

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
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5 TRANSCRIPT OF PROCEEDINGS  
6 Arbitration Hearing  
7 May 24, 2005  
8 Jefferson City, Missouri  
9 Volume 4  
10

11 Southwestern Bell Telephone, L.P., )  
12 d/b/a SBC Missouri's Petition for )  
13 Compulsory Arbitration of )  
14 Unresolved Issues for a Successor ) Case No. TO-2005-0336  
15 Interconnection Agreement to the )  
16 Missouri 271 Agreement ("M2A") )

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18  
19 KEVIN A. THOMPSON, Presiding,  
20 DEPUTY CHIEF REGULATORY LAW JUDGE.

21  
22 COMMISSION ADVISORY STAFF:  
23  
24 Natelle Dietrich  
25 Mick Johnson  
Mike Scheperle  
Adam McKinnie

26 REPORTED BY:  
27  
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1 P R O C E E D I N G S

2 JUDGE THOMPSON: We're on the record.

3 State your name, please.

4 THE WITNESS: Jason Constable.

5 JUDGE THOMPSON: Very good. Raise your  
6 right hand, or have you been sworn?

7 THE WITNESS: I was sworn in yesterday.

8 JUDGE THOMPSON: Then I will remind you  
9 that you're still under oath.

10 Mr. Bub?

11 MR. BUB: Thank you, your Honor.

12 JASON CONSTABLE testified as follows:

13 DIRECT EXAMINATION BY MR. BUB:

14 Q. Mr. Constable, do you have any corrections  
15 that you need to make to your testimony today?

16 A. No, I do not.

17 MR. BUB: And, your Honor, just so we're  
18 clear, Mr. Constable is one of our witnesses who testified  
19 about policy, testimony on VOIP hearings, and we have  
20 other witnesses, specifically Mr. Hamiter that is one of  
21 our engineers, and he testifies to technical  
22 interconnection issues, so just to help keep people  
23 straight on what areas our witnesses testify in.

24 So with that, I'll turn Mr. Constable over  
25 for cross-examination.

1 JUDGE THOMPSON: Okay. Let me find my  
2 sheet with the time limits here. Okay. So today the  
3 CLECs are going to take two and a half hours, and SBC is  
4 going to take three and a half hours; is that right? Is  
5 that what I see on here?

6 Very good. AT&T, did you have any  
7 questions for Mr. Constable?

8 MR. ZARLING: No questions, your Honor.

9 JUDGE THOMPSON: MCI?

10 MR. MORRIS: No questions.

11 JUDGE THOMPSON: Thank you, sir. CLEC  
12 Coalition?

13 MR. MAGNESS: No questions.

14 JUDGE THOMPSON: Thank you, sir.

15 Navigator?

16 MR. MARK JOHNSON: Nothing. Thank you.

17 JUDGE THOMPSON: Thank you, sir. Charter  
18 Fiber?

19 MR. SAVAGE: No, sir.

20 JUDGE THOMPSON: Thank you. Sprint?

21 MR. LEOPOLD: No.

22 JUDGE THOMPSON: Mr. Williams?

23 MR. WILLIAMS: No questions.

24 JUDGE THOMPSON: Ms. Dietrich?

25 MS. DIETRICH: No questions.

1 JUDGE THOMPSON: Mr. Johnson?

2 MR. MICK JOHNSON: No questions.

3 JUDGE THOMPSON: Mr. Scheperle?

4 MR. SCHEPERLE: Nothing.

5 JUDGE THOMPSON: Mr. McKinnie?

6 MR. McKINNIE: Just real quick.

7 JUDGE THOMPSON: Sure. Step on up.

8 QUESTIONS BY MR. McKINNIE:

9 Q. Good morning.

10 A. Good morning. How are you?

11 Q. Doing fine. I'm going to ask you roughly  
12 some of the same questions I asked Mr. Falvey yesterday.  
13 Let me just ask you a real quick one. Do you currently  
14 treat VOIP traffic differently, depending on what carrier  
15 it comes from, depending on the interconnection agreement?

16 A. No. When we receive this IP traffic,  
17 they're going to send it to us in a TDM format. And so  
18 from our perspective, it looks the exact same as any other  
19 call we would receive, and so we're going to have to treat  
20 it on the exact same basis.

21 Q. And let me just ask you one more. When  
22 you're referring to ISP-bound traffic in your testimony,  
23 should I assume that any reference to ISP-bound traffic  
24 there also includes VOIP-bound traffic?

25 A. I heard your question yesterday. Maybe I

1 can talk about it now a little bit more.

2 Q. Sure.

3 A. My testimony doesn't really get into  
4 ISP-bound traffic. That would be probably more something  
5 along the lines of Scott McPhee. I want to explain maybe  
6 kind of some of the differences.

7 An ISP-bound call is traditionally a  
8 dial-up call. You have AOL service and you pop in your CD  
9 and your computer's going to dial a number to get to the  
10 Internet. That's generally what we call an ISP-bound  
11 call.

12 For most commercial VOIP applications,  
13 typically you have a broadband connection that's always  
14 up, and that may be a cable modem or a DSL line, and so  
15 it's not necessary to dial up into the Internet. You're  
16 always activated.

17 So the issues with the IP services is  
18 generally is that once it's -- once you're on the Internet  
19 and you want to call a PSTN end user, you have to connect  
20 to the PSTN. And so you're going to use the PSTN's  
21 facilities for that, and as I mentioned earlier, we're  
22 going to provide the exact same services we would for any  
23 other type call, and we're going to receive that call on a  
24 TDN basis.

25 So we just want the same type compensation,

1 and we believe that's in line with what the Commission  
2 also indicated to the FCC that they believe the traffic  
3 should be indicated in its comments to the IP services in  
4 there.

5 Q. So just so I'm 100 percent sure, you do  
6 make a distinction between the ISP-bound call and the  
7 VOIP-bound call?

8 A. Yes.

9 MR. McKINNIE: Okay. That's what I wanted  
10 to know. Thank you.

11 JUDGE THOMPSON: Recross? Now that  
12 Mr. McKinnie has asked some questions, does that spark any  
13 interest on the part of anyone?

14 (No response.)

15 JUDGE THOMPSON: I don't see that anyone is  
16 raising their hands.

17 Redirect?

18 MR. BUB: None, your Honor. Thank you.

19 JUDGE THOMPSON: Thank you very much. You  
20 may step down, Mr. Constable. Thank you for your  
21 testimony.

22 MR. CONSTABLE: Thank you.

23 (Witness excused.)

24 JUDGE THOMPSON: Ms. Douglas I believe is  
25 next. Were you sworn yesterday, ma'am?



1 MS. DOUGLAS: No, sir.

2 JUDGE THOMPSON: Very well. Raise your  
3 right hand.

4 (Witness sworn.)

5 JUDGE THOMPSON: Please take your seat and  
6 state your name for the reporter.

7 THE WITNESS: Sandra Douglas,  
8 D-o-u-g-l-a-s.

9 MR. BUB: Thank you, your Honor.

10 SANDRA DOUGLAS testified as follows:

11 DIRECT EXAMINATION BY MR. BUB:

12 Q. Ms. Douglas, do you have any corrections  
13 you need to make to your testimony?

14 A. Yes, I have one, and it is on my direct  
15 testimony, page 22, line 15. Currently it says, CLEC  
16 Coalition Issue IC5. That should have been 14, which has  
17 since been resolved.

18 Q. Any other change you need to make?

19 A. No.

20 MR. BUB: And, your Honor, for Ms. Douglas'  
21 testimony, she focuses on our switched access policy  
22 tariffs, policy matters. And again, the network  
23 interconnection, the technical aspect is Mr. Hamiter. So  
24 policy questions or tariff matters, Ms. Douglas is our one  
25 to handle.

1 JUDGE THOMPSON: Great. Thank you,  
2 Mr. Bub. Okay.  
3 AT&T, any questions for Ms. Douglas?  
4 MR. ZARLING: No questions, your Honor.  
5 JUDGE THOMPSON: MCI?  
6 MR. MORRIS: No questions.  
7 JUDGE THOMPSON: Thank you, sir. CLEC  
8 Coalition?  
9 MR. MAGNESS: No questions.  
10 JUDGE THOMPSON: Thank you. Navigator?  
11 MR. MARK JOHNSON: No questions.  
12 JUDGE THOMPSON: Charter Fiberlink.  
13 MR. SAVAGE: Very briefly, your Honor.  
14 JUDGE THOMPSON: Please, step up.  
15 CROSS-EXAMINATION BY MR. SAVAGE:  
16 Q. Good morning, Ms. Douglas. I'm Chris  
17 Savage with Charter Fiber Link.  
18 A. Good morning.  
19 Q. You have, I think, one of our issues, which  
20 is No. 13 on having to do with the definition of intraLATA  
21 toll.  
22 A. Yes.  
23 Q. You understand that Charter's proposal is  
24 to define intraLATA toll traffic as telephone toll service  
25 within a single LATA?

1           A.       On the DPL, yes.

2           Q.       Are you familiar with the fact that the  
3       term "telephone toll service" is a defined term in the  
4       Communications Act of 1934?

5           A.       Yes.

6           Q.       Did you know that?

7           A.       Yes.

8           Q.       And would you agree with me that that  
9       statutory definition is the legal definition of what  
10      constitutes toll service?

11          A.       If it's the legal definition?

12          Q.       Yeah.

13                   MR. BUB:  Your Honor, I need to object.  I  
14      think that's a legal question.

15                   JUDGE THOMPSON:  You've got to use your  
16      microphone.

17                   MR. BUB:  I'm sorry, your Honor.  I need to  
18      object.  I think he's asking for a legal conclusion, and  
19      this witness is not a lawyer.

20                   JUDGE THOMPSON:  Well, you know, I think  
21      it's a little more complicated than that, because I know  
22      you guys work with the Telephone Act and the various state  
23      regulations and federal regulations all the time, and I  
24      think he asked her if he knew -- if she knew that that was  
25      the legal definition.  And I think a layperson who works

1 in this industry can have a crack at answering that.

2 MR. BUB: Fair enough, your Honor. Thank  
3 you.

4 JUDGE THOMPSON: You may answer if you're  
5 able.

6 THE WITNESS: Yes, in my rebuttal  
7 testimony, I did cite, quote, the Act where it says  
8 definition 48 of Section 3 defines telephone toll service.  
9 BY MR. SAVAGE:

10 Q. Do you have a reason for wanting to have  
11 the definition in our binding interconnection agreement  
12 depart from the parallel definition in the federal law  
13 that governs that agreement?

14 A. Well, as I -- it seemed that some of the  
15 phrases were redundant in the proposed definition, and  
16 that's just my opinion. And our definition I thought said  
17 the exact same thing that you intended to say. It does  
18 recognize that it's within the LATA and that it's  
19 interexchange.

20 Q. So if I take your answer correctly, you  
21 don't have any substantive reason for proposing a  
22 definition in our interconnection agreement under the  
23 Communications Act that differs from the terms used there,  
24 it's just you think the phrasing in your version is a  
25 little better?

1           A.       Yeah. I felt some of the phrasing in the  
2 Charter-proposed definition was redundant.

3                   MR. SAVAGE: I have nothing further.

4                   JUDGE THOMPSON: Thank you. Sprint?

5                   MR. LEOPOLD: No questions, your Honor.

6                   JUDGE THOMPSON: Thank you, Mr. Leopold.

7 Mr. Williams?

8                   MR. WILLIAMS: No questions.

9                   JUDGE THOMPSON: Ms. Dietrich?

10 QUESTIONS BY MS. DIETRICH:

11           Q.       Ms. Douglas, I just had a couple questions  
12 about your direct testimony.

13           A.       Okay.

14           Q.       On page 7 of your direct, around line 4,  
15 you say that SBC Missouri routes and compensates all calls  
16 the same, regardless of technology, and then you talk  
17 about access charges. Specifically at the end of line 25  
18 and line 26 you say, further, I do not agree that current  
19 billing problems can or should set the status quo for  
20 appropriate billing practices.

21                   Are there current billing problems in  
22 Missouri?

23           A.       This is referring to the VOIP issue where  
24 AT&T had actually routed its traffic over local  
25 interconnection trunks. The IP in the middle traffic --

1 I'm sorry -- which the FCC later found access charges  
2 should apply to, there was no way for us to assess  
3 switched access charges when they put that traffic over  
4 the local interconnection trunks.

5 Q. And has that been corrected now?

6 A. No, it has not.

7 Q. And then on page 20 of your testimony,  
8 you're talking about interexchange circuit switched  
9 traffic that is mistakenly delivered over local  
10 interconnection trunks. And at line 33 you say,  
11 occasionally, however, a third-party carrier might  
12 improperly route intrastate or interstate interexchange  
13 traffic over such trunk groups.

14 Can the billing system identify that  
15 inappropriate traffic?

16 A. No. And I think that's one of the reasons  
17 that the Commission issued its enhanced record exchange  
18 rule was to ensure that the carriers behind this also get  
19 compensated appropriately.

20 Q. Well, if a third-party carrier occasionally  
21 does that, what happens? You say occasionally.

22 A. We're going to charge like recip comp  
23 instead of switched access. We don't get the same records  
24 for traffic over a local interconnection trunk that we get  
25 for traffic delivered over switched access services.

1 MS. DIETRICH: Thank you.

2 JUDGE THOMPSON: Mr. Johnson?

3 MR. MICK JOHNSON: No questions.

4 JUDGE THOMPSON: Mr. Scheperle?

5 MR. SCHEPERLE: No questions.

6 JUDGE THOMPSON: Mr. McKinnie?

7 MR. MCKINNIE: No questions.

8 JUDGE THOMPSON: Recross, AT&T?

9 RE CROSS-EXAMINATION BY MR. ZARLING:

10 Q. Good morning, Ms. Douglas. I'm Kevin

11 Zarling representing AT&T.

12 A. Good morning.

13 Q. Let me ask you about an answer you gave

14 Ms. Dietrich regarding your direct testimony having to do

15 with VOIP traffic being placed on access trunks. Do you

16 recall that question?

17 A. Yes.

18 Q. And you said the problem's not been fixed?

19 A. And I should have been more clear. I meant

20 the billing problems, the problems we would have with

21 billing for traffic of that type.

22 Q. Okay. You were not referring to the

23 specific action that you reference in your answer where

24 AT&T was placing IP-enabled traffic -- phone-to-phone

25 IP-enabled traffic and terminating it to the PSTN?

1           A.       No, I was I was not referring to that.  
2                   MR. ZARLING:  Thank you.  That's all.  
3                   JUDGE THOMPSON:  Thank you, Mr. Zarling.  
4   MCI?  
5                   MR. MORRIS:  No questions.  
6                   JUDGE THOMPSON:  CLEC Coalition?  
7                   MR. MAGNESS:  No questions.  
8                   JUDGE THOMPSON:  Navigator?  
9                   MR. MARK JOHNSON:  Nothing.  
10                  JUDGE THOMPSON:  Charter Fiberlink?  
11                  MR. SAVAGE:  Nothing.  
12                  JUDGE THOMPSON:  Sprint?  
13                  MR. LEOPOLD:  Nothing, your Honor.  
14                  JUDGE THOMPSON:  Thank you.  Redirect?  
15                  MR. BUB:  Just a little, your Honor.  
16   REDIRECT EXAMINATION BY MR. BUB:  
17                  Q.       Ms. Douglas, I just have a quick follow-up  
18   question to one that Ms. Dietrich asked about the  
19   improperly routed traffic.  And I believe you indicated  
20   that on improperly routed intrastate or interexchange  
21   traffic that comes over the local trunks, that we don't  
22   get the same records; is that correct?  
23                  A.       Correct.  
24                  Q.       What records are you referring to that  
25   would be needed to bill interexchange traffic?



1           A.       Well, there's two types of records.  
2       There's a Category 11 and a Category 92, and I tend to get  
3       these backwards, so pardon me if I do this time. I think  
4       the 92 comes off the end office, and the 11 comes off of a  
5       tandem.

6           Q.       And what are those records used to do?

7           A.       They're used to enable billing of switched  
8       access.

9           Q.       Is SBC the only LEC that's dependent on  
10       those type of records?

11          A.       No. The independent companies behind us  
12       are dependent on those records to enable them to bill  
13       their switched access.

14          Q.       So if we don't get the traffic on the  
15       correct trunk, we can't make the records; is that correct?

16          A.       Correct.

17          Q.       And then the small company behind us, they  
18       don't get the correct record either?

19          A.       Correct.

20                   MR. BUB: Thank you. Those are the only  
21       questions we have, your Honor.

22                   JUDGE THOMPSON: Thank you very much. You  
23       may step down. Thank you very much for your testimony.

24                   (Witness excused.)

25                   JUDGE THOMPSON: Witness Hamiter. Were you

1 sworn yesterday, sir?

2 MR. HAMITER: Yes, sir, I was.

3 JUDGE THOMPSON: I will remind you you're  
4 still under oath. Would you please state your name for  
5 the record.

6 MR. HAMITER: My name is James, J-a-m-e-s,  
7 Hamiter, H-a-m-i-t-e-r.

8 JUDGE THOMPSON: Thank you, sir. You may  
9 inquire.

10 MR. GRYZMALA: Thank you, your Honor. By  
11 way of introduction, Mr. Hamiter will be speaking to the  
12 various network-related issues associated with the  
13 company's NIA and NIM and ITR DPLs, those three DPLs,  
14 particularly with regard to network planning, network  
15 operations, trunk planning, engineering and related  
16 subjects. One preliminary matter, if I may.

17 JUDGE THOMPSON: You may.

18 MR. GRYZMALA: I'm sorry?

19 JUDGE THOMPSON: You may.

20 MR. GRYZMALA: One preliminary matter. I  
21 filed yesterday -- we filed yesterday a motion to accept  
22 into the record of the case a table of contents for  
23 Mr. Hamiter's rebuttal testimony, and I have distributed  
24 that to all counsel electronically and by hand yesterday.  
25 So that if that be allowed, we appreciate it, your Honor.

1 JUDGE THOMPSON: That's fine with me. Does  
2 anyone have any objections?

3 (No response.)

4 JUDGE THOMPSON: Hearing none, I think that  
5 you're good to go.

6 MR. GRYZMALA: Thank you, your Honor.

7 JAMES HAMITER testified as follows:

8 DIRECT EXAMINATION BY MR. GRYZMALA:

9 Q. Mr. Hamiter, good morning.

10 A. Good morning.

11 Q. Do you have any corrections or  
12 clarifications to either your direct or your rebuttal  
13 testimony, sir?

14 A. I have some minor corrections to my direct  
15 testimony.

16 Q. Let's start off with direct testimony.

17 Would any of those apply to that?

18 A. Yes. On page 2 of the table of contents,  
19 in Item 10 --

20 Q. Excuse me. Let me stop you there. You  
21 mean page double I?

22 A. Yes. I'm sorry.

23 Q. Thank you.

24 A. Item 10, instead of page 84, it should read  
25 85. Item 11 should be 94 instead of 93. Item 12 should

1 be 101 rather than 100. Item 13 should be 106 rather than  
2 105. Item 14 should read 109 rather than 108.

3 And on the next page, triple I, Item 15  
4 should read 113 rather than 112. Item 16 should be 115  
5 rather than 114. And Item 17 should be 118 rather than  
6 117. And that's it.

7 Q. Those would close the corrections on your  
8 direct?

9 A. Yes, sir.

10 Q. Do you have any corrections, sir, on your  
11 rebuttal testimony?

12 A. None, sir, but I do not have a copy of the  
13 table of contents.

14 Q. You obviously have been able to review a  
15 copy?

16 A. No, I haven't seen it. I'm sorry.

17 Q. Okay.

18 JUDGE THOMPSON: Did you write it, though?

19 THE WITNESS: I just -- I have the copy  
20 that was filed, and I don't have a copy of the one that  
21 was submitted later, the table of contents. Just the  
22 table of contents.

23 BY MR. GRYZMALA:

24 Q. Oh, I see. With regards to the substantive  
25 portions, however, of your rebuttal, you have no

1 corrections or clarifications?

2 A. No, sir. No, sir. And I did write it,  
3 Judge Thompson.

4 MR. GRYZMALA: With that, your Honor, I  
5 would close and tender the witness.

6 JUDGE THOMPSON: Thank you very much.  
7 AT&T?

8 MR. ZARLING: No questions, your Honor.

9 JUDGE THOMPSON: MCI?

10 MR. MORRIS: No, sir.

11 JUDGE THOMPSON: CLEC Coalition?

12 MR. MAGNESS: No questions.

13 JUDGE THOMPSON: Navigator?

14 MR. MARK JOHNSON: Nothing, thank you.

15 JUDGE THOMPSON: Charter Fiberlink?

16 MR. SAVAGE: Yes, sir, we have a little  
17 bit.

18 JUDGE THOMPSON: Step on up.

19 CROSS-EXAMINATION BY MR. SAVAGE:

20 Q. Good morning, sir. My name is Chris  
21 Savage. I'm representing Charter Fiberlink.

22 A. Good morning, Mr. Savage.

23 Q. What I'm going to try to do is ask you  
24 about some topics and some issues that are within your  
25 expertise that might relate to more than one of the

1 individual issues, but I'm going to refer you to  
2 particular points in the decision point list if it comes  
3 to that.

4 A. All right.

5 Q. Do you have a copy of the DPL?

6 A. No, sir, I do not.

7 Q. Well, then --

8 A. Not up here with me.

9 Q. If we need one, I'll get you one.

10 A. All right.

11 Q. Let me first ask you a little bit about  
12 the -- let me back up for a second.

13 Have you in the course of preparing for  
14 your testimony today conducted any review of the actual  
15 kind of physical interconnection that Charter Fiberlink  
16 has with SBC in Missouri?

17 A. I -- I requested from our network people  
18 some broad information on all of the CLECs. However, I  
19 did not incorporate that into my testimony. I considered  
20 it as being confidential and proprietary, so I didn't see  
21 any reason to really get into it.

22 Q. That's fine. We can spare the truly  
23 confidential details. But are you generally aware that  
24 Charter interconnects with SBC using OC-48 fiber link  
25 connection in the St. Louis LATA?

1           A.       No, sir, I'm not aware of that.

2           Q.       Oh, okay.  Would you accept that subject to  
3   check and review?

4           A.       Subject to check, yes, I will accept that.

5           Q.       Now, what I'd like to talk about a little  
6   bit is, perhaps in slightly more detail than you got into  
7   in your testimony, the actual physical configuration of a  
8   fiber interconnection between a carrier such as Charter  
9   and SBC.  Broadly speaking, we've got our network, really  
10   large on one side, your network really large on the other  
11   side, and fiber connecting them?

12          A.       Yes, sir.

13          Q.       But I want to go into a little more detail.  
14   To make the fiber work at either end of the fiber strand,  
15   there's got to be a device that's normally known as a  
16   fiberoptic terminal.  Do you know what I'm talking about  
17   at that point?

18          A.       Yes, sir.

19          Q.       And would you agree with me that what the  
20   fiberoptic terminal does is actually sends and receives  
21   the laser pulses in the clever configuration that allows  
22   it to convey all that traffic?

23          A.       Pretty much, yes.

24          Q.       And then out of the back of each fiberoptic  
25   terminal, if you will, are connections to what I would

1 normally think of as a digital cross-connect system that  
2 allows you to send trunks to and from either switches or  
3 other fiberoptic links on to the particular link between  
4 the networks?

5 A. Yes, sir.

6 Q. Okay. Now, something I think we all agree  
7 on is that trunks are connections between switches; is  
8 that correct?

9 A. Yes, sir, we do agree on that.

10 Q. Okay. So to the extent that the language  
11 in SBC's proposed contract refers to trunking to an area,  
12 am I correct that what SBC means by that is a trunk to the  
13 switch that serves that area?

14 A. Yes, sir. And if it's in regard to a broad  
15 area that's served by several if not many end office  
16 switches, we're really referring to the tandem that serves  
17 the offices within that calling area.

18 Q. Right. And I agree with that. I hadn't  
19 gotten to that level. The kind of switches, I mean,  
20 there's an end office switch --

21 A. Yes.

22 Q. -- that serves end users, but then there  
23 are tandem switches of various sorts that essentially  
24 interconnect different switches?

25 A. Generally speaking, we're talking about



1 going to a switch, rather than you can't just go out to an  
2 area and let it hang out in the air. It's not going to be  
3 very conducive to completing calls.

4 Q. I think we're agreed on that. Are we also  
5 agreed that it is SBC's practice and preference to  
6 interconnect with CLECs using SS7 signaling as compared to  
7 MF signaling or the other alternatives?

8 A. Pretty much, yes, sir.

9 Q. Okay. Would you have any objections to  
10 including language in the contract that literally says  
11 that the parties want to interconnect their networks on an  
12 SS7 basis?

13 A. I thought it was in there somewhere, that  
14 we would interconnect with certain exceptions, like some  
15 of the operator services trunk groups. We're really  
16 talking about how the signaling is performed for a  
17 specific trunk group when we're talking about SS7.

18 Q. I think we are agreed, then. That's fine.

19 JUDGE THOMPSON: We've got ELMO here, if  
20 you're tempted to use it.

21 MR. SAVAGE: I wouldn't know how, your  
22 Honor.

23 JUDGE THOMPSON: Oh, okay.

24 MR. SAVAGE: Sometimes I sound like I know  
25 how to do stuff, but it's all the engineers telling me

1     what to ask.

2                     JUDGE THOMPSON:   So were you planning to  
3     use it, Mr. Bub?

4                     MR. BUB:   I was thinking that the witness  
5     might as an aid in his explanation to some questions from  
6     counsel.  If he could draw a picture in some areas, it  
7     might be helpful for everyone to follow along.  So it  
8     would be whether the witness wants to.

9                     JUDGE THOMPSON:   Is there anything you need  
10    to do?

11                    MR. SMITH:   Turn on the projection.

12                    MR. SAVAGE:   Could this not be credited?

13                    JUDGE THOMPSON:   Yeah, I'll subtract this  
14    from your time.

15                    (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

16    BY MR. SAVAGE:

17                    Q.     Another matter where I think we actually  
18    agree, sir, is the distinction between facilities on the  
19    one hand and trunks on the other hand.  Let me see if I  
20    can clarify that for the record.

21                    When we have a physical fiber facility  
22    connecting two networks, what we're talking about there is  
23    the fiber in the ground and on the poles and that sort of  
24    thing.  Whereas, a trunk is what I think of -- would you  
25    agree with me -- sort of a logical path carved out within

1     that facility?

2             A.       Well, it's -- there's some logic involved,  
3     but it's a physical position within, you know, some of the  
4     divisions within the fiber.

5             Q.       And maybe a little more technical than we  
6     need to. On a time division multiplexing arrangement, the  
7     little pulses of the fiber divided in each different trunk  
8     or each different signal would get its own time slot out  
9     of any given number of pulses?

10            A.       Yes, sir.

11            Q.       And that's how it's divided?

12            A.       Yes, sir.

13            Q.       So it's physical on the one hand?

14            A.       Yes, sir.

15            Q.       But you have to know where to be looking on  
16     the --

17            A.       Yes, sir.

18            Q.       Now, you would agree with me that when you  
19     have a fiber interconnection between the networks, once  
20     you've established the point of demarcation, so to speak,  
21     that the cost responsibilities for all the facilities on  
22     Charter's side of the network rests with Charter, and all  
23     the facilities on SBC's side of the network rest with SBC?

24            A.       Generally speaking, yes.

25            Q.       Okay. And in the parts of the agreement

1 where it discusses Charter ordering a trunk or setting up  
2 a trunk or establishing a trunk from our switch to this  
3 end office or that end office, as you understand it, that  
4 wouldn't result in any different payment obligation to  
5 Charter. It's more a question of -- from Charter to SBC,  
6 it's rather a question of making sure that the traffic  
7 goes where it needs to go; is that correct?

8 A. Would you rephrase that question,  
9 Mr. Savage?

10 Q. Well, let me ask --

11 A. I got lost somewhere in the middle there.

12 Q. I can understand that. Let me try it a  
13 different way. Are there any circumstances that you  
14 envision where Charter would be called upon to establish a  
15 trunk such as a direct trunk to an end office or a trunk  
16 to a particular tandem over an existing physical facility  
17 where the establishing of the trunk would mean that  
18 Charter has to pay something to SBC?

19 A. In the establishment of a DEOT, no, sir. I  
20 can't see how, you know, the provisions that Charter pays  
21 for its facilities on its side of the POI and SBC pays for  
22 our facilities on our side of the POI. We're just talking  
23 about establishing a trunk from your end office switch  
24 over your facilities and our facilities to our end office  
25 switch.

1           Q.       That's correct. And to do that, Charter's  
2 engineers would have to work with their fiberoptic  
3 terminal and their switch to properly isolate the traffic  
4 going to your end office?

5           A.       Yes, sir.

6           Q.       And your engineers would have to work on  
7 your switch and your transmission facilities to make sure  
8 that you could receive that traffic and vice versa, but  
9 all that activity, as you understand it, would be at no  
10 charge under the contract; we would do our work and  
11 wouldn't charge you to set up that trunk, you would do  
12 your work and wouldn't charge us to set up that trunk?

13          A.       Right.

14          Q.       Okay. Now, I think we're agreed that you  
15 have no opposition to the establishment by a CLEC, by  
16 Charter, of a single POI in a LATA, single physical point  
17 of interconnection?

18          A.       No, sir. A new entrant, you know, we  
19 certainly agree with that, and we do not -- we are not  
20 trying to strongarm the CLECs into establishing more than  
21 one POI under most situations.

22          Q.       And are you aware that Charter agrees with  
23 you that at some traffic threshold it's appropriate to  
24 establish a second physical POI within a LATA?

25          A.       Yes, sir.

1           Q.       But you do understand we have a  
2       disagreement about what that threshold ought to be?

3           A.       I believe we do. Our position is that once  
4       traffic that is going to one tandem in the network through  
5       the single POI but is intended for a tandem or an area  
6       that is served by another tandem, once that reaches  
7       24 DSIs, and I believe that's 574 trunks, then we would  
8       like to see another POI established at that point. Once  
9       the traffic to that tandem reaches that point, the CLEC is  
10      really no longer a new entrant into the competitive  
11      environment.

12          Q.       And --

13                   JUDGE THOMPSON: You said 24 what?

14                   THE WITNESS: DSIs. I apologize, your  
15      Honor.

16                   JUDGE THOMPSON: That's all right. Just  
17      wanted to make sure I can follow what you're saying.

18                   MR. SAVAGE: Just for the reporter's  
19      benefit, we're talking about a POI, that's P, capital O,  
20      capital I. It stands for point of interconnection.

21      BY MR. SAVAGE:

22          Q.       And do you understand what Charter's  
23      proposal is with respect to the threshold for establishing  
24      a second POI?

25          A.       I don't recall what that threshold is.

1           Q.     Okay.  Would you accept, subject to  
2     reviewing the testimony, that our proposal is that the  
3     appropriate level be an OC-12 level of traffic?

4           A.     I will accept that as your proposal.

5           Q.     That's right.  Now, what considerations --  
6     well, when I read your testimony, I'll confess, I didn't  
7     see any engineering analysis of why 24 DS1s was the right  
8     or the wrong number.  What I saw is reference to the fact  
9     that in some other arbitration in some other state, some  
10    other commission said, yeah, 24 DS1s.

11          A.     Uh-huh.

12          Q.     I just wanted to confirm that I hadn't  
13    missed anything, that nowhere buried in your testimony is  
14    any actual engineering analysis of the cost of  
15    establishing a different POI, the cost of handling  
16    traffic, any of that.

17          A.     No, I did not get into that.  The -- are we  
18    talking about the 24 DS1 or the 24 DSO related to a DEOT.

19          Q.     The 24 DS1s related to the -- yeah, we have  
20    no dispute about when it's going to be established.

21          A.     Yes, sir.  I have no engineering analysis  
22    behind that.

23          Q.     Okay.  Let me ask you a different question.  
24    Are you familiar with the processes involved in the two  
25    companies working together to establish a new fiber meet

1     POI?

2             A.       Somewhat.  I've been involved in some of  
3     those.  Never for a fiber meet, but typically I was  
4     involved in collocation.

5             Q.       Is it normally the case when you're  
6     establishing a fiber meet, if you know, that the parties  
7     have to agree on a variety of factors, including the  
8     location, compatible fiberoptic terminals at each end of  
9     the fiber link and other matters --

10            A.       Yes, sir.

11            Q.       -- with respect to the establishment?

12            A.       Yes, sir.

13            Q.       Do you know how long that process normally  
14     takes to actually negotiate and then establish a fiber  
15     meet?

16            A.       It can get quite involved, Mr. Savage, and  
17     a lot of it depends upon to what degree the CLEC and SBC  
18     disagree, I suppose.

19            Q.       And would you agree with me that given  
20     sometimes the technical complexity of fiber meets, that  
21     there can be very legitimate engineering and technical  
22     disagreements that the engineers have to work out in order  
23     to get such a thing established?

24            A.       Yes, sir.

25            Q.       Do you have any opinion based on your



1 technical knowledge and background as to what an  
2 appropriate length of time to allow for the establishment  
3 of a new fiber meet might be?

4 A. No, sir, I do not.

5 Q. Let me ask you about one-way trunks versus  
6 two-way trunks.

7 A. Yes, sir.

8 Q. And I don't know if you were here  
9 yesterday, but there was some testimony about what they  
10 are, so I won't get into that. Do you understand what  
11 Charter proposes about one-way trunks versus two-way  
12 trunks in our agreement?

13 A. I believe Charter wants one-way trunks, and  
14 the nature of our dispute is that SBC would like to see  
15 the network transitioned towards a two-way trunking  
16 arrangement.

17 Q. See, I think we may have misunderstood each  
18 other. Were you aware that within the OC-48  
19 interconnection we already have in St. Louis, that the  
20 overwhelming majority of trunking is already two-way  
21 trunking?

22 A. I understand that there is some two-way  
23 trunking on that.

24 Q. Do you have a view as -- putting aside the  
25 engineering question of whether two-way trunks should be

1 established, because I don't think we have a dispute about  
2 that in most cases, do you have a view about which party  
3 should be entitled to determine whether trunking is one  
4 way or two way?

5 A. It should be a mutual agreement.

6 Q. Are you aware of whether the FCC has said  
7 anything about that in any of its rules?

8 A. I could not quote a specific passage,  
9 Mr. Savage.

10 Q. Would you agree with me that if the FCC has  
11 established a rule that gives the CLEC interconnector the  
12 right to determine whether trunks are one way or two way,  
13 that it would be reasonable to include that in the  
14 parties' interconnection agreement?

15 A. If it was a hard and fast rule, yes, sir.  
16 But if it requires some kind of a legal interpretation,  
17 I'm certainly not the man to ask that question.

18 Q. I understand. I'm not trying to get you  
19 off into a world of law.

20 A. Yes, sir.

21 JUDGE THOMPSON: You're not stumbling into  
22 the forbidden zone, are you?

23 MR. SAVAGE: I am trying not to stumble  
24 into the forbidden zone. I suspect that Mr. Hamiter would  
25 keep me straight and narrow on what he understands and

1     what he doesn't.

2     BY MR. SAVAGE:

3             Q.       You've worked for the phone company for a  
4     long time, haven't you?

5             A.       Yes, sir.

6             Q.       You're probably one of the few people in  
7     this room who's actually been in a rate case. Have you  
8     ever participated in an actual rate case?

9             A.       In an actual rate case?

10            Q.       Yeah.

11            A.       No, sir, I have not.

12            Q.       You missed out on a great experience. Let  
13     me ask you about a question that may also be for  
14     Mr. McPhee, and so if I get into his areas, just tell me.  
15     But as I read SBC's proposal, SBC proposes to restrict the  
16     kinds of trunks -- or rather the kind of traffic carried  
17     on different kind of trunks that can be carried over a  
18     fiber meet interconnection. Are you familiar with that  
19     aspect of SBC's proposal?

20            A.       Well, really we're -- we would like to see  
21     the various traffic types separated onto separate trunks  
22     so that we can properly measure and bill for that traffic.

23            Q.       Right. And assume that we agree with you  
24     about that. We don't have, as I understand it, any  
25     material dispute about parsing the different kinds of

1 traffic into different trunk groups. What I'm asking you  
2 now about is, which trunk groups may be carried over a  
3 fiber meet interconnection?

4 Do you understand the distinction I'm  
5 asking you to draw?

6 A. Yes, sir. And I do believe some of that is  
7 probably related to Mr. McPhee's testimony. But generally  
8 speaking, when we meet, you know, however we meet, we  
9 establish trunk groups across that meet point or that POI,  
10 P-O-I, that that determines where our networks meet. We  
11 establish trunk groups across that network, and it's those  
12 trunk groups that we establish between each other that  
13 determine the type of traffic that we'd like to see across  
14 those.

15 Q. Let's take a couple of examples. I think  
16 we're agreed that to the extent we're exchanging what we  
17 both agree to be local traffic and our customer is a  
18 neighbor of your customer, that can go over the physical  
19 fiber facility on a local trunk?

20 A. A local call, is that what you're referring  
21 to?

22 Q. Correct.

23 A. Yes. Yes.

24 Q. And similarly, if we have an intraLATA toll  
25 call that starts on our network and ends on your network,

1 we have no dispute that that -- though we have a separate  
2 trunk group for that or maybe not, that that would go over  
3 that same physical facility?

4 A. Yes, sir.

5 Q. Now suppose that one of our customers has  
6 selected, I don't know, AT&T as their long distance  
7 carrier, and for their long distance call to get to AT&T  
8 it has to route through your tandem and then up to AT&T's  
9 location.

10 A. Yes, sir.

11 Q. Can you think of any technical reason why  
12 that traffic going from our customer through your tandem  
13 and up to AT&T couldn't be routed on a trunk group over  
14 that physical fiberoptic facility?

15 A. The local trunk group is not designed to  
16 handle the Feature Group D type traffic. When your  
17 customer or our customer for that matter delivers a call  
18 that he intends -- he or she intends to be handled by an  
19 IXC, you're supposed to send us information that relates  
20 to the actual carrier that this customer intends to be  
21 used. This information is used by our tandem switch to  
22 actually select the trunk group that's going to deliver  
23 that call to that IXC.

24 Q. Let me stop you. I agree with everything  
25 you're saying. Actually, I think you misunderstood my

1 question. I'm not disputing -- I'm not asking you to  
2 think we're disputing certainly that traffic bound for  
3 IXCs from our end users through your tandem shouldn't be  
4 on a separate trunk group.

5 A. Okay.

6 Q. The question is whether there's any  
7 technical reason why that trunk group couldn't be carried  
8 on the physical facility, the physical fiber facility that  
9 links our two networks?

10 A. It's going to be carried over some  
11 facility.

12 Q. Can you think of any technical reason why  
13 that facility could not be an existing fiber meet point  
14 connection between our companies?

15 A. Technically speaking, no.

16 Q. Okay. I have essentially the same set of  
17 questions about three other kinds of traffic that have  
18 been identified in the testimony; in particular 911  
19 traffic, mass calling traffic, and OSDA traffic. Let's  
20 take them one step at a time. You understand what 911  
21 traffic is?

22 A. Yes, sir, I do.

23 Q. That would be a call in this case between  
24 one of our customers to the PSAP, which is P-S-A-P,  
25 serving their area?

1           A.       Uh-huh.

2           Q.       And in the normal case, you would agree  
3   with me today that SBC is the local exchange carrier that  
4   typically provides the connection to the public switched  
5   network for the PSAPs?

6           A.       For the most part.

7           Q.       I understand.

8           A.       I believe there are other people that  
9   handle that sort of thing.

10          Q.       Now, can you think of any technical reason  
11   why if we needed to establish a separate trunk group to  
12   handle the traffic bound for the selective router at the  
13   911 answering point, can you think of any technical reason  
14   why we couldn't send -- establish that trunk group over  
15   robust fiber interconnection facility?

16          A.       Mr. Savage, it's my understanding that the  
17   facility meet point or the way we interconnect our  
18   networks is for the purpose for exchanging local traffic,  
19   251(b)(5) type traffic between our networks. In other  
20   words, it's for the mutual benefit of both of our end  
21   users and our customers. The meet point type trunk group,  
22   the 911-type traffic, the choke network and all of the  
23   ancillary-type trunk groups that we've been talking about  
24   here, you know, technically speaking, pure and simple,  
25   there's no problem because the facility is a facility.

1                   But for the purpose of whose end users are  
2   benefiting from this, you know, we see that your meet  
3   point trunk groups, your 911 trunk groups, et cetera, are  
4   solely for the benefit of your customers, and, you know,  
5   they're really not going to interconnect with us over  
6   those trunk groups.

7                   Q.       Let me ask you a little bit about that.  
8   Let's take 911. I may use that as an exhibit. This is  
9   great. Hold on.

10                  MR. SAVAGE: This is something, your Honor,  
11   I think the Commission can take official notice of, but if  
12   not, I'll represent it's a copy of SBC's tariff of PSC  
13   Missouri No. 35, the 911 service tariff on file. I can  
14   hand out copies.

15                  JUDGE THOMPSON: Thank you. This will be  
16   Exhibit 204.

17                  (EXHIBIT NO. 204 WAS MARKED FOR  
18   IDENTIFICATION BY THE REPORTER.)

19   BY MR. SAVAGE:

20                  Q.       Now, Mr. Hamiter, will you accept my  
21   representation that this is a true copy downloaded from  
22   the website of SBC's 911 tariff for Missouri?

23                  A.       I don't have a copy of it.

24                  Q.       I apologize.

25                  JUDGE THOMPSON: Forgot the most important



1 one.

2 MR. SAVAGE: There you go. I guess I'd  
3 like -- at this time I'd like to move the admission or  
4 acceptance of this as a copy of SBC's tariff. If there is  
5 an objection, I'd like to hear it now rather than go  
6 through the whole thing.

7 MR. GRYZMALA: No objection, your Honor.

8 JUDGE THOMPSON: Okay. Anyone else?

9 (No response.)

10 JUDGE THOMPSON: Hearing no objections,  
11 Exhibit 204 is received and made a part of the record of  
12 this proceeding.

13 (EXHIBIT NO. 204 WAS RECEIVED INTO  
14 EVIDENCE.)

15 BY MR. SAVAGE:

16 Q. Could you take a look on the very first  
17 page, Section 28.1.3. You have that in front of you?

18 A. Yes, sir.

19 Q. Would you agree with me that that states  
20 that the customer for universal emergency number service,  
21 which is 911, may be a municipal or state or local  
22 government unit or an authorized agent of them to which  
23 the authority has been delegated which is legally  
24 authorized to subscribe to this service which has public  
25 safety responsibility by law to respond to these kind of

1 calls? Is that a fair summary of that section?

2 A. Well, you've read right from that paragraph  
3 up to that point. And it goes on to say that it's to  
4 respond to telephone calls from the public and -- for  
5 emergency police, firefighting service, et cetera. But in  
6 the case of your 911 trunks, these calls will be coming  
7 from your -- your end users, your customers. They would  
8 not be coming from one of my customers.

9 Q. Yes, and is it your understanding that  
10 Charter's customers are not part of the public?

11 A. Well, they are customers that could  
12 conceivably have an emergency situation. I really don't  
13 see where you're going with this. I'm sorry.

14 Q. I'll get there. Would you agree with me --  
15 I'll ask it this way: You don't give away 911 service to  
16 the police department for free, do you?

17 A. I'm not aware of the compensation  
18 arrangements for that. You'll have to talk to our pricing  
19 witness for that.

20 Q. Would you accept, subject to check, that  
21 this document in front of you, in fact, contains charges  
22 that SBC assesses on the police, the fire department,  
23 those sort of folks for using this service?

24 A. I'm really --

25 MR. GRYZMALA: Your Honor, before the

1 witness answers, I'm going to object. The document speaks  
2 for itself as to the question that counsel directed.

3 JUDGE THOMPSON: Read back the question,  
4 Kellene.

5 THE REPORTER: "Question: Would you  
6 accept, subject to check, that this document in front of  
7 you, in fact, contains charges that SBC assesses on the  
8 police, the fire department, those sort of folks for using  
9 this service?"

10 JUDGE THOMPSON: What's wrong with that  
11 question?

12 MR. GRYZMALA: The document speaks for  
13 itself, your Honor.

14 JUDGE THOMPSON: I think he's asking him if  
15 he agrees that that's what's in there, right? Isn't that  
16 what you asked?

17 MR. SAVAGE: That's what I asked.

18 JUDGE THOMPSON: Okay. I'm going to  
19 overrule the objection. You may answer if you're able.

20 THE WITNESS: In flipping through here, I  
21 do see a lot of numbers that appear to be prices and stuff  
22 like that, but, you know, I can't interpret those. I'm  
23 not qualified to do that.

24 BY MR. SAVAGE:

25 Q. Well, then, let me ask you this question:

1     Suppose one of our customers happens to be a fireman and  
2     suppose that his wife gets on the phone and dials up the  
3     normal PST address of the fire station and talks to him.  
4     You would agree that that call is a call that properly can  
5     go over the physical fiber facility that we have under  
6     some -- whatever the appropriate trunk group would be for  
7     that call?

8             A.       Presumably that is a local call and she is  
9     calling from her -- their house to her husband's place of  
10    work, provided his place of work is on our network.

11            Q.       Or it may be an intraLATA toll call, either  
12    way.

13            A.       It could be.   It could be.

14            Q.       And that's okay, but if her house catches  
15    on fire and she picks up the phone and dials 911, that  
16    can't go on this facility; is that your testimony?

17            A.       Yes, sir.

18            Q.       Okay.   Now, let's talk about mass calling  
19    for a second.   The typical example of mass calling is  
20    you've got the radio station that says, if you're the 97th  
21    caller right now, you get a free trip to Mexico or  
22    whatever it might be.   Now, suppose with me that the radio  
23    station in question is an SBC customer that buys its  
24    connections to the public switch network from SBC.   Do you  
25    understand what I'm asking you to assume?

1           A.       Its local service?

2           Q.       All of its service within the area.

3           A.       Yes.

4           Q.       We'll get to what local service means in a  
5 minute. But do you understand what I'm asking you to  
6 assume?

7           A.       I believe I do.

8           Q.       Okay. And let's suppose that this is a  
9 radio station that has one of these promotions and goes  
10 out on the air and says, everybody call in and be the 97th  
11 caller and win the trip to Mexico. And let's suppose  
12 further that one of Charter's customers does that. That's  
13 the kind of call, as I understand it, that you would want  
14 sent over these mass calling trunks so that when everybody  
15 calls at the same time, the network doesn't crash?

16          A.       That's correct.

17          Q.       Okay. But your testimony is that that  
18 trunk group shouldn't go over this fiber facility?

19          A.       That's correct. It's not for the benefit  
20 of our customers. Our end users, whenever they dial the  
21 code that is specific to the choke network for that  
22 particular radio station, it goes over the trunks that we  
23 provide for that purpose.

24          Q.       But isn't it for the benefit of your radio  
25 station customer that wants to receive these calls?

1           A.       The radio stations really do not have to  
2   become part of this.  It's up to them.  They can get it --  
3   get that service from someone else.

4           Q.       But having chosen to get it from you,  
5   aren't they your customer and don't they benefit by  
6   getting a call from our customer?

7           A.       You're trying to blur the distinction  
8   between the radio station as our local customer who pays  
9   us a monthly fee to make calls within this local calling  
10  area and the radio station who has obtained the -- has  
11  decided to buy into -- and once again, I am not aware of  
12  any pricing arrangements for this.  You know, I can only  
13  speak to the actual routing of calls over this network.  
14  And we have that, as you mentioned a moment ago, to  
15  protect our network from cratering when a lot of these  
16  large calling schemes come about.

17          Q.       And we have no dispute that this needs to  
18  be on a separate trunk group?

19                   JUDGE THOMPSON:  Let me interject for a  
20  moment, then you get a chance to interject.  Did I hear  
21  you to say to protect your network from cratering?  That  
22  makes me think of meteorites.

23                   THE WITNESS:  Well, I'm sorry.

24                   JUDGE THOMPSON:  Explain to me how the  
25  telephone networks get cratered.

1                   THE WITNESS: Most of our network is --  
2 works over the SS7 -- is an SS7 network. SS7 is a system  
3 where the signaling between switches is conducted off of  
4 the actual trunk group that a call will be carried over.  
5 And that is to speed up the connect time and just make  
6 things run a little smoother and more efficiently. If --  
7 and our network is designed to operate under what we  
8 determine to be a normal operating environment.

9                   If -- if a contest, a call in or something  
10 like that, some media-stimulated mass calling event  
11 occurs, it's possible that our SS7 network could be  
12 overloaded, and once that happens, then the network shuts  
13 down. We can't deliver calls or select trunks over trunk  
14 groups until that clears up.

15                  That's why we came up with the mass  
16 calling, the choke network to take these calls off of the  
17 public switch network and put them on their own network  
18 and enable the callers to call in still, but yet protect  
19 our network, specifically our SS7 network.

20                  JUDGE THOMPSON: And you call that the  
21 choke network?

22                  THE WITNESS: Yes, sir. It's called a  
23 number of things, HVCI or H -- yeah, high volume call in,  
24 media-stimulated calling, things like that.

25                  JUDGE THOMPSON: And when you refer to

1     cratering, I assume that's a situation --

2                     THE WITNESS: That was a poor choice of  
3     words.

4                     JUDGE THOMPSON: You use the words you're  
5     comfortable with. That's fine. I just want to make sure  
6     I understand them. So the overloaded SS7, that's the  
7     crater?

8                     THE WITNESS: Yes, sir. And the  
9     underlying -- the real problem with this is if you're  
10    just -- if a call in is going to affect, you know, like me  
11    calling you or you calling one of your friends, that's one  
12    thing, but it will also affect the 911 network as well.  
13    And in my testimony I refer to an instance or two where  
14    this has happened in the past.

15                    JUDGE THOMPSON: In other words, cratering  
16    occurs and then people can't call 911?

17                    THE WITNESS: Yes, sir. Yes, sir. And I  
18    will probably rue the day I ever mentioned that word  
19    cratering.

20                    JUDGE THOMPSON: I guarantee it will be in  
21    the Arbitration Order. Absolutely will be in there.

22    BY MR. SAVAGE:

23                    Q.     And you understand, Mr. Hamiter, that  
24    Charter has no objection whatsoever to setting up these  
25    separate choke trunks or mass calling trunks to handle



1 this kind of traffic?

2 A. Yes, sir. I understand your problem is the  
3 facilities. And once again, SBC from my standpoint, and  
4 it's really all I can say, is that SBC does not see any  
5 benefit for its customers to have those trunks set up.  
6 And so we -- we believe they should be separate from the  
7 normal traffic that's traded over an interconnection  
8 facility.

9 Q. But just to be clear, going back to your  
10 earlier answer, there is no technical reason that these  
11 trunks could not be carried over the same physical  
12 facility. Rather, as you've said, SBC believes that it  
13 isn't in its benefit to do that and so it doesn't want to.  
14 Is that a fair summary?

15 A. I believe, as I mentioned before, a  
16 facility is a facility.

17 Q. Now, in one of your answers, and also in  
18 your testimony -- I think it's probably around page 20 to  
19 21 of the direct, but you don't have to look at it if you  
20 don't want to -- you get into a little bit of a discussion  
21 about the definitional term, shall we say, local exchange  
22 service versus the telephone exchange service.

23 And at the risk of stumbling into the  
24 forbidden territory, since you did mention the law in one  
25 of your earlier answers, have you ever actually sat down

1 and read Sections 251 and 252 of the Telecommunications  
2 Act?

3 A. Most of it. I have not read all of it.

4 Q. I recommend it. No, seriously.

5 A. I have not read the entire Act. I have --  
6 presume there are some interesting points in there.

7 Q. Indeed. Would you accept, subject to  
8 check, that the term "local exchange service" does not  
9 appear anywhere in Sections 251 and 252 of the  
10 Communications Act?

11 A. Subject to check.

12 Q. Would you accept --

13 JUDGE THOMPSON: Well, when you ask that,  
14 are you saying, would you guess with me?

15 MR. SAVAGE: What I'm asking him is to  
16 accept it, and if he does not actually go back and check,  
17 I expect it to be taken as true. Now, I will represent to  
18 you --

19 JUDGE THOMPSON: In other words, what  
20 you're saying really is, do you have any reason to  
21 disagree --

22 MR. SAVAGE: That's fine.

23 JUDGE THOMPSON: -- with me if I were to  
24 say, that somewhat longer circumfusion that we hear in  
25 circuit court?

1                   MR. SAVAGE:  Indeed, but I'm on the clock.  
2   I'm trying to keep it short.

3                   JUDGE THOMPSON:  I just want to make sure  
4   what subject to check means.  We don't always -- we've  
5   tried to discourage testimony using that, because at one  
6   time we thought, well, you're asking the witness to  
7   speculate.  You don't know, so go ahead and speculate with  
8   me.  But I'm now coming to the view that what you're  
9   really doing is kind of shortcutting that longer question,  
10  if I told you that that's what it was, would you have any  
11  reason to disagree, right?

12                  MR. SAVAGE:  Indeed.

13                  JUDGE THOMPSON:  I think that's okay.  I  
14  want to make sure we know.

15  BY MR. SAVAGE:

16                 Q.       Would you accept my representation that at  
17  no point in Sections 251 and 252 of the Telecommunications  
18  Act does the term "local exchange service" appear?

19                 A.       I will accept it, but I guarantee you,  
20  Mr. Savage, when I step off of this stand I will read that  
21  entire section.

22                 Q.       If you'd like, I have it for you right  
23  here.

24                 A.       If you want me to read it on your time,  
25  that's fine with me.

1           Q.       Good point. We'll actually agree with that  
2 point. But then the other question is, are you aware that  
3 in Section 251(c) (2) of the Act that determines  
4 interconnection and why we -- are you aware that  
5 Section 251(c) (2) of the Act deals with interconnection?

6           A.       Yes, sir.

7           Q.       Okay. Are you aware that what  
8 Section 252(c) (2) says is that you have an obligation to  
9 interconnect with a requesting carrier like Charter for  
10 the transmission and routing of telephone exchange service  
11 and exchange access? Are you aware that that's what it  
12 says?

13                   MR. GRYZMALA: Your Honor, let me object.  
14 I may have missed some of the portion of yesterday's  
15 proceedings, but my objection rests on the fact that I  
16 believe that what he's asking for is the witness to draw a  
17 legal conclusion as applied to Charter's network. He used  
18 the term "Charter" in his question. I think he's asking  
19 the witness to draw a legal conclusion based on  
20 application of 251(c) (2) to Charter's circumstances. I  
21 object on that basis.

22                   JUDGE THOMPSON: Okay. Kellene, read back  
23 the question.

24                   THE REPORTER: "Question: Okay. Are you  
25 aware that what Section 252(c) (2) says is that you have an

1 obligation to interconnect with a requesting carrier like  
2 Charter for the transmission and routing of telephone  
3 exchange service and exchange access? Are you aware that  
4 that's what it says?"

5 JUDGE THOMPSON: I think I'm going to  
6 sustain that.

7 BY MR. SAVAGE:

8 Q. Then let me ask the question without  
9 reference to Charter. Are you aware that  
10 Section 251(c)(2) of the Act requires an ILEC to  
11 interconnect for the transmission and routing of the  
12 telephone exchange service and exchange access? Are you  
13 aware that that's what that law says?

14 A. I will accept that. And once again I will  
15 reread that.

16 MR. SAVAGE: In fact, this is short enough,  
17 if I can approach the witness with a copy of the law.

18 JUDGE THOMPSON: If you could speak into  
19 your microphone, it would really help me follow. I can't  
20 hear too well.

21 THE WITNESS: I'm sorry.

22 MR. SAVAGE: What I have here is the  
23 official compilation of the Communications Act, and if I  
24 may approach the witness, I'd like you to read --

25 JUDGE THOMPSON: You may approach.

1 MR. SAVAGE: Thank you.

2 JUDGE THOMPSON: Let me just caution you, I  
3 thought we weren't going to get into a lot of what is it  
4 that the law requires. What I want to hear is about  
5 facts. I don't know if I care what he thinks what the law  
6 says.

7 MR. SAVAGE: Your Honor, I wouldn't care  
8 either, except his testimony takes us to task for using  
9 the term that's in the statute because he wants to use a  
10 term that isn't.

11 JUDGE THOMPSON: Okay.

12 MR. SAVAGE: If he hadn't testified about  
13 it, I wouldn't be going here.

14 BY MR. SAVAGE:

15 Q. Now, could you please read into the record  
16 Section 251(c)(2). Not the whole section. Let me show  
17 you what I want. This section here (indicating).

18 A. (2)(a)?

19 Q. That's correct.

20 A. You want me to start at C?

21 Q. Sure.

22 A. Just start off at 2? I'll just start off  
23 at 2.

24 Interconnection, the duty to provide for  
25 facilities and equipment of any requesting

1 telecommunications carrier interconnection with the local  
2 exchange carrier's network for the transmission and  
3 routing of telephone exchange service and exchange access.

4 Q. Now, given that that is what the law says,  
5 can you think of any reason why it would make sense for  
6 our contract not to refer to telephone exchange service  
7 and instead to refer to local exchange service or some  
8 other locution for the same concept?

9 MR. GRYZMALA: Your Honor, I'm sorry. I  
10 need to object, if not now, certainly for the rest of the  
11 day.

12 JUDGE THOMPSON: Spit it out.

13 MR. GRYZMALA: He is asking this witness to  
14 apply the law which he represents to be contained merely  
15 in a statute isolated from interpreting FCC rules, which  
16 also go into that.

17 JUDGE THOMPSON: I heard this question is,  
18 is there any reason we shouldn't use this language?  
19 That's what I heard.

20 MR. GRYZMALA: But that seeks an  
21 interpretation of law from this witness.

22 JUDGE THOMPSON: Well --

23 MR. GRYZMALA: Without the benefit of  
24 implementing FCC rules, regulations.

25 JUDGE THOMPSON: Law is what do we have to

1 do and when do we have to do it and who do we have to do  
2 it with? And that's not any part of this question. This  
3 question that I heard was, why shouldn't we use the  
4 language that's here in this part of this statute?

5 That's a different question. That's a  
6 question in constructing our contract, what language shall  
7 we use, why shouldn't we use the language in the statute?  
8 I don't see that as a question asking him to make a legal  
9 interpretation. I think he's asking him, why can't we  
10 just use these words? They are the ones in the statute.

11 Now, I don't know if he's the right person  
12 to answer that question or not, but I think he has a right  
13 to ask it, and the witness has an opportunity or an  
14 obligation to do his best to answer it. So if you're  
15 able, sir, go ahead and try.

16 THE WITNESS: Would you restate your  
17 question, please?

18 BY MR. SAVAGE:

19 Q. Are you aware of any reason why we should  
20 not use in our contract the term "telephone exchange  
21 service" as it is used in the statute?

22 A. We believe that the local exchange services  
23 term that is proposed by SBC is more definitive and it is  
24 used to identify Section 251(b)(5) type traffic that we're  
25 going to exchange over these facilities.



1 Q. What do you mean by definitive?

2 A. In other words, it defines the traffic that  
3 we're going to exchange as 251(b)(5) traffic.

4 Q. Are you aware that the Communications Act  
5 named a specific definition of the term "telephone  
6 exchange service"?

7 A. No, sir, I'm not.

8 Q. Let me move on to a slightly different  
9 area. Are you familiar with the dispute between Charter  
10 and SBC with respect to the procedures and terms for  
11 establishing a new fiber meet interconnection point?

12 A. Not definitively. I couldn't sit here and  
13 tell you right now all of the procedures. You mean  
14 when -- from the startup when you decide that you want to  
15 interconnect with us? Maybe I don't understand your  
16 question.

17 Q. Well, let me give you a specific reference.  
18 If you could -- you're listed in the DPL as addressing  
19 this issue. It's ITR issue -- let me find the right one.

20 MR. SAVAGE: I apologize. Just a moment,  
21 your Honor. I don't want to confuse.

22 JUDGE THOMPSON: It's your time.

23 MR. SAVAGE: I appreciate that.

24 BY MR. SAVAGE:

25 Q. Let me ask the following question. I'll

1 move on to something I think will trigger your memory.

2 Are you familiar with the question of where within  
3 Southwestern Bell's network interconnection should be  
4 required? Are you aware of the disagreement?

5 A. Should be on our networks.

6 Q. Yes. And is it your contention that your  
7 network consists only and entirely of your central  
8 offices?

9 A. We also have tandem switches on our  
10 network, sir.

11 Q. Yes, and I apologize. I mean the term  
12 central office to refer to --

13 A. Within our buildings.

14 Q. So -- yes. But your contention is that  
15 your network consists entirely and only of your switches?

16 A. No, sir.

17 Q. What does it include, aside from your  
18 switches?

19 A. Our network includes our facilities as  
20 well. However, for the purposes of interconnection, we  
21 would prefer a central office, a building environment  
22 because of -- well, it's just environmentally more  
23 conducive to keeping the equipment up and running.

24 Q. I think on the whole we would prefer a  
25 building environment as well. But, in fact, for something

1 to be on your network, as you understand that term, does  
2 not require it to be in one of the buildings that happens  
3 to house one of your switches?

4 A. Are you referring to a repeater hut?

5 Q. Actually, I'm not referring to anything in  
6 particular. I'm just asking whether in fact -- well, let  
7 me back up for a second. Why don't you describe what a  
8 repeater hut is?

9 A. Well, a repeater hut is typically a rather  
10 small building that is between offices on a span of fiber  
11 or copper or whatever that is used to repeat or enhance  
12 the signal and keep it from deteriorating because of the  
13 distances that are encountered between the two points.

14 Q. Would you agree with me that in some  
15 circumstances it's technically feasible for, for example,  
16 Charter to bring fiber to that kind of a location rather  
17 than a central office, assuming you have fiber to connect  
18 to?

19 A. We may or may not have the ability to meet  
20 Charter there.

21 Q. And did you -- you may or you may not,  
22 either one is possible?

23 A. And until our engineering forces look at  
24 one of those, you know, and determine, you know, can we  
25 meet there, then we would probably prefer going to the

1 central office, the building.

2 Q. Can you think of any technical reason to  
3 write our contract in such a way that it would preclude us  
4 from interconnecting at such a location, whether it was  
5 technically feasible or not?

6 A. For the reason I just stated, you know, if  
7 there is no available method of doing that, we don't  
8 necessarily plan our network to -- the implementation of  
9 interoffice facilities to be broken in the middle at some  
10 point for the purpose of connecting to another network.

11 Q. Take it as agreed that in any particular  
12 circumstance, it may just not work. That's not what I'm  
13 asking you. What I'm asking you is whether there is any  
14 technical reason to write our contract in such a way that  
15 says that will never happen?

16 A. Mr. Savage, if both parties can agree to a  
17 point off of a -- or out of a central office, then -- and  
18 I stress the fact that both parties would have to agree --  
19 then that is a viable method of interconnecting.

20 Q. So again, subject to what you just said  
21 that the parties would have to agree in any particular  
22 instance, there's no technical reason to require that that  
23 not happen, if the parties agree it could happen? If it  
24 isn't technically feasible, well, then it wouldn't happen?

25 A. Yes.

1           Q.       Now, there's one other issue that I think  
2   is yours that I do want to ask you about, and that has to  
3   do -- and I want to confirm that it's yours. That has to  
4   do with the processing of trunk orders. Let me confirm  
5   that this is yours and not Mr. McPhee's. It was ITR  
6   No. 7. And this is the question of your -- SBC's right to  
7   hold trunk orders. Are you familiar with that?

8           A.       Where in my testimony did I address that  
9   particular issue?

10          Q.       According to the DPL which comes from your  
11   attorneys, you're listed as addressing this in your direct  
12   testimony at pages 75 to 83, and your rebuttal testimony  
13   at pages 37 to 43.

14          A.       Trunk specifications?

15          Q.       Yeah.

16                  MR. SAVAGE: Would it be helpful to show  
17   him the DPL or not?

18                  MR. GRYZMALA: Are you referring -- are you  
19   referring to Charter's interconnection agreement  
20   requirements or final joint DPL?

21                  MR. SAVAGE: Final joint DPL, Issue No. 7.

22                  MR. GRYZMALA: Absolutely.

23                  MR. SAVAGE: Okay. If I can just share  
24   this with him.

25   BY MR. SAVAGE:

1           Q.     Mr. Hamiter, have you ever seen this  
2 before, this DPL document?

3           A.     I will say that I have. I've seen  
4 certainly one that appears like this.

5           Q.     Okay. Could you take a look --

6           A.     I don't know if it's complete, though.

7           Q.     I understand. With respect to Issue No. 7,  
8 would you agree with me that one of the areas of  
9 disagreement between Charter and SBC is that SBC's  
10 contract language as proposed would give SBC's personnel  
11 the right to decide that Charter's trunking requests  
12 should be put in a held status prior to a meeting, and  
13 that Charter on the other hand proposes that if it submits  
14 a trunking order it should be processed whether you want  
15 to talk about it or not?

16          A.     Well, we process ASRs as we receive them,  
17 and if there's some reason related to an ASR, some reason  
18 for our companies having a joint planning meeting, we  
19 would not work that typically. Because if you call us and  
20 you say, we need to have a planning session, joint  
21 planning meeting for the purpose of talking about this  
22 ASR, then we don't necessarily want to work that because  
23 we don't know that in the process of that joint planning  
24 meeting you might decide, well, we really don't need that.  
25 If we have already begun work on that, we would have to

1 suspend that work and probably even dismantle some of the  
2 work that we had done.

3 Q. And I understand that, and the premise of  
4 your answer, if I heard you correctly, was that Charter  
5 would call you up and request a meeting, and ob--

6 A. Or we would call you.

7 Q. Well, here's where it gets interesting.  
8 Suppose we have, as we do in St. Louis, an OC-48 fiber  
9 interconnection with hundreds and hundreds of trunks and  
10 trunk groups. And suppose that instead of either of us  
11 requesting a meeting at the outset, we simply submit an  
12 ASR that says we need another 50 trunks to go from here to  
13 there.

14 A. Yeah.

15 Q. Should SBC have the right to say, no, I  
16 don't think so, I'm going to put that on hold until we  
17 have a conversation?

18 A. I don't believe we do that, Mr. Savage. I  
19 believe if we were checking on the availability of  
20 facilities in order to work that order and we came across  
21 a problem where, oh, my goodness, you know, we can't  
22 really fulfill this order at this OC-48, then we're  
23 certainly going to contact you. And in that instance we  
24 would not be able to work that ASR.

25 Q. No, and I don't think anyone is disputing

1     that if you run into some circumstance that would prevent  
2     you from working one of our orders, of course, natural  
3     normal engineering process, we would have a conversation  
4     about that.

5                     But suppose there's not a facilities  
6     problem. I take it you would agree with me that SBC  
7     should not have the right if we submit an ASR to say, no,  
8     I don't think so, we need to have a talk about that before  
9     we'll work that order, to put it on hold status?

10            A.     We don't question the CLEC's reason for  
11     filling an order. Once again, like I said, if this is  
12     going to cause -- this order, if it's so large, you know,  
13     and unreasonable, we would contact your people and say,  
14     fellas, you want 5,000 trunks going into this central  
15     office of ours and there's only 2,000 lines in the office,  
16     you know, this is certainly one of those instances where  
17     we would hold off on that.

18                     But generally speaking, as an ASR comes in,  
19     we work those ASRs in the order that they come in and we  
20     endeavor to fill those orders.

21            Q.     So to the extent -- and maybe I'm just  
22     doing my lawyer thing, but to the extent that the actual  
23     contract language proposed by SBC on this point would give  
24     SBC the right not in the case of a massive, erroneous, we  
25     need 50 but we put in 5,000 kind of situation, but just a



1 normal, well, we need 50 trunks here, 100 trunks there, if  
2 the contract would give SBC the right to say, no, I don't  
3 think so, let's put that on hold status and talk about it,  
4 that wouldn't make any sense to you?

5 A. We don't put orders on held status unless  
6 there is a legitimate reason why we can't fill that order.  
7 And I believe there is a method in place by which the  
8 requesting CLEC is contacted and told, you know, we're  
9 sorry we can't fill this order, we're going to put it on  
10 held status. It's up to the CLEC whether or not they want  
11 to keep it in that status.

12 Q. Right. So to the extent that the contract  
13 doesn't conform to what you just said, to the extent that  
14 the contract could be read to give SBC the right  
15 essentially at any time to decide that a CLEC order is  
16 unreasonable and put it on held status, you wouldn't  
17 support that interpretation of the contract; is that  
18 correct? Is that fair?

19 A. No. We don't do that.

20 MR. SAVAGE: I have nothing further of this  
21 witness.

22 JUDGE THOMPSON: 56 minutes and 40 seconds.  
23 At this point we're going to take a ten-minute recess.

24 (A BREAK WAS TAKEN.)

25 QUESTIONS BY JUDGE THOMPSON:

1           Q.       I gather that -- let's see if I can  
2 understand this. Charter would like to use less trunks to  
3 interconnect with SBC than SBC evidently would like to  
4 use; is that correct?

5           A.       Actually, sir, no. The distinction that we  
6 have, it isn't about trunking. It's about physical  
7 facilities.

8           Q.       Trunks are not physical facilities?

9           A.       Trunks are paths within a physical  
10 facility. A physical facility is optical fiber that runs  
11 from Point A to Point B.

12          Q.       Okay.

13          A.       And what you do is through the manic of  
14 electronics, you make trunks within that. And the --  
15 somebody must have testified you have a DS0, which is a  
16 voice grade, and a DS1, there's 24 of those, and a DS3,  
17 there's 28 of those, and you keep getting up here. But  
18 OC-48 is what we interconnect now in St. Louis. That's a  
19 whole bunch of capacity to send calls back and forth.  
20 We're perfectly fine with dividing that capacity into  
21 pretty much whatever kinds of traffic they want.

22          Q.       Okay.

23          A.       Where our dispute is is that they want to  
24 essentially exclude certain types of traffic from that  
25 facility and say, well, the calls that are going to 911

1     you have to get a separate facility to send it to that,  
2     and the calls that are going to these mass callings, there  
3     has to be a separate facility, which to us doesn't make  
4     any sense. That's the dispute.

5             Q.       So another wire?

6             A.       Another wire. Exactly.

7             Q.       Another fiber link?

8             A.       Exactly. Which is expensive and cumbersome  
9     and kind of beside the point given the massive cyber  
10    traffic, from our perspective.

11            Q.       What I'm concerned with are the factual  
12    bases for SBC's position, and I heard some of that from  
13    you, as with the cratering, for example.

14            A.       Yes, sir.

15            Q.       Where if the mass calling traffic is going  
16    over the same facility, then the SS7 can be overwhelmed,  
17    preventing other types of calls from being completed; is  
18    that correct?

19            A.       Yes, sir.

20            Q.       And that would be why SBC wants a separate  
21    network for the mass calling traffic; is that correct?

22            A.       Yes, sir.

23                    MR. SAVAGE: Your Honor, I hate to object  
24    to your questions, but you're mischaracterizing his  
25    testimony. What he said is --

1 JUDGE THOMPSON: He agreed with everything  
2 I said.

3 MR. SAVAGE: I understand that, and our  
4 witness is going to address this. What he said on my  
5 cross was that what they need is separate trunks for this  
6 traffic, not separate physical facilities, and we will  
7 give them separate trunks.

8 JUDGE THOMPSON: That's kind of the heart  
9 of what we're getting at here is whether it has to be  
10 separate trunks on the same facility or separate  
11 facilities, which necessarily would be separate trunks as  
12 well, right?

13 MR. SAVAGE: Separate facilities will  
14 necessarily be separate trunks.

15 JUDGE THOMPSON: Right.

16 MR. SAVAGE: And if his testimony is now  
17 changing to say they need a separate facility for this  
18 kind of stuff, I may need to request some recross, because  
19 that's not what he said when I asked him.

20 JUDGE THOMPSON: That's why we have  
21 recross.

22 THE WITNESS: I apologize, your Honor,

23 JUDGE THOMPSON: That's all right.

24 THE WITNESS: When I was agreeing with you,  
25 but Mr. Savage is correct, we're asking for separate

1 facilities for those because --

2 MR. SAVAGE: Separate facilities or  
3 separate trunks?

4 THE WITNESS: Separate trunks.

5 BY JUDGE THOMPSON:

6 Q. Trunks?

7 A. Yes.

8 Q. On separate facilities or within one  
9 facility?

10 A. They would be over separate facilities.

11 Q. They would be over separate facilities?

12 A. Yes, sir.

13 Q. As I understand the dispute --

14 A. There is a different compensation for the  
15 purchase of those facilities, I believe.

16 JUDGE THOMPSON: You heard him say separate  
17 facilities?

18 MR. SAVAGE: And I finally heard him say  
19 why, which is there's a different compensation or they  
20 want to charge us money for it. There's no technical  
21 reason for it, which is why I asked him about technical.

22 JUDGE THOMPSON: Right. And I understand  
23 that what's driving this whole dispute is how much money  
24 are you guys going to have to spend to continue to  
25 interconnect with them. That's basically the heart and

1     soul of this, because --

2                   MR. SAVAGE:  Much of the world comes down  
3     to money, your Honor.

4                   JUDGE THOMPSON:  You've got a business  
5     plan, and you've got to make money with what you're doing.  
6     And how much money you can make depends on how much you  
7     have to spend to make your system work, right?

8                   MR. SAVAGE:  Certainly.

9     BY JUDGE THOMPSON:

10            Q.     So as the arbitrator, what I need to know  
11     is, if I come down and pick their proposal because I'm  
12     thinking, you know, hey, we want competition, we want more  
13     options for people, we want interconnection, we want the  
14     world of telephone to grow and grow and grow and grow, so  
15     everyone can be happy.

16                   But I want to know, if I pick their choice,  
17     what am I doing to the lady in St. Louis whose house is on  
18     fire who wants to call the fire department?  Am I  
19     condemning her to having her house burn down?  Do you see  
20     what I'm saying?

21            A.     Yes, sir.

22            Q.     That's why I say I want to know the factual  
23     environment in which this dispute exists.  I don't care  
24     what the Act says.  I can read the Act, and I will read  
25     the Act and draw my own conclusions about what that

1 requires.

2                   What I want to know is the factual real  
3 world where people use telephones to communicate for  
4 different purposes and how the different choices that are  
5 made here will affect those real people and their real  
6 telephone calls.

7           A.       Yes, sir.

8           Q.       That's what I need to know.

9                   MR. SAVAGE: Judge, if I may suggest, you  
10 might want to ask this to my witness, Mr. Cornelius.

11                  JUDGE THOMPSON: I expect to ask him, too.

12                  MR. SAVAGE: I can represent to you that  
13 today, right now in St. Louis, all these kinds of trunks  
14 are carried over this optical fiber, so it's happening  
15 today.

16                  JUDGE THOMPSON: One single facility?

17                  MR. SAVAGE: Correct.

18                  JUDGE THOMPSON: And this is your OC-48?

19                  MR. SAVAGE: Correct.

20                  JUDGE THOMPSON: Okay.

21                  MR. SAVAGE: And they want to change the  
22 contract to say we have to take that off.

23                  JUDGE THOMPSON: Which you see as needless  
24 cost?

25                  MR. SAVAGE: We do, yes.

1 JUDGE THOMPSON: See, I'm following pretty  
2 well.

3 BY JUDGE THOMPSON:

4 Q. What's the problem with his vision? Why do  
5 they need separate facilities?

6 A. I believe, as I mentioned a moment ago, the  
7 facilities over which we're exchanging the local 251(b) (5)  
8 traffic between SBC and the CLEC, those facilities were --  
9 and I am not a tariff-type person or a pricing person, but  
10 it's my understanding that there's a different set of  
11 charges for the facilities that the CLEC has to pay for  
12 obtaining those facilities from the ILEC. And those  
13 facilities are for the exchange of the 251(b) (5) traffic  
14 between the parties.

15 Q. When you say 251(b) (5) traffic, what do you  
16 mean?

17 A. I mean that traffic that originates and  
18 terminates on either party's network within a calling  
19 area.

20 Q. Local traffic?

21 A. Yes, sir.

22 Q. Okay. So when you say that, you're --

23 A. It could be -- and I apologize for  
24 interrupting.

25 Q. That's all right.



1           A.       But it could also be -- as Mr. Savage  
2 pointed out, it could also be toll in nature, as long as  
3 it's within the same LATA and still falls or --

4           Q.       So local or toll traffic, but originating  
5 and terminating within the same LATA?

6           A.       Within the same LATA upon our networks.

7           Q.       And that's the kind of traffic that you  
8 want to restrict this fiber facility to?

9           A.       Yes, sir.

10          Q.       And if they want more traffic, additional  
11 types of traffic to 251(b)(5) traffic, then it's SBC's  
12 position that they need additional facilities to carry  
13 that traffic; is that correct?

14          A.       Yes, sir.

15          Q.       Okay. And --

16                   MR. SAVAGE: Your Honor, if --

17                   JUDGE THOMPSON: Just a minute. I'm  
18 straining towards an understanding here. Don't hurt me.  
19 BY JUDGE THOMPSON:

20          Q.       So what I want to understand is whether  
21 SBC's position is based upon the real world of telephones  
22 or is it based rather upon distinctions between traffic  
23 that are more academic or legal or even costing based  
24 rather than technologically based. Do you understand what  
25 I'm saying?

1           A.     Yes, sir. Yes, sir.

2           Q.     And I thought that's what his cross was  
3     aiming at as well.

4           A.     Yes, sir.

5           Q.     So theoretically speaking, if the pipe, the  
6     connection is big enough, this OC-48, can you run all this  
7     traffic through that one pipe?

8           A.     It is technically -- as I mentioned in my  
9     cross a moment ago, there's no distinction. A facility is  
10    a facility.

11          Q.     Right. So you could put it all onto one  
12    pipe?

13          A.     Yes, sir.

14          Q.     Very good. And by contract, you could  
15    charge them whatever you think's appropriate for each type  
16    of traffic even though it's all going over the same pipe,  
17    right?

18          A.     Yes, sir.

19          Q.     Because you're going to have -- you'll get  
20    your chance. Because you're going to have to program your  
21    switches and what have you to handle the different types  
22    of traffic to distinguish between them and route them  
23    appropriately --

24          A.     Yes, sir.

25          Q.     -- at your end of the pipe, right?

1           A.       Yes, sir. We need the separate trunk  
2 groups for those.

3           Q.       I understand that. And that's what makes  
4 that possible, right?

5           A.       Yes, sir.

6           Q.       Okay. But it can still all go over the  
7 same facility, assuming it's big enough?

8           A.       Yes, sir.

9           Q.       Okay. But you don't want it going over the  
10 same facility; am I right?

11          A.       Yes, sir.

12          Q.       Okay. Why?

13          A.       We believe that -- and once again I want to  
14 stress that I am not the billing and pricing person.

15          Q.       I understand. You just tell me from the  
16 world of telephones why. Because you know your side is  
17 going to bring somebody else who's going to tell me from  
18 the world of billing or the world of legality or whatever,  
19 they're going to tell me that stuff.

20          A.       All right.

21          Q.       You just tell me your piece of the puzzle.

22          A.       The facilities that are provided -- or  
23 rather are purchased by the CLEC for the purpose of  
24 interconnecting our networks, SBC exchanges local  
25 interconnection-type traffic with that CLEC over those

1 facilities, and the CLECs obtain those facilities at a  
2 much lower rate than what they would for the  
3 ancillary-type trunk groups.

4 Q. Okay. But could you bill -- would you  
5 agree with me -- and I know you're not the billing guy.

6 A. Right.

7 Q. But would you agree with me that you could  
8 probably build whatever kind of price you want into the  
9 contract, regardless of whether separate facilities are  
10 used or not?

11 A. I --

12 Q. As far as you know?

13 A. I would assume so, as far as I know.

14 Q. Okay. I'm not saying we should deprive SBC  
15 of whatever it believes the fair recompense is for  
16 handling each type of traffic. I'm just wondering if we  
17 have to make Charter run several wires where one wire  
18 would work, that's all.

19 A. Yes, sir.

20 Q. If wire is even the adequate term.

21 MR. SAVAGE: Your Honor, if I may, I think  
22 you were right to shush me before, because you have put  
23 the nail right on it. I mean, we have some disagreements  
24 with SBC about when and whether charging for these sort of  
25 ancillary -- I guess it's called ancillary facilities or

1 ancillary traffic is appropriate, but our position is  
2 frankly what you just said, which is, if you're entitled  
3 to charge us, fine, charge us, but don't make us build a  
4 separate facility when one isn't necessary. That's  
5 exactly what our position is.

6 BY JUDGE THOMPSON:

7 Q. And what I'm gathering from talking to you  
8 is, at least on the technical side, there's no reason it  
9 can't be run over one facility?

10 A. Right. But we also do not believe that if  
11 those facilities are run over -- excuse me -- if those  
12 trunks are run over the existing facilities, the existing  
13 interconnection facility, SBC does not believe that it  
14 should be responsible for the continuation of that trunk  
15 over a facility on the other side of the POI to the 911  
16 tandem or the choke tandem or wherever those trunk groups  
17 are going to terminate.

18 Q. Okay. Is the 911 tandem outside of the SBC  
19 system?

20 A. No, sir, not necessarily. If it's -- if  
21 the 911 tandem service is provided by SBC, then it is  
22 indeed on our network.

23 Q. So technically --

24 A. Technically.

25 Q. -- you could carry that traffic from the

1     POI to that 911 tandem?

2             A.       Yes, sir, but --

3             Q.       And you could charge them -- you and I  
4     agree there's no reason you couldn't -- whatever is fair  
5     for that service?

6             A.       Yes, sir.

7             Q.       There's no reason you shouldn't charge them  
8     for it?

9             A.       Yes, sir.

10            Q.       Technically it's just a question of the  
11    right contract language and the right rates built into the  
12    contract for the service that they're going to be buying  
13    from SBC, right?

14            A.       Yes, sir.

15            Q.       Okay. Very good. Now, a PSAP, you were  
16    talking about PSAPs. What's a PSAP?

17            A.       It's a public service access point. It's  
18    quite literally it is where when you dial 911 and you get  
19    a 911 emergency service operator, that is where that  
20    person is seated.

21            Q.       Okay. Then you talked about OSDA traffic.

22            A.       That is operator services, directory  
23    assistance.

24            Q.       Thank you. That's a whole separate  
25    network?

1 A. Yes.

2 Q. Sub-network?

3 A. Yes, sir. Yes, sir. That's a very good  
4 term, sub-network.

5 Q. You operate it, and you have switches that  
6 identify calls that need to go there, and you switch it  
7 onto that network?

8 A. Right. We are one of the operators. The  
9 CLECs do not have to come to us.

10 Q. You operate some, and other people do too?

11 A. Yes, sir.

12 JUDGE THOMPSON: Okay. I understand. I'm  
13 trying to see if I have all my questions asked here.  
14 Okay. Thank you. I think you've answered my questions,  
15 and I see Mr. Williams isn't here right now.

16 Ms. Dietrich?

17 QUESTIONS BY MS. DIETRICH:

18 Q. Hi, Mr. Hameter.

19 A. Good morning.

20 Q. I have some questions from your testimony.  
21 I'd like to start with your direct.

22 A. All right.

23 Q. On page 19 of your direct, you are talking  
24 about AT&T's objection to SBC's proposed definition for  
25 access tandem switch. That's at the top of the page.

1           A.       Yes, ma'am.

2           Q.       Okay. Can you explain to me, in the  
3 definition it says, access tandem switch is defined as a  
4 switching machine. Can you explain what switching machine  
5 means?

6           A.       That is the electrical electronic device  
7 that actually routes calls from either a customer or  
8 another -- a trunk group and routes it to another switch.

9           Q.       Is that like a component of a switch?

10          A.       It -- well, the switch is the entire  
11 machine that actually does that. There may be some  
12 peripherals associated with that for various things, but  
13 typically the switch is, if you send a call to -- and  
14 since this is a tandem switch, I'll just address it from  
15 the standpoint of a tandem. A tandem receives calls from  
16 another switch. It receives it over a trunk group  
17 that's -- connects those two switches, and then through  
18 the translations and the numbers that are sent over with  
19 that call, it determines which trunk group that call  
20 should be routed to in order to connect it to its  
21 destination switch or possibly another tandem.

22          Q.       So are you saying that switching machine  
23 and switch are more or less synonymous, then?

24          A.       Yes, pretty much. It's a machine in the  
25 fact that it has mechanical and electrical and electronic



1 pieces and it's been put together for that specific  
2 purpose. You possibly could argue that a computer could  
3 be referred to as a machine.

4 Q. Okay. On page 47 of your direct -- I think  
5 we've already answered this question, so I'll move on to  
6 the next one.

7 On page 60, you have a drawing in the  
8 middle of the page. Throughout your testimony you have  
9 several drawings, but if I understand correctly, this is  
10 the one that you say is the most efficient setup?

11 A. I'm sorry?

12 Q. You have several drawings throughout the  
13 testimony on the location of the POI, and if I'm  
14 understanding correctly, this is the one you say would be  
15 the most efficient setup?

16 A. What I am illustrating here is an instance  
17 where a CLEC has established a point of interconnection or  
18 POI in the tandem switch on the left or in the tandem  
19 building on the left, and they have extended that --  
20 extended a trunk group from their switch through that POI  
21 over to the tandem switch in local calling area B. And I  
22 believe that I have identified in that drawing that the  
23 trunk group between the POI and the tandem switch is -- is  
24 indeed the CLEC to the SBC trunk group.

25 JUDGE THOMPSON: Natelle, make sure you

1 talk into the microphone. I'm getting e-mails from our  
2 viewers.

3 BY MS. DIETRICH:

4 Q. So on the drawing, the part from the CLEC  
5 end office to the POI, you're saying that is a CLEC  
6 facility, correct?

7 A. I'm sorry. From the POI to the tandem  
8 or --

9 Q. To the CLEC end office.

10 A. From the POI to the CLEC end office, that  
11 is a CLEC facility.

12 Q. Okay. And then from the POI over to the  
13 tandem switch and then on down to the SBC end office,  
14 that's all SBC facilities?

15 A. Yes, ma'am.

16 Q. For a call that's going across that path,  
17 what part of the call is the responsibility of the CLEC  
18 and which part of the call is the responsibility of SBC,  
19 if you can answer that?

20 A. I believe I've identified them. They're  
21 the same as I've identified them in the drawing. The  
22 responsibility for the facilities that are related to the  
23 CLEC are those from the CLEC switch to their side of the  
24 POI, and then, although it's the same trunk group, the  
25 facilities from the POI to the tandem switch in local

1 calling area B is -- the responsibility for those  
2 facilities lies with SBC.

3 Q. And do you know if that would be the same  
4 as far as compensation?

5 A. I'm sorry?

6 Q. Do you know if those cutoff points would be  
7 the same as far as compensation as to what the CLEC would  
8 pay and what portion of the call SBC would be responsible  
9 for?

10 A. Well, the CLEC delivers the call  
11 effectively to our network at the POI, and the  
12 compensation would be determined by the number of calls or  
13 the length of the calls that are delivered to our network  
14 over that facility.

15 Q. Okay. Thank you.

16 On page 64 of your testimony, at line 19  
17 you say, SBC Missouri wishes to migrate from a one-way  
18 trunk group network to a two-way trunk group network.  
19 Will CLECs incur charges for that migration?

20 A. No, ma'am. I believe we have a process  
21 that we've proposed to migrate over. I believe it works  
22 more or less on attrition.

23 Q. And will there be any kind of impairment to  
24 the customers during that migration?

25 A. Definitely not. Whenever we -- whenever we

1 cut a switch or make a major change to our network, No. 1,  
2 we notify every carrier that will be affected by this cut  
3 or this change. We make the actual cuts at hours where  
4 the least number of callers will possibly be on the  
5 network. We -- you know, customer service is paramount.

6 Q. Okay. On page 115 of your direct, at  
7 line 3 you say, MCI takes the position that leased  
8 facilities, and then in parens, the facilities on MCI's  
9 network that are leased from SBC Missouri. Could you just  
10 give me a couple examples of facilities on MCI's network  
11 that are leased from SBC Missouri?

12 A. I'll speak to you for any CLEC. Whenever a  
13 CLEC wants to interconnect with us, a lot of times they do  
14 not have the facility or the facilities or infrastructure  
15 in place to enable them to connect with our networks, and  
16 there are times when they might lease those facilities  
17 that are necessary to accomplish that interconnection and  
18 will lease them from SBC.

19 Q. So they could be unbundled network elements  
20 or something that's no longer required to be unbundled?

21 A. You're getting towards UNEs and I'm  
22 starting to get the shakes. I just want to talk about the  
23 facilities that are required for interconnection, and that  
24 would specifically mean the trunk groups that we would  
25 establish to enable our switches to pass calls to and from

1 each other and --

2 JUDGE THOMPSON: Just to clarify, it's  
3 SBC's position that if the leased facilities on the CLEC  
4 side of the POI, that you're not required to provide it,  
5 and so it doesn't have to be TELRIC?

6 THE WITNESS: They -- the CLEC does not  
7 have to lease those facilities from SBC. They can obtain  
8 those facilities from some other facility provider.

9 JUDGE THOMPSON: I understand, but I'm  
10 asking the question from the point of view of SBC's  
11 obligation. It's SBC's view that they're not required to  
12 provide these, so it need not be at TELRIC?

13 THE WITNESS: Precisely, and I believe I  
14 state that in my direct.

15 JUDGE THOMPSON: Very good.

16 THE WITNESS: My direct testimony.

17 JUDGE THOMPSON: Just wanted to make sure I  
18 understood.

19 BY MS. DIETRICH:

20 Q. And that clarifies for me what you're  
21 talking about there, too. And then in your rebuttal, I  
22 just had a couple questions. On page 27 --

23 A. Another picture.

24 Q. Right. You say SBC Missouri is responsible  
25 for facilities on its side of the POI -- this is at

1 line 10 -- including facilities needed to establish the  
2 trunk group from the CLEC to SBC Missouri Tandem B. Then  
3 on page 28, at line 24, you say, SBC intends for the CLEC  
4 to establish a trunk group, not establish a POI to the  
5 appropriate SBC Missouri tandem that serves the local  
6 calling area.

7 I just wanted to clarify again, in  
8 establishing those various --

9 A. I'm sorry. Which -- on page 28, which line  
10 were you referring to?

11 Q. Line 24.

12 A. Okay.

13 Q. SBC Missouri intends for the CLEC to  
14 establish a trunk group.

15 A. I'm sorry, but on line 24 on my page 28, I  
16 have another section, the next section.

17 Q. On line 28 of mine the question is  
18 concerning Charter ITR.

19 A. Okay. That is on line 10 on mine.

20 Q. How about line 18, line 17, line 18 SBC  
21 Missouri?

22 A. The answer to your question is yes, it does  
23 say establish a POI.

24 Q. So we're in the right place?

25 A. Yes, ma'am.

1           Q.       So my question was again, if it's SBC's --  
2       back on page 27, where you say SBC is responsible for  
3       facilities on its side of the POI, does the CLEC have any  
4       compensation requirement as far as you setting up your  
5       facilities?

6           A.       No.   Once again, this is similar if not the  
7       same idea as what we talked about a moment ago in -- from  
8       the example in my direct.   The CLEC is responsible for the  
9       facilities that are required to establish the point of  
10      interconnection with SBC.   Whenever we establish trunk  
11      groups to -- initially we will go in and establish a trunk  
12      group to the tandem, and there will be no direct end  
13      office trunking or no trunking to another calling area, if  
14      you will, or the tandem that serves another calling area  
15      until we reach a certain threshold.

16                   Once that threshold is established -- and I  
17      believe that's the purpose of this illustration is to show  
18      that whenever we ask the CLECs to create a trunk group to  
19      the tandems that serve other calling areas, calling areas  
20      other than the one in which they've interconnected with  
21      us, we are not asking them to establish an additional POI.  
22      We're actually working out of the single POI that we've  
23      already established.

24                   And SBC has responsibility for the  
25      facilities on its side of the POI, as I have indicated in

1     that drawing, and as far as compensation, the compensation  
2     would be based on the calls that are delivered to each  
3     other at that point of interconnection.

4             Q.       Okay. That helps. Thank you.

5             A.       Yes, ma'am.

6                     JUDGE THOMPSON: I've got another question  
7     for you.

8                     THE WITNESS: Yes, sir.

9     FURTHER QUESTIONS BY JUDGE THOMPSON:

10            Q.       Trunks are facilities?

11            A.       Yes, sir.

12            Q.       So explain this one-way trunk versus  
13     two-way trunks. Has that just got to do with the way it's  
14     programmed, what the electronics are on each end?

15            A.       Yes, sir, that's a very simple explanation  
16     of it. If you don't mind, I could probably illustrate a  
17     little bit of that --

18            Q.       Sure.

19            A.       -- for you.

20            Q.       You'll have to go over to the ELMO to draw.

21            A.       Is this the ELMO (indicating)?

22            Q.       No. The ELMO's that thing (indicating).

23            A.       Oh, okay.

24            Q.       We'll need a sheet of paper, too. It looks  
25     high tech, but it's actually extremely primitive.



1 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

2 MR. SAVAGE: Your Honor, as a visitor from  
3 out of town, why do you call it the ELMO? I think of the  
4 little guy from Sesame Street.

5 JUDGE THOMPSON: I think that's what the  
6 chief judge told me to call it.

7 THE WITNESS: A facility -- and I don't  
8 know if I -- I believe I do cover this in my direct, your  
9 Honor, but a --

10 BY JUDGE THOMPSON:

11 Q. It's a lot more exciting to get it this  
12 way.

13 A. Let's say that these two large rectangles  
14 represent central office buildings. A facility connects  
15 points within a network. A lot of times you will hear  
16 spans of a facility referred to as, what's the point to  
17 point? That's an additional vernacular to this, in  
18 that --

19 Q. It's essentially a wire or a cable?

20 A. A cable is a very good example of that.  
21 This would be a cable, and it connects to, you know,  
22 equipment, and I believe Mr. Savage, you know, touched on  
23 some of that equipment in the central office, and each --  
24 and in that office building you have a switch, and these  
25 switches might be -- might actually be connecting to end

1 users, actual end users.

2 Q. Okay.

3 A. All right. This would be a line and this  
4 would be a line, but in order for this end user to call  
5 this end user (indicating), you have to have a trunk to  
6 connect their respective switches, and this trunk or trunk  
7 group rather would work something like that where I  
8 believe, as Mr. Savage said a while ago, there's some  
9 electronic logic that applies that establishes the  
10 connection.

11 From the standpoint of a cable, a copper  
12 cable, you would actually have a physical connection from  
13 this switch over to this switch (indicating) over the  
14 respective wires in that cable.

15 Q. Hang on a minute while I try to work my own  
16 version of technical magic here.

17 Okay. So physically speaking, that  
18 component of that cable or facility, that strand of copper  
19 or that strand of fiber, it's identical whether it's a  
20 one-way trunk or a two-way trunk; is that not correct?

21 A. Not necessarily. I think there are a lot  
22 of differences within the copper environment that are a  
23 little bit different in the fiber environment. But the  
24 difference between a one-way trunk group, in other words,  
25 if this was a one-way trunk group from Office A to

1 Office B, in other words, the only calls that could go  
2 over that trunk group were calls from Customer A to  
3 Customer B. If Customer B wanted to call Customer A, then  
4 a second one-way trunk group would have to be established  
5 that connected that switch for the purpose of exchanging  
6 calls from B to A, Switch B to Switch A.

7 A two-way trunk group could replace all  
8 of -- both of those trunk groups, and it would be a  
9 two-way trunk group in that calls could pass over that  
10 trunk group in either direction, but they could not --  
11 once the trunk has been seized, though, it is dedicated to  
12 the call that's in progress, but a second call, if it  
13 originates over here, it would also go over that trunk  
14 group over a separate trunk.

15 Q. And physically speaking, are there  
16 differences between them?

17 A. There are some differences in how they're  
18 programmed at the switch and how they're accessed.

19 Q. So the differences are in the programming?

20 A. Some. And like I said, in some of the  
21 copper environment there may be some differences as far as  
22 the actual equipment that is used.

23 Q. Very good. Thank you, sir.

24 A. Yes, sir.

25 JUDGE THOMPSON: Mr. Williams, do you have

1 any questions for Mr. Hamiter?

2 MR. WILLIAMS: No, I do not.

3 JUDGE THOMPSON: Mr. Johnson?

4 MR. MICK JOHNSON: Yeah.

5 QUESTIONS BY MR. MICK JOHNSON:

6 Q. Good morning, Mr. Hamiter.

7 A. Good morning.

8 Q. Mick Johnson, I'm with the Commission  
9 Staff.

10 A. Mr. Johnson.

11 Q. Looks like everybody is zeroing in on about  
12 three or four sections here. Mr. Savage took my cloud  
13 away from me this morning and hit about everything I was  
14 going to talk about, but I'm going to try and throw things  
15 that maybe weren't touched on or you can refresh my mind  
16 on them.

17 In your direct testimony, on page 51,  
18 you're discussing your points of interconnection. A  
19 question I have, what are SBC's requirements for allowing  
20 a new CLEC -- and I'm going to be talking about CLECs that  
21 are not facility based -- to establish a point of  
22 interconnection? What are the requirements?

23 A. Are you referring, Mr. Johnson, to a CLEC  
24 that would be like a reseller on one of our switches?

25 Q. Leasing facilities.

1           A.     Oh, leasing facilities. Okay. But you  
2     said faci-- not --

3           Q.     Not facility based. In other words, like  
4     Charter is.

5           A.     That's --

6           Q.     That's not your world?

7           A.     -- out of my bailiwick. I'm -- I just --

8           Q.     The point you made was maybe just basically  
9     financially sound, so to speak?

10          A.     I believe that was in reference to the  
11     facilities that the CLEC acquires or purchases for the  
12     purpose of interconnecting with our network. They, in  
13     fact, would be a facility-based provider.

14          Q.     Okay. You cleared the cloud there, then.  
15     Multiple points of interconnection, what are the  
16     requirements for that? In other words, suppose I have one  
17     existing and I want one in another place. What do I have  
18     to go through for that?

19          A.     It would be similar to the process for  
20     establishing the initial point of interconnection.

21          Q.     Okay. The next one was on your page 61,  
22     you're talking again on this one-way and two-way trunks  
23     there. The primary reason for SBC requesting all two-way  
24     operational trunks, is this primarily for traffic control,  
25     relieving your tandem switches?

1           A.     I'm sorry.  Are you referring to a  
2 specific --

3           Q.     I'm referring to just that section.

4           A.     Okay.

5           Q.     Where you talk about --

6           A.     In general?

7           Q.     In general, yes.

8           A.     All right.  Could you repeat your question,  
9 sir?

10          Q.     You discuss the one-way versus the two-way  
11 trunks in there.

12          A.     Yes, sir.

13          Q.     My question is, is the primary reasoning  
14 for SBC wishing all two-way operational to -- for traffic  
15 control, as well as relief to your tandem switches?

16          A.     No, sir.  That is in reference to  
17 establishing trunk groups to other tandems that serve  
18 other local calling areas or other areas within the LATA.  
19 The two-way trunk, the reason for that is that, well, a  
20 two-way trunk is more efficient than a -- than two one-way  
21 trunks.  I believe I touched on some of the reasons why.  
22 It has to do with the coincidence of the busy hours for  
23 the different directions of traffic and things like that.  
24 That's basically the reason.

25          Q.     Okay.  Very good.  Final one here.  On

1 page 101, you get into testimony on direct end office  
2 trunk groups.

3 A. Yes, sir.

4 Q. And this is in general again.

5 A. Yes, sir.

6 Q. What will be the benefits as far as the  
7 CLECs will gain by if they deploy and meet your request  
8 for direct end office trunk groups?

9 A. Well, their calls would be routed and  
10 switched much more efficiently than they would had we --  
11 than if we have to double tandem. I think I use that term  
12 in quotes in either my direct or my rebuttal testimony.  
13 But if they just connect with us at one tandem, if a call  
14 that they sent to us is destined for one of our end users  
15 in another local calling area, in other words this tandem  
16 that they interconnected with us, it just serves a  
17 specific geographical area within the LATA.

18 We may have another calling area within the  
19 same LATA that is served by another tandem for new  
20 entrants. We accept the call on our network, and our  
21 first tandem will route that call over to the other tandem  
22 in the other calling area, and then it will in turn  
23 deliver that call to the proper end office to be -- to  
24 terminate on to the customer's line at that office.  
25 A DEOT -- I'm sorry. I'm getting -- I apologize

1     sincerely.

2             Q.     You can't escape without telling us what a  
3     DEOT is. Don't think you're getting away with that.

4             A.     I was explaining another section of my  
5     testimony to you, Mr. Johnson. I'm sorry, but DEOTs has  
6     to do with -- it's an acronym that stands for direct end  
7     office trunk group.

8             Q.     Thank you.

9             A.     And it has to do with a trunk group that is  
10    established between two end offices serving customers, and  
11    it is typically used for offices that have local calling  
12    to and from each other. And you -- if a CLEC establishes  
13    a DEOT to one of our end offices, whenever their end users  
14    call our end users in our end office, they would route  
15    those calls over that direct end office trunk group rather  
16    than sending the call to the tandem and then allowing the  
17    tandem to deliver the call to the serving end office where  
18    the call is supposed to terminate.

19            I suppose that's probably one of those  
20    things I should be getting up on ELMO and drawing, but I  
21    hope you can see by my air pictures that I'm drawing here.

22            Q.     Yes. And then the end result, of course,  
23    would be to take relief off the tandem switch?

24            A.     Yes, sir, definitely. Definitely. Each  
25    time you send a call to a tandem rather than directly to



1 the end office, you are increasing, first of all, the  
2 number of trunk ports or the themes, if you will, to which  
3 a trunk connects to a switch. You're increasing the total  
4 number of trunk ports required to deliver that call by two  
5 trunk ports. If you have to go through two tandems, then  
6 it's another two. You've actually added four to that --  
7 to the delivery of that call.

8 Q. And by adding the direct end office trunks  
9 then would be a cheaper investment versus a tandem update?

10 A. Yes, sir. Yes, sir. You reduce the tandem  
11 resources necessary for delivering the calls. It's much  
12 more efficient. You also eliminate an additional  
13 switching point in the delivery of that all. So the call  
14 is actually routed and delivered or terminated quicker,  
15 although it's in milliseconds and stuff, but it adds up.

16 Q. Cleaner operation.

17 A. Yes, sir.

18 MR. MICK JOHNSON: That's all I have.

19 Thank you.

20 THE WITNESS: Thank you.

21 JUDGE THOMPSON: Mr. Scheperle?

22 MR. SCHEPERLE: No questions.

23 JUDGE THOMPSON: Mr. McKinnie?

24 MR. MCKINNIE: No questions.

25 JUDGE THOMPSON: I have one last question

1 for you myself.

2 THE WITNESS: Yes, sir.

3 JUDGE THOMPSON: You've repeatedly said  
4 that the CLEC is responsible for the facilities on the  
5 CLEC's side of the POI, even if those facilities are  
6 leased from SBC. If you know, what is your authority for  
7 that?

8 THE WITNESS: Well, actually, we also refer  
9 to them as the CLEC's facilities because they -- even  
10 though they may be leasing them, they can lay facilities,  
11 you know, up to the POI as well. Even though they might  
12 be leasing them from either SBC or some other provider,  
13 you know, they actually pay for those facilities.

14 JUDGE THOMPSON: Okay. Thank you. It's  
15 time now for recross. It's also almost time for another  
16 break. So let's go ahead and take ten minutes at this  
17 time.

18 (A BREAK WAS TAKEN.)

19 JUDGE THOMPSON: I also forgot to ask you,  
20 Mr. Leopold, if you have any recross for that man.

21 MR. LEOPOLD: I do not.

22 JUDGE THOMPSON: Let's go back on the  
23 record. I think there are efforts underway to perhaps  
24 excuse some of the witnesses if there are no questions for  
25 them. I was asked earlier to ask about Sprint's witness

1 Knox. Has anyone got any questions for Knox?

2 (No response.)

3 JUDGE THOMPSON: Okay. I hear no one, so  
4 why don't you tell witness Knox to go on ahead and go.

5 MR. LEOPOLD: Okay. Thank you.

6 JUDGE THOMPSON: And then has anyone got  
7 any questions for SBC witness McPhee? You do? Okay.  
8 You're stuck.

9                   What about for SBC witness Silver?

10 MS. DIETRICH: Possibly. I'm going to let  
11 them know after lunch.

12 JUDGE THOMPSON: How soon can we know if  
13 possibly is a yes or a no?

14 MS. DIETRICH: Well, I talked to Mr. Lane  
15 about letting him know after lunch.

16 JUDGE THOMPSON: That's good. That's fine.  
17 How about AT&T witness Schell, are you going to have  
18 questions for Schell?

19 MR. BUB: Yes.

20 JUDGE THOMPSON: Okay. Land?

21 MR. BUB: Yes.

22 JUDGE THOMPSON: Kohly?

23 MR. BUB: No, your Honor.

24 JUDGE THOMPSON: No questions for Kohly.  
25 What about Falvey? We're all done with

1 Falvey, aren't we?

2 MR. BUB: Yes, your Honor.

3 JUDGE THOMPSON: What about LeDoux?

4 MR. BUB: He's done also, at least for

5 today.

6 MR. MARK JOHNSON: He's going to be here

7 tomorrow.

8 JUDGE THOMPSON: So don't worry about

9 LeDoux today. Very good.

10 MR. MAGNESS: Discussing Mr. Kohly's

11 testimony, and I think he's willing to waive cross on the

12 other topic Mr. Kohly's here for, so if we could just

13 excuse him officially.

14 JUDGE THOMPSON: Who's this now?

15 MR. MAGNESS: Mr. Kohly. He's also on

16 OELEC, which is later today.

17 JUDGE THOMPSON: Right. Well, when I call

18 these names, I'm talking about all of the issues that are

19 up for today. All right. So you don't have any questions

20 for Kohly for any of the issues that are up for today; is

21 that correct?

22 MR. BUB: That's correct, your Honor.

23 JUDGE THOMPSON: Very good. Let Mr. Kohly

24 go.

25 We're done with Falvey. LeDoux's here

1 tomorrow, right? Barber and Cornelius are both here  
2 today. Is that right? You've got questions for them?  
3 Okay.

4 Did I already ask about Land? You told me  
5 you had questions for Land. What about Ricca? I thought  
6 we already sent Ricca home.

7 MR. MORRIS: We have.

8 JUDGE THOMPSON: We did, right?

9 Okay. What about Price? Are we done with  
10 Price? We had Price up.

11 MR. BUB: We have questions for Mr. Price.

12 JUDGE THOMPSON: So we're done with Price?

13 MR. BUB: No.

14 JUDGE THOMPSON: You've got questions for  
15 Price today?

16 MR. BUB: Yes, and I think tomorrow as  
17 well.

18 JUDGE THOMPSON: Okay.

19 MR. BUB: I think he testifies in multiple  
20 areas.

21 JUDGE THOMPSON: And then we've got this  
22 Sprint witness. I can't pronounce the name, Sywenki, is  
23 that correct? Do you have questions for Sywenki?

24 MR. BUB: No, your Honor.

25 JUDGE THOMPSON: No, you don't?

1 MS. DIETRICH: Yes.

2 JUDGE THOMPSON: You do. Okay.

3 MR. BUB: We don't have any questions about  
4 the issues that we had that have been settled.

5 JUDGE THOMPSON: The issues are settled?

6 MR. LEOPOLD: Not all of the issues.

7 MR. BUB: The ones that I had questions  
8 for. That's why we're waiving.

9 JUDGE THOMPSON: Do your questions relate  
10 to the settled issues? Why don't you check with  
11 Mr. Leopold over lunch, because there's no sense asking  
12 questions about a issue that's settled that I don't have  
13 to decide.

14 I'm telling you all, let me know as these  
15 decision points settle that they're off my list, right?

16 MR. BUB: Your Honor, with --

17 JUDGE THOMPSON: If I have to write a page  
18 on a point that's settled, I'm going to be irate.

19 MR. BUB: With respect to Sprint, what  
20 we're doing is arevised DPL. So we're working on that.

21 JUDGE THOMPSON: I appreciate that more  
22 than I can say. All right.

23 So what about Guepe or Guepe? I apologize  
24 for mispronouncing your name for the 5,000th time. Are we  
25 done with him?

1 MR. BUB: No. We have a few questions.

2 I'm going to talk to Mr. Zarling about him right now.

3 JUDGE THOMPSON: Just a few questions. You  
4 should be a policeman. Just a few questions, nothing  
5 threatening.

6 MR. ZARLING: And just the facts.

7 JUDGE THOMPSON: Schell, you already told  
8 me you had questions for Schell. Kohly's gone.

9 What about Krabill? I'm down here at  
10 intercompany compensation. I know it's a topic dear to  
11 your heart. Got any questions about it?

12 MR. BUB: No, your Honor.

13 JUDGE THOMPSON: So we can let Krabill go?

14 MR. BUB: Not on intercompany compensation,  
15 but I think Krabill also testifies about collocation.

16 JUDGE THOMPSON: I'm just talking about for  
17 today. Ricca's gone. LeDoux is tomorrow. What about  
18 Burt? Burt for today?

19 MR. BUB: Gone.

20 JUDGE THOMPSON: Gone. Maples for today?

21 MR. BUB: Gone.

22 JUDGE THOMPSON: Gone. And Sywenki is  
23 lingering to see if there's some questions from Staff,  
24 right?

25 MR. BUB: And the reason we don't have

1 questions for Burt and Maples is those also pertain to  
2 settlement.

3 JUDGE THOMPSON: I'm all in favor of  
4 settlements. Well, then, I think that covers today's  
5 witnesses.

6 Okay. I believe we are ready finally for  
7 recross of Mr. Hamiter; is that correct?

8 Mr. Zarling?

9 MR. ZARLING: No, thank you.

10 JUDGE THOMPSON: Mr. Magness?

11 MR. MAGNESS: No questions, your Honor.

12 JUDGE THOMPSON: Mr. Morris?

13 MR. MORRIS: No questions.

14 JUDGE THOMPSON: Mr. other Johnson?

15 MR. MARK JOHNSON: Thank you, your Honor.

16 Nothing. I'm not Craig.

17 JUDGE THOMPSON: You're the other Johnson.

18 MR. MARK JOHNSON: I'm the other Johnson.

19 JUDGE THOMPSON: Mr. Savage?

20 MR. SAVAGE: No, sir.

21 JUDGE THOMPSON: It's hard for me to  
22 connect Savage with you because you're a very genteel  
23 man. You're not savage.

24 Mr. Leopold?

25 MR. LEOPOLD: No questions.



1 JUDGE THOMPSON: Very good. Redirect?

2 REDIRECT EXAMINATION BY MR. GRYZMALA:

3 Q. Mr. Hamiter, I'll make this as brief as  
4 possible. You were referenced by Mr. Savage to Sprint's  
5 St. Louis OC-48 network. Do you recall that discussion --

6 A. Yes.

7 Q. -- early on?

8 MR. SAVAGE: Excuse me. I referenced him  
9 to Charter's OC-48 network.

10 MR. GRYZMALA: I'm sorry. What did I say?

11 MR. SAVAGE: Sprint.

12 MR. GRYZMALA: Oh, excuse me.

13 BY MR. GRYZMALA:

14 Q. Would you give the arbitrator and the  
15 parties a sense of the amount of capacity that's  
16 represented by an OC-48 relative to 24 DS1s?

17 A. Yes, sir. A DS1, as we said earlier -- may  
18 have said earlier, has 24 DS0s. That's 24 circuits or  
19 trunks. The next level above -- transmission level above  
20 a DS1 is a DS3, and a DS3 has 28 DS1s. So a DS3 and --  
21 although for a while I was a math major, I cannot multiply  
22 very well.

23 JUDGE THOMPSON: 28 times 24.

24 THE WITNESS: It's a lot. 24 DS1s I  
25 believe is about 574 trunks, thereabouts. An OC-48 --

1 well, a DS1 has 24 times 28 circuits in it. An OC-3 has  
2 three of those DS1s. An OC-48 has 48 of those DS3s in  
3 them.

4 JUDGE THOMPSON: Okay. So an OC-48 is 48  
5 DS3s; is that right?

6 THE WITNESS: Yes, sir. So 48 times 28  
7 times 24 gives you the number of trunks.

8 BY MR. GRYZMALA:

9 Q. So may I interject for just a moment? If  
10 you were to take 28 times 24, that yields, if I did the  
11 math correctly, 572 trunks?

12 A. Yes, sir.

13 Q. That would give you the amount of  
14 transmission capacity in a DS3?

15 A. A DS3 has 28 DS1s.

16 Q. So you would take the 572 and multiply that  
17 times 28?

18 A. No, sir. No, sir. I think we're all  
19 getting tripped up on math here. A DS1 is a single  
20 trunk -- excuse me. A DS0 is a single trunk. A DS1 has  
21 24 DS0s, and a DS3 has 28 DS1s in them.

22 JUDGE THOMPSON: Or 572?

23 THE WITNESS: No. That is the number of  
24 trunks for 24 of those DS1s. And I believe that is the  
25 threshold that we're asking for, creating an additional

1 point of interconnection within the LATA.

2 BY MR. GRYZMALA:

3 Q. That represents a sizable amount  
4 of capacity, would it not?

5 A. Yes, sir.

6 Q. That would be far in excess of the DS -- or  
7 the 24 DS1 threshold that SBC advanced for establishing an  
8 additional POI; is that correct?

9 MR. SAVAGE: Your Honor, I object. He's  
10 leading his own witness.

11 JUDGE THOMPSON: Who objected? Was that  
12 you?

13 MR. SAVAGE: That was me. Since he's  
14 trying to undercut my position, I figure I could do that.

15 JUDGE THOMPSON: We generally allow it.  
16 Could you rephrase that so it's not leading?

17 BY MR. GRYZMALA:

18 Q. How significantly above the 24 DS1  
19 threshold, therefore, would an OC-48 capacity represent?

20 A. Tremendously. It's -- 24 DS1s is just four  
21 DS1s shy of 1/48 of the capacity of an OC-48.

22 Q. There was discussion by Mr. Savage as well  
23 in connection with a POI, a point of interconnection, and  
24 he used the term "point of demarcation." Do you recall  
25 that?

1           A.     Yes, sir.

2           Q.     In the sense of point of interconnection,  
3     does demarcation also suggest the parties'  
4     responsibilities on either side of the POI?

5           A.     Yes, sir.

6           Q.     In what way?

7           A.     In that one party is responsible for the  
8     facilities on their side of that point of interconnection  
9     or demarc, and the other party is responsible for the  
10    facilities on its side of the point of interconnection.

11          Q.     Would it be fair to say that that  
12    association is not unlike the association of a point of  
13    demarcation at a customer premises where on the one side  
14    it's the network facility and on the other side it's the  
15    customer's inside wire?

16          A.     Similar to, yes, sir.

17          Q.     Similar analogy?

18          A.     Yes, similar analogy.

19          Q.     And the responsibilities flow from that  
20    analogy?

21          A.     Yes, sir.

22          Q.     And the respective duties of the parties  
23    flow from that analogy?

24          A.     Yes, sir.

25          Q.     You were asked by Mr. Savage about

1 technical reasons or technical points having to do with  
2 establishing separate trunk groups. Would you be able to  
3 comment on the relationship between the ability to create  
4 originating records insofar as how that has a technical  
5 impact?

6 A. Would you rephrase that, sir?

7 Q. Does the creation of originating records  
8 qualify as a technical consideration in establishing trunk  
9 groups?

10 A. Yes, it does. If a call does not originate  
11 on our network or, in other words, one of our end users is  
12 not the person that has originated a call, we do not have  
13 an originating record for that call, and we have to create  
14 records at the point in which it enters our network and we  
15 are not able to properly bill and measure that call in  
16 terms of how it was originated.

17 Q. And therefore, those records have  
18 particular association with the generation of necessary  
19 call detail?

20 MR. SAVAGE: I object. He hasn't testified  
21 at all about call detail.

22 JUDGE THOMPSON: Could you rephrase,  
23 please?

24 BY MR. GRYZMALA:

25 Q. What kind of information in the originating

1 record would be relevant?

2 A. The most relevant would be where the call  
3 originated, in other words, the number from which that  
4 call was originated, and other items such as the called  
5 number.

6 Q. So would you sum up, then, why from your  
7 perspective you need separate trunk groups to record?

8 A. Because we do not have originating records  
9 on calls coming into our network, we really don't know  
10 where they effectively originate. Therefore, we need to  
11 separate the different types of traffic coming into our  
12 network so that we can properly measure and properly  
13 create records on those calls, not just for SBC's use, but  
14 also there are other carriers behind our network that rely  
15 on those records being created properly.

16 Q. I want to move now to another subject that  
17 was raised in your cross-examination by Mr. Savage, that  
18 is having to do with Charter ITR Issue No. 7.

19 A. Yes, sir.

20 Q. The matter of trunking orders and the  
21 processing of those orders. Would you agree that from  
22 time to time a CLEC's trunk order, that is the due date  
23 associated with a CLEC's trunk order, might not be met?

24 A. Yes, sir.

25 Q. And can you outline for us a couple of the

1 more commonly occurring reasons for which that order might  
2 not be met according to the due date originally requested  
3 by the CLEC?

4 A. In those instances where facilities are not  
5 available or facilities or network resources are not  
6 available. You know, that's -- that's one of the major  
7 things. Otherwise, if we have facilities, we endeavor to  
8 meet that carrier's -- the requesting carrier's due date.

9 Q. When a CLEC is interested in placing an  
10 order for an additional trunk, is it your understanding  
11 that the industry practice is to submit what is called an  
12 ASR, an access service request for that trunk to be  
13 installed by SBC?

14 A. Yes, sir.

15 Q. And on your -- based on your understanding,  
16 how long has that custom been in place?

17 A. For quite some time. I initially became  
18 involved in the ASR process back in 1984, just after  
19 divestiture. Back then it was used to fill orders from  
20 interexchange carriers or IXCs. So it's been around for  
21 20-plus years.

22 Q. It's the common jargon?

23 A. Yes, sir.

24 Q. Other than Charter, are you aware of any  
25 CLEC who has raised an issue with respect to whether an

1 ASR is appropriate under the circumstances he points out?

2 A. No, sir.

3 MR. SAVAGE: Your Honor, first of all, that  
4 goes beyond the scope of direct. And second of all, we  
5 don't object to using ASRs. Nothing in our DPL says that  
6 we do. I'm not sure where that question is coming from.

7 MR. GRYZMALA: I'll withdraw it.

8 JUDGE THOMPSON: That takes care of that.

9 BY MR. GRYZMALA:

10 Q. If a company wants, for example, 50 or  
11 100 trunks to be installed by SBC, that would represent a  
12 fairly large commitment being requested, would it not?

13 A. It's a sizeable amount. They could also  
14 request a lot more. Typically on really large requests,  
15 we would like to get with the requesting carrier and try  
16 to plan how those things are going to be done.

17 Q. Mr. Savage also had some discussion with  
18 you regarding the concept of what happens in the case of  
19 held-up orders.

20 MR. GRYZMALA: And if your Honor wouldn't  
21 mind, I'd like to approach the witness.

22 JUDGE THOMPSON: You may.

23 MR. SAVAGE: I was wondering if I could see  
24 what it is you just handed your witness.

25 MR. GRYZMALA: Let me tell you.



1 BY MR. GRYZMALA:

2 Q. I want to refer you to what has been  
3 provided as page 13 of the Charter ITR DPL, and I would  
4 refer you in particular, Mr. Hamiter, to SBC's proposed  
5 language, and I would like to ask you to state what  
6 language is available with respect to expediting matters  
7 in the case of a held-up order.

8 A. Do you mean in terms of what is stated  
9 here, Mr. Gryzmala?

10 Q. Yes. Frankly, I have underlined it for you  
11 to read into the record.

12 A. I will read from this. Parties agree to  
13 expedite this discussion -- and it's referring to a joint  
14 planning discussion. Parties agree to expedite this  
15 discussion in order to minimize delay in order processing.  
16 And that is a quote from the proposed language, the  
17 language proposed by SBC Missouri.

18 Q. Do you regard that language as significant  
19 in indicating SBC's commitment to work with CLECs in  
20 deploying or installing their trunk orders?

21 A. Yes. Yes. We -- and I think I may have  
22 touched on it earlier this morning. We do everything we  
23 can to try to minimize any delays, if it's within our  
24 power to do that. We -- we endeavor to complete trunk  
25 requests as quickly as possible and endeavor to meet the

1 due dates that have been requested.

2 Q. To your knowledge, has Charter provided any  
3 specific testimony providing concrete examples of an order  
4 that was recently held up by SBC?

5 A. No, sir. I know of none.

6 Q. Just a couple more -- or just a couple  
7 moments.

8 Mr. Hamiter, Mr. Savage and His Honor,  
9 Judge Thompson, asked you about SBC's position on separate  
10 trunk groups for 911 traffic, and you addressed that from  
11 a technical perspective. Would Mr. McPhee be able to  
12 address the judge's question from a wholesale policy  
13 perspective?

14 A. I believe he would.

15 Q. I want to make one last -- I want to talk  
16 about one last subject. There was some discussion about  
17 whether a trunk equals a facility and what SBC's position  
18 is with respect to trunk facilities, and I think -- is it  
19 fair to state that your testimony was directed to the  
20 concept of separate trunks --

21 A. Yes, sir.

22 Q. -- rather than separate facilities?

23 A. Yes, sir.

24 Q. New, without going too much into detail,  
25 the way I heard it was that there was discussion to the

1 effect that, well, what is SBC's position, are you  
2 advancing separate trunks or are you asking as well that  
3 separate facilities be established in the context of 911  
4 and the like?

5 Do you recall that general discussion?

6 A. Yes, sir, I do.

7 Q. Okay. I want to clarify that, and I want  
8 to try to use an example that would be specific and  
9 understood by everyone. Let's assume that we are using  
10 Charter's St. Louis OC-48 network. I don't know what that  
11 network is, but using the example that Mr. Savage broached  
12 with you, let's assume for purposes of example there are  
13 50 strands in a cable wrapped by rubber or plastic, 50  
14 strands, and that's the OC-48.

15 A. Yes.

16 Q. And let us assume that separate trunking  
17 would be what would apply. Would that require that a  
18 separate route, separate and apart from the route  
19 containing the 48 strands or the 50 strands, a separate  
20 route entirely be established or that specific trunks  
21 already embedded within that facility could be used for  
22 that 911?

23 A. The facility that exists between the CLEC  
24 switch and the POI, there would be no reason for Charter  
25 to obtain or trench a new cable or facility for the

1    separate 911 ancillary-type trunk groups.    SBC's position  
2    is that on the other side of the POI, they would also be  
3    responsible for those facilities on just those separate  
4    ancillary trunk groups.

5            Q.        So if, for example, a portion within the  
6    OC-48 facility, a separate trunk was dedicated to 911, the  
7    example that I believe Judge Thompson and some of us have  
8    used about the fireman's wife who may have a real  
9    emergency who may have to call the fire department not to  
10   reach her husband but to call for help, that is not going  
11   to require that Charter dig extra ground?

12                    MR. SAVAGE:    Your Honor, I can wait or I  
13   can do it now.    It seems to be fairly clear he's leading  
14   the witness.

15                    MR. GRYZMALA:    Well, I'm trying to get to  
16   the bottom line, your Honor.    I just -- if it's  
17   inappropriate, then --

18                    JUDGE THOMPSON:    Well --

19                    MR. GRYZMALA:    Let me do it in a  
20   non-leading way.

21    BY MR. GRYZMALA:

22            Q.        Would any additional trenching, would any  
23   additional physical construction activity have to be  
24   deployed in order to do that --

25            A.        No, sir.

1 Q. -- than what exists today?

2 A. That's correct.

3 MR. GRYZMALA: That's all I have. Thank  
4 you.

5 JUDGE THOMPSON: Thank you.

6 Thank you, Mr. Hamiter. Am I correct that  
7 Mr. McPhee is next?

8 MR. BUB: Actually, your Honor, we -- I  
9 show Schell, but we can put McPhee up. It makes us no  
10 difference.

11 MR. MAGNESS: Your Honor, I think Schell  
12 and Land both are sort of on the same topic area more that  
13 Mr. Hamiter is on, and I think we put McPhee in the  
14 intercarrier comp area, because that's what most of his  
15 testimony was about, is my understanding.

16 JUDGE THOMPSON: You guys tell me who you  
17 want next.

18 MR. ZARLING: Can we go off the record?

19 JUDGE THOMPSON: Absolutely.

20 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

21 JUDGE THOMPSON: I think we're about to  
22 begin with AT&T witness Schell; is that correct?

23 State your name for the reporter, please.

24 MR. SCHELL: My name is John Schell,  
25 S-c-h-e-l-l.

1 JUDGE THOMPSON: Have you already been  
2 sworn, sir?

3 MR. SCHELL: Yes, sir, I have.

4 JUDGE THOMPSON: You may inquire,  
5 Mr. Zarling.

6 JOHN SCHELL testified as follows:

7 DIRECT EXAMINATION BY MR. ZARLING:

8 Q. Mr. Schell, do you have any changes to your  
9 direct prefiled testimony?

10 A. Yes. I have just a few. The first change  
11 is at page 10, lines 1 and 2. In line 1, the number 272  
12 should be 264. And in line 2, the number 80 should be  
13 179.

14 Q. Would you care to explain the basis for  
15 that change?

16 A. The 272 end offices originally came from  
17 the January LERG, and I thought that was April LERG data.  
18 So in my rebuttal testimony I used the data from the April  
19 LERG, of course, and I also referenced the fact in a  
20 footnote that I had used incorrect numbers in my direct  
21 testimony. The 179 remote end office switches was just a  
22 typographical thing.

23 The next change is a typographical error on  
24 page 68 at line 9, and in the question, the numbers 14, 15  
25 and 18 should be 11, 12 and 13.

1                   The next change is on page 72, and again,  
2   it goes back to the LERG extract. On line 27, the 272  
3   figure should be 264, and the 80 should be 179.

4                   The last change is on the following page,  
5   page 73, at line 3, and there the number 80 should be 179.  
6   Those are the changes.

7           Q.       I don't recall. Do you have any changes to  
8   your rebuttal testimony?

9           A.       No.

10           MR. ZARLING: Tender the witness.

11           JUDGE THOMPSON: Thank you, Mr. Zarling.  
12   Mr. Bub?

13           MR. BUB: Thank you, your Honor.

14                   Your Honor, just so you know, this is  
15   another witness that covers topics on multiple areas, and  
16   then I have some questions for him, and then I think  
17   Mr. Bob Gryzmala also has some. We should both be pretty  
18   brief.

19           JUDGE THOMPSON: Very good.

20   CROSS-EXAMINATION BY MR. BUB:

21           Q.       Good morning, Mr. Schell.

22           A.       Good morning.

23           Q.       My name is Leo Bub. I'm an attorney with  
24   SBC.

25           A.       I'm sorry. I didn't catch your last name.

1           Q.       Bub, B-u-b. I think I have probably the  
2 shortest name in the room.

3                    I'd like to ask you some questions about  
4 NIA 15, and you can find that on page 83 of your  
5 testimony.

6           A.       Page 54 -- I'm sorry. Page?

7           Q.       83.

8           A.       Okay. And in my copy it appears on page  
9 84, but I think I'm with you.

10          Q.       Okay. Sometimes that happens in  
11 transmission filing that we are a page or two off. But  
12 the issue I'm going to ask you about is concerning putting  
13 251(b)(5) traffic and intraLATA toll traffic over the  
14 Feature Group D, as in David, access trunks that you  
15 purchase from SBC.

16          A.       That is correct. Yes, I understand.

17          Q.       And for shorthand, some might characterize  
18 this issue as local over Feature Group D. Have you heard  
19 it referred to that way?

20          A.       Well, it's both 251(b)(5) and intraLATA  
21 toll, which is not local over Feature Group D, so I would  
22 prefer we not refer to it as local over Feature Group D.

23          Q.       Okay. We're talking about the same thing?

24          A.       Yes, sir, we are.

25          Q.       And just to let you know up front, the



1 purpose of this first series of questions is to focus on a  
2 subtle distinction between AT&T's proposal and some of the  
3 other CLECs' proposals to put IXC traffic on local trunk  
4 groups.

5 A. I understand.

6 Q. Okay. I'd like to focus first on some of  
7 your testimony at the bottom, and I can't tell you where  
8 it would be, but at my page it's the bottom of 83. And  
9 this is where you state -- it's the answer to, please  
10 explain the disagreement between the parties on Issue 15.  
11 And you state, AT&T has extensive IXC Feature Group D  
12 trunking in place between the two parties' respective  
13 networks. Do you see that?

14 A. Yes.

15 Q. I'd like to explore that statement. Is it  
16 correct that the original purpose of those access trunks  
17 was used basically for two purposes: First, in  
18 terminating in a terminating direction to bring AT&T's  
19 long distance calls into the LEC-to-LEC network for  
20 termination to an end user?

21 A. Yes.

22 Q. And then in the originating direction, to  
23 deliver AT&T -- to AT&T's POP the long distance calls that  
24 were placed by end users who had picked AT&T for their  
25 long distance carrier?

1           A.       Yes.

2           Q.       And from there, from that point, AT&T would  
3       carry the calls across the state to another state or  
4       across the country or around the world?

5           A.       That is correct.

6           Q.       Now, I'd like to focus on the terminating  
7       direction, if I could. When your traffic enters the LEC  
8       network over those trunks, the calls, as you understand  
9       it, are recorded at SBC's offices; is that correct?

10          A.       Yes.

11          Q.       And those recordings are used by SBC to  
12       create the Category 11 records that we use to bill  
13       switched access to AT&T?

14          A.       Well, actually, under the method we've used  
15       for the last six years, we provide you a factor and you  
16       bill based on that factor.

17          Q.       I'll get to the factors, but the first step  
18       is, we create the records?

19          A.       Okay. But if I misunderstood, I apologize,  
20       but I thought you said we create the records and bill from  
21       the record. And I agree you create a record, but you bill  
22       from a factor. That's the distinction.

23          Q.       Would be a better clarification that that  
24       factor allows us to identify -- to subtract out from our  
25       billings, based on our records, what you've identified to

1 us as local intraLATA toll?

2 A. Yes.

3 Q. So that from our perspective, because when  
4 we set about to send you a bill we do use those records  
5 that we make, as well as your factors, to subtract out to  
6 give you a final?

7 A. Well, I believe you use the recordings to  
8 get the total usage, and then you use the factors to  
9 apportion the billing.

10 Q. That's a better way of saying it. Thank  
11 you.

12 And if those calls, say some of the calls  
13 are destined to small ILECs that subtend one of our  
14 tandems, then that Category 11 record that we talked  
15 about, that's sent to the ILEC behind us so they can bill  
16 you terminating switched access charges?

17 A. Yes, that's correct.

18 Q. And here what you want is to be able to  
19 continue putting -- and I want to be specific -- the  
20 Section 251(b)(5) and intraLATA toll traffic on these  
21 Feature Group D access trunks?

22 A. Yes, until such time as we move that  
23 arrangement to a different platform and no longer need  
24 that configuration.

25 Q. And your proposal here would not affect the

1 records that are being sent to the small ILECs behind our  
2 tandems; is that correct?

3 A. That's correct.

4 Q. They'd still get their Category 11 records?

5 A. Yes.

6 Q. And the factors would only be used to  
7 adjust SBC's billing to you?

8 A. That's correct.

9 Q. Would you also agree with me that this  
10 AT&T proposal that we've just been talking about to put  
11 the 251(b)(5) and intraLATA toll over your IXC trunks is  
12 different than the other CLECs' proposals in this case to  
13 put IXC traffic over the local trunk groups?

14 A. Yes, that is different.

15 Q. And one difference is, with your proposal,  
16 SBC already has systems in place to record your traffic as  
17 it comes into the LEC network and make the Category 11  
18 records we were just talking about?

19 A. Yes.

20 Q. And the same systems are not in place on  
21 the local trunk groups?

22 A. I don't know exactly on your local trunk  
23 group what systems are in place or not in place to create  
24 what kind of records.

25 Q. But you can say they're in the network as

1     you interconnect, they're there?

2             A.       Yes.

3             Q.       I'd like to switch gears a little bit and  
4     explore SBC's position on this same issue. I think here  
5     we'll probably have a little bit more controversy. What  
6     SBC wants is for you to separate and create separate trunk  
7     groups for your IXC traffic on one hand and the local  
8     intraLATA toll on the other hand, separate trunks?

9             A.       Yes. They want us to establish additional  
10    trunk groups for the local 251(b)(5) and intraLATA toll  
11    traffic separate from the Feature Group D interconnection  
12    trunk groups.

13            Q.       You would agree with me that when we have  
14    those separate trunk groups, it would allow us to  
15    separately record specifically how much IXC traffic is  
16    coming into our network?

17            A.       Well, you would no longer have to rely on a  
18    factor provided by AT&T as you have done for the last six  
19    years and which, to my knowledge, has been satisfactory.  
20    You've not filed any complaints with this Commission or  
21    anywhere else saying that it's an unsatisfactory  
22    arrangement.

23            Q.       My question was, that that separate trunk  
24    group would allow us to separately record the traffic?

25            A.       That is true.

1           Q.       And then the other trunk group where we  
2       would have local and toll traffic, or I guess more  
3       specific the 251(b) (5) and the intraLATA toll traffic,  
4       would record that separately as well?

5           A.       That is true.

6           Q.       Okay. And if SBC's position is adopted,  
7       like you said, we wouldn't have to rely on your PLU  
8       factors for our billing?

9           A.       That is true.

10          Q.       We would just simply use our own  
11       recordings?

12          A.       That is true.

13          Q.       Would you agree with me that billing based  
14       on actual recordings is generally more accurate than  
15       billing based on factors?

16          A.       Not really.

17          Q.       Certainly you'd agree that SBC could at  
18       least more readily assure itself that it was being  
19       properly compensated for IXC traffic if that traffic was  
20       separately recorded?

21          A.       Not really, and here's why. AT&T would use  
22       the same exact methodology to segregate that traffic onto  
23       two separate trunk groups that you would record  
24       separately, as it does to create the PLU which it gives  
25       you to bill. Therefore, the end result should really be

1 no different.

2 Q. Certainly it would be easier from our  
3 perspective -- from SBC's perspective to have separate  
4 trunk groups than to have to validate your PLU study,  
5 because we would have it every month, we would know how  
6 much we reported and that would be our billing, whereas  
7 with the PLU, if we had a question we'd have to conduct a  
8 validation?

9 A. Yes.

10 Q. And same with your suggesting that if we  
11 audit your call detail record, that would entail more work  
12 for SBC?

13 A. Yes.

14 Q. This I think is the last area. When you  
15 wrote your testimony, were you aware of the Missouri  
16 Public Service Commission's new enhanced record exchange  
17 rule?

18 A. No, not when I wrote it.

19 MR. BUB: Okay. Your Honor, may we go off  
20 the record just for a minute?

21 JUDGE THOMPSON: All right.

22 MR. BUB: I'd like to get an exhibit  
23 marked.

24 (EXHIBIT NOS. 205 AND 206 WERE MARKED FOR  
25 IDENTIFICATION BY THE REPORTER.)

1 BY MR. BUB:

2 Q. Mr. Schell, I've handed you what's been  
3 marked as Exhibit 205 and 206. 205 is the Missouri Public  
4 Service Commission's new enhanced record exchange rule,  
5 and 206 is the Order of Rulemaking adopting the rules.  
6 I'd like to direct your attention to 4 CSR 240-29.050 on  
7 page 8 of the rules, called option to establish separate  
8 trunk groups for LEC-to-LEC telecommunications traffic.  
9 Have you had a chance to take a look at that?

10 A. Just very quickly here, since you've handed  
11 it to me.

12 Q. Let's focus on one particular paragraph,  
13 paragraph 1. If you could look at that for a minute,  
14 subparagraph 1.

15 A. All right.

16 Q. Okay. I'd like you to assume with me that  
17 some small ILEC behind us makes such a request for  
18 separate trunks going -- for IXC traffic going from our  
19 tandem to their end offices as this rule contemplates.

20 A. Let's be clear. You're saying that a small  
21 independent company behind that receives traffic from your  
22 tandem has asked you to segregate traffic between IXC  
23 traffic and call it non-IXC traffic, if you will?

24 Q. Common trunk groups, it might be a  
25 conglomeration of wireless intraLATA toll, but the



1 interexchange carrier traffic would be on that separate  
2 trunk and that's the one I'm interested in.

3 A. Okay.

4 Q. That assumption, would you agree that if  
5 the IXC traffic is not kept on a separate trunk group as  
6 it comes into a LEC's tandem, the tandem company will not  
7 be able to separate that IXC traffic out onto a separate  
8 trunk group for the small ILEC?

9 A. No, I'm not sure I would agree with that,  
10 because the -- the IXC calls that come into your network  
11 have a CIC code in them, a carrier identification code,  
12 and that CIC code could be used to sort that traffic. you  
13 could put in some software that would sort that out and do  
14 that.

15 Again, I'm just taking what your  
16 hypothetical is, and I'm saying that it would be  
17 technically possible to identify IXC traffic based on the  
18 call records you're receiving and, based on those call  
19 records, to put a translation in that says if there is a  
20 CIC code and that field is populated, then this is an IXC  
21 group and send it on the IXC group to the independent  
22 company.

23 You would not have a CIC code populated on  
24 a local/intraLATA toll call exchange between two LECs.

25 Q. As far as you know, there's no systems in

1 place presently in SBC's network that would allow that  
2 traffic to be split on a call-by-call basis as it comes  
3 into our network?

4 A. I don't know that they're not there.

5 Q. You don't know that they are there?

6 A. I'm agnostic. I don't know.

7 Q. You mentioned the CIC code that we use.

8 That CIC code is placed on the record based on a trunk  
9 group, is it not? We assign that, SBC assigns that.  
10 That's not something that you provide to us; is that  
11 correct?

12 A. You may be correct. You may assign that in  
13 the tandem based on the trunk group from the interexchange  
14 carrier.

15 Q. And that's how we know it comes from AT&T?

16 A. AT&T, for example, and that's how you  
17 provide that information to the independent company or  
18 downstream to your billing systems for access. But there  
19 may be other ways, Mr. Bub, that you could determine based  
20 on the signalling stream and that the call is an IXC call  
21 as opposed to a local call.

22 And further, I guess the only familiarity I  
23 had with this particular rule was after I had read  
24 Mr. Hamiter's testimony, I believe he referred to it, and  
25 I got the impression that the intent of the rule was to

1 prevent -- from his testimony I got the impression that  
2 the intent of the rule was to prevent placement of IXC  
3 traffic on local LEC-to-LEC interconnection trunk groups.

4 That was the intent of it. The intent of  
5 it didn't appear to be to prevent the placement of local  
6 traffic on Feature Group D trunk groups. Again, I have no  
7 background, so I'm really at a loss to give you much  
8 enlightenment on this.

9 MR. BUB: Okay. I appreciate your answer.  
10 Thank you very much. Thank you, your Honor. That's all I  
11 have. I think Mr. Gryzmala --

12 MR. SAVAGE: I have a question as to  
13 whether these documents are coming into the record or not  
14 as exhibits.

15 MR. BUB: I'd like to ask for  
16 administrative notice of those documents. I've provided  
17 it so everyone would have a copy of it.

18 MR. SAVAGE: I have no objection. I was  
19 just curious.

20 JUDGE THOMPSON: Anybody have any  
21 objections to the receipt of Exhibit 250 or 206?

22 MR. ZARLING: I'd just like to note for the  
23 record that the rule is not effective yet, hasn't been  
24 published in the Missouri Register yet.

25 JUDGE THOMPSON: Okay.

1                   MR. BUB: We would agree with that, your  
2 Honor.

3                   JUDGE THOMPSON: Very good. With that  
4 caveat in mind, Exhibits 205 and 206 are received and made  
5 a part of the record of this proceeding.

6                   (EXHIBIT NOS. 205 AND 206 WERE RECEIVED  
7 INTO EVIDENCE.)

8                   JUDGE THOMPSON: Mr. Gryzmala, we are just  
9 at 12 o'clock. Is this a good point to stop for lunch?

10                  MR. GRYZMALA: I believe what I have --

11                  JUDGE THOMPSON: You want to do it before  
12 lunch or after?

13                  MR. GRYZMALA: Four, five minutes max. Two  
14 minutes. Could be two minutes.

15                  JUDGE THOMPSON: Step right up to the  
16 podium. That's the kind of talk I like to hear.

17 CROSS-EXAMINATION BY MR. GRYZMALA:

18                  Q.     Mr. Schell, I think I'm just going to  
19 clarify something that maybe might be misunderstood. So  
20 if you'll allow me the courtesy, I'll represent to you  
21 that at line -- or at page 28 of his direct, Mr. Hamiter  
22 said, and this was a subject of your testimony, that SBC  
23 Missouri employs three combined local intraLATA and  
24 interLATA tandems in its network. And a few pages after  
25 that, at page 30 and 38, he identified those three tandems

1 with acronyms IRL, IAL and LCL. Obviously, interLATA,  
2 intraLATA, and local.

3 A. Yes, I'm familiar with them.

4 Q. And then in your -- I'm sorry.

5 A. And I remember the chart.

6 Q. Excellent. Thank you. And then in your  
7 own testimony, sir, you indicated that at page 13 there's  
8 a significant discrepancy here. Mr. Hamiter's testimony  
9 says thus and thus, what we just talked about, and you  
10 refer to the LERG. And based upon the LERG, you made the  
11 assertion that SBC has no combined local intraLATA -- I'm  
12 sorry -- the data shows, according to the LERG, SBC has no  
13 end offices in Missouri that are served by SBC Missouri  
14 combined local intraLATA tandem. Do you recall that?

15 A. Yes, sir.

16 Q. It's all on page 13. I just want to make  
17 sure I understand. You attach a schedule to your  
18 testimony marked JS-6?

19 A. Yes.

20 Q. And presumably -- well, excuse me. Your  
21 statement in your testimony is that this is a distillation  
22 of the data that appear in the April '05 LERG; is that  
23 correct?

24 A. Yes.

25 Q. Okay. I just want to ask you if you -- are

1   you aware that where the tandem -- well, did you refer --  
2   when you made the assertion, when you did your  
3   investigation of the LERG, did you refer to the column  
4   marked access tandem?

5           A.       In that particular case, no, because SBC's  
6   definitions singled out and in their language requiring  
7   POIs and interconnection, et cetera, it talks about  
8   251(b) (5) intraLATA tandems, and that's in your definition  
9   of TSA.

10                   And to be clear, what we did is we went  
11   into the LERG and specifically pulled out all of SBC's end  
12   offices in Missouri, every single one of them, and we  
13   looked at the LERG. LERG has a number of files in it.  
14   One of the files is called a LERG SHA, a shared homing  
15   arrangement, SHA. And you get which end offices subtend  
16   which tandems from that LERG, and then you go into LERG 7  
17   itself and get all the physical identity related to the  
18   switches, their addresses, et cetera.

19                   We pulled all of that data out and looked  
20   at that, which is what our engineers and folks that do our  
21   work typically look at, and we found that SBC had  
22   14 end offices, which are identified in Schedule JS-6,  
23   which subtended an SBC local tandem, but 13 of those were  
24   remote offices, and strangely enough, only one of the  
25   hosts that hosted those remote end offices was showing

1     itself as subtending a tandem.

2                     And let me come to my point. My point is  
3     this: In state after state, we have run into difficulty  
4     with SBC on the currency, the currentness of the data in  
5     the LERG. In Kansas, I took the same LERG data, I sent it  
6     to SBC and I said, is this correct? And they came back  
7     and said, no, we have another tandem in Kansas City,  
8     Kansas that serves 11 end offices and it's not in the  
9     LERG.

10            Q.     Mr. Schell, I don't mean to interrupt.

11            A.     Let me finish my conclusion. The only  
12     conclusion is that we are having difficulty trying to  
13     follow what SBC says is the situation in their network  
14     versus the data that their engineers populate in the LERG.  
15     The LERG has not been all that reliable.

16            Q.     I just wanted to get to an example,  
17     concrete example.

18            A.     All right.

19            Q.     Are you aware that when the tandem also  
20     serves -- in other words, an access tandem also serves as  
21     a local tandem, the local tandem column is not populated  
22     by SBC, so let me give you a concrete example here. Look  
23     at page 1. Look at the fourth line down, and you see the  
24     access tandem, St. Louis, Missouri and it tails off to  
25     Missouri 0501T. Do you see that?

1           A.       I'm sorry. Which line are you looking at?

2           Q.       Fourth line. It's not marked as a line, as

3   No. 4, but it's the fourth line of data down.

4           A.       I see it. Yes, I see it.

5           Q.       Do you see how local tandem is blank there?

6           A.       Yes, I do.

7           Q.       Okay. Now, see how three lines below that,

8   again there's another Missouri 0501T?

9           A.       Yes.

10          Q.       You see how in that case the local tandem

11   is populated by Flat River?

12          A.       That's correct.

13          Q.       So is it fair to say, then, that in

14   certain -- and there are examples on that page right

15   there, and there's examples on the Kansas City as well.

16   The distinction is that when the tandem serves as a local

17   tandem as well, local tandem's not populated, but when the

18   local tandem is served by another tandem, as in the Flat

19   River example I gave you, that entry is populated.

20                    Would that not clarify your objection?

21          A.       Well, No. 1 would be very helpful if SBC

22   would tell us that officially.

23          Q.       We don't disagree there are --

24          A.       That's very inconsistent with what other

25   companies do, and it's not even consistent throughout SBC



1 territory, and it's not consistent with answers they've  
2 given us when we've asked the question before. However,  
3 it is also not consistent with Mr. Hamiter's testimony.  
4 He identified three tandems, only those three, where he  
5 said they were access, intraLATA and local.

6 Well, you've got more than that in  
7 Missouri, and they're not populated in here. So how do I  
8 determine -- in other words, if I look down here, for  
9 example, let's see. Let's take Sikeston, Missouri, the  
10 bottom of the same page you referred me to, SKSTNOGR014.  
11 The local column is not populated. Am I to assume that  
12 that's also a local tandem? That would conflict with his  
13 testimony.

14 Q. That would be a question that could have  
15 come up during Mr. Hamiter's testimony. All I'm asking  
16 you to assume --

17 A. Well, all I'm asking is, there's a whole  
18 bunch of those. It runs throughout the entire document.

19 Q. Are you aware that -- in any case that the  
20 CLEC handbook that is posted online provides the tandem  
21 homing arrangements for each SBC Missouri tandem?

22 A. Well --

23 Q. Does it or does it not?

24 A. I don't know, and it's not relevant to this  
25 proceeding.

1 Q. That's all I asked for.

2 A. Your language refers us to the LERG, not  
3 your handbook.

4 Q. Thank you.

5 A. Your definitions say LERG.

6 MR. GRYZMALA: Thank you.

7 JUDGE THOMPSON: Thank you.

8 Okay. So we're ready for Bench questions  
9 now for Mr. Schell; is that correct?

10 (No response.)

11 JUDGE THOMPSON: No one's disagreeing with  
12 me, so I'll assume I'm right.

13 We're going to take the lunch break now. I  
14 think we need an hour lunch break. I don't know if it's  
15 possible for us all to get fed in less than that, so let's  
16 be back at 1:08.

17 (A RECESS WAS TAKEN.)

18 JUDGE THOMPSON: We're ready for questions  
19 from the Bench. Mr. Williams?

20 MR. WILLIAMS: No questions.

21 JUDGE THOMPSON: Mr. Johnson?

22 MR. MICK JOHNSON: No.

23 JUDGE THOMPSON: Mr. Scheperle?

24 MR. SCHEPERLE: No.

25 JUDGE THOMPSON: Mr. McKinnie?

1 MR. McKINNIE: Just real quick.

2 JUDGE THOMPSON: Very good.

3 QUESTIONS BY MR. McKINNIE:

4 Q. Correct me if I'm wrong, but if I want to  
5 ask an AT&T witness about VOIP, I assume you are the guy?

6 A. That is correct.

7 Q. Have you heard the questions I have asked  
8 of the other witnesses?

9 A. Yes, I have.

10 Q. Because I'm going to ask you basically the  
11 same questions.

12 A. All right.

13 Q. How does AT&T currently handle VOIP traffic  
14 with Southwestern Bell?

15 A. How do we currently handle the VOIP traffic  
16 with Southwestern Bell?

17 Q. In an interconnection agreement, or just  
18 how it's generally being handled today.

19 A. I don't know exactly how we're doing it  
20 today, and I don't believe it was addressed in the last  
21 interconnection agreement at all. So I didn't look into  
22 that in preparation for today.

23 Q. Okay. That's fine. I have one other  
24 question I just want to ask. I was reading through your  
25 testimony, and you talk about the four different types of

1 categories of traffic on page 98 of your testimony. And I  
2 just wanted to be -- I wanted to make sure I was sure  
3 about what you're referring to.

4                   You're talking about how SBC -- on line 12  
5 of page 98, how SBC objects to the inclusion of -- I just  
6 want to deal with the first two, ISP-bound traffic and  
7 IP-enabled traffic.

8           A.       Yes.

9           Q.       I talked to Mr. Constable from SBC earlier  
10 today about ISP-bound traffic, and he said that for the  
11 most part that was traffic -- a call to an ISP. Is that  
12 also your understanding of that term or the way you use  
13 that term?

14          A.       Well, the question you had asked before, I  
15 think you had asked if there was a call from the PSTN to a  
16 VOIP customer, would the person you were asking the  
17 question of view that as a call that was ISP bound. And  
18 my answer is, yes, AT&T would view that as an ISP-bound  
19 call because it is bound for a voice application on the  
20 Internet, as opposed to, say, a data application. But  
21 from an engineering perspective and from a routing  
22 perspective, it's handled exactly the same as any other  
23 ISP-bound call.

24          Q.       Okay. That is definitely something I  
25 wanted to learn from you. And then could you just real

1 quickly discuss the difference between then -- between the  
2 difference between an ISP-bound traffic and IP-enabled  
3 traffic?

4 A. I pretty much use the terms synonymously in  
5 my testimony. Internet protocol enabled traffic is  
6 traffic that uses the Internet, and ISP traffic is traffic  
7 that uses the Internet. So pretty much one and the same  
8 the way I use the term.

9 MR. MCKINNIE: Okay. Just wanted to check  
10 up on that. Thank you.

11 JUDGE THOMPSON: Ms. Dietrich, do you have  
12 any questions for Mr. Schell?

13 MS. DIETRICH: Yes, I do.

14 QUESTIONS BY MS. DIETRICH:

15 Q. Good afternoon.

16 A. Good afternoon.

17 Q. I just wanted to clarify with you about  
18 points of interconnection.

19 A. All right.

20 Q. On page 12 of your testimony -- and  
21 actually you talk about this several places throughout  
22 your direct testimony. I'm sorry. You talk about --  
23 starting at line 12, that locations such as outside plant  
24 location and customer premise locations are not part of  
25 its network, referring to SBC's position, and AT&T may not

1     interconnect at such locations.

2                     Can you just kind of explain to me what  
3     AT&T's position is as to where you should be able to  
4     interconnect and/or what would be considered SBC's  
5     network, in your opinion?

6             A.       Yes, ma'am, I can.   AT&T agrees that it  
7     must interconnect on SBC's network.   There's absolutely no  
8     disagreement between the parties that the interconnection  
9     must occur on their network.   What the parties disagree  
10    upon is the definition of that network.

11                    And AT&T believes that anywhere that SBC  
12    has deployed its network facility, specifically fiberoptic  
13    facilities, that those facilities are a part of SBC's  
14    network.   In fact, in a proceeding in another state, one  
15    of their right-of-way witnesses in fact testified that,  
16    yes, that is a part of their network.   And I refer to that  
17    in my testimony.

18                    So to the extent that SBC, for example, if  
19    we have a carrier hotel say in St. Louis has a number of  
20    different carriers in it and they have switches and  
21    central offices in that building, and if SBC has brought  
22    fiberoptic facilities and put a fiberoptic terminal in  
23    that building to serve those carriers, then from our  
24    perspective, that fiberoptic terminal and those facilities  
25    are part of their network and we could establish an

1 interconnection with them at that fiberoptic terminal.

2 We're not saying that our switch is part of  
3 their network. We're saying the facilities they have  
4 deployed to that location are part of their network and  
5 that we could interconnect with them at that location.

6 SBC's position is, the interconnection must  
7 take place not only on their network, but physically  
8 within one of their central offices, where they have  
9 either an end office switch or a tandem switch.

10 Q. Okay. Then on page 13, along the same  
11 lines, at line 9 and 10, you're talking about meet  
12 arrangements, and at the end of that you say, and the  
13 fiber splice point could be at an SBC outside plant  
14 location?

15 A. Yes.

16 Q. Could you give me an example of what that  
17 would be?

18 A. A manhole. In other words, if the parties  
19 agreed that they were going to interconnect using fiber  
20 and AT&T would build out the fiber to one of SBC's  
21 manholes and SBC would build it out to the same manhole  
22 and they would cross connect it in that manhole.

23 Q. Okay. And then I'd like to refer you to  
24 your rebuttal testimony for one last question. On  
25 page 19 -- or excuse me -- page 12. At line 7 you say, by

1 changing its data in the LERG, which is wholly within  
2 SBC's control, SBC can change AT&T's prior obligations.  
3 Are you saying there that SBC has the ability to  
4 manipulate LERG information?

5 A. I wasn't implying sinister manipulation in  
6 that sense, but because SBC has the ability to determine  
7 how its switches function, it decides which switches are  
8 access tandems, which switches are local tandems, which  
9 ones are intraLATA tandems and which ones are combined  
10 tandems that perform multiple functions like access, local  
11 and intraLATA. It makes those decisions and then places  
12 those within the LERG.

13 In its proposed language defining a TSA, it  
14 defines a TSA in terms of a combined intraLATA local  
15 tandem and all of the local end offices that subtend that.  
16 SBC also determines which end offices subtend which  
17 tandems. That's a decision they make, and once they make  
18 that decision, they place that in the LERG.

19 So to the extent that they can commission  
20 or they can add or remove offices from certain tandems for  
21 whatever reason, or they can establish new tandem serving  
22 areas or perhaps even decommission a tandem in a serving  
23 area, they in fact under their own proposed language  
24 impact our POI obligations.

25 Q. And just for clarification, what is a TSA?



1           A.       A tandem serving area, and it is a  
2 defined -- it is an SBC-defined term in Attachment 11,  
3 paragraph 6.19.

4           MS. DIETRICH: Thank you.

5           JUDGE THOMPSON: Thank you. Okay. I think  
6 we're ready now for recross.

7           MR. BUB: None for us, your Honor.

8           JUDGE THOMPSON: Very good. Redirect?

9           MR. ZARLING: Just a little bit.

10 REDIRECT EXAMINATION BY MR. ZARLING:

11          Q.       Mr. Schell, do you recall questions from  
12 Mr. Bub, SBC's counsel, about AT&T Issue 15?

13          A.       Yes, I do.

14          Q.       Okay. And would you describe the service  
15 that is at issue or that is driving that issue?

16          A.       Yes. AT&T offers service to business  
17 customers that have intelligent PBXs and uses its  
18 extensive investment in its IXC network to provide those  
19 type of services. And I don't know if you want more,  
20 but --

21          Q.       What is the name for the service?

22          A.       I'm sorry. It is AT&T Digital Link,  
23 sometimes referred to as ADL service.

24          Q.       So your testimony is it's a business  
25 service?

1           A.       It is a service offered only to businesses  
2   that have PBXs, intelligent PBXs, in fact.

3           Q.       Okay. Mr. Bub questioned you about a  
4   Commission rulemaking and an aspect of the Commission's  
5   adopted rule that allows ICOs, independent telephone  
6   companies, small LECs, to request that traffic sent to  
7   them be broken out into separate local and I think it's  
8   interexchange trunk groups. Do you recall that?

9           A.       Yes, I recall that.

10          Q.       From your perspective, how is this AT&T  
11   local traffic that's placed on a Feature Group D trunk  
12   group, how does that look when it is sent to SBC's tandem  
13   and on to an ICO?

14          A.       Well, AT&T would agree that when the local  
15   traffic is sent over the Feature Group D trunk group, that  
16   looks like toll traffic over that same trunk group. And  
17   as I discussed with Mr. Bub earlier, AT&T certainly has no  
18   objection to SBC using the carrier identification code,  
19   the CIC code, to identify that as AT&T IXC traffic, both  
20   categories of traffic, and to use that as a routing  
21   indicator to route that traffic on the IXC connection to  
22   the independent company.

23                   Now, the end result of that is that AT&T is  
24   going to pay access charges on some calls that perhaps  
25   otherwise it might not have. But AT&T ADL exchanges a

1 very small amount of local traffic with independent  
2 companies and does not object to paying them access  
3 charges on that traffic if SBC routes that on the IXC  
4 group.

5 Q. You may have just touched on this. What  
6 would be your expectation about the amount of local ADL  
7 traffic? We're talking about this ADL service. What  
8 would be your expectation about the amount of local  
9 traffic that would ultimately be actually intended to go  
10 to an ICO?

11 A. It would be very, very small. A very small  
12 amount of traffic, perhaps even de minimis.

13 MR. ZARLING: Those are all the questions I  
14 have.

15 JUDGE THOMPSON: Thank you, Mr. Zarling.  
16 You may step down, sir.

17 THE WITNESS: Thank you.

18 (Witness excused.)

19 JUDGE THOMPSON: Okay. Tell me who's next.  
20 According to my list, it should be McPhee or Silver, but  
21 obviously my list isn't the one you're following.

22 MR. ZARLING: Your Honor, we're trying to  
23 get through as many witnesses who are both joint and  
24 network and reciprocal compensation witnesses all in one  
25 shot.

1 JUDGE THOMPSON: That's fine with me.

2 MR. ZARLING: So we're going to bring  
3 Mr. Guepe up for AT&T.

4 JUDGE THOMPSON: Mr. Guepe, come on back.  
5 I'll remind you that you're still under oath, sir.

6 MR. GUEPE: Yes.

7 JUDGE THOMPSON: And if you would go ahead  
8 and state your name and spell your last name for the  
9 reporter.

10 THE WITNESS: My name is Richard Guepe,  
11 G-u-e-p-e.

12 JUDGE THOMPSON: You may inquire,  
13 Mr. Zarling.

14 MR. ZARLING: Your Honor, Mr. Guepe has no  
15 changes to the billing and reciprocal compensation  
16 portions of his testimony, so I tender him for  
17 cross-examination.

18 JUDGE THOMPSON: Fantastic. SBC?

19 MR. BUB: Thank you, your Honor.

20 RICHARD GUEPE testified as follows:

21 CROSS-EXAMINATION BY MR. BUB:

22 Q. Good afternoon, Mr. Guepe.

23 A. Good afternoon.

24 Q. My name is Leo Bub. I'm an SBC attorney.

25 A. Nice to meet you.

1           Q.     Nice to meet you, too. I just have a  
2     couple of short questions, and these all focus on AT&T's  
3     intercarrier compensation issue 2B, as in boy. I think it  
4     begins on page 36 of your direct.

5           A.     Right at the end.

6                   JUDGE THOMPSON: What page did you say?  
7     I'm sorry.

8                   MR. BUB: 36.

9                   JUDGE THOMPSON: 36. Thank you.

10                  THE WITNESS: I'm there.

11     BY MR. BUB:

12           Q.     Okay. This issue concerns the potential  
13     liability to AT&T for terminating compensation on calls  
14     that AT&T receives through SBC Missouri, right?

15           A.     Yes.

16           Q.     And in this situation, AT&T is using SBC's  
17     switching element, and the call is terminating to AT&T  
18     over SBC facilities; is that correct?

19           A.     That's correct. And I'm not sure whether  
20     it's only terminating or whether it goes in both  
21     directions.

22           Q.     Okay. Well, let's just focus on the  
23     terminating at this point.

24           A.     Okay.

25           Q.     We may not need to go into the other side.

1 And these calls that are terminating to AT&T, they could  
2 either be from SBC Missouri customers or from another  
3 carrier?

4 A. That's correct.

5 Q. And the issue here is AT&T's concern that  
6 it wouldn't be able to bill its terminating compensation  
7 and calls when it doesn't have the appropriate records  
8 telling it who to bill for the call?

9 A. It's the issue of and the liability of --

10 Q. That comes next.

11 A. Okay.

12 Q. You wouldn't have -- your concern is that  
13 you wouldn't know who to bill?

14 A. Okay. So you're looking at our issues  
15 both -- okay. 2B. All right. Yes. Yes. Yes. Correct.

16 Q. And then the liability issue is next where  
17 you say if you can't identify who to bill, I AT&T want to  
18 bill you SBC?

19 A. And this is on the --

20 Q. And SBC wants to be protected from that  
21 liability because it wasn't our end user's call?

22 A. And if I understand right, you also want to  
23 be protected if the call's going the other direction where  
24 somebody else is trying to bill you because they didn't  
25 receive the information that you received, that this

1 language would enable AT&T essentially to defend you or  
2 keep you whole, and that's certainly not appropriate.

3 Q. Let's just focus on the terminating side at  
4 this point. I'd like to focus on some language at the  
5 bottom of page 36 as I have it, line 24, the very last  
6 line. It begins in addition.

7 A. Yes.

8 Q. When a third-party carrier uses an SBC  
9 Missouri UNE switch to provide service, AT&T must have  
10 records from SBC Missouri in order to bill the proper  
11 carrier for the termination. Do you see that?

12 A. That's correct.

13 Q. On these types of calls, is AT&T not  
14 receiving records directly from the CLECs that are  
15 originating calls using SBC Missouri's switching element?

16 A. I don't believe so. It's strictly -- it's  
17 internal to SBC. SBC has all the information. It's SBC's  
18 switch which generates that information.

19 Q. And to answer my question, you're not  
20 getting anything directly from the CLECs using that  
21 switching element to serve their customer?

22 A. No. They're using your switch and  
23 depending upon you to have that information.

24 Q. But you're not getting anything from them;  
25 is that correct?

1           A.       As far as I know.

2           Q.       Are you aware when you wrote your testimony  
3       that in the M2A there's a provision in Attachment  
4       Compensation to the M2A that requires the CLECs that are  
5       using the switching element to actually provide records to  
6       the carriers to whom it sends calls?

7           A.       I'm not sure what's in the current M2A  
8       agreement. I know that standard industry practices when  
9       you're looking at -- under UNE-P, it's the underlying  
10      switch provider that is really required to provide that  
11      information.

12                   MR. BUB: Your Honor, may I approach the  
13      witness?

14                   JUDGE THOMPSON: You may.

15      BY MR. BUB:

16           Q.       Mr. Guepe, I'm showing you Attachment  
17      Compensation Missouri, Attachment 12 Compensation, which  
18      is Exhibit B, page 10 of 13, provision -- or  
19      paragraph 7.7.2. Could you read that for us, please, read  
20      it into the record?

21           A.       Okay. This is from the 19-- or the 2001  
22      agreement?

23           Q.       The agreement that is expired, that I guess  
24      has expired and has been extended.

25           A.       Is this the AT&T agreement?



1 Q. This is the M2A.

2 A. So it's different from the AT&T?

3 Q. Different from AT&T. This is the one that  
4 the CLECs --

5 A. These provisions aren't necessarily in --  
6 this isn't in AT&T's agreement.

7 Q. This is in the M2A that other CLECs have  
8 agreed to.

9 A. Unless they opted into ours.

10 Q. Unless they opted into yours.

11 A. But it's 7.7.2?

12 Q. Yes.

13 A. Each party will transit and summarize the  
14 originating minutes of usage within 15 business days  
15 following the prior month's close of business for all  
16 traffic, including local, transiting and optional EAS via  
17 the 92 type record process as outlined in Section 7.7.4  
18 below from the data obtained in Section 7.7.1 above to the  
19 transiting and/or terminating party for subsequent monthly  
20 intercompany settlement billing. This information will  
21 also be utilized by the parties for use in verifying and  
22 auditing to confirm the jurisdictional nature of local  
23 traffic that is required from the originating party under  
24 the terms of this agreement.

25 Did I read it right?

1           Q.       Yes, sir. And my understanding of your  
2 testimony so far would be correct that you did not -- that  
3 AT&T on CLEC calls using SBC's switching element that  
4 terminated to AT&T, that on those calls you did not  
5 receive the records that this paragraph calls for?

6           A.       I do not know.

7           Q.       You're not aware of --

8           A.       I'm not aware, no.

9           MR. BUB: Okay. Thank you. Those are all  
10 the questions we had, your Honor.

11           JUDGE THOMPSON: Very nice. Eight minutes  
12 and thirty seconds.

13           Mr. Williams, do you have any questions?

14           MR. WILLIAMS: No questions.

15           JUDGE THOMPSON: Ms. Dietrich?

16           MS. DIETRICH: No questions.

17           JUDGE THOMPSON: Mr. Johnson?

18           MR. MICK JOHNSON: No questions.

19           JUDGE THOMPSON: Mr. Scheperle?

20           MR. SCHEPERLE: No questions.

21           JUDGE THOMPSON: Mr. McKinnie?

22           MR. MCKINNIE: No questions.

23           JUDGE THOMPSON: Very well. Redirect?

24 REDIRECT EXAMINATION BY MR. ZARLING:

25           Q.       Mr. Guepe, does Issue 2B address a

1 situation when it is AT&T who is a UNE -- a user of SBC's  
2 unbundled switching or when AT&T is a terminating carrier,  
3 facilities-based terminating carrier? Excuse me.

4 A. Okay. Repeat it. I didn't hear the start  
5 of it.

6 Q. Does Issue 2B address situations where AT&T  
7 is -- in all circumstances is AT&T the terminating carrier  
8 here?

9 A. In this case, yes.

10 Q. And does this address the situation where  
11 AT&T is using SBC's unbundled switching as the terminating  
12 carrier or is a facilities-based carrier concerned with  
13 another CLEC who's using SBC's unbundled switch sending  
14 traffic to AT&T?

15 A. It's a concern where another CLEC using  
16 unbundled switching is sending traffic to AT&T.

17 Q. Now, with regard to 7.7.2 that Mr. Bub  
18 talked to you about in the M2A --

19 A. Yes.

20 Q. -- are you aware of how many CLECs in  
21 Missouri may have an agreement other than the M2A?

22 A. No, I'm not.

23 Q. Are you aware of how many CLECs who have  
24 the M2A may have amended or have different language for  
25 Section 7.7.2?

1           A.       No, I do not.

2           Q.       Is it your expectation that the  
3       circumstances in which SBC does not -- excuse me -- where  
4       a CLEC does not send the information to AT&T is  
5       significant or de minimis occurrence?

6           A.       I would think it's a de minimis occurrence.

7                   MR. ZARLING: I think that's all I have,  
8       your Honor.

9                   JUDGE THOMPSON: Thank you. You may step  
10      down, sir.

11                   (Witness excused.)

12                   JUDGE THOMPSON: Who's next?

13                   MR. MAGNESS: This is Mr. Charles Land.

14                   JUDGE THOMPSON: Mr. Land, nice to see you.  
15      Take your seat, please.

16                   MR. MAGNESS: Witness for the CLEC  
17      Coalition. Mr. Land has filed direct and rebuttal  
18      testimony on interconnection issues on each of the  
19      enumerated interconnection issues, NIA, ITR and NIM.

20                   JUDGE THOMPSON: Very good. Mr. Land, you  
21      were sworn yesterday?

22                   THE WITNESS: Yes, I was.

23                   JUDGE THOMPSON: I'll remind you you are  
24      still under oath. I don't think you need to spell your  
25      name for the reporter, but just go ahead and say it.

1 THE WITNESS: Charles Land.

2 JUDGE THOMPSON: You may inquire,  
3 Mr. Magness.

4 CHARLES LAND testified as follows:

5 DIRECT EXAMINATION BY MR. MAGNESS:

6 Q. Mr. Land, do you have any changes or  
7 corrections to your testimony?

8 A. No, I do not.

9 MR. MAGNESS: Tender him for cross.

10 JUDGE THOMPSON: Thank you very much. SBC?

11 CROSS-EXAMINATION BY MR. GRYZMALA:

12 Q. Good afternoon, Mr. Land. Good to see you  
13 again.

14 A. Good afternoon.

15 Q. Mr. Land, I want to talk firstly about the  
16 matter of a single POI. Would you agree that the argument  
17 having to do with whether a single POI is sufficient  
18 versus deployment of additional POIs is economic, that is  
19 who should pay for the trunking or rather for the  
20 transport for the interconnection trunking?

21 A. Yes.

22 Q. Would you also agree, Mr. Land, with the  
23 statements as follows: The issue of multiple POIs is  
24 purely an economic one. It is a decision as to who is to  
25 pay for transport costs. In most cases the establishment

1 of multiple POIs would not alter the network design that  
2 exists under a single POI arrangement, but would change  
3 the financial responsibility for the transport from the  
4 old POI to the new one from SBC to the ILEC.

5 Would you agree with that series of  
6 statements?

7 A. I think you meant to say from SBC to the  
8 CLEC.

9 Q. Forgive me. I did.

10 A. And I would agree.

11 Q. Would you agree that the economic -- to the  
12 point, the statements were directed who should pay for the  
13 transport, correct?

14 A. Yes.

15 Q. The operative word was transport. Would  
16 you agree that the economics of transport deployment are  
17 determined by traffic volume, distance and location?

18 A. Those are factors. Those are not all the  
19 factors.

20 Q. Those are three pertinent factors?

21 A. Yes.

22 Q. Would it be fair to say as well that while  
23 the cost of deployment increases with the length of  
24 transport -- of a transport segment, that the revenues  
25 generated also increase with the amount of traffic carried

1 on a particular transport route?

2 A. The revenues certainly are tied to the  
3 traffic volumes. The length of the transport, which is  
4 the earlier part of your question, would not necessarily  
5 affect a carrier's revenues.

6 Q. And let me make sure because you're hearing  
7 this and I'm reading. So what I meant to say was, and I  
8 thought I did say, is it true that while the cost of  
9 deployment increases with the length of a transport  
10 segment -- that part is true, correct, the cost of  
11 deployment does increase with the length -- as the length  
12 of the transport segment increases?

13 A. All other things being equal, yes.

14 Q. And all other things being equal, the  
15 revenues generated likewise increase with the amount of  
16 traffic carried on a particular transport route?

17 A. Under many conditions, yes. Under some  
18 conditions, no.

19 Q. Generally speaking, though, as the amount  
20 of traffic increases, so too do the revenues?

21 A. The obvious exception is if it's a bill and  
22 keep arrangement, then there's not a revenue issue there  
23 at all.

24 Q. Would you agree that where a CLEC -- that  
25 when a CLEC is deciding where to build their own

1 facilities, that CLECs generally look first at the  
2 shortest routes that have the greatest potential for  
3 aggregating traffic?

4 A. I think they're going to look first at  
5 their own facilities to see where they can make best use  
6 of the facilities that already exist, and then to the  
7 extent that facilities need to be extended and new  
8 facilities placed, again, all other things being equal,  
9 generally, yes, the shortest distance is preferable. But  
10 there is a long list of potential exceptions to that  
11 general rule.

12 Q. SBC -- rather, withdraw that.

13 It is the CLEC who has the choice to  
14 determine where to deploy their switch; is that not a fair  
15 statement?

16 A. Yes. I mean, a CLEC has to look at all the  
17 cost considerations and make the most economical decision.

18 Q. That is not a decision which SBC is in a  
19 position to dictate to a CLEC, correct?

20 A. We would hope not.

21 Q. When they look at those choices, they can  
22 choose to locate -- that is CLECs -- CLECs can choose to  
23 locate their switches close to other CLEC switches, can't  
24 they?

25 A. It's very common for CLECs to pick carrier



1 hotels which would put them in close proximity to other  
2 CLECs, other interexchange carriers, perhaps even large  
3 customers.

4 Q. And I think we heard Mr. Schell allude to  
5 that, the carrier hotel. And, in fact, that maximizes  
6 efficiencies and limits costs in several regards, does it  
7 not?

8 A. Usually it limits everybody's costs,  
9 because generally a carrier hotel is immediately adjacent  
10 to an SBC wire center switch.

11 Q. So you are able to take advantage of two  
12 economics. You're able to take advantage of the economic  
13 in which you're able to share cost from the facility  
14 across several CLECs, correct, the house, the building,  
15 the hut, generally speaking?

16 A. I mean, a CLEC is leasing space in a multi-  
17 tenant building. The fact that the other tenants are  
18 carriers is a consideration.

19 Q. And the other positive from an economic  
20 point of view is, as you mentioned, if you're close to an  
21 SBC office, you are able to enjoy reduced costs because  
22 the length of transport is very short; isn't that correct?

23 A. For the most part, SBC's rates are not  
24 going to vary based on your distance from the SBC wire  
25 center. So that's probably not an issue to the CLEC.

1           Q.       Well, would it not be an issue to the CLEC,  
2     the cost of constructing, installing, putting in place the  
3     facility between its switch and --

4           A.       If it's going to place a facility into the  
5     SBC wire center, then that would be a consideration.  If  
6     it's going to use other carriers' facilities, it may or  
7     may not be a consideration.

8           Q.       Would you agree that CLECs often -- can  
9     often locate their switches close to the ILEC's central  
10    office to minimize the length and cost of entrance  
11    facilities?

12          A.       I mean, I would agree they can, yes.

13          Q.       Would any of your prior answers be  
14    different or would you need to clarify any of your answers  
15    if the statements that I made were made by the FCC just  
16    this year?

17          A.       No, I don't think so.

18          Q.       Now, under SBC Missouri's proposal, a CLEC  
19    would be able to establish a single POI in a LATA  
20    essentially, and after it achieved a specific level of  
21    traffic, the CLEC would then be required to establish  
22    additional POIs.  That's the concept.  Do you agree?

23          A.       Yes.

24          Q.       Okay.  And that threshold is 24 DSIs,  
25    correct?

1           A.       It's 24 DSIs to any other tandem within the  
2    LATA or any end office that is not tandem served.

3           Q.       That would be correct.  Would you agree --  
4    we heard testimony about this this morning, so maybe I can  
5    shortcut to the point.  Would you agree that approximately  
6    500-- or rather 24 DSIs are comprised of approximately 576  
7    trunks?

8           A.       Yes.

9           Q.       Now, at that point, that is at the point of  
10   having achieved 24 DSIs under the circumstances you  
11   pointed out, would you agree that, depending on how a CLEC  
12   has engineered its network, it could serve as many as  
13   10,000 customers; is that correct?

14          A.       It would be a large number.  I don't think  
15   it would necessarily be that large a number.

16          Q.       Could it be more?

17          A.       It would be unlikely.  We call it  
18   oversubscription.  The question is, how many end users are  
19   going to be on the phone at the same time?  If they're all  
20   on the phone at the same time using an interoffice trunk,  
21   then you could only serve 572 customers over that  
22   connection.  If only one-tenth of them are on the phone at  
23   the same time, then you could serve maybe 5,700 customers,  
24   which is the number I would really have expected --

25          Q.       Well --

1           A.       -- to be the typical average.

2           Q.       Excuse me. I didn't mean to interrupt you.

3       In any case, it would not be surprising at all that a  
4       CLEC, an efficient CLEC could serve between 5,000 and  
5       10,000 customers via 24 DS1s, correct?

6           A.       It's possible. I would expect the number  
7       to be somewhere slightly below 5,000.

8           Q.       At page -- I'm sorry. At page 1 of  
9       Mr. Hamiter's rebuttal testimony, he cited to a recent  
10      Texas Order, that is an Order of the Texas Public  
11      Utilities Commission which upheld the 24 DS1 threshold for  
12      establishing an additional POI. At least that's the  
13      representation made by Mr. Hamiter. Do you recall that?

14          A.       Yes.

15          Q.       Do you have any reason to dispute as to  
16      whether he reported that Order correctly?

17          A.       That Order is correct. It's not  
18      administratively final at this time.

19          Q.       But it is an Order which was adopted by the  
20      full Commission?

21          A.       Yes.

22          Q.       Okay. The same page, he testifies that a  
23      recent 13-state agreement between Level 3 and SBC also  
24      incorporates the same 24 DS1 threshold. Do you recall  
25      that testimony?

1           A.       I've read it.

2           Q.       Do you have any reason to dispute that this  
3 occurred either?

4           A.       I don't know one way or the other.

5           Q.       Do you have any -- okay. Thank you.

6                    I'm going to turn briefly, if I may, sir,  
7 to network reliability issues as they pertain to a single  
8 versus multiple POI. Page 92 of his direct testimony,  
9 Mr. Hamiter testifies that by selecting a single POI, a  
10 carrier is putting the reliability of both networks in a  
11 vulnerable position. Though a single POI may help a new  
12 entrant establish a foothold in a given market or LATA, as  
13 growth accelerates, multiple POIs provide additional  
14 security and reliability that a single POI does not.

15                   Do you recall that testimony?

16          A.       Yes.

17          Q.       Do you have any reason to dispute it?

18          A.       Yes, I do.

19          Q.       Just a moment. When you were asked the  
20 question, if there is an equipment failure at the POI or a  
21 cable cut between the single POI and the CLEC switch,  
22 would that result in the CLEC's customers being able to  
23 complete calls except to other customers served via that  
24 switch, you answered yes.

25                   Were you asked that question, and did you

1 answer yes to that question?

2 A. Yes, I did.

3 Q. And that was in your own testimony on  
4 Pages 13 and 14. Is that correct? Did I represent your  
5 testimony correctly?

6 A. Yes.

7 Q. Okay. Thank you. Now, you also go on in  
8 your rebuttal, page 14, to say that there are many options  
9 to establish redundancy to avoid or minimize this risk; is  
10 that correct?

11 A. Yes.

12 Q. Now, that appears at page 14. Is there  
13 anything in your testimony which specifically provides  
14 those options concretely, which lays them out? Excuse me.

15 A. I'd be glad to tell you what many of them  
16 are, if you want to know.

17 Q. I would like to know first if there is  
18 anything in your testimony that you point to as to what  
19 those specific options would be and how they would  
20 ameliorate the problems of customers not being able to  
21 complete their calls.

22 A. No, I didn't explore what those options are  
23 in my testimony. Many of them --

24 Q. Thank you.

25 A. -- are very carrier specific.

1 Q. Thank you.

2 I want to move to another issue briefly, if  
3 I may. Page 16 of your rebuttal, you present the issue of  
4 disputed POI location issues, that is where the POI may be  
5 located. I believe that's at page 16 of your rebuttal.  
6 So this entire portion of -- or this portion of  
7 testimony -- strike that. Let me go back.

8 Do you have your IT-- excuse me. I'm  
9 sorry. Do you have your DPLs with you, sir? I would have  
10 reference to the NIA, the NIM, the DPLs in specific.

11 A. I have the ones that were current as of a  
12 couple of weeks ago. I don't have with me the most recent  
13 final ones.

14 Q. They're probably the same, but we'll try to  
15 work through it. Okay?

16 I want to refer you, if I may, sir, firstly  
17 to NIA 10, and I think that is at page 28. Okay. Is it a  
18 fair statement to say that that proposed -- or that  
19 issue -- and to back up just a moment, the general issue  
20 on which you testify on page 16 of rebuttal touches three  
21 issues, NIA 10, NIM 3, NIM 2 and NIM -- those three basic  
22 issues all having to do with where the POI is supposed to  
23 be.

24 Now, with respect to page 28 of 44, do I  
25 accurately characterize that under SBC's -- or I'm

1     sorry -- under MCI's proposed language, POI -- says POIs,  
2     quote -- let me back up. It says, quote, POIs which may  
3     be CLEC's switch location shall be established at any  
4     technically feasible point inside the geographical areas  
5     in which SBC Missouri is the ILEC.

6                     MR. MAGNESS: Your Honor, just for clarity  
7     of the record, Mr. Gryzmala said MCI. This is the CLEC  
8     Coalition DPL. Just wanted to make sure that's in the  
9     record.

10                    JUDGE THOMPSON: Thank you, Mr. Magness.  
11     Do we have the right DPLs here?

12                    MR. GRYZMALA: I'm looking at the CLEC  
13     Coalition's. At least it's titled CLEC Coalition.

14                    MR. MAGNESS: You just said MCI.

15                    MR. GRYZMALA: I'm sorry.

16     BY MR. GRYZMALA:

17                    Q.     Says, quote, POIs which may be CLEC's  
18     switch location, end quote. Do you see that at the very  
19     beginning?

20                    A.     Yes, I do.

21                    Q.     And if I may briefly ask you to take a look  
22     at the NIM 3, which would appear page 8, and that says,  
23     does it not, quote, if the CLEC chooses to interconnect at  
24     a point between the CLEC's premises and an SBC Missouri  
25     tandem or end office, it should be allowed to do so, end



1 of quote. Did I read it correctly in CLEC preliminary  
2 position, page 8 of 10?

3 A. I haven't found that point that you're  
4 referring to.

5 Q. Okay. Let's back up. Now, I am looking,  
6 sir, at the May 20 dated DPL. So it may be the wrong page  
7 for you. But it is associated with NIM Issue 3, and the  
8 NIM issues are set in the second column. I've usually got  
9 to hunt for the issue and then go from there.

10 A. I don't find what you're talking about in  
11 NIM 3.

12 Q. What date is your document?

13 A. March 30th.

14 Q. To help, I have what I believe to be the  
15 May 20 DPLs. I can share this with you.

16 MR. MAGNESS: Oh, great. Why don't you do  
17 that?

18 MR. GRYZMALA: I didn't want to get in  
19 anybody's way here.

20 BY MR. GRYZMALA:

21 Q. If you remember what I said, you can tell  
22 me if you see it there, or if you don't, you can just go  
23 ahead and read it.

24 A. All right. I've read it.

25 Q. Does it say what I said it said? Why don't

1 you quote the portion I highlighted?

2 A. If the CLEC chooses to interconnect at a  
3 point between the CLEC's premises and an SBC Missouri  
4 tandem or end office, it should be allowed to do so.

5 Q. And does that appear under the CLEC  
6 Coalition's proposed language column? Says CLEC language  
7 in that column from which you read at the top?

8 A. I don't know. You haven't handed me --

9 Q. If you look at your page, just scroll up to  
10 the top, and does it say CLEC language at the top of that  
11 column on the very same page?

12 A. Yes.

13 Q. Okay. Very good. Let me reapproach if I  
14 may.

15 JUDGE THOMPSON: You may.

16 BY MR. GRYZMALA:

17 Q. I've handed you page 4 of the CLEC  
18 Coalition NIM DPL, and I want to direct your attention to  
19 the portion, I believe it's Section -- I don't have my  
20 copy. I gave it to you. I believe it's entitled  
21 Section 1.1 on page 3; is that correct? Did I highlight  
22 it?

23 A. Yes.

24 Q. And does it not refer to a deployment of a  
25 POI, if I have this correctly, quote, at any point between

1 CLEC's premise and an SBC tandem or end office?

2 A. This is referring to mid-span fiber meet  
3 points. I don't believe it's referring to POIs.

4 Q. Okay. That's fine. But does it say what I  
5 say it says?

6 A. You know, at this point I don't remember.  
7 Shall I read the words you highlighted?

8 Q. Yes.

9 A. CLEC's fiber cable and SWBT's fiber cable  
10 are connected at an economically and technically feasible  
11 point between the CLEC location and the last entrance  
12 manhole at the SWBT central office.

13 Q. I would -- thank you. That is not the  
14 language I was going to focus on just now, but that is  
15 where I was going next, so you have accurately captured  
16 that. I want to check with you.

17 At page 3, which I just gave you, this is  
18 our fourth point that we're talking about in the DPL.

19 MR. MAGNESS: Mr. Gryzmala, page 3 of what  
20 now?

21 MR. GRYZMALA: Of the same DPL.

22 MR. MAGNESS: That's NIM?

23 MR. GRYZMALA: Yes, CLEC Coalition.

24 BY MR. GRYZMALA:

25 Q. I believe you may find that at Section 1.1.

1 Is there not reference to, quote, at any point between  
2 CLEC's premise and the SBC tandem or end office?

3 A. Yes, I see that.

4 Q. All of this DPL language would allow  
5 placement of a POI at a point other than SBC's tandem or  
6 end office, correct?

7 A. Well, again, all the discussion we've been  
8 having, that we have had in reference to Issue No. 2 and  
9 Issue No. 3 have to do with the location of the mid-span  
10 fiber meet point. That is not necessarily the same place  
11 that a point of interconnection or POI would be located.

12 Q. Is it not MCI's position that it should  
13 remain free --

14 MR. MAGNESS: CLEC Coalition.

15 MR. GRYZMALA: I'm sorry. Excuse me.

16 BY MR. GRYZMALA:

17 Q. Is it not the CLEC Coalition's position  
18 that it should remain free to establish a POI at a point  
19 other than SBC Missouri's tandem or end office?

20 A. Yes. I have recommended that an additional  
21 option should be at the CLEC switch location.

22 Q. In fact, you have not only recommended for  
23 it, you have pushed that as your No. 1 priority; is that  
24 not accurate?

25 A. I don't know that I'd established

1 priorities. It's a very important point to us.

2 JUDGE THOMPSON: Can I break in for a  
3 minute, and could you tell me the difference between a POI  
4 and a mid-span fiber meet point?

5 THE WITNESS: Yes. Of course, a mid-span  
6 fiber meet point is some point where SBC and the CLEC  
7 agree that they're each going to build fiber to that point  
8 and connect it. You know, usually it's just a splice,  
9 which is a very small metallic case. It could be in a  
10 manhole or -- doesn't even have to be weather protected or  
11 anything like that. You'd like to protect it from  
12 backhoes and post hole diggers.

13 A point of interconnection is in -- it's  
14 more of an economic point. It's a point at which I have  
15 agreed or the CLEC is responsible for obtaining facilities  
16 to get to that point, and SBC is responsible for providing  
17 facilities, and by that I mean transport, from that point  
18 to SBC offices.

19 If my mid -- if I have a mid-span fiber  
20 meet, and if that is not my POI, for example, if the POI  
21 is at SBC's wire center, then I have to make some  
22 arrangement with SBC to compensate them for the use of  
23 their fiber from the mid-span fiber meet on to their  
24 central office wherever the POI is located.

25 JUDGE THOMPSON: Thank you. Very clear

1 explanation. Please continue.

2 BY MR. GRYZMALA:

3 Q. If the -- let us assume for present  
4 purposes that the deployment of a POI in a particular case  
5 would be at your switch, the CLEC Coalition switch. Would  
6 you not agree that that switch location would be outside  
7 of SBC Missouri's network?

8 A. I would very strongly disagree with that  
9 premise. SBC has facilities to that switch location.  
10 Those facilities are a part of SBC's network.

11 Q. So the question turns, then, as to whether  
12 or not those particular facilities should be regarded as  
13 SBC's network for purposes of establishment of a POI?

14 A. Yes.

15 Q. What if -- would your answer be different  
16 if the CLEC in Missouri were to deploy a switch in an area  
17 in Missouri in which SBC doesn't do business?

18 A. If SBC doesn't have facilities to that  
19 location, then I would not recommend that they be  
20 permitted to establish a POI there.

21 Q. But isn't it a fact that your language  
22 would permit exactly that in each of the cases you quoted?

23 A. It would permit that, but then the question  
24 that would immediately arise is, what do you do in a  
25 no-facility situation? That would require the CLEC to

1 negotiate an arrangement that SBC was agreeable to to have  
2 facilities constructed.

3 Q. Your language, I remind you, sir, unless  
4 you can correct me, does not refer to commercially  
5 reasonable or commercially agreeable. If I recall, and  
6 correct me if I'm wrong, it focuses on any point  
7 technically feasible.

8 Now, if it is at your switch and if it is  
9 outside of Missouri's incumbent local exchange territory,  
10 it is still, is it not, technically feasible for SBC to  
11 reach you, is it not?

12 A. In my opinion --

13 Q. It can build, can't it?

14 A. If SBC does not have fiber facilities at  
15 that location, then interconnection is not feasible at  
16 that point in time.

17 Q. Well, what prevents the CLEC Coalition from  
18 arguing that it would be required to deploy additional  
19 facilities because it's technically feasible to do so?

20 A. Well, I'm sure they wouldn't be sponsoring  
21 me as a witness for that purpose, and it would be my  
22 recommendation that it should not be considered to be  
23 technically feasible under those conditions.

24 Q. I want to make very certain. You do also  
25 agree, do you not, that under the language that has been

1 proposed by MCI, that is --

2 JUDGE THOMPSON: CLEC Coalition.

3 BY MR. GRYZMALA:

4 Q. I'm sorry -- by the CLEC Coalition, that is  
5 an outcome which could well happen?

6 A. I don't think so.

7 Q. What part of the language proposed by the  
8 CLEC Coalition would allow SBC to decline a point of  
9 interconnection in an area outside where it does business  
10 in Missouri?

11 A. SBC daily declines orders for many things  
12 that are provided under interconnection agreements due to  
13 lack of facilities.

14 Q. They may push out due dates; isn't that  
15 more accurate?

16 A. No. They flat refuse to work the orders.

17 Q. Your position is that SBC would be  
18 permitted to decline connecting a POI with the CLEC  
19 Coalition outside of SBC Missouri's franchise service  
20 territory where the language of the agreement says if a  
21 CLEC -- now, this is page 8 of 10 of the NIM -- where the  
22 language says, if the CLEC chooses to interconnect at a  
23 point between the CLEC's premises and an SBC Missouri  
24 tandem or end office, it should be allowed to do so; that  
25 is the position of the CLEC Coalition?



1           A.       Again, that is in reference to mid-span  
2 fiber meet, and not in reference to a POI.

3           Q.       What language has MCI proposed --

4           A.       CLEC Coalition.

5           Q.       I'm sorry. What language has the CLEC  
6 Coalition proposed or what language can the CLEC Coalition  
7 point to that it has proposed that would allow SBC to  
8 decline placing that additional facility where it had no  
9 facilities or a lack of facilities? What language can you  
10 point to offered by the CLEC Coalition which does that?

11          A.       Again, this is in reference to a mid-span  
12 fiber meet and not in any reference whatsoever to a point  
13 of interconnection or a POI.

14          Q.       Is there any language that the CLEC  
15 Coalition has offered with respect to a point of  
16 interconnection, whether in its NIA DPL, it's NIM DPL or  
17 its ITR DPL which would allow SBC to decline where it did  
18 not have facilities existing?

19          A.       There are no words that address that issue  
20 in the language that we have proposed.

21          Q.       Thank you. None of those points in the  
22 language that we just talked about -- excuse me. Strike  
23 that.

24                    It is possible the language can be read  
25 with respect to all four of the languages we discussed,

1   that language -- isn't it true that that language could be  
2   read to allow deployment of a POI other than between one  
3   SBC Missouri switch and another SBC Missouri switch or  
4   tandem or end office?

5           A.     Again, it's our proposal that the CLEC  
6   be -- that the POI could be established at the CLEC switch  
7   location.

8           Q.     Let me make sure. I'm not sure I asked my  
9   question properly. In each of the instances we talked  
10  about, each of those instances could be read as beyond the  
11  facility between our switch at the Wire Center A for SBC  
12  Missouri and our switch at Wire Center B; isn't that  
13  correct?

14          A.     The CLEC switch location may not  
15  necessarily be geographically precisely between two SBC  
16  switches. It might accidentally be.

17          Q.     Typically it is the case that it is not  
18  between those two offices. Isn't that the case, Mr. Land?

19          A.     Well, I mean, typically you're going to  
20  have a different fiber cable going from your switch to the  
21  building in which the CLEC switch is located than the  
22  fiber cable that's running from one of your switches to  
23  another SBC switch.

24          Q.     And you still maintain that a POI is okay  
25  and it is right to establish a POI, to require that SBC

1 establish a POI at your switch, at the CLEC location  
2 switch?

3 A. Absolutely.

4 Q. And you made that same statement, did you  
5 not, before the Kansas Commission?

6 A. Yes.

7 Q. And you also conceded to the Kansas  
8 Commission that there are no orders or rules or law that  
9 require that CLECs be allowed to dictate that a POI be  
10 located at a CLEC switch. Did you not make that statement  
11 to the Kansas Commission?

12 A. That's correct. I said that was a  
13 commission prerogative.

14 Q. And did it not pull that even though SBC  
15 may have fiber facilities at a CLEC switch, the Commission  
16 cannot find that the CLEC switches within SBC's network,  
17 the Commission finds for SBC on this issue and reverses  
18 the arbitrator? Isn't that the way it turned out in  
19 Kansas?

20 A. I don't know.

21 MR. MAGNESS: Mr. Gryzmala, do you have a  
22 copy of that for us?

23 MR. GRYZMALA: I'm not going to seek to  
24 admit it. I don't. I just -- I don't.

25 JUDGE THOMPSON: Do you want to come up and

1 look at it?

2 MR. MAGNESS: Sure.

3 BY MR. GRYZMALA:

4 Q. Mr. Land -- I'm on my clock. Mr. Land,  
5 that purports to be Order No. -- Mr. Land, does that --

6 MR. MAGNESS: Tell the reporter what it is.

7 BY MR. GRYZMALA:

8 Q. Mr. Land, would you identify that document,  
9 what it is entitled as?

10 A. Ordered -- Order No. 13, Commission Order  
11 on Phase 1. It lists a number of docket numbers. Do you  
12 want me to read them?

13 Q. No. Is it fair to state that that appears  
14 to you to be, subject to your check -- or I will represent  
15 to you that that is an Order of the Kansas Corporation  
16 Commission that was entered in Phase 1 of its post-K2A  
17 arbitration proceedings. Would you have any reason to  
18 dispute that statement?

19 A. No.

20 Q. And would you take a look at pages 16 and  
21 17. And I would ask you, would you agree that I  
22 represented correctly what that Order said?

23 A. The Order says, the Commission finds it has  
24 discretion on this issue, which was my testimony in front  
25 of the Commission that you quoted a minute ago.

1           Q.     And let's go back to my question. My  
2 question was, does the Order say what I said it says?

3           A.     Yes, it does. I was adding a little bit to  
4 it for you.

5           Q.     I realize that. Thank you.

6                     I want to focus on DPL Issue 11B. I  
7 believe it's NIA Issue 11B. And again, I think you're  
8 looking, frankly, Mr. Land, at a different DPL, so  
9 hopefully this will match up. Mine is dated May 20. I'm  
10 looking at page 34 of 44 under Issue 11, in the far left  
11 column, the issue statement says, should CLEC be  
12 financially responsible for interconnection facilities on  
13 its side of the point of interconnection? Is that what  
14 yours says?

15          A.     Yes, it does.

16          Q.     Okay. Great. Let us assume that you have  
17 language before you simply stating that the CLEC will be  
18 responsible for engineering -- strike that.

19                    First I want to talk about proposed  
20 language that is SBC's because you have the DPL in front  
21 of you. Does our proposed language say that each party  
22 will be responsible for providing the necessary equipment  
23 and facilities on their side of the POI?

24          A.     Yes.

25          Q.     Okay. Let's assume that you have language

1 before you simply stating that the CLEC will be  
2 responsible for engineering and maintaining its network on  
3 its side of a physical POI and that the ILEC will be  
4 responsible for engineering and maintaining its network on  
5 its side of that POI. Would that be reasonable or  
6 unreasonable to you?

7 A. There's some important details that are not  
8 covered in your question. Absent those details, I can't  
9 give you an answer.

10 Q. Okay. Let me see if I can -- and that was  
11 a mouthful, so let me go back for just a moment. Let's  
12 say that the interconnection agreement, let's assume that  
13 the language says the CLEC will be responsible for  
14 engineering and maintaining its network on its side of a  
15 physical POI. Is that reasonable to you?

16 A. Yes.

17 Q. All right. Let's go to the second piece.  
18 The ILEC will be responsible for engineering and  
19 maintaining its network on its side of the POI. Is that  
20 acceptable?

21 A. Yes.

22 Q. And if a Commission had approved that  
23 language, you would therefore regard that as reasonable,  
24 would you not?

25 A. In so far as it, go yes.

1           Q.       Would it make a difference if this  
2 Commission had approved that language?

3           A.       I don't think so.

4           Q.       Are you aware of an ICA having been  
5 approved by the Commission in Case No. -- I'm not sure if  
6 it's 1 -- I believe its IK-2005-0152 between Sprint and  
7 another carrier?

8           A.       No.

9           Q.       Let's move to segregated trunk groups for  
10 mass calling. Mass calling is a high volume of calls by  
11 anyone's definition, wouldn't you agree?

12          A.       Mass calling is a process and a network by  
13 which you protect the local exchange network from high  
14 volumes of calls.

15          Q.       Okay. But mass calling, just that limited  
16 term, is a high volume of calls, wouldn't you agree?

17          A.       Yes.

18          Q.       Not only that, wouldn't you also agree that  
19 that high volume of calls could overwhelm available  
20 facilities and degrade the quality of service to many  
21 users?

22          A.       It can if the volume is high enough, and  
23 that happens regularly. Not regularly, but it happens  
24 often.

25          Q.       It happens often and if the volumes are

1 sufficient, correct, a high enough volume will do that?

2 A. A snow day will do that in this part of the  
3 country.

4 Q. Well, I will submit to you that I'm reading  
5 at page 44 of your direct, lines 8 and 9, and I see a  
6 statement that says, mass calling is the temporary  
7 occurrence of a high volume of calls that could overwhelm  
8 available facilities and degrade the quality of service to  
9 many users. There's no qualification to that. Do you  
10 recall that statement?

11 A. Yes.

12 Q. I want to ask you if you could kindly take  
13 a look at ITR DPL Issue 6 for the CLEC Coalition. Now, on  
14 my May 20 copy, Mr. Land, I see it at page 15 of 25. I  
15 don't know where it shows up on yours. But the issue is,  
16 should CLEC be required to establish a segregated trunk  
17 group for mass calling. Do you see that?

18 A. Yes, I do.

19 Q. Okay. With that in mind, would it be your  
20 position that in lieu of a segregated trunk group, a CLEC  
21 could use call gapping and software designed networks to  
22 control mass calling?

23 A. Call gapping is not an acceptable  
24 substitute and I've not recommended that. There are  
25 potentially other substitutes that exist or could be



1 designed that would -- that would work. Call gapping is  
2 simply a process by which you limit callers to some  
3 percentage of the calls that they attempt. You  
4 immediately block.

5 Q. It's not a good thing, is it?

6 A. Well, it's a good tool under certain  
7 conditions, but it's not a tool that you would like to  
8 have for media mass calling control.

9 Q. You did not recommend it?

10 A. I don't recommend it to solve this  
11 particular problem.

12 Q. All right. Then let me refer you to the  
13 CLEC language column at Issue 6, and there's some  
14 underlining down at the bottom portion of that. If your  
15 copy's the same as mine it says, in lieu of the above, the  
16 above being mass calling public response choke network,  
17 CLEC may use call gapping and software designed networks  
18 to control mass calling. Do you see that?

19 A. Yes.

20 Q. Based on your testimony, wouldn't you think  
21 it would be advisable that the CLEC Coalition withdraw  
22 that language?

23 A. I'd recommend withdrawing the call gapping.  
24 That doesn't belong there.

25 Q. Thank you.

1           A.       The remainder of the recommendation I think  
2 is appropriate.

3           Q.       In other words, the remainder that has to  
4 do with software designed networks?

5           A.       Yes.

6           Q.       All right. You do recommend, I believe,  
7 software controls in your testimony. I believe that was  
8 referenced at page 25.

9           A.       Yes, I do. The whole purpose of a choke  
10 network is to limit the number of calls that can exit a  
11 central office towards the customer who's initiated the  
12 mass calling event. SBC would like to do that through  
13 hardware. If you only have three trunks up or whatever  
14 the number is, then that's the maximum number of calls.

15          Q.       Okay.

16          A.       My suggestion is that you can limit the  
17 number of calls through software in the switch without  
18 having to establish separate trunk groups for that  
19 purpose.

20          Q.       So there are kind of three things going on.  
21 One is mass calling from the network, which you would  
22 prefer, and then there's also call gapping, and then  
23 there's a software fix. You don't approve of, don't  
24 recommend call gapping. So you then, therefore, would  
25 prefer software solution or SBC's solution, correct?

1           A.       I would like for that option to be  
2 contractually open for a CLEC and SBC to explore. It's  
3 important that the details work, and the CLEC and SBC  
4 would have to work out the details and see that they are  
5 acceptable, but I didn't want that door forever barred to  
6 discuss that option based on the language in the contract.

7           Q.       But am I correct -- let me refer you back  
8 to the language we just turned to. The language says,  
9 CLEC may use -- strip call gapping for a moment. CLEC may  
10 use software designed networks. This is not language  
11 which would permit the two companies to talk about it,  
12 wouldn't you agree?

13          A.       The language doesn't say anything about  
14 them talking, but there are a lot of details that are not  
15 addressed here that the two companies are going to have to  
16 work out.

17          Q.       And if those details -- and those details  
18 are important details, don't you agree?

19          A.       Of course.

20          Q.       And if they're not reflected here, isn't it  
21 more prudent to take out this language entirely?

22          A.       No. If the two sides can't get together  
23 and reach an agreement on an alternative, then I'm sure  
24 SBC's going to say, no, we're not going to do that, and  
25 then if they feel it's an important enough issue, it can

1     come back here in dispute resolution.

2                     So I think the two sides are going to reach  
3     an agreeable resolution as long as the contract leaves the  
4     door open to explore.

5             Q.       But all I want to point out, let me ask  
6     you, does the contract language leave that door open as  
7     you read it?

8             A.       Absolutely.

9             Q.       What parts says to you?

10            A.       It does not spell out all the details of  
11     how that is to work. Those details require the agreement  
12     and cooperation of the parties.

13            Q.       Those agreements and discussions and  
14     cooperation are not reflected in this language, sir.

15            A.       You know, this contract would probably fill  
16     this room if it spelled out all those details on every  
17     issue.

18            Q.       You identify three criteria which under  
19     your view would meet the software requirements necessary  
20     to handle the job there at page 25.

21                     JUDGE THOMPSON: 25 of?

22                     MR. GRYZMALA: The rebuttal of Mr. Land.

23     BY MR. GRYZMALA:

24            Q.       One is that the software-derived choke  
25     networks, that there are permanent instructions within a

1 switch that implement without a requirement for human  
2 intervention, correct?

3 A. Yes.

4 Q. They block calls at the end office, and  
5 they limit calls in a manner consistent with choke  
6 trunking requirements. Those are your three criteria --

7 A. Yes.

8 Q. -- is that correct?

9 How did you establish -- strike that.

10 Has any independent third party assessed  
11 the reliability of the software solution as you have  
12 proposed it?

13 A. Not that I know of. Our efforts to talk  
14 with SBC about those solutions were fruitless.

15 Q. Have you gone to any third-party  
16 independent firm, Ernst & Young, Telcordia, Bearing Point,  
17 and proposed to them a methodology where they could assess  
18 as an independent third party?

19 A. Our first step was to ask SBC, let's talk  
20 about what would-- what could work here.

21 Q. Mr. Land, answer my question respectfully  
22 and your counsel can follow up.

23 A. I'm saying we never got to that step.

24 Q. Thank you. With regard to ITR 9, Mr. Land,  
25 Issue 9, my May 20 copy shows that Issue 9 references

1     should the ICA contain provisioning intervals?

2             A.       Yes.

3             Q.       And can I ask you kindly to turn to

4     Section 6.5 of the proposed CLEC language?

5             A.       Yes.

6             Q.       The due date normally -- well, excuse me.

7     The due date referenced in the agreement, which is under

8     Section 6.5, is that trunks shall be -- due dates for

9     trunks shall be 20 business days, correct?

10            A.       Yes.

11            Q.       And that pretty much has been the case for

12     several years in multiple states as far as trunk

13     installation orders, is that correct, as a general rule in

14     the past?

15            A.       That's the language that's in the current

16     x2A agreements.

17            Q.       And I think the dispute here has to be with

18     whether the ICA should contain the provisioning interval;

19     is that correct?

20            A.       It's whether the replacement should contain

21     the same provisioning interval that's in the existing

22     agreement today.

23            Q.       Now, the CLEC handbook which SBC provides

24     online allows for a 20-day interval, 20 business day

25     interval, does it not?

1           A.       I believe that it does.

2           Q.       And that has been the case for quite some  
3 time; isn't that correct?

4           A.       Yes. The CLEC handbook has conformed to  
5 the contracts.

6           Q.       Right.

7           A.       We don't know what direction that would go  
8 if that requirement is not in the contracts.

9           Q.       That's the whole point of your testimony,  
10 isn't it?

11          A.       It sure is.

12          Q.       All right. Now, is there anything that you  
13 can point to in your testimony, any language whatsoever  
14 that you can point to that indicates that SBC has sought  
15 to shorten that interval?

16          A.       No.

17          Q.       Now, you would agree that not infrequently  
18 orders for large quantities of trunks can take more than  
19 20 days; would you not agree?

20          A.       I agree that it's SBC's practice not to  
21 work them in 20 days.

22          Q.       We'll take that up in a minute. There are  
23 instances in which there are lack of trunk ports or there  
24 are lack of facilities for one reason or another that  
25 prevents SBC from making a 20 due date provisioning

1 interval; is that not accurate?

2 A. Well, there are two issues. Yes, there can  
3 be even with a small order for trunks a lack of facilities  
4 which cannot be overcome within 20 days. Then there's  
5 SBC's practice that on large orders it wants to make it a  
6 project, and rarely or never will those be worked within  
7 20 days.

8 Q. Where in your testimony can you point us to  
9 specific instances where the Coalition has been the victim  
10 of provisioning delays beyond 20 days? Where in your  
11 testimony might we look for that?

12 A. I have just said that I have seen instances  
13 where CLECs suffered from that. I have not given the  
14 details.

15 Q. So the answer is no?

16 A. I have not given the details in my  
17 testimony.

18 Q. Thank you. You have not referred to any  
19 instance, correct?

20 A. That's correct.

21 Q. Now, your language doesn't provide for  
22 any -- excuse me.

23 The CLEC Coalition's proposed language  
24 which is reflected at ITR Issue 9 provides no exception  
25 whatsoever for circumstances having to do with lack of



1 facilities, does it?

2 A. We kept the same language that's in the  
3 existing agreement today.

4 Q. All right. So let me ask you to turn to  
5 the language, if you would, sir, please, and tell me if  
6 you see any language there that allows for a pass, if you  
7 will, in the case where there's no trunk facilities  
8 available to you. There is no such language in the CLECs'  
9 proposed language, is there?

10 A. No, not at this point in the contract.

11 Q. And would you not agree that in every  
12 instance of a trunking request that comes across an ASR,  
13 whether the job is small or large or there's facilities or  
14 there's trunk ports or not, this language would require  
15 that there be a 20 business day completion of that job;  
16 isn't that correct?

17 A. That's the strict reading of the language.  
18 The reality is in some instances SBC doesn't do that, and  
19 in most cases CLECs have agreed that there's appropriate  
20 times to go beyond that time and it has not been an issue  
21 for dispute resolution in front of public service  
22 commissions.

23 Q. Would you not agree that if a CLEC wasn't  
24 quite so forgiving, even though there were reasonable  
25 reasons for not being able to complete that order, the

1 CLEC would have language which it could point to which  
2 says you are required to provision this trunk in 20 days.  
3 There are no exceptions. Wouldn't that language allow  
4 that?

5 A. As a practical matter, I think if that were  
6 brought as dispute resolution back to a judge, he would  
7 say, what are your reasons, SBC? And if there were  
8 reasonable reasons for delay, I think that would be the  
9 end of the discussion.

10 Q. Your testimony on that, on the possibility  
11 of SBC's extending this out beyond 20 days also refers to  
12 a Texas accessible letter. Do you recall that?

13 A. Yes.

14 Q. And I'm looking at the attachment, I think  
15 it's Exhibit A of your testimony. This has a statement  
16 that says the interval increase that is -- excuse me.  
17 This has to do with loops and related subjects, loops,  
18 transport, moving from three business days to five  
19 business days; is that correct?

20 A. Yes.

21 Q. In other words, a push out of the  
22 provisioning interval?

23 A. Yes.

24 Q. It says, does it not, that the interval  
25 increases in accordance with the Texas Commission's

1 arbitration order on Track 1 issues issued February 23,  
2 2005; is that correct? Is that an accurate  
3 representation?

4 A. That's what it says.

5 Q. So the Texas Commission dealt with this  
6 situation in -- excuse me.

7 You say that the Texas Commission, that  
8 this is a wrong move, this is a move in the wrong  
9 direction and the Texas Commission will have to deal with  
10 it. Isn't that what your testimony said, deal with it?

11 A. What page are you quoting from?

12 Q. Page 47, although these are only nominal  
13 increases at this time, this is clearly a move in the  
14 wrong direction and a trend that the Texas Commission will  
15 have to deal with at some point if SBC continues  
16 backsliding on provisioning interval times. I have  
17 attached as Exhibit A the accessible letter implementing  
18 the changes to which I refer. Do you remember that  
19 testimony?

20 A. Yes.

21 Q. well, the letter refers specifically to the  
22 Texas Commission decision. Hasn't the Texas Commission  
23 already dealt with this point, need not deal with it  
24 later?

25 A. If SBC continues to lengthen provisioning

1 intervals to the extent that they are clearly  
2 unreasonable, then it will obviously be back on the  
3 Commission's doorstep to further address it.

4 Q. If, correct?

5 A. Yes.

6 Q. Your testimony does not cite to a single  
7 instance in which it has actually sought to extend  
8 provisioning orders for trunks from, say, 20 days which it  
9 is today to 25 or 30 or 60? Your testimony doesn't say  
10 that, does it?

11 A. Not yet. New contracts are just beginning.

12 Q. Okay. Thank you. I want to turn to  
13 ITR 10, which has to do with the matter of expediting  
14 orders.

15 MR. GRYZMALA: I only have just a couple of  
16 moments left, your Honor.

17 JUDGE THOMPSON: Very good.

18 BY MR. GRYZMALA:

19 Q. You understand if there's an actual  
20 blocking situation, SBC would do its best to accommodate  
21 expediting trunking orders; would you not agree with  
22 that?

23 A. That's what SBC has proposed for contract  
24 language.

25 Q. Do you not agree in that vein that the

1 language says, SBC's proposal says every effort will be  
2 made; is that correct?

3 A. Yes.

4 Q. Your testimony refers to a potential  
5 service affecting problem if the CLEC Coalition doesn't  
6 prevail here?

7 A. Yes.

8 Q. It says that on page 48. You refer to  
9 possible blocking, do you not?

10 A. Yes.

11 Q. Of course, there are no concrete instances  
12 in that section of your testimony, are there, sir?

13 A. I can cite a lot of concrete instances from  
14 my experience if you'd like for me to.

15 Q. Well, isn't this really just about hurrying  
16 up an order for a customer?

17 A. That's the most common occurrence that we  
18 have had in my experience.

19 Q. So it's less about pushing out a due date  
20 because of facility issues or difficulties on SBC's  
21 behalf; it's more to do with hurrying up an order for a  
22 customer. You indicate, do you not, at page 30, if I'm  
23 correct, of your rebuttal, that the most common problem  
24 has to do with a new customer wanting to get an expedited  
25 due date, correct?

1           A.       Yes.

2           Q.       If the Commission adopts your language,  
3 then you're going to be able to be in a situation where  
4 you're going to be able to command, are you not, shorter  
5 provisioning intervals than other CLECs?

6           A.       No.

7           Q.       Well, if they do not have the same language  
8 as do you and you have the benefit of more attractive  
9 language, wouldn't that be a necessary outcome, you can  
10 place yourself ahead of other CLEC orders?

11          A.       If that's important to those other CLECs,  
12 they should opt into this agreement.

13          Q.       Okay. Your testimony says that SBC should  
14 not object if the CLEC believes that there is a service  
15 affecting problem and, quote, the CLEC is willing to pay  
16 charges for expedited handling, at page 48 does your  
17 testimony so state?

18          A.       Yes.

19          Q.       Does the language at ITR Section 6.2.3 and  
20 ITR Issue 10 reference anything to the effect that the  
21 CLEC Coalition is prepared or willing to pay the charges  
22 for expedited handling?

23          A.       The language we've proposed in that section  
24 is silent on what charges, if any, there would be for  
25 expediting.

1           Q.       There's no reference at all to charges in  
2       that section, is that what you're saying?

3           A.       That what section of the agreement does not  
4       specifically address charges except under very few cases.

5           Q.       Is there any specific language that the  
6       CLEC Coalition could point to that the parties have agreed  
7       to wherein the Coalition has stated affirmatively we are  
8       willing to pay for expedited charges for trunk orders  
9       anywhere in the agreement?

10          A.       No. I wish we'd been able to resolve that  
11       issue with SBC, but it wasn't on the table for discussion.

12          Q.       I do, too.

13                   MR. GRYZMALA: Thank you, Mr. Land.

14                   JUDGE THOMPSON: Thank you, Mr. Gryzmala.

15       A gruelling 63 minutes and 22 seconds. We're going to  
16       take ten minutes.

17                   (A BREAK WAS TAKEN.)

18                   JUDGE THOMPSON: Now, isn't it my turn to  
19       ask him questions?

20                   MR. MAGNESS: As a matter of fact, it is.

21                   JUDGE THOMPSON: Thank you. I just wanted  
22       to make sure. I mean, if you've got some good ones, go  
23       ahead.

24                   MR. MAGNESS: Got ahead of myself. Sorry.

25                   JUDGE THOMPSON. That's all right.

1 QUESTIONS BY JUDGE THOMPSON:

2 Q. Could you just tell me real quick what the  
3 whole deal is about multiple POIs?

4 A. Yes. First off, reliability has been  
5 raised as an issue, and you could -- there's a lot of ways  
6 you could improve reliability. For example, you may  
7 connect at one point, but you may use sonic networks with  
8 a fiber ring connector, so any cut in the fiber on either  
9 side doesn't disrupt service.

10 Q. Okay.

11 A. Another possible way of improving  
12 reliability is to connect at more than one place.

13 Q. That's the multiple POIs?

14 A. Yes. And when you do that, you're not --  
15 you're probably increasing the chance of outages because  
16 you've got more places where you can be cut, but the  
17 outages are going to be smaller. They're going to be to  
18 more isolated areas instead of the entire network. So I  
19 guess just a business decision there, do you want more  
20 smaller outages or fewer large ones?

21 Q. Okay.

22 A. But the real issue is, if I'm going to  
23 connect with SBC, at what point, if any, do I have to pay  
24 for facilities beyond that first point of connection?

25 Q. You mean on their side?



1           A.       Well, yes. I mean, right now it's one POI  
2     and they pay for everything on their side. If at some  
3     point there's another POI, then I have to pay the freight  
4     between where I first connected and that second POI.

5           Q.       Okay. And you guys want fewer POIs, am I  
6     right, they're calling for more?

7           A.       That's right. We would like to only be  
8     required to have one POI in a LATA, and then if for  
9     reliability or any other reason out there we want to have  
10    more POIs, then we'd like to go to SBC and explore where  
11    those would be appropriate and how they could be mutually  
12    agreeable.

13                   JUDGE THOMPSON: Okay. Very good.  
14    Mr. Williams?

15                   MR. WILLIAMS: I have no questions.

16                   JUDGE THOMPSON: Ms. Dietrich?

17                   MS. DIETRICH: Yes.

18    QUESTIONS BY MS. DIETRICH:

19           Q.       Mr. Land, I just had a couple questions for  
20    you. In your direct testimony, at page 21, the sentence  
21    at the end of line 1 going on to line 2, AT&T and SBC have  
22    developed systems to properly bill for each type of  
23    traffic that transits its combined groups today. Do you  
24    see that sentence?

25           A.       I think my pagination is off a little bit

1 from yours, but I remember the statement.

2 Q. Okay. Can those systems that AT&T and SBC  
3 have developed be used by other CLECs?

4 A. Yes, they could.

5 Q. And would there be a cost for that?

6 A. I don't know.

7 Q. Okay. Then on page 35 of your testimony, I  
8 want to talk a little bit more about the POIs, and at  
9 least on my version of the testimony it's again line 1,  
10 and you're talking about what SBC customarily argues is  
11 that CLEC switch locations are not on its, quote, local  
12 network, end quote, and therefore are not locations where  
13 SBC is required to allow interconnection.

14 And as I understand the CLEC Coalition  
15 position, the CLEC switch should be a POI; is that  
16 correct?

17 A. The CLEC should be permitted to designate  
18 its switch location as a POI if it chooses to, yes.

19 Q. And exactly where would the connection be  
20 between SBC and the CLEC?

21 A. At SBC's fiber terminal located in the  
22 building where the CLEC switch is located. In every  
23 instance I'm aware of today, SBC has a fiber cable into  
24 the building where the CLEC is located and a fiber  
25 terminal somewhere in that building.

1           Q.       And then what runs between the fiber  
2 terminal and the CLEC switch? Whose facilities is that?

3           A.       That would be the CLEC's responsibility to  
4 provide those facilities.

5                   JUDGE THOMPSON: If I could interrupt, why  
6 do you think, if you know, SBC opposes that?

7                   THE WITNESS: They want us to pay for the  
8 facilities between our switch and their switch. They  
9 don't want to have to provide it at no charge to us.

10                  JUDGE THOMPSON: Okay. The facility's  
11 already there; they just don't want you using it?

12                  THE WITNESS: They don't want us using it  
13 for free.

14                  JUDGE THOMPSON: Do you think you should  
15 have to pay for it?

16                  THE WITNESS: No.

17 BY MS. DIETRICH:

18           Q.       Do you pay for POIs no matter where they're  
19 located?

20           A.       Today?

21           Q.       Uh-huh.

22           A.       Today, yes, we pay for the use of -- if we  
23 use SBC's facilities to connect from our switch out to a  
24 point of interconnection, then yes, we pay -- those are  
25 called leased facilities, and we pay the same prices as

1    what's in Attachment 6 for unbundled network elements. In  
2    some instances we may use other carriers' facilities for  
3    that connection. In some instances SBC is the only  
4    carrier that has connectivity and we have no choice.

5                   JUDGE THOMPSON: If I could interrupt  
6    again, let me see if I understand this. You want to be  
7    able to connect to them at your switches, in which case  
8    they bear the cost of getting to the switch. They want  
9    you to have interconnect with them at their switches, in  
10   which case you bear the cost of getting it to their  
11   switch; is that correct?

12                  THE WITNESS: Yes.

13                  JUDGE THOMPSON: So basically you each want  
14   the same thing?

15                  THE WITNESS: Yes, sir.

16                  JUDGE THOMPSON: Just want to make sure I  
17   understand. And is that what the proposals are, I mean,  
18   we're going to have to cut the baby by saying it's either  
19   A or B?

20                  THE WITNESS: That's the proposal up to a  
21   point. When you get into the additional POI requirement,  
22   then they're wanting us to pay to get out to many of their  
23   switches.

24                  JUDGE THOMPSON: Same thing, only a little  
25   twist on it?

1 THE WITNESS: Yes. And then they're  
2 wanting us to pay at special access rates, not at  
3 unbundled network element rates. So that's another issue  
4 we have on the table; if we pay, what is the appropriate  
5 price?

6 JUDGE THOMPSON: Let me ask you this: Is  
7 there any reason you couldn't put the POI in the middle  
8 between the two?

9 THE WITNESS: No.

10 JUDGE THOMPSON: I apologize.

11 MS. DIETRICH: That's okay.

12 BY MS. DIETRICH:

13 Q. Following up on that last question, is  
14 there any kind of limitation on the distance between the  
15 switches?

16 A. You're talking about from a technical  
17 standpoint or --

18 Q. Right, uh-huh.

19 A. Realistically, in the real world, no.

20 Q. I'd like to switch to the DPL, the ITR DPL  
21 that you were just discussing with Mr. Gryzmala, and on  
22 the version I have it's page 24 of 25, Issue No. 10. I'd  
23 like to ask a couple follow-up questions.

24 A. All right.

25 Q. This is talking about the blocking, and in

1 the CLEC language at 6.2.3 the underlying language says,  
2 or upon reasonable demonstration. Is there anywhere in  
3 the agreement where it spells out what a reasonable  
4 demonstration would be?

5 A. No. We would like the door open to be able  
6 to make that reasonable demonstration to SBC employees,  
7 and if they agree that we have indeed done so, then they  
8 would expedite the order.

9 Q. And I believe in your discussion you said  
10 that there wasn't any place in the agreement where it  
11 spells out what the cost of an expedited order would be;  
12 is that correct?

13 A. That's correct.

14 MS. DIETRICH: I think that's it. Thank  
15 you.

16 JUDGE THOMPSON: Thank you. Mr. Johnson?

17 MR. MICK JOHNSON: No questions.

18 JUDGE THOMPSON: Mr. Scheperle?

19 MR. SCHEPERLE: No questions.

20 JUDGE THOMPSON: Mr. McKinnie?

21 MR. MCKINNIE: No questions.

22 JUDGE THOMPSON: Okay. We're talking

23 recross.

24 RE-CROSS-EXAMINATION BY MR. GRYZMALA:

25 Q. A couple quick questions, Mr. Land. Given

1 the discussion between yourself and the Judge and  
2 Ms. Dietrich regarding the switch locations, under the  
3 language that the CLEC Coalition has proposed and as a  
4 practical matter, there's nothing that prevents the CLEC  
5 Coalition from deploying the switch, its switch in  
6 Kentucky, in outstate Missouri where we, SBC Missouri does  
7 not do business, in New York, and that is a fundamental  
8 distinction, is it not?

9 Is there anything in your language which  
10 puts a limiter on where the CLEC could place its switch?

11 A. I think there is, but give me just a minute  
12 and I'll check. I think the POI has to be within the  
13 LATA.

14 Q. And I want to ask you as a general policy  
15 matter, is it your understanding of the current regulatory  
16 environment that with regard to the facilities that  
17 emanate from a CLEC switch, in many respects these are  
18 regarded as entrance facilities to the ILEC's network, the  
19 kind of entrance facilities and items that the FCC policy  
20 has changed given the ability of a CLEC to self deploy  
21 with sufficient traffic volumes, the ability of a CLEC to  
22 collocate with other CLECs, the ability of a CLEC to  
23 economically deploy its own entrance facilities and its  
24 own means of putting a link between its switch and the  
25 ILEC's network?

1                   Wouldn't you also agree, in addition to  
2     that, that that policy signals a departure from the  
3     traditional reliance upon the ILEC's network, and isn't  
4     that exactly what the TRRO says?

5                   MR. MAGNESS: Your Honor, Mr. Land does not  
6     have testimony concerning the DPL issues on entrance  
7     facilities. Those are the testimony of Mr. Cadieux on  
8     UNEs and on the TRRO issues. I think they're more  
9     appropriately addressed to a witness that's actually  
10    testified to that. So I would ask Mr. Gryzmala to save  
11    the speech and the question for Mr. Cadieux tomorrow.

12                  JUDGE THOMPSON: TRRO, isn't that an FCC  
13    order?

14                  MR. GRYZMALA: Yes, your Honor.

15                  JUDGE THOMPSON: And weren't we going to  
16    save that for the Brief?

17                  MR. GRYZMALA: Yes, we are. I only asked  
18    him as a factual matter if the kinds of things that you  
19    asked him about and Ms. Dietrich asked him about have been  
20    long regarded as entrance facilities. That's all.

21                  JUDGE THOMPSON: As he just summarized it,  
22    you may answer his question if you can.

23                  THE WITNESS: There are two types of  
24    facilities typically connecting to a CLEC switch or an  
25    ILEC switch. There are those facilities that connect that



1 switch to customers. You might call those loop  
2 facilities. And there are facilities which connect that  
3 switch to other switches. We might most commonly call  
4 those trunk facilities.

5 The FCC has addressed loop facilities and  
6 entrance facilities used to provide loops to connect to  
7 customers. It has not addressed trunking facilities and  
8 those facilities used to connect to other switches.

9 BY MR. GRYZMALA:

10 Q. I just have one question, and I trust it's  
11 not a legal question. Your claim, then, would be that the  
12 FCC has not treated the matter of entrance facilities as  
13 it has to do with dedicated transport to connect the CLEC  
14 switch to our network? Are you saying that?

15 A. It has not dealt with those facilities that  
16 are used for trunking purposes. It has only dealt with  
17 those facilities that are used for connections to  
18 customers.

19 MR. GRYZMALA: Okay. Fair enough. Thank  
20 you.

21 JUDGE THOMPSON: Thank you. Redirect?

22 REDIRECT EXAMINATION BY MR. MAGNESS:

23 Q. Mr. Land, the issue that just arose, in  
24 fact, in the TRRO the FCC specifically made that  
25 distinction, didn't they, the one you just made, between

1 different types of entrance facilities?

2 A. Yes. I believe it's paragraph 140 where  
3 the FCC has affirmed that the ILECs continue to have  
4 their -- the obligation they had in the past for trunking,  
5 is my layman's interpretation of what that paragraph says.

6 Q. Okay. Let's talk about technical  
7 feasibility here for a moment. When you -- and let's look  
8 at the DPL for NIM, network interconnection methods. I  
9 believe you and Mr. Gryzmala were going over it. I direct  
10 you to Issue No. 2, the mid-span fiber meet issue he  
11 discussed with you at some length. And let me know when  
12 you've got the language in front of you.

13 A. I'm there.

14 Q. In the CLEC preliminary position column, in  
15 quotes it says, technically feasible is a reference to an  
16 interconnection point not to a method of interconnection.

17 Is technically feasible, and I put that in  
18 quotes, forms of interconnection something the FCC has  
19 addressed in its orders before?

20 A. Yes.

21 Q. So -- and I ask you that not to tell me  
22 what the FCC has said, but there is -- would you agree  
23 there's ample guidance from the FCC concerning what is  
24 technically feasible and what is not?

25 A. Yes.

1           Q.       So when there's language in an  
2     interconnection agreement that references technical  
3     feasibility, it's not in a vacuum, is it?

4           A.       No.

5           Q.       And if a CLEC installed a switch in  
6     New York and then yelled down to SBC in San Antonio, hey,  
7     you've got to come up here and interconnect with me, and  
8     SBC comes up to New York and looks around, there's no  
9     fiber they own, there's no copper they own, they got  
10    nothing, is that going to be technically feasible  
11    according to what the FCC's told us?

12                   MR. GRYZMALA: Your Honor, I object. Calls  
13    for application of law.

14   BY MR. MAGNESS:

15           Q.       Okay. You're an engineer, right?

16                   MR. MAGNESS: I'm sorry, your Honor. I can  
17    withdraw it.

18                   JUDGE THOMPSON: I'm not an engineer. Were  
19    you talking to me? I think you opened the door to this.  
20    I'm going to let him answer that question.

21   BY MR. MAGNESS:

22           Q.       Okay. I won't withdraw it. Please answer  
23    that question.

24           A.       No, of course it's not feasible if they  
25    don't have facilities there. It's outside the LATA, which

1 makes it even outside the scope of what's in the  
2 interconnection agreement.

3 JUDGE THOMPSON: Thank you. Now let's stay  
4 away from what the FCC said or didn't say.

5 BY MR. MAGNESS:

6 Q. And the -- from an engineering perspective,  
7 would it be considered technically feasible as that  
8 language is used in the interconnection agreement?

9 A. As I define it, they don't have facilities  
10 there, no, it would not be feasible.

11 Q. And looking at that language at NIM Issue  
12 No. 2, Mr. Gryzmala made many points about the  
13 unreasonableness of the CLEC Coalition language, and I'd  
14 ask you to read that first sentence on mid-span fiber  
15 meet, and this is the CLEC Coalition contract language.  
16 That's at Section 1.1 of the proposed language.

17 A. Mid-span MSFMP, that's mid-span fiber meet  
18 point, between SBC Missouri and CLEC can occur at any  
19 mutually agreeable, economically and technically feasible  
20 point between CLEC's premises and SBC Missouri tandem or  
21 end office.

22 Q. So the CLEC proposed contract language  
23 contemplates mutually agreeable, doesn't it?

24 A. Yes, it does.

25 Q. Economically and technically feasible,

1 doesn't it contemplate that as well?

2 A. That's right. A mid-span fiber meet point  
3 is not going to occur at any place that SBC does not agree  
4 to.

5 JUDGE THOMPSON: So does that protect them  
6 from the New York scenario?

7 THE WITNESS: Absolutely. And again, your  
8 Honor, a mid-span fiber meet is a different family of  
9 issues from point of interconnection.

10 BY MR. MAGNESS:

11 Q. Could you elaborate a little bit on that?  
12 I think that got somewhat confused, at least to me, in the  
13 cross.

14 A. Yes. A mid-span fiber meet is where you  
15 connect fiber facilities. A point of interconnection is a  
16 point of financial responsibility, who's going to pay for  
17 what to get to that point.

18 JUDGE THOMPSON: Let me ask you a question,  
19 if I can interrupt your redirect and trigger this whole  
20 recross and cavalcade. If the POI is the point of  
21 financial responsibility switch, so in other words it's  
22 really a point with a legal significance, is it --  
23 nonetheless, does it also have to be a point where  
24 physical facilities interconnect?

25 THE WITNESS: It doesn't have to be a point

1 where the two sides, two different owners' facilities  
2 meet.

3 JUDGE THOMPSON: Because you could, in  
4 fact, be leasing SBC's facilities to get to the POI?

5 THE WITNESS: Yes. And for many CLECs  
6 that's commonly done today.

7 JUDGE THOMPSON: Thank you. That clears it  
8 up very nicely. Does anyone feel the urge to do any  
9 recross based on that small question?

10 MR. GRYZMALA: No, your Honor.

11 JUDGE THOMPSON: Thank you. Bless you.  
12 Please, go on with your redirect.

13 BY MR. MAGNESS:

14 Q. Do you have the Kansas Commission order  
15 that Mr. Gryzmala asked you about in front of you?

16 A. Yes, I do.

17 Q. And I'd ask you to -- I think he had you  
18 looking at page 16 and 17. If you could go to page 16,  
19 and this was the issue regarding interconnection on SBC's  
20 network. Do you recall that discussion with Mr. Gryzmala?

21 A. Yes.

22 Q. And you referenced, I think it's in  
23 paragraph 45 here, the Commission finds it has discretion  
24 on this issue. The law, including rules and orders,  
25 neither requires that CLECs be allowed to interconnect at

1 a CLEC switch where the incumbent has fiber nor precludes  
2 such interconnection.

3 Is it your testimony that your position in  
4 Kansas was just that, that it is a policy question the  
5 Commission can decide at its discretion?

6 A. Absolutely.

7 Q. And you understand that the arbitrator in  
8 Kansas agreed and the Commission decided to go the other  
9 way, right?

10 A. Yes.

11 Q. Based on this order?

12 A. Yes.

13 Q. If you could look at page 17, at  
14 paragraph 47, the Kansas Commission says, SBC argues the  
15 ability to establish one point of interconnection per LATA  
16 in an incumbent carrier's franchise area is limited to new  
17 entrants for the purpose of fostering competition. SBC  
18 wants to require CLECs to establish additional POIs when  
19 their traffic requires more than 24 DSIs.

20 Then I'm going to skip down to paragraph  
21 49. SBC also cites multiple other concerns, but has  
22 provided no evidence to show there are -- they are  
23 anything other than conjecture.

24 And in paragraph 51, the Commission  
25 concludes, the Commission agrees with the Wireline

1 Competition Bureau that CLECs have an incentive to move to  
2 direct end office trunking when such a move is cost  
3 effective and finds it reasonable to allow CLECs to  
4 determine their network design, and they affirm the  
5 arbitrator's decision.

6 Is that a correct reading of that decision?

7 A. Yes, it is.

8 Q. So the Kansas Commission affirmed the CLEC  
9 position on that part of the points of interconnect or  
10 rather points of interconnection issue?

11 A. Yes.

12 Q. That segment of the issue. Okay. And then  
13 if you could turn to page 22 of the same Kansas Commission  
14 order, at paragraph 65, SBC requests the Commission  
15 reverse the arbitrator's decision in favor of AT&T and the  
16 CLECs regarding the establishment of mass calling trunks  
17 to protect the network from possible effects of mass  
18 calling. You see that there?

19 A. Yes.

20 Q. And if you turn to paragraph 67 on page 23,  
21 I believe you'll find it says, the CLEC Coalition refers  
22 to the testimony of its witness Land, and that would be  
23 you, would it not?

24 A. Yes.

25 Q. Who testified that software solutions



1 proposed by the CLECs would allow CLEC switches to be  
2 programmed to allow simultaneous completion of only an  
3 agreed number of calls that the solution implements  
4 automatically.

5 And in paragraph 68, isn't it correct that  
6 the Commission found in the last sentence that AT&T's and  
7 the CLECs' proposals are more reasonable than SBC's and  
8 affirms the arbitrator on all points with respect to this  
9 issue?

10 A. Yes.

11 Q. And finally, if you'll turn to page 24, on  
12 the issue of trunking that we've heard a fair amount about  
13 today, at paragraph 73 the Order says, SBC wants the CLECs  
14 to be required to use two-way trunking instead of one-way  
15 trunking. SBC argues two-way trunking is preferable.

16 I won't read the rest of the contentions.  
17 But in paragraph 74, the Commission concludes, whether  
18 two-way trunking is preferable is not the issue. The FCC  
19 has made it very clear in 47 CFR Section 51.305(f) that a  
20 CLEC may choose one or two-way trunking. The Commission  
21 affirms the arbitrator.

22 Is that a correct reading of it as well?

23 A. That's correct.

24 Q. So you did okay on those issues in Kansas,  
25 right?

1           A.       I felt pretty good about them.

2           Q.       All right. I'd like to turn now to the ITR  
3 DPL, another one you discussed with Mr. Gryzmala. And it  
4 was, I believe, ITR Issue 9 on the DPL. Let me know when  
5 you have it there.

6           A.       I'm there.

7           Q.       Okay. And this was the one concerning  
8 provisioning intervals that, if I could summarize, the  
9 CLEC Coalition would have the due dates for these trunking  
10 intervals in the interconnection agreement. And I'll read  
11 you the SBC Missouri position statement. No. The due  
12 date intervals for the installation of local  
13 interconnection and meet point trunk groups can be found  
14 in the CLEC handbook. Since due date intervals are part  
15 of provisioning, they should not be included in an ICA.

16                   Is that a correct reading of that?

17          A.       That's exactly what it says.

18          Q.       Now, were you here yesterday when there was  
19 discussion about the general terms and conditions DPLs?

20          A.       Yes.

21          Q.       And did you hear the testimony, I think on  
22 the cross-examination of Mr. Cadieux, concerning the  
23 removal of certain commitments by SBC from the contract  
24 that have been in the M2A?

25          A.       Yes.

1           Q.       And to your knowledge, in the general terms  
2 and conditions, are some of those commitments that were  
3 referred to yesterday as related to SBC's 271 entry, did  
4 the creation of things like CLEC handbook and accessible  
5 letters arise from those commitments, to your knowledge?

6           A.       Yes.

7           Q.       And those commitments were referenced in  
8 the M2A in contractual language in general terms and  
9 conditions, right?

10          A.       Yes.

11          Q.       Do you know what SBC's position is on  
12 whether those commitments should be maintained in the  
13 contractual language?

14          A.       I believe the position is they should not  
15 be required to do so.

16          Q.       Is there anything that you're aware of from  
17 your experience in the industry that would contractually  
18 or otherwise legally require SBC to continue providing the  
19 CLEC handbook as it does now?

20          A.       Mr. Magness, my bigger concern is, even if  
21 they keep providing it, they have absolute control over  
22 it. They could come out tomorrow and say the interval is  
23 200 days, or as you've hinted, they might decide tomorrow  
24 they're not going to do the handbook anymore.

25          Q.       And on the -- on the provisioning

1 intervals, if those are not a part of the contract, do you  
2 know of any other way that the CLEC could enforce rights  
3 to particular intervals?

4 A. I know of no leverage that we would have on  
5 it, other than to accept whatever SBC decides it want its  
6 competitors to have.

7 Q. So we were hearing that perhaps every  
8 detail of the software solution on choke network should be  
9 in the interconnection agreement, but issues like this  
10 shouldn't be? Is that your understanding of where  
11 Mr. Gryzmala was heading?

12 A. That's what I read into it.

13 Q. Do you think that provisioning intervals  
14 have a more day-to-day impact on competition?

15 A. Absolutely. We depend on being able to get  
16 services worked timely from SBC so we can meet our  
17 commitments to our customers.

18 Q. To your knowledge, are there other  
19 day-to-day business terms that SBC is trying to take out  
20 of this interconnection agreement going forward?

21 MR. GRYZMALA: Your Honor, I object, if I  
22 may. I believe that's beyond the scope of the cross. My  
23 discussion was with regard to ITR 9, not other things  
24 we're doing or not doing elsewhere in an agreement.

25 JUDGE THOMPSON: Could you read the

1 question back?

2 THE REPORTER: "Question: To your  
3 knowledge, are there other day-to-day business terms that  
4 SBC is trying to take out of this interconnection  
5 agreement going forward?"

6 JUDGE THOMPSON: I'll allow it.

7 THE WITNESS: Well, yes. I mean, SBC would  
8 like to take out transiting and the price for leased  
9 facilities, the facilities we might wish to lease from  
10 them to connect where we're required to have points of  
11 interconnection are two examples.

12 BY MR. MAGNESS:

13 Q. And finally on ITR 9, on the provisioning,  
14 you mentioned that there are concrete examples of problems  
15 CLECs have had that you're aware of from your experience.  
16 Could you detail what those are?

17 A. Sure. I've been involved in situations,  
18 one as a chief operations officer for a CLEC, where we  
19 would have a customer that wanted service from us, and we  
20 knew that that customer would put enough of an increased  
21 volume of traffic on our network that it would cause  
22 blockages. So we asked SBC for expedited trunking so that  
23 we could serve that customer within the time limits that  
24 the customer wanted service and not cause degraded service  
25 on the network.

1                   And, you know, at the same time SBC is  
2   telling those customers, we, SBC, have a network. We can  
3   provide you service today if those CLECs over there can't.  
4   That's a problem you need to consider. SBC was, of  
5   course, no help to us in expediting trunking orders.

6                   MR. MAGNESS: That's all the questions I  
7   have, your Honor.

8                   JUDGE THOMPSON: Thank you. You may step  
9   down, sir. Thank you very much for your testimony.

10                  (Witness excused.)

11                  JUDGE THOMPSON: Who's next?

12                  MR. SAVAGE: Your Honor, I think Charter is  
13   next.

14                  JUDGE THOMPSON: This will be who?

15                  MR. SAVAGE: This is Mr. Mark Barber from  
16   Charter.

17                  JUDGE THOMPSON: Have you been sworn,  
18   Mr. Barber?

19                  THE WITNESS: No, I have not.

20                  JUDGE THOMPSON: Please raise your right  
21   hand.

22                  (Witness sworn.)

23                  JUDGE THOMPSON: Thank you, sir. Please  
24   take your seat and state your name for the reporter, if  
25   you would.

1 THE WITNESS: Mark Barber.

2 JUDGE THOMPSON: Very well. You may

3 inquire.

4 MARK BARBER testified as follows:

5 DIRECT EXAMINATION BY MR. SAVAGE:

6 Q. Mr. Barber, do you have any corrections to  
7 make to your direct or rebuttal testimony?

8 A. No, I do not.

9 MR. SAVAGE: The witness is tendered for  
10 cross-examination.

11 JUDGE THOMPSON: Thank you. Mr. Lane?

12 MR. LANE: Thank you, your Honor. Your  
13 Honor, just for clarification, this is tag team match  
14 because he's testifying on several subjects because we  
15 agreed to accommodate him.

16 JUDGE THOMPSON: We're allowing all the tag  
17 teaming you want to do.

18 CROSS-EXAMINATION BY MR. LANE:

19 Q. Good afternoon, Mr. Barber. How are you?

20 A. Good, thank you.

21 Q. I'm going to ask you some questions on  
22 general terms and conditions, that portion of your  
23 testimony. First I want to talk to you about Issue 22 in  
24 the Charter general terms and conditions DPL. That issue  
25 deals with changes to tariffs and whether they will apply

1 to Charter when it buys under a tariff, right?

2 A. Correct.

3 Q. Does Charter buy any tariff items today  
4 from SBC Missouri?

5 A. Yes, they do.

6 Q. Would that be under the federal access  
7 tariff?

8 A. Yes, it is.

9 Q. And under the state access tariff?

10 A. Yes.

11 Q. Any other tariffs?

12 A. Not that I'm aware of.

13 Q. Okay. Those charges in the federal access  
14 tariff and the state access tariffs apply with equal force  
15 to all of the customers of SBC Missouri that purchase  
16 under them, right?

17 MR. SAVAGE: I object. That calls for a  
18 legal conclusion, the applications of tariffs. It's not  
19 frivolous. They're very complicated documents with very  
20 different applications in different circumstances.

21 JUDGE THOMPSON: Read the question back,  
22 Kellene.

23 THE REPORTER: "Question: Okay. Those  
24 charges in the federal access tariff and the state access  
25 tariffs apply with equal force to all of the customers of



1 SBC Missouri that purchase under them, right?"

2 JUDGE THOMPSON: It's one of those  
3 complicated questions that does call for a legal  
4 conclusion but is also perfectly well known to anyone in  
5 the business buying things from Southwestern Bell, be they  
6 a lawyer or not. Go ahead and answer the question.

7 THE WITNESS: Okay. It's my assumption  
8 that those rates would apply to similarly positioned  
9 carriers for similarly positioned services.

10 BY MR. LANE:

11 Q. And you have some general familiarity with  
12 tariff matters because you are actually a lawyer yourself,  
13 right?

14 A. No, I am not.

15 Q. You don't have a law degree?

16 A. No, I do not.

17 Q. I'm sorry.

18 A. But I'm not offended by that.

19 (Laughter)

20 Q. One of the rare people that wouldn't be.  
21 The issue that we have on No. 22 with the Charter terms  
22 and conditions DPL involves whether changes that are made  
23 to the tariff will apply to Charter when it buys under  
24 that tariff, right?

25 A. That's correct.

1           Q.       And in general, the parties agree that  
2 changes to the tariff will apply to Charter when it buys  
3 under it, but Charter has proposed some additional  
4 language that says that the changes don't apply if it  
5 causes a material change to either party's obligations,  
6 right?

7           A.       That's correct. If it caused a material  
8 change, we feel it changes the terms of the  
9 interconnection agreement.

10          Q.       And you understand that one of SBC  
11 Missouri's concerns is that material change isn't defined,  
12 right?

13          A.       Yes, I do.

14          Q.       Let me just ask a hypothetical. If the  
15 tariff price increases for any service that's ordered by  
16 Charter under the tariff, is that a material change?

17          A.       Well, it depends on the amount of the  
18 increase.

19          Q.       Okay. What amount of increase would make  
20 it a material change?

21          A.       I would answer that question that I'll know  
22 it when I see it. The bottom line is if it's a  
23 substantial increase, if it's significantly over inflation  
24 without apparent justification, I would argue that's a  
25 material change without justification.

1           Q.       And so under your view, then, Southwestern  
2 Bell wouldn't -- or SBC Missouri wouldn't be permitted to  
3 assess that charge under the tariff on Charter even though  
4 it was assessing that charge on every other person that  
5 ordered under the tariff?

6           A.       Not without notification and mutual  
7 agreement.

8           Q.       And then how about a price decrease, would  
9 that be a material change in SBC Missouri's duties and  
10 obligations?

11          A.       Yes, it would.

12          Q.       So under those circumstances, SBC Missouri  
13 would be entitled to continue to charge Charter the higher  
14 rate and not let Charter have the lower rate in the  
15 tariff, right?

16          A.       Yes. I believe that that would be the  
17 reciprocal of the other situation.

18          Q.       And without calling for a legal conclusion,  
19 you would agree that this Commission in deciding the issue  
20 would have to determine whether or not allowing different  
21 customers to pay different prices under the same tariff is  
22 or is not a violation of nondiscrimination obligations  
23 under the Missouri statutes, right?

24                   JUDGE THOMPSON: Assuming that there is  
25 one.

1                   MR. SAVAGE: I'm not sure how that can be a  
2 question that doesn't call for a legal conclusion.

3                   JUDGE THOMPSON: I tried to save it. I  
4 don't either. I think we're going to have to sustain that  
5 objection.

6 BY MR. LANE:

7                   Q.       Would you agree with me that if there is a  
8 change in the terms and conditions of any tariff offering  
9 in the state, that Charter can object to that and  
10 participate in any proceeding that the Commission  
11 initiates the same as any other customer under the tariff  
12 process?

13                  A.       Yes.

14                  Q.       And isn't that a sufficient answer for any  
15 concerns Charter might have about material changes in the  
16 tariff that participate in those proceedings?

17                  A.       No, not to my knowledge, and the reason is  
18 that I'm not aware of all the conditions that would result  
19 in the ultimate conclusion of that dispute.

20                  Q.       Are you aware of any tariffs in the state  
21 of Missouri where different customers get to receive  
22 different prices for buying the same service?

23                  A.       No, I am not.

24                  Q.       Switch over to Issue No. 26 in the Charter  
25 general terms and conditions DPL. This relates to

1 insurance provisions, right?

2 A. I'm getting there, but yes. Yes.

3 Q. And you understand that SBC Missouri's  
4 position generally is that where insurance is required,  
5 the insurer should be rated B+ or better by the Best key  
6 rating guide, right?

7 A. Yes, I do.

8 Q. And you're familiar with I.M. Best rating  
9 guide, right?

10 A. I'm not personally familiar. I'm aware of  
11 a rating guide.

12 Q. It's a standard industry rating guide for  
13 insurers, is it not?

14 A. I believe so.

15 Q. It's standard in commercial contracts, is  
16 it not, for parties where insurance is required to make  
17 sure that the person providing the insurance is solvent  
18 and meets certain standards, right?

19 A. Not necessarily.

20 Q. Does Charter have any contracts that you're  
21 aware of in which a party is required to purchase  
22 insurance and Charter either requires that party or is  
23 itself required to purchase insurance that meets certain  
24 rating guidelines and solvency guidelines?

25 A. To the best of my knowledge, the contracts

1     that I've been engaged with have requirements of insurance  
2     and they have requirements of coverage and proof of  
3     insurance, but not a rating.

4             Q.       Does Charter believe that it's important  
5     where it's the beneficiary of an insurance policy that the  
6     insurer be solvent and able to pay in the event of a loss?

7             A.       Certainly.

8             Q.       It's fair to say, is it not, that under  
9     this agreement that Charter personnel or its  
10    subcontractors would have the ability to operate in SBC  
11    Missouri's central offices and other facilities and in  
12    places where other facilities are?

13            A.       Yes.

14            Q.       And try as they might, it's certainly  
15    possible that the Charter employees or subcontractors  
16    could fail to perform an act or perform an act that  
17    results in some significant loss to SBC Missouri, right?

18            A.       It's conceivable.

19            Q.       And it would be important to SBC at that  
20    point to ensure that Charter has the insurance at that  
21    point, that the insurer is solvent and able to pay any  
22    loss, right?

23            A.       I think that it would be important to SBC  
24    that that claim be paid. I think the question of the  
25    rating or solvency of that particular carrier is

1 irrelevant if the payment is made.

2 Q. And if the payment's not made because the  
3 insurer is not solvent and not able to meet it, then it is  
4 relevant, right?

5 A. Certainly.

6 Q. It's an after-the-fact determination under  
7 your answer there, that we don't know until later whether  
8 the claim is paid or not whether it was important that we  
9 make sure that the insurer was adequately rated; is that  
10 correct?

11 A. That's correct.

12 Q. We're not dealing with after the fact now,  
13 we're dealing with before the fact, right?

14 A. Well, you're making the assumption that you  
15 have the parent/child relationship and you have the right  
16 to dictate business terms to me, which I basically am a  
17 provider of equal service.

18 Q. I'm sorry, but my question is, in this  
19 context now we're dealing with a before the fact  
20 indication, before the fact determination of what type of  
21 solvency the insurer should show, right?

22 A. You are requesting that, yes.

23 Q. That's the issue. Let me flip to Issue 27  
24 involving terms for assignment.

25 A. All right.

1           Q.       The first issue that we have in that area  
2       is whether the provisions for consent to assignment be  
3       reciprocal, right?

4           A.       Correct.

5           Q.       Would you agree with me that any attempt by  
6       SBC Missouri to merge or transfer its assets will result  
7       in regulatory scrutiny by the Missouri PSC?

8                   MR. SAVAGE: I object. That calls for a  
9       legal conclusion.

10                  JUDGE THOMPSON: If you are able to answer  
11       the question, go ahead.

12                  THE WITNESS: I am not certain.

13       BY MR. LANE:

14           Q.       And to the extent that SBC Missouri is  
15       required to seek regulatory approval if it intends to  
16       merge or to transfer its assets, that would be sufficient  
17       protection for Charter, would it not, to ensure that any  
18       such assignment was proper and appropriate if the Missouri  
19       PSC regulates it?

20           A.       Potentially. I can't say that it would  
21       cover all circumstances.

22           Q.       And would you agree with me that it's a  
23       legitimate concern on the part of SBC Missouri that it  
24       would be a burdensome administrative requirement to seek  
25       the approval of potentially dozens of CLECs to any merger



1 or transfer of assets if it were required to do so in such  
2 an assignment?

3 A. No.

4 Q. The second issue that is involved in  
5 Issue 27 is cost recovery for name changes, right?

6 A. Yes.

7 Q. And is it fair to say that Charter seeks  
8 the ability to engage in a name change and require SBC to  
9 bear whatever expenses are incurred in order to adjust its  
10 records and circuit provisions and the like?

11 A. I would argue that that's routine  
12 administrative task and each party absorbs it.

13 Q. I understand your position, but my question  
14 is, it's fair to say that your position is that SBC  
15 Missouri bears the cost of changing whatever records it  
16 must change and circuit IDs that it must change if Charter  
17 changes its name, right?

18 A. Yes.

19 Q. And are you aware that the Missouri PSC  
20 has previously analyzed this same issue in Case  
21 No. TO-2001-455?

22 A. No, I am not.

23 Q. Did you read any of the testimony that was  
24 filed in this case?

25 A. No, I did not.

1 Q. None of it?

2 A. I don't believe so.

3 Q. Neither the direct nor the rebuttal of --

4 MR. SAVAGE: Excuse me. Are you talking  
5 about this case or are you talking about the case you just  
6 referred to?

7 MR. LANE: This case.

8 THE WITNESS: In this -- yes.

9 BY MR. LANE:

10 Q. What testimony did you read in this case?

11 A. I've read my statements, my rebuttal. Of  
12 course, I wrote those as well. But I've also read  
13 portions of Suzette Quate's. Can I get some water?

14 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

15 BY MR. LANE:

16 Q. We'll move over to Issue No. 30 in the  
17 Charter general terms and generals DPL. That issue deals  
18 with when deposits may be collected, right?

19 A. Yes.

20 Q. And are you familiar with Ms. Quate's  
21 testimony, part of which you read, that indicated that SBC  
22 affiliated ILECs have lost more than \$250 million where  
23 CLECs failed to pay their bills?

24 A. Yes, I am.

25 Q. You'd agree that's a significant problem,

1 right?

2 A. Well, I don't want to minimize the amount  
3 of money, but it is also a very small amount compared to  
4 SBC's total revenue.

5 Q. And how about 250 million to Charter, is  
6 that a lot or --

7 A. It's significant.

8 Q. It's significant to Charter but not to SBC?

9 A. Well, I'm just looking at in relation to  
10 bad debt, 250 million on 200 billion in revenue during  
11 that period represents approximately 1/10 of a percent.

12 Q. And how about a deposit of 90 days' average  
13 billing for Charter, how much are we talking about there?

14 A. Based on the arrangement that we're  
15 pursuing on bill and keep, it should be a relatively small  
16 amount.

17 Q. And what's a relatively small amount?

18 A. I really couldn't say at this point since  
19 we're not bill and keep at this time, and many of our  
20 transactions, as we said, are bill and keep circumstances.

21 Q. And so you object to providing any deposit  
22 for up to 90 days, although you don't know what deposit  
23 might be required, right, but you think will be an  
24 insignificant amount?

25 A. Well, actually Charter has offered to, if

1 we fail to make payment two months, provide two months'  
2 deposit. So if we fail to pay, we would certainly do  
3 that.

4 Q. Now, you understand that SBC Missouri has  
5 outlined the provisions where a deposit might be required,  
6 right?

7 A. Yes.

8 Q. One of them is if you don't have a good  
9 credit history, that is 12 months of timely payment on  
10 undisputed bills, right?

11 A. Yes.

12 Q. Another is if there's impairment of credit  
13 or financial health based upon the financial sources like  
14 Moody's and S&P, right?

15 A. Yes.

16 Q. Third is the -- or third is failure to  
17 timely pay the bill unless, as I said, there is a good  
18 faith dispute, right?

19 A. Yes.

20 Q. Or if the CLEC's in bankruptcy, right?

21 A. Yes.

22 Q. Those are all legitimate in commercial  
23 settings, are they not, reasons to require a deposit?

24 A. They can be considered legitimate, yes.

25 Q. And are you in the financial end with

1 Charter?

2 A. No, I'm not.

3 Q. Are you generally familiar with Charter  
4 issuing bonds?

5 A. I'm not specifically aware. I mean, we  
6 have from time to time in relation to the telephone  
7 business had to submit bonds.

8 Q. And is it a fair statement that in a normal  
9 commercial setting with a company issuing bonds like  
10 Charter, that if it becomes financially impaired by some  
11 measure, that that can trigger default on the bonds?

12 A. Yes.

13 Q. Same thing with bankruptcy --

14 A. Yes.

15 Q. -- could trigger default on bonds?

16 Would you agree that where a deposit is  
17 required, that Charter proposes a 60 day average billing  
18 and SBC Missouri proposes a 90 day average billing?

19 A. Yes.

20 Q. And if the purpose of a deposit is to  
21 ensure that payment source is ultimately there for money  
22 that's owed, then one should look to see the period of  
23 time that could be at risk before the contract could be  
24 terminated to determine what the appropriate amount is,  
25 right?

1           A.       That's not an unreasonable approach.

2           Q.       And if 90 days is the amount of time that  
3   SBC Missouri would be extending credit, then that's a  
4   reasonable time frame to look at for the average billing  
5   requirement as a deposit?

6                   MR. SAVAGE: Your Honor, that assumes facts  
7   not in evidence. I don't think there's any evidence that  
8   SBC extends credit to Charter under our relationship.

9                   MR. LANE: This is an agreement that's open  
10  to others. I'm not asking whether --

11                  JUDGE THOMPSON: Answer the question.

12                  THE WITNESS: Could you restate the  
13  question, please?

14  BY MR. LANE:

15           Q.       If SBC Missouri is on the hook for up to  
16  90 days of payments before the contract would be  
17  terminated, then that's a reasonable amount of average  
18  billing to be paid as a deposit, is it not?

19           A.       I think it is a proposal.

20           Q.       Well, it's certainly SBC's Missouri  
21  proposal, isn't it?

22           A.       Right.

23           Q.       And if we're trying to match the amount of  
24  deposit with the time frame and amount by which -- which  
25  would be at risk, that's a reasonable proposal, is it not?

1           A.       Well, I think it's picking an item and  
2     linking it to that, and I'm not saying that isn't an  
3     unreasonable approach.

4           Q.       Okay. Now, Charter's proposal is that a  
5     deposit isn't required unless Charter fails to pay  
6     undisputed amounts for two months, right?

7           A.       Yes.

8           Q.       And then it's fair to say that Charter  
9     doesn't propose language to indicate how long it has to  
10    provide a deposit to SBC Missouri under those  
11    circumstances, right?

12          A.       That's correct, we did not.

13          Q.       Whereas, SBC Missouri proposes some  
14    specific time frames for the deposit should be made when  
15    applicable, right?

16          A.       Yes.

17          Q.       And Charter proposes no provisions that  
18    indicate what happens if Charter fails to make a deposit  
19    when one is required under Charter's proposal, right?

20          A.       That's correct.

21          Q.       Neither one of those is a particularly  
22    unreasonable approach, is it?

23          A.       I think it's appropriate to address those  
24    issues.

25          Q.       Okay. But you haven't addressed them,

1 right?

2 A. That's correct.

3 Q. Okay. Charter also proposes that the  
4 deposit be given back to Charter if it pays undisputed  
5 charges for three months in a row, right?

6 A. Yes.

7 Q. Charter could conceivably dispute the  
8 entire bill if it wanted to for three months in a row and  
9 then seek return of the deposit because it's paid the  
10 undisputed amounts, although the undisputed amount might  
11 be zero, right?

12 A. Yes.

13 Q. And even if it had paid all of its bills on  
14 time for that three-month period, even if it didn't  
15 dispute it, if it went into bankruptcy or some other  
16 situation like that arose where its financial health was  
17 clearly impaired, it'd still be entitled to the deposit  
18 back under your proposal, right?

19 A. Yes.

20 Q. Let me switch over and talk about Issue  
21 No. 32 in the Charter DPL, which involves a dispute  
22 concerning whether disputed amounts should be placed in  
23 escrow, right?

24 A. Yes.

25 Q. It's fair to say that under Charter's



1     proposal that no amounts in dispute must be escrowed,  
2     right?

3             A.       Yes.

4             Q.       And if a bill is disputed, it may be months  
5     before that dispute is ultimately resolved, right?

6             A.       Yes.

7             Q.       And under Charter's proposal, there may not  
8     be funds available at the end of the day to collect if SBC  
9     Missouri's position in the disputed bill is upheld or  
10    regarding the disputed bill is upheld, right?

11            A.       Repeat the question.

12            Q.       At the end of the dispute resolution  
13    process, under Charter's proposal, there may not be a fund  
14    available for SBC Missouri to go to collect from if its  
15    position is ultimately upheld?

16            A.       What you're stating, if I can clarify, is  
17    that there is not an escrow fund to attach to as opposed  
18    to whether or not the payment could be made; is that  
19    correct?

20            Q.       Yes.

21            A.       That's correct. If there's no escrow fund,  
22    there's not a fund to pursue.

23            Q.       And would you agree that this type of  
24    situation where we have a company, SBC Missouri, that is  
25    required to continue providing service even when amounts

1 billed are in disputes creates a special reason to have an  
2 escrow fund?

3 A. No.

4 Q. In a commercial setting, and let's use a  
5 hypothetical, if a company, a manufacturer is providing  
6 refrigerators to a retailer to retail or to sell and the  
7 retailer disputes a bill for some reason, the manufacturer  
8 typically doesn't have to keep providing refrigerators for  
9 that retailer to sell, right? It can say, I'm going to  
10 wait until we resolve this dispute before I'm going to  
11 send you any more refrigerators; fair statement?

12 A. That's a fair statement in a resale  
13 environment.

14 Q. But in this kind of environment, SBC  
15 Missouri's ability to terminate service is significantly  
16 limited. Instead it has to continue to provide services  
17 to the CLEC even though it's not receiving payment of the  
18 funds that are in dispute, right?

19 A. Yes.

20 Q. Issue 33 of the Charter DPL that involves  
21 payments made when the billing dispute is resolved in  
22 favor of the billed party. The dispute here -- or you  
23 understand that SBC's position here is that the account of  
24 the billing -- the billed party should be credited -- or  
25 the billing party should be credited, right?

1           A.       Yes.

2           Q.       And Charter's position is that, at its  
3 option, it could either demand that payment be made  
4 directly to it or credited to an account, right?

5           A.       Yes.

6           Q.       And from SBC Missouri's perspective, what  
7 it's seeking to avoid is a situation where it may be owed  
8 a substantial amount of money for other things by Charter  
9 and it's still required to send the money for billing  
10 dispute to Charter directly?

11          A.       Allegedly.

12          Q.       And you understand, don't you, that it's --  
13 that from SBC Missouri's perspective it's not just the  
14 relationship with Charter, but that SBC Missouri needs to  
15 be concerned with other CLECs that can opt into the same  
16 agreement?

17          A.       Yes.

18          Q.       Are you familiar with that process?

19          A.       Yes.

20          Q.       Issue 36 of the Charter DPL, that concerns  
21 what dispute resolution process should be used, right?

22          A.       Yes.

23          Q.       And this has some tie to the escrow issue  
24 as well, does it not?

25          A.       Yes.

1           Q.     And under this, SBC Missouri proposes that  
2     the disputing party pay into escrow to start the dispute  
3     resolution process, right?

4           A.     Yes.

5           Q.     But Charter's proposal is that it have from  
6     30 to 90 days to do some informal discussions, and then  
7     Charter can implement the dispute resolution process,  
8     right?

9           A.     Yes.

10          Q.     So that there could be 90 days that pass  
11     before Charter even initiates the dispute resolution  
12     process?

13          A.     Yes.

14          Q.     And then --

15          A.     In order to gather the facts.

16          Q.     And then another indeterminate amount of  
17     time before the dispute resolution process itself comes to  
18     an end, right?

19          A.     Yes.

20          Q.     And the entire process can take months and  
21     months, right?

22          A.     Yes.

23          Q.     And during that entire period of time,  
24     under Charter's proposal, there's no source of funds in an  
25     escrow account that's available to be paid to SBC Missouri

1 if SBC Missouri's position is ultimately upheld, right?

2 A. Yes. And the reciprocal is true as well.

3 Q. Issue No. 38 of the Charter DPL concerns  
4 what audit provisions should be included in the contract,  
5 right?

6 A. Yes.

7 Q. You have to say it out loud. Have you  
8 testified before or is this your first time?

9 A. Actually, not in an arbitration hearing.  
10 I've done other testimony. Never had a dry mouth before.  
11 I think you're intimidating. Just kidding.

12 Q. If I am, you're the first.

13 (Laughter.)

14 It's fair to say, is it not, that with  
15 regard to audit provisions, there's general agreement on  
16 them, but there's some disagreement on the details?

17 A. Well, I wouldn't quite classify it that  
18 way, because I think a significant aspect of it is who's  
19 doing the audit.

20 Q. I'm not disagreeing that we have some  
21 details and I'm going to go into it, but in general the  
22 parties have agreement on the language, but they differ in  
23 a few areas, right?

24 A. In general, we agree that there are  
25 circumstances where an audit is appropriate.

1           Q.     And one of the issues that we disagree on  
2     is who will do the audit, right?

3           A.     Yes.

4           Q.     And SBC Missouri's position is that its own  
5     employees should be permitted to do the audit?

6           A.     Yes.

7           Q.     Charter believes that it should be an  
8     independent auditor, right?

9           A.     That's correct.

10          Q.     And SBC Missouri has proposed that Charter  
11     be given the right to insist on an independent auditor  
12     rather than SBC Missouri employees, but that in the event  
13     Charter chooses that, that Charter pay a quarter,  
14     25 percent of the cost of the independent auditor, right?

15          A.     Yes.

16          Q.     The second dispute is how frequently a  
17     second audit may be conducted, right?

18          A.     Yes.

19          Q.     The parties agree that an audit will be  
20     conducted once annually unless a prior audit results in  
21     additional payments over some threshold, right?

22          A.     That's correct.

23          Q.     And the disagreement is over what the  
24     threshold level should be that would permit one party to  
25     conduct an additional audit?

1           A.       That's correct.

2           Q.       And SBC Missouri says the threshold should  
3   be 5 percent, and Charter says the threshold should be  
4   10 percent?

5           A.       That's right.

6           Q.       And my question is, does Charter believe  
7   that an underpayment of amounts by 5 to 10 percent is  
8   immaterial?

9           A.       No.

10          Q.       And if we hearken back to the discussion  
11   about prices in the tariff earlier, you indicated that  
12   price increase above the rate of inflation, you know,  
13   would be a material --

14          A.       Could be material.

15          Q.       -- impact?

16          A.       Yeah.

17          Q.       So is it fair to say that a failure to pay  
18   an amount of threshold that's above 5 percent is also  
19   material?

20          A.       No. The answer is that 5 percent may be a  
21   de minimis amount. So 5 percent of a large amount could  
22   be material, but 5 percent of a de minimis amount is not  
23   material.

24          Q.       And 10 percent of the de minimis amount  
25   could be not material as well; is that correct?

1           A.       That's correct. We're trying to reach a  
2 more reasonable level.

3           Q.       And in this contract, there isn't  
4 provisions that Charter's proposing for certain level of  
5 materiality to which the 5 percent would apply, right?

6           A.       That's correct.

7           Q.       And so it may be an extremely large amount  
8 that is owed or failed to pay that the audit discovers,  
9 and in this case it would be material, wouldn't it?

10          A.       It would be, but highly unlikely in a bill  
11 and keep arrangement.

12          Q.       And again, we don't know precisely how  
13 Charter will choose to operate in the future, nor do we  
14 know what other carriers will choose to opt into this  
15 agreement; is that right?

16          A.       That's correct. However, if they opt into  
17 a bill and keep arrangement, it will be a bill and keep  
18 arrangement.

19          Q.       But this agreement just doesn't cover a  
20 bill and keep option, it covers anything that an inter--  
21 or that a CLEC might choose to buy, like UNEs or whatever,  
22 right?

23          A.       That's correct.

24          Q.       And so it wouldn't necessarily be a bill  
25 and keep arrangement for some other CLEC opting into it,



1 right?

2 A. That's correct.

3 Q. And would you agree with me that if the  
4 amount between 5 and 10 percent is immaterial, that it  
5 would be very unlikely that SBC Missouri would seek to  
6 invoke the right to a second audit within the one year  
7 period because the amount that's at issue is very small?

8 A. I would agree with that statement.

9 Q. So it would only be expected that a second  
10 audit would be requested if the amount between 5 and 10  
11 percent is really a material amount, right?

12 A. It would be expected, though the contract  
13 would still give you the ability to do it even if it was a  
14 de minimis amount.

15 Q. But under our proposal, we would have to  
16 pay either our own employees the entire time for them to  
17 do the work or up to 75 percent of the cost of an  
18 independent auditor to do it, right?

19 A. That's correct.

20 Q. And it's particularly unlikely that SBC  
21 Missouri would choose to exercise either of those options  
22 when only a de minimis amount is involved, right?

23 A. It would be unlikely, assuming there  
24 weren't any other reasons for doing so.

25 Q. Audits aren't usually conducted just for

1 fun, are they?

2 A. Not to my knowledge.

3 Q. Issue No. 40 of the Charter DPL, this  
4 involves disagreements over the indemnification language  
5 in the contract, right?

6 A. Correct.

7 Q. And it's fair to say, as we did with regard  
8 to an earlier issue, that the parties are in general  
9 agreement that indemnification is appropriate but differ  
10 in details?

11 A. Yes.

12 Q. Generally, indemnification is provided on  
13 claims against a party by the employees, subcontractors  
14 and customers of the other party, right?

15 A. Yes.

16 Q. And that's appropriate because the  
17 indemnifying party can typically protect itself by  
18 contract or by tariff, right?

19 A. Yes.

20 Q. And you understand that SBC Missouri's  
21 concern is with the particular proposal of Charter that  
22 creates what it sees as a rather large exception to the  
23 indemnification requirement, that is the language that  
24 says that the obligation to indemnify doesn't apply to  
25 limit the liability for any claim by the indemnifying

1 party against the indemnified party?

2 A. Can you restate that?

3 Q. Yeah. Take a look at Issue No. 40 if you  
4 would --

5 A. Yeah.

6 Q. -- on the DPL, on page --

7 A. 62?

8 Q. It would be 64 on my copy. Is it 62 on  
9 yours?

10 A. No. It starts on 62.

11 Q. And the underlined language on page 64 of  
12 the Charter GT&C DPL, the underlying provision reads, the  
13 obligation to indemnify provided hereunder shall not limit  
14 any liability of the indemnified party directly to the  
15 indemnifying party that may exist in accordance with the  
16 terms hereof or applicable law.

17 A. Yes.

18 Q. That's the language that's in dispute,  
19 right?

20 A. Yes.

21 Q. And then it's also fair to say that Charter  
22 proposes in Section 14.6 some additional language that  
23 would limit any liability that Charter would have directly  
24 to SBC by inserting the word gross in front of negligence  
25 and providing that any willful misconduct is required

1 before indemnification is required, right?

2 A. Yes.

3 Q. And that's a one-way provision, is it not,  
4 that lets Charter off the hook for any indemnification  
5 unless its negligence amounts to gross negligence or it  
6 engages in willful misconduct, right?

7 A. Yes.

8 Q. But on the flip side, there's no  
9 corresponding limitation on SBC Missouri's liability to  
10 Charter, right?

11 A. That's right.

12 Q. And would you agree with me that that's not  
13 a particularly fair arrangement because it's not  
14 reciprocal?

15 A. Yes.

16 Q. SBC Missouri's language on that point is a  
17 fairer resolution of the issue?

18 A. I don't know that I would agree that all  
19 the language is a fair summary of it.

20 MR. LANE: All right. Okay. Thank very  
21 much. That's all I have.

22 JUDGE THOMPSON: Okay. Thank you,  
23 Mr. Lane. Mr. Williams. Oh, you guys are tag teaming.

24 MR. BUB: Yes. Mine's the shorter piece.

25 JUDGE THOMPSON: Here you had me all

1 excited that --

2 MR. SAVAGE: Mr. Barber eats lawyers for  
3 breakfast.

4 THE WITNESS: As long as I have water.

5 JUDGE THOMPSON: Very well, please proceed.

6 MR. BUB: Thank you, your Honor.

7 CROSS-EXAMINATION BY MR. BUB:

8 Q. Mr. Barber my name is Leo Bub. I'm another  
9 SBC attorney, and I just have one line of questions for  
10 you. It has to do with the intercarrier compensation  
11 Issue No. 1 concerning the definition of mandatory local  
12 calling, and you have that at page 4 of your direct  
13 testimony if you need that cite.

14 A. Yes.

15 Q. Just for background, this definition is  
16 important here because of its impact on what intercarrier  
17 comp is to be paid between Charter and SBC; is that right?

18 A. That's correct.

19 Q. If a call is defined as local, then recip  
20 comp applies between us, right? If it's within the  
21 mandatory local calling areas, recip comp --

22 A. That's right.

23 Q. And if it's outside that mandatory calling  
24 scope or calling area, switched access charges generally  
25 apply?

1           A.       Yes.

2           Q.       And to help keep this a little bit more  
3     simple, if we could leave out the MCA calls as those calls  
4     are bill and keep under Commission order, and unless I'm  
5     mistaken, I don't think we have a disagreement on those  
6     MCA calls.

7           A.       No, we do not.

8           Q.       And also, for purposes of my  
9     cross-examination let's assume these are calls that are  
10    exchanged between companies. Okay?

11          A.       Yes.

12          Q.       I don't know if you were here for some of  
13    the earlier cross-examinations, but the lawyers have been  
14    asked by the judge not to get into legal questions. We've  
15    been asked to save that for the Brief and to stick to  
16    factual matters, so I'm going to try and do that in my  
17    cross-examination here.

18                    So setting aside our legal disputes, do  
19    those in the Brief, I'd like to focus on what happens  
20    factually under our respective positions.

21          A.       Okay.

22          Q.       So let's start with SBC's position on the  
23    specific intercompany compensation issue. Would it be  
24    fair to characterize SBC's position as no change from  
25    what's in effect today under the M2A?

1           A.       Yes.

2           Q.       Now let's look at Charter's proposal.  If  
3   that's adopted by the Commission, under your proposal the  
4   original party's tariff would control the definition of  
5   mandatory local calling scope for the purposes of  
6   intercompany compensation?

7           A.       That's correct.

8           Q.       So on a Charter-originated call, if a call  
9   is local under Charter's tariff, then it would owe the  
10  terminating carrier reciprocal compensation?

11          A.       That's correct.

12          Q.       And that would be even so if that call  
13  crossed a traditional incumbent LEC exchange boundary?

14          A.       So.

15          Q.       So, for example, if Charter established  
16  like a LATA-wide calling plan, so all calls within the  
17  LATA were local for Charter's customers under its tariff,  
18  in that situation the LATA would be that mandatory local  
19  calling area; is that correct?

20          A.       That's correct.

21          Q.       And then all Charter originated calls  
22  within that area, recip comp would apply; is that correct?

23          A.       That's correct.

24          Q.       And so if we could apply that to the map,  
25  you have a Charter customer in St. Louis wanting to call

1 an SBC customer in Cape Girardeau. Now what happens under  
2 the M2A, Charter would pay SBC terminating switched  
3 access; is that your understanding?

4 A. That is correct.

5 Q. And under Charter's proposal, that would  
6 then be a recip comp call?

7 A. That's correct.

8 Q. In the Charter to SB--

9 A. Yes, in the Charter to SBC direction.

10 Q. Now, if we were to flip that call around so  
11 it was an SBC customer calling a Charter customer, right  
12 now SBC would pay Charter terminating switched access  
13 charges; is that correct?

14 A. That's correct.

15 Q. And under your proposal, since we don't  
16 have LATA-wide calling plan under which that type of call  
17 would be local, we would continue to pay Charter  
18 terminating switched access?

19 A. You continue to confirm to what's been --  
20 what you have defined and filed as tariff as your  
21 mandatory local calling areas, yes. And so it could be a  
22 switched access situation on the -- from SBC to Charter  
23 side, yes.

24 Q. SBC would pay Charter switched access?

25 A. Terminating access, that's correct.



1           Q.       Let me ask you this: Say instead of having  
2   SBC Missouri carry that call, say that SBC Missouri local  
3   end user for some reason picks an interexchange carrier,  
4   let's say MCI, to carry that call. In that situation MCI  
5   would pay Charter access charge; is that correct? Let me  
6   start again.

7                   SBC end user in Cape Girardeau calling the  
8   Charter end user in St. Louis.

9           A.       Right.

10          Q.       SBC local end user picks MCI. MCI in that  
11   situation would pay Charter's terminating switched access;  
12   is that your understanding?

13          A.       If the customer has picked MCI for their  
14   intraLATA toll, yes.

15          Q.       Now, let's get another example. Say a  
16   Charter customer in St. Louis decides to call an ILEC  
17   customer in Steelville, Missouri, within the St. Louis  
18   LATA. In that situation, Charter today pays Steelville  
19   Telephone Company's terminating switched access charges,  
20   correct?

21          A.       Yes.

22          Q.       And under Charter's proposal, if there's a  
23   LATA-wide local calling plan, Charter would then pay  
24   Steelville Telephone Company reciprocal compensation; is  
25   that your understanding of your proposal?

1           A.     Restate the question, if you would.

2           Q.     Sure. Same Charter customer in

3     St. Louis --

4           A.     Right.

5           Q.     -- calls an independent telephone company

6     customer in this example in Steelville, all in the

7     St. Louis LATA. In that situation now, pay terminating

8     switched access to Steelville. Under your proposal with a

9     LATA-wide local calling plan, you would pay reciprocal

10    compensation to Steelville Telephone Company. Is that how

11    you see your proposal working?

12          A.     Assuming that I have interconnection or

13    transiting facilities to deliver that call.

14          Q.     The call would go -- okay. Would there be

15    a situation where one of your customers would not be able

16    to call Steelville?

17          A.     Well, yeah. If -- if I set that up as part

18    of my mandatory local calling area, then I'd bear the

19    responsibility of getting there, which means if I didn't

20    have facilities, I would have to hand that off to

21    potentially an IXC to get it there. However, in that

22    circumstance I wouldn't have set that up as my local

23    calling area because I would have borne that additional

24    cost that I had no way to defray.

25          Q.     Would another option be to hand that call

1 off to SBC to take it to its tandem, then on to  
2 Steelville?

3 A. If SBC has connectivity to Steelville  
4 and --

5 Q. Assume they do.

6 A. -- and assuming we had a transiting  
7 arrangement.

8 Q. In that situation, you would expect to pay  
9 Steelville reciprocal compensation?

10 A. Yes.

11 Q. Another example. I think this will be my  
12 last one. Charter could also decide it would want to  
13 offer its customers a statewide local calling scope; would  
14 that be possible?

15 A. Yes.

16 Q. And in that situation, all calls made  
17 within the state would be subject to reciprocal  
18 compensation under your proposal?

19 A. Yes.

20 MR. BUB: Thank you. Those are all the  
21 questions I have, your Honor.

22 JUDGE THOMPSON: Very well. Mr. Williams?

23 MR. WILLIAMS: No questions.

24 JUDGE THOMPSON: Ms. Dietrich?

25 MS. DIETRICH: No questions.

1 JUDGE THOMPSON: Mr. Johnson?

2 MR. MICK JOHNSON: No questions.

3 JUDGE THOMPSON: Mr. Scheperle?

4 MR. SCHEPERLE: Yes, a few.

5 JUDGE THOMPSON: Please step up.

6 QUESTIONS BY MR. SCHEPERLE:

7 Q. Good afternoon, Mr. Barber.

8 A. Good afternoon.

9 Q. There was a few questions on deposits. I  
10 kind of wanted to go over what Charter's position is on  
11 this. If Charter paid their bills 12 monthly invoices in  
12 a row by the due date, would they be required to make a  
13 deposit?

14 A. No.

15 Q. They would not be required to make a  
16 deposit?

17 A. Correct.

18 Q. Okay. Mr. Lane referred to possibly CLECs  
19 that would dispute bills for, say, one month in a row, two  
20 months in a row and three months in a row and really not  
21 pay anything. If Charter paid all their invoices by the  
22 due date for 12 month in a row, would they have to pay  
23 into escrow any amounts for the disputed bills?

24 A. Well, our proposal was not to pay into  
25 escrow.

1           Q.       I know that, but I think to me SBC's  
2     position was that they had to protect themselves in case a  
3     CLEC actually didn't pay anything, just disputed the whole  
4     bill. And I was wondering if in your language or do you  
5     know if they did -- if they paid all their bills and had a  
6     good credit rating, would they have to pay into escrow in  
7     case a CLEC adopted this interconnection agreement?

8           A.       Actually, I'm not sure. I believe -- I  
9     have to go back and read, but I believe under the proposal  
10    that if there's a dispute, then an escrow account is  
11    created regardless of whether we paid consistently for 12  
12    months.

13          Q.       Okay. I had the distinct impression from  
14    hearing witnesses yesterday that if you -- if a CLEC had a  
15    good credit history, that the escrow provisions would not  
16    be in effect. Maybe some people could clear that up for  
17    me also.

18          A.       I don't recall it that way.

19                   MR. SCHEPERLE: Okay. That's all the  
20    questions I have. Thank you.

21                   JUDGE THOMPSON: Thank you, Mr. Scheperle.  
22    Mr. McKinnie?

23                   MR. MCKINNIE: No, thank you.

24                   JUDGE THOMPSON: Recross?

25                   MR. SAVAGE: Brief amount. Oh, recross.

1 I'm sorry.

2 JUDGE THOMPSON: Recross.

3 MR. LANE: No, thank you.

4 JUDGE THOMPSON: Very good. Redirect?

5 REDIRECT EXAMINATION BY MR. SAVAGE:

6 Q. Before I get started, do you need more  
7 water?

8 A. No, I'm good. Well, I only have a little  
9 bit. Depends.

10 Q. Do you have a copy of the intercarrier comp  
11 DPL in front of you?

12 A. Yes.

13 Q. Okay. Could you take a look at the  
14 proposed Charter language for Section 16.1?

15 A. Yes.

16 Q. And could you read the first phrase within  
17 that?

18 A. Yes. For the purpose of this agreement  
19 only --

20 Q. Okay. That's all I was looking for. Okay.  
21 Now, given that statement, do you have any understanding  
22 as to whether this provision would apply to Charter's  
23 relationships with the Smithville (sic) Telephone Company?

24 A. Given that statement, it would not.

25 Q. Now, on the insurance question, Mr. Lane

1 asked you some questions that boil down to the following:  
2 What if something bad happens for which Charter is  
3 responsible under the contract, under tort law or what  
4 have you, and by some unfortunate circumstance Charter's  
5 insurer doesn't pay? What actually happens in that case?  
6 Who pays?

7 A. Well, Charter will have to pay. Charter  
8 would have to make good if there was a problem. I'm sure  
9 there would be lawsuits in every direction, but in the end  
10 I believe that Charter would be responsible.

11 Q. Now, in a somewhat related notion, I was --  
12 Mr. Lane asked you whether you thought it was fair that  
13 there was a provision in this contract that was not  
14 reciprocal but was not reciprocal in Charter's direction.  
15 Do you recall whether you thought that was fair?

16 A. Yes. I said that it was not fair if it was  
17 not reciprocal.

18 Q. Is that --

19 A. In fact, in either -- in several cases.

20 Q. I was going to say, is that Charter's  
21 general view with respect to reciprocity under this  
22 contract?

23 A. Yes, it is.

24 Q. Why is that?

25 A. Well, I think because this is an agreement

1 for the exchange of traffic between equals, and so any  
2 term that is reasonable for one is reasonable for the  
3 other, and if it's unreasonable for one, it's unreasonable  
4 for the other, if we are assuming that this is an  
5 agreement of exchange traffic between equal operators.

6 Q. Now, another matter that came up, I guess,  
7 with regard to this had to do with the notion of the  
8 amount of the deposit, and Mr. Lane asked you an example  
9 about a seller of a refrigerator who would, if his  
10 reseller disputed, he would cut off the service.

11 And I thought you were going to say  
12 something at that time about the difference in the  
13 relationship between Charter and SBC on the one hand and a  
14 manufacturer and a reseller on the other hand. I just  
15 wanted to make sure that you had your chance to say  
16 whatever that was.

17 A. Well, no. In fact, I did stop short  
18 because I was trying to answer just the question. You  
19 know, basically that example is a resale. We are not in a  
20 resale situation. We are basically exchanging traffic for  
21 the benefit of our mutual customers. In the case of a  
22 reseller, they are -- the manufacturer is providing this  
23 equipment to them, providing the service, providing the  
24 product and goods to that entity, and certainly they can  
25 cut it off if that person doesn't pay.



1                   In our environment, SBC is not providing me  
2   a product. They are providing their customers access to  
3   mine. I'm providing my customers access to theirs.

4                   MR. SAVAGE: I have nothing further. Thank  
5   you.

6                   JUDGE THOMPSON: Thank you. Okay. Who's  
7   next?

8                   MR. SAVAGE: I think Mr. Cornelius.

9                   JUDGE THOMPSON: Mr. Cornelius. And do we  
10   expect to have extensive cross-examination for  
11   Mr. Cornelius?

12                  MR. LANE: I don't think so, your Honor.

13                  JUDGE THOMPSON: Very good. Let's get  
14   Mr. Cornelius up there.

15                  MR. SAVAGE: I had previously distributed  
16   but not yet sent by e-mail a page that shows some  
17   corrections to Mr. Cornelius' direct, and I don't know if  
18   I've given you a copy, but I will do that before we get  
19   rolling.

20                  JUDGE THOMPSON: Very good.

21                  (Witness sworn.)

22                  JUDGE THOMPSON: Please take your seat.  
23   State your name for the reporter; spell your last name if  
24   you would.

25                  THE WITNESS: Mike Cornelius,

1 C-o-r-n-e-l-i-u-s.

2 MIKE CORNELIUS testified as follows:

3 DIRECT EXAMINATION BY MR. SAVAGE:

4 Q. Mr. Cornelius, do you have any corrections  
5 to indicate for the record in your direct testimony?

6 A. Yes, I have two. First is on page 1,  
7 line 6 and 7. I'm sorry. 6 actually. That business  
8 address should be 8413 Excelsior Drive, Madison,  
9 Wisconsin.

10 Q. And is your business address properly  
11 stated in your rebuttal testimony?

12 A. Yes, it is.

13 Q. And what is the second correction to be  
14 made?

15 A. That is on page 25, lines 11, 12, 13, 14,  
16 15 and 16, the section that asks, what is Charter asking  
17 this Commission to decide on this issue? In order to help  
18 clarify the distinction between facilities and trunks,  
19 we've changed language, and I'll quote the new language if  
20 that's okay. Charter is asking this Commission to rule  
21 that SBC must allow Charter to use A, insertion of A,  
22 single interconnection, insertion of facility for all  
23 trunk groups between the carriers instead of multiple,  
24 insertion of facilities, excluding or eliminating trunk  
25 groups using POI for carrier billing purposes. This will

1 preserve network efficiency, eliminate call black  
2 standards, and will minimize the insertion of facilities  
3 and eliminate the following trunking and switching  
4 equipment needed for interconnection -- I'm sorry --  
5 eliminating trunking and switching equipment then needed  
6 for interconnection.

7                   The language that Charter is proposing for  
8 this issue is fair and balanced and will allow the  
9 efficient use of, inserting facilities in place of trunks,  
10 and then by both companies.

11           Q.       Do you have any other corrections to your  
12 testimony?

13           A.       No, I do not.

14           MR. SAVAGE: He's available for  
15 cross-examination.

16           JUDGE THOMPSON: Thank you. Cross-exam?

17 CROSS-EXAMINATION BY MR. GRYZMALA:

18           Q.       Hi, Mr. Cornelius. My name is Bob Gryzmala  
19 with SBC.

20           A.       Hi.

21           Q.       I'm going to try to keep these questions  
22 short because, frankly, some of them we have of Charter  
23 we've asked of the CLEC Coalition, but I want to get to  
24 the point. I will be talking just briefly about the NIM,  
25 I believe it is, NIM DPL.

1           A.       Okay.

2           Q.       Okay.  You have those?

3           A.       Yes, I do.

4           Q.       Charter was clear, am I not, in that it  
5 agrees interconnection must be within SBC's network; is  
6 that a fair statement?

7           A.       Yes.  I think the question is whether -- or  
8 the definition of within.  Maybe SBC uses the term on  
9 instead of within.

10          Q.       Exactly correct.  And that is alluded to,  
11 in fact, at Charter's language, and if I might now refer  
12 you to NIM 1.  My, Mr. Cornelius, May 20 copy shows that  
13 I'm looking at page 1 of 12 is where NIM Issue 1 appears.  
14 And when you get a fix on that, let me know.

15          A.       Yeah.  Go ahead.

16          Q.       Charter's language basically says a POI  
17 will be placed, consistent with what you just said, at the  
18 very bottom of the page, quote, on SBC 13 states network,  
19 right?

20          A.       Correct.

21          Q.       And then it goes on to say, which

22

23

24

25

1 includes -- or which points -- I'm sorry -- which points  
2 include SBC's, and paraphrasing, end offices and/or tandem  
3 switches. That's fair, correct?

4 A. Yes.

5 Q. So is it also fair to state that that  
6 language does not define the actual points where  
7 interconnection will be appropriate; it only tells you  
8 that two of those points will be an end office and a  
9 tandem?

10 A. Right.

11 Q. But the language allows establishment of a  
12 POI -- or it actually says the POI will be on the network  
13 and it could be some other point?

14 A. Absolutely correct. It is not limited to  
15 end offices and tandems.

16 Q. Okay. And I think your testimony -- I  
17 think your testimony also suggests at page 9, for purposes  
18 of this issue, SBC's network is not limited to end offices  
19 and tandem switches, but also includes intermediary points  
20 such that Charter may interconnect via a fiber meet point  
21 arrangement. That's at page 9, right?

22 A. Correct.

23 Q. And I understand the point you're making,  
24 Mr. Cornelius, in your testimony. What I want to ask you  
25 is that what language would identify where an intermediary

1 point might be?

2 A. Well, I think the intent here is not limit  
3 the connection POIs to end office and tandems. I think in  
4 some earlier testimony the term technically feasible point  
5 was addressed, and I would subscribe to that as well. To  
6 list an all-inclusive list of points that might be used  
7 for interconnection would probably leave some out.

8 Q. I see the reference to technically  
9 feasible, but I don't see any reference to delimiters in  
10 that language. Again, I will submit we're back to the  
11 similar issue as before. Would this language permit the  
12 establishment of a POI, should Charter so request one, in,  
13 for example, an area of Missouri where -- or let's say  
14 even within a LATA in Missouri in which SBC does business  
15 but not at that particular point?

16 A. No, certainly that would not be a  
17 technically feasible point.

18 Q. What language here prevents that sort of  
19 application?

20 A. Well, I think what you're suggesting is  
21 that we would then list either the all-inclusive list or  
22 the all-exclusive list of points that could be used. Is  
23 that what you're suggesting?

24 Q. I only -- I'm not suggesting either one,  
25 but I think it's a fair question to say that if it's going

1 to be a generic description, that it be accurate and is  
2 not subject to an interpretation which is beyond what our  
3 obligation really is.

4 A. But I -- but any technically feasible point  
5 within SBC's network to me means that there is a point on  
6 your existing network where we can interconnect. That I  
7 think excludes points where you don't have network.

8 Q. If that's the case -- and I'm just hearing  
9 you say this, Mr. Cornelius. If that's the case, you  
10 already have language there that says technically  
11 feasible, et cetera, et cetera, on SBC's network. Why  
12 don't we just stop there?

13 Your language says which points include the  
14 end office and tandem, which necessarily raises the  
15 question, well, what other points may there be? Given  
16 your testimony, wouldn't it be more prudent to simply drop  
17 a period after the word on SBC 13 states network under  
18 your view, under Charter's view of the proposed language?

19 A. This language I think is in here  
20 particularly because of SBC's position that limits  
21 interconnection points to end offices and tandems and  
22 specifically says, no, it's not.

23 Q. But I just want to agree on a simple fact.  
24 I don't want to argue the law. The language you propose  
25 would permit Charter to command a POI at a place other

1     than a tandem and an end office, correct?

2             A.       Correct.

3             Q.       Okay.  Do you agree -- you agree, do you  
4     not, sir, that each party should be responsible for the  
5     facilities on its side of the POI?

6             A.       Yes, I do.

7             Q.       That's pretty -- that's a pretty -- that  
8     point is made pretty unequivocally in your position  
9     statement, is it not, in your testimony?

10            A.       Yes, I would say it is.

11            Q.       That's fine.

12                    MR. SAVAGE:  We really believe it.

13                    MR. GRYZMALA:  Well, that's good that  
14     there's recognition in the community.

15     BY MR. GRYZMALA:

16            Q.       Charter agrees as well that if the amount  
17     of traffic that is exchanged between Charter and SBC at  
18     its tandem or its end office, and I'm paraphrasing,  
19     exceeds a certain threshold, the parties should establish  
20     an additional POI.  I believe this is at page 3 in your  
21     rebuttal.

22            A.       Correct.

23            Q.       And interesting you say at some point  
24     prudent network planning suggests that both parties would  
25     benefit from establishing an alternative high-capacity



1 network between the two networks or a high-capacity  
2 connection between the two networks, i.e. another POI.  
3 You likewise state that unequivocally, emphatically,  
4 without qualification, correct?

5 A. I missed the question in all of that.

6 Q. Okay. Forget that. I'm sorry.

7 What prudent network planning  
8 considerations suggest that both parties benefit from  
9 establishing an additional POI?

10 A. Well, I think the point was made earlier,  
11 but I'll reemphasize it here. In cases of a single POI  
12 where there is a remote calling area where we both offer  
13 service, thus we have the need to exchange traffic, if  
14 we're hauling that traffic across our network to the  
15 initial POI, which again is remote from this new calling  
16 area or this second calling area, that there are certain  
17 costs incurred in doing that.

18 Then at some point, and I think we differ  
19 on what that point is, it would become prudent to create a  
20 second POI whereby traffic in that second calling area  
21 could be exchanged directly and more efficiently given  
22 some level of traffic between us, between our network.

23 Q. You're not suggesting that the deployment  
24 of an additional POI to a, quote/unquote, remote area as  
25 you talk about would be appropriate only when that remote

1 area reaches OC-12 capacity, do you?

2 A. Yes, I do.

3 Q. That's a lot of capacity. Do you realize

4 that?

5 A. Yes, it is.

6 Q. In terms of applying additional -- well,

7 that's not remote any longer, is it?

8 A. I don't understand the question about it

9 being remote.

10 Q. Why if given your testimony that you're

11 emphasizing a remote area, I think I heard you say that,

12 remote office?

13 A. Well, remote -- maybe I used different

14 language, but remote -- let me rephrase that.

15 Q. Distance-wise?

16 A. That it's not within the local calling area

17 of the initial POI.

18 Q. And you would agree that at the point that

19 an additional POI is added, then it would carry some of

20 the traffic that was going on or going over the first POI?

21 A. Yes. And I'm suggesting that that amount

22 of traffic equal an OC-12's worth of traffic.

23 Q. Is there any -- do you likewise believe, is

24 it likewise your opinion that consideration such as

25 network exhaust or tandem exhaust are potential

1 considerations when deciding whether to employ an  
2 additional point of interconnection?

3 A. No, because I think you're confusing issues  
4 of trunking versus facilities, and a second POI addresses  
5 the question of facilities, i.e. a second POI to transport  
6 trunks, but the trunks would be preexisting, albeit using  
7 the facilities that exist in the initial POI.

8 Q. So let me refer you, if I may, to DPL  
9 section or page 2.

10 A. Of?

11 Q. I'm sorry. It would be the NIM, the NIM  
12 DPL.

13 A. What section specifically?

14 Q. This is page 2 of 12.

15 A. Okay.

16 Q. This is Issue No. 1, the one we were  
17 talking about. I'm sorry. And there's a reference made  
18 to the Texas Commission's having made a statement to the  
19 effect that initially a technically feasible  
20 interconnection at a particular point on the ILEC's  
21 network is okay. However, quote, in order to avoid  
22 network and/or tandem exhaust situations, it is reasonable  
23 that a process exist for requesting interconnection at  
24 additional technically feasible points.

25 Do you take issue with the Texas

1 Commission's conclusion reached there?

2 A. I can't say I take issue, but clearly as  
3 we've -- I think other witnesses have stated, there are --  
4 there's a difference in facilities versus trunking, and if  
5 I create a second POI, that relieves facility exhaust or  
6 augments the facilities deployed in an initial POI.

7 The trunking I would expect is largely the  
8 same. In other words, I'm providing trunking over the  
9 initial POI to some secondary local calling area to a  
10 tandem or to an office depending on the level of traffic  
11 to those particular switches.

12 Q. Do you have regulatory responsibilities for  
13 the company?

14 A. No, I do not.

15 Q. Regulatory and policy considerations. So  
16 you wouldn't have an opinion as to whether regulatory  
17 policy looks at the revenue potential of a CLEC in  
18 determining when the CLEC should be less reliant on an  
19 ILEC's network?

20 A. From a regulatory perspective, no.

21 Q. You would not have an opinion on that?

22 A. Not from a regulatory perspective, no, I  
23 wouldn't.

24 Q. You were asked to assume, I think as  
25 Mr. Hamiter testified, that the 24 DS1 threshold was a --

1 forgive me. I'm moving ahead. You realize this had to do  
2 with the differential between our companies, yours having  
3 OC-12 level, ours having 24 DS1?

4 A. Yes.

5 Q. As you may recall, Mr. Hamiter testified,  
6 the 24 DS1 threshold was originally a compromise reached  
7 between MCI and SBC before the Texas Commission. What  
8 criticism do you have of 24 DS1s being appropriate?

9 A. The level of traffic, of course -- and I  
10 think again this was stated earlier -- depends on a number  
11 of different factors, and that there is no magic number  
12 that says this is the right amount, this is not the right  
13 amount.

14 But I proposed that a level at something  
15 less than a DS3 given today's very efficient high-capacity  
16 networks is rather low for creating a new piece of network  
17 that doesn't exist, i.e. a second POI. Each company would  
18 be required, as we would, to do a second POI, thereby  
19 incurring costs on both sides, that to do that at a level  
20 of 24 DS1s seems low.

21 So it's a question of grade, but to you me  
22 24 DS1s seems exceptionally low. I think it's more on the  
23 order of an OC-12.

24 Q. I would like to turn to NIM 4 if I may, and  
25 I believe that starts at -- I believe it starts at page 5

1 of my DPL. And again, I don't want to spend too much time  
2 on this, but again highlight the language at issue between  
3 our companies having to do with POI.

4                   This is related to the earlier discussion.  
5 Would you agree, Mr. Cornelius, that the language here  
6 would allow Charter to establish a fiber meet point  
7 interconnection, quote, between SBC -- I'll paraphrase  
8 here -- between SBC and the CLEC at any technically  
9 feasible and commercially reasonable point between the  
10 CLEC's premises and SBC's network, correct?

11           A.       Yes.

12           Q.       And again, would you agree that that  
13 language likewise is not confined to placement of a POI  
14 at, as is stated in SBC Missouri's language, an SBC  
15 Missouri tandem or end office within each local calling  
16 exchange area?

17           A.       Yes, I would.

18           Q.       Do you think that there could be  
19 disagreement as to what might be regarded as technically  
20 feasible and commercially reasonable between your switch  
21 at the CLEC's premises and what constitutes SBC's network?

22           A.       Could there be disagreement between the two  
23 parties? Yes.

24           Q.       There certainly is ambiguity, would you not  
25 agree, in terms of the fact that the -- that network is

1 not defined in your proposed language?

2 A. That's correct.

3 Q. No specified point of interconnection is  
4 really stated anywhere?

5 A. No, but --

6 Q. I mean, is that -- answer my question  
7 first.

8 A. Yes.

9 Q. No specified point of interconnection is  
10 indicated anywhere in your language?

11 A. That's correct.

12 Q. All right. Now, I --

13 MR. SAVAGE: You cut him off.

14 MR. GRYZMALA: I'm sorry. Go ahead.

15 THE WITNESS: But I would go so far as to  
16 say that if there are situations where SBC has created  
17 like facilities, similar facilities using different  
18 points, different from end offices or tandem switch  
19 locations, with other entities, that that then would  
20 define it as technically feasible in that they've already  
21 done that with someone else.

22 BY MR. GRYZMALA:

23 Q. So certainly would you agree, though,  
24 that -- and I don't know what your position is in your  
25 testimony. I don't believe you reach it. You would not

1    regard it as a commercial expectation reasonable, nor  
2    would you regard it as being part of technically feasible  
3    to have SBC build out to an area which it does not already  
4    have facilities; fair enough?

5           A.       Yeah.

6           Q.       In other words, we -- and I'm not an expert  
7    here, but you wouldn't expect -- Charter would not expect  
8    that, if SBC isn't already there, it has to go there?

9           A.       Within some reason, yes.

10          Q.       Okay. I mean, it would not have to trench  
11   new ground, would not have to go to a new switch that's  
12   deployed to which it didn't already have facilities. Your  
13   principal screen is that where the network really is today  
14   is where Charter is asking to be placed, we're not asking  
15   for more?

16          A.       Yes, I think that's an accurate statement.

17          Q.       So then the question becomes, well, what  
18   about those facilities, I guess, that are currently in  
19   place today that just happen to be at a CLEC switch?  
20   That's one scenario; is that correct?

21          A.       Yes, absolutely.

22          Q.       And you understand that it's SBC's position  
23   that is not a part of our network?

24          A.       And I would disagree.

25          Q.       Just a couple more points very quickly.



1     Should Charter be required to trunk to every 911 tandem in  
2     each local exchange area in which it offers service?

3             A.     Well, if I understand your question  
4     correctly, and you can correct me after I've answered, but  
5     we should certainly trunk to the 911 tandems that provide  
6     911 service to the areas that we offer service in.

7             Q.     Okay.  So that -- help me here because I'm  
8     not very certain about this.  ITR 6, if the language  
9     suggested in ITR 6 proposed by Charter states that it  
10    would be for each NPA in the LATA, would that meet your  
11    test?

12            A.     I'm not sure if when you say each NPA in  
13    the LATA, does Charter offer service in those particular  
14    areas or are we defining a specific geographic area or --

15            Q.     It says, where the parties utilize SS7  
16    signaling and the E911 network has the technology  
17    available, only one E911 network per trunk group shall be  
18    established to handle multiple NPAs within the LATA.

19                    That's what I'm focusing on.  That's where  
20    the dispute is, because your firm underlines the word  
21    LATA, and our firm underlines local exchange area.  So is  
22    not the point of disagreement whether the trunk has to be  
23    deployed within the LATA or to each local exchange area?  
24    Is that not the dispute under the language we're looking  
25    at?

1           A.       Let me go back to my earlier statement is  
2   that -- and maybe it's not clear exactly what SBC's  
3   language is in terms of what they're asking us to do as  
4   far as 911 interconnection is concerned.

5           Q.       Well, it only differs in one regard. Our  
6   two companies' language are the same. We're identical.  
7   The only place we differ is at the very end of the  
8   sentence. One says, handle multiple NPAs within the local  
9   exchange area. That's us. Yours says, handle multiple  
10  NPAs within the LATA.

11          A.       So are you suggesting this is a case where  
12  there's an NPA overlay, that I would have multiple NPAs?

13          Q.       That would be one instance. That would  
14  certainly be one instance. That is possible.

15          A.       Right. And I would say again that falling  
16  under that, I would have to go to multiple 911 tandems to  
17  serve those customers in that particular calling area that  
18  I offer service.

19          Q.       Do you know of another instance in which  
20  there might be multiple NPAs within a local exchange area  
21  other than in an overlay situation?

22          A.       I can't think of any, no.

23          Q.       If the Commission has ruled in a previous  
24  case to the effect that separate trunks will be utilized  
25  for connecting a CLEC's switch to each 911/E911 tandem, do

1   you regard your position as consistent with that  
2   conclusion?

3           A.     Only insofar as it would be required to  
4   offer my customers 911 services in the areas that I'm  
5   offering service in. It would be nonsensical, I think, to  
6   go to a 911 tandem that serves no customers that I offer  
7   services to.

8           Q.     I want to move to issue, Mr. Cornelius,  
9   ITR 2, if I may. On my copy, Mr. Cornelius, it shows as  
10  page 4 of 14.

11          A.     Yes.

12          Q.     I think the dispute here has to do with  
13  what's the -- what is the purpose of an ASR. It seems  
14  like the language goes back and forth here. With that  
15  introduction, let me just ask you a couple questions.

16          A.     Well, I -- excuse me. I think Issue 2 is  
17  really about two-way trunking, one-way versus two-way  
18  trunking.

19          Q.     Well, I'm only looking at one particular  
20  piece.

21          A.     Okay.

22          Q.     The reference that on the one hand our  
23  company, SBC, says CLEC shall issue access service  
24  requests for two-way trunk groups. Let's put aside for  
25  the moment the issue of one-way/two-way.

1           A.       Okay.

2           Q.       The point being, are ASRs the right vehicle  
3   or not? That's the question, and you testified about it,  
4   and your language changed the word -- added an additional  
5   word to ASR calling it a form, and there's some dispute  
6   that's arisen over that.

7                    Don't you agree that the ASR has for many  
8   years been the vehicle by which CLECs placed trunk orders,  
9   ASR meaning access service request?

10          A.       I would -- I would agree that that form is  
11   the vehicle by which the specific information relative to  
12   a particular trunk construction, augmentation is conveyed  
13   from one party to another.

14                   What I disagree with is that it is a firm  
15   order that says I'm obligated to pay you and it has  
16   anything about terms or conditions in it because it  
17   doesn't. It's a technical information document.

18          Q.       You agree, though, that when a CLEC wants  
19   to order a trunk, there ought to be some recognized  
20   standardized vehicle by which when it reaches the ILEC  
21   they can look at it and say, oh, we have an order? Would  
22   you not agree?

23          A.       You know, I won't -- I won't argue the  
24   definition of order, but clearly, yes, activity occurs as  
25   a result of the submission of an ASR.

1           Q.     And I just want to go back because I don't  
2     think I got an answer. An ASR has generally been regarded  
3     by the industry for many years as the order for trunks,  
4     correct?

5           A.     And I think that's open to the definition  
6     of an order and what the obligations are under that.

7           Q.     But aside from your company -- let me make  
8     sure I understand. Aside from Charter, there's no other  
9     CLEC here that quarrels with a notion that an ASR is a  
10    trunk order, correct?

11          A.     I can't speak to them.

12          Q.     Do you know of any other CLEC that views it  
13    as something else?

14          A.     I don't have knowledge of other CLECs.  
15    Obviously they do use ASRs to request that additional  
16    trunks or new trunks be created.

17          Q.     The whole point here, I think, if I recall  
18    your testimony, is that your firm is concerned that if you  
19    send an ASR it's going to trigger some sort of activity  
20    that's going to generate a charge?

21          A.     Exactly right.

22          Q.     That's the point?

23          A.     Exactly right.

24          Q.     All right. So help me understand. If you  
25    want to place an order for trunks, you can use an ASR.

1 SBC will respond. I think there's a 20 day fuse,  
2 generally speaking, as we've heard about, a 20 day  
3 provisioning period, absent some difficulties. You'll be  
4 charged after the work is done, and that's the way it  
5 would work.

6 If you have a request, however, for  
7 additional information, you want to ask for -- to request  
8 some action, as you put in your testimony, to request  
9 action, to convey information, may I simply ask, why don't  
10 you e-mail or send a letter? Why is it you have to use an  
11 access service request to just convey information, request  
12 action?

13 MR. SAVAGE: I object to that question on a  
14 lot of grounds. I'll start with compound --

15 MR. GRYZMALA: All right. We'll take some  
16 time.

17 MR. SAVAGE: -- and mischaracterizing the  
18 testimony.

19 JUDGE THOMPSON: We are going to take some  
20 time right now. Do we need to finish this witness today?

21 MR. SAVAGE: Yes, sir.

22 JUDGE THOMPSON: In that case, I need to  
23 make a phone call. So we're going to take ten minutes.  
24 When we come back, we will finish the cross-examination  
25 and the various other parts of our examination of this

1 witness. Obviously we're going to run after five o'clock,  
2 so there you are.

3 MR. ZARLING: Your Honor, you just intend  
4 to finish with Mr. Cornelius today and carrying everything  
5 else to tomorrow?

6 JUDGE THOMPSON: Well, help me understand  
7 what else we are carrying over to tomorrow.

8 MR. ZARLING: I think Mr. Price is the  
9 only --

10 MR. BUB: No. We have Price and also  
11 Mr. McPhee.

12 MR. GRYZMALA: MCI's Mr. Price and SBC's  
13 Mr. McPhee.

14 JUDGE THOMPSON: Anyone else?

15 MR. BUB: That's it.

16 JUDGE THOMPSON: Were they both planning to  
17 be here tomorrow anyway or are they going to be seriously  
18 inconvenienced?

19 MR. MORRIS: Price will be here tomorrow.

20 MR. BUB: And Mr. McPhee will be here  
21 tomorrow.

22 JUDGE THOMPSON: So we can take them up  
23 tomorrow without inconveniencing their travel plans, and  
24 we can stay late tonight to finish this man. I apologize.  
25 I forget your name. At this point I forget my name. My

1 name is probably POI.

2 We're going to take ten minutes now so I  
3 can remember who I am, and then we're going to come back  
4 and finish this witness and then we're going to go home.

5 (A BREAK WAS TAKEN.)

6 JUDGE THOMPSON: How much longer do you  
7 think you're going to be? We've talked contracts. I want  
8 to get a contract right here.

9 MR. GRYZMALA: Can I have 30 seconds to  
10 look at this?

11 JUDGE THOMPSON: You may. You can confer  
12 with Mr. Bub, you can call the head office, do whatever  
13 you need to do.

14 MR. SAVAGE: At this point, I have probably  
15 two minutes of redirect, just so you know.

16 JUDGE THOMPSON: Redirect at your own risk.  
17 Do whatever you want.

18 MR. GRYZMALA: To coin a term, in an  
19 overarching effort to please all, I think this is my last  
20 issue.

21 JUDGE THOMPSON: Great. Let's hear it.

22 MR. GRYZMALA: And I mean the one I'm on.

23 JUDGE THOMPSON: I understand.

24 MR. GRYZMALA: I'm going to be a little  
25 more deliberate, if I may. I'm sorry I rushed you along.



1 BY MR. GRYZMALA:

2 Q. Where we picked up was that under ITR  
3 Issue 2, SBC proposes that the CLEC shall issue ASR for a  
4 trunk group request, and that the word group or rather  
5 form -- or rather ASR. You added the term form. And if I  
6 recall properly, your testimony says -- or rather the DPL  
7 says it shall indicate the trunk groups it wishes to  
8 establish by means of the ASR form.

9 A. Yes.

10 Q. You claim ASRs are used by a CLEC to convey  
11 information or request action from one party to another.  
12 They do not always represent a formal request for  
13 services. Am I accurately stating your testimony at  
14 page 32?

15 A. Yes, you are.

16 Q. All right. The point being, as I think you  
17 stated, if you send an ASR or Charter sends an ASR,  
18 Charter risks an ordering charge, correct?

19 A. I'm sorry. Could you restate the question?

20 Q. The point being -- would you agree with me  
21 the primary point here is that if an ASR is sent by  
22 Charter, Charter's fear is that it will risk an ordering  
23 charge when the ASR doesn't have a formal order on it?

24 A. Or any type of charges that might be a  
25 result of that particular ASR submission.

1           Q.     And ergo your concern is to avoid a charge  
2     when you want to do one of mainly two things, simply want  
3     to convey information but does not amount to a formal  
4     order, or you wish to request some action that does not  
5     request installation or does not constitute a formal trunk  
6     order, correct?

7           A.     No. We would certainly only use the ASR  
8     for new trunks, augmenting trunks. The issue here is  
9     that -- so -- well, restate the question.

10          Q.     Is that what your testimony says? I mean,  
11     did I read it correctly?

12          A.     Yeah.

13          Q.     Okay.

14          A.     But that information is technical  
15     information relative to a change in trunks between our two  
16     respective networks.

17          Q.     Are you saying that the information you  
18     might submit is -- would have to do with a pending trunk  
19     order, in other words, a trunk order for which you've  
20     already submitted an ASR?

21          A.     I would not submit another ASR.

22          Q.     No. Are you saying that -- are you  
23     concerned about risking a charge where you are simply  
24     submitting information about an already pending trunk  
25     order that was submitted via ASR?

1           A.       I'm a little confused. Are you saying that  
2 I'm sending you a second ASR?

3           Q.       Let me try it another way. Give me an  
4 example of a request for -- or give me a request for  
5 information that you would convey --

6           A.       Via --

7           Q.       -- that you would not want to risk being  
8 charged for if you used an ASR to do it.

9           A.       I'm requesting information, for instance,  
10 to interconnect to a 911 tandem. I'm going to send you an  
11 ASR. Right? That ASR would inquire information from you  
12 to be submitted; I need CLI codes, I need other types of  
13 information. Correct? And that you would convey that  
14 information to me, the ASR would be complete, and we'd go  
15 on about implementing that particular action.

16          Q.       But isn't it clearly understood in the  
17 industry that the submission of an ASR generally generates  
18 work for which SBC has applicable charges?

19          A.       No. I disagree that it -- I disagree with  
20 the last part. If there are applicable charges, yes, but  
21 the ASR does not dictate what those charges are.

22          Q.       Have you ever had a dispute with AS-- or  
23 I'm sorry -- with SBC regarding this subject matter that  
24 you can point to that led to your having been charged in  
25 error by SBC?

1           A.       None come to mind.

2           Q.       And how long has -- have you had experience  
3 or your company had experience with the submission of ASRs  
4 to SBC?

5           A.       Probably over three years.

6           Q.       Over three years. And in over three years,  
7 there's not been a submitted ASR that has been -- that has  
8 led to a charge for which you feel there is contract  
9 language now necessary to address; is that correct?

10          A.       Could you restate that, please?

11          Q.       In three years of implementing the ASR  
12 process back and forth between the two companies, no  
13 incident has ever arisen which has led you to question or  
14 led you to believe that contract language needs to be  
15 inserted on the point?

16          A.       Not to my knowledge.

17          Q.       Okay. And again, I want to emphasize,  
18 though, if I might, is there any language in the contract  
19 which would prohibit Charter from conveying information to  
20 our company or would prohibit Charter from requesting  
21 action of our company by other than an ASR?

22          A.       Are you asking whether or not I can request  
23 action via something other than an ASR?

24          Q.       Yeah.

25          A.       I think the point you made earlier is that

1 the ASR is the standard form for trunking and associated  
2 facilities.

3 Q. For a trunk order, correct?

4 A. Again, I think we disagree on what order  
5 implies, but it certainly is requesting action relative to  
6 trunking.

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

9 JUDGE THOMPSON: Thank you.

10 QUESTIONS BY JUDGE THOMPSON:

11 Q. I hesitate to ask any questions. Can't you  
12 limit ASRs to orders for facilities or services and ask  
13 for information using some other technique?

14 A. Yes, absolutely. I would agree.

15 Q. You could do that. And is it SBC's  
16 position that you want CLECs to order facilities and  
17 services using an ASR?

18 MR. GRYZMALA: Absolutely, your Honor. The  
19 ordering vehicle is the ASR.

20 JUDGE THOMPSON: The ASR. You don't want  
21 them using it for anything else?

22 MR. GRYZMALA: I'm sorry?

23 JUDGE THOMPSON: And you don't want them  
24 using it for anything else?

25 MR. GRYZMALA: That's my understanding.

1 JUDGE THOMPSON: Right?

2 MR. GRYZMALA: That's my understanding.

3 JUDGE THOMPSON: He's agreed that they can

4 meet that. Didn't you agree?

5 THE WITNESS: Yes.

6 JUDGE THOMPSON: So why are we here after

7 five o'clock?

8 MR. SAVAGE: Your Honor, I think I can tell

9 you why we're here after five o'clock.

10 JUDGE THOMPSON: You're going to get a

11 chance.

12 MR. SAVAGE: Then I will.

13 JUDGE THOMPSON: Mr. Williams, do you have

14 any questions?

15 MR. WILLIAMS: No.

16 JUDGE THOMPSON: Ms. Dietrich?

17 MS. DIETRICH: Just a couple.

18 JUDGE THOMPSON: Just a couple. I'm going

19 to hold you to that.

20 QUESTIONS BY MS. DIETRICH:

21 Q. Mr. Cornelius, first I'd like to ask you a

22 clarifying question on the network interconnection methods

23 DPL.

24 A. Okay.

25 Q. Okay. On Issue No. 1, you and Mr. Gryzmala

1 were talking about at the bottom of page 1 of 12 some  
2 language about end office and tandems and things like  
3 that. And I just want to clarify that on my page 1 down  
4 at the bottom, Charter's objectionable language or  
5 proposal is the word include. That's where the objection  
6 is. And for SBC it's the word are. And then all the  
7 other language around that is agreed upon; is that  
8 correct?

9 A. Yes. You're absolutely right.

10 Q. Okay. Then going to your direct testimony,  
11 on page 9.

12 A. Yes.

13 Q. At line 9 you're talking about where you  
14 would like to meet with SBC's facilities as far as the  
15 point of interconnection, and at the end of line 9 you say  
16 via a fiber meet point arrangement. I just want to  
17 clarify, would that make the POI and -- the POI and the  
18 meet point at the same point?

19 A. Yeah. I think contrary to Mr. Land's  
20 testimony, in a fiber meet point arrangement, wherever  
21 that fiber does meet becomes the POI, and I think it has  
22 to be given the responsibilities of each party on their  
23 side of the POI. In other words, if the POI is still  
24 going to be an end office and SBC has provided fiber out  
25 into the network somewhere and met my fiber, I certainly

1 wouldn't be responsible for their fiber.

2 So I think to answer your question, yes,

3 the POI would exist where the physical fiber meets.

4 Q. And is the fiber meet point there today?

5           A.       We have fiber meet points with SBC today,  
6    yes.

7 Q. So in this case it wouldn't be shifting any  
8 cost because the point of interconnection would already be  
9 there; it's just whether you call it a POI or a meet  
10 point?

11           A.       Yes, absolutely. The POI becomes the point  
12   where -- right. The responsibilities differ, but the  
13   fiber meet point is the technical method by which we've  
14   constructed facilities that has a POI in it.

15 Q. Okay. And then just for clarification, on  
16 page 14 of your testimony, you're referencing something I  
17 believe comes from SBC's language on the DPL, but I'm not  
18 positive where you got this from. You talk about this  
19 Commission's previous decision in Docket 21-2791. And  
20 Missouri doesn't normally have docket numbers like that,  
21 so I wanted to clarify if you knew what the correct docket  
22 number was.

23                    A.            I do not.

24 MS. DIETRICH: Okay. Thank you.

25 JUDGE THOMPSON: Thank you. Mr. Johnson?



1 MR. MICK JOHNSON: No, sir.

2 JUDGE THOMPSON: Mr. Scheperle?

3 MR. SCHEPERLE: No.

4 JUDGE THOMPSON: Mr. McKinnie?

5 MR. MCKINNIE: No, thank you.

6 JUDGE THOMPSON: We're ready for recross

7 Mr. Gryzmala?

8 MR. GRYZMALA: No, sir.

9 JUDGE THOMPSON: Bless you. Redirect?

10 MR. SAVAGE: Very briefly, your Honor.

11 REDIRECT EXAMINATION BY MR. SAVAGE:

12 Q. If you could focus, Mr. Cornelius, on where

13 we were, which is the DPL for NIM No. 1.

14 A. Yes.

15 Q. And if you could take a look at what --

16 take a look at the bottom of page 1 and follow along with

17 me just so we can get to the question that you were just

18 asked. It says, the Missouri Commission has recognized

19 that while a single POI may and, et cetera, and then as

20 stated by the Commission in Docket No. 21-791.

21 Now, do you know whether that refers to some docket of

22 this Commission or rather whether it refers to the Texas

23 case we've been talking about?

24 A. I would assume it's --

25 MR. GRYZMALA: Where are you in the DPL?

1                   MR. SAVAGE: Your DPL, your position, on  
2 pages 1 and 2 of NIM.

3                   MR. GRYZMALA: Our position?

4                   MR. SAVAGE: Right. I'm reading your  
5 position.

6                   MR. GRYZMALA: Thank you. I see.

7                   MR. SAVAGE: And I think you meant the  
8 Texas.

9                   MR. GRYZMALA: I know I did.

10                  MR. SAVAGE: So let the record reflect they  
11 meant the Texas order.

12                  JUDGE THOMPSON: See how easy that was?

13 BY MR. SAVAGE:

14                  Q.       That was easy, but now I'll get on to  
15 substantive questions, which is, the Texas Commission  
16 said, quoted here, in order to avoid network and/or tandem  
17 exhaust situations, it's reasonable to establish  
18 additional POIs.

19                  And I was wondering if you could comment  
20 first on why it is that establishing additional POIs is  
21 not necessary to deal with a situation of tandem exhaust?

22                  A.       Well, as I tried to explain earlier, and I  
23 think as earlier witnesses have, separating the facility  
24 that carries the trunks from the trunks, and if I have a  
25 tandem that has some traffic to it, and I think the

1 requirement is it needs 24 DS0s of traffic, I would create  
2 the trunk group to that switch entity.

3 But that in no way implies that I'm going  
4 to create a second POI in a remote calling area or  
5 anywhere else beyond the initial POI. So --

6 Q. Okay. Go ahead. I'm sorry.

7 A. I'm a little confused in terms of how they  
8 propose this number of DS1s in creating a second POI,  
9 because implied in that in order to relieve tandem exhaust  
10 or any switch exhaust would be the creation of some  
11 additional trunking that previously didn't exist.

12 Q. So if you've already established direct  
13 trunks from Charter's switch to various SBC switches going  
14 around the SBC tandem, if you've already established those  
15 trunks over the initial POI, will creating a new POI have  
16 any impact on that initial tandem?

17 A. No, it won't. Absolutely not.

18 Q. So if the Texas Commission thought that  
19 creating a new POI in that circumstance would protect  
20 SBC's tandems from exhaust, was the Texas Commission right  
21 if they thought that?

22 A. No, they weren't.

23 Q. Okay. Now, I believe in a question it was  
24 noted that this arrangement was a compromise between SBC  
25 and MCI. Now, do you know whether MCI in its CLEC

1 capacity has established a variety of collocations in  
2 different ILEC end offices and tandem facilities?

3 A. I don't know directly. I presume they  
4 would have.

5 Q. Given what you know in the industry about  
6 the nature of their operations, would you expect that they  
7 would have established a number of collocations?

8 A. That would seem like a logical network  
9 topology, yes, it would.

10 Q. Now, if a carrier has established physical  
11 collocations in a wide variety of end offices and tandems,  
12 is it incrementally a great deal of investment for  
13 construction to create a new physical POI at one of those  
14 tandems or end offices where they're already collocated?

15 A. No, it's not. They have facilities already  
16 in that premise, so obviously to connect to a facility  
17 that exists within that central office to equipment in  
18 that central office that belongs to SBC would be a  
19 relatively inexpensive, easy undertaking.

20 Q. Does Charter have collocations in any SBC  
21 end offices?

22 A. No, we do not.

23 Q. Why not?

24 A. Because we're a facilities-based provider,  
25 and we don't need to create that type of collocations to

1 have access to UNE-type elements or parts of SBC's  
2 network. We have our own network. We serve our own end  
3 users via that network.

4 Q. So given the different topology between  
5 Charter on the one hand and a carrier like MCI with lots  
6 of collocations on the other hand, would you think that  
7 the rational engineering considerations as to when you  
8 would establish a separate POI would be the same or  
9 different?

10 A. I would think they would be very much  
11 different.

12 MR. SAVAGE: I have nothing further.

13 JUDGE THOMPSON: Thank you. Okay.

14 Mr. Cornelius, you're done. Good-bye. Mr. Barber, thank  
15 you for your testimony. You've done, too.

16 Tomorrow we'll start with McPhee and  
17 Mr. Price; isn't that right? McPhee and Price, and we'll  
18 finish up what's left from today. Am I right? Am I not  
19 right?

20 MR. BUB: Is Price first and then McPhee?

21 JUDGE THOMPSON: I don't care what order we  
22 do them in. I just want to make sure I know what we're  
23 doing first.

24 MR. SAVAGE: 13 minutes over, your Honor.  
25 I apologize to the extent it was my fault.

1 JUDGE THOMPSON: That's okay. So tomorrow  
2 at 8:30 again.

3 WHEREUPON, the hearing of this case was  
4 recessed until May 25, 2005.

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