that it can also -- the
5 DCS can act as a multiplexor?

6 A. Yes, it can.

7 Q. Okay.

8 A. And -- and in Southwestern Bell's proposal
9 those fun-- those functionalities are -- are offered to
10 MCI through FCC 73 access tariff.

11 Q. Okay. But in the situation -- if it's
12 considered -- would you agree that the DCS can be
13 defined as a function of transport -- of the transport
14 from -- transport offering?

15 A. No. I would say it's ancillary of the
16 transport function in most cases and primarily used by
17 IXCs for -- for toll services in -- in our --

18 Q. Right.

19 A. -- in our access tariff.

20 Q. Yeah, but th-- no -- yeah, and I think what
21 you're describing is a functionality as to how IXCs use
22 the DCS, correct?

23 A. Yes.

24 Q. And that's -- that's part of the transport
25 function that IXCs may -- purchased from Southwestern

1 Bell, correct?

2 A. Is -- is multiplexing -- is additional

3 multiplexing?

4 Q. Uh-huh.

5 A. Yes, it is a functionality and -- and offered

6 through the access tariff to CLECs as well.

7 Q. And you -- you would agree with me, sir, that

8 dedicated transport is a UNE, correct?

9 A. Yes, it is.

10 Q. Okay. And if the DCS is used to multiplex

11 service on the dedicated transport, which we agree is a

12 UNE, wouldn't that -- the DCS be part of the UNE part

13 of the features and functionalities of that UNE?

14 A. Not necessarily. If -- if you'll refer to my

15 testimony, I believe it's on page -- page 5.

16 Q. This is your direct?

17 A. Yes. My direct testimony, page 5.

18 Q. Okay.

19 A. Well, I think I've got that wrong. Okay.

20 Excuse me. Page 11 where we -- where we talk about

21 multiplexing. On -- on dedicated transport, you know,

22 the multiplexing is -- is typically the multiplexors at

23 each end of this diagram. Okay. And DCS would

24 typically be used peripheral to this or outside of

25 this. Okay. It --

1 Q. I'm not --

2 A. It would not even be on this diagram. In
3 other words, it is ancillary to the dedicated transport
4 in most cases.

5 Q. In most cases. But in some cases obviously
6 a -- a part of the dedicated transport, did I --

7 A. In those cases --

8 Q. Is that a fair statement?

9 A. -- where dedicated transport -- of course,
10 dedicated transport is -- is point to point. So those
11 multiplexing functions -- just as these multiplexing
12 functions here on figure 2 -- those would be included
13 in UDT in -- in those occasions where we use DCS for
14 multiplexing, yes.

15 And -- and there would be no charge -- no
16 additional charge for that in those cases where it was
17 used to provide that dedicated transport. But in those
18 cases where a CLEC wishes to use that ancillary to the
19 dedicated transport, there is an additional charge and
20 it is -- they can purchase that out of the access
21 tariff.

22 Q. You would agree with me that Southwestern Bell
23 offers stand-alone multiplexing in the M2A; is that
24 correct?

25 A. Yes. That is an offering in the M2A, but

1 multiplexing in and of itself is -- is not determined
2 to be a UNE that is above and beyond the obligation --
3 its obligations under the act.

4 Q. And that's -- I think it's fair to say that
5 most carriers like CLECs who would be using
6 multiplexing would be using it in conjunction with some
7 sort of transport function that Southwestern Bell would
8 offer; would you agree with that?

9 A. I have not looked at that as far as -- I -- I
10 don't think I can -- I have not researched that
11 specifically, so, no, I -- I don't think I can state
12 that's what CLECs use stand-alone multiplexing for.

13 Q. No. No. My point is that -- I mean, one
14 instance in which a CLEC would need multiplexing would
15 be -- or -- or could need multiplexing would be in the
16 instance where they would need the undedi-- unbundled
17 dedicated transport, for example? I mean, that would
18 be an example where the CLEC might use multiplexing?

19 A. Yes. And in -- in --

20 Q. In conjunction with the UDT, I'll say --
21 unbundled dedicated transport?

22 A. In those cases, I believe we have an offer for
23 multiplexing in conjunction with dedicated transport.

24 Q. If -- if WorldCom, for example, purchased
25 dedicated transport from Southwestern Bell as -- as a

1 UNE with multiplexing, could DCS be used for that
2 purpose?

3 A. Okay. You're saying that they're using
4 additional multiplexing and then they want to use
5 DCS as well?

6 Q. No. Could DCS perform the multiplexing
7 function if used in conjunction with dedicated
8 transport?

9 A. I -- I believe that functionality is offered
10 through FCC 73 in SWBT's proposal. I -- I believe that
11 is a functionality in there --

12 Q. Okay.

13 A. -- and I have not --

14 Q. Okay. If --

15 A. I can't give you a specific quote.

16 Q. No. Okay. In -- in putting the FCC -- by
17 FCC 73, you're referring to a retail tariff offering, I
18 believe; is that correct --

19 A. Yes, because --

20 Q. -- or tariff offering?

21 A. Because that's what the -- the FCC said
22 that -- and Staff agrees that -- that DCS is to be
23 provided in the same manner that it's provided for
24 IXCs.

25 Q. But I think your prior answer was that DCS --

1 I believe you used the word is a functionality of -- of
2 transport?

3 A. No. You said that. I -- I did not say -- I
4 said that it -- in -- in some cases the multiplexing
5 functionality of DCS is utilized in the transport
6 net-- network. And if it is utilized in that network
7 and not ancillary, then it is included in the price of
8 the dedicated transport.

9 MR. MORRIS: I believe that's all I have.

10 JUDGE RUTH: Mr. Bates, do you have cross?

11 MR. BATES: Yes, thank you.

12 CROSS-EXAMINATION BY MR. BATES:

13 Q. Good morning, Mr. Oyer.

14 A. Good morning, Mr. Bates.

15 Q. I just have a couple questions for you --
16 excuse me. Regarding Issue 14 which you were
17 discussing a moment ago --

18 A. Yes.

19 Q. -- you were referring to multiplexing. And in
20 response to a question from Mr. Morris, I believe you
21 spoke as D-- spoke of DCS as being ancillary to
22 dedicated transport; is that correct?

23 A. Yes. Yes. In other words, that can be used
24 outside of the transport itself if -- if, for instance,
25 a -- a CLEC purchases a DS3 between two points, then

1 they can then run that to a -- to a DCS and -- and
2 utilize the functionality of that DCS.

3 Q. Okay. Can you explain to me a little bit how
4 that would be done?

5 A. It's -- it's -- you have a physical cross
6 connect that runs between, say, the dedicated transport
7 and the DCS equipment. And -- and then the CLEC --
8 dependent upon the -- the options they choose out of
9 the -- the access tariff would then have the ability to
10 manipulate that remotely, okay, or switch that service
11 from one -- one port to another.

12 In other words, they could have multiple ports
13 or mult-- multiple transport coming into that DCS and
14 switch from one to another.

15 Q. Okay. I'd like to refer you to Southwestern
16 Bell's proposed language for Section 8.2.1.

17 A. Okay. And which DPL issue is this on?

18 Q. Oh, I'm sorry. Issue 6.

19 A. Issue 6. Okay. Okay.

20 Q. Okay. I believe that there's a question there
21 that goes, do we want to reference the tariff or the
22 ColoICA; is that correct?

23 A. Yes, on page 21 of the DPL. And that's in --
24 looks like paragraph 8.2.1 of the contract.

25 Q. Okay. Thank you.

1 Could you just explain to us what that
2 sentence means or is intended to mean?

3 A. I'm not sure I'd know what that means.

4 Q. Okay.

5 A. But I think it's an error on the
6 DPL and -- and probably should be removed from
7 our -- and should be removed from our proposal.

8 MR. BATES: Okay. Thank you very much?

9 THE WITNESS: Thank you.

10 JUDGE RUTH: Commissioner Murray, do you have
11 questions for this witness?

12 COMMISSIONER MURRAY: Just briefly, Your
13 Honor. Thank you.

14 QUESTIONS BY COMMISSIONER MURRAY:

15 Q. Good morning.

16 A. Good morning, Commissioner Murray.

17 Q. Were you in the hearing room yesterday when
18 Mr. Price was on the stand?

19 A. Yes, I was.

20 Q. Do you recall the answers that he gave to the
21 issue of maintaining the network with its current --
22 and I'm having trouble locating the exact wording, but
23 it's when Southwestern Bell upgrades its network?

24 A. Yes, on issue 2, is it?

25 Q. Issue 2.

1 A. Yes.

2 Q. What is your interpretation of what the
3 language that WorldCom is asking for -- would require
4 Southwestern Bell to do when it wants to upgrade its
5 network?

6 A. Well, I -- in a nutshell, I think the language
7 requires us to maintain any facilities indefinitely --
8 or at least for the terms of the contract specifically
9 for those UNes. Now, there -- there are processes in
10 place that the FCC has set forth in network disclosure
11 processes.

12 So -- so this is somewhat redundant --
13 this -- this particular clause in the -- in the
14 contract. The FCC 47CFR, Section 51.333A requires
15 Southwestern Bell to disclose network changes that will
16 affect other carriers.

17 So -- so we have a process in place -- a
18 standard process that all carriers use in addition to
19 this that will give them notification with ample time
20 to upgrade their network or -- or make
21 arrangements -- make whatever arrangements that are
22 necessary for those facilities under the FCC's
23 guidelines.

24 And I -- I think I talk about that in my
25 direct testimony. And this language would also require

1 SWBT to maintain those at our own expense. And
2 that -- that tends to go against the -- the cost cau--
3 causer having to bear those costs.

4 If under the network disclosure process
5 they'll -- under a normal interval, they'll get a
6 year -- or to upgrade their network or find another
7 alternative in -- in which -- in most cases there will
8 be an alternative within the upgraded equipment.

9 Q. Mr. --

10 A. They can then submit a -- a BFR under -- under
11 our proposal they could then submit a BFR and we would
12 let them know what the cost would be for maintaining
13 that beyond that year interval.

14 Q. Okay. Now, Mr. Price indicated that vendors
15 try to make the equipment backwards compatible. Do you
16 recall him saying that yesterday?

17 A. Yes.

18 Q. If that is the case, does that mean that new
19 equipment does not need to be -- that there doesn't
20 need to be a migration, that the new equipment is
21 compatible with the current network elements?

22 A. In -- in most cases that's true. So this
23 would be a -- a very infrequent occurrence. I can't --
24 you know, maybe in -- in say loop technology or
25 something like that, we might want to migrate. I -- I

1 think our concern here is -- is that we might want to
2 migrate to some -- some technologies that would allow
3 us to provide new features to -- to customers.

4 And -- and if the CLEC was utilizing that for
5 something that was not compatible with say that new
6 loop network or that new loop architecture, then we
7 would have to maintain both architectures, which would
8 be prohibitively expensive. It would be very difficult
9 to justify such upgrades if we were required to
10 upgrade, you know, multiple networks.

11 So if we're required then to maintain -- like
12 I said, the -- the CLECs would have an -- an option of
13 going to the BFR process and -- and getting the cost
14 for maintaining that, and then they would bear the
15 cost.

16 Once again, under a normal interval of the
17 network disclosure that would be a year -- you know,
18 they would have a year to prepare for that, so --

19 Q. And as you read the language pro-- proposed by
20 WorldCom, if there is a situation where the current --
21 a particular current network element would not be
22 compatible with the new technology, their language
23 would require Southwestern Bell to maintain those
24 two networks?

25 A. Yes.

1 Q. Okay.

2 A. Yes. At -- at our own expense. And -- and,
3 like I said, of course, expense goes into -- to
4 consideration with any network upgrades.

5 COMMISSIONER MURRAY: I think that's all I
6 have. Thank you.

7 THE WITNESS: Okay. Thank you.

8 JUDGE RUTH: Commissioner Lumpe?

9 QUESTIONS BY COMMISSIONER LUMPE:

10 Q. Just one, sir.

11 You were having a discussion with Mr. Bates
12 and you said something about deleting certain language.
13 What -- what language were you suggesting to be
14 deleted?

15 A. There's some language in the proposal that I
16 think were notes from the negotiations, it appears
17 that -- that were left in the proposal. In other
18 words, they were inadvertently left in the proposal.

19 Q. And that's on the DPL list or is it in your
20 testimony?

21 A. It's -- it's on the DPL list. That's
22 something that -- that -- that --

23 Q. Vis-a-vis 8.2.1, the bolded language
24 or -- it's Issue 6, I'm assuming; is that correct? Am
25 I on the right issue even?

1 A. Yes. Yes. And do you have a copy of the DPL?
2 Q. I do and that's what I'm looking at.
3 A. Okay.
4 Q. So I was wondering what -- what -- what part
5 of the language are we deleting?
6 A. Okay. It's page -- it's on page 21 of my copy
7 of the DPL.
8 Q. Okay. All right.
9 A. And if you'll look at SWBT's position
10 statement and its -- I believe it's starting on the
11 seventh line where we talk -- where it says, do we want
12 to reference --
13 Q. Okay.
14 A. -- the tariff or the ColoICA.
15 Q. Okay.
16 A. I believe that was one of those notes to self
17 for our negotiations team for them to check on
18 something --
19 Q. Okay. Is that --
20 A. -- that was inadvertently left in.
21 Q. All right. And that's what you believe.
22 Okay.
23 A. Yes.
24 COMMISSIONER LUMPE: Thank you.
25 That's all.

1 JUDGE RUTH: Any other questions, Commissioner
2 Murray?

3 COMMISSIONER MURRAY: No.

4 JUDGE RUTH: WorldCom, do you have recross?

5 MR. MORRIS: Briefly.

6 RECROSS-EXAMINATION BY MR. MORRIS:

7 Q. Mr. Oyer, do you remember the questions
8 Commissioner Murray asked you regarding optional
9 equipment and things like that?

10 A. Yes.

11 Q. Isn't it true that Southwestern Bell
12 grandfathered services for its retail customers?

13 A. I'm honestly not aware of -- of what services
14 you're talking about. Do you have a specific instance?

15 Q. No. Just as a general proposition, are you
16 aware of Southwestern Bell grandfathering services for
17 its retail customers?

18 A. I'm not personally aware. I -- I think we
19 would to a certain extent try to migrate those
20 customers to newer technologies. Again, I'm -- I'm not
21 sure of -- do you -- you don't have a specific instance
22 where we might have done that?

23 I don't recall any specific instance of doing
24 that, but -- but it sounds like something we might do
25 until we could migrate that customer to a new

1 technology.

2 Q. Okay.

3 A. Just as we -- you know, we give notice to
4 CLECs and --

5 MR. MORRIS: Thank you.

6 That's all I have.

7 JUDGE RUTH: Mr. Bates?

8 MR. BATES: No, thank you.

9 JUDGE RUTH: Redirect?

10 REDIRECT EXAMINATION BY MR. LANE:

11 Q. Mr. Oyer, with regard to Issue No. 2,
12 Commissioner Murray asked you some questions about
13 maintaining the network with its existing
14 characteristics. Under the FCC's rule that you cited,
15 51.533A, is Southwestern Bell required to give notice
16 in advance of any network change to customers like
17 CLECs?

18 A. Yes, it is. Yes, it is. Again, it -- to --
19 to all carriers for that matter, CLECs as well as
20 interexchange carriers, and we -- we post those on a
21 web site. And the normal notice is -- is one year,
22 which should give them ample opportunity to migrate to
23 a -- another platform or to migrate to a -- another
24 service.

25 I think in most cases there will be -- and in

1 all cases that I am personally aware of, there will be
2 alternatives to the services that they're offering,
3 so --

4 Q. Under that FCC rule is there an obligation for
5 the ILEC to continue to maintain obsolete equipment
6 after the one-year notification period?

7 A. No, there is not. Carriers are expected
8 to -- to migrate to the new technology. Again, I don't
9 think the FCC anticipates any technologies being held
10 back. I think that -- that is -- is not good public
11 policy to -- to disallow a company from migrating to
12 forward-looking technologies --

13 Q. On --

14 A. -- and --

15 Q. Sorry. Under the FCC's rule is each party
16 required to bear its own expense to conform to any
17 upgrades after the notification period has expired?

18 A. Yes, it is.

19 Q. So the CLECs would bear the expense on their
20 side and Southwestern Bell bears the expense on its
21 side?

22 A. Yes.

23 Q. With regard to changes in the network, would
24 those changes affect both Southwestern Bell's retail
25 customers and the CLECs and their customers on an equal

1 basis to the extent each is using the particular
2 network characteristic that's at issue?

3 A. Yes, I believe they would -- I believe it
4 would.

5 Q. And if there was any grandfathering done for
6 Southwestern Bell customers, then the network
7 characteristic would remain equally available to the
8 CLEC customer?

9 A. Yes, it would.

10 MR. LANE: That's all I have.

11 Thank you, Your Honor.

12 JUDGE RUTH: Mr. Oyer, you may step down.

13 MR. OYER: Thank you.

14 MR. LANE: Your Honor, just to -- if Mr. Oyer
15 could be excused when you're ready to -- whether that
16 can happen or not.

17 JUDGE RUTH: I'll put him on the list to
18 double check.

19 MR. LANE: Thank you.

20 JUDGE RUTH: And I was just getting to it.

21 Witnesses Hughes and Hampton may be excused, but Rogers
22 and Oyer are still pending.

23 MR. LANE: Thank you, Your Honor.

24 MR. OYER: Thank you.

25 JUDGE RUTH: Were there any others still

1 pending besides Rogers and Oyer?

2 MR. LANE: No.

3 JUDGE RUTH: No? Okay. Just wanted to make

4 sure my notes were correct.

5 MR. LANE: Thank you, Your Honor.

6 JUDGE RUTH: Southwestern Bell, you have the

7 next witness.

8 MR. LANE: Thank you.

9 We call Mr. Kirksey.

10 (Witness sworn.)

11 JUDGE RUTH: Thank you.

12 Mr. Lane, you may proceed when you're ready.

13 MR. LANE: Thank you, Your Honor.

14 MICHAEL KIRKSEY testified as follows:

15 DIRECT EXAMINATION BY MR. LANE:

16 Q. Could you state your name for the record,

17 please?

18 A. Michael Kirksey.

19 Q. And, Mr. Kirksey, by whom are you employed?

20 A. SBC Management Services, Incorporated.

21 Q. And what's your position with SBC Management

22 Services?

23 A. Area Manager-Network Regulatory.

24 Q. Mr. Kirksey, did you prepare direct testimony

25 for this case that's been marked as Exhibit 23?

1 A. Yes, sir.

2 Q. Do you have any changes to that testimony?

3 A. I have one change.

4 Q. And what is that?

5 A. On page 14 in the Issue 31 issue statement,

6 the second line has where AIN is not deployed. The

7 word "not" should be stricken from the issue statement.

8 Q. Do you have any other changes to your direct

9 testimony?

10 A. No, sir.

11 Q. Okay. And did you also prepare rebuttal

12 testimony that's been marked as Exhibit 24?

13 A. Yes, sir.

14 Q. Do you have any changes to that testimony?

15 A. Yes, sir. On page 7, Issue 31, the same

16 removal of the word "not" in the issue statement. And

17 also in the answer beginning on line 17 the -- pardon

18 me -- on line 19 the sentence reads, Blocking toll

19 calls requires. Beginning at that point I would strike

20 that -- the remainder of that answer. In other words,

21 from blocking toll calls required through the end of

22 that answer should be stricken.

23 Q. So that would be through the end of page 8,

24 line 3?

25 A. Correct, sir.

1 Q. With those changes in mind, Mr. Kirksey, if I
2 were to ask you the questions contained in Exhibits 23
3 and 24 today, would your answers be the same?

4 A. Yes, sir, they would.

5 Q. And were those answers true and correct to the
6 best of your knowledge and belief?

7 A. Yes, sir, they are.

8 MR. LANE: Your Honor, at this time we would
9 and offer Exhibits 23 and 24 and tender Mr. Kirksey for
10 cross.

11 JUDGE RUTH: Okay. Exhibit 23, Mr. Kirksey's
12 direct, and Exhibit 24, his rebuttal, have been
13 offered. Are there any objections to them being
14 received?

15 (No response.)

16 JUDGE RUTH: Seeing no objection, they are
17 received into the record.

18 (EXHIBIT NOS. 23 AND 24 WERE RECEIVED INTO
19 EVIDENCE.)

20 JUDGE RUTH: Okay. And WorldCom are you ready
21 for cross -- I'm sorry. Yes, it is WorldCom.

22 And, Mr. Morris, when you speak, would you
23 please try and use the microphone?

24 MR. MORRIS: I will. I apologize.

25 CROSS-EXAMINATION BY MR. MORRIS:

1 Q. Good morning, Mr. Kirksey.
2 A. Good morning, Mr. Morris.
3 Q. On pages 9 and 10 of your direct testimony you
4 address AIN?
5 A. Yes, sir.
6 Q. And do you know does Southwestern Bell have
7 any vertical features that are provided using AIN?
8 A. Actually Southwestern Bell has AIN-based
9 services that are provided via the AIN platform, but
10 they're not vertical features. The vertical features
11 that we provide are resident in the switch -- they're
12 vendor provided such as call forwarding, caller ID,
13 three-way calling, that type of a vertical feature.
14 The services that we provide through AIN are,
15 in fact, services -- stand-alone services.
16 Q. What are those stand-alone services? These --
17 these would be --
18 A. I mean --
19 Q. Do you refer to them as AIN services?
20 A. An example would be privacy manager.
21 Q. If a CLEC wanted to use UNE-P, could
22 a -- could the CLEC's UNE-P customers subscribe to
23 privacy manager -
24 A. The --
25 Q. -- in --

1 A. The CLEC would have the ability to develop an
2 identical service if they chose to do so and there are
3 provisions by which they can do that. However, they
4 could not subscribe to the AIN services that
5 Southwestern Bell has at deployed itself for its
6 network.

7 The FCC specifically delineated that
8 those -- that that software was proprietary and should
9 not be unbundled. That's -- that's described in
10 my direct on -- it's paragraph 419, I believe, of the
11 UNE Remand Order. Page 12 of my direct testimony has a
12 cite to that.

13 Q. All right. On pages 15 and 16 you refer to
14 I/O ports?

15 A. That is correct, sir.

16 Q. And I believe in your rebuttal on page 8 you
17 also refer to I/O ports. And line 12 on page 8 of your
18 rebuttal you mention that voice mail is an enhanced
19 service and not a local exchange service. And I think
20 we can both agree that, yes, that's -- that's correct.

21 But would you agree with me that in order for
22 WorldCom if it were one of -- if it were to offer a
23 voice messaging service and offer what's called stutter
24 dial tone, WorldCom would need access to the I/O ports,
25 which is in Southwestern Bell's switch, in order to do

1 that?

2 A. In order to set message waiting indicator,
3 which is stutter dial tone, there would have to be a
4 connection to the I/O port. And that's made available,
5 but it's not on an unbundled basis.

6 Q. Not on an unbundled basis and not at TELRIC
7 rates, you're saying?

8 A. Correct, sir.

9 Q. Is that what you are implying?

10 A. Correct, sir.

11 Q. Even though the I/O port is a part to the
12 switch, correct?

13 A. The I/O port is an input to the switch.

14 Q. Right. And starting on page 9 of your
15 rebuttal testimony you address OS and DAs as UNEs?

16 A. Yes, sir.

17 Q. And you're aware, are you not, that the
18 FCC has defined customized routing with respect to
19 OS and DA in the UNE Remand Order; and specifically
20 what I'm referring to is Footnote 867 of the UNE Remand
21 Order. That's paragraph 441. Have you -- have you
22 seen that Order?

23 A. I -- I -- I have reviewed the Remand Order. I
24 don't know that I'm inherently familiar with that
25 footnote.

1 Q. Would you agree with me that in Footnote 867
2 the FCC stated that customized routing permits
3 requesting carriers to designate the particular
4 outgoing trunks associated with unbundled switching
5 provided by the incumbent, which will carry certain
6 classes of traffic originated from the requesting
7 providers customers?

8 A. I would agree that -- I -- I -- as I said
9 before, I haven't read the footnote, but I will take
10 what you read to me to mean exactly what it says.

11 Q. Okay. Thank you.

12 You're aware, are you not, that WorldCom has
13 asked for customized routing for its OS and DA platform
14 over Feature Group D trunks, correct?

15 A. I understand that WorldCom would like to
16 request -- or has suggested that we should provide
17 customized routing of their OS and DA traffic over
18 Feature Group D. The dispute is whether or not that is
19 entirely fea-- and whether it's technically feasible or
20 not to do that.

21 For example, as I stated in my direct
22 testimony -- pardon me -- my rebuttal testimony on
23 page 10, beginning at line 7. For example, Nortel
24 switches are not technically capable of routing a call
25 to the operator over Feature Group D trunks. It's

1 technically not possible.

2 Q. I believe Southwestern Bell is currently
3 engaging in a test in -- with WorldCom at least with
4 respect to Lucent and Nortel switches to address the
5 feasibility of routing OS and DA via Feature Group D
6 trunks. Are you aware of that test?

7 A. I'm aware that there was a test -- there was a
8 preliminary lab test that was -- and I discussed that
9 in my rebuttal testimony as well.

10 Q. Okay.

11 A. There was a preliminary lab test performed
12 last year on a solution proposed by MCI to provide
13 OS and DA through the Lucent switch and DA only through
14 code conversion through the Nortel switch to see if we
15 could do that technically in our network.

16 Preliminary lab tests were performed and it
17 appears like the calls may route; however, when we got
18 to the point where Nortel was advised what the cost
19 would be to upgrade our network -- pardon me --
20 WorldCom was advised that the cost of -- that our
21 network could possibly this, that was the end of the
22 test as we know it today.

23 And I can give you an example.

24 Q. Well --

25 A. In our -- please, sir.

1 In our network we bill our OS and DA calls at
2 our OS and DA platform. All of the calls are marked
3 free in end office. However, as a part of the test,
4 Mr. Caputo himself asked that we would bill all the
5 calls and provide call detail records for WorldCom.

6 Part of that evaluation that we had to go into
7 each and every end office to re-establish AMA to try to
8 generate these call records on their behalf --

9 Q. What -- for the record, what is AMA?

10 A. Automated message accounting.

11 Q. Thank you.

12 A. So -- but after we provided a quote on
13 what -- what we thought would be the cost, that was --
14 and we've not heard back. That was in August of last
15 year.

16 Q. So in order to pursue that, would it be fair
17 to say that there would have to be additional
18 testing -- perhaps field testing done in order to --

19 A. Absolutely.

20 Q. -- elevate that?

21 A. First of all, in order to prove technical
22 feasibility you'd need to know that you could preorder,
23 order, provision and build the service.

24 Q. Okay.

25 A. And none of that's been established. It's not

1 even been tested.

2 Q. So it -- it basi-- is it Southwestern Bell's
3 position that offering cus-- excuse me --
4 offering customized routing in the same manner that
5 Southwestern Bell routes such traffic for itself
6 satisfies the -- the requirements of the UNE Remand
7 Order, specifically Footnote 867 that I cited to you
8 previously?

9 A. Absolutely. And the reason being that we --
10 as I've stated in my testimony, there's really no way
11 for Southwestern Bell to have any awareness or any
12 forecast of what types or variations or flavors of
13 customized routing a carrier might seek. So we make it
14 available in the very same terms that we do for
15 ourselves at parity.

16 And we also, as I've stated in my testimony,
17 we would make it available by the BFR process if they
18 have a -- a unique or -- or an independent solution
19 that they seek on their own.

20 I think we make a -- an -- an avenue -- or we
21 make available that process if they seek something
22 other than what we do for ourselves.

23 Q. So -- just so that I understand Southwestern
24 Bell's position with respect to customized routing, is
25 it Southwestern Bell's position that if it offers

1 customized routing for the purposes of OS and DA in the
2 same manner that it offers -- that it provides to
3 itself, by itself, I mean, Southwestern Bell, that that
4 satisfies the requirements of the UNE Remand Order even
5 the -- if another -- a requesting carrier is requesting
6 a different trunk designation?

7 A. I think the Remand Order says we have to
8 provide customized routing or a compatible ceiling
9 protocol. And -- and we do that. And I would go
10 further to say, Mr. Morris, that if WorldCom were to
11 suggest that we deliver their OS and DA traffic to our
12 feature -- to their Feature Group D trunks and we were
13 to actually make that happen, those calls would fail,
14 sir. Those calls would fail.

15 Q. You had mentioned -- strike that.

16 In your rebuttal you say that -- on page 11,
17 lines 16 and 17 that Southwestern Bell utilizes
18 Ericsson switches within its network in Missouri. Does
19 Southwestern Bell use Ericsson switches exclusively in
20 Missouri or does it use -- does Southwestern Bell
21 employ Nortel and Lucent switches in Missouri as well?

22 A. Perhaps my testimony wasn't clear. It says in
23 addition after talking about the OS -- I'm sorry --
24 the Lucent and Nortel switches, it says in addition,
25 Southwestern Bell utilizes Ericsson. So it's in

1 addition to the Lucent and Nortel.

2 Q. Okay. So, in other words, in Missouri --

3 A. You have all three.

4 Q. -- Southwestern Bell has --

5 A. Yes, sir.

6 Q. -- Lucent, Ericsson and Nortel?

7 A. Yes, sir.

8 Q. Okay. Thank you.

9 Do you know how many local switches

10 Southwestern Bell has in Missouri?

11 A. I'm afraid I don't, sir.

12 Q. And of those, what -- do you know what the

13 percentage breakdown is between Lucent, Ericsson and

14 Nortel?

15 A. I -- I really don't. I could find out, but I

16 don't know.

17 Q. Okay. But do you -- do you know how many

18 Ericsson switches are in Missouri?

19 A. No, sir.

20 Q. Okay. On pages 14 and 15 of your direct

21 testimony, you're referring to call blocking and end

22 offices?

23 A. Yes, sir.

24 Q. If call blocking is done through line class

25 codes, is it your understanding that WorldCom is

1 willing to compensate Southwestern Bell in those
2 instances if the blocking is done via line class codes
3 at --

4 A. My understanding is --

5 Q. -- at TELRIC rates?

6 A. There was -- and I have to say there was some
7 confusion on my part during the construction of the
8 testimony on this particular issue. But it's my
9 understanding that we currently are re-- recovering
10 costs for call blocking via line class code.

11 And the proposed language by WorldCom would
12 prevent us from recovering the costs if we provided
13 call blocking in an office in which AIN was deployed.
14 And with -- and we seek to have that overturned.

15 Q. And you're aware that it's WorldCom's position
16 that that would result in a double recovery of costs
17 were Southwestern Bell to recover that in those offices
18 where that's accomplished via AIN?

19 A. Well, all toll restriction is accomplished by
20 a line class coding. It's not accomplished by AIN.

21 MR. MORRIS: Okay. I believe that's all I
22 have.

23 JUDGE RUTH: South -- I'm sorry. Staff, do
24 you have anything?

25 MR. BATES: Yes. Thank you, Your Honor.

1 CROSS-EXAMINATION BY MR. BATES:

2 Q. Good morning, Mr. Kirksey.

3 A. Good morning, Mr. Bates.

4 Q. I have a few questions for you. I wonder
5 if -- that you could help me with, first regarding
6 Issue 35. In your direct testimony, I believe you
7 refer to I/O ports as physical interfaces to
8 Southwestern Bell's central office switch; is that
9 correct?

10 A. Yes, sir, that is correct.

11 Q. Can you explain what you mean by interface
12 there?

13 A. It's an interface by which command messages
14 and information are sent into our switch. It's the
15 physical interface by which we can send and receive
16 information to the switch to program the switch, add
17 and remove numbers, various types of inputs that
18 we -- and changes that we make in the switch. It's in
19 administrative.

20 Q. Does this interface provide a functionality of
21 the switch that wouldn't be available without the
22 interface?

23 A. I think that's true. I think one example
24 would be the message waiting indicator. And I think
25 that although the -- the -- the I/O port would be

1 required in order to set message waiting indicator, I
2 think it's made available. I -- but don't believe it's
3 been required to be unbundled.

4 Q. Okay. Regarding Issue 46.

5 A. Yes, sir.

6 Q. Now, going back to your direct testimony on
7 page 17, lines 1 through 2.

8 A. Yes, sir.

9 Q. I -- I believe you stated and tell me if I
10 quote you wrong. Changing a point code would require
11 Southwestern Bell to update the Global Title
12 translations in the affected Southwestern Bell's STPs?

13 A. That is correct.

14 Q. Is there anything else involved in changing
15 the signaling point code?

16 A. Actually if a point code were up and -- and
17 functional, I guess, first, we should talk about what a
18 point code is. It's a numerical address which
19 identifies a switch. So in this example,
20 hypothetically MCI owns a switch with a point code and
21 they're pro-- buying SS7 from us and they -- we've got
22 their signaling point code loaded in our STPs for
23 routing their messages.

24 If they wanted to for some reason change that
25 point code, such as changing an IP address on a

1 computer, that would involve taking their customer's
2 traffic down or potentially. So it's my view that that
3 would have to be on an off-hour's
4 coordinated-conversion-type work as opposed to a simple
5 translations input to provision or build a new one.

6 Q. About how much time -- Southwestern Bell time
7 do you think would be involved in that?

8 A. I -- I don't know. I've never performed that
9 function myself and I can't really say for sure, but I
10 would -- I would think it would be several hours.

11 Q. Do you know how much costs Southwestern Bell
12 would incur for doing that?

13 A. No, sir, not having the specifics, I -- I
14 couldn't answer that.

15 Q. Finally, regarding Issue 49.

16 A. Yes, sir.

17 Q. Could you explain why it's not possible for
18 Southwestern Bell to use Feature Group D trunks to
19 customer WorldCom's OS/DA traffic?

20 A. Sure. For example, as I said earlier, in the
21 Nortel switch the zero-minus call is processed based on
22 the generic program within the switch. It's a very --
23 just it's -- when you turn on your computer, there's
24 software functions that happen. It's the same thing.

25 The zero is imbedded in the very generic

1 software in a Nortel switch. When you dial zero, the
2 only thing we can tell it is which operator services
3 signaling type trunk group to point it to. That's
4 incompatible with Feature Group D.

5 I will state that there are some calls that
6 could be routed to Feature Group D. In fact, there are
7 some OS and DA calls today that go there. For example,
8 if an end user dials a credit card call, zero plus,
9 that's -- because of the digits dialed that's formatted
10 as a Feature Group D call.

11 But in my example, the Nortel zero, we haven't
12 got -- we do not have the ability to convert that to
13 Feature Group D.

14 Q. Is there any way that you could get the
15 ability to do that?

16 A. I don't know the answer to that. I suspect
17 that if this was important that at -- at -- we -- we
18 have a relationship with Nortel as does WorldCom. If
19 that was something that they really were interested in,
20 then they could approach us on their behalf or then
21 they could also work with Nortel themselves.

22 MR. BATES: Okay. Thank you, Mr. Kirksey.

23 THE WITNESS: You're welcome, sir.

24 JUDGE RUTH: Okay. I think it's appropriate
25 to take a brief break now. It is 10 after 10 and we

1 will come back at 25 after.

2 We're off the record.

3 (A RECESS WAS TAKEN.)

4 JUDGE RUTH: Okay. Let's go ahead and go back
5 on the record.

6 We took a short break and are now ready for
7 questions from the Bench.

8 Commissioner Murray?

9 COMMISSIONER MURRAY: Thank you.

10 QUESTIONS BY COMMISSIONER MURRAY:

11 Q. Good morning, Mr. Kirksey.

12 A. Good morning, Commissioner Murray.

13 Q. On Issue 22 the -- Staff has proposed some
14 additional language. And do you have an opinion as to
15 that additional language?

16 A. To be honest, Commissioner Murray, I don't
17 have a copy of that proposed language with me.

18 Q. I believe you're going to get a copy.

19 A. I thought so.

20 MR. LANE: Was that Issue 22?

21 COMMISSIONER MURRAY: That's page 135.

22 THE WITNESS: Okay. Yes, ma'am. I'm
23 prepared.

24 BY COMMISSIONER MURRAY:

25 Q. All right. Is that -- is that additional

1 language agreeable to Southwestern Bell?

2 A. I agree that it -- it might need just
3 a -- some small tweaks, but I agree with the concept
4 conceptually, yes, ma'am, that -- that we would have to
5 provide the technical information to WorldCom that
6 would be required, if any, to function the SCE -- the
7 service creation environment.

8 Q. Okay. So this does not ex-- that additional
9 language doesn't expand your responsibilities?

10 A. No. And the only que-- one of the things
11 that -- just briefly looking at the language is it says
12 the SCE within the AIN platform. And the SCE is not
13 actually with the AIN platform. The SCE -- SCE is a
14 separate and distinct environment. It's not part of
15 the AIN platform itself per se.

16 Q. So if the phrase "within the AIN platform"
17 were removed, that sentence would be more accurate?

18 A. Correct. In my opinion, ma'am.

19 Q. And I had a question for you about Issue
20 No. 31, but I'm not recalling what it was. Just -- see
21 if I can figure that out in just a moment here.

22 You're -- as I understand Issue 31 you're only
23 proposing that call blocking be charged -- there be a
24 charge for that when the functionality does not exist
25 with -- within the UNEs that have been provided; is

1 that --

2 A. Actually -- actually our position is that we
3 should be able to recover a charge for the provisional
4 call blocking if it's for toll calls. Typically we
5 call that toll restriction. In other words, if we
6 develop line-class codes, which would prohibit a toll
7 call as a service, then we should be able to recover a
8 cost for that service whether or not the -- it's in an
9 office -- it's AIN capable or not.

10 Q. Because there is a -- an extra work involved
11 in developing the line class codes?

12 A. There is work involved in develop -- if --
13 if -- if we have to develop a UNE line class code then
14 there's certainly work involved in that, yes, ma'am.

15 Q. And that's software-type work?

16 A. Yes, ma'am.

17 COMMISSIONER MURRAY: Okay. I think that's
18 all I have. Thank you.

19 THE WITNESS: Thank you, ma'am.

20 JUDGE RUTH: I have a question for you on
21 behalf of one of the Commissioners.

22 QUESTIONS BY JUDGE RUTH:

23 Q. Earlier you were talking about calls failing
24 on the Nortel switches using the FGD system. Would
25 they also fail on Lucent and Ericsson switches?

1 A. I believe that OS and DA, if it were directed
2 to a Feature D trunk, parts of the call would fail in
3 each and every one of the switches without some form of
4 mediation. Let me clarify that a little bit.

5 For example, the -- the example I used was the
6 Nortel zero-minus call that -- that we know would fail.
7 The other calls might possibly be able to be
8 manipulated so that they would process over Feature
9 Group D. And that was part of the preliminary test
10 that we did in the lab in response to WorldCom -- or
11 MCI's request in California. The test was never
12 completed.

13 What we were attempting to test was a unique
14 software package in the Lucent switch called ALSP,
15 alternative local service provider, which basically
16 could allow -- possibly could allow us to send OS and
17 DA over Feature Group D.

18 The other portion of the test -- pardon me,
19 ma'am -- was for what we call code conversion of 411 in
20 the DMS product. They were wanting -- the way I
21 understand it, MCI seeks to have -- or sought to have
22 us convert it from 411 into an area code 555-XXXX on
23 their behalf.

24 So we would basically take the call into the
25 switch, strip the digits off, bring it back out through

1 a loop around of some form and then restart the call
2 all around again as a one plus. And there were some
3 preliminary tests done that showed the call process.
4 We don't know that -- but there are other things, of
5 course, that are gonna be required such as preordering,
6 ordering, billing the call, maintenance. All of those
7 issues would have to addressed to determine if it was
8 even technically feasible to provide such a service.

9 And I think we were at the point where we were
10 ready to go forward with an evaluation of a field test
11 whereby we would look at our systems, order, billing,
12 provisioning to see if we could actually do this on
13 their behalf.

14 And we've provided, as I've stated and is
15 attached to my testimony -- we provided a quote for
16 what we thought it would cost to modify our network in
17 the event it was truly technically feasible, and -- and
18 that was the end of that.

19 To further answer your question, you asked me
20 about Ericsson.

21 Q. Uh-huh.

22 A. To my knowledge, there's been no
23 preliminary -- there's not even been a preliminary test
24 or evaluation on our part that would suggest it is
25 capable of carrying an OS or DA call Feature Group D.

1 Q. But on the Lucent you said it might --
2 A. Sure.
3 Q. -- with some other things. But Ericsson you
4 don't have --
5 A. I'm not --
6 Q. -- any preliminary tests to say whether it's
7 possible?
8 A. That's correct. And again, when we talk about
9 OS and DA we need to -- we need to understand we're
10 talking about the local OS and DA.
11 As I said earlier, if a call is dialed on a
12 zero-plus basis; in other words, 0-505-762-XXXX, that
13 call is processed on Feature Group D because of the
14 digits dialed. But it's in-- inherent within the
15 software within the switch itself.
16 However, when you dial zero, it's a -- it --
17 it processes that over Feature Group C, which is what
18 we use for ourselves. And that's why I can't go over a
19 D group.
20 They did suggest some modifications that we
21 might try to do part of their OS and DA. Again, it was
22 a partial solution, but even that was never -- it never
23 came to a field test or fruition.
24 JUDGE RUTH: Okay. Thank you.
25 Any further questions, Commissioner?

1 COMMISSIONER MURRAY: No.

2 JUDGE RUTH: Okay. WorldCom recross.

3 RECROSS-EXAMINATION BY MR. MORRIS:

4 Q. Mr. Kirksey, do you recall the questioning
5 regarding the OS and DA and the customized routing?

6 A. I remember, sir.

7 Q. Would you agree that unt-- until it is
8 technically feasible to provide OS and DA routing via
9 Feature Group D as we have requested; that is, WorldCom
10 has requested, that OS and DA are still UNES?

11 A. No, sir. And the reason I say that is because
12 this very Commission reviewed our OS and DA offering as
13 part of our 271 proceeding and found it didn't meet the
14 UNE -- the required Remand Order.

15 Q. Okay.

16 A. There -- there are possible multiple
17 variations. Perhaps you want it sent over a stringing
18 wire, I don't know. All I could tell you is what we
19 provide and it's a -- we make available the very same
20 service we use for ourselves. And we also have a
21 provision about which you could request something in
22 addition if you choose to do so.

23 Q. Secondly, do you know does Southwestern Bell
24 provide any call blocking through AIN?

25 A. Call blocking is provided via line class code;

1 in other words, toll restrictions -- specifically what
2 we're talking about in my testimony is toll
3 restrictions. The question really becomes whether or
4 not there's a unique line of class code required. In
5 other words, in an AIN-based office we could probably
6 identify your traffic apart from ours and thus not have
7 to create a unique line class code.

8 MR. MORRIS: Thank you. That's all I have.

9 JUDGE RUTH: Staff?

10 MR. BATES: No, thank you.

11 JUDGE RUTH: Okay. Mr. Lane, do you have
12 redirect?

13 MR. LANE: Yes, Your Honor.

14 REDIRECT EXAMINATION BY MR. LANE:

15 Q. Let me start, Mr. Kirksey, with Issue 22,
16 which involves the AIN-platform-type issues.

17 A. Yes, sir.

18 Q. And Commissioner Murray asked you some
19 questions concerning that and whether Southwestern Bell
20 would find Staff's proposed language to be acceptable.
21 And you've indicated that you thought it could with
22 minor tweaks, and you described specifically the
23 deletion of the words "within the AIN platform." Do
24 you recall that?

25 A. Yes, sir, I do.

1 Q. But were there any other minor tweaks that
2 need to be made in that language in your perspective?

3 A. To be -- to be perfectly honest with you,
4 Mr. Lane, I haven't reviewed the language to that
5 extent to know that -- that all of it is acceptable or
6 not. But if you give me a second, I'll look at it one
7 more time just to be certain.

8 Q. Okay.

9 A. It appears to me still that with the
10 modification that I suggested that -- that perhaps the
11 language could be acceptable.

12 Q. Okay. Back to Issue 35 concerning the
13 I/O ports, and you indicated that they were not part of
14 the switch, but they were an input to the switch.
15 Could you explain what you mean by that?

16 A. The I/O port is an interface by which we send
17 and receive the commands to the switch, instructions
18 such as performing software loads on the switch,
19 initiating changes to customer numbers, adding numbers,
20 deleting numbers, changing routing.

21 It's a communications port by which we
22 actually make changes -- software changes within the
23 switch itself.

24 Q. Okay. And is access to the I/O port available
25 in some forms to WorldCom?

1 A. It's my understanding that the I/O port could
2 be purchased, but not on unbundled basis. I don't
3 believe we were obligated or it's ever been identified
4 as -- as an unbundled item.

5 Q. You were asked some questions concerning the
6 UNE Remand Order and the status of OS and DA as UNEs.
7 Do you recall those questions?

8 A. Yes, sir, I do.

9 Q. Okay. And are you familiar with the rules
10 adopted by the FCC with regard to OS and DA in the UNE
11 Remand case?

12 A. Yes, sir, I -- I am aware of those rules.

13 Q. Okay. And with regard to operator services
14 and directory assistance in general, could you describe
15 what the applicable rule is for the obligations of the
16 incumbent LEC?

17 A. I don't remember the specific rules cite,
18 but --

19 MR. LANE: Okay. May I approach the witness,
20 Your Honor?

21 JUDGE RUTH: Yes.

22 BY MR. LANE:

23 Q. Let me show you Appendix C from the UNE Remand
24 Order and with specific reference to Section 51.317F.
25 Does that describe the FCC rule with regard to the

1 status of operator services and directory assistance as
2 a UNE?

3 A. Yes, sir, it does. Specifically it states
4 that -- that operator services and directory assistance
5 would be provided on an unbundled basis only where the
6 incumbent LEC does not provide customized routing or --
7 and I think that's a key word "or" -- a compatible
8 signaling protocol.

9 Q. And if the incumbent LEC provides either
10 customized routing or a compatible signaling protocol,
11 then OS and DA are no longer a UNE?

12 A. That is correct, sir.

13 Q. Okay. Does Southwestern Bell provide
14 customizing routing?

15 A. Yes, sir, we do.

16 Q. And is there a CLEC to whom we do provide
17 customized routing?

18 A. It is my understanding that, yes, sir, there
19 are.

20 Q. And what protocol is utilized to provide that
21 customized routing?

22 A. The routing that we provide requires Feature
23 Group C, dedicated trunks, and that's in parity or
24 identical technology to what we use within our own
25 network.

1 Q. Now, with regard to WorldCom's request for
2 utilizing Feature Group D, would you describe that as a
3 compatible signaling protocol?

4 A. If it were technically feasible, yes, sir.

5 Q. And your description and discussion with
6 Mr. Morris on behalf of WorldCom was exploring the
7 technical feasibility of Feature Group D; is that a
8 fair statement?

9 A. Correct. Along with the statements from the
10 Judge.

11 Q. And is it your view that Feature Group D can
12 be a compatible signaling protocol for OS and DA in all
13 circumstances?

14 A. Absolutely not.

15 Q. Okay. Are there some circumstances at this
16 point where WorldCom has recognized that Feature
17 Group D cannot be utilized for that trunking?

18 A. Yes. In the proceeding in California -- the
19 California arbitration of last year, I believe
20 Mr. Caputo himself identified that, as I did in my
21 testimony and here today, that zero-minus -- a call to
22 the operator from a Nortel switch cannot be routed over
23 Feature Group D.

24 Q. And the WorldCom proposal that you were
25 testing the technical feasibility of then wasn't a

1 complete solution to OS and DA trunking?

2 A. No. No. As I said earlier, it was a partial
3 solution which took care of -- which would have sent
4 parts of their OS and DA, but -- but, of course, not
5 all of them.

6 Q. And does customized routing as we've provided
7 to other CLECs and to ourselves remain available to
8 WorldCom if they were to choose to do that?

9 A. Absolutely.

10 Q. And I believe you indicated that the
11 Commission in the 271 case here in Missouri had found
12 that Southwestern Bell had satisfied its obligations
13 with regard to OS and DA under the UNE Remand Order.
14 Did you make that statement?

15 A. Yes, sir, I did. That is my understanding.

16 MR. LANE: And -- and if I may approach, Your
17 Honor?

18 JUDGE RUTH: Yes.

19 BY MR. LANE:

20 Q. And, Mr. Kirksey, showing you the order from
21 the Commission in Case No. TO-99-227 on March 15th of
22 2001 with regard to checklist item No. 7 on page 57 of
23 the Order, is that what you were referring to with
24 regard to the Commission's findings with regard to
25 directory assistance and operator services?

1 A. Yes, sir, I was.

2 Q. And with regard to customized routing, are you

3 familiar with whether that was an -- an issue that was

4 raised and discussed in the first AT&T arbitration in

5 Missouri Case No. TO-97-40?

6 A. When was -- can you tell me when that

7 occurred? I'm trying to remember the specific case.

8 Q. 1996 -- or '7 --

9 A. No, sir.

10 Q. -- time frame?

11 A. No, sir.

12 Q. Okay. With regard to Issue 31, you were asked

13 some questions about toll restriction and what work has

14 to be done to accomplish that. Could you explain

15 what's required to provide toll restriction both in

16 AIN and non-AIN offices?

17 A. Toll restriction is accomplished via line

18 class code. The line class code determines what are

19 available calls. For example, it determines what your

20 call scope are, can you dial one-plus, can you dial

21 zero-plus. Effectively sets what calls can be made.

22 Toll restriction would be developed or

23 provided via line class code which, in effect,

24 prohibited calls that would generate a toll charge.

25 There is some discussion about the distinction between

1 an office in which AIN is present versus an office in
2 which AIN is not present.

3 If there is no AIN solution within an end
4 office, then unique line class codes would have to be
5 developed for each carrier. I -- I -- I believe that
6 that is true -- that each carrier would have to have a
7 set of unique line class codes.

8 However, in an AIN-based office there is a
9 possibility or a probability that we could distinguish
10 the CLEC traffic apart from our own and might not have
11 to develop the unique line class code. They might be
12 able to utilize line class codes that Southwestern Bell
13 has built for its own use.

14 Q. But there would still be a cost to provide
15 toll restriction in the AIN office, would there not?

16 A. Sure. And -- and toll restriction effectively
17 is a service that we provide.

18 Q. With regard to Issue 46 concerning the
19 signaling point code, you were asked some questions
20 about change to a signaling point code. And you
21 indicated that it might require an off-hours conversion
22 to do that.

23 In your view would the cost to do a change to
24 a signaling point code be more or less or the same as
25 the initial establishment of a sig-- of a signaling

1 point code?

2 A. And I believe as a part of my answer -- what
3 I -- what I stated was that the con-- the changing of a
4 point code is more significant and would require
5 additional work that's not relative to the
6 establishment or the simple construction of a point
7 code and translations of one.

8 To convert a point code or to change a point
9 code would require an off-hours conversion in a
10 coordinated cut so that the traffic belonging to that
11 particular carrier or owner of the point code would be
12 minimized.

13 Q. Okay. And I -- I -- you would expect that the
14 cost, then, to change is greater than the cost to --

15 A. Oh, certainly it would be -- it would be more
16 difficult and -- and more labor intensive to do a
17 conversion than a simple input.

18 Q. And is the rate that Southwestern Bell
19 proposes to charge for a signaling point code change
20 higher than the charge already applicable to the
21 initial establishment of signaling point code?

22 A. No, sir.

23 Q. It's --

24 A. It's -- in other words, I believe the -- I
25 believe the charge that we've suggested is the same

1 charge that would be applied for the generation of a
2 new point code.

3 Q. Even though the costs are higher?

4 A. Even though the costs would probably be much
5 higher.

6 MR. LANE: That's all I have. Thank you.

7 JUDGE RUTH: Mr. Kirksey, you may step down.

8 You are not excused at this point, but I am able to go
9 ahead and excuse Witnesses Rogers and Oyer.

10 (Witnesses excused.)

11 MR. KIRKSEY: Thank you.

12 MR. LANE: I think Mr. Hughes swallowed a
13 pretzel.

14 JUDGE RUTH: Staff, you may call your witness.

15 MR. BATES: Thank you.

16 We call Natelle Dietrich to the stand.

17 JUDGE RUTH: Someone leave something --

18 MS. DIETRICH: Uh-huh.

19 JUDGE RUTH: -- at the witness table?

20 Who does this belong to?

21 (No response.)

22 (Witness sworn.)

23 JUDGE RUTH: Thank you. Please be seated.

24 And, Mr. Bates, you may proceed.

25 MR. BATES: Thank you, Your Honor.

1 NATELLE DIETRICH testified as follows:

2 DIRECT EXAMINATION BY MR. BATES:

3 Q. Would you please state your name for the
4 record?

5 A. Natelle Dietrich.

6 Q. And what is your business address?

7 A. 200 Madison Street, Jefferson City, Missouri
8 65102.

9 Q. And where and how are you employed?

10 A. I'm employed by the Missouri Public Service
11 Commission as a regulatory economist.

12 Q. Ms. Dietrich, did you cause to be prefiled in
13 this case what has been marked for identification as
14 Exhibit No. 25?

15 A. Yes, I did.

16 Q. Do you have any changes, corrections or
17 additions you would wish to make in that exhibit at
18 this time?

19 A. Yes, I do. The first change is on page 7 at
20 line 9 in the bolded language. It says, including
21 exiting UNE combinations. That should be existing UNE
22 combinations.

23 Then on that same page at line 17, the
24 language that starts, including existing UNE
25 combinations should be bolded to point out that it was

1 Staff language.

2 JUDGE RUTH: Could you repeat that last

3 change, please?

4 THE WITNESS: Yes. On page 7 beginning at

5 line -- actually I think it's 16, not 17. It says,

6 including existing UNE combinations. That should be

7 bolded.

8 JUDGE RUTH: Thank you.

9 BY MR. BATES:

10 Q. Is that all?

11 A. No. On page 15 in Staff's answer beginning at

12 line 16, the sentence -- the first sentence reads,

13 Staff asserts the Missouri 271 Agreement where

14 M2A rates are appropriate, there should be a period

15 there, and the rest of the sentence eliminated.

16 So that it now reads, Staff asserts the

17 Missouri 271 Agreement M2A rates are appropriate. It

18 would be appropriate to re-evaluate and so on and so

19 forth.

20 And then on page 16 in Staff's answer, it

21 would be the same change. The first sentence should

22 read, Staff asserts the M2A rates are appropriate,

23 period. And the rest of the sentence is -- should

24 crossed out so that the answer reads, Staff asserts the

25 M2A rates are appropriate. It would be appropriate to

1 re-evaluate and so on. And that's it.

2 Q. Ms. Dietrich, other than the changes which
3 you've just laid out, if I were to ask you the same
4 questions today, would your answers that you gave in
5 your prefiled testimony be substantively the same?

6 A. In Staff's roll in the arbitration I would
7 have to say that my answers would be the same subject
8 to any changes that were made in the DPL upon further
9 review of testimony and that type of thing.

10 Q. And as far as your exhibit -- what has been
11 marked as exhibit -- for identification as Exhibit
12 No. 25, would your answers be substantively the same
13 there except for the corrections and the caveat with --
14 that you just made?

15 A. Yes, it would.

16 MR. BATES: Your Honor, at this point I would
17 move Exhibit No. 25 be accepted into evidence.

18 JUDGE RUTH: Are there any objections to
19 Exhibit 25, Ms. Dietrich's rebuttal testimony coming
20 in?

21 (No response.)

22 JUDGE RUTH: Seeing no objections, it is
23 received into the record. Thank you.

24 (EXHIBIT NO. 25 WAS RECEIVED INTO EVIDENCE.)

25 MR. BATES: And, Your Honor, at this point I

1 tender the witness for cross-examination.

2 JUDGE RUTH: Okay.

3 Mr. Lane?

4 CROSS-EXAMINATION BY MR. LANE:

5 Q. Good morning, Ms. Dietrich.

6 A. Good morning, Mr. Lane.

7 Q. First, in your rebuttal testimony you address

8 Issue 39 --

9 A. Yes.

10 Q. -- do you see that?

11 And that issue involves whether WorldCom may

12 adopt sections of the M2A without all of the

13 legitimately related terms and conditions.

14 Is it fair to say that it's your understanding

15 now that both Southwestern Bell and WorldCom have the

16 same understanding with regard to attachment 26; that

17 is, that a CLEC wishing to adopt any UNE provision from

18 the M2A must take all of attachments 6 through 10?

19 A. I would agree as far as adopting -- a CLEC

20 adopting portions, yes.

21 Q. Okay. And it -- it's not real clear, is that

22 also Staff's position now?

23 A. As far as the adopting portions, yes.

24 Q. Okay. And so if a CLEC wishes to take some

25 particular provision regarding UNEs, such as the rates

1 and the UNE pricing schedule, then they need -- that
2 CLEC, if they want to adopt into the M2A, they need to
3 take all of attachments 6 through 10, correct?

4 A. If -- if they adopt the M2A -- or that portion
5 of the M2A then, yes, they would have to take it.

6 Q. All right. And in this case WorldCom has
7 chosen not to opt into the UNE provisions of the M2A,
8 and so all of the matters covered in attachments 6
9 through 10 including the prices are at issue in this
10 case, right?

11 A. That's correct.

12 Q. Okay. Now, when Staff performed its
13 evaluation, would it be fair to say -- well, let me
14 start over.

15 If a particular provision, a non-price
16 provision, is in the M2A, would you agree that both
17 parties in this case, since there's no adoption, have
18 the right to propose either the same or different
19 language than in the M2A?

20 A. As negotiation, yes.

21 Q. And then the position of the Staff in this
22 case is to evaluate whether one party's proposal is
23 better than the other or -- or maybe an alternative one
24 that Staff develops; is that how you saw your role?

25 A. As our role, yes. Uh-huh.

1 Q. Okay. And would you agree with me that the
2 mere fact that a non-price provision appears in the
3 M2A in -- somewhere in UNE attachment 6 or 10 -- that
4 that by itself isn't sufficient for evaluation of
5 whether it should or shouldn't be included in this
6 agreement?

7 A. The -- the mere fact that it is in the M2A
8 is -- is not necessarily stating that it should be
9 included in this agreement, although I do think it's a
10 legitimate option to fall back on.

11 Q. Okay. And my question then is: When you did
12 your evaluation in this case, did you do it with the
13 thought in mind that if it's in the M2A, it
14 automatically comes in or did you do it in terms of
15 evaluating outside of the M2A whether it makes sense to
16 have that provision in this particular contract?

17 A. It was a combination of both.

18 Q. Okay. And -- and I ask that because with
19 Issue 2, for example, it appears that Staff's
20 evaluation in that case as is reflected on page 5 of
21 your rebuttal testimony suggests WorldCom's
22 testimony -- or WorldCom's language be utilized -- and
23 it looks like solely on the business that it's in the
24 M2A; is that a -- a fair statement of what you have
25 laid out on page 5 of your rebuttal testimony?

1 A. Based on our re-- my reading of Southwestern
2 Bell's objections to the language, I would say that's a
3 fair assumption.

4 Q. Okay. And now, considering the testimony that
5 you've heard on this item and -- and the views that
6 you've expressed today, would you agree that an
7 evaluation of Issue 2 should go beyond merely whether
8 that provision is contained in the M2A today?

9 A. I don't want to give the impression that just
10 because it was in the M2A we said go for it.
11 Southwestern Bell's testimony both today -- or
12 throughout the hearing and also in writ-- prefiled
13 testimony gave me the impression that your argument was
14 that it would require you -- or your main dispute was
15 that it would require you to maintain dual networks to
16 at least the extent of that particular UNE or the
17 change.

18 And so the point I was trying to make was that
19 if that's the only argument, then you are already
20 anticipating that option in the M2A, so it's not
21 anything new.

22 Q. Okay. And -- and so as I took your testimony,
23 it was because it was in the M2A it's -- it's
24 acceptable here; is that not a fair characterization of
25 it?

1 A. I wouldn't say it's just because it's in the
2 M2A it's okay.

3 Q. Okay. Would you agree with me that the FCC
4 has network disclosure rules that apply when an ILEC
5 like Southwestern Bell wants to change some aspect of
6 its network?

7 A. Yes, I would.

8 Q. Okay. And the FCC rules contemplate notice
9 being given to the IXCs and to CLECs, for that matter,
10 in order to permit them to make whatever changes are
11 necessary in their own network, right?

12 A. That's my understanding, yes.

13 Q. And the FCC rules don't require the ILEC to
14 continue to maintain equipment or characteristics of --
15 of the switch or facilities if the network disclosure
16 rules have been followed, right?

17 A. I would agree that they don't require it. I'm
18 not sure if there's any caveats or any clauses that say
19 that it's -- they cannot provide it.

20 Q. Okay. And the FCC rules, then, don't obligate
21 the ILEC to continue to maintain an obsolete portion of
22 its network at its own expense at the request of a
23 carrier who might be affected by that, right?

24 A. That is correct. They do not require it to be
25 maintained.

1 Q. Okay. The -- the theory under the FCC rules
2 is if you give sufficient time notification, then each
3 party, both the incumbent LEC and the other carrier,
4 whether it's an interexchange carrier or a CLEC, bears
5 its expense to revise its network as is necessary and
6 appropriate, right?

7 A. There is an expense to revise its network; is
8 that --

9 Q. Yes.

10 A. -- what you said?

11 That's correct.

12 Q. Okay. Now, with regard to Issue 3, you agree
13 that the Commission has already ruled that Southwestern
14 Bell is not required to combine unbundled network
15 elements that are not currently combined in its network
16 for CLECs; is that a fair statement?

17 A. That's correct.

18 Q. Okay. And you quote from the March 25, 2001
19 order in Case No. TO--99-227 to that effect?

20 A. That's correct.

21 Q. Okay. And would you agree with me that on
22 page 14 of that same order the Commission found that
23 Southwestern Bell is not legally required to combine
24 unbundled network elements for CLECs?

25 A. I don't know about the page citation, but I

1 would agree that it's in there.

2 Q. Okay. And you recommend that Southwestern

3 Bell's position on this issue be adopted, right?

4 A. That's correct.

5 Q. And the additional language that you propose

6 is not intended to change or vary from what

7 Southwestern Bell's position is in the case only to

8 make it concrete and put it into the agreement itself;

9 is that a fair statement?

10 A. That's correct.

11 Q. Okay. With regard to Issue 5 on stand-alone

12 multiplexing, my understanding that your -- your

13 position on that is that Southwestern Bell's proposal

14 is consistent with and in compliance with the FCC's UNE

15 Remand decision; is that correct? I think that's on

16 page 8 and 9 of your testimony.

17 A. Yes, that's correct.

18 Q. Okay. If the Commission wants to add a new

19 unbundled network element, in some cases that's

20 permissible under the FCC rules, right?

21 A. That's correct.

22 Q. But one has to go through the necessary or

23 impair analysis as contained in the FCC's rules and as

24 informed by what the courts have said that means in

25 order to do that, right?

1 A. Yes.

2 Q. And you'd agree in this case there's been no
3 evidence on that score with regard to creating a new
4 unbundled network element stand-alone multiplexing,
5 right?

6 A. In testimony, I believe WorldCom may have
7 attempted to provide a necessary/impair analysis on
8 some issue. I don't remember if it was related
9 directly to multiplexing, but I do not feel that
10 it's -- if that's what they were attempting to do, that
11 it met the requirements of necessary and impair.

12 Q. Okay. Let me move to Issue 6, if we could.
13 That involves un-- unbundled dedicated transport,
14 right?

15 A. Yes, it does.

16 Q. And in this case you utilized language from
17 both parties in making your proposal, right?

18 A. Right.

19 Q. And is it your view that as -- as others have
20 testified on behalf of Southwestern Bell in this case,
21 that with regard to unbundled dedicated transport that
22 one end of the point-to-point piece must be at
23 either -- at either a Southwestern Bell premises or
24 both ends must be at the same requesting carrier's
25 switch or premises?

1 A. I think what you're getting at is the third
2 parties acting on behalf of the CLEC. And I would
3 agree with your -- what you just stated. Should I go
4 on or -- is that what you were asking me or --

5 Q. Well, I -- I think so. And let me clarify.
6 Your language that you're in -- proposing that's kind
7 of a melting of the two proposals is not intended to
8 impose an obligation on Southwestern Bell to provide
9 unbundled dedicated transport between two different
10 CLECs, is it?

11 A. No, it's not. When we read -- if it is --
12 is -- the proposed language had stopped at third
13 parties, then we would have definitely removed it. It
14 was the acting on behalf of CLEC that I guess caused
15 the confusion.

16 We were reading that differently than what's
17 been portrayed throughout the hearing. And so my
18 recommendation at this time would be that the third
19 party language be removed altogether.

20 Q. Okay. So if -- if we look at the decision
21 point list and -- and be specific on Issue 6, can we
22 identify what language that Staff would propose to
23 remove from its proposal? And I -- I -- do you have a
24 copy of that?

25 A. Yes, I do.

1 Q. Okay.

2 A. On my copy it's page 19 of Staff's evaluation.
3 Under Staff's evaluation column probably a little more
4 than halfway down, it says, between wire centers owned
5 by SWBT or CLEC or third parties acting on behalf of
6 CLEC; or third parties acting on behalf of CLEC is what
7 I'm proposing would be removed.

8 Q. Okay. And each time that phrase "or third
9 parties acting on behalf of CLEC" appears, then you --
10 you would propose to delete that?

11 A. That's correct.

12 Q. Okay. That would be both in Sections 8.0 and
13 8.2.1, and I'm not sure if it's present, but in 8.2.3
14 if it's there?

15 A. If it's there, yes.

16 Q. Okay. And it looks like it's in 8.2.1, right?

17 A. Yes, it is. On page 20 of my copy there's a
18 couple references to it.

19 Q. I think agree. Looks like there's two
20 references to the language, or third parties acting on
21 behalf of a CLEC, that it's in 8.2.1 that Staff would
22 propose be removed, right?

23 A. That's correct. Throughout the entire
24 language for this issue I only found it four times, but
25 I maybe missed something.

1 Q. Okay. We've covered four, I think, haven't
2 we?

3 A. Yes.

4 Q. Okay. Let me move to Issue 7, which involves
5 the promotional offerings in Section 14 of the M2A.
6 And as I read your testimony, you agree that references
7 to provisions of UNE combinations that are contained in
8 Section 14 should be removed; is that right?

9 A. That's correct.

10 Q. There are other portions of Section 14 of
11 attachment 6 of the M2A that would remain under Staff's
12 proposal?

13 A. If -- if you look at the DPL on Issue 7
14 beginning of page 24, there are some sections that we
15 are proposing remain with the changes of any removal of
16 any new com-- new UNE combinations.

17 Q. Okay. And that's what I wanted to explore.
18 You -- you don't have any changes to that at this
19 point; is that right?

20 A. To our position?

21 Q. Yes.

22 A. No.

23 Q. Okay. Would you agree with me that some of
24 the provisions that you propose be included in
25 Section 14 of Attachment 6 involve items that are

1 beyond what the Commission can legally impose? And you
2 may not be able to answer that from a -- you tell me if
3 you feel comfortable with that.

4 A. I'll word my response this way. If there are
5 options that are beyond what the Commission can legally
6 order, then I think they should be removed.

7 Q. Okay. Let's explore, then, from a policy
8 perspective and see -- see whether you agree they
9 should be removed and -- I'm sorry. Let me back up.

10 With regard to the provision of enhanced and
11 extended loop -- to the extent there's any provision
12 concerning that in -- in Section 14, you propose that
13 those be removed as well, right?

14 A. Right. That would be consistent with our
15 position.

16 Q. Would you agree with me that Section 14.3 and
17 Section 14.4 provide for voluntary commitments by
18 Southwestern Bell that it will continue to provide
19 unbundled network elements under the M2A for one year
20 for business customers and two years for residential
21 customers even if the FCC or court -- or a court
22 determines that it's no longer a UNE?

23 A. And I understood the whole question, but can
24 you give me the references again?

25 Q. Yes. In Sections 14.3 and Sections 14.4 --

1 I -- I can give you the more specific cites if you need
2 it.

3 A. No, that's okay. That's correct.

4 Q. In 14.3 the beginning language of that says,
5 for service of business customers beginning March 6th
6 of 2003 and then it -- it lists some additional items
7 that Southwestern Bell agrees to, right?

8 A. Correct.

9 Q. And in Section 14.4 it says -- the beginning
10 of it refers to, until -- for services to residential
11 customers beginning March 6th of 2004, and then it
12 lists a series of things that Southwestern Bell agrees
13 to, right?

14 A. Yes.

15 Q. And would you agree with me that the items
16 listed there under 14.3 and 14.4 were voluntary
17 proposals by Southwestern Bell that go beyond the
18 requirements of the act?

19 A. I don't know that I would classify them in
20 that way. I mean, I would agree that if they are
21 things that you included in the M2A; whether they go
22 beyond the requirements of the act, I don't know.

23 Q. Okay. Would you agree with me generally that
24 if an interconnection agreement contains an obligation
25 to provide a particular unbundled network element and

1 the FCC or court finds that that's -- no longer should
2 be considered an unbundled network element, that most
3 interconnection agreements, if not all, contain
4 intervening law provisions that allows the parties to
5 go back in and change their agreement to conform with
6 the subsequent FCC or court decision with regard to
7 classification as a UNE --

8 A. Yes.

9 Q. -- is that a fair statement?

10 A. Yes, it is.

11 Q. And what the M2A does in Sections 14.3 and
12 14.4, it contains a commitment by Southwestern Bell
13 that it won't enforce any intervening law change, but
14 will continue to provide that unbundled network element
15 for one year for business customers and two years for
16 residential customers, right?

17 A. Yes.

18 Q. Okay. And that absent that voluntary
19 commitment made in the M2A, you don't find that in any
20 other interconnection agreements that Southwestern Bell
21 has entered into, right?

22 A. Not that I'm aware of off the top of my head.

23 Q. It's essentially a -- a waiver of the normal
24 right to enforce an intervening law change, right?

25 A. From a non-legal standpoint I think you could

1 characterize that as -- as that.

2 Q. Okay. And a lot of these get into legal
3 issues and I'm -- I'm trying to stay on the policy
4 side --

5 A. Right.

6 Q. -- from your perspective.

7 Would you agree from a policy perspective that
8 if there's a -- an intervening law change, such as a
9 declaration that a particular item is no longer an
10 unbundled network element, that both parties ought to
11 have the right to enforce that particular change?

12 A. Well, I think if it was an ongoing issue, that
13 may be true. But I know we're talking about 2003 and
14 2004. And then there's also provisions in here that
15 CLEC -- Southwestern Bell and the CLEC can negotiate
16 as -- as far as pricing and that type of thing.

17 So I think there are some angles in here that
18 if the Commission wishes to follow this recommendation,
19 they could do so.

20 Q. But would you agree from a policy perspective
21 that normally a party does have the right to come back
22 in and modify the agreement to reflect changes that are
23 imposed by either the regulatory body or the -- or the
24 courts?

25 A. I think most interconnections have --

1 or agreements have that provision in there.

2 Q. Okay. And would you agree that in
3 Section 14.3 and Section 14.4 that both with regard to
4 business and residential customers that the M2A
5 language includes a commitment that Southwestern Bell
6 will continue to provide at TELRIC prices even if the
7 TELRIC standard is changed?

8 A. Well, and -- and that's where I wouldn't
9 necessarily agree with you, because it does say that
10 you can renegotiate.

11 Q. Okay. And where are you pointing to with
12 regard to the negotiations?

13 A. The one that I have just handy right here is
14 in 14.3.2.

15 Q. Okay. And what page is that on the Staff's
16 joint DPL?

17 A. Page 28. And it says -- reading from 14.3.2,
18 if the FCC or a court modifies after this agreement is
19 executed by the parties, the TELRIC methodology
20 applicable to unbundled network elements SWBT and CLEC
21 may renegotiate the applicable -- applicable prices for
22 unbundled network elements provided pursuant to -- and
23 it lists Section 251 C3 of Title 47 United States Code.

24 Q. Okay. And there's a similar provision in
25 Section 14.4, is there not?

1 A. I believe so, but I can't find it right --
2 right this minute. Yes. Uh-huh.

3 Q. But both 14.3, the provision that you read,
4 and 14.4 on that are modified by what happens -- or
5 what's provided in the beginning of Section 14.3 and
6 14.4, right?

7 In both cases for business customers, that
8 process won't start, the renegotiations and
9 discussions, until March of 2003; and for residential
10 customers that process of renegotiation wouldn't start
11 until March of 2004, right?

12 A. Yes, that is correct.

13 Q. Okay. And -- and so that's a significant
14 difference between what normally occurs in an
15 interconnection agreement and what Southwestern Bell
16 provided in the M2A, right?

17 A. I -- I must admit I did not read it that way
18 until you pointed it out that way.

19 Q. Okay. And would you agree with me then
20 that --

21 JUDGE RUTH: Mr. Lane, I'm sorry. I need to
22 interrupt and ask you to backtrack a little bit and
23 make sure that we're all following you. And I'll give
24 you some extra time, but we weren't following on the
25 references on page 28 where you were talking about.

1 MR. LANE: Okay. Do you --
2 THE WITNESS: Do you have page 28 now? Okay.
3 On page 28 it's -- of Staff's evaluation.
4 COMMISSIONER LUMPE: I have a blank.
5 JUDGE RUTH: Well, I mean, ours looks like
6 this (indicating). There's not anything under Staff on
7 page 28.
8 THE WITNESS: Oh, I'm sorry. Under Wor--
9 we're -- we're under WorldCom's language.
10 JUDGE RUTH: We are. We were confused.
11 THE WITNESS: I'm sorry.
12 BY MR. LANE:
13 Q. Okay. And let me try to clarify. On -- on
14 this particular point that we're talking about, Staff
15 is proposing to utilize the WorldCom language, right,
16 or at least --
17 A. Parts of it.
18 Q. If -- yeah.
19 A. Yes.
20 Q. And not 14.7 and not 14.8, but 14.3 and 14.4
21 Staff was proposing to utilize the WorldCom language,
22 but removing any reference to combinations or
23 requirement for combinations; is that a fair statement?
24 A. That's a fair statement, yes --
25 Q. Okay.

1 A. -- for those two provisions.

2 Q. Okay. And then with regard to the provisions
3 that would remain under Staff's proposal, what we were
4 just going through was we were looking at 14.3 and 14.4
5 with regard to the TELRIC standard and the commitment
6 that's in the M2A that Southwestern Bell won't go back
7 and renegotiate and change the prices, even if the
8 Supreme Court changes the TELRIC standard for a period
9 of one year for business customers and two years for
10 residential customers, right?

11 A. Right.

12 Q. And I think you had just indicated that you
13 hadn't realized until just now that the agreement not
14 to relook at appropriate prices if the TELRIC standard
15 change didn't kick in until 2003 for business and 2004
16 for residential.

17 And so my question then will be: Now, that
18 you understand that to be the purpose of the proposal,
19 would you agree that it should not be included in the
20 interconnection agreement between Southwestern Bell and
21 WorldCom?

22 A. For the provisions that address TELRIC, which
23 are 14.3.2, and, I believe, it's 14.4.2 also, I would
24 agree that it should not be included. I was reading it
25 that these provisions would be in the agreement until

1 such times that -- that if TELRIC was changed or any
2 similar changes, the parties would negotiate based on
3 those changes.

4 Q. Okay. And it -- it may be -- let me ask you
5 this: Is -- is the proper way to make this revision in
6 terms of Staff's proposal would be to remove the
7 reference in 14.3 on page 26 of the Staff's DPL the
8 words beginning, March 6th of 2003? And I'm not sure.
9 I'm -- I think that accomplishes what you're saying,
10 and I ask you if you agree with that.

11 A. It would work for 14.3.2, but I don't think
12 I've agreed to remove the re-- requirement on 14.3.1 at
13 this point.

14 Q. Okay. And the requirement on 14.3.1 relates
15 to what specifically?

16 A. You're getting me totally confused here.

17 Q. I'm sorry.

18 A. I thought that was the section about
19 maintaining the unbundled network elements. Did
20 we -- oh, that's -- that's the providing -- okay. Let
21 me say it this way.

22 Q. Okay.

23 A. I don't have a problem with removing the date
24 on the sections that reference pricing and the TELRIC
25 and that type of thing. But whichever section it is,

1 which I can't -- I can't find where we were talking
2 about, that references whether Southwestern Bell would
3 maintain the UNEs until that time, I don't know that
4 I'm ready to -- I'm not changing my position on that,
5 because that would be similar to our position on
6 Issue 2, which we've already explored.

7 Q. Okay. And then let me just backtrack a little
8 bit on that. Would you agree that the commitment that
9 Southwestern Bell has made in the M2A that's reflected
10 in WorldCom's proposed language with regard to
11 continuing to maintain unbundled network elements is a
12 time driven item that we won't do it for a period of
13 one year for business and two years for residential
14 customers; is that correct?

15 A. Could you repeat that? I'm not sure I
16 followed it.

17 Q. Sure. The -- you're in agreement that
18 the -- the waiver of the right to enforce any TELRIC
19 standard should be removed, to the extent that it
20 doesn't kick in until one year for business and
21 two years for residential customers, right? That's
22 what we just covered.

23 A. I think what you're asking me is am I in
24 agreement that the dates be removed?

25 Q. Right.

1 A. Yes.

2 Q. And -- and I want to explore now whether the
3 dates should also be removed with regard to changes
4 that the FCC or the court's order with regard to
5 whether an -- an item remains classified as a unbundled
6 network element.

7 A. Okay.

8 Q. And would you agree that for the same reasons
9 that it's appropriate to remove the date with regard to
10 TELRIC changes, that it's also appropriate to move --
11 remove the date with regard to unbundled network
12 element changes?

13 A. From my perspective I don't see the difference
14 between the issue here and in Issue 2. I mean, I
15 realize there's dates in there and there are some
16 changes as to whether it's classified as an unbundled
17 network element or not, but we're still talking about
18 changes to the network and what you have to pro--
19 provide to CLECs and so the principle is the same.

20 Q. Okay. And let me just explore that real
21 briefly. Would you agree that Issue 2 involves
22 Southwestern Bell making a change to its network,
23 whereas the issue that's in Section 14 involves whether
24 an item that continues to be available is classified as
25 an unbundled network element or not?

1 A. Yes.

2 Q. Okay. And you don't see those as different?

3 A. It would still have to be made available if --

4 whether it's an unbundled network element or not.

5 Q. Okay. But the difference is if it's no longer

6 classified as an unbundled network element -- if

7 there's an obligation to provide it, it would be on a

8 non-discriminatory basis and market-based prices,

9 right?

10 A. Okay. I see what -- I see where you're going.

11 You're not saying you don't have to provide it at all,

12 you're saying it would be under different standards.

13 Q. And isn't that true that if the FCC or the

14 courts find that something is no longer an unbundled

15 network element that you -- you then look to see, well,

16 is there an obligation to continue to provide it, and

17 if so, then it -- it has to be done, but it can be done

18 at market-based prices; is that fair?

19 A. I would -- I would say that's fair.

20 Q. And that's what happened with OS and DA,

21 right? It was originally classified as an unbundled

22 network element. On the UNE Remand, the FCC determined

23 that it was no longer such, but Southwestern Bell had

24 an obligation otherwise under the act to continue to

25 provide it, but may charge market-based prices, right?

1 A. Yes.

2 Q. And is that type of scenario what ought to
3 follow if some other item is subsequently determined
4 not to be an unbundled network element?

5 A. I -- I would agree that it could be removed
6 also as far the date restriction. I was reading it
7 that you would not provide it at all.

8 Q. Okay. And -- and so -- and I haven't looked
9 to know whether just removing the date on -- on it does
10 it or not, but in principle you would agree that it
11 should be treated like OS and DA that if the court
12 subsequently determines that it's no longer an
13 unbundled network element, then you look to see whether
14 Southwestern Bell has another obligation under the act
15 to provide it, and language would have to be developed
16 to make sure that that obligation is satisfied?

17 A. Yes, I would agree with that.

18 Q. But it would be at market-based prices in that
19 circumstance?

20 A. More than likely. I mean, I'm not gonna
21 preclude other options, but --

22 Q. Okay. And on Issues 10 and 11, I -- I believe
23 your corrections to your testimony may have covered
24 that. But you're not proposing that anything in the
25 docket 438 have some impact on what the prices are for

1 either loops or switching under this agreement, right?

2 A. That's correct on Issue 11. Issue 10, I think
3 I need to clarify a little bit. Our proposal is the
4 M2A rates. In Case No. 438 there was an issue as to
5 what was appropriate to be included in that case. The
6 Staff, I believe it was in February of 2001, filed a
7 list of what it considered the -- the UNE's at issue in
8 that case.

9 Some of the joint sponsors, which were the
10 CLEC witnesses, said that there were other items that
11 were not identified. And I believe this -- the way
12 this issue was worded was one of those items. And so
13 what I was only saying is that if the Commission in 438
14 does make a determination that that item would have --
15 should have been included in that case and comes up
16 with a rate other than the 97-40 rate, which is already
17 in place plus any adjustments that may have been made
18 in the M2A, then those dis-- that decision should flow
19 over to this for this particular item just like we are
20 recommending that the 438 decision flow over into the
21 interim rates in the M2A.

22 Q. Okay. I think I followed that, but let
23 me -- let me be sure.

24 A. Okay.

25 Q. It's my understanding, and ask you if you

1 agree, that the 438 case doesn't deal with the
2 recurring price for 2-wire analog loops under the M2A,
3 right?

4 A. That was our position in the 438 case, yes.

5 Q. Okay. And assuming the Commission agrees with
6 that, then you're not recommending that anything out of
7 the 438 case impact the price of loops that the
8 Commission might set in this proceeding?

9 A. That's correct. Only if they take a different
10 position on that.

11 Q. Okay. Now, with regard to Issue 25, it's my
12 understanding that your proposal there is that we
13 utilize the CLEC handbook for purposes of filling out
14 the language for the bona fide request processes; is
15 that a fair statement?

16 A. I'm recommending the special request process,
17 and to the extent that that doesn't cover some of
18 Southwestern Bell's concerns, including the CLEC
19 handbook process or if that takes care of everything,
20 then it would be just the CLEC handbook process.

21 Q. Okay. And -- and your recommendation is
22 intended to permit Southwestern Bell to be compensated
23 for doing work in the -- either the special request
24 process or bona fide request process, however we term
25 it?

1 A. Yes.

2 Q. Okay. On Issue 47, I believe you discuss that
3 on pages 24 and 25 of your testimony. And the -- the
4 only thing I want to focus on -- or issue that I have
5 is in lines 24 through 26.

6 And in that -- in those lines you say that the
7 rate should be provided at Southwestern Bell's cost and
8 the most appropriate way to estimate costs would be a
9 forward-looking methodology.

10 Would you agree with me that once the FCC has
11 determined that OS and DA is no longer an unbundled
12 network element that TELRIC pricing no longer applies
13 to it?

14 A. I would agree that TELRIC pricing no longer
15 applies.

16 Q. And would you agree that the FCC has found and
17 this Commission has found in connection with 271 that
18 market-based pricing for OS and DA is appropriate?

19 A. If you look at our recommendation in this
20 issue in the DPL, we recognize that the Commission did
21 approve a market-based rate and we -- although say that
22 we feel this may be a more appropriate way, we do not
23 have a problem with the market-based rate.

24 MR. LANE: And that -- that was the intent of
25 my question. That's all I have. Thank you very much.

1 JUDGE RUTH: WorldCom?
2 CROSS-EXAMINATION BY MR. CURTIS:
3 Q. Good morning, Ms. Dietrich.
4 A. Good morning, Mr. Curtis.
5 Q. Let's start -- if you would refer to page 6 of
6 your rebuttal testimony looking at Issue 3, and
7 beginning it on line 23. You conclude with a
8 recommendation that says, therefore, Staff recommends
9 the Commission approve SWBT's proposed language for
10 attachment 6 UNE Sections 2.4, 2.4.1, 2.6 and 2.8 with
11 the following changes, bolded for easy reference. And
12 then we're showing -- continuing on to page 7.
13 You then have excerpted portions of 2.4 and
14 2.4.1 with that bolded language, which is including
15 existing UNE combinations.
16 A. Yes.
17 Q. Are you there?
18 A. Uh-huh.
19 Q. Was I -- I -- and -- and I didn't know whether
20 you had intended your -- your previous at line -- at
21 the previous page, line 25 you included Sections 2.6
22 and 2.8. I did not see those on the following page nor
23 could I find them in the DPL.
24 A. If you'll give me a moment?
25 Q. Sure.

1 JUDGE RUTH: While she's checking that, can
2 you refer me again to where you're at?

3 MR. CURTIS: I am at page 6 of rebuttal
4 testimony, line -- it's actually line 25 at the bottom
5 of page 6. She references various sections, paragraph
6 numbers -- and I'm looking right now at 2.6 and 2.8,
7 Your Honor.

8 JUDGE RUTH: Thank you.

9 THE WITNESS: The 2.6 and 2.8 in my
10 testimony -- I'm not sure where the 2.6 came from,
11 because I do not see in the DPL 2.6 language.

12 BY MR. CURTIS:

13 Q. Right. I couldn't find either one, but --

14 A. Okay. 2.8 is on page 8 of the Staff's
15 evaluation under Southwestern Bell's language, except
16 upon request Southwestern Bell will not separate
17 requested network elements -- that's Southwestern Bell.
18 It says, are currently combined.

19 Q. I'm sorry. Is this page 8 of the DPL?

20 A. Yes.

21 Q. Under Staff's evaluation?

22 A. Under Southwestern Bell's language.

23 Q. Okay.

24 A. And we weren't proposing any changes to their
25 language.

1 Q. Okay.

2 A. Other than it seems like it needs some

3 grammatical work, but --

4 Q. I see that. Okay. Did you -- did you intend
5 to have inserted in paragraph 2.8 the language that you
6 had discussed that -- which is including existing UNE
7 combinations, and if so, where would that go?

8 A. Well, I think -- I think that's implied,
9 because it says they will not separate existing -- or
10 separate requested network elements. And in -- in
11 order for them to separate, it would be my
12 understanding that they would already have to be
13 combined.

14 Q. Okay.

15 A. So, I mean, we could -- we could add the
16 language, but I think it's redundant.

17 Q. Right. Okay. So you're really not -- and
18 then with regard to 2.6, are we just eliminating that?

19 A. Yes. I don't see any Southwestern Bell
20 language, 2.6.

21 Q. Okay. Thank you.

22 Now, did you intend for the -- the language
23 that you have bolded in -- in your testimony at page 7
24 be included -- be including existing UNE combinations,
25 which is bolded throughout, to remain bolded throughout

1 in the -- in the agreement if adopted by the

2 Commission?

3 A. No. We were just bolding it to point out

4 where Staff made changes.

5 Q. Okay. Now, was it your intent with regard to

6 the insertion of the -- including existing UNE

7 combination's language to -- to reflect what WorldCom

8 or MCImetro should -- should receive that would be in

9 parity with what Southwestern Bell itself receives?

10 A. It was just to clarify -- add language to

11 clarify that this Commission has already made the

12 determination and our recommendation is that it include

13 existing UNE combinations.

14 Q. Okay. Can you give me a definition for

15 existing UNE combinations?

16 A. Combinations that are currently combined in

17 Southwestern Bell's network --

18 Q. Okay.

19 A. -- or in any ILEC's network.

20 Q. Can you give me an example, one or two?

21 A. I'm not sure what type of example you want. I

22 mean, like they were doing yesterday where it's to a

23 house and that type of thing?

24 Q. Sure. I mean, if you can think of any others

25 that you're familiar with.

1 A. Well, I think the examples that were discussed
2 yesterday were that Southwestern Bell already provides
3 service to a house and the CLEC takes over that
4 customer, that would be an existing UNE combination.

5 Q. All right.

6 A. I think there was another scenario where it
7 was a vacant house and there was some question as to --
8 to whether there would be existing combinations under
9 the assumption that Southwestern Bell cannot uncombine
10 previously combined elements without an affirmative
11 request.

12 Then I would say -- say assuming that that
13 house was vacant because someone lived there previously
14 and had some sort of telephone service, then there
15 would be an existing UNE combination to that vacant
16 house.

17 Q. Okay. What if there was a -- at that existing
18 vacant house an additional second line that had not
19 been ever hooked up?

20 A. Then that would not be an existing
21 combination.

22 Q. That would not?

23 A. No.

24 Q. If it had been hooked up as a second line, it
25 wouldn't be an existing combination?

1 A. If there was already a second line at that
2 location and for whatever reason somebody -- another
3 CLEC hadn't previously requested that it be combined,
4 then it would be combined.

5 Q. It would be?

6 A. Yes.

7 Q. So if there was, in fact, a second line to the
8 existing vacant house along with the first primary
9 line, which had been deactivated, both of those lines
10 would be existing UNE combinations?

11 A. That's my understanding, because they're both
12 already deployed in Southwestern Bell's network.

13 Q. Okay. Okay. At page 12 of your rebuttal
14 testimony at line 13 and line 17, the reference is made
15 to new UNE combinations. And I understand that
16 language will be deleted, but I'm just curious if you
17 could give us a definition of what you would consider
18 to be a new UNE combination?

19 A. Well, I think as part of the new M2A,
20 Southwestern Bell agreed to combine UNEs that had not
21 been previously combined.

22 Q. Uh-huh.

23 A. And so that was a provision that they were
24 agreeing to in the M2A that they were not willing to
25 provide WorldCom and are not required to by the FCC.

1 And so that was the extent of removing any references,
2 because that was M2A specific. And since this was
3 being negotiated, it was not part of the M2A.

4 Q. Can -- can you give me an example of a new UNE
5 combination would be?

6 A. Well, I think going back to what we were just
7 talking about, the vacant house, where you asked if the
8 second line -- if the customer requested a second line
9 but did not already have one, then that would be an
10 example.

11 Q. Okay. And in a -- if a CLEC were requesting a
12 new UNE combination, the CLEC would have to perform the
13 work itself to bring that about?

14 A. Outside of the M2A, yes.

15 Q. Outside. Right.

16 Okay. What is your understanding of the
17 necessary/impair -- and impair standards that should
18 apply to CLECs?

19 A. In order for a State Commission to find a UNE
20 that the FCC has not al-- already designated as a UNE,
21 the necessary and impair standard would have to be
22 performed. And without going to the UNE Remand Order,
23 I don't know all of the ins and outs.

24 But there has to be a finding that the CLEC
25 would be either -- would be impaired without access to

1 that UNE. There's some con-- considerations as far as
2 whether whatever they're requesting is proprietary or
3 not, so there are some examinations that have to be
4 performed in order to make that determination.

5 Q. Okay. From a general policy standard or
6 perspective, how -- how do you understand the term
7 non-discriminatory access?

8 A. I think -- and I don't know if this is
9 answering your question or not -- but I think the ILEC
10 is required to provide non-discriminatory access to
11 whatever we're referring to in parity with what it
12 provides itself unless there are some specific
13 requirements, you know, if there's the UNE Remand Order
14 or that type of thing that would go beyond that.

15 Q. Okay. So in all -- in all respects the ILEC
16 should offer to the CLEC the same service it -- it's
17 office receives and at the same price?

18 A. No. I wasn't --

19 Q. You --

20 A. I -- I wouldn't say at the same price.

21 Q. Oh, okay.

22 A. I mean --

23 Q. What would you say --

24 A. I was --

25 Q. -- regarding the price?

1 A. -- just talking about as far as, like, quality
2 of service and that type of thing --
3 Q. Okay.
4 A. -- has to be provided in parity.
5 Q. But -- okay. So excluding price for the time
6 being --
7 A. Okay.
8 Q. -- all other aspects of the service must be
9 identical to that it provides itself?
10 A. I don't want to preclude any.
11 Q. I know.
12 A. I don't necessarily want to say all, but in
13 general.
14 Q. In general, you would agree with that?
15 A. Yes.
16 Q. Thank you.
17 Let's turn to page 5 and look at issue --
18 page 8, excuse me, and look at Issue 5, which is at the
19 bottom of the page regarding stand-alone multiplexing
20 as a UNE.
21 What is your understanding of ancillary
22 equipment when used in conjunction with UNES?
23 A. Ancillary would be separate to -- added on to.
24 I don't --
25 Q. Uh-huh.

1 A. I don't know the technical phrasing for it.
2 Q. Does that -- does that phrase have any special
3 meaning to you or --
4 A. I'm not sure.
5 Q. Okay.
6 A. I'm not sure what you're asking.
7 Q. Okay. Isn't multiplexing used in kind
8 of conjunction with loops as well as with UNEs?
9 A. I'm not sure.
10 Q. Not sure?
11 A. I know multiplexing is an electronic -- that's
12 it -- yes. Yes. I'm sorry.
13 Q. It is?
14 A. Yes.
15 Q. Okay. And is multiplexing part of -- of a UNE
16 functionality as you would understand those terms?
17 A. It's been described as an electronic that's
18 attached to the loop, and so as such it would kind of
19 beef up, for lack of a technical word --
20 Q. Uh-huh.
21 A. -- the function of the loop.
22 Q. Okay. And you do understand that, I guess,
23 that if Sections 8.2.1.5.1 and 8.2.1.5.2 are -- are
24 struck. With the striking of those sections, what is
25 your understanding of how WorldCom and other

1 CLECs -- well, let's just say WorldCom -- would order
2 dedicated transport to include multiplexing?

3 A. Give me a second to review --

4 Q. Sure.

5 A. -- that language, please.

6 The multiplexing would be ordered as part of
7 the dedicated transport. The language proposed by
8 WorldCom implies to me that it's being viewed as an
9 unbundled network element. And my understanding from
10 the UNE Remand Order is it is not an unbundled network
11 element. It is a -- an electronic added to that un--
12 unbundled network element and as such it's part of the
13 functionality. It's part of the unbundled network
14 element.

15 Q. Okay. So with respect to the practicalities
16 of ordering it, how would we do it?

17 A. Well, I don't -- I don't know Southwestern
18 Bell's process per se, but I would imagine if you want
19 an unbundled de-- unbundled dedicated -- what are we
20 on? If you're wanted dedicated transport with
21 multiplexing functionality --

22 Q. Right.

23 A. -- which is what's in -- the issue in this
24 case, then when you order that dedicated transport, I
25 assume you would have to clarify what the multiplexing

1 functionality as opposed to without. But I don't know
2 for sure.

3 Q. Okay. Same question with regard to the
4 pricing of the -- of the dedicated transport. With the
5 deletion of those sections, how would we determine
6 that -- the price?

7 A. I believe that there's pricing for
8 multiplexing in the appendix, but I'm not positive.

9 Q. Are you sure of that?

10 A. No, I'm not positive off the top of my head
11 without going and looking.

12 Q. Okay. Okay. Let's move on to Issue No. 8,
13 page 13 of your rebuttal. And there we're talking
14 about CLECs impaired without access to local switching
15 as a network element.

16 Under what conditions do you believe a CLEC to
17 be impaired if existing service provided by
18 Southwestern Bell is terminated?

19 A. Well, I don't -- I don't think it's just a
20 matter of saying under what circumstances. I think the
21 necessary and impair analysis would have to be
22 performed; is that what you --

23 Q. Right. Can you -- can you imagine a
24 hypothetical?

25 A. Can you repeat your preceding question again?

1 I'm sorry.

2 Q. Okay. Under what conditions to believe a CLEC
3 to be impaired if the existing service provided by
4 Southwestern Bell was terminated?

5 A. I don't know of a specific -- I mean, to give
6 you a specific example, I'm not sure.

7 Q. Okay. Let's take a look at Issue 14 at page
8 16. And you were talking about Digital Cross-Connect
9 Systems. And could you clarify what sections are to be
10 stricken regarding the DCS?

11 A. If we go to the DPL on page 67 that may be the
12 easiest way.

13 Q. Uh-huh.

14 A. Excuse me. Page 6-- 58. The language under
15 Staff's column is what we're proposing, and then all
16 other language would be removed.

17 Q. Okay. Is it Staff's intent that WorldCom
18 would never be able to use DCS, then, for
19 reconfiguration purposes in conjunction with dedicated
20 transport?

21 A. It's Staff's position that dedicated -- or
22 DCS would be provided in the same manner that it is
23 provided to an IXC, so --

24 Q. So it should not be part of this agreement; is
25 that what you're saying?

1 A. Basically. It -- I mean, if it's being used
2 as an IXC, then WorldCom can use it. But as a CLEC, it
3 would be under the same terms and conditions as it is
4 provided to an IXC, which would be pur-- pursuant to
5 the access tariff.

6 Q. Okay. But couldn't WorldCom as a CLEC order
7 it?

8 A. Are you finished?

9 Q. Yeah.

10 A. Oh, okay.

11 Q. Yeah.

12 A. Order DCS?

13 Q. Right.

14 A. I don't think it's precluding you from
15 ordering it. It's just saying it has to be
16 ordered -- or has to -- it would be provided in the
17 same manner as provided to an IXC.

18 Q. Okay. And so it doesn't need to be in the
19 ICA?

20 A. Correct. It's -- it's not a UNE -- or you
21 would not be using it as a UNE. You would be using it
22 pursuant to the access tariff.

23 Q. Uh-huh. Okay. And then one -- one final
24 clarifying point on Issue 45 at page 24 of your
25 rebuttal testimony.

1 A. I'm sorry. Issue 45?
2 Q. 45.
3 A. Okay.
4 Q. Top page of page 24.
5 A. Yes.
6 Q. Regarding charge for a central office access.
7 A. Yes.
8 Q. What is -- what was your understanding of what
9 the charge for central office access was for?
10 A. In -- this is one of the items that we changed
11 in the DPL after reviewing --
12 Q. Right.
13 A. Okay. And --
14 Q. So you -- you're -- you've actually modified
15 your view and modify your -- your answer in your
16 testimony here to conform with your DPL statement?
17 A. No, we -- I haven't -- we haven't changed the
18 testimony at all to conform with the DPL. The DPL is
19 our recommendation.
20 Q. Okay. Help me out. At line 4 of your
21 rebuttal testimony at page 24 --
22 A. Okay.
23 Q. -- you say, therefore, Staff has no objection
24 to the inclusion of the central office access charge
25 and corresponding language.

1 A. Okay. Let me --
2 Q. Wasn't that language removed?
3 A. Let me turn to page -- or to Issue 45 in the
4 DPL. Just one second.
5 Q. Okay. And I think that's at page 213?
6 A. Yes, it is.
7 I think what we're saying in the DPL is that
8 the central office charge is not appropriate and we're
9 supporting WorldCom -- WorldCom's language.
10 Q. Right. Okay. Well, I -- I thought
11 what -- your final -- your answer at line 4 was
12 suggesting that it would be adopted -- you would be
13 adopting Southwestern Bell's?
14 A. Right. In -- in the testimony we were rec--
15 recommending the charge.
16 Q. Right.
17 A. After reading the rebuttal testimony and
18 receiving the additional information, we said the
19 charge is not appropriate and WorldCom's language is
20 correct.
21 Q. Right. So there will be no central office
22 access charge?
23 A. Correct.
24 Q. Correct.
25 Okay. What was your understanding of what

1 the -- what the charge was originally intended to
2 cover?

3 A. To be honest without seeing everybody's
4 testimony off the top of my head, I -- I can't
5 remember. I just remember that it seemed reasonable
6 for there to be a charge at the time, based on
7 testimony that we had seen at that point.

8 Q. Okay. But when Southwestern Bell withdrew it,
9 you withdrew it also?

10 A. When -- Sou-- I think Jerry Hampton --
11 Southwestern Bell Witness Hampton clarified the purpose
12 of the charge and that it was not applicable. And so
13 basically we found your language acceptable at that
14 point.

15 MR. CURTIS: Great. Thank you.

16 I have nothing further.

17 THE WITNESS: Okay.

18 JUDGE RUTH: I think we should take a break
19 now for lunch. It is five minutes 'til twelve. We'll
20 start back at one o'clock. I'm sorry. Mr. Lumley,
21 was -- Mr. Lane, did you want to say something?

22 MR. LANE: Your Honor, I would ask that
23 Mr. Kirksey be excused. Mr. Kirksey -- he's catching
24 the same plane as Mr. Oyer, if that's possible.

25 JUDGE RUTH: I don't think there are any

1 objections to that.

2 Mr. Kirksey may leave also.

3 MR. LANE: Thank you very much.

4 MR. KIRKSEY: Thank you very much.

5 (Witnesses excused.)

6 JUDGE RUTH: We're off the record now.

7 Thank you.

8 (A RECESS WAS TAKEN.)

9 JUDGE RUTH: Okay. Let's go back on the

10 record, please. We're back from the break for lunch.

11 When we left, I believe that WorldCom had finished

12 their cross-examination; is that correct?

13 MR. CURTIS: Correct.

14 JUDGE RUTH: Then we will move to questions

15 from the Bench.

16 Commissioner Murray?

17 COMMISSIONER MURRAY: Thank you.

18 QUESTIONS BY COMMISSIONER MURRAY:

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. I just have a few questions for you. On issue

22 No. 3 is your sole reason for recommending Southwestern

23 Bell's language the fact that we used similar language

24 in TO-99-227?

25 A. Yes and no. The -- yes, because the language

1 was used in 99-227, but beyond that, it's based on what
2 the FCC has stated, so I think it's still appropriate.
3 And it was also found in the previous arbitration, so I
4 think we have a history of the language being found
5 appropriate.

6 Q. Okay. Issue No. 22?

7 A. Before you get started, if I may clarify.

8 This is an issue that Mr. Cecil addressed and I
9 think --

10 Q. Okay.

11 A. -- it's summed up in his testimony, but he is
12 prepared to answer questions on it.

13 Q. All right. I will wait and ask him. It
14 didn't' -- I don't believe it indicated whose testimony
15 this --

16 A. Right. It was --

17 Q. -- corresponded to.

18 A. It was when we were going through trying to
19 match things up we noticed that somehow 22 got left off
20 the list.

21 Q. All right. Thank you.

22 A. Uh-huh.

23 Q. Then on Issue No. 46, would you clarify there
24 for me why Southwestern Bell's proposed language would
25 not be consistent with permanent -- permanent rates

1 which were set in TO-97-40?

2 A. I think Southwestern Bell's proposed language
3 is proposing a charge in addition to rate in 97-40.
4 And the -- the rate in 97-40 and this particular rate
5 have the same name, but I think they are talking
6 about -- well, I -- I guess I should say I'm not sure
7 if they're talking about two different things.

8 I think Southwestern Bell is saying something
9 different. I think WorldCom disagrees. And at this
10 point I'm still not clear as to if it's one and the
11 same thing or not.

12 Q. Is it an accurate statement or is it an
13 appropriate statement that a CLEC should have to pay a
14 non-recurring charge when the CLEC modifies a signaling
15 point code?

16 A. I think the charge is appropriate. I think
17 the issue revolves around whether the charge has
18 already been calculated or not as part of 97-40.

19 Q. And if it has, where would that be covered in
20 the -- this interconnection agreement?

21 A. The -- the charge itself if -- just one
22 second. Let me -- the -- the wording on it is global
23 title translation. I'm not sure if in the agreement
24 itself there is an item that's called that in the
25 pricing appendix.

1 That is the terminology that they're using for
2 the price they're proposing, and also the price that
3 was set in 97-40. And I'm assuming that it shows up
4 somewhere on the appendix pricing list, but I'm not
5 positive as -- as to its exact location.

6 Q. So your reason for suggesting that SWBT's
7 language be rejected for Issue No. 46 is that you think
8 it allows them to collect an additional charge for the
9 same service?

10 A. It's a different charge for what looks like
11 was already set in 97-40, so we would have potentially
12 either two different rates or being charged twice for
13 it.

14 Q. But you're not totally sure?

15 A. No, I'm not. The -- the wording is the same.
16 The title is the same, but Southwestern Bell is saying
17 that there's a difference because one is an initial --
18 like an input to start up that cer-- that item and the
19 charge they're proposing is strictly for change.

20 Q. Okay. Now, do you think that they should be
21 able to -- to charge for cha-- making a change?

22 A. Yes.

23 Q. All right. And when I -- when Mr. Kirksey was
24 being questioned earlier, he indicated that the cost
25 is -- is greater to do a conversion than a single

1 input. But Southwestern Bell is only proposing it's
2 the same charge to do a change as it is proposing for a
3 single input?

4 A. Right. I heard him say that. I thought it
5 was two different rates. That the -- the 97-40 rate
6 was different than what we're proposing in this
7 rate -- I mean, in this case. From what he said --
8 he's saying, it appears to me that they're saying it's
9 not.

10 Q. Okay. And -- and if it is the same, you're
11 not suggesting that it shouldn't be charged; is that
12 right?

13 A. That's right.

14 COMMISSIONER MURRAY: I believe that's all I
15 have. Thank you.

16 THE WITNESS: Okay.

17 JUDGE RUTH: Commissioner Lumpe?

18 COMMISSIONER LUMPE: Thank you.

19 QUESTIONS BY COMMISSIONER LUMPE:

20 Q. Mrs. Dietrich. Am I right?

21 A. Yes.

22 Q. Okay. Issue 34 you said you have no
23 recommendation yet. Do you have one now?

24 A. My indication according to -- or my
25 understanding, I should say, according to the DPL --

1 the final offer DPL that was filed by the parties was
2 that this issue has been resolved between the two of
3 them.

4 Q. Okay. So that one is resolved?

5 A. Yeah.

6 Q. The -- the standard on determining whether
7 something is a UNE, is it necessary and impair?

8 A. Right.

9 Q. Then must it meet both of those or can it only
10 meet one?

11 A. The -- the way it's set up in the FCC's UNE
12 Remand Order, I think, without actually going through
13 the entire language, they're -- it's two different
14 types of things. You either find that it's necessary
15 or you find that it's impair.

16 Q. So it's necessary or impair instead of
17 necessary and impair?

18 A. Right. The standard itself is necessary and
19 impair, but I think you only have to find one way or
20 the other because they each have their own set of
21 definitions of what would fall underneath the standard.

22 Q. So you don't need to meet both, though?

23 A. I don't believe so.

24 Q. Okay. So if there was an argument that it
25 wasn't necessary, that would be sufficient?

1 A. Uh-huh.

2 Q. And you wouldn't have to also go ahead and

3 then find that the party would be impaired?

4 A. As --a s long as it met what fell under

5 necessary.

6 Q. So it -- it really not a necessary and impair,

7 it's a necessary or impair, correct?

8 A. I guess that -- that would be better

9 terminology.

10 Q. Okay. Is there a UNE market?

11 A. I'm not sure. As far as --

12 Q. Is it -- I mean, is there a market out there

13 for UNEs that or -- or is that something that one would

14 look at to determine --

15 A. Oh, okay. For a CLEC to provide service in

16 Southwestern Bell's territory, then the market

17 if -- would consistent of Southwestern Bell unless a

18 CLEC would be facilities based or a pure reseller.

19 If it was say the territory of Sprint, then

20 Sprint would be the provider of the UNEs unless a -- a

21 CLEC with facilities based and had their own.

22 Q. Okay. So for some -- for some items

23 if -- would that -- would that come into play in

24 determining necessary and impair that there is a market

25 for UNEs that -- that there are a lot of entities out

1 there providing these UNEs to CLECs?

2 A. No, not -- not as far as UNEs. The necessary
3 and impair standard looks at things, if the ILEC did
4 not provide the CLEC access to this unbundled
5 network -- or this element, would they be able to still
6 provide service? Are there alternative providers? For
7 instance, could they get it from cable? Could they get
8 it from, like, the directory assistance?

9 There are multiple providers of mult-- of
10 directory assistance, things like that. So to that
11 extent, there is a market -- you know, like, for
12 directory assistance there is.

13 Q. Uh-huh.

14 A. But as far as the actual network elements,
15 they would have to look at would the CLEC be able to
16 provide service without access to that. And then
17 there's also, like, a -- as I mentioned earlier, and
18 part of it is -- and I'm not sure which is necessary
19 and which is impaired and how it breaks out, but part
20 of it has to do with whether access to that particular
21 UNE would be propri-- proprietary -- whether this ILEC
22 has proprietary interest in that UNE.

23 Like they were talking about early -- earlier
24 some software was proprietary. So it's that types of
25 things that are looked at with the necessary and impair

1 standard.

2 Q. And I guess what -- what I'm really trying to
3 discern if -- if there -- if there is only one
4 provider, how do you set market prices?

5 A. The -- the UNEs would be set at a TELRIC
6 price. The --

7 Q. Right.

8 A. Right. Not at the market price.

9 Q. But if -- if you -- and that's why I'm asking.
10 Is there a market out there for the other items that
11 might be requested then that are not considered UNEs,
12 but is there a market there that prices can be set?

13 A. If it's something that's not a UNE, then --

14 Q. The assumption is --

15 A. -- the assumption --

16 Q. -- there's a market out there?

17 A. -- is that -- that there's a market,
18 because -- right.

19 Q. All right. Can you explain to me the
20 difference between bona fide and special request that
21 is -- is not just semantics, that it's something really
22 distinct?

23 A. The parties have identified two issues with
24 that. The -- what to call it, bona fide or special
25 request, and I think they both agree it doesn't really

1 matter. But underneath that, Southwestern Bell has
2 several items that they are wanting to include in their
3 process, whether it be called bona fide or special
4 request.

5 And, for instance, a deposit and things like
6 that; whereas, the special request process may not
7 necessarily have some of the additional things that
8 Southwestern Bell is requiring. And so our
9 recommendation is go with the special request process,
10 which you have multiple CLECs using at this time, and
11 modify it to the extent -- some of their other concerns
12 were should they be able to recover their costs? There
13 should be a standardized form.

14 The CLEC handbook has some standardized
15 pricing information in it and also has a standardized
16 form. So we're saying to the extent that the special
17 request doesn't cover what Southwestern Bell needs,
18 then supplement that with the CLEC handbook. Or in its
19 place, if the CLEC handbook includes everything that's
20 in the special replace -- or excuse me -- special
21 request, then just use the CLEC handbook in itself.

22 Q. Okay. The -- there's been a lot of discussion
23 about the combination of the UNEs and whether it's
24 allowed or -- or not.

25 A. Uh-huh.

1 Q. Was -- was there -- in the 97-40 case which --
2 wasn't there -- in there that pro-- provision that Bell
3 had to combine?

4 A. I'm not familiar with it. I know there's been
5 some decisions from this Commission since then that
6 have said they do not have to combine. And so I'm
7 assuming that if there had been a provision in 97-40
8 that said you do have to, then the Commission would
9 have either been consistent or said we previously said
10 this. Now we find that. And I -- I haven't seen that
11 case.

12 Q. Okay. Well, I may need to go back then and --
13 and look at that. Because it seemed to me that there
14 would -- there was a sequence of events that that
15 would -- provision was there perhaps before some
16 court or some ruling by the FCC said they didn't need
17 to. And then I thought that was carried over into the
18 99-227 case, but I guess I need to check that out.

19 And I -- I was curious about that, because I
20 assumed the 97-40 one is -- has expired; is that
21 correct? Would that have -- would that arbitration and
22 interconnection agreement have expired?

23 A. The interconnection agreement has been
24 replaced with the recent AT&T/Southwestern Bell
25 arbitration. The rates are still being used for

1 several things.

2 Q. And I thought there was discussion when we
3 were doing that about this combination issue and
4 perhaps --

5 A. You -- you saying that it may been --

6 Q. -- it's being taken --

7 A. The 97-40 case was in the '96-'97 time frame.
8 And the UNE Remand Order, which is where it
9 specifically says that the ILEC does not have to
10 provide -- or does not have to combine combinations --
11 or combine UNES -- excuse me -- is dated in 1999, so
12 it -- that could be that it was -- this Commission did
13 make that decision and then it was followed up by the
14 UNE Remand Order.

15 Q. Okay.

16 A. I just -- I'm not familiar with that.

17 Q. Then I think it would be good to determine
18 that. Let's see. Yes, because I -- I think it might
19 be important to --

20 JUDGE RUTH: Well, I'll -- I'll ask --

21 COMMISSIONER LUMPE: -- to know what came out
22 in 97-40 and what was continued on in other -- whether
23 it was continued on. And I -- and I had the feeling it
24 was in the -- in the M2A and --

25 THE WITNESS: No. If --

1 JUDGE RUTH: Is it acceptable that the parties
2 respond to that question in their briefs, Commissioner?
3 COMMISSIONER LUMPE: That would be --
4 THE WITNESS: Or I can try -- I can answer one
5 more time and then see if there's a need for a brief.
6 COMMISSIONER LUMPE: Okay.
7 THE WITNESS: In 97-40 I'm not familiar if --
8 whether they made the determination or not whether UNES
9 should be combined. The UNE Remand Order says they do
10 not have to be combined and that was dated 1999.
11 Then in the M2A there are provisions for
12 UNES -- for Southwestern Bell to combine UNES for a
13 CLEC, but it is not a requirement. It was something
14 that they agreed to do. It --
15 BY COMMISSIONER LUMPE:
16 Q. So we did carry over from tho-- those
17 particular provisions did carry over from our 97-40
18 into the M2A?
19 A. To the extent that they agree to do it.
20 Q. All right.
21 A. I don't think the Commission made them do it.
22 Q. Uh-huh.
23 A. And then in the 455 arbitration, which looked
24 at the M2A and the very -- this issue again, this
25 Commission made the decision that in that case

1 Southwestern Bell was not required to combine the UNES
2 for AT&T.

3 Q. In that particular case?

4 A. Right.

5 COMMISSIONER LUMPE: Okay. I think that's all
6 I have. Yeah, I think that answers the question for
7 me. Thank you.

8 JUDGE RUTH: So it will not be necessary for
9 the parties to respond to that question in your briefs
10 unless you choose to do so.

11 FURTHER QUESTIONS BY COMMISSION MURRAY:

12 Q. Ms. Dietrich, I forgot to ask you --

13 A. Sure.

14 Q. -- one question about Issue No. 7. I just
15 wanted to clarify that the language that you are saying
16 can be removed is -- as I understand it, 14.3, which
17 would be on page 26 of the Staff Decision Point List?
18 That would be one of the -- the two places --

19 A. That's correct.

20 Q. -- correct?

21 A. That's one of them.

22 Q. And the other one would be 14.4, which is
23 found on pages 32 and 33 of Staff's Decision Point
24 List?

25 A. I'm sorry. What was that page number again?

1 Q. 32 and 33.

2 A. That's correct.

3 COMMISSIONER MURRAY: Thank you.

4 THE WITNESS: Uh-huh.

5 COMMISSIONER MURRAY: That's all, Judge.

6 JUDGE RUTH: Give me just a moment.

7 THE WITNESS: Sure.

8 QUESTIONS BY JUDGE RUTH:

9 Q. Ms. Dietrich, I had a question regarding some
10 changes you made to your rebuttal testimony.

11 A. Okay.

12 Q. On pages 15 and 16 you deleted a phrase to
13 your answer. And that phrase was, with any
14 corresponding adjustments as established in the
15 Commission's decision in Case No. TO-2001-438. I was
16 just trying to understand if deleting this phrase
17 represents a change in Staff's position or a
18 clarification? Which is it and --

19 A. It would be a clarification. Mr. Thomas's
20 testimony said that Staff's position -- correctly --
21 that Staff recommends the M2A rates for everything.
22 The interim rates that are in the M2A as a result to be
23 determined by 438, 39 and 440 would go into this
24 agreement as interim and would be adjusted accordingly
25 based on decisions of 438, 39 and 440. These two items

1 were not set as interim in the M2A and we're not part
2 of 4-- 438 as such.

3 Q. Okay. So that phrase applied to other
4 elements or items, not to these --

5 A. Correct.

6 Q. -- two on pages 15 and 16?

7 A. Right.

8 JUDGE RUTH: Okay. Thank you.

9 COMMISSIONER MURRAY: Another question.

10 THE WITNESS: Okay.

11 FURTHER QUESTIONS BY COMMISSIONER MURRAY (CONT'D):

12 Q. And this hasn't been my understanding,
13 but -- but what you just said made me wonder if this is
14 what Staff is actually recommending. Is Staff actually
15 saying that all of the UNE prices should be taken from
16 the M2A agreement?

17 A. Yes.

18 Q. Without the corresponding legitimately related
19 terms and conditions?

20 A. That's correct, because the appendix pricing
21 is under negotiation. And attachment 26 says that it
22 specifically rat-- relates to those sections that the
23 CLEC opts into. And so since this Commission would be
24 ordering the CLEC to take attachment -- or excuse me --
25 appendix pricing, then attachment 26 would not apply in

1 that case.

2 Q. Okay. Now, in that -- that -- that
3 agreement -- that M2A agreement included that specific
4 language that the pricing was definitely related to
5 attachment 6 and 7 -- 6 and 10 of the M2A, did you go
6 through each one of those UNE prices and look at terms
7 and conditions that should apply and determine whether
8 or not there were terms and conditions that should be
9 required to go along with each one of those prices?

10 A. No, we did not. Mr. Lane I be-- I don't
11 remember if it was in his op-- opening statements or in
12 oral arguments stated that that was a concern coming
13 out of 455 when the Commission ordered the M2A rates,
14 but did not order the corresponding legitimately
15 related sections. And that was the first that I was
16 aware of that concern, so we have not done comparison.

17 Q. Okay. And -- and if you will think about
18 TO -- is it 2001-455?

19 A. Yes.

20 Q. And the language in there, as I recall, just
21 did not expressly state that all legitimately
22 relation -- related provisions were also being ordered
23 and that that was Southwestern Bell's concern, but that
24 in later -- and I believe Mr. Lane said here that in
25 later discussions with AT&T, following on that order,

1 AT&T agreed that those legitimately related terms and
2 conditions would also be applies, so there is no
3 dispute as to the fact that that arbitration resulted
4 in the M2A UNE pricing, as well as all terms and
5 conditions that were expressly stated in the M2A to be
6 legitimately related?

7 A. Well, I don't remember the pleadings exactly,
8 but my recollection is that AT&T said that they didn't
9 have a problem with taking all the legitimately
10 related, because once they took appendix pricing, it
11 just more or less made sense. Not that they realized
12 that they should be.

13 But then also in that particular arbitration,
14 I believe the com-- it would be better to characterize
15 it that the Commission did not just order M2A pricing,
16 which is what you are recommendation was then and is
17 now, but ordered the M2A for everything except what was
18 being arbitrated that was not already included in the
19 M2A.

20 And so that might be where the difference is.
21 That it's -- since it's gonna be M2A for everything
22 except the specific items anyway, then it would just
23 flow that the -- all legitimately related attachments
24 and appendices will be included also.

25 Q. Okay. So if you were recommending that

1 this -- the -- this Commission just take the
2 pricing -- UNE pricing out of the M2A without looking
3 at cost studies or anything that would support those
4 prices and without looking at whether the gen--
5 the terms and conditions that were included in that
6 M2A to be legitimately related, you are, in fact,
7 recommending something different; is that right?

8 A. Different than?

9 Q. Different than what this Commission did in
10 TO-2001-455?

11 A. It's different than the Commission's decision.
12 It's consistent with our recommendation in that case.
13 Our recommendation in that case was just the --
14 actually pricing with some exceptions. But it was just
15 an overall --

16 COMMISSIONER MURRAY: Okay. Thank you.

17 THE WITNESS: Uh-huh.

18 JUDGE RUTH: It might be necessary to recall
19 you later, Ms. Dietrich, for Bench questions, but at
20 this point we'll move on to recross based on questions
21 from the Bench to date.

22 THE WITNESS: Okay.

23 JUDGE RUTH: Southwestern Bell?

24 MR. LANE: Thank you, Your Honor.

25 RECROSS-EXAMINATION BY MR. LANE:

1 Q. Good afternoon.

2 A. Good afternoon.

3 Q. Let me start with the combinations questions

4 first that relate to Issue No. 3. Would you agree that

5 back in August of 1996 that the FCC in its first report

6 and order in docket 9898, which is sometimes called the

7 local competition report and order initially adopted

8 rule 51.315B -- or 51.315, which identified the

9 obligation of the ILEC with regard to performing

10 combinations of unbundled network elements?

11 A. I don't know the specific citation, but

12 that's -- that's true.

13 Q. Okay. And then the first IRE Utilities Board

14 case which came out in January of 1997 the Eighth

15 Circuit Court of Appeals vacated that Commission --

16 that FCC rule and found that there was no obligation to

17 do combinations, right?

18 A. Yes.

19 Q. And after Jan-- January of '97, then, is when

20 the first Southwestern Bell/AT&T interconnection

21 agreement out of Case No. TO-97-40 was presented to the

22 Commission, right?

23 A. That's -- I don't know the exact date, but

24 that makes sense.

25 Q. And -- and there was a dispute between

1 Southwestern Bell on the one hand and AT&T on the other
2 in that case over whether it -- Southwestern Bell still
3 had to perform combinations given that the Eighth
4 Circuit Court of Appeals had vacated the FCC's rule,
5 right?

6 A. That I'm not familiar with.

7 Q. Okay. And would you agree that Southwestern
8 Bell thereafter appealed the Commission's order because
9 it did require us to do combinations and took that
10 issue up to the Eighth Circuit -- or to the District
11 Court and then ultimately to the Eighth Circuit Court
12 of Appeals?

13 A. I know Southwestern Bell appealed that
14 particular agreement. If that was one of the issues,
15 I'm not sure.

16 Q. Okay. And if -- if the issue in that case
17 as -- as it was argued to the District Court in the
18 Eighth Circuit was whether Southwestern Bell had
19 voluntarily agreed to perform combinations even though
20 the ruling had come out in January of '97 from the
21 Eighth Circuit, that's something you're not familiar
22 with?

23 A. That's correct. I'm not familiar.

24 Q. But you are familiar, are you not, that the
25 IRE Utilities Board in the second case, the Eighth

1 Circuit, the IRE Utilities Board two case (sic)
2 reaffirmed its finding that 51.315C through F, which
3 required combinations to be performed should remain
4 vacated?

5 A. Again, I'm not sure of the citation, but I do
6 agree that the -- it affirmed that they should be
7 vacated.

8 Q. And despite the fact that the Eighth Circuit
9 had ruled twice that ILECs were not required to perform
10 combinations, Southwestern Bell nevertheless
11 voluntarily put that into the M2A as part of the terms
12 that would be beneficial to CLECs in return for
13 receiving a positive recommendation for 271 relief from
14 this Commission, right?

15 A. Southwestern Bell offered to include that,
16 yes.

17 Q. Okay. Then with regard to the AT&T
18 arbitration case, the most recent one, TO-2001-455, I
19 wanted to ask a few questions about that as a follow up
20 to Commissioner Murray's questions.

21 A. Okay.

22 Q. Would you agree in that case that the parties
23 treated the entirety of the UNE sections as being
24 negotiated and ultimately arbitrated and there wasn't
25 an adoption of attachment 6 from the M2A?

1 A. Yes.

2 Q. In -- in the initial arbitration phase, right?

3 A. Right. Uh-huh.

4 Q. And then the Commission in response in part to

5 Staff's recommendation ordered that the prices from the

6 M2A be utilized, but then reached its own decision on

7 various other matters that would be included in UNE

8 attachment 6, right?

9 A. I believe the Commission ordered the M2A for

10 everything except those items that were not in the M2A,

11 but would -- would be in UNE attachment 6 --

12 Q. Right.

13 A. -- of that agreement.

14 Q. And --

15 A. Okay.

16 Q. I may have been imprecise in my question, but

17 the Commission said if -- if a term or a condition was

18 in the M2A in the UNE attachment that resolved that

19 issue we'll put that in this interconnection agreement;

20 if it wasn't addressed, then the Commission resolved

21 that particular issue and ordered something else to

22 be -- or something to be put into the attachment as

23 well as those that had been resolved into it, right?

24 A. That's right. Uh-huh.

25 Q. Okay. And then Southwestern Bell had filed an

1 application for rehearing pointing out that the
2 Commission's order then to utilize the terms and
3 conditions from the M2A included the requirement to do
4 combinations and other items that were voluntary from
5 attachment 6 and couldn't be imposed in arbitration.
6 Do you recall that?

7 A. Yes.

8 Q. Okay. And then before AT&T responded, they
9 eliminated that issue by agreeing to take attachment 6
10 through 10, the UNE sections, of the M2A in their
11 entirety, right?

12 A. Can I ask you a clarifying question?

13 Q. Sure.

14 A. Did they file something stating that? Because
15 I remember an exchange, but I don't remember if it was
16 on paper or if it was in conversations.

17 Q. And -- and I don't believe they did file.

18 A. Okay.

19 Q. But my question is: Without regard to whether
20 they filed something with the Commission, would you
21 agree that thereafter AT&T agreed to take attachment 6
22 through 10 of the M2A in -- in its entirety; in other
23 words, it opted into those sections of the M2A, right?

24 A. Yes. Uh-huh.

25 Q. And then Southwestern Bell subsequently

1 withdrew its application for rehearing because that
2 issue had been resolved because AT&T had opted into
3 properly so the M2A attachment 6 through 10, right?

4 A. They -- they had chosen to do that, yes. And
5 Southwestern Bell withdrew their --

6 Q. Okay.

7 A. -- request.

8 Q. Okay. Commissioner Lumpe asked you some
9 questions concerning the necessary and impair test,
10 and -- and I think you indicated that's how the
11 FCC refers to it, but it could also be called necessary
12 or impair because they're two different standards,
13 right?

14 A. Right.

15 Q. And that was in the UNE Remand Order
16 because -- well, strike that.

17 Would you agree that the -- the issue came
18 back to the FCC because their initial promulgation of
19 their rule concerning necessary and impair had been
20 found to be invalid under the act on appeal?

21 A. I don't know if it was invalid under the act,
22 but it did come back saying take a look at it again to
23 clarify it.

24 Q. And they attempted to clarify their definition
25 and changed it somewhat --

1 A. Yes.

2 Q. -- with regard to -- at least part of the
3 decision, right?

4 A. Yes.

5 MR. LANE: Okay. And if I may approach the
6 witness, Your Honor.

7 JUDGE RUTH: Yes.

8 THE WITNESS: I have a copy of it.

9 BY MR. LANE:

10 Q. You do?

11 A. Uh-huh.

12 Q. I wanted to refer you first to paragraph 31 of
13 that order, which is on page 20.

14 A. Okay.

15 Q. Okay. And would you agree with me that in
16 paragraph 31 of that UNE Remand Order that the
17 FCC explains that the necessary test applies when an
18 item is proprietary in nature and the impair test
19 applies to non-proprietary network elements?

20 A. That's correct.

21 Q. Okay. And then if you'll turn over to
22 paragraph 44 on page 27. Would you agree that in that
23 paragraph the FCC issues its findings on defining the
24 word "necessary" and finds that with regard to
25 proprietary items that a -- a network element is

1 necessary if "taking into consideration the
2 availability of alternative elements outside the
3 incumbent's network including self-provisioning by a
4 requesting carrier, or requiring an alternative from a
5 third-party supplier, lack of access to that element
6 where it is a practical, economic and operational
7 matter preclude a requesting carrier from providing the
8 services it seeks to offer"?

9 A. Yes -- yes, that's what it says.

10 Q. Okay. And then would -- if you would turn to
11 paragraph 51 of the UNE Remand Order on page 30. Would
12 you agree that the Commission there defines what it
13 means by the impair test?

14 A. Yes.

15 Q. Okay. And would you agree that with regard to
16 the impair test that that seeks to determine whether
17 "failure to provide access to a network element would
18 impair the ability of a requesting carrier to provide
19 the services it seeks to offer if taking into
20 consideration the availability of alternative elements
21 outside the incumbent's network including
22 self-provisioning by a requesting carrier or acquiring
23 an alternative from a third-party supplier, lack of
24 access to that element materially di-- diminishes a
25 requesting carrier's ability to provide the service it

1 seeks to offer"?

2 A. Yes, it does.

3 Q. Okay. And so under either the necessary or
4 the impair test depending on what type of element is
5 involved, you look both to see whether there's
6 alternatives available from another supplier and
7 whether the requesting carrier has the ability to
8 self-provision the element, those are items you look at
9 under both tests, right?

10 A. Right. Under both, yes.

11 Q. Okay. With regard to Issue 46, the signaling
12 point code you were asked some questions by
13 Commissioner Murray concerning that, and I want to make
14 sure I understand what your position is.

15 You would agree that there is a charge that's
16 applicable and appropriateless (sic) -- appropriate so
17 to establish a signaling point code up front?

18 A. Yes.

19 Q. Okay. And that the issue in this case that
20 Southwestern Bell has presented is whether it should be
21 permitted also to charge if the CLEC seems -- seeks to
22 change that signaling point code and Southwestern Bell
23 has to do the work to -- to change its systems to
24 accommodate that?

25 A. Yes.

1 Q. Okay. And as I understood it, you agreed that
2 Southwestern Bell ought to be permitted to recover for
3 that, right?

4 A. That's correct.

5 Q. And the rate that Southwestern Bell seeks to
6 recover is the same rate that it would charge up front
7 to establish the point code, even though Mr. Kirksey
8 indicated that more work was involved in changing it,
9 right?

10 A. Right.

11 Q. And do you agree that it's appropriate that if
12 we're only seeking to recover the charge that applies
13 when you establish the point code in the event of a
14 requested change in that point code if it's
15 appropriate, that we be allowed to charge at least that
16 level?

17 A. I agree that it's appropriate to charge.
18 The -- I think where the confusion comes in is whether
19 that charge was already included or not in the 97-40.

20 Q. Okay. And if you say if it was included, then
21 it would be Staff's view that whether the carrier is
22 establishing it in the first place or is seeking to
23 change the point code, that in either case the charge
24 that was derived in 97-40 should apply to that?

25 A. Yes.

1 Q. And it's two separate charges, one, if they
2 seek to establish it, and a separate charge if they
3 later seek to change it?

4 A. Yes.

5 Q. Okay. And so if -- if the charge is from
6 wherever it was derived and the parties have agreed to
7 it with re-- or the Commission orders it with regard to
8 the establishment of the point code, it should also
9 apply the same charge if they seek to change it
10 sometime in the future?

11 A. Yes.

12 MR. LANE: Okay. That -- that was all I have.

13 Thank you, Ms. Dietrich.

14 THE WITNESS: Thank you.

15 JUDGE RUTH: Okay. We are ready for recross
16 from WorldCom, and -- I'm sorry. Did you start to say
17 something?

18 MR. CURTIS: I was just waiting for you.

19 JUDGE RUTH: Okay. I was going to note that I
20 allowed Mr. Lane to use some extra minutes and you will
21 be similarly entitled, approximately 13 minutes instead
22 of 5.

23 MR. CURTIS: It would be our hope that you
24 would deduct that from Mr. Lane's time with the next
25 witness.

1 We have no questions.

2 JUDGE RUTH: Redirect?

3 MR. BATES: No, thank you, Your Honor.

4 JUDGE RUTH: Ms. Dietrich, you may step down,
5 but you are not excused.

6 MS. DIETRICH: Right. Thank you.

7 JUDGE RUTH: And, Mr. Lane, I had a comment.
8 It's my understanding you are waiting then to hear the
9 Commission's decision as to whether Mr. Kirksey will be
10 recalled; is that correct?

11 MR. LANE: I hope not, because I --

12 JUDGE RUTH: Okay. You --

13 MR. LANE: -- thought you dismissed him before
14 lunch.

15 JUDGE RUTH: Okay. Do I have one pending? Is
16 it Mr. Oyer then?

17 MR. LANE: No. Mr. Hughes was the only one I
18 think that you didn't excuse --

19 JUDGE RUTH: Okay.

20 MR. LANE: -- but he'll be here anyway.

21 JUDGE RUTH: All right. Thanks for that
22 clarification. I just needed to make a note.

23 Staff, you may call your next witness.

24 MR. BATES: Thank you. We call Walt Cecil to
25 the stand.

1 Your Honor, before we begin, I wanted to
2 remind you of a conversation that we had early Monday
3 morning regarding Mr. Cecil's prefiled testimony. As
4 you suggested I might take up later, and this, I think,
5 is probably the appropriate time.

6 JUDGE RUTH: Yes, please do so.

7 MR. BATES: Through a -- some sort of a
8 mechanical error or some sort of an error in our
9 process the incorrect draft of Mr. Cecil's rebuttal
10 testimony was prefiled with the Commission. On Monday
11 morning I gave Your Honor and counsel for WorldCom and
12 Bill a copy of his amended rebuttal testimony for them
13 to review before agreeing or disagreeing to a motion
14 I'm about to make to substitute the amended rebuttal
15 testimony as Exhibit 26 or what has been prefiled.

16 Also Monday morning I gave the court reporter
17 three copies of that amended rebuttal. I have copies
18 now for the Commissioners.

19 JUDGE RUTH: And you said you gave copy to
20 opposing counsel on Monday; is that correct?

21 MR. BATES: Yes.

22 JUDGE RUTH: Proceed. Thank you.

23 MR. BATES: At this point I would make a
24 motion to withdraw what has been prefiled with the
25 Commission, but not marked, as Mr. Cecil's rebuttal

1 testimony and substitute what was marked Monday morning
2 as Exhibit 26, his amended rebuttal testimony.

3 JUDGE RUTH: Okay. Counsel has requested to
4 withdraw the prefiled testimony and submit an amended
5 version. Are there any objections to this motion?

6 MS. MACDONALD: No, Your Honor.

7 MR. CURTIS: No objection.

8 JUDGE RUTH: Okay.

9 MR. BATES: And may I hand these to the
10 Commissioners now?

11 JUDGE RUTH: Yes, please do.

12 I'll note for the record there were no
13 objections to your motion and it will be granted. The
14 amended version will be identified as Exhibit 26.

15 MR. BATES: Thank you, Your Honor.

16 JUDGE RUTH: Just a second. Okay.

17 (Witness sworn.)

18 JUDGE RUTH: Okay. Thank you.

19 Continue, Mr. Bates.

20 WALTER CECIL testified as follows:

21 DIRECT EXAMINATION BY MR. BATES:

22 Q. Would you state your name for the record,
23 please.

24 A. My name is Walt Cecil.

25 Q. And what is your business address?

1 A. 200 Madison Street, Fifth floor, Jefferson
2 City, Missouri.

3 Q. And by whom and how are you employed?

4 A. I'm employed with the Missouri Public Service
5 Commission. I hold the position of Regulatory
6 Economist II.

7 Q. Mr. Cecil, did you cause to be filed in this
8 matter what has been marked for identification as
9 Exhibit No. 26, your amended rebuttal testimony?

10 A. I did.

11 Q. Are there any changes, additions or
12 corrections you would make to your amended rebuttal
13 testimony at this time?

14 A. No, sir. It stands as amended with the
15 exception of our positions as noted in Staff's DPL.

16 Q. If I were to ask you the same questions now,
17 would your answers to those questions be substantively
18 the same?

19 A. They would.

20 MR. BATES: Your Honor, at this point I would
21 move in that Exhibit No. 26 be received into evidence.

22 JUDGE RUTH: Are there any objections to
23 Exhibit 26 being received into the record?

24 MS. MACDONALD: No, Your Honor.

25 JUDGE RUTH: Mr. Curtis or -- I'm sorry. Did

1 you -- did WorldCom have any objections to Exhibit 26
2 being received.

3 MR. CURTIS: No, we do not. Thank you.

4 JUDGE RUTH: It is received into the record
5 then. Thank you.

6 (EXHIBIT NO. 26 WAS RECEIVED INTO EVIDENCE.)

7 MR. BATES: And at this point, Your Honor, I
8 tender this witness for cross-examination.

9 JUDGE RUTH: Southwestern Bell?

10 Ms. MacDonald, would you be sure and adjust
11 the mike so that it picks up your voice?

12 MS. MACDONALD: Your Honor, and I am having a
13 horrible time hearing, so if I'm not loud -- I've never
14 been told that I'm not loud, but go ahead and tell me
15 at any point.

16 CROSS-EXAMINATION BY MS. MACDONALD:

17 Q. Good afternoon, Mr. Cecil.

18 A. Good afternoon.

19 Q. I want to start this afternoon and talk to you
20 a little about DPL Issue No. 30. Will you agree with
21 me that each party in this proceeding offers an
22 appendix 27, which addresses Alternatively Billed
23 Traffic?

24 A. Yes.

25 Q. And Staff's position is that both appendices

1 basically cover the same issues; is that correct?

2 A. Fundamentally, yes.

3 Q. And Staff's -- is it Staff's position that in
4 WorldCom attachment 27 there are many clauses in which
5 the obligations of the parties are reciprocal?

6 A. Yes.

7 Q. Is it also Staff's position that in SWBT's
8 proposal the obligations appear less balanced?

9 A. Yes, it is.

10 Q. And on that basis, is it correct that Staff
11 supported WorldCom's attachment 27?

12 A. Yes, it is.

13 Q. I want you to -- I want to discuss with you
14 today the competing attachment 27s; however, before I
15 do so, I want to make sure we're on the same page with
16 respect to what Alternatively Billed Traffic is.

17 Will you agree with me that alternatively
18 billed calls are calls that are billed to a number
19 other than the number from which the call was made?

20 A. Yes, I would.

21 Q. Okay. And you would agree -- would you
22 agree with me that there are only three types of
23 Alternatively Billed Traffic?

24 A. That is my understanding.

25 Q. Okay. And those are collect calls, billed to

1 third party calls and calling card calls, correct?

2 A. Yes.

3 Q. Okay. And the collect call, which is probably
4 the one that everybody's most familiar with, is a call
5 where a person picks up the phone, dials the operator
6 and indicates he wants to call a specific person at a
7 specific number and he wants -- and he -- and he wants
8 the patient -- person who he's calling to pay for the
9 call?

10 A. Yes.

11 Q. And sometimes that's done on an automated
12 basis?

13 A. Yes, it is.

14 Q. Okay. For example, while I'm here in
15 Jefferson City, I could pick up the phone, call the
16 operator and indicate to my husband in St. Louis that I
17 wanted him to accept the charges for a call to him?

18 A. Yes, you could.

19 Q. Okay. And will you agree with me that a bill
20 to a third number is a call where a person picks up the
21 phone and indicates to the operator that he would like
22 to call a specific telephone number, but that he would
23 like to bill the cost of the call to another telephone
24 number?

25 A. Yes, I would.

1 Q. So another example of that would be if I'm
2 here in Jefferson City and I want to call my husband in
3 St. Louis at work, but I want to bill my home telephone
4 number for that call; is that correct?

5 A. That's a correct example.

6 Q. And you'll agree with me that a calling card
7 call is a call where I pick up the phone, call the
8 operator and indicate I want to call a specific
9 telephone number, but I want to bill my calling card?

10 A. Yes.

11 Q. And in this situation we'd be talking about
12 calling cards that are issued by -- well, I guess it
13 could be -- never mind. I withdraw that question.

14 Will you agree with me that 90 percent of
15 Alternatively Billed Traffic, which is also sometimes
16 referred to as ABT or ABS traffic, are collect calls?

17 A. I've -- I've seen the figure 90 percent. I
18 have no way of verifying whether or not it's
19 90 percent.

20 Q. Would it even surprise you that that were
21 true?

22 A. I would believe that.

23 Q. Okay. Will you agree with me that CLECs can
24 offer local exchange service in three ways, as a full
25 facilities based provider, as a reseller or via UNE-P?

1 A. Yes.

2 Q. Will you agree with me that a full facilities
3 based provider has its own switch and can record call
4 detail about alternatively billed calls on its own?

5 A. Yes.

6 Q. Okay. And will you agree with me that once a
7 full facility based provider has the call detail
8 information, they can send that information to
9 Southwestern Bell, Southwestern Bell then credits the
10 company that originated the ABT call, less in
11 applicable fees, and debits the company where the call
12 terminated less the billing fee?

13 A. Yes.

14 Q. Okay. And will you agree with me that
15 attachment 20 of the M2A addresses the ABT settlement
16 process for full facilities based providers?

17 A. I believe so.

18 Q. And will you agree with me based in all the
19 discussion we've had this week that WorldCom has
20 MFN'd into attachment 20?

21 A. I'm not certain.

22 Q. Okay. Will you agree with me that in the
23 resale department SWBT bills the reselling CLEC for
24 alternatively billed calls at a wholesale rate?

25 A. Yes.

1 Q. Okay. You will agree with me that the
2 reseller pays SWBT for alternatively billed calls and
3 determines how it's going to bill its own end users for
4 those calls?

5 A. Yes. Yes.

6 Q. So, for example, a reseller could offer
7 unlimited collect calls for a flat rate if they decided
8 that that was their plan?

9 A. They have that privilege, yes.

10 Q. Okay. And will you agree with me that the
11 ABS settlement process regarding resellers is addressed
12 in attachment 5 of the M2A?

13 A. Yes.

14 Q. And will you agree with me that WorldCom has
15 MFN'd into attachment 5?

16 A. Yes.

17 Q. Do you have any thoughts about 20 yet?

18 A. Actually I'm beginning to question
19 attachment 5.

20 Q. Oh, dear. Okay. Will you agree with me that
21 in the UNE-P arena SWBT, who owns the switch, records
22 the call detail that is used to bill a CLEC's end user?

23 A. Would you repeat that, please?

24 Q. Sure. Will you agree with me that in a UNE-P
25 environment SWBT, which owns the switch, records the

1 call detail that is used to bill a CLEC's end user?

2 A. Yes.

3 Q. And will you agree with me that Southwestern

4 Bell provides this call detail to WorldCom so that

5 WorldCom can then bill its end users?

6 A. I believe that's how it works, yes.

7 Q. Okay. Will you agree with me that the

8 alternatively billed settlement process with respect to

9 UNE-P providers is addressed in attachment 10 of the

10 M2A?

11 A. I believe so.

12 Q. Would it be fair to say there's no doubt in

13 your mind that attachment 10 is in issue in this case?

14 A. That would be fair, yes.

15 Q. Okay. And will you agree with me that

16 Southwestern Bell's proposed ABS appendix addresses the

17 ABS settlement process only with regard to the UNE-P

18 environment?

19 A. Yes.

20 Q. And that is because WorldCom has accepted

21 attachments 5 and 20; is that correct?

22 A. They have -- it's my understanding that they

23 have accepted those attachments, yes.

24 Q. Okay. And will you agree with me that

25 WorldCom's proposed ABT appendix appears to, though I

1 intend to -- to examine this a little bit more closely,
2 but it appears to address the settlement process
3 regarding perhaps facilities-based providers, resellers
4 and/or UNE-P providers based on their direct testimony
5 or maybe just resellers and UNE-P providers based on
6 their rebuttal testimony?

7 A. I think you lost me. Would you repeat that,
8 please?

9 Q. Sure. Let me just -- let me just get your
10 understanding of -- of that. What do you believe
11 WorldCom's ABT appendix addresses?

12 A. I believe that it addresses the -- the
13 AB-- excuse me. I believe that it addresses the
14 ABT issue that's on the table between the two companies
15 now on a UNE-P basis.

16 I believe it provides terms and conditions
17 that are reciprocal in nature, that is, whatever it
18 obliges itself to perform in general, it obliges
19 Southwestern Bell to perform as well.

20 Q. Okay. And do you believe that WorldCom's
21 ABT appendix is limited to UNE-P provider -- UNE -- is
22 limited to its provision of service via UNE-P?

23 A. That is my understanding.

24 Q. Okay. It's just been pointed out to me that
25 maybe we should clarify exactly what you're agreeing

1 with about attachments 5 and attachments 20, and I
2 think it's probably -- probably a good idea.

3 Would you agree with me that attachment 5 of
4 the M2A is related to resale?

5 A. Yes.

6 Q. And would you agree with me that attachment 20
7 of the M2A is related to clearinghouse or, in other
8 words, that would relate to full facilities based
9 providers?

10 A. I believe so, yes.

11 Q. Okay. And then based on that, would
12 you -- would you agree with me that WorldCom has MFN'd
13 into attachments 5, resale, and attachment 20,
14 clearinghouse?

15 A. Based on what I've heard this week, yes, I
16 would.

17 Q. Okay. Thank you.

18 Would you agree with me that SWBT's
19 ABS appendix outlines the system that is universally
20 employed among UNE-P providers?

21 A. I don't know if it's universally employed.

22 Q. Would you agree with me that WorldCom's
23 ABT appendix would establish a different settlement
24 process for WorldCom if it, in fact, even elects to
25 become a UNE-P provider in Missouri that to date no

1 CLEC has?

2 A. Given that it's a new attachment, yes, I
3 would.

4 Q. Okay. I would like to discuss with you a few
5 examples of ABT calls so we can kind of clarify some of
6 the issues that are at issue in this arbitration.

7 Let's say we have Billy Bob, who's in prison,
8 and he wants to make a collect call to his girlfriend,
9 Sue. Billy Bob dials zero for the operator and
10 hears -- hears the operator say, this is Marge, how may
11 I help you.

12 Billy Bob tells Marge he wants to make a
13 collect call to Sue at area code 573-555--5555. The
14 operator then dials the number and tells Sue, Billy Bob
15 is calling and she -- and will he -- and will she
16 accept the collect charges. Sue agrees to accept those
17 charges. Billy Bob and Sue talk 10 minutes and they
18 hang up.

19 Sue receives local service from WorldCom.
20 Would you agree with me that Billy Bob, who's in
21 prison, is not a Southwestern Bell customer?

22 A. I don't know that I could.

23 Q. Well, he picked up a pay phone in prison.

24 A. That -- that's true. That -- that's true.

25 But it's my understanding -- I'm taking it a step

1 here -- but it's my understanding that Southwestern
2 Bell provides payphone service in -- in the
3 correctional institutions. And so I think the -- that
4 definition is a little on the gray side under that
5 circumstance.

6 Q. Okay. Well, let's -- let's ex-- examine that
7 issue. Would -- would it be fair to say that you don't
8 know which correctional facilities Southwestern Bell
9 has a -- a built -- has a contract with regard to
10 payphones in Missouri?

11 A. That's true.

12 Q. And would you agree with me that it's unlikely
13 that Southwestern Bell would have a contract with every
14 correctional institution in Missouri?

15 A. I would agree with that.

16 Q. Because there's other ILECs in Missouri,
17 correct?

18 A. Yes.

19 Q. Okay. So let's just assume that in this
20 particular correctional institution -- well -- well,
21 strike that.

22 In my example that I gave you, would you agree
23 with me that Sue is a WorldCom customer?

24 A. Yes, I would.

25 Q. Okay. And will you agree with me that in the

1 language in Section 6.2.7 of WorldCom's attachment 27
2 indicates that WorldCom would generally follow its
3 collection procedures, but it has the stro-- sole
4 discretion to deem any charge uncollectible?

5 A. Yes.

6 Q. And will you agree with me that an
7 uncollectible charge is one in which the CLEC after all
8 reasonable collection efforts is unable to collect the
9 charges from the end user?

10 A. I know that WorldCom and Bell -- Southwestern
11 Bell have a difference in terms of what those terms are
12 defined as, so I'm not sure.

13 Q. Okay. Well, we have a -- would it be fair to
14 say that we have a difference with regard to all of the
15 things which -- which fall into an uncollectible
16 category, but we agree that the end user who refuses to
17 pay the bill, that is deemed an uncollectible?

18 A. Yes, I would agree with that.

19 Q. Okay. And will you agree with me that using
20 the example above, if Sue advised WorldCom that she was
21 not gonna pay for the call, WorldCom would deem the
22 call an uncollectible?

23 A. I believe so.

24 Q. Okay. And will you agree with we that
25 SWBT would be left holding the bag because its

1 facilities were used to provide the services, but
2 SWBT was not -- would not be compensated for such use?

3 A. Yes.

4 Q. Okay. And will you agree with me that SWBT
5 will not be compensated even though it arguably has no
6 relationship with Billy Bob, who is in prison and
7 doesn't pay Southwestern Bell anything to use that pay
8 phone in the Southwestern Bell prison?

9 A. I don't know whether -- or how Billy Bob would
10 actually pay for the call if he could pick it up and
11 just dial zero and tell the operator "I want to have a
12 collect call." I imagine that's the case. I have not
13 done that myself.

14 So I'm not sure what Billy Bob's relationship
15 would be. I agree that Sue's relationship would be one
16 of WorldCom.

17 Q. Okay. And would you agree with me that the
18 whole purpose of the collect call is that you pick up
19 the phone and you don't put any money in that phone?

20 A. In general, yes.

21 Q. Okay. Let's discuss another hypothetical
22 briefly. Let's say Billy Bob was in prison in Florida
23 where Southwestern Bell does not operate. Billy Bob
24 calls the operator, who is an AT&T operator, and
25 indicates to the operator that he wants to make a

1 collect call to his girlfriend, Sue, using the same
2 number here in Jefferson City.

3 The operator calls Sue. Sue agrees to accept
4 the charges and the call is put through. Again, they
5 talk and the call is disconnected. Now, I want you to
6 assume that Sue is a UNE-P WorldCom customer, though
7 Sue probably wouldn't know that, but assume that.

8 Will you agree with me that Southwestern Bell
9 will have to pay AT&T, the IXC, 100 percent of the
10 charges associated with transporting this call less the
11 billing charge?

12 A. Yes.

13 Q. Okay. And again, let's assume that Sue tel
14 world -- tells WorldCom she's not gonna pay for that
15 call she just agreed to have responsibility for. Will
16 you agree with me that under WorldCom's ABT appendix
17 WorldCom could deem such call uncollectible in its sole
18 discretion?

19 A. Yes, it could.

20 Q. And will you agree with me in theory WorldCom
21 could deem all ABT calls its end users made as
22 uncollectible in its sole discretion according to their
23 terms?

24 A. I find it difficult to believe that they
25 would, but at the limit, it's possible.

1 Q. Okay. And will you agree with me that in that
2 situation, the one -- the call from Florida,
3 Southwestern Bell would be holding the bag because it
4 paid AT&T, but it was not paid by WorldCom?

5 A. I don't know what the relationship would be
6 between Southwestern Bell and AT&T. I would imagine
7 that Southwestern Bell would be obligated to pay, but,
8 again, I don't know if there's a billing and
9 collections agreement where bad debt, uncollectibles
10 can be recouped or not, so I -- I'm not sure how that
11 would work.

12 Q. Okay. Would you -- or do you know that --
13 that in general there is no recouping back to the
14 IXC with regard to alternatively billed calls?

15 A. No, I did not know that.

16 Q. Okay. Will you agree with me in this scenario
17 we just discussed that Sue definitely was not
18 Southwestern Bell's customer?

19 A. Was it Southwestern Bell's operator she spoke
20 to?

21 Q. No. She's a WorldCom UNE-P end user.

22 A. Yes, but whose operator spoke to her?

23 Q. The AT&T operator in Florida.

24 A. Then it's possible that -- to my way of
25 thinking that she could have begun a business

1 relationship with AT&T.

2 Q. Okay. But definitely not Southwestern Bell?

3 A. Definitely not Southwestern Bell if she didn't
4 speak to Southwestern Bell.

5 Q. Okay. Will you agree with me that if Sue
6 continued to receive daily calls from Billy Bob, who's
7 in prison in Florida, WorldCom's ABT appendix has no
8 provision which addresses blocking such calls for which
9 Sue is not paying?

10 A. Could I have a moment?

11 Q. Sure.

12 A. Thank you.

13 JUDGE RUTH: I'll allow you a few extra
14 moments if he needs time to look at his notes.

15 THE WITNESS: Thank you.

16 I hate to do this, but would you ask your
17 question again.

18 BY MS. MACDONALD:

19 Q. Sure. No, it's no problem.

20 Will you agree with me that if Sue continues
21 to receive calls daily from Billy Bob, who is in prison
22 in Florida, WorldCom's ABT appendix has no provision
23 which addresses blocking such calls for Sue who is not
24 paying for them?

25 A. I believe that's correct.

1 Q. Okay. Will you agree with me that
2 Section 2.3.10 of WorldCom's proposed ABT appendix, in
3 fact, exempts all calls that originate from a
4 correctional facility?

5 A. .10?

6 Q. Uh-huh.

7 A. Yes.

8 Q. Okay. And will you agree with me that the
9 fact of this provision is that Southwestern Bell may --
10 may not be compensated for any calls from people who
11 were in prison who called WorldCom users on a collect
12 basis?

13 A. It's my understanding of that language that
14 that wouldn't happen, so I don't know that Southwestern
15 Bell would be holding the bag.

16 Q. What wouldn't happen?

17 A. It's my understanding that in that case the
18 call wouldn't be transmitted -- terminated -- pardon
19 me -- and, therefore, there wouldn't be an obligation
20 on the part of Southwestern Bell or AT&T or WorldCom to
21 one or the other.

22 Q. Okay. Can you explain to me why you believe
23 the call would be terminated?

24 A. Well, it -- oh, I see. Yes, I -- I would.
25 Pardon me. I misread something.

1 Q. Okay. So you will agree with me that a fact
2 of the provision in WorldCom's ABT appendix is that
3 Southwestern Bell won't be compensated for any calls
4 from people who are in prison who call WorldCom's end
5 users?

6 A. It's a possibility.

7 Q. Well, it's not just a possibility, it's
8 absolutely a probability if the Commission would adopt
9 the ABT appendix, correct, because it exempts all
10 ABT calls?

11 A. Well, I believe that there might have to be
12 another billing arrangement made. And I think that's
13 WorldCom's intent, so as I said, I think that's a
14 possibility, but I don't think it's likely.

15 Q. Okay. Another billing arrangement with
16 who? Southwestern Bell doesn't have a customer.

17 A. If Southwestern Bell's operator speaks to the
18 end user, I maintain that the possibility, since that a
19 business relationship could have been considered to
20 have been established at that moment.

21 Q. Okay. Southwestern Bell has no operator in
22 the scenario. We have a person in Florida with an AT&T
23 operator calling somebody in Missouri, who is a
24 WorldCom UNE-P -- who gets WorldCom service. And in
25 that situation it's UNE-P service.

1 So the call comes in, Southwestern Bell
2 transports the call to the end user because service is
3 being provided via UNE-P.
4 A. All right.
5 Q. Okay. So when you say that there could be a
6 billing arrangement for Southwestern Bell, who is
7 Southwestern Bell having a billing arrangement with if
8 it's not having a billing arrangement with the
9 UNE-P provider?
10 A. Who's telephone was it that Billy Bob picked
11 up in the prison? Are we still using that as an
12 example?
13 Q. Yes.
14 A. Yes, we are. Okay.
15 Q. It's in Florida.
16 A. If it's Southwestern Bell's telephone --
17 Q. We don't have -- we don't have anybody in
18 Florida.
19 A. That -- that's -- that's where I'm losing it.
20 Is it Southwestern Bell's telephone in this
21 hypothetical example?
22 Q. In Florida --
23 A. Yes.
24 Q. -- no.
25 A. No. Okay. So it's an AT&T operator that

1 Billy Bob is speaking with?

2 Q. Right.

3 A. Okay. And AT&T carries the call until it
4 reaches the local network which Southwestern Bell
5 operates, and then runs the call through the network.
6 Sue is Billy Bob's -- or pardon me -- Sue is MCI's
7 UNE-P customer?

8 Q. That's right.

9 A. Oh, okay. Would you --

10 Q. Yeah.

11 A. Please.

12 Q. Who -- who are we supposed to be compensated
13 from if we aren't being compensated from the UNE-P --
14 UNE-P end user's local exchange company?

15 A. I would hypothesize that it would be the
16 company to whom Sue had agreed to pay the charges.
17 I -- I would maintain that it's possible that a billing
18 arrang-- or that a business arrangement has been
19 established at that point.

20 Q. Okay. Now, will you agree with me -- and
21 let's make sure that we're real clear here. That when
22 you -- and maybe you just don't accept a lot of collect
23 calls, so if you don't know the answer, you know, feel
24 free to tell me that too.

25 Would you agree with me that when Sue hears,

1 will you accept the call, she has no idea from which
2 telecommunications carrier that call is coming?

3 A. It's been my understanding that the operator
4 generally identify themselves as Southwestern Bell,
5 AT&T operator, and so at that point, I would think that
6 I -- if it were me receiving the call, that I would
7 establish a relationship with the company's -- or with
8 the company with whose operator I'm speaking.

9 Q. Okay. Well, let's explore that a little bit.
10 If you accept a collect call at your house, do you
11 think you're going to get a telephone bill from that
12 company in Florida?

13 A. I would expect that I would receive the bill
14 as part of my local phone bill. There might be an
15 additional page for that company.

16 Q. So based on that, wouldn't you agree that the
17 billing relationship is between the end user, whose
18 WorldCom's customer, and the or -- the company that
19 originated the call?

20 A. That was one scenario. But as I said, by
21 accepting those charges, I would also agree that I have
22 opened the door to a business relationship with the
23 other company and that I should expect a bill from that
24 company.

25 Q. Okay. Are you aware of any situation where an

1 operator ever asks the party that's called on a collect
2 basis for their telephone -- for -- for their billing
3 information, their name, their address, where they
4 live, credit information before the collect call can go
5 through?

6 A. No, I'm not, but I'm aware of several
7 databases that various phone companies exchange
8 information by which they could get that information.

9 Q. Okay. But you agree with me that the end user
10 has agreed to accept financial responsibility --

11 A. Yes.

12 Q. -- for the call?

13 A. Yes.

14 Q. Clearly Southwestern Bell didn't agree to
15 accept financial responsibility for that call?

16 A. Yes.

17 Q. Okay. Will you agree with me that WorldCom
18 proposes to have Southwestern Bell's name on its end
19 users' bills for ABS calls?

20 A. That's my understanding.

21 Q. And will you agree with me that Southwestern
22 Bell would not be the one who would be billing
23 WorldCom's end user?

24 A. Most likely.

25 Q. Okay. Will you agree with me that if WorldCom

1 places its name or its name and logo or any identifying
2 information on its end users' bills, SWBT would not be
3 able to see those bills if end -- if WorldCom's end
4 users called it and had any questions?

5 A. I don't know. Given -- given the recourcing
6 arrangements there's certain information that
7 Southwestern Bell is asking and there's certain
8 information that WorldCom is willing to give. I don't
9 know if the bill has been requested.

10 Q. Okay. Well --

11 A. I don't know if it's not available.

12 Q. Let's go back to Florida for a second. If the
13 call comes from Florida into -- into the UNE-P WorldCom
14 customer in Missouri, would you agree with me that
15 billing -- that -- that there's going to be billing
16 information passed to WorldCom to bill its end user?

17 A. I believe that would be the case.

18 Q. Are you suggesting that Southwestern Bell
19 should store information regarding a bill that's gonna
20 go from WorldCom to its end user in the event that
21 WorldCom doesn't pay Southwestern Bell?

22 A. No, I'm -- I'm suggesting that the business
23 relationship may have started with the different
24 company, and that if -- even if it hasn't, that
25 information is available.

1 Q. Okay. Well, the originating company, AT&T in
2 Florida, they got paid by Southwestern Bell.
3 Southwestern Bell is the one in the middle who has no
4 money. So wouldn't you agree that what you're in
5 effect saying that Southwestern Bell would have to be
6 keeping records regarding WorldCom's end users' bills
7 in the event that WorldCom's end users didn't pay their
8 WorldCom provider?

9 A. Not in total. On -- on these ABT calls, which
10 in comparison to the total number of phone calls
11 transmitted, are relatively small. I -- I think that
12 is -- that is a possibility. I don't see where
13 WorldCom has had a say in whether or not its end user
14 would accept the call, so I'm not sure where the
15 business arrangement started there.

16 I recognize that the WorldCom end user has
17 established a business relationship with WorldCom and
18 is obligated to pay. WorldCom charges. But in this
19 case we have a call coming from somewhere else, which
20 is alternatively billed and over which WorldCom has no
21 control whatsoever.

22 Q. Okay. Well, you'll agree with me, will you
23 not, that WorldCom absolutely has control over whether
24 its end users ac-- are able to accept ABT calls because
25 we have a number of CLECs in Missouri who won't let

1 their end users receive ABT calls?

2 A. Yes.

3 Q. So WorldCom, in fact, really does have a
4 choice, correct?

5 A. It can block the collect call, yes.

6 Q. Okay. Will you agree with me that in
7 WorldCom's proposed ABT appendix unbillables are deemed
8 uncollectibles? We discussed that briefly before.

9 A. Yes.

10 Q. And will you agree with me that an unbillable
11 is typically a charge in which the applicable desk
12 message contains errors so WorldCom would be unable to
13 bill its end users?

14 A. I'm not sure if that would be typical.

15 Q. Would you agree with me with SWBT's
16 proposal would make -- under SWBT's proposed ABS
17 appendix, SWBT makes the end user who accepted the
18 ABS call to be responsible for the call that he or she
19 agreed to pay?

20 A. I believe that's the intent, yes.

21 JUDGE RUTH: Ms. MacDonald, I'll have to ask
22 you to wrap it up pretty quickly.

23 MS. MACDONALD: Okay.

24 BY MS. MACDONALD:

25 Q. I'm just gonna ask you one -- one last

1 question about Alternatively Billed Traffic and then
2 I'll -- I'll stop, even though I could probably spend
3 all day talking about Alternatively Billed Traffic it's
4 so fascinating.

5 Would you agree with we that WorldCom contends
6 that SWBT should develop a blocking option specifically
7 for WorldCom which would block calls but would still
8 allow IXC collect calls and third-party calls?

9 A. They have suggested that in their testimony,
10 yes.

11 Q. And would you agree with me that it appears
12 that they also want Southwestern Bell to pay to develop
13 that capability?

14 A. I believe that -- that's implied, yes.

15 MS. MACDONALD: Okay. That's all the
16 questions I have. Thank you.

17 JUDGE RUTH: WorldCom?

18 CROSS-EXAMINATION BY MR. CURTIS:

19 Q. Had to get a drink.

20 Good afternoon, Mr. Cecil.

21 A. Good afternoon.

22 Q. I -- I had no idea we were going to be
23 spending so much time on ABT, and I know you were
24 probably not contemplating that either.

25 A. That's true.

1 Q. I would like to ask you a few clarifying
2 questions with regard to some of the examples that
3 Ms. MacDonald used. First of all, when she posited the
4 call from a prison in Florida to Sue in St. Louis, I
5 guess it was, that's a long distance call, interstate,
6 interLATA, right?

7 A. Yes, it is.

8 Q. Is any of that -- any of that covered by what
9 we're about here today?

10 A. I don't believe it is. It's a very
11 sophisticated discussion, and so I won't say absolutely
12 no, but I -- I believe it's not.

13 Q. Are you aware that with regard to these long
14 distance, interstate-interLATA-type collect calls that
15 companies will have billing and collection agreements
16 with whoever the terminating end user customer is?

17 A. Yes, I believe so.

18 Q. Okay. And that's how those are usually
19 handled?

20 A. Yes.

21 Q. What we're talking about is a smaller universe
22 than that. We're talking, I think, about ABT,
23 alternative -- Alternatively Billed Traffic in an
24 intraLATA -- intraLATA?

25 A. Yes.

1 Q. And local calling setting; is that correct?

2 A. That's my understanding, yes.

3 Q. So to get real, perhaps, we might be talking

4 about a Southwestern Bell residential customer in Cape

5 Girardeau wanting to place a collect call to a WorldCom

6 local customer in St. Louis?

7 A. That's possible.

8 Q. With that --

9 A. Certainly.

10 Q. -- are -- are we now in the -- in the ballpark

11 of what we're about today?

12 A. I believe so. That's consistent with my

13 understanding.

14 Q. Okay. Thank you.

15 And so when that Southwestern Bell residential

16 customer in Cape Girardeau places that call to her

17 mother in St. Louis, she would call a Southwestern Bell

18 operator, would she not?

19 A. I think that's likely.

20 Q. Okay. And that Southwestern Bell operator

21 would then ring the number at the end user -- the

22 MCImetro or WorldCom local customer in St. Louis?

23 A. Yes.

24 Q. And that customer would answer and would, you

25 know, be asked whether they would accept a collect

1 call, correct?

2 A. Yes.

3 Q. Okay. And if that person says yes, then the

4 call goes forward, right?

5 A. Yes.

6 Q. Okay. Is -- is a representative from MCI or

7 WorldCom on the line at that time?

8 A. It's a Southwestern Bell operator, no, I -- I

9 don't believe so.

10 Q. And when you said it depends on who

11 establishes the business, I believe, relationship were

12 your words?

13 A. Yes.

14 Q. Would you agree that it is Southwestern Bell

15 that is establishing the business relationship in that

16 situation?

17 A. If the original operator with whom the end

18 user -- originating user set up the phone call was a

19 Southwestern Bell operator, then I would maintain that

20 that is a possibility. And in this case, yes.

21 Q. Okay. And, of course, if there were a billing

22 and collection agreement that Southwestern Bell had

23 with MCI or WorldCom, it would -- it would flow quite

24 naturally, wouldn't it --

25 A. I would think so.

1 Q. -- accord-- as according -- in fact, I think
2 your original testimony suggested perhaps that the
3 parties -- the Commission would encourage the parties
4 to enter -- enter into private negotiations to get a
5 billing and collection agreement that would cover
6 ABT traffic in a -- in an interconnection situation?

7 A. That was our original recommendation, but upon
8 further reflection, we modified that to what we have
9 presented in the Staff's DPL.

10 Q. Right. And -- and I -- I see where you are
11 essentially recommending that the Commission adopt the
12 WorldCom language --

13 A. Yes.

14 Q. -- as being fair?

15 With regard to the ability of WorldCom to deem
16 certain calls uncollectible and put them back to
17 Southwestern Bell, would you agree with me that that
18 might encourage the parties to enter into a billing and
19 collection agreement?

20 A. I would think so.

21 Q. Let me move on to Issue No. 9 and refer you to
22 that at page 3 of your rebuttal testimony. That would
23 be at top page of pa-- top of page No. 3, Issue No. 9.
24 And I think at line 8 you state on that page the
25 obligation of the provision of interexchange services

1 does not belong in a local exchange services

2 interconnection agreement; is that correct?

3 A. Yes, that's -- that's what I said.

4 Q. Okay. Does the obligation of the provision of

5 intraLATA toll service belong in a local exchange

6 services interconnection agreement?

7 A. That's still interexchange. I don't believe

8 so.

9 Q. Okay. Thank you.

10 Is Southwestern Bell an intraLATA provider in

11 Missouri?

12 A. Yes, they are.

13 Q. Okay. What is your understanding of the

14 two-PIC environment that we have in Missouri?

15 A. You -- an end-user customer has the option of

16 having the same carrier provide inter- and intraLATA

17 service or they can choose one carrier for interLATA

18 service and another carrier for intraLATA service.

19 Q. Thank you.

20 And Missouri is still subject to intraLATA

21 toll-free subscription?

22 A. I believe so.

23 Q. Okay. So an end user would have the right in

24 Missouri to have a local service provider, an intraLATA

25 toll provider and an interLATA toll provider, all three

1 being different companies if that -- is that correct?

2 A. Yes.

3 Q. Or in some cases they could be the same
4 company?

5 A. That is also possible.

6 Q. Okay. And should CLEC local and end users in
7 Missouri have the ability to choose Southwestern Bell
8 as their intraLATA toll provider?

9 A. I wish that universally we could say yes, but
10 I don't know of any obligation incumbent upon
11 Southwestern Bell to make itself available to
12 universally every customer that would be within a
13 resident LATA.

14 Q. Doesn't -- doesn't -- isn't it required to
15 hold itself out statewide to be an intraLATA provider
16 to whomever it wishes?

17 A. I don't believe so.

18 Q. You don't think that's a requirement of the
19 Commission?

20 A. I don't believe so.

21 Q. Okay. What do you think Southwestern Bell's
22 obligation as an intraLATA toll provider is? Can they
23 decline a customer?

24 A. To be certain if, for example, a customer in
25 the Jefferson City exchange requested service from

1 Southwestern Bell, Southwestern Bell could certainly
2 decline that.

3 Q. Okay. How about a CLEC customer within a
4 Southwestern Bell exchange?

5 A. It is my understanding that Southwestern Bell
6 can decline that service.

7 Q. It can decline it?

8 A. Yes.

9 Q. Okay. Do you think that's in the public
10 interest?

11 A. I would like to see every company scramble --
12 scramble -- scrambling to get every customer possible.

13 Q. Why do you think they decli-- they would
14 decline?

15 A. For the same reasons that many other companies
16 limit the scope of their services. While they are
17 authorized to serve statewide, they recognize that
18 there are limitations to what is in good business
19 practice and -- and -- and to what will maximize their
20 profits s.

21 Q. Certainly. And -- and I understand there's
22 some IXCs that may not market heavily in -- in a
23 particular area, but are you of the opinion that
24 fail -- you know, failing to market and then absolutely
25 refusing to take a customer, are those the same things?

1 A. I don't believe that there is an obligation on
2 Bell to take every single customer that comes through
3 their door. Among other things, I think that credit
4 limitations could play a role and we could go down that
5 path.

6 Q. How -- let me -- let me just ask you briefly
7 with regard to intraLATA prov-- provision by an IXC,
8 would they be obligated?

9 A. I believe that's what their certificate would
10 say, yes.

11 Q. Yes.

12 So their -- their certificates obligate them
13 to take anyone who wishes to sign up with them
14 statewide?

15 A. Again, yes, but there are very creative ways
16 to market, and given those creative means --

17 Q. I understand.

18 A. -- they can avoid those areas that they don't
19 want to offer service -- or provide service in.

20 Q. And I -- and I -- I do understand there's --
21 there's marketing, but then there is also the right of
22 a customer -- an end-user customer to select a toll
23 provider for an intraLATA -- for the intraLATA market
24 of that end user's choosing.

25 And just to sum up again, IXCs have no ability

1 to refuse a customer -- an end-user customer who wants
2 to use them to have intraLATA toll provided, correct?

3 A. I believe that's the case.

4 Q. On the other hand, Southwestern Bell you -- it
5 is your understanding has every right to refuse an end
6 user's request that Southwestern Bell become their
7 intraLATA toll provider?

8 A. Given that Southwestern Bell is acting as the
9 local company providing the intraLATA toll, I believe
10 they do.

11 Q. Okay. Let me direct you to your -- to
12 Issue 15, and I think you begin your discussion of that
13 at page 4 of your rebuttal testimony and then it
14 continues on to page 5.

15 A. Yes, sir.

16 Q. At -- at line 3 you -- you state access to
17 LIDB or CNAM on a usage basis would not be
18 discriminatory or unduly burdensome to WCom. Do you
19 see that?

20 A. I have reprinted my testimony so that I can
21 refer to the issues more easily, so my lines aren't
22 going to line up with yours. I'll find it here
23 momentarily.

24 Q. Okay.

25 A. Would you repeat that?

1 Q. I -- just for clarification, I think I'm
2 holding in my hands what has been -- what is entitled
3 amended rebuttal testimony and that was the
4 substitution --

5 A. Yes.

6 Q. -- that was --

7 A. Yes.

8 Q. -- made previously?

9 A. That's correct.

10 Q. Okay. I -- I'm looking at page 5, line 3
11 towards the end. A new sentence begins, Access to
12 LIDB?

13 A. Yes.

14 Q. Are we okay on pagination?

15 A. Yeah, we're fine.

16 Q. Okay.

17 A. We're fine. Thank you.

18 Q. Yeah, so you see that there?

19 A. Yes, I do.

20 Q. How -- how would WorldCom be able to access
21 LIDB un-- under Southwestern Bell's terms, which, I
22 believe, you're endorsing?

23 A. I -- I'm not really sure where you're coming
24 from in your question. Could you restate that?

25 Q. Okay. Yeah. And I -- and I apologize. That

1 was not clear.

2 Would you agree with me that South-- that
3 WorldCom's access to LIDB information would be on a per
4 occurrence or a per-dip, as they say, basis?

5 A. Yes.

6 Q. And would Southwestern Bell propose to charge
7 WorldCom on a -- on a per-dip basis every time it
8 queried the database for information?

9 A. I believe that's the arrangement, yes.

10 Q. That is the arrangement.

11 Okay. And do you know what that charge is?

12 A. No, I don't.

13 Q. Okay. Do you know what they propose it to be?

14 A. No, I don't.

15 Q. Okay.

16 A. We addressed this issue more from a policy
17 perspective than what the appropriate charge would be.

18 Q. Okay.

19 A. That, I believe, was covered under Mr. Thomas
20 or Ms. Dietrich's testimony.

21 Q. Okay. Now, access to the LIDB is an unbundled
22 network element, is it not?

23 A. Yes, sir.

24 Q. Okay. And you so stated?

25 A. Yes, sir.

1 Q. And you had a question as to the whether the
2 database itself is a UNE, but certainly access to the
3 UNE is?

4 A. Yes, sir. Yes, sir, it is.

5 Q. And so you would expect Southwestern Bell to
6 have to pay the same rate on a per-dip basis as
7 WorldCom would to access that database?

8 A. I don't know that Southwestern Bell as -- as a
9 firm would be too concerned with what it would have to
10 pay to -- pay itself. I do believe that Southwestern
11 Bell experiences a cost every time that a database dip
12 occurs and that that cost will be consistent, whether
13 it's Southwestern Bell, WorldCom or AT&T or some --
14 some other firm.

15 Q. Did you hear Ms. Rogers' testimony earlier
16 that this database is located in Rochester, New York?
17 Were you in the room then?

18 A. I must have been asleep at the moment. I
19 don't recall --

20 Q. Okay. Well, I must have been too.

21 A. -- that it was in Rochester, New York, but
22 I -- I did listen to Ms. Rogers.

23 Q. Okay. Did you also hear -- I think she may
24 have said that the database -- the LIDB database is not
25 owned by South-- by Southwestern Bell?

1 A. No, I -- I'm not aware of that.

2 Q. All right. Okay. You did hear that it was
3 not located in Missouri, the database?

4 A. Yes, I did hear that.

5 Q. Okay. So if it is owned by some -- if, in
6 fact, that database is owned by someone other than
7 Southwestern Bell, you would expect to see a per-dip
8 payment made by Southwestern Bell to whatever entity
9 that is that owns the LIDB?

10 A. Mr. Curtis, I don't know what the arrangement
11 is between that entity and Southwestern Bell. I don't
12 know if it's a subsidiary of Southwestern Bell.

13 Q. Uh-huh.

14 A. I do know that there will be a cost. So
15 in -- in -- in the utilization of the equipment, in --
16 in the maintenance of database there will be a cost.
17 And every time the data dip occurs there will be a
18 cost.

19 I don't know if Southwestern -- Southwestern
20 Bell would write itself a check every time that it
21 accessed that database.

22 Q. Okay. But if they did not, would you have
23 concerns about it being a non-discriminatory access?

24 A. Actually I -- I would think that access is
25 very equitable given that Southwestern Bell has to

1 maintain the database and it experiences a cost.
2 And -- and, therefore, given that the cost doesn't vary
3 whether WorldCom acts as a database or Southwestern
4 Bell, that I think the terms are probably -- no, pardon
5 me, I think the terms are accurate.

6 Q. Okay. But if -- if -- if it is owned by
7 someone other than Southwestern Bell, they don't own
8 the database, do they?

9 A. They may not own the hardware. I think
10 there's a difference between the hardware and the
11 information stored in -- therein.

12 MR. CURTIS: Okay. Thank you.

13 I have nothing further.

14 JUDGE RUTH: We've been on the record for
15 about 90 minutes, so I think it's appropriate we take a
16 15-minute break at this point and come back at 10 'til
17 3.

18 Off the record now. Thank you.

19 (A RECESS WAS TAKEN.)

20 JUDGE RUTH: Okay. Let's go back on the
21 record, please. We are ready for questions from the
22 Bench.

23 Commissioner Murray, do you have any?

24 COMMISSIONER MURRAY: Yes, thank you.

25 QUESTIONS BY COMMISSIONER MURRAY:

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1 Q. Good afternoon, Mr. Cecil.

2 A. Good afternoon.

3 Q. I think I just have just one question for you,
4 believe it or not.

5 On Issue No. 22 were you in the hearing room
6 when South -- let's see. Now I'm trying to remember
7 who made the modification. Yes, I believe Southwestern
8 Bell suggested that there be just one slight
9 modification to the language that Staff had proposed
10 there, and that was the removal of the clause within
11 the AIN platform?

12 A. Yes, ma'am.

13 Q. Do you have any problem with that -- taking
14 those words out?

15 A. Would you repeat what those words are?

16 Q. Yes. It's -- it's right after utilize the
17 SCE. It's the words within the AIN platform. I'm on
18 page 136 of the DPL.

19 A. Yes, ma'am. My understanding of AIN is that
20 it is a distributed intelligence network and it's
21 composed of, in essence, two hemispheres sort of like a
22 brain. In one hemisphere you have a service creation
23 environment where they actually develop the service.
24 Then in the other hemisphere that's where that service
25 is stored and where it makes contact with the voice

1 switched network -- or with the voice network.

2 So to my way of thinking, both halves are part
3 of the platform. And I would rather see that that
4 language remain to ensure that we understand that the
5 services developed in the service creation environment
6 are, in fact, still considered to be artificial
7 intelligent network services.

8 Q. So you think removal of it changes the
9 meaning?

10 A. I think removal of it gives room for dispute.

11 COMMISSIONER MURRAY: And I think that's all.

12 Thank you.

13 JUDGE RUTH: Mr. Cecil, there may be more
14 Commissioner questions for you later, but at this point
15 we'll move on to the recross.

16 Southwestern Bell?

17 MS. MACDONALD: No questions, Your Honor.

18 JUDGE RUTH: WorldCom?

19 MR. CURTIS: Your Honor, I do not have any
20 specific recross based on questions from the Bench, but
21 I would like to make a correction for the record. I
22 don't want to mislead the Commission in any way.

23 Through my misunderstanding I referred in my
24 previous cross-examination of this witness to the LIDB
25 database located in Rochester. That was an error on my

1 part, and I don't want the Commission to believe that.
2 That is incorrect. That's the DAL database, so I'm --
3 I merely wanted to make that clear.
4 JUDGE RUTH: Thank you. That will be noted
5 for the record.
6 Staff, do you have redirect?
7 MR. BATES: No, thank you.
8 JUDGE RUTH: Mr. Cecil, you may step down, but
9 please remain available.
10 MR. CECIL: Thank you, Your Honor.
11 JUDGE RUTH: At this point we will move on to
12 the next set of issues and witnesses. It's my
13 understanding that under alternative -- alternative
14 billing calling name line information the first witness
15 had been scheduled to be McKanna, but instead we're
16 going to start with Kendall.
17 MR. CURTIS: That is correct.
18 JUDGE RUTH: Okay. Is your witness available
19 and ready?
20 MR. CURTIS: She is. Thank you.
21 (Witness sworn.)
22 JUDGE RUTH: Thank you. Please be seated.
23 Proceed, Mr. Curtis.
24 MR. CURTIS: Thank you.
25 ROSEANN KENDALL testified as follows:

1 DIRECT EXAMINATION BY MR. CURTIS:

2 Q. Would you please state your full name for the
3 record.

4 A. Yes. It's Roseann Kendall.

5 Q. And by whom are you employed and -- and in
6 what capacity?

7 A. I am employed by WorldCom and I am in the west
8 region carrier management organization and I am -- I am
9 a senior project manager.

10 Q. Thank you.

11 Are you the same Roseann Kendall who has
12 been -- who has caused to have prefiled what has been
13 marked as Exhibit No. 31, direct testimony?

14 A. Yes, I am.

15 Q. Do you have a copy of that with you?

16 A. Yes, I do.

17 Q. Do you have any additions or corrections to
18 make?

19 A. Not to that portion of my testimony. I have a
20 correction to the rebuttal.

21 Q. Okay. Let me move on to that. Are you the
22 same person who had caused to be filed -- prefiled in
23 this case Exhibit No. 32, rebuttal testimony of Roseann
24 Kendall?

25 A. Yes, I am.

1 Q. Okay. And you have a copy of that with you?

2 A. Yes, I do.

3 Q. Do you have any additions or corrections to
4 make?

5 A. Yes, I do. On the top of page 4, line 1, the
6 sentence actually begins on the bottom of page 3. It
7 starts with presumably. Ms. DeBella is trying to argue
8 that the LIDB database is outside of the definition of
9 OSS, which is an argument that is entirely inconsistent
10 with the -- and I'd like to insert the word "Texas"
11 Commission's analysis in the 271 proceeding.

12 Q. Okay. Are there other corrections?

13 A. That's it.

14 Q. Okay. If -- if I were to ask you the same
15 questions you were asked in both Exhibit 31 and 32
16 today, would your answers be a -- be the same as
17 amended?

18 A. Yes, they would be.

19 Q. Okay. And are they true and correct to the
20 best of your knowledge?

21 A. Yes, they are.

22 MR. CURTIS: Your Honor, at this time I would
23 like to move the admission of Exhibits 31 and 32 and
24 tender the witness for cross.

25 JUDGE RUTH: Okay. Exhibits 31 -- yes, 31 and

1 32 have been offered, Ms. Kendall's direct and rebuttal
2 testimony. Are there any objections to these
3 documents?

4 (No response.)

5 JUDGE RUTH: Okay. Seeing no objections,
6 Exhibits 31 and 32 are received into the record.

7 (EXHIBIT NOS. 31 AND 32 WERE RECEIVED INTO
8 EVIDENCE.)

9 JUDGE RUTH: We will begin cross with
10 Southwestern Bell. And I will remind Southwestern Bell
11 that the time limit that you had agreed to was
12 30 minutes.

13 MS. MACDONALD: Okay. Thank you, Your Honor.

14 CROSS-EXAMINATION BY MS. MACDONALD:

15 Q. Good afternoon. Will you agree with me that
16 as part of the 271 proceeding in Texas SWBT agreed to
17 create an interface for LIDB administration that uses a
18 local service request or LSR?

19 A. Yes.

20 Q. And LSA is an industry standard compilation of
21 forms that CLECs use to order resale network -- resale
22 service network elements, correct?

23 A. Yes.

24 Q. And you'll agree with me that through the LSR
25 process a CLEC can maintain and update its customers'

1 LIDB information?

2 A. Yes.

3 Q. And will you agree with that in SWBT 271

4 Missouri proceeding SWBT also committed to make the

5 LSR process available to CLECs in the M2A?

6 A. Yes.

7 Q. And at the time the Commission approved the

8 M2A, SWBT had not completed the work necessary so that

9 LSR interface could be used for LIDB administration?

10 A. I -- I'm not familiar with the time line

11 there, so I can't agree to that.

12 Q. Okay. Well, you'd agree with me that the work

13 has now been completed?

14 A. On the LSR process itself?

15 Q. Yes.

16 A. Yes.

17 Q. And you'll agree with me that LSR language for

18 LIDB should be added to this interconnection agreement

19 to reflect these network changes that we've just

20 discussed?

21 A. Yes.

22 Q. And will you agree with me that when SWBT

23 agreed to create the LSR interface as part of its

24 Missouri 271 proceeding, SWBT did not make any

25 commitment that the LSR process would allow CLECs the

1 ability to view their records in direct access when
2 viewing -- when using the LSR process?

3 A. I just want to make sure I'm clear. Are you
4 saying that the commitment wasn't made by SWBT during
5 the proceeding?

6 Q. That's correct.

7 A. I wasn't at the proceeding so I'm not sure if
8 that commitment was or was not made.

9 Q. Okay. Would you agree with me that at the
10 time that SWBT agreed to create an interface for LIDB
11 administration that uses the LSR process SWBT noted
12 that service or based interfaces and bundled interfaces
13 were incompatible?

14 A. I have learned that since the process has been
15 implemented, yes.

16 Q. Okay. And the parties agreed that through the
17 LSR process a CLEC would be able to view its own
18 customer's LIDB records; is that correct?

19 A. I'm sorry. Say that again.

20 Q. The parties agreed that through the
21 LSR process a CLEC would be able to view its own
22 customers' LIDB records?

23 A. The par-- I'm -- I'm sorry. I'm just not
24 following your question there. The parties agreed
25 that -- that the CLEC --

1 Q. Well, CLECs -- CLECS can look at their own
2 customers' LIDB records; isn't that correct?

3 A. Not if utilizing the LSR process.

4 Q. Okay. But -- but they can through unbundled
5 interfaces, correct?

6 A. If you use the GUI that is available, which is
7 a -- a much more cumbersome process to the CLEC, yes,
8 you can view your records. But if you use the
9 LSR process, that was implemented as a result of the
10 271 proceeding, you cannot view your records.

11 Q. Okay. And access to view such records would
12 be through the electronic unbundled interfaces that
13 SWBT offers in attachment of the M2A, that's right --
14 is that correct?

15 A. In the unbundled interface, you mean the --
16 the GUI?

17 Q. Uh-huh.

18 A. Yeah. I will agree with that.

19 Q. And will you agree with me that SWBT now wants
20 direct access to the LIDB database via the LSR process?

21 A. SWBT or WorldCom.

22 Q. I'm sorry. That WorldCom wants direct access
23 to the LIDB database via the LSR process?

24 A. We would like to be able to see our records
25 if we -- if we have the option to use the LSR process,

1 then, yes, we would like to -- to see our own records.

2 Q. Will you agree with me that if it were
3 technically feasible to do so, SWBT would have to
4 create a new interface for WorldCom?

5 A. I don't know what it would take for
6 Southwestern Bell to be able to make that available to
7 the CLECs.

8 Q. But it's not available under the current
9 LSR process, right?

10 A. Correct.

11 Q. So something would have to be done, correct?

12 A. I -- I would imagine so.

13 Q. And I assume that WorldCom wants SWBT not only
14 to develop this interface, but also to maintain it; is
15 that correct?

16 A. Well, since the LIDB database is in SWBT's
17 control, I would imagine that SWBT would have to be the
18 one to maintain it.

19 Q. Okay. And -- and develop it, correct?

20 A. Yes.

21 Q. And would you agree with me that if SWBT gave
22 WorldCom direct access to LIDB via the LSR process
23 WorldCom would be able access LIDB information
24 regarding WorldCom's own customers?

25 A. Yes.

1 Q. And would you agree with me that if SWBT gave
2 WorldCom direct access the LIDB via -- via the
3 LSR process, WorldCom would also be able to have direct
4 access -- access to LIDB records of SWBT's customers?

5 A. That's what we have been told by Southwestern
6 Bell, but I don't know that to be a fact.

7 Q. Okay. Would you agree with me that if
8 SWBT gave WorldCom direct access to the LIDB via the
9 LSR process, WorldCom would also have direct access to
10 LIDB records of other CLECs and IXCs?

11 A. And again, that's what Southwestern Bell has
12 told us.

13 Q. Okay. And you don't have any reason to
14 dispute that?

15 A. No, I don't.

16 Q. Okay. And you would agree with me that the
17 LSR process includes many data elements that are
18 provided as part of the LIDB record; is that correct?

19 A. Yes.

20 Q. You will agree with me that if WorldCom were
21 to fail to provide all the necessary data elements,
22 SWBT proposes to populate the data element with default
23 information?

24 A. Yes.

25 Q. And you agree that default information should

1 be populated if the LSR does not contain the required
2 elements as outlined by SWBT?

3 A. Yes.

4 Q. Okay. SWBT proposes limitation of liability
5 language, which provides that SWBT will not be
6 responsible for any claim or damage resulting from the
7 use of such default information except in the event of
8 SWBT's gross negligence or willful misconduct; isn't
9 that correct?

10 A. Yes.

11 Q. And WorldCom's objecting to that limitation of
12 liability language?

13 A. Yes.

14 Q. You agree with me that WorldCom could limit
15 its liability, as well as SWBT's liability, if it were
16 to file a tariff, including limitation of liability
17 language?

18 A. I -- I'm not aware of that.

19 Q. Okay.

20 A. That we have the ability to do that.

21 Q. Okay. Are you aware that WorldCom through
22 MCIm has a tariff currently in effect that limits its
23 liability to its customers for the furnishing of all
24 services to its customers?

25 A. I personally don't -- I don't know that that

1 tariff is in existence.

2 Q. Okay. Well, do you have any reason to
3 doubt that --

4 A. No.

5 Q. -- that tariff --

6 A. No, I don't.

7 Q. -- limits your liability to your end users?

8 A. No.

9 Q. Okay. And would you agree with me that SWBT
10 has limitation of liability language in its access
11 services tariff and general exchange tariff, which
12 specifically applies to caller ID?

13 A. I -- I -- I'm not aware of that.

14 Q. Okay. Did you have an opportunity to review
15 the testimony of -- of Linda DeBella in preparation for
16 today?

17 A. Yes. In regard to issue -- DPL Issue 19.

18 Q. Yes.

19 A. Yes.

20 Q. And did you have an opportunity to -- I mean,
21 did -- is it your understanding that in her testimony
22 she specifically references Southwestern Bell's access
23 services tariff and general exchange tariff which apply
24 to caller ID?

25 A. I -- I reviewed her issue on -- I reviewed her

1 testimony under Issue 19, but I don't recall that
2 reference. If you could point it out to me, that would
3 be helpful.

4 MS. MACDONALD: Okay. Hold on.

5 JUDGE RUTH: Are you showing the witness of a
6 copy of --

7 MR. MORRIS: Of DeBella's testimony.

8 JUDGE RUTH: Sure.

9 THE WITNESS: Okay.

10 BY MS. MACDONALD:

11 Q. I'm unable to find that cite at this time, but
12 let's set aside what exactly the cite is.

13 Do you have any reason to doubt that
14 Southwestern Bell has limitation of liability in its
15 access services tariff and general exchange tariff
16 which apply to caller ID?

17 A. No.

18 Q. Okay. And wouldn't it be fair to say that
19 since Southwestern Bell's tariffs have been approved by
20 this Commission, it's reasonable to believe that if
21 WorldCom wanted to limit its liability, it could follow
22 similar tariffs and should expect that it would be
23 approved by this -- this Commission?

24 A. I -- I would assume that would be the case.

25 Q. Okay. I would like to turn briefly to Issue

1 No. 20. Will you agree with me that when a customer
2 establishes service, they expect to be able to receive
3 toll telephone calls?

4 A. Yes.

5 Q. And will you agree with me that a customer who
6 accepts an alternatively billed or collect call agrees
7 to accept the charges associated with Alternatively
8 Billed Traffic?

9 A. I would believe that the customer would be
10 expected to accept that, yes.

11 Q. Okay. And if a child were at a soccer game,
12 for example, and had an accident on the field and
13 wanted to call their mother collect at home, you would
14 agree with me that the child would think and the mother
15 would expect that the child would be able to get the
16 collect call to the mom at home?

17 A. Yes.

18 Q. And let's assume that the child is in
19 Southwestern Bell territory, but the mother's in -- is
20 a UNE-P WorldCom end user. And you would agree with me
21 that -- that the mother would expect that even though
22 Southwestern Bell was the out -- provided the service
23 that got the call to her as a WorldCom end user, that
24 the call nevertheless would go through?

25 A. Yes.

1 Q. And you would -- you would agree with me that
2 the WorldCom end user wouldn't expect to hear on the
3 telephone, I'm sorry, there's no billing and collection
4 agreement between Southwestern Bell and WorldCom;
5 therefore, we're not gonna let you have your child's
6 phone call?

7 A. Well, I would imagine the mother would not
8 want to hear that, no.

9 Q. Okay. And would you agree with me that
10 WorldCom should provide SWBT with accurate information
11 regarding its customers when it provides LIDB
12 information about its customers to Southwestern Bell?

13 A. Yes.

14 Q. And would you agree with me that WorldCom
15 should provide proper blocking information so that the
16 LIDB can function in connection with blocking calls or
17 other ABT calls that terminate to a WorldCom end user?

18 A. Yes.

19 Q. Would you agree with me that WorldCom should
20 bill its customers for ABT traffic when its customers
21 accept responsibility for an ABT call, and there's no
22 information that LIDB database -- that the call should
23 not be put through?

24 A. I think that on the -- on the ABT issues I
25 would like to defer that to Witness McKanna, because --

1 since he's provided in-depth testimony on that

2 ABT section.

3 Q. Okay. Well, you provided testimony, too --

4 A. I understand.

5 Q. -- isn't that correct?

6 A. Yes.

7 Q. And you actually held yourself out as one of

8 WorldCom's witnesses who would be able to talk to me

9 about that issue; isn't that correct?

10 A. Yes.

11 Q. And, in fact, on Issue 20 you provide

12 testimony on that issue, correct?

13 A. Yes, I do. But I also reference Mr. McKanna's

14 testimony as well.

15 Q. Okay. So I think it's reasonable that you

16 would answer my question of: Would you agree with me

17 that WorldCom should bill its customers for

18 Alternatively Billed Traffic when its customer accepts

19 responsibility for an ABT call and there's no

20 information in the LIDB database that the call should

21 not be put through?

22 A. Again, I would like to defer that to

23 Mr. McKanna.

24 JUDGE RUTH: Is your answer to the question

25 yes, no, or I don't know?

1 THE WITNESS: I -- I really don't know, and I
2 would rather have Mr. McKanna answer that.

3 JUDGE RUTH: The witness has answered then.

4 MS. MACDONALD: That's gonna be all of my
5 questions, but I would just like to note an objection
6 for the record, because I don't think it's proper to
7 hold her out as a witness on Issue No. 20 and then tell
8 me, I gonna defer the answers to another witness.

9 JUDGE RUTH: And you're wanting to state that
10 as an objection for the record?

11 MS. MACDONALD: Just for the record.

12 JUDGE RUTH: And is there a response from
13 WorldCom?

14 MR. CURTIS: I -- I don't know to what that
15 objection goes to. It's a floating objection that has
16 no end purpose, so -- so I'm not -- I'm not inviting
17 her to enlarge on it, but it -- at this point she's
18 moving nothing -- she's objecting to nothing.

19 JUDGE RUTH: I would ask if you are requesting
20 anything of the Commission in regards to this --

21 MS. MACDONALD: Well, I guess I just don't
22 understand how her answer to that question can be, I
23 don't know, based on her testimony which she -- in
24 which she addressed that issue. So it seems to me
25 that --

1 JUDGE RUTH: Did she address the issue in her
2 testimony specifically? Are you going to impeach her
3 with her own testimony?

4 MS. MACDONALD: I'll tell you what, let me
5 just turn to that section of her testimony for one
6 minute, please.

7 MR. CURTIS: Your Honor, where -- where are we
8 on time, if I might inquire?

9 JUDGE RUTH: Just a moment. I've moved my
10 papers around too much.

11 She has -- they have requested 30 minutes --
12 sorry -- yes, they've requested 30 minutes. They
13 started at 2:58. She has until 3:23 -- or 3:28, give
14 or take a few minutes if -- if the witness needs to
15 review her notes or for me to talk.

16 Ms. MacDonald, I'm sorry. Are you ready or
17 are you still reviewing?

18 MS. MACDONALD: I just want to look at exactly
19 what her testimony says, and I'd also like to state
20 that if she is not able to answer questions regarding
21 Issue No. 20 on which she held herself out to be a
22 witness, I would like to reserve the time that I would
23 have asked these questions of her as holding herself
24 out to those -- in place of the witness to whom she's
25 now referred me.

1 JUDGE RUTH: I will consider your request, but
2 let's see what happens when you look at the testimony.

3 While counsel is reviewing her notes, let me
4 ask you -- you have requested that this be deferred to
5 which witness?

6 THE WITNESS: Mr. McKanna.

7 JUDGE RUTH: Thank you.

8 MS. MACDONALD: Your Honor, I -- I -- I
9 would -- if she wants the defer to Mr. McKanna, that --
10 that's fine. I'll accept the I don't know answer, but
11 I do think that if that's gonna be her position on her
12 Issue No. 20, because I think she held herself out as
13 being able to discuss this issue, that I should be
14 allowed extra time with Mr. McKanna.

15 JUDGE RUTH: Just a moment. I have a question
16 for counsel also, but I --

17 Were you about to say something?

18 MR. CURTIS: Go ahead.

19 JUDGE RUTH: I was going to ask about
20 Mr. McKanna's testimony. I -- I was looking at his
21 table of contents and in the direct he does not list
22 Issue 20, and for the rebuttal table of contents he
23 does not issue 20. Am I misreading that?

24 MR. CURTIS: That is correct. But the -- if
25 you'll look at the description of the issue in the --

1 page 131 of the DPL, it says, what obligations does
2 WCom have for the information it stores in Southwestern
3 Bell's LIDB. There's nothing in there about ABT, and
4 ABT is primarily Mr. McKanna's issue. He is --
5 that -- that is -- is his specialty.

6 MS. MACDONALD: Okay. Well, there might be
7 nothing in that issue as stated, but it is in her
8 an-- her -- her discussion of Issue 20 in her rebuttal
9 on page 4.

10 JUDGE RUTH: I'm still back with Mr. Curtis's
11 reply. Can you restate that? I am now on page 121 of
12 the Decision Point List.

13 MR. CURTIS: 131.

14 JUDGE RUTH: 1-- I'm sorry. 131 of the
15 Decision Point List.

16 MR. CURTIS: Right

17 JUDGE RUTH: What were you pointing out to me?

18 MR. CURTIS: If you look at the descriptio of
19 the issue there at Issue 20, what obligations should
20 WCom have for the information it stores in Southwestern
21 Bell's LIDB.

22 JUDGE RUTH: Uh-huh.

23 MR. CURTIS: And -- and that's primarily what
24 she's addressed. I think there are legitimately, in
25 Ms. MacDonald's favor, some ABT issues related to that.

1 But I think the ABT issues are primarily Mr. McKanna's
2 forte.

3 I think Ms. Kendall has answered to a limited
4 extent, and I think she's deferred any further
5 exploration of the ABT issues to Mr. McKanna, whose
6 entire testimony is related to this.

7 And -- and I would -- I would hasten that -- I
8 have no objection to Ms. MacDonald taking additional
9 time with Mr. McKanna.

10 JUDGE RUTH: And I was going to state,
11 Ms. MacDonald, as I was looking at the table of
12 contents and issues, it appears that this witness was
13 one you could expect to answer your questions on this
14 issue.

15 However, I don't feel that it -- she in any
16 way deliberately misled anyone. But I still do believe
17 that, yes, you should be able to bank some of your
18 time in this case to be used for the witness that dealt
19 with the Issue 20 that you thought would be dealt with
20 with her.

21 That was a roundabout answer, but, are you
22 going to stop now and let's just --

23 MS. MACDONALD: Right.

24 JUDGE RUTH: Okay. I'm going to give you --
25 let's see. We have 8 minutes plus 3 for dealing with

1 this issue. You may use 11 minutes --

2 MS. MACDONALD: Thank you.

3 JUDGE RUTH: -- on the other witness --

4 MS. MACDONALD: Great.

5 JUDGE RUTH: -- to go with this issue, if you

6 wish.

7 MS. MACDONALD: Thank you.

8 JUDGE RUTH: Let me make a note.

9 Staff, do you have cross-examination for

10 Ms. Kendall?

11 MR. BATES: Thank you, Your Honor.

12 CROSS-EXAMINATION BY MR. BATES:

13 Q. Good afternoon, Ms. Kendall.

14 A. Good afternoon.

15 Q. I believe in your testimony you state that

16 WorldCom desires that it wants direct access to LIDB;

17 is that correct?

18 A. We want to have direct acc-- direct access to

19 view our customer records --

20 Q. Oh.

21 A. -- if we're using the LSR process to update

22 LIDB in a UNE-P environment.

23 Q. Did WorldCom have the opportunity to

24 participate in the development of the LSR process?

25 A. We were given the opportunity to go through

1 the normal change management process to comment on the
2 requirements that had been provided by Southwestern
3 Bell, and to participate in -- in a conference call
4 that they had that answered many of the CLEC's
5 questions on the new process.

6 Q. Do you consider that WorldCom had sufficient
7 opportunity to participate in that process?

8 A. Yes. I think Southwestern Bell gave us
9 sufficient opportunity to participate.

10 Q. I'd like to refer you to page 3 of your
11 rebuttal testimony, specifically lines 12 and 13.

12 A. Yes, I'm there.

13 Q. I believe you state that CLECs can submit
14 erroneous LSR information because that data can come
15 from Southwestern Bell's so-called back-room
16 operations?

17 A. Yeah. What -- what I meant by that statement
18 was that we have programmed our systems to -- to
19 provide Southwestern Bell with the information that
20 they require in their back-end systems in order to have
21 a local service request flow through and not error.

22 If whatever that information is in
23 Southwestern Bell's back-end systems, that may not be
24 correct for whatever reason, that is what they would
25 expect to receive from us so that we can get that order

1 across.

2 Q. Where did WCom get its original

3 LSR information?

4 A. Well, the LSR is industry standard form, so we

5 do start with industry standards. However,

6 Southwestern Bell has the abil-- has the opportunity to

7 deviate from those standards -- standards based on what

8 their back-end systems require.

9 Q. Did you get the information from anywhere but

10 Southwestern Bell?

11 A. No. We code our systems with the local

12 service ordering guidelines that Southwestern Bell

13 places on their CLEC handbook and from their

14 requirements that they provide to the CLEC community.

15 Q. And is that the only source you feel is

16 necessary to get that information from?

17 A. Yes. I believe that -- that is the source

18 that we -- we basically use to code.

19 Q. I'd like to refer you for a second now to your

20 direct testimony, page 8. And --

21 A. Yes, I'm there.

22 Q. I'm sorry.

23 A. I'm sorry. I'm there.

24 Q. Okay. No, that's fine. I believe this -- if

25 I'm not mistaken, you address the issue of whether or

1 not Southwestern Bell should be required to provide
2 CLEC LVAS interface for UNE switch ports; is that
3 correct?

4 A. Yes.

5 Q. Okay. What is your opinion, setting aside for
6 a moment the non-Missouri language, as to whether or
7 not Southwestern Bell should be required to supply CLEC
8 LVAS interfaces for UNE switch ports?

9 A. Well, they already do that today. That LVAS
10 access is available is the today's environment. The
11 LVAS access is a -- is the -- is the GUI or the
12 graphical user interface that we can use to update our
13 LIDB records.

14 However, that is a cumbersome process for us
15 because it's a two-step process. We would submit our
16 order via the normal ordering process and then we would
17 have to have a -- a subset or a group of individuals
18 actually populate the LIDB information into this
19 LVAS system.

20 And with the LSR ordering process it's a
21 one-step process. We have all the information and data
22 elements populated on the -- on the LSR, including the
23 LIDB data elements and that would flow through
24 automatically through Southwestern Bell's back-end
25 system.

1 Does that --

2 Q. How would WCom propose changing that process
3 to make it in WCom's view more sufficient or more
4 satisfactory?

5 A. The LSR process?

6 Q. Yes.

7 A. I think where -- where we -- we believe that
8 the LSR process is -- is an efficient process and it is
9 working for us. We were the first CLEC to use that
10 process when Southwestern Bell made it available.

11 However, all we want to do is -- is we want
12 the ability to see those records to make sure that
13 whatever we have populated on that service order in
14 regards to LIDB is accurate and that we can better
15 serve our customers if they ever call us with a problem
16 related to their LIDB.

17 Today we have to go through the local service
18 center -- the Southwestern Bell local service center
19 to -- to obtain information on those records. And that
20 takes time and that takes time away from servicing our
21 customers.

22 Q. So if I understand your answer, Southwestern
23 Bell is providing the interfaces and you do not have an
24 issue there, the issue goes to how better to -- and
25 more satisfactorily to provide --

1 A. Correct.

2 MR. BATES: Thank you very much.

3 THE WITNESS: You're welcome.

4 JUDGE RUTH: Questions from the Bench.

5 Commission Murray, did you have any?

6 COMMISSIONER MURRAY: No questions. Thank

7 you.

8 JUDGE RUTH: Ms. Kendall, I know you need to

9 leave at the end of the day, but I would ask that you

10 remain in the room while I check with some of the other

11 Commissioners --

12 THE WITNESS: All right.

13 JUDGE RUTH: -- by email and make sure they

14 have no other questions for you.

15 THE WITNESS: Yes.

16 JUDGE RUTH: But you may step down for now.

17 THE WITNESS: Thank you.

18 MR. CURTIS: Wait. Redirect.

19 JUDGE RUTH: Oh, yes. Sorry.

20 REDIRECT EXAMINATION BY MR. CURTIS:

21 Q. Ms. Kendall, Mr. Bates asked you a question

22 regarding WCom's need to access the LIDB records to get

23 information regarding customer accounts?

24 A. Yes.

25 Q. How would that come up? Could it -- could it

1 come from a customer himself or herself calling
2 WorldCom -- a WorldCom customer calling WorldCom and
3 saying what?

4 A. It -- it -- one scenario could be the
5 possibility that a customer has ordered blocking of
6 collect calls and we've sent that information over to
7 Southwestern Bell via the LSR process, but yet that
8 customer finds that he or she can ac-- can still accept
9 collect calls on their line. That's one scenario.

10 Could be that they would call the customer --
11 WorldCom customer service center to understand why
12 their request hasn't been filled. And in turn, we
13 would -- we would not have the ability to --

14 Q. Let -- let me just stop you right there.
15 In -- in normal customer relations, WorldCom would be
16 able to answer that question for it -- one of its
17 customers from its records?

18 A. Correct.

19 Q. But in this case you can't?

20 A. In this case we can't. We would have to rely
21 on the Southwestern Bell local service center to
22 provide us with researching that information.

23 Q. So just walk me through that process. How
24 does that go? Does -- do you -- does the WorldCom
25 representative tell the WorldCom customer whose called

1 in requesting that information, you have to hold, I
2 need call -- get a third party on the line or do
3 they -- how does it work?

4 A. I don't -- I don't' know if they specifically
5 tell the customer that they need to have a third party
6 on the line. I -- I -- I would imagine that they ask
7 the customer to hold or they tell the customer they
8 will contact them, you know -- you know, in an hour or
9 so and -- or two or however long it takes.

10 And they would in turn have to contact -- a
11 contact over at the Southwestern Bell local service
12 center and wait for that person to research the -- the
13 issue.

14 Q. And then get back to the customer?

15 A. Right.

16 Q. As opposed to if WorldCom had access to that
17 immediately, it could answer the customer's question
18 presumably while the customer is on line?

19 A. Correct.

20 Q. Okay. And would there be occasions where
21 WorldCom would have to contact one of its customers to
22 correct data that had been inputted into LIDB?

23 A. I -- I -- if -- if we could see the data,
24 probably so unless Southwestern Bell's service center
25 contacts us to tell us that there was some problem that

1 they found.

2 Q. Right.

3 A. That would be the only way that we would ever
4 know to contact our customer.

5 Q. Would there be some trigger or flag that might
6 come up at WorldCom that would suggest there might be
7 an error in -- in customer information?

8 A. I -- I can't see anything that would flag us
9 to tell us that.

10 Q. Okay. At any rate, you've -- you -- you --
11 WorldCom would view the inability to correct or answer
12 a customer question regarding information in that
13 customer's account without going to Southwestern Bell
14 as being something that would reflect on the -- the
15 quality of the customer service re-- that WorldCom
16 would be giving to its customers?

17 A. Absolutely.

18 MR. CURTIS: Okay. Thank you.

19 Nothing further.

20 JUDGE RUTH: Just moment, please.

21 At this point you may step down, but like I
22 said, remain available for a time.

23 MS. KENDALL: Okay. Thank you.

24 JUDGE RUTH: The Commission would like to
25 recall Mr. Cecil. Is he available?

1 Thank you, Mr. Cecil. I will remind you that
2 you are still under oath.

3 WALT CECIL testified as follows:

4 QUESTIONS BY JUDGE RUTH:

5 Q. On behalf of one of the Commissioners I've
6 been asked to enquire as to Issue 20, 23 and 49. In
7 your amended Exhibit 26 on page 8 for Issue 20, and 8
8 and 9 for 23, and then page 13 for Issue 49, which
9 continues on to page 14, you indicate for each of those
10 that at the time you were filing your testimony, Staff
11 was declining to take a position on these three issues.

12 So now I want to refer you to the Decision
13 Point List that Staff filed on January 11th and -- and
14 look at each one of those. The first one is -- which
15 would be issue 20 is on page 131 and I would just like
16 some clarification, please.

17 In this one Staff states that Staff cannot
18 properly analyze Southwestern Bell's proposed language,
19 and, therefore, recommends that this language be
20 rejected. Clarify for me what you're rejecting and
21 what you are proposing then instead.

22 A. If you will look down on page 132 under
23 Southwestern Bell's position, Section 9.5.6.1. In the
24 fourth line they refer to a Section 7.

25 Q. Uh-huh.

1 A. If you look at the text of the agreement as
2 submitted to the Commission, Section 7 is intentionally
3 left blank. We didn't want to second guess. We were
4 hoping to receive some kind of testimony from Bell to
5 give us some information as to what their position is.

6 Also if you look on page 133 in Bell proposed
7 language 9.5.6.2, the next to the bottom line of that
8 paragraph refers to Sections 6.2.1 and 6.2.2. Those
9 sections refer to tandem switching and they don't refer
10 to the issue at hand.

11 We're really not sure what Southwestern Bell
12 is approaching. I'm sure those are an error and they
13 mean something else, or perhaps they're abbreviated --
14 some shorthand that didn't get corrected.

15 But without any knowledge of Southwestern
16 Bell's position, we really don't feel that it's
17 appropriate for us to make any recommendation at all.
18 We would like Southwestern Bell to address this issue.

19 Q. Okay. Thank you.

20 I just want to make a note, then, at this
21 point that Staff feels that Staff does not have enough
22 information to take a position on Issue 20.

23 A. Correct.

24 Q. And at some point I think it's going to be
25 appropriate for Southwestern Bell to clarify what is

1 meant here so that Staff can consider this preferably
2 overnight or address it maybe on Friday, if possible.
3 But I wanted to move on to the other two.

4 A. And the --

5 Q. And No. 23 starts on page 136 of the DPL and
6 continues on to 137. And the Commissioner just
7 requested a little bit more clarification on this, too,
8 if you could, please.

9 A. And this appears to be a can of worms, if
10 you'll allow me. Southwestern Bell is admitting to the
11 fact that they really don't know what price to charge,
12 but we feel that they need to charge a Missouri price.

13 So what we feel that we can offer is that
14 there is a price. It has been set in 97-40. And
15 unless the Commission should open a generic docket to
16 revisit that issue, that that price should remain.

17 Q. Which price should remain? Make sure I
18 understand.

19 A. Price structure for these --

20 Q. Okay.

21 A. Pardon me.

22 Q. So unless the Commission opens a generic
23 docket, the price structure should remain as is?

24 A. Yes.

25 Q. Then Issue No. 49 starts on page 217 and

1 continues on to 218 and 219. But on 218 about halfway
2 down Staff states in the direct testimony of Caputo --
3 WCom states Southwestern Bell has not proven that it
4 can provide a workable version of customized routing to
5 WorldCom for WorldCom's OSDA calls; therefore,
6 WorldCom's proposal to reinstate Section 7 is not
7 appropriate at this time.

8 I'm just asking you to clarify for the record,
9 then, what Staff's position is on this issue.

10 A. From reading the testimony, we didn't feel
11 that Southwestern Bell had satisfied WorldCom's
12 questions. And -- and that's where we -- where that
13 statement arises.

14 Our understanding of Feature Group D is that
15 it is an access protocol for end user to make a long
16 distance phone call by dialing one plus the number.
17 The protocol then accesses the PIC'd interexchange
18 carrier and provides certain information to the
19 terminating carrier for billing purposes.

20 We -- we're -- we see that Southwestern Bell
21 can provide customized routing. We see that it is
22 unlikely that Southwestern Bell can provide customized
23 routing over Feature Group D. We recognize that if
24 Southwestern Bell could not provide customized routing,
25 then the request by WorldCom to have OS and DA provided

1 as unbundled network elements would be correct.

2 But because alternative means other than
3 Feature Group D are available for customized routing,
4 we feel that Southwestern Bell's position should be
5 supported.

6 JUDGE RUTH: Thank you, Mr. Cecil.

7 Now, I -- I mentioned just a minute ago that
8 the Commission would find it helpful if after the
9 hearing the parties could discuss this issue and
10 determine if it's possible to give Staff the
11 information Staff needs in order to have Staff clarify
12 its position on Issue 20.

13 If it's not possible for the information to be
14 given, someone just needs to get back with the
15 Commission perhaps first thing in the morning and let
16 us know what the status is on this issue.

17 As you know the Commission had simply
18 requested that Staff evaluate each side and recommend
19 one side or the other or an alternative side. So where
20 that's not been done the Commission is trying to follow
21 up. And these are some of the areas that were noted.

22 Okay. Thank you. You may step down, unless
23 that raises any questions for the Commissioners.

24 Thank you.

25 We will return to the scheduled order, which

1 means Ms. McKanna.

2 MR. CURTIS: Mister.

3 JUDGE RUTH: Mr. McKanna -- excuse me -- would
4 be next. Is he available?

5 MR. CURTIS: Yes, he is.

6 JUDGE RUTH: Sir, would you raise your right
7 hand?

8 (Witness sworn.)

9 JUDGE RUTH: Thank you.

10 MIKE MCKANNA testified as follows:

11 DIRECT EXAMINATION BY MR. CURTIS:

12 Q. State your full name, please.

13 A. Michael Gregory McKanna.

14 Q. And by whom are you employed?

15 A. MCI WorldCom.

16 Q. And what is your title?

17 A. I'm the Senior Manager of LEC billing and
18 collection and business analysis.

19 Q. Okay. And you're responsible for what?

20 A. I am responsible for overseeing a group that
21 negotiates all the LEC -- local exchange carrier
22 billing and collection agreements for MCI, the
23 interexchange carrier, as well as I'm responsible for
24 negotiating ABT agreements for MCImetro.

25 Q. Thank you.

1 Are you the same Mike McKanna whose had caused
2 to file what has been marked as Exhibit 27, direct
3 testimony in this case?

4 A. Yes, I am.

5 Q. And do you have a copy of that with you?

6 A. I do.

7 Q. You do.

8 Do you have any additions or corrections to
9 make?

10 A. I do. I have a couple minor corrections. On
11 page 2, line 28, currently says, MCIIm provides local
12 telephone service to Missouri consumers. It should say
13 MCIIm may provide local telephone service.

14 If you'll turn to page 35, line 29, it
15 currently says, it is reasonable to attach a list.
16 That should say it is not reasonable.

17 That's all the changes I had -- or corrections
18 I had for my direct testimony.

19 Q. Okay. Do you have a copy of your rebuttal
20 testimony, which has been marked Exhibit 28?

21 A. Yes, I do.

22 Q. Do you have any additions or corrections to
23 make?

24 A. I do. A couple minor corrections. Page 8,
25 line 13, it reads, as I indicated on in. It should

1 just read, as I indicated in my direct testimony.

2 On page 21, line 11 near the end of the
3 sentence, it reads, could not produce a combined
4 invoice. That should read "combined invoice."

5 Q. Are those - is that the sum of the
6 corrections?

7 A. Yeah, that's --

8 Q. Okay. Mr. McKanna, if I were to ask you the
9 questions that are contained in Exhibits 27 and 28
10 today, would your answers be the same as corrected?

11 A. Yes, they would.

12 Q. Would those answers be true and correct to the
13 best of your knowledge and belief?

14 A. Yes, they would.

15 MR. CURTIS: Thank you. At this time I would
16 offer Exhibits 27 and 28 into evidence and tender the
17 witness for cross.

18 JUDGE RUTH: Thank you. Exhibit 27 is
19 Mr. McKanna's direct testimony and Exhibit 28 is his
20 rebuttal. Are there any objections to these documents?

21 (No response.)

22 JUDGE RUTH: Seeing no objections, Exhibit 27
23 and 28 are received into the record.

24 (EXHIBIT NOS. 27 AND 28 WERE RECEIVED INTO
25 EVIDENCE.)

1 JUDGE RUTH: Moving to cross. Originally
2 Southwestern Bell had been allotted 30 minutes for
3 cross. However, as discussed before, that will be
4 extended by 11 minutes for a total of 41 minutes. And
5 I do ask you to try and watch the clock yourself.

6 CROSS-EXAMINATION BY MS. MACDONALD:

7 Q. Good afternoon, Mr. McKanna.

8 A. Good afternoon.

9 Q. I -- I apologize because I didn't hear all of
10 your corrections to your testimony because I was trying
11 to address another issue, but --

12 A. Okay.

13 Q. So if you already said this, just don't
14 hesitate to tell me. On page 2 of your testimony you
15 state, MCIm provides local telephone service to
16 Missouri customers using the unbundled network element
17 platform (UNE-P)?

18 A. Yeah. That was one of the corrections --

19 Q. Okay.

20 A. -- I indicated. It should say may provide.

21 Q. Okay. And it would be fair to say that to
22 date doesn't provide it, correct?

23 A. That's my understanding.

24 Q. And, in fact, none of the WorldCom entities in
25 this proceeding provide local telephone service to

1 Missouri customers using UNE-P, correct?

2 A. I'm -- I'm aware of the circumstance for
3 MCImetro. I don't know about Brooks and MFS. I'm
4 assuming it to be true.

5 Q. Just so I'm clear, and again, if you already
6 discussed this, I'm sorry. Your testimony appears to
7 be limited to testifying on behalf of MCImetro Access
8 Transmission Services, LLC; is that correct?

9 A. I am responsible for negotiating the
10 ABT agreements for MCImetro and not Brooks and MFS.
11 I --

12 Q. Okay.

13 A. I don't know if the testimony is limited just
14 to MCImetro.

15 Q. Okay.

16 JUDGE RUTH: Counsel, can you answer that
17 question?

18 MR. CURTIS: I think he's testifying on behalf
19 of all parties, WorldCom, MCImetro, Brooks.

20 JUDGE RUTH: Thank you.

21 BY MS. MACDONALD:

22 Q. Okay. Is it fair to say that Alternatively
23 Billed Traffic, which is also referred to as al--
24 Alternate Billing Service are charges that are billed
25 to another number other than the number from which the

1 call was made?

2 A. Yes.

3 Q. And is it fair to say that there are three
4 types of ABS calls; collect calls, billed to
5 third-number calls, and calling card calls?

6 A. Those are the three I'm aware of.

7 Q. Okay. And would you agree with me that when a
8 customer applies for local telephone service, it is
9 reasonable for the customer to believe it can accept
10 collect calls unless otherwise told?

11 A. I don't know if that's reasonable. I can't
12 speculate what a customer thinks is reasonable.

13 Q. Okay. Well --

14 A. Would I think I could do it, probably.

15 Q. Okay. As an example, would it be reasonable
16 for me to assume that I could have my son or daughter
17 call -- call me collect from school and that I would be
18 able to accept the collect call?

19 A. I think the average consumer has no idea of
20 the arrangements that need to be in place for a collect
21 call to be completed and billed properly. So I would
22 guess that they would think it's reasonable.

23 Q. Okay.

24 A. I don't necessarily agree.

25 Q. But you would be -- you would think it would

1 be fair to say that in general Missouri customers would
2 believe that they have the right to accept collect
3 calls at their house so long as they didn't have a toll
4 restriction placed on their calls?

5 A. In the past I think consumers have found
6 collect calls to be fairly ubiquitous.

7 Q. And, in fact, there's plenty of 1-800
8 services -- 1-800-CALL-ATT, 1-800-COLLECT and people
9 believe they could use these services in order to get a
10 collect call to another person?

11 A. Sure. In fact, 1-800-COLLECT is an
12 MCI product.

13 Q. Okay. And would you agree with me that when a
14 customer applies for local telephone service, it is
15 also reasonable for the customer to believe that he or
16 she can bill telephone calls to a third number?

17 A. Again, I don't know what a customer would
18 believe. Many people have never even done third-party
19 billing, but those people who are aware of it would
20 probably expect it.

21 Q. Unless they were told otherwise, correct?

22 A. I suppose.

23 Q. Okay. I want to discuss a hypothetical
24 situation with you.

25 A. Uh-huh.

1 Q. I want you to assume that a customer, Peter,
2 lives in Verizon territory and has Verizon as his local
3 service provider. I want you to further assume that
4 Peter goes into St. Louis on business and makes a call.
5 And that night he goes to a friend's house in -- in
6 St. Louis. The St. Louis friend has Southwestern Bell
7 as its local service provider.

8 A. Okay.

9 Q. Peter wants to call another friend back in
10 Verizon territory, which is a toll call and he wants to
11 bill it to his home telephone number. Would you agree
12 with me that Peter expects to receive a bill for the
13 charges on his Verizon bill?

14 A. He would receive a bill on his Verizon
15 charges -- on his Verizon bill with a bill page for the
16 IXC, the long distance carrier who carried that call.
17 The example you've given is a long distance call and
18 not ABT covered by this agreement.

19 Q. Okay.

20 A. Okay.

21 Q. Let's put him in -- let's put him in
22 GTE territory.

23 A. Where at in GTE territory?

24 Q. St. Charles County. And he is called into
25 St. Louis, Missouri, intraLATA.

1 A. Okay.

2 Q. Which is --

3 A. And he's calling -- the call's originating on

4 GTE network?

5 Q. The call is originating in St. Louis. He

6 wants to call -- call a customer in St. Charles County,

7 GTE territory.

8 A. Okay.

9 Q. And bill it to his GTE telephone number, which

10 is also in GTE territory.

11 A. Where is the home number located? Is it --

12 Q. St. Charles?

13 A. Okay.

14 Q. Have I lost you maybe?

15 A. Yeah. Let's go through that example again.

16 Q. You have -- you have a person who lives in

17 St. Charles County in GTE territory. He comes into

18 St. Louis and he wants to call somebody else in

19 GTE territory in St. Charles County.

20 A. Okay.

21 Q. Would you agree with me that Peter would

22 expect to receive a bill for the charges on his

23 GTE bill?

24 A. GTE is his local service provider --

25 Q. Yes.

1 A. -- in St. Charles --
2 Q. Yes.
3 A. -- in that example?
4 I'm not sure what he would expect. He
5 would -- the service provider in that case would be
6 wherever it originated. It originates on a
7 Southwestern Bell telephone. SWBT is the service
8 provider.
9 And if they have billing arrangements with
10 GTE, he would receive it on a GTE -- as part of the GTE
11 monthly invoice with a separate bill page and those
12 charges separately identified.
13 Q. Okay. So it's your contention that somehow
14 Peter became a Southwestern Bell customer?
15 A. Peter did not become a Southwestern Bell
16 customer. Peter initiated a phone call on the
17 Southwestern Bell network -- originated it.
18 Q. Uh-huh.
19 A. Southwestern Bell carries it, earns the right
20 to bill for the revenue.
21 Q. And don't you agree that Peter expects that
22 since he's billed it to his home telephone number, that
23 his local service provider would be sending him the
24 bill?
25 A. He may be expecting that, but, of course, that

1 would only work if the local service provider had a
2 billing arrangement between the originating carrier and
3 the local exchange carrier was providing service.

4 Q. And you would agree with me that the average
5 end user has no idea what the billing arrangements are
6 between telecommunications carriers; isn't that fair?

7 A. Yeah, that's fair.

8 Q. Now, you would agree with me that if Peter
9 subsequently refuses to pay GTE for this call,
10 GTE cannot shut Peter's local phone service off?

11 A. Yes, I would agree. I don't think Missouri
12 allows for suspending or terminating local service for
13 failure to pay non-local charges --

14 Q. Okay.

15 A. -- toll or ADT.

16 Q. And GTE could however report this bad debt to
17 a bill collection agency?

18 A. If GTE was doing billing and collection and --
19 and they had an arrangement where GTE could do so, I'm
20 not -- I'm not entirely convinced that's true --
21 whether Fair Credit Reporting Act allows that.

22 If they -- if GTE reported it, I believe they
23 would have to report it as a debt owed to the original
24 service provider, whoever originated that call be it
25 Southwestern Bell or another LEC on whom -- whom's

1 network the call originated.

2 Q. So the long -- the short part of your long
3 answer was that you don't know whether or not his local
4 service provider could report this as bad debt to a
5 billing and collection agency?

6 A. I would say it would be governed by the
7 billing and collection arrangement between the
8 two parties.

9 Q. Between what two parties?

10 A. In the example that we're dealing with,
11 Southwestern Bell and GTE, if they did, in fact, have a
12 billing and collection agreement.

13 Q. Okay. So you believe that whether or not a
14 company -- whether or not a -- a person's local service
15 provider sends a record regarding bad debt to a billing
16 and collection agency is dependent upon whether or not
17 there's a billing and collection agency -- a billing
18 and collection agreement between two other carriers?

19 A. No. I think the example we went through -- we
20 talked about the call originating on Southwestern Bell
21 phone line. They're the originating carrier, the
22 service provider, the revenue-earning party. That
23 message call record is sent to GTE for billing.
24 GTE bills it as part of their monthly invoice.

25 And when the customer doesn't pay, that

1 billing arrangement between GTE and Southwester Bell
2 would govern whether they want them to do it. In many
3 cases that may not be true. I know that our billing
4 and collection arrangements with Southwestern Bell,
5 SBC, Pac Bell, Ameritech, we do not have them report
6 unpaid debts to collection agencies. Most telephone
7 providers don't report on credit bureau reports.

8 But that -- in that arrangement it's governed
9 by our billing and collection agreement.

10 Q. Would you agree with me that if Peter
11 continues to refuse to pay for Alternately Billed
12 Traffic, GTE could put blocking on his phone?

13 A. Yes. Again, if that was covered by the
14 billing and collection agreement, I believe that
15 GTE could, in fact, block ABT traffic. I -- again, in
16 Missouri, they cannot suspend local service for failure
17 to pay Alternately Billed Traffic calls.

18 Q. Right. But that's different than putting
19 blocking on the phone, correct?

20 A. Well, it de-- depends on the level of
21 blocking. I was just trying to be precise that they
22 could block ABT only, but couldn't block local exchange
23 services.

24 Q. Okay. I want you to assume Larry is in prison
25 here in Missouri and he picks up the phone and

1 indicates he wants to make a collect call to his mother
2 whose local service provider is WorldCom. Larry's mom
3 indicates she will accept charges related to the
4 collect call.

5 Will you agree with me that Larry's mom, the
6 WorldCom local service provider end user, is the one
7 who agreed to be responsible for payment of the collect
8 charges?

9 A. Yes, at the time the call was placed out of
10 the prison. And, by the way, I'd like to clarify.
11 They don't go through human operators. They're not
12 allowed to do that.

13 The call is placed out of the prison on an
14 automated platform, and the customer receiving the
15 collect call will be told of the collect call, who the
16 carrier is, it is a branded call. Every operator
17 service call is required to be branded.

18 And on prison calls, specifically, they are
19 told about the charges and whether they want to accept
20 them or not. And at the time the call is accepted by
21 the end user. If it's carried by Southwestern Bell, it
22 would say Southwestern Bell it -- has a collect call
23 for this individual end user who happens to be an
24 MCImetro end user.

25 Q. Well, you just anticipated my next

1 question --

2 A. Okay.

3 Q. -- so if we keep going ing like that, we may

4 speed things along?

5 A. Okay.

6 Q. Now, a customer's local service provider has

7 its billing -- has the customer's billing names and

8 addresses; isn't that correct?

9 A. That is correct.

10 Q. And an end user and the local service provider

11 have a billing arrangement between the -- the two of

12 them, correct? Pay for service, you get it?

13 A. Say that question again.

14 Q. Sure. End user and their local service

15 provider have a billing arrangement between the two,

16 correct?

17 A. Yes, for local service.

18 Q. Now, are you familiar with the Stage Order in

19 Docket No. 24593 in Texas?

20 A. I'm familiar with some of it. It's an interim

21 order.

22 Q. Okay. And will you agree with me that the

23 Texas PUC ordered Stage, the UNE-P provider, to issue

24 blocking orders for its end users with ABS charges more

25 than 60 days in arrears?

1 A. From what I recall, that's correct. And that
2 ordering will occur until a final decision is made in
3 that PUC arbitration in Texas.

4 Q. Okay. And you'll agree with me that
5 WorldCom's proposed attachment 27 has no provision for
6 call blocking?

7 A. That is correct. It does not disallow call
8 blocking from Southwestern Bell, but it -- it doesn't
9 state it as a requirement for either party.

10 Q. In fact, it has no provision at all related to
11 that?

12 A. Yes. It doesn't state it as a requirement for
13 either party.

14 Q. And you'll agree with me 900, 976 -- 976 and
15 pay per calls are not generally considered ABS calls?

16 A. That's correct. I'm not even aware of a way
17 to alternately bill one.

18 Q. And you'll agree with me that SWBT has agreed
19 with WorldCom not to include these types of calls in
20 the ABS -- ABS appendix?

21 A. If they've agreed with that, there's no
22 language indicating such. However, MCImetro has
23 proposed that in our attachment 27 that they would not
24 be included. We were specific, as opposed to your
25 proposed AB-- ABS appendix that is not addressing that

1 issue.

2 Q. Okay. In your testimony you state that
3 MCIIm cannot bill its end users for ABS calls, and
4 that's in your rebuttal testimony page 24, lines 1 to
5 3?

6 A. Okay. Hang on just a minute. Page 24,
7 lines 1 through 3. Yes, I'm there.

8 Q. Now, in Texas, WorldCom has entered into a
9 relationship with a third party to bill ABS calls,
10 correct?

11 A. Yes. We've entered into an interim agreement
12 that indicated we would provide third-party billing of
13 ABT calls as soon as the functionality went in place.

14 My understanding is the functionality went in
15 place January 14th. This particular testimony you're
16 referring to talks about that MCIImetro does not yet
17 have system functionality to provide a combined
18 invoice, but we are providing a third-party
19 invoice -- I'm sorry -- an invoice through a
20 third-party billing agent.

21 Q. So the answer is yes? In Texas, WorldCom has
22 entered into a relationship with a third party to bill
23 ABS calls?

24 A. Yes, a third party. Correct.

25 Q. And you state that truth in billing laws

1 require WorldCom to set out ABT in a separate section
2 or page indicating the service provider that carried
3 the traffic. It's in your testimony repeatedly?

4 A. Yes.

5 Q. And in Texas in the interim agreement between
6 WorldCom and Southwestern Bell regarding ABS calls,
7 WorldCom agreed to exclude Southwestern Bell's logo
8 name and number from its end user's bills regarding
9 ABS calls, true?

10 A. That is correct.

11 Q. You would agree with me that as part of the
12 interim agreement in Texas, WorldCom agreed to block
13 ABT calls in situations in which its end users had
14 refused to pay for those calls?

15 A. Yes. When they're third-party billed if they
16 don't pay after 60 days, we will develop a process to
17 have them blocked, either initiate an LSR or some form
18 of order.

19 Q. Will you agree with me that centralized
20 message data or CMDS is utilized to distribute and
21 settle calls that are transported by an ILEC or CLEC,
22 but which are billed to another ILEC or CLEC and the
23 billing number is in a different Bell operating
24 company's territory?

25 A. Yes. Examples are blocked card and

1 third-party billed.

2 Q. And intraLATA or local call messages that are
3 transported by an ILEC or CLEC which are billed to a
4 billing number belonging to a different ILEC or CLEC
5 and the billing number is in the same blocked territory
6 is handled through what is called a clearinghouse
7 process?

8 A. Did you say intraLATA or interLATA?

9 Q. I never said either, to the best of my
10 knowledge. I said -- oh, I said intraLATA. I'm sorry.

11 A. Okay. Yes, I would agree.

12 Q. Okay. And -- I'm sorry. And in WorldCom's
13 attachment 27 you proposed to change the clearinghouse
14 and CMDS that SWBT cannot implement on its own,
15 correct?

16 A. I don't know what they can and cannot
17 implement on their own.

18 Q. Okay. Well, isn't it a fact that you said in
19 your direct on pages 25 and 26 that we could not
20 implement it on a -- on our own?

21 A. I think Southwestern Bell may have indicated
22 that they don't control the entire CMDS process.

23 Q. Okay. Well, I'm not ask --

24 A. Although we have not had a conversation
25 about --

1 Q. I'm --
2 A. -- clearinghouse.
3 Q. -- not asking you what Southwestern Bell
4 indicated. I'm asking you: Isn't it true that you
5 said in your direct testimony on pages 25 and 26
6 that -- that the clearinghouse in -- that your -- that
7 you propose changes to the clearinghouse in CMDS that
8 SWBT simply cannot implement on its own?
9 A. What page was that on?
10 Q. Pages 25 and 26.
11 A. Of the direct testimony?
12 Q. Uh-huh. Yes, sir.
13 A. On what lines?
14 Q. Because it's not a specific quote and that was
15 my understanding of your testimony, I just referenced
16 the two pages when I was preparing that.
17 A. Oh, okay. Let me --
18 Q. If so --
19 A. Let me look through it and find what section
20 you're referring to then.
21 JUDGE RUTH: Just a moment. I believe there
22 was a question about time, and I was going to note that
23 you started cross at 3:43, and, therefore, you can go
24 until 4:24.
25 Assuming my math is correct, that should be

1 for 41 minutes.

2 MS. MACDONALD: It's got to be better than
3 mine.

4 JUDGE RUTH: Continue.

5 THE WITNESS: You said on pages 25 and 26 of
6 my direct?

7 BY MS. MACDONALD:

8 Q. Yeah. That was my understanding of your pages
9 25 and 26; is that not yours?

10 A. I'm not -- I'm not finding anything.

11 Q. Okay. Well, let's move on.

12 Will you agree with me that SWBT's ABS
13 appendix does not address the situation where WorldCom
14 is transferring local exchange carrier and has
15 ABS charges that should be billed to SWBT's end users?

16 A. Yes, I do.

17 Q. And nevertheless SWBT has agreed to make the
18 obligations in its ABS appendix apply equally to the
19 originating and terminating LEC, regardless of whether
20 it is SWBT or WorldCom, correct?

21 A. Do I agree with that?

22 Q. Yeah.

23 A. I've -- I've never seen language proposed, and
24 prior to reading rebuttal had never heard that. So
25 apparently that's -- that's, but I -- I can't agree

1 that it would be exactly reciprocal without seeing an
2 exact proposal.

3 Q. Okay. Well, if we said the same wording would
4 apply for both parties, wouldn't that be reciprocal?

5 A. Yeah, I guess it would.

6 Q. Okay. SWBT has agreed to have the same
7 percentage of uncollectibles that it could recourse to
8 WorldCom as SWBT would allow WorldCom to recourse to
9 it, correct?

10 A. That's what it says in the rebuttal testimony.
11 Again, I had never heard that communicated from
12 Southwestern Bell until I saw the rebuttal testimony.

13 Q. But you now know it's true?

14 A. Yeah, but I haven't seen language.

15 Q. Okay. SWBT, in other words, is not asking
16 WorldCom to do anything other than it would agree to do
17 itself; isn't that fair?

18 A. Now that we're before the Commission and
19 debating this, yes, that's clear.

20 Q. And will you agree with me that SWBT notified
21 WorldCom via accessible letter that it is prepared to
22 accept ABS terms as originated by WorldCom's end users
23 and authorized and accepted by the SWBT end user?

24 A. I'm not aware of that particular accessible
25 letter that was quoted. I'll take it at face value

1 that you notified that. I don't consider that to be a
2 contractual arrangement.

3 Q. Okay.

4 A. A pronouncement on a letter doesn't --

5 Q. In your testimony you contend that WorldCom
6 may not be able to bill its end users within 30 days of
7 receipt of the daily usage files from SWBT, in other
8 words, the files that contain the information from
9 which WorldCom could bill its end users for ABS calls;
10 is that fair?

11 A. What -- what's the question again?

12 Q. In your testimony --

13 A. Uh-huh.

14 Q. -- you contend that WorldCom may not be able
15 to bill its end users within 30 days of receipt of the
16 daily usage files from Southwestern Bell, in other
17 words, the files that contain the information from
18 which WorldCom could bill its end users?

19 A. Right. It may take a little longer.

20 Q. And SWBT will agree to amend the language in
21 its ABS appendix to state that WorldCom will agree to
22 bill all ABS charges to its end users within the next
23 billing cycle from the date receiving the daily usage
24 file from SWBT, but no later than 60 days --

25 A. Uh-huh.

1 Q. -- is that fair?

2 A. Is what fair? That you've stated that?

3 Q. Well, that -- we -- we did state that; isn't

4 that correct?

5 A. I think that was somewhere in the rebuttal

6 testimony. I would agree that was stated in the

7 rebuttal testimony.

8 Q. Okay. In your testimony you indicate that

9 MCI has no objection if SWBT blocks end users from

10 utilizing ABS options that bill to MCI customers, so

11 long as Southwestern Bell does not block the ability of

12 the customers to receive IXC collect calls, such as

13 1-800-COLLECT or 1-800-CALL-ATT?

14 A. Yes.

15 Q. And is it fair to say that SWBT has no process

16 by which it can block certain calls, but which would

17 allow WorldCom's end users to continue to receive

18 IXC collect and third-party calls?

19 A. I'm told that Southwestern Bell's blocking

20 process will block all ABT, regardless of whether it

21 originated on their network or regardless of whether

22 they had any financial interest in it whatsoever.

23 Q. So it's an all-or-nothing proposition,

24 correct?

25 A. Yes, apparently so.

1 Q. Okay. I want you to assume that Southwestern
2 Bell did have a network solution for purposes of this
3 hypothetical. Again, I want you to assume George is in
4 prison and he calls his daughter, Cynthia, who's a
5 WorldCom end user on a collect basis. Cynthia refuses
6 to pay the charges associate -- associated with this
7 call when she gets the bill.

8 Is it WorldCom's -- is it WorldCom's position
9 that SWBT can block such calls so that Cynthia would no
10 longer be able to accept collect calls using SWBT's
11 facilities?

12 A. Yes. It is our opinion that Southwestern Bell
13 can block Alternately Billed Traffic originating on
14 Southwestern Bell's network and attempting to bill to
15 our local MCImetro local end users.

16 Q. Okay. And would you agree with me that when
17 Cynthia can no longer accept collect calls using
18 Southwestern Bell facilities, she'll probably call
19 WorldCom, her local service provider?

20 A. I would suspect she would.

21 Q. And under your proposal -- when -- at that
22 point, would WorldCom refer your end user to
23 Southwestern Bell?

24 A. I think we would have to develop a proper
25 script, but my suggestion to our customer service

1 folks, if they were to try to come up with a script for
2 our representatives, is that we're unable to work out
3 billing arrangements with the service provider who
4 carries those collect calls.

5 If you want to receive these type of calls,
6 you may need to select another local service provider
7 or local exchange carrier.

8 Q. Okay. Well, in my situation I thought that we
9 had established that Cynthia has already accepted the
10 calls and you're just -- you're saying, in general, you
11 would tell your -- your customer --

12 A. Oh, we're still working on the example?

13 Q. Yes.

14 A. She's accepted them in the past and then we've
15 blocked her?

16 Q. She's accepted them in the past. She calls up
17 WorldCom, her local service provider, because she
18 doesn't want to pay these calls, and then is she --

19 A. Okay. Is WorldCom doing the billing and
20 collection on the -- in this hypothetical example to
21 Cynthia on the --

22 Q. Yes.

23 A. -- MCI/WorldCom invoice.

24 Q. Uh-huh.

25 A. Okay. So hypothetically it originated on

1 SWBT's network?

2 Q. Uh-huh.

3 A. Was accepted by our end user. We have billing
4 and collection arrangements in place. You've sent it
5 to me. I've put it either on a third-party bill or a
6 combined invoice and she has not paid; is that the
7 scenario you're trying to get to?

8 Q. She's not paid.

9 A. Okay.

10 Q. Then there's --

11 A. And then what's your question?

12 Q. There's -- there's blocking on the calls.

13 A. Okay.

14 Q. She called up WorldCom and says, can't get
15 this collect call I want to get. Then I assume
16 WorldCom's going to have to say --

17 A. WorldCom in that case -- the hypothetical
18 you've described -- is doing billing and collection for
19 Southwestern Bell. We would say if you paid your
20 past-due balances, we could take away the blocking on
21 Alternately Billed Traffic.

22 So long as you don't pay those charges, you
23 will continue to be blocked for those charges, because
24 we have a billing and collection agreement in place in
25 that hypothetical example.

1 Q. Okay. Now, let me ask you this: Would it be
2 fair to say that with regard to the uncollectibles that
3 WorldCom would want to recourse back to Southwestern
4 Bell, WorldCom is somehow going to have to pull out the
5 records on a -- on some sort of a basis that would
6 provide name and address, as well as telephone number
7 to Southwestern Bell so that Southwestern Bell could
8 attempt to get paid for those calls?

9 A. Again, this would be governed by the billing
10 and collection agreement. But if you would allow me, I
11 could give you an example of how it works with --

12 Q. Given the time --

13 A. -- the IXC SWBT world.

14 Q. Given the time, I don't want to discuss --

15 A. Okay.

16 Q. -- examples.

17 Would it be fair to say that today if WorldCom
18 were to recourse what it deemed uncollectibles back to
19 Southwestern Bell, WorldCom would be simply giving
20 Southwestern Bell a number, here's the amount of
21 uncollectibles, \$100,000?

22 A. We would be doing it on a -- on an EMI
23 record -- industry standard record that would be agreed
24 upon between the parties. I think in attachment 27 we
25 talk about any recourse items would be -- be a -- a

1 feed of records mutually agreed upon by the parties.

2 My guess would be that we would push for the
3 46-record type that we currently utilize in the
4 IXC billing arrangement with SBC.

5 Q. Okay. Well, let's talk about just today as it
6 exists. And because there are no UNE-P providers, I
7 think we're just gonna have to briefly go down to
8 Texas.

9 A. Okay.

10 Q. Wouldn't it be fair to say that if you
11 recoured to Southwestern Bell \$100,000 of bad debt,
12 you are giving Southwestern Bell literally a number,
13 100,000, we couldn't get from our customers for
14 ABT calls, correct?

15 A. I -- I think what would be required is the
16 ANI that billed and the amount that was written off
17 that related to ABT.

18 Q. Okay. That's what I --

19 A. That's --

20 Q. -- kind of wanted to know.

21 A. That's an industry standard generally.

22 Q. Okay.

23 A. Remember, again, it would have to be a
24 mutually agreed upon fee, so if that wasn't
25 satisfactory to Southwestern Bell, I guess we'd have to

1 continue to -- to negotiate and mutually agree.

2 Q. Okay. I have only one more line of

3 questions --

4 A. Okay.

5 Q. -- and maybe this has been resolved amongst

6 the attorneys. I don't know. But I want to get it on

7 the record just so I know exactly what WorldCom's

8 position is.

9 A. Okay.

10 Q. Do you agree with me that in your testimony

11 you state that it's altogether unclear whether the

12 ABS settlement language supersedes the language in

13 attachment 10 and attachment 20? And you say that on

14 direct page 28, lines 1 to 4.

15 A. Okay. Hang on a minute.

16 Okay.

17 Q. And attachment 20 is clearinghouse, right?

18 A. Yes, that's my understanding. It's

19 clearinghouse.

20 Q. And WorldCom has MFN'd into attachment 20 of

21 the M2A correct?

22 A. I -- I'm not familiar with what we've done on

23 MFN'ing or anything like that.

24 Q. Okay. So you don't have any idea whether

25 you've taken attachment 20 or not?

1 A. No. My -- my understanding is what is being
2 negotiated is the ABT attachment 27 that we've
3 proposed --

4 Q. Uh-huh.

5 A. -- is really meant to supercede or actually
6 replace all of the bits and pieces of language in
7 attachment 5, attachment 10 and attachment 20, because
8 they -- they're not clear and they seem to step all
9 over each other. That's my understanding of what our
10 proposal was.

11 Q. Oh, okay. Well, would you agree with me that
12 there's no need for clarifying language regarding
13 Alternatively Billed Traffic when the CLEC involved is
14 a full facilities-based provider and that you state
15 as -- as to that in your testimony?

16 A. There's -- we're -- we're not asking for
17 clarification. All of attachment 27 that we proposed
18 was meant to be for a UNE or resale provider. We
19 don't -- MCImetro at least does not do any
20 facilities-based local exchange services, so
21 it's -- it's not required.

22 And I -- I think I did say in my testimony
23 that, as a facilities-based provider, we're able to
24 exchange traffic through CMDS.

25 Q. Well, and I -- and -- and this is really kind

1 of an important issue --

2 A. Uh-huh.

3 Q. -- because you -- you did state that in your
4 testimony, but have you read attachment 26, the
5 legitimately related provisions?

6 A. Attachment 26?

7 Q. Yes.

8 A. I'm not familiar with -- is there specific
9 language in there related to ABT?

10 Q. Well, no, not in attachment 26. But
11 attachment 26 of legitimately related provisions says
12 that we feel -- which is attach-- if you take re-- if
13 you take the resale agreement, you get attachments 1 to
14 5 in appendices, the general terms and conditions
15 specified above and the applicable prices in
16 attachment 26.

17 And specifically, it also states that this --
18 the agreement is expressly limited to the items or
19 sections into which the CLEC MFNs under Section 252I;
20 therefore, isn't it fair to say that WorldCom's ABT or
21 appendix cannot apply to attachment 5?

22 A. I'm not sure. That sounds like more of a
23 legal question. I guess I would have to consult with
24 our legal staff.

25 MS. MACDONALD: Okay. I'm gonna go ahead and

1 stop, given the time.

2 Thank you.

3 THE WITNESS: You're welcome.

4 JUDGE RUTH: Thank you.

5 Staff, do you have cross?

6 MR. BATES: Yes, we do, Judge.

7 JUDGE RUTH: Please proceed.

8 MR. BATES: Thank you.

9 CROSS-EXAMINATION BY MR. BATES:

10 Q. Good afternoon, Mr. McKanna.

11 A. Hi.

12 Q. I have a few questions for you, and if some of
13 this covers some of the ground that you covered with
14 Ms. MacDonald, please forgive me.

15 A. No problem.

16 Q. First, for my benefit, could you please
17 explain the differences between uncollectibles,
18 unbillables and rejects?

19 A. Sure. The terms tend to overlap and other
20 parties use them differently. Let me describe for you
21 how MCI and MCImetro uses them.

22 Uncollectibles is the entire set of monies or
23 funds that cannot be collected from customers. And
24 within our definition of uncollectibles, we include
25 categories called rejects, unbillables, adjustments and

1 bad debt.

2 Some other folks -- I think Southwestern Bell,
3 in particular, refers to bad debt as uncollectibles.
4 We have four categories in that. Let me start first
5 with rejects.

6 Rejects are traffic that is sent to a party
7 for billing. The party attempts to bring it into their
8 system and -- and the very first thing that they do is
9 up-front edits. And a typical up-front edit -- I'm not
10 familiar with every one of them.

11 A typical up-front edit is making sure that in
12 numeric fields you have numeric data. In alpha-numeric
13 fields you have alpha-numeric data. Making sure
14 minutes aren't missing and dates aren't missing from
15 the call records.

16 So a reject would be a call record that has
17 some of that data missing. Another up-front edit that
18 would constitute a reject is a toll-age edit, such as
19 is beyond 90 days, they would reject the traffic back
20 that the party who's -- who's doing billing. So that's
21 a reject. And would get recoured back to the provider
22 who sent the traffic to the billing agent.

23 Unbillables are just a step beyond rejects.
24 And some folks consider un-- unbillables and rejects
25 the same thing. Unbillables are when you attempt to

1 guide the traffic to your end-user account and figure
2 out, gee, we can't. It might be -- you know, we've
3 checked to make sure the traffic record is right but
4 now we're bringing it in and we find out, hey, that
5 ANI they sent us isn't our customer. We don't know it
6 to be our customer or that customer has been suspended.

7 Adjustments are post-billing adjustments.
8 After you've billed, customers call in, ask for credits
9 for multiple different reasons, fraud, it wasn't me it
10 was my kid, I -- I don't remember, poor connection.
11 Whatever the number of reasons that customers can come
12 up, those are adjustments.

13 And then, of course, those people that --
14 where you can't somehow collect payment is bad debt.

15 Q. Thank you that was a very informative answer.
16 Can you tell me who was considered to be the revenue
17 generator in an alternatively billed call?

18 A. The revenue generator -- my understanding the
19 industry standard is whosever network it originates on
20 is the revenue generator and the owner of the revenue.

21 Q. Whose operator communicates with the
22 terminating com-- number -- excuse me -- and receives a
23 commitment to pay for that number in an alternatively
24 billed call?

25 A. The phone that the call originates on, whoever

1 they are PIC'd to. If it's a local and intraLATA call,
2 whoever they have PIC'd to for local and intraLATA will
3 get -- will be the service provider or the operator in
4 that case.

5 Q. When the terminating telecommunications
6 carrier bills the paying end user for an alternatively
7 billed call, who determines the rate that's charged to
8 the agreeing end user?

9 A. Again, the originating carrier who originated
10 the call who provides operator service rates it,
11 hopefully, according to their tariffs or published
12 rates and then sends it along to the billing agent for
13 billing.

14 Q. Will you tell me under your attachment, what
15 percentage of the revenue in the previous question that
16 I just asked you is paid by the terminating company to
17 the originating company and how much is kept by the
18 terminating company?

19 A. Well, in -- in the proposal that's on the
20 table with the -- the average relationship that's out
21 there, what would happen is Southwestern Bell would --
22 take as an example -- send MCImetro \$100 worth of ABT.

23 We would pay them \$100 back and they would
24 say, here's five cents per message. You can deduct out
25 five cents per message. And the -- the average message

1 is about -- from my experience has been -- is about \$4.

2 So they would send a call record to us. We
3 would pay them about \$4 and get five cents back to
4 cover our billing and collection costs.

5 MR. BATES: Okay. Thank you very much,
6 Mr. McKanna.

7 THE WITNESS: You're welcome.

8 JUDGE RUTH: Okay. Questions from the Bench.
9 Commissioner Murray?

10 COMMISSIONER MURRAY: No questions. Thank
11 you.

12 JUDGE RUTH: Commissioner Gaw?

13 COMMISSIONER GAW: No questions.

14 JUDGE RUTH: We will skip recross based on the
15 questions from the Bench then and move to redirect.

16 MR. CURTIS: Thank you.

17 Your Honor, I wanted to make a -- at least a
18 correction for the record. Issue 30 that Mr. McKanna
19 has been testifying to primarily, that per our petition
20 is an issue that relates to MCImetro. Okay. And --
21 and -- and MCImetro only.

22 Mr. McKanna has been tes-- testifying on other
23 areas regarding ABT in general, but with regard to
24 actual Issue 30 per our petition, that is an MCImetro
25 issue alone.

1 JUDGE RUTH: Thank you for clarifying that.

2 MR. CURTIS: Thank you.

3 REDIRECT EXAMINATION BY MR. CURTIS:

4 Q. Mr. McKanna, Ms. MacDonald asked you about the
5 situation in Texas where if things weren't working out,
6 that they would be blocking for further calls?

7 A. Uh-huh.

8 Q. Do you recall that?

9 Under one of the examples she used, and the
10 blocking is for any further collect calls, is that
11 correct, not a general blocking of that customer's
12 phone line?

13 A. Correct. It's for alternately billed calls,
14 which would include collect calls.

15 Q. And similarly when we're talking about
16 blocking in an ABT environment in Missouri, the
17 blocking we're talking about is only for further
18 collect calls for which there has been difficulty in
19 collecting?

20 A. Yes, that's correct. Again, ABT calls
21 including collect calls.

22 Q. Okay. Staff asked you with regard to who the
23 owner of the revenue is and -- and you indicated that
24 is the originating carrier?

25 A. Yes.

1 Q. And when you mean the originating carrier,
2 the -- the carrier whose operator has arranged for the
3 collect call?

4 A. Right. And typically the way it works is when
5 the person originating the phone call -- the ABT phone
6 call, wherever that phone is PIC'd to is the
7 originating carrier. If it's PIC'd to Southwestern
8 Bell, they're the originating carrier.

9 If it was PIC'd to MCImetro and they picked up
10 that phone, MCImetro would be the originating carrier.

11 Q. Right. And in an environment where there is a
12 billing and collection agreement mutually as between
13 Southwestern Bell and MCImetro, these issues really are
14 resolved by billing and collection agreement; is that
15 correct?

16 A. Right. These -- all of these issues would be
17 typically addressed by a billing and collection
18 agreement if one was in place.

19 Q. All right. And -- and, to your knowledge,
20 billing and collection agreements are in existence as
21 between WorldCom and Southwestern Bell for IXC traffic?

22 A. We've got a tremendous amount of billing and
23 collection agreements in place between MCI, the IXC,
24 and Southwestern Bell, Pacific Bell, Ameritech, SNET
25 and just about all the other RBOCs and independents

1 across the country.

2 MR. CURTIS: Okay. I think that's all.

3 Thank you.

4 JUDGE RUTH: Just a moment, please.

5 Okay. Mr. McKanna, you may step down and you
6 are excused.

7 MR. MCKANNA: Okay. Thank you.

8 (Witness excused.)

9 JUDGE RUTH: Okay. And as for Ms. Kendall, I
10 had indicated previously she could step down but was
11 not excused. You are now excused also.

12 (Witness excused.)

13 JUDGE RUTH: Okay. Given the time, I don't
14 think we should move on to the next witness. That is
15 Michael -- is it Lehmkuhl?

16 MR. LEHMKUHL: Lehmkuhl, yes.

17 JUDGE RUTH: Lehmkuhl.

18 We will start with you tomorrow. And it looks
19 like it's possible that we could finish the witnesses
20 that are scheduled for Thursday and still have time to
21 move on.

22 The witnesses that the parties have designated
23 for Friday, will they be available to start on Thursday
24 if we get there?

25 MR. MORRIS: Yes.

1 MR. CURTIS: I believe they will.

2 JUDGE RUTH: Okay. Then I -- I think the only

3 other thing I have, then, is just a reminder that we

4 will start at 8:30.

5 Do the parties have any other questions,

6 housekeeping measures that we need to address before we

7 conclude today?

8 MR. CURTIS: I think we're fine. Thank you.

9 JUDGE RUTH: Staff or -- did you have a

10 comment?

11 MR. BATES: No, Your Honor.

12 We were just discussing that Mr. Cecil will be

13 available to discuss the -- the issue in question first

14 thing in the morning or at the Commission's

15 convenience.

16 JUDGE RUTH: Okay. I cannot tell you at this

17 time whether it will be tomorrow morning or later in

18 the day, but I do believe the Commission will want to

19 hear further from him.

20 Okay. Thank you.

21 We are off the record and finished for today.

22 WHEREUPON, the hearing of the case was

23 adjourned until January 17, 2001.

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20 Exhibit No. 22	542
Rebuttal Testimony of	
21 Timothy Oyer	
22 Exhibit No. 23	563
Direct Testimony of	
23 Michael Kirksey	
24 Exhibit No. 24	563
Rebuttal Testimony of	
25 Michael Kirksey	

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1	EXHIBIT INDEX (CONTINUED)		
2		MARKED	RECEIVED
3	Exhibit No. 25		597
4	Rebuttal Testimony of		
5	Natelle Dietrich		
6	Exhibit No. 26		676
7	Amended Rebuttal		
8	Testimony of Walter Cecil		
9	Exhibit No. 27		754
10	Direct Testimony of		
11	Mike McKanna		
12	Exhibit No. 28		754
13	Rebuttal Testimony of		
14	Mike McKanna		
15	Exhibit No. 31		721
16	Direct Testimony of		
17	Roseann Kendall		
18	Exhibit No. 32		721
19	Rebuttal Testimony of		
20	Roseann Kendall		
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23	Jan Rogers		
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25	Rebuttal Testimony of		
26	Jan Rogers		
27	Exhibit No. 50	513	
28	Cross-Examination		
29	Testimony of Chris Cass		
30	in Case No. TO-2001-438		
31	Exhibit No. 51	513	
32	Cross-Examination		
33	Testimony of Thomas Ries		
34	in Case No. TO-2001-438		
35	Exhibit No. 52	513	
36	Cross-Examination		
37	Testimony of David Barch		
38	in Case No. TO-2001-438		

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