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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

September 12, 2002

Jefferson City, Missouri

Volume 5

In the Matter of an Investigation of)
the Actual Costs Incurred in Providing) Case No.
Exchange Access Service and the Access) TR-2001-65
Rates to be Charged by Competitive)
Local Exchange Telecommunications)
Companies in the State of Missouri.)

BEFORE:

KEVIN A. THOMPSON,
DEPUTY CHIEF REGULATORY LAW JUDGE.
KELVIN SIMMONS, Chair
CONNIE MURRAY,
SHEILA LUMPE,
STEVE GAW,
BRYAN FORBIS,
COMMISSIONERS.

REPORTED BY:
TRACY L. CAVE, CSR
ASSOCIATED COURT REPORTERS

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Goodman Telephone Company, Inc.
Granby Telephone Company
Grand River Mutual Telephone Corporation
Green Hills Telephone Corp.
Holway Telephone Company
Iamo Telephone Company
Kingdom Telephone Company
KLM Telephone Company
Lathrop Telephone Company
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McDonald County Telephone Company
Mark Twain Rural Telephone Company
Miller Telephone Company
New Florence Telephone Company
New London Telephone Company
Orchard Farm Telephone Company
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1 (EXHIBIT NOS. 24 AND 25 WERE MARKED FOR
2 IDENTIFICATION.)

3 JUDGE THOMPSON: Would you spell your name for
4 the court reporter.

5 THE WITNESS: Yes. My name is Brian Staihr,
6 S-t-a-i-h-r.

7 (Witness sworn.)

8 JUDGE THOMPSON: Thank you. You may inquire.

9 MR. SCHIFMAN: Thank you, Judge.

10 BRIAN STAIHR, having been sworn, testified as follows:

11 DIRECT EXAMINATION BY MR. SCHIFMAN:

12 Q. State your name for the record.

13 A. My name is Brian K. Staihr.

14 Q. By whom are you employed?

15 A. By Sprint.

16 Q. And what's your position at Sprint,

17 Dr. Staihr?

18 A. I'm senior regulatory economist.

19 Q. Okay. And do you have before you what the
20 court reporter is marking Exhibit 24, Rebuttal Testimony of
21 Brian K. Staihr; and Exhibit 25, the Surrebuttal Testimony
22 of Brian K. Staihr?

23 A. Yes, I do.

24 Q. Okay. Were these Exhibits 24 and 25 prepared
25 by you or under your supervision?

1 A. Yes, they were.

2 Q. Okay. And, Dr. Staihr, do you have any
3 changes to your testimony?

4 A. Yes, I do. First, I have the same problem
5 that Mr. Farrar had yesterday. My title pages are not
6 consistent. The title page of the rebuttal currently says
7 I'm testifying on behalf of Sprint Missouri, Inc. It should
8 say Sprint Missouri, Inc. and Sprint Communications Company,
9 LP.

10 The second correction is that in that Rebuttal
11 Testimony for some reason at the top of every page it says
12 Attachment BKS-R-1. There is an attachment that's one page
13 that follows page 23. Obviously the testimony itself
14 shouldn't have Attachment written at the top of it.

15 Q. Any other changes, Dr. Staihr?

16 A. Yes. I have three more changes. On page 11,
17 line 16 of the rebuttal, I have a figure there of \$40.56.
18 That should actually be \$40.81.

19 My next change is on page 23. There's a
20 table, there's a typo in the table. At the top of the page,
21 the second row of the table, the right-hand column currently
22 reads 800 plus 900 or \$9 per unit. It should read this. It
23 should say, \$800 plus \$100 or \$900 or \$9 per unit. I left
24 out the "plus 100." And that's all.

25 Q. Okay. And I think, as you mentioned,

1 Dr. Staihr, your testimony -- Rebuttal Testimony has one
2 attachment, BKS-R-1, and your Surrebuttal Testimony has an
3 attachment, BKS-S-1; is that correct?

4 A. Yes. That's correct.

5 Q. Okay. With the changes you made to your
6 testimonies, Dr. Staihr, Exhibits 24 and 25, if I asked you
7 those same questions as contained in those exhibits, would
8 your answers be the same?

9 A. Yes, they would.

10 Q. Are those answers true and accurate to the
11 best of your knowledge and belief?

12 A. Yes, they are.

13 Q. Okay.

14 MR. SCHIFMAN: I would offer Exhibits 24 and
15 25 and corresponding attachments into the record and tender
16 Dr. Staihr for cross-examination.

17 JUDGE THOMPSON: Thank you, Mr. Schiffman.

18 Do I hear any objections to the receipt of
19 Exhibits 24 or 25?

20 Hearing no objections, Exhibits 24 and 25 are
21 received and made a part of the record of this proceeding.

22 (EXHIBIT NOS. 24 AND 25 WERE RECEIVED INTO
23 EVIDENCE.)

24 JUDGE THOMPSON: Let's see.

25 Cross-examination, Mr. Conroy?

1 MR. CONROY: No questions, Judge.

2 JUDGE THOMPSON: Mr. Poston?

3 MR. POSTON: No questions.

4 JUDGE THOMPSON: Mr. Dandino?

5 MR. DANDINO: Yes, your Honor. Thank you.

6 CROSS-EXAMINATION BY MR. DANDINO:

7 Q. Good morning, Dr. Staihr.

8 A. Good morning, Mr. Dandino.

9 Q. If you would turn to your Surrebuttal
10 Testimony, page 3, please.

11 A. I'm there.

12 Q. Okay. And I'm looking at line 3 where you
13 quote OPC Witness Barbara Meisenheimer, quote, Joint use of
14 the telecommunications network supports a shared cost
15 allocation to all services that makes use of that network,
16 end quote.

17 Then on line 7 of that page you've kind of
18 changed that quote where it now reads, Joint use of the
19 telephone handset supports a shared cost allocation to all
20 services that make use of that handset.

21 So you've changed her testimony for your own
22 purpose to illustrate a point; isn't that correct?

23 A. For an illustrative purpose, yes, sir.

24 Q. Okay. And this is, I guess -- now, first of
25 all, now is the telecommunications network and a handset,

1 are they identical?

2 A. No, sir.

3 Q. I notice in your testimony you mention that a
4 handset is a customer premise equipment. Could you tell the
5 Commission what customer premise equipment is?

6 A. It could be anything. The telephone handset,
7 the actual module that sits on your desk or by your bedside.
8 It could be the actual piece of equipment that sits on your
9 desk at work. It used to be owned by the telephone company.
10 Now pretty much people buy them and own them themselves and
11 they just hook them into the telephone network through the
12 inside wiring in their house through the NID connecting to
13 the loop.

14 Q. Okay. And the CPE, as it's called, that's not
15 property of the telephone company?

16 A. Oh, no. It's often not property of the
17 telephone company. It's just something that is used
18 whenever anyone enjoys the services that the telephone
19 company provides.

20 Q. Okay. Would a CPE be considered part of a
21 telecommunications service?

22 A. Well, no. A service is not an object like a
23 loop is not a service.

24 Q. Well, and customer premise equipment is
25 expressly excluded from inclusion in telecommunications

1 service in Missouri statutes, isn't it?

2 A. I'm not an attorney, so I can't tell you
3 exactly what's included or excluded. I can tell you that no
4 object is part of a service.

5 Q. Uh-huh. And it would just be used to
6 provide -- well, I guess it's not even considered being used
7 to provide the service?

8 A. Oh, no. It's absolutely necessary for the
9 customer to use that piece of equipment in order to enjoy
10 the service that the customer's purchasing.

11 Q. Okay. Now, in changing from network to
12 handset -- well, a handset would never be part of the cost
13 of the company to provide the telecommunications service?

14 A. It certainly wouldn't be today --

15 Q. Prior --

16 A. -- when companies don't own the handset.

17 Q. Sure. And that's what we're talking about,
18 today.

19 A. Right. The cost the companies incur when they
20 provide the service.

21 Q. Okay. So by changing telecommunications
22 network to telecommunications handset, you're kind of
23 changing the inputs into Mrs. Meisenheimer's statement,
24 aren't you?

25 A. I'm not changing the logic that the statement

1 appears to use, in that use of something implies that that
2 something is part of the cost of the service.

3 Q. And it would be the same way as Dr. Johnson
4 was using Sprint's economic costing model, but he changed
5 some of the inputs isn't -- would that be -- the logic, the
6 model was still the same, but the inputs were different?

7 A. I think he changed more than the inputs. That
8 would actually be a question Mr. Farrar could have answered
9 better, but I'm pretty sure he changed more than the inputs.

10 Q. If he kept the logic the same or if he kept
11 the model the same, you'd still have problems with that,
12 changing the inputs?

13 A. I would have problems with his changing of
14 inputs and then producing a result that he claims to be
15 Sprint's forward-looking economic cost.

16 Q. Okay. Now, if you turn to page -- I believe
17 you talked about -- I think it's on page 8 of your
18 Surrebuttal Testimony. You referenced a Dr. Gerald -- is it
19 Faulhaber?

20 A. Faulhaber.

21 Q. Faulhaber. Okay. Dr. Faulhaber. First you
22 had -- and to this you had attached a white paper, as you
23 refer to it, as attachment BKS-S-1. Do you see that?

24 A. Yes, sir.

25 Q. Okay. And I notice there's a first

1 footnote -- the first footnote is on that paper,
2 Cross-subsidy analysis with more than two services. Could
3 you read that footnote?

4 A. It says, This note was prepared at the request
5 of Sprint to clarify some questions concerning the
6 application of my earlier work on cross-subsidy to address
7 questions that have arisen in regulatory proceedings. It is
8 not an endorsement of any regulatory position of Sprint or
9 any other party. This note is an explication of the
10 principles contained in my earlier work and does not
11 constitute any deviation or modification of that work for
12 any purpose.

13 Q. And the date of this article is August 11th,
14 2002?

15 A. Yes, sir.

16 Q. And you filed your Surrebuttal Testimony on
17 August 28th, 2002?

18 A. Yes, sir.

19 Q. And when did you file your Rebuttal Testimony
20 and when did the various parties file Rebuttal Testimony?
21 Would that be August 1st, 2002?

22 A. Yes, sir.

23 Q. And what role did you have in requesting
24 Dr. Faulhaber to produce this article?

25 A. I asked him if he would write it.

1 Q. Okay. And how did that come about?

2 A. Well, I had read the testimonies of

3 Dr. Johnson and Ms. Meisenheimer. And seeing that they had

4 misinterpreted his work and left out an important component

5 of that work, which is that they completely ignored that you

6 can't just test individual services in a multi-product firm,

7 you have to test groups of services too. Of course,

8 Dr. Johnson didn't do that and he made certain --

9 Q. Well -- excuse me.

10 A. -- conclusions based on that.

11 Q. What I'm asking you is the process of how you

12 contacted the doctor.

13 A. I called Dr. Faulhaber -- Faulhaber.

14 Q. Faulhaber?

15 A. Yes.

16 Q. Okay. And were you ever a student of his?

17 A. No.

18 Q. Okay. Was he compensated to provide this

19 note?

20 A. Yes. We had to pay him for his time.

21 Q. Okay. And how much was his compensation?

22 A. I don't know the exact number.

23 Q. And now this is not published -- this is

24 published on his website?

25 A. Yes. It's publicly available on his website.

1 Q. Okay. Is that his personal website?

2 A. It's the website associated with Wharton,
3 which is where he is located. I wouldn't say teaching. I
4 don't think he's teaching.

5 Q. And this isn't going to be published in any
6 authoritative economic journal?

7 A. I don't know.

8 Q. And it hasn't been?

9 A. No. Dr. Faulhaber publishes a lot of his
10 papers that he just puts out, talks he's given, white papers
11 he's done. That website you can see a lot of this type of
12 thing on that page.

13 Q. So this was specifically requested from him
14 for this regulatory proceeding --

15 A. No.

16 Q. -- this is a regulatory proceeding?

17 A. I'm sorry. No. It was actually not for this
18 regulatory proceeding.

19 Q. Well, you were talking about you had contacted
20 him after reading the Rebuttal Testimony in this case.

21 A. Yes, that's true. But a colleague of mine
22 named Jim Applebee is participating in a regulatory
23 proceeding in Nebraska and this same misinterpretation of
24 Dr. Faulhaber's work has cropped up there and that was what
25 actually precipitated the call.

1 Q. So it was very fortunate then?

2 A. It actually was. The timing was good.

3 Q. Sure. I wanted to talk about -- now, I
4 understand -- well, first of all, let me get an exhibit
5 marked, please.

6 JUDGE THOMPSON: You may. We'll be looking at
7 Exhibit No. 26. How would you describe this, Mr. Dandino?

8 MR. DANDINO: This is an article by
9 Dr. Staihr, the Broadband Quandary for Rural America.

10 (EXHIBIT NO. 26 WAS MARKED FOR
11 IDENTIFICATION.)

12 BY MR. DANDINO:

13 Q. Dr. Staihr, I've handed you what has been
14 marked as Exhibit No. 26. Could you identify that, please?

15 A. This is an article I wrote when I was employed
16 by the Federal Reserve Bank of Kansas City in the Center for
17 the Study of Rural America.

18 Q. Okay. And what's the general topic of this?

19 A. Broadband deployment in rural regions.

20 Q. Does it include comments on the upgrades that
21 DSL could cause to the telephone network?

22 A. I'm guessing you're talking about page 2?

23 Q. Page -- yes, page 2.

24 A. Okay. Yes. It does make reference to the
25 cost of conditioning or upgrading the telephone network.

1 Q. And on page 3 it talks about sometimes that
2 the fiber may have to replace the copper line in order to
3 accommodate DSL?

4 A. You have a column or something you can point
5 me to so I can make sure?

6 Q. Page 3, the center column, almost the second
7 to last paragraph on that column.

8 A. Yes. I see that. Yes, it does.

9 Q. Okay. And the comments that you made in here
10 are still consistent with your views and comments today?

11 A. Every one of them? These specific ones?

12 Q. These specific comments.

13 A. Yes. It is costly to upgrade the network when
14 you want to provide an advanced service like DSL.

15 MR. DANDINO: Okay. Your Honor, I'd like to
16 offer Exhibit No. 26, please.

17 JUDGE THOMPSON: Do I hear any objections to
18 the receipt of Exhibit 26?

19 Hearing no objections, Exhibit 26 is received
20 and made a part of the record of this proceeding.

21 (EXHIBIT NO. 26 WAS RECEIVED INTO EVIDENCE.)

22 MR. DANDINO: Thank you, your Honor.

23 BY MR. DANDINO:

24 Q. Dr. Staihr -- I have to go back to my note.

25 I understand from your testimony that Sprint's

1 position is that use does not equal the cost of -- use of
2 the loop does not equal the cost -- a cost factor in the
3 loop; is that correct?

4 A. The cost that an ILEC incurs when it provides
5 a loop is not affected by how that loop is used. If you're
6 comfortable with that statement --

7 Q. Sure.

8 A. -- I agree with you, yes.

9 Q. Sure. And cost recovery is not part of the --
10 an element of cost; is that correct?

11 A. Right. There's cost incurrence and cost
12 recovery.

13 Q. Okay. And I understand Sprint's position is
14 cost recovery is a public policy decision; is that correct?

15 A. Well, as an economist, I would like it if it
16 were not, but sometimes cost recovery, like the cost of
17 basic local service, has become a policy position because
18 Congress decided universal service was something we wanted
19 in this country. And so the cost recovery of basic local
20 service is dictated by public policy as opposed to pure
21 economic efficiency.

22 Q. So any particular type of cost recovery -- the
23 Public Service Commission is not compelled to adopt any
24 specific type or method of cost recovery; is that correct?

25 A. Answering as a non-lawyer, I can't speak for

1 what the Commission is compelled or not compelled to do. I
2 would think the Commission has a certain amount of
3 discretion in terms of how they decide to recover the costs
4 incurred by ILECs -- or CLECs in this case.

5 Q. Now, Sprint has proposed and the Public
6 Service Commission has approved a tariff for an access cost
7 recovery fee. Are you familiar with that or that it exists?

8 A. I know that it exists, yes, sir.

9 Q. And that's \$1.99 per month?

10 A. Oh, I'm sorry. I was thinking of something
11 else. You're talking about -- could you give me a little
12 more?

13 Q. It's called the in-state cost recovery.

14 A. I am -- I am aware that exists, yes, sir.

15 Q. Okay. Do you know what the purpose of that
16 cost recovery tariff is?

17 A. In absolute laymen's terms?

18 Q. Sure.

19 A. Access charges are relatively high in this
20 state and it costs more to terminate calls -- I mean, for
21 the IXC to have its calls terminated in this state. And,
22 therefore, there needs to be additional revenue to cover the
23 IXC's cost.

24 Q. Now, if the Public Service Commission would
25 reduce access rates, would that necessitate that Sprint

1 would eliminate that charge, that in-state access recovery
2 fee?

3 A. Well, I don't think I can say an unqualified
4 yes, and this is why. That's providing obviously much
5 needed revenue to cover the costs that being incurred by the
6 IXC. If you're saying can the IXC do with less revenue, I
7 think the answer's no.

8 Q. So it's more a revenue source rather than a
9 cost -- strictly a cost recovery? If you no longer had to
10 recover the, quote, high access costs --

11 A. Uh-huh.

12 Q. -- you'd still want to have that in-state
13 access recovery fee for revenue purposes?

14 A. Assuming that the costs -- okay. If -- if the
15 costs are reduced that IXCs pay, obviously you can do with
16 less revenue, everything else held constant. And I'm
17 holding constant about a million things.

18 Q. Sure.

19 A. I sure can't speak for Sprint's pricing
20 division. I'm not a part of that. Just talking in terms of
21 pure economics, the reason that that's there is because the
22 costs here are higher when the IXCs purchase termination.
23 If the costs were lower, it's possible that could be done
24 away with. I can't say that it would, I can't say that it
25 will. I can say it's possible.

1 Q. On an economics point of view, it seems like
2 it should be eliminated, shouldn't it?

3 A. I think an argument could be made for that. I
4 wouldn't go so far as to say that includes all the issues
5 that have to be looked at, but you could make that argument,
6 yes.

7 Q. Okay. So it sounds like there's a lot more to
8 it than just access cost recovery?

9 A. Again, I'm not with Sprint's pricing for long
10 distance, so I can't really say.

11 Q. Dr. Staihr, a lot of the debate or questions
12 coming from the Commission and the parties always talk
13 about, well, if you reduce access rates, then you will --
14 then that will reduce toll charges for the customers.

15 Now, would you think that Sprint would put a
16 priority on reducing toll rates to the customers or
17 eliminating this access cost recovery charge? Which one
18 seems to be the highest priority?

19 A. That is a judgment call that the people in
20 pricing would have to make. And I'm not trying to avoid
21 your question. I just don't have the information that would
22 be involved in making that decision.

23 Q. From an economist's point of view, what do you
24 think would be the most efficient way of doing things?

25 A. The most efficient way of doing things would

1 depend on a lot of things in terms of how the systems had to
2 be adjusted to make one change or another. So you have to
3 take that into account. I don't have that information
4 either.

5 But to the extent that that fee is a direct
6 cause of the costs that are incurred here, there is a direct
7 relation and it would be, again, holding a million things
8 constant, efficient to reduce that if those costs were down.

9 Q. And if the access -- of course, this is also
10 assuming that any access reduction would even make any type
11 of an impact in a toll rate; is that correct?

12 A. Well, yes. And Sprint has a history of
13 reducing toll rates in the face of access reductions. We
14 have the calls order, we promise to flow through those
15 reductions and Sprint has a good record of flowing those
16 through.

17 Q. For every cent of reduction -- I mean, is it a
18 one-for-one reduction? If you have a reduction in access
19 costs, is the toll rate reduced by the same amount?

20 MR. SCHIFMAN: Wait a minute. Excuse me,
21 Judge. Can I object here? We're not litigating access
22 rates here. We're not litigating a flow through case here.
23 You know, I think we've gone down this road pretty far. I
24 mean, he's talking about an in-state access recovery fee
25 that the Commission has already approved here in Missouri.

1 We don't need to re-litigate that case right now.

2 JUDGE THOMPSON: Mr. Dandino?

3 MR. DANDINO: Your Honor, most of the -- a
4 great deal of discussion in this case has been about, well,
5 what would be effective, reducing access rates? We haven't
6 escaped talking about access rates in this case just because
7 it's called a cost investigation. And certainly we haven't
8 escaped the outcomes or possible outcomes of price
9 reductions.

10 It seems to be that's one of the key issues in
11 this. And I think it's very -- is well within the relevance
12 and materiality for me to inquire from Sprint, you know,
13 what they plan to do if they are granted -- if their access
14 rates are reduced maybe as an outcome of this case or any
15 other case and what their past history has been.

16 JUDGE THOMPSON: Well, Mr. Schiffman, the order
17 establishing this case states that the case is intended to
18 investigate all of the issues affecting exchange access
19 service, so I'm going to overrule the objection.

20 You may answer if you recall the question and
21 if you know.

22 THE WITNESS: I don't think I recall the
23 question.

24 BY MR. DANDINO:

25 Q. Okay. When Sprint reduces -- or when access

1 rates are reduced, does Sprint reduce its toll rates on a
2 one-to-one ratio with that reduction?

3 A. It's impossible to answer that question
4 because toll rates have been reduced much more than access
5 rates have come down over the past decade. Toll rates have
6 dropped dramatically through a combination of competition
7 and access reductions and so separating out one effect or
8 another, I personally have no way of doing that or knowing
9 that.

10 Q. Fair enough.

11 MR. DANDINO: That's all I have, your Honor.
12 Thank you.

13 JUDGE THOMPSON: Thank you, Mr. Dandino.

14 MR. DANDINO: Thank you, Dr. Staihr.

15 I did offer Exhibit 26, didn't I?

16 JUDGE THOMPSON: Yes, you did. It was
17 received.

18 Mr. England?

19 MR. ENGLAND: No questions. Thank you.

20 JUDGE THOMPSON: Ms. Chase?

21 MS. CHASE: No questions, your Honor.

22 JUDGE THOMPSON: Mr. Dority?

23 MR. DORITY: No questions.

24 JUDGE THOMPSON: Ms. DeCook?

25 MS. DECOOK: No questions, your Honor.

1 JUDGE THOMPSON: Mr. Morris?
2 MR. MORRIS: No questions, your Honor.
3 JUDGE THOMPSON: Mr. Stock?
4 MR. STOCK: No questions, your Honor.
5 JUDGE THOMPSON: Mr. Fischer?
6 MR. FISCHER: No questions, your Honor.
7 JUDGE THOMPSON: Very well. Questions from
8 the Bench, Commissioner Lumpe?
9 QUESTIONS BY COMMISSIONER LUMPE:
10 Q. Just briefly. Mr. Staihr, is it?
11 A. Yes.
12 Q. On page 4 of your Rebuttal Testimony you talk
13 somewhat about stand-alone costs and you say they're not
14 useful in this case. So am I to assume that that's an
15 exercise, but it really doesn't serve any purpose, it's
16 irrelevant in this case?
17 A. Yes. It is irrelevant in this case. I --
18 I'll tell you why if you want or if that's all you want --
19 Q. No. Go ahead. Why?
20 A. Sure. We hear a lot of talk about stand-alone
21 costs as a price ceiling, okay, those two words together.
22 Stand-alone costs and price ceilings don't have anything to
23 do with Commission setting prices. Stand-alone costs and
24 price ceilings have to do with when a competitor can come
25 in. Okay?

1 If you price something that you make above its
2 stand-alone cost, a competitor can come in and underprice
3 you. Okay? At the stand-alone cost, that's the highest you
4 can possibly price it. Anything above that will bring a
5 competitor in. Okay?

6 I think Mr. Dunkle was actually asked some
7 questions along that line with regard to if access rates or
8 something is above its stand-alone cost, why don't we see
9 competitors coming in. That's where you use stand-alone
10 cost as a price ceiling.

11 Now, if you've got something that's providing
12 a subsidy like access, well, you would expect it to be above
13 its stand-alone costs because when something's above its
14 stand-alone cost, it can provide a subsidy. So the question
15 is do you want it to provide a subsidy or not.

16 All right. Whether or not, first off, the
17 stand-alone costs were calculated correctly and, second,
18 looking at stand-alone costs as some test of subsidy --
19 well, first off, we don't know they were calculated
20 correctly. Second, we've shown that something can be priced
21 below its stand-alone cost and still provide a subsidy when
22 it's part of a group of services.

23 So in terms of this case, this case, as I
24 understand it, is supposed to be about the actual cost of
25 providing access -- switched access. Nobody provides

1 switched access on a stand-alone basis. That's why for all
2 those things, the fact that it's hard to calculate right,
3 the fact that in terms of a price ceiling it has to do with
4 competition, and the fact that in this case we're looking at
5 how costs are actually incurred, it's not particularly
6 useful for this case.

7 Q. Because if you were using a stand-alone cost,
8 it would -- if you were above that, it would definitely be
9 providing a subsidy and even if you're below that, it could
10 be providing a subsidy --

11 A. That's absolutely --

12 Q. -- you don't know?

13 A. Yes.

14 Q. And am I correct that you -- are you
15 recommending the TSLRIC or just the LRIC or are they the
16 same thing?

17 A. For our purposes here, they're the same thing.

18 Q. They're the same thing?

19 A. Yes.

20 Q. Okay.

21 COMMISSIONER LUMPE: I think those are my
22 questions. Thank you.

23 JUDGE THOMPSON: Thank you, Commissioner.

24 QUESTIONS BY JUDGE THOMPSON:

25 Q. Mr. Staihr, the purpose of your testimony was

1 what exactly?

2 A. The purpose of my testimony was to address
3 certain conclusions that came out of Dr. Johnson's costing,
4 his approach to costing, the theory behind his approach to
5 costing and my understanding that his conclusions didn't
6 have a firm foundation because there were problems with how
7 he applied the theory and how he approached his costing.

8 Q. So what is your opinion of his study, as an
9 economist?

10 A. Okay. As an economist, the fact that
11 Dr. Johnson chose to do four different studies only makes
12 sense if you can use what those studies produce.

13 We can't use what the stand-alone cost study
14 produces, because it serves no purpose in this proceeding.
15 We can use the TSLRIC study results if they're done
16 correctly. As for the fully distributed costs, the average
17 costs, if this proceeding is leading toward setting rates, I
18 don't know that it is, I don't know that it can, but if it
19 is, okay, TSLRIC or forward-looking economic costs, which is
20 TSLRIC plus a little common, that is the right thing to use
21 when setting rates.

22 Q. And there was a fourth study, was there not?

23 A. He had two in the middle and I kind of lumped
24 those together.

25 Q. I see. So why is it that the stand-alone

1 study is not useful in the context of this proceeding?

2 A. The stand-alone cost study calculates a
3 number, which if you price something above that number,
4 you'll get competition. Now, in a case where there is no
5 competition, if you want to provide a subsidy, okay, you can
6 price it above that number because then it provides the
7 subsidy.

8 So in this sense, calculating it lets you
9 know, if you've done it right, whether or not this thing may
10 be in a position to provide a subsidy. It doesn't tell you
11 that it's not providing a subsidy. And that's the
12 conclusion that Dr. Johnson came to and that's what a lot of
13 my testimony is dedicated to clearing up.

14 Q. Okay. So do you disagree with Dr. Johnson's
15 conclusion that there is no subsidy?

16 A. I disagree very strongly with his conclusion.

17 Q. Do you have an opinion as to whether or not --
18 under the interim rate cap selected by the Commission in a
19 prior case from which this case derives, do you have an
20 opinion as to whether under that cap CLECs are, in general,
21 able to recover their costs of providing access?

22 A. I truly haven't done any analysis on what
23 costs CLECs are incurring, so no, I don't have an opinion on
24 that.

25 Q. Do you have an opinion as to whether

1 Dr. Johnson's study would be helpful and useful for the
2 Commission to use in answering that question that I just
3 posed to you?

4 A. My opinion is as I understand Dr. Johnson's
5 study in its current form, no, it would not be useful.

6 Q. If you were hired to answer that question for
7 the Commission, what would you do?

8 A. First off, I would make sure that we have some
9 reason to believe there is an existing relationship between
10 costs and rates, okay, for switched access. I don't know
11 that that's been established yet. We talk about these are
12 the costs, we're going to talk about the rates.

13 What the rates are or aren't may not really
14 have anything to do with what the costs are. If the rates
15 are purposely providing a subsidy, then we know they're
16 something more than what the costs are. So that's the first
17 question.

18 Second, if we establish that, then you have to
19 do the cost study right. You have to put in those parts of
20 the network that are dedicated to the provision of switched
21 access. And it's my understanding Dr. Johnson left a lot of
22 those out. Okay?

23 Q. For example?

24 A. Parts of the central processer for the
25 switching. Because Dr. Johnson -- and I don't want to --

1 I'm paraphrasing. My understanding of his testimony
2 suggests that the central processor doesn't go away, so in a
3 TSLRIC study you don't put it in.

4 Well, the central processor in the long run is
5 a variable cost and it changes. It's bigger when you
6 provide switched access than when you don't, so that change
7 needs to be in there. That's in Sprint's study, it's not in
8 Dr. Johnson's.

9 Q. Do you agree or disagree with Dr. Johnson's
10 testimony that costs in the telecommunications industry are
11 generally declining?

12 A. I disagree with that strongly and
13 interestingly for the same reasons that Dr. Johnson believes
14 that they are. Dr. Johnson on the first or second day of
15 his testimony talked about the nature of this industry and
16 the technology. You have more lines, you have more minutes,
17 your costs go down. Okay? That's true. But our lines are
18 falling and are minutes are falling. And by default, our
19 costs per unit are going up. It's a fact. I mean, it's a
20 technological fact.

21 Q. Now, is that simply Sprint's experience, or do
22 you believe that's a common experience through the industry?

23 A. I know that that's a common experience through
24 the industry, because SWBT's lines and minutes are going
25 down. You just look at their annual report. Verizon's,

1 Bell South's, everyone's. I can't speak for some of the
2 smaller companies. I can speak for the big companies.

3 Q. And are their lines and minutes going down
4 because competition is taking those lines and minutes away
5 from them?

6 A. In a lot of cases, you've got things like
7 wireless substitution just killing second lines, cable
8 modems killing second lines. You've also got some
9 macroeconomic factors playing in there too. It's a
10 combination of things.

11 Q. So if I understand your testimony correctly,
12 contrary to the wisdom of Congress, competition is actually
13 driving prices up?

14 A. As counter intuitive as that sounds, you're
15 right and there are two reasons for that. First,
16 competition doesn't lower prices. Competition drives prices
17 to costs. If the price is above the cost, they'll go down.
18 But if the price is below the cost, they'll go up. Okay?

19 Second, telephone companies have economies of
20 scale. That's why they're natural monopolies, to be honest.
21 They can serve customers most cheaply when one company
22 serves everybody. By definition, if you're serving less
23 than everybody, the cost of serving any one customer is
24 higher than it would have been if you were serving
25 everybody. So in this case, yes. And I'll stop.

1 Q. Please continue.

2 A. One second. When the Act came out in '96, a
3 lot of economists looked at that and said, This is going to
4 be fascinating, because they're trying to impose competition
5 on something that technologically is a natural monopoly.
6 How is that going to happen?

7 Now it will happen through other technologies,
8 wireless, cable, things like that. It will happen. But
9 it's -- it has been fascinating.

10 Q. Well, I know who you work for so I won't ask
11 if we had to pick one company, who you would nominate.

12 Well, you're familiar, I'm sure, with the
13 traditional view that long distance has been priced above
14 cost and basic service has been priced below cost. Are you
15 familiar with that view?

16 A. Yes, I am.

17 Q. And do you agree or disagree with that view?

18 A. I agree with that view.

19 Q. You believe that's still the case today?

20 A. I believe it's moving toward correcting
21 itself, but it is still the case, yes. It's better than it
22 was. Everybody's long-distance rates have gone down. Some
23 local rates have moved toward cost. It's moving in the
24 right direction, but it's still the case.

25 Q. Now, did you hear Dr. Johnson's testimony

1 that, in his opinion, the access rates of the price capped
2 ILECs are too high?

3 A. I don't know what he means when he says the
4 words "too high."

5 Q. I don't know that those are the words he used,
6 but that's how I recall and understand them. Did you hear
7 his testimony?

8 A. I did, yes.

9 Q. And do you have an opinion as to whether or
10 not you agree with it?

11 A. I disagree with it if what he's suggesting is
12 that they can be lowered with no harmful effects. Access is
13 providing needed revenue to LECs. If you want to lower
14 access rates, I'll be -- I'll say it. You have to find a
15 way to let local rates come closer to their costs. So in
16 that sense, no, they're not too high. They're providing the
17 needed revenue. If you think you want them to be at a lower
18 level, okay, but you can't just do that.

19 JUDGE THOMPSON: Thank you very much,
20 Dr. Staihr. I see Commissioner Gaw has joined us.
21 Commissioner Gaw?

22 COMMISSIONER GAW: I'm not sure that I could
23 elicit any better information than I've heard in the last
24 10 minutes, quite frankly, but -- I think I'll just leave it
25 alone, but thank you very much, Doctor. I appreciate your

1 input.

2 JUDGE THOMPSON: Commissioner Lumpe?

3 FURTHER QUESTIONS BY COMMISSIONER LUMPE:

4 Q. You've mentioned local rates and the access.
5 Do you believe that using the high cost fund would be a way
6 to alleviate the access rates?

7 A. Federal high cost fund you're talking. Right?

8 Q. Federal or state.

9 A. Okay. With regard to the federal, when
10 telephone companies get money from that fund, they have to
11 prove that that money is being used to provide the supported
12 services. Switched access is not a supported service.
13 Obviously basic service is. So it might get a little
14 complicated. Okay?

15 Right now I can't -- I can't believe that you
16 could say to a company, You can reduce your access rates
17 because you're getting this money from the high cost fund,
18 or you could say, If there's a new source, if we establish a
19 state fund, okay, conceivably you could do that. I mean,
20 you could do that with any new source of revenue. State
21 SLCS are unpopular, but if you did a state SLC, you could do
22 that too. You could lower access rates and impose a state
23 SLC.

24 COMMISSIONER LUMPE: Thank you.

25 JUDGE THOMPSON: SLC being a subscriber line

1 charge.

2 THE WITNESS: Yes. I'm sorry. Yes.

3 JUDGE THOMPSON: Further questions from the

4 Bench?

5 Recross, Mr. Conroy?

6 MR. CONROY: No questions.

7 JUDGE THOMPSON: Mr. Poston?

8 MR. POSTON: No questions.

9 JUDGE THOMPSON: Mr. Dandino?

10 MR. DANDINO: No questions, your Honor.

11 JUDGE THOMPSON: Mr. England?

12 MR. ENGLAND: No, thank you.

13 JUDGE THOMPSON: Ms. Chase?

14 MS. CHASE: No questions, your Honor.

15 JUDGE THOMPSON: Mr. Dority?

16 MR. DORITY: No, thank you, Judge.

17 JUDGE THOMPSON: Ms. DeCook?

18 MS. DECOOK: No questions.

19 JUDGE THOMPSON: Mr. Morris?

20 MR. MORRIS: No questions, your Honor.

21 JUDGE THOMPSON: Mr. Stock?

22 MR. STOCK: None, your Honor.

23 JUDGE THOMPSON: Mr. Fischer?

24 MR. FISCHER: No, thank you.

25 JUDGE THOMPSON: Redirect, Mr. Schiffman?

1 REDIRECT EXAMINATION BY MR. SCHIFMAN:

2 Q. Dr. Staihr, Mr. Dandino asked you a question
3 or series of questions about your example on page 4 of your
4 surrebuttal about the telephone handset replacing
5 telecommunications network. Can you please tell the
6 Commission why you put that example in there and what it
7 proves?

8 A. Yes. Real quickly, I put that example in
9 there because, as Commissioner Murray was saying the other
10 day, it seems logical if a service uses a device, that
11 somehow that device is the cost of that service. Services
12 use the loop, so following that logic, you would say the
13 loop is part of the cost of that service.

14 The service uses the handset in order for a
15 customer to enjoy the service. There are millions of
16 services or products that use other devices, but those
17 devices are not a part of the cost of that service. CDs and
18 CD players, cassettes and VCRs, software and computers.
19 Software is no good -- you have to use the computer to make
20 the software good, but the price of the software and the
21 cost of the software doesn't include part of the cost of the
22 computer. It's the same thing with the loop.

23 MR. SCHIFMAN: That's all I have. Thank you.

24 JUDGE THOMPSON: Thank you, Mr. Schifman.

25 You may step down, sir.

1 Mr. Harper.

2 MR. SCHIFMAN: May Dr. Staihr be excused?

3 JUDGE THOMPSON: He may. Are you leaving
4 today?

5 MR. STAIHR: I got to teach tonight, so I'll
6 hang around for a while.

7 JUDGE THOMPSON: Commissioner Murray may have
8 some questions for you.

9 MR. STAIHR: I can probably stay around until
10 about 2:00.

11 JUDGE THOMPSON: I'll check with her certainly
12 well before that.

13 MR. STAIHR: Thanks.

14 JUDGE THOMPSON: Good morning, sir.

15 THE WITNESS: Good morning.

16 JUDGE THOMPSON: Spell your name for the
17 reporter, please.

18 THE WITNESS: My name is Mark Harper,
19 H-a-r-p-e-r.

20 JUDGE THOMPSON: Is that Mr. Harper or
21 Dr. Harper?

22 THE WITNESS: No doctor here. It's Mister.
23 (Witness sworn.)

24 JUDGE THOMPSON: Thank you.

25 You may inquire, Mr. Schifman. Do we have

1 exhibits to mark?

2 MR. SCHIFMAN: We do, your Honor. I've handed
3 the court reporter Harper Rebuttal Testimony, it's
4 nonproprietary. That's the only piece of testimony from
5 Mr. Harper. And I believe it's marked -- going to be marked
6 Exhibit 27.

7 JUDGE THOMPSON: That is correct. Exhibit 27.
8 Very well.

9 (EXHIBIT NO. 27 WAS MARKED FOR
10 IDENTIFICATION.)

11 MARK D. HARPER, having been sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. SCHIFMAN:

13 Q. Mr. Harper, do you have before you -- well,
14 first of all, let me ask you to state your name and address.

15 A. My name is Mark D. Harper. My address is 6450
16 Sprint Parkway, Overland Park, Kansas 66251.

17 Q. And by whom are you employed?

18 A. I'm employed by Sprint United Management
19 Company.

20 Q. And what's your position at Sprint?

21 A. Director state regulatory.

22 Q. Okay. And do you have before you what's been
23 marked as Exhibit 27, Rebuttal Testimony of Mark Harper?

24 A. Yes, I do.

25 Q. Okay. And did you prepare that testimony?

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1 A. Yes, I did.

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

4 A. Yes. Only one for consistency sake. The
5 cover page does not reflect the parties that I'm
6 representing in this case. The body of the text did, but
7 the cover page states Rebuttal Testimony of Mark D. Harper
8 on behalf of Sprint Missouri, Inc. Also added there should
9 be, And Sprint Communications Company, LP.

10 Q. Any other changes to your testimony,
11 Mr. Harper?

12 A. No.

13 Q. And if I asked you the questions in Exhibit 27
14 that appear there in written format, would your answers be
15 the same?

16 A. Yes, they would.

17 Q. Okay. Are these answers true and accurate to
18 the best of your knowledge and belief?

19 A. Yes, they are.

20 Q. Okay.

21 MR. SCHIFMAN: I would like to offer into
22 evidence Exhibit 27, the Rebuttal Testimony of Mark Harper,
23 and present Mr. Harper for cross-examination.

24 JUDGE THOMPSON: Thank you, Mr. Schifman.

25 Do I hear any objections to the receipt of

1 Exhibit 27?
2 Hearing no objections, Exhibit 27 is received.
3 (EXHIBIT NO. 27 WAS RECEIVED INTO EVIDENCE.)
4 JUDGE THOMPSON: Cross-examination,
5 Mr. Conroy?
6 MR. CONROY: No questions.
7 JUDGE THOMPSON: Mr. Poston?
8 MR. POSTON: No questions.
9 JUDGE THOMPSON: Mr. Dandino?
10 MR. DANDINO: No questions, your Honor.
11 JUDGE THOMPSON: Mr. England?
12 MR. ENGLAND: Yes, please.
13 CROSS-EXAMINATION BY MR. ENGLAND:
14 Q. Morning, Mr. Harper.
15 A. Good morning.
16 Q. If I may, let me direct you to your Rebuttal
17 Testimony, page 9, line 11. Do you have that?
18 A. Yes.
19 Q. You begin there by saying, Dr. Johnson has not
20 yet established whether current Missouri access rates were
21 set based on costs at some point in time in the past or are
22 primarily the result of public policy.
23 Do you see that?
24 A. Correct.
25 Q. With respect to Sprint, when was the last time

1 its access rates were set by this Commission in the context
2 of either a rate case or an earnings investigation?

3 A. That would have been in 1992.

4 Q. Okay. And at that time were Sprint's access
5 rates based on any cost basis, to your knowledge?

6 A. No.

7 Q. Have they ever been set on any cost basis, to
8 your knowledge?

9 A. In my opinion, no.

10 Q. Okay. Next page in your Rebuttal Testimony --

11 A. Yes.

12 Q. -- that first full answer at the top of the
13 page concluding on lines 8 through 10, and I'll just kind of
14 focus on your concluding statement there, you're talking
15 about, I believe, a combination of rate rebalancing and
16 implementation of a state Universal Service Fund.

17 You conclude by saying, An estimated impact of
18 these future events would result in an intrastate CCL rate
19 between two and three cents per minute for Sprint.

20 Is that --

21 A. Correct.

22 Q. I have that -- okay. I guess let me take it
23 in pieces. First of all, rate rebalancing. Sprint has
24 taken advantage of the rate rebalancing provisions of the
25 price cap statute for the last two years; is that right?

1 A. Yes, we have.

2 Q. And just to get an order of magnitude on those
3 rebalancing, is that approximately \$1.50 an access line?

4 A. That's what's allowed in statute, yes.

5 Q. Okay. Per year?

6 A. \$1.50 per access line per year for up to four
7 years if it can be cost based.

8 Q. Okay. And roughly how many access lines does
9 Sprint have in the state?

10 A. Roughly 270,000.

11 Q. So for purposes of rate rebalancing and what's
12 been accomplished or shifted so far, without doing the math,
13 the rough calculation would be 270,000 access lines times
14 1.50, times 12 months, times 2 to replicate 2 years or
15 arrive at a 2-year --

16 A. Well, I can shortcut it. Not every one of
17 those access lines are subject to the \$1.50, but it's
18 approximately 3 million per year.

19 Q. Or 6 million so far --

20 A. So far.

21 Q. -- that's been shifted?

22 Okay. And would it be fair to say then that
23 another 6 million if you're able to do the third and fourth
24 year with the shifting?

25 A. Assuming demand remains relatively the same,

1 yes.

2 Q. Okay. Then how much of this impact that --
3 well, let me try it another way.

4 On an access rate basis, can you tell me or
5 quantify how many cents you're able to reduce your overall
6 access rate by for each year of that rate rebalancing?

7 A. If you put it in terms of a double-ended call,
8 in other words, both ends are in Sprint territory so the IXC
9 would be paying access rates on both on the call to Sprint,
10 it's slightly less than a penny.

11 Q. So over four years, slightly less than perhaps
12 four cents per minute?

13 A. Yes.

14 Q. Okay. Now, I think you're also -- in arriving
15 at your projected two to three cent CCL, are you also
16 assuming some state Universal Service Fund or high cost
17 support?

18 A. I used the amount that was contained in the
19 stipulation 98-329.

20 Q. Okay. Even after these events, four years of
21 rate rebalancing, implementation of a state Universal
22 Service or can high cost fund as recommended in the joint
23 recommendation, it appears that you would still have a CCL
24 rate of two to three cents; is that right?

25 A. That's correct.

1 Q. And is that then an indication that Sprint
2 intends to recover at least a portion of its loop cost
3 through a CCL charge even in the future after these events
4 have taken place?

5 A. Under the structure that exists today, yes,
6 there would continue to be loop cost recovery through
7 access.

8 Q. Sprint has no at least immediate intention of
9 eliminating its CCL charge?

10 A. No, we do not.

11 Q. Okay. Let me get back to the state USF fund.
12 You mentioned a joint recommendation. That was something
13 that was entered into among Sprint, small LECs, OPC and
14 Staff, I believe. Correct?

15 A. I believe that was the parties.

16 Q. Okay. It wasn't something that was simply
17 proposed by the small local exchange companies?

18 A. No, it was not.

19 Q. Thank you. Now, let me move you to page 11 of
20 your Rebuttal Testimony -- well, I'm sorry. It actually
21 begins at the bottom of page 10, the very last sentence on
22 line 22. You say, In the states where I have personal
23 knowledge and experience, in every instance where
24 significant access rate reductions have happened in the past
25 five years through regulatory proceedings there have been

1 either offsetting increases primarily in basic local rates,
2 increases in state Universal Service Fund receipts or both.

3 Do you see that?

4 A. Yes, I do.

5 Q. Is that an indication or at least an opinion
6 on your part that you simply can't get significant rate
7 reductions in access rates without some impact on local
8 rates and/or implementation of additional high cost support?

9 A. Yes. That was exactly the intent of the
10 schedule and the point, to look at access rates in isolation
11 on states -- this is a large portion of the picture. As
12 states have dealt with reducing access charges, at least in
13 my experience since the Act, it has been through either the
14 implementation of USF or through rate rebalancing, for
15 example, like we did in Kansas.

16 Q. And maybe you've said it here, certainly
17 implied it, but I think what you're getting at is making
18 simply a state by state comparison of access rates may not
19 be an apples to apples comparison; is that right?

20 A. That was exactly the intent of this schedule.

21 Q. Okay. In your opinion, could Sprint
22 reasonably recover all of its loop costs through increases
23 in its basic local exchange rates either through a SLC or
24 increases in that rate without any state high cost support?

25 A. That requires a -- an opinion or an idea of

1 what an affordable rate would be for a consumer, and that
2 hasn't been set yet in this state. But the calculations I'm
3 aware of, it would require far in excess of what we would
4 consider to be an affordable rate for the end-user to do
5 that.

6 Q. Okay.

7 MR. ENGLAND: Thank you, sir. I have no other
8 questions.

9 JUDGE THOMPSON: Thank you, Mr. England.

10 Ms. Chase?

11 MS. CHASE: No questions, your Honor.

12 JUDGE THOMPSON: Mr. Dority?

13 MR. DORITY: No questions, Judge.

14 JUDGE THOMPSON: Ms. DeCook?

15 MS. DECOOK: No questions.

16 JUDGE THOMPSON: Mr. Morris?

17 MR. MORRIS: No questions, your Honor.

18 JUDGE THOMPSON: Mr. Stock?

19 MR. STOCK: No questions.

20 JUDGE THOMPSON: Mr. Fischer?

21 MR. FISCHER: No questions.

22 QUESTIONS BY JUDGE THOMPSON:

23 Q. Mr. Harper, you are not an economist, are you?

24 A. No. I do -- I am not and have never claimed
25 to be.

1 Q. You are a businessman?

2 A. Yes, I am.

3 Q. Well, I asked an earlier witness what sort of
4 a study we would have gotten if we hired an accountant to do
5 it. So I'm going to ask you, what kind of study would we
6 have gotten if we hired a businessman to do it?

7 A. My answer is essentially the studies that we
8 produced which.

9 Q. The Sprint studies?

10 A. Which indicate what are the economic costs
11 that Sprint's going to face in the provision of intrastate
12 state access.

13 Q. Commissioner Lumpe asked me to ask you about
14 your testimony on page 10 at the top where you seem to
15 suggest that Universal Service Fund support can be used to
16 offset revenues from access, thus, allowing access rates to
17 be reduced.

18 Do you see that testimony?

19 A. Yes, I do.

20 Q. And is that your opinion?

21 A. Yes, it is. The Universal Service Fund first
22 statute and as the stipulation calculated, was based upon
23 cost. What is the cost of providing local service in a
24 given ILEC's territory, comparing that to an average and say
25 we need support costs that are higher than that average.

1 That produces amount of support.

2 What Sprint has pledged to do and what other
3 companies could do is where's that support coming from? We
4 believe it's coming from intrastate switched access. On a
5 revenue neutral basis we have reduced switched access
6 because now we're getting an explicit support mechanism
7 called the state USF.

8 I don't believe that violates, in this case,
9 some party's objection. The difference is the fund was not
10 calculated or created to achieve a given access reduction,
11 which would violate what some people believe, but it was
12 calculated to produce support for high costs and where you
13 then offset that high cost support, we believe, should be
14 access.

15 Q. Okay. And it's also your view, I believe,
16 that the Commission cannot change the access rates of a
17 price cap regulated ILEC; is that correct?

18 A. That's true. I've highlighted the -- there
19 are limited opportunities -- in the case of Sprint, the
20 Commission had a role in reviewing the cost studies that
21 demonstrated local service were below TSLRIC and its
22 switched access rates were above TSLRIC. And we have now
23 made that filing, demonstrated that and will move through.

24 The Commission had a role in that as well as
25 the indirect connection the Commission has a role in

1 establishing USF, which is designed to provide explicit
2 support. Through that, access can be reduced. So there are
3 roles for the Commission in the process.

4 JUDGE THOMPSON: Okay. Thank you.

5 Cross-examination based on questions from the
6 bench, Mr. Conroy?

7 MR. CONROY: No questions, Judge.

8 JUDGE THOMPSON: Mr. Poston?

9 MR. POSTON: No questions.

10 JUDGE THOMPSON: Mr. Dandino?

11 MR. DANDINO: No questions, your Honor.

12 JUDGE THOMPSON: Mr. England?

13 MR. ENGLAND: No, thank you.

14 JUDGE THOMPSON: Ms. Chase?

15 MS. CHASE: No questions, your Honor.

16 JUDGE THOMPSON: Mr. Dority?

17 MR. DORITY: No, thank you.

18 JUDGE THOMPSON: Ms. DeCook?

19 MS. DECOOK: No questions.

20 JUDGE THOMPSON: Mr. Morris?

21 MR. MORRIS: None, your Honor.

22 JUDGE THOMPSON: Mr. Stock?

23 MR. STOCK: No questions, your Honor.

24 JUDGE THOMPSON: Mr. Fischer?

25 MR. FISCHER: No questions.

1 JUDGE THOMPSON: Redirect, Mr. Schiffman?

2 REDIRECT EXAMINATION BY MR. SCHIFMAN:

3 Q. Mr. Harper, you were asked some questions
4 about the ways a state commission can reduce access rates
5 and recover --

6 A. Uh-huh.

7 Q. -- those reductions in other ways. Are you
8 familiar with a recent decision by the State of Kansas?

9 A. Yes, I am.

10 Q. What case is that in?

11 A. That case was Docket No. 01-GMIT-082-GIT. We
12 refer to it as 082, those that work in Kansas.

13 Q. And did Kansas implement a solution whereby
14 access rates would be reduced and those reductions would be
15 covered through other means?

16 A. Yeah. Kansas provides a good road map for how
17 to consider this. We did calculate the cost of switched
18 access and submitted that to the -- to the Staff, but in
19 looking at the amount of recovery that needed to come from
20 the local rate, it was far in excess of what would be an
21 acceptable local rate.

22 So what we then did was determined what could
23 local rates rise to. In this case, it was between \$17 for
24 rural rates and \$21 for urban rates and how much access
25 reduction would that produce. The Commission then

1 determined although access rates would then still be
2 providing some implicit subsidy, that met their policy and
3 still moved access rates towards costs.

4 MR. SCHIFMAN: No further questions.

5 JUDGE THOMPSON: Thank you, Mr. Schifman.

6 You may step down, Mr. Harper. Are you
7 planning to be available later today?

8 MR. HARPER: I can be.

9 JUDGE THOMPSON: Just in case any of the
10 Commissioners have any questions for you when they get out
11 of the agenda meeting, which will probably be after lunch.

12 MR. SCHIFMAN: After lunch?

13 JUDGE THOMPSON: Yes.

14 MR. HARPER: We can get an indication then?

15 JUDGE THOMPSON: Yes. We will get an
16 indication. Thank you. I appreciate your cooperation.

17 Mr. Larsen? Nice to see you, Mr. Larsen.
18 You're our first scheduled witness for today. We're making
19 progress.

20 THE WITNESS: I am impressed.

21 JUDGE THOMPSON: Go ahead and spell your name
22 for the reporter, if you would.

23 THE WITNESS: K-e-n-t L-a-r-s-e-n.

24 (Witness sworn.)

25 JUDGE THOMPSON: Thank you. Please take your

1 seat.

2 You may inquire. Do we have exhibits to mark?

3 MS. CHASE: Yes, we do, your Honor.

4 JUDGE THOMPSON: Let's go ahead and do that.

5 MS. CHASE: I have the Direct Testimony of
6 Mr. Larsen, which I believe will be Exhibit 28.

7 JUDGE THOMPSON: That's correct. Is that NP?

8 MS. CHASE: That's NP. I have the Rebuttal
9 Testimony, which is also NP, which would be Exhibit 29.

10 JUDGE THOMPSON: Okay.

11 MS. CHASE: And Surrebuttal Testimony, which
12 is also NP, which would be Exhibit 30.

13 JUDGE THOMPSON: Very well.

14 (EXHIBIT NOS. 28, 29 AND 30 WERE MARKED FOR
15 IDENTIFICATION.)

16 KENT LARSEN, having been sworn, testified as follows:

17 DIRECT EXAMINATION BY MS. CHASE:

18 Q. Mr. Larsen, would you please state your name
19 and business address for the record.

20 A. My name is Kent Larsen. And my business
21 address is 1000 Vermont Avenue, Northwest, Suite -- or Tenth
22 Floor, Washington D.C.

23 Q. Okay. Are you the same Mr. Larsen who
24 pre-filed testimony in this case which has been marked
25 Exhibit 28 for direct, Exhibit 29 for rebuttal, and

1 Exhibit 30 for surrebuttal?

2 A. I am.

3 Q. Okay. Do you have any changes or corrections
4 to your pre-filed testimony?

5 A. No.

6 Q. If I were to ask you the same questions today,
7 would your answers be the same?

8 A. They would.

9 Q. Okay.

10 MS. CHASE: Your Honor, I would move for the
11 admission of Exhibit Nos. 28, 29 and 30, which is the
12 Direct, Rebuttal and Surrebuttal Testimony of Mr. Larsen
13 into the record at this time.

14 JUDGE THOMPSON: Very well. Do I hear
15 objections to the receipt of Exhibits 28, 29 and 30?

16 Hearing no objections, Exhibits 28, 29 and 30
17 are received and made a part of the record of this
18 proceeding.

19 (EXHIBIT NOS. 28, 29 AND 30 WERE RECEIVED INTO
20 EVIDENCE.)

21 MS. CHASE: I offer the witness for
22 cross-examination.

23 JUDGE THOMPSON: Thank you.

24 Mr. England?

25 MR. ENGLAND: No cross. Thank you.

1 JUDGE THOMPSON: Mr. Dority?

2 MR. DORITY: No, thank you, Judge.

3 JUDGE THOMPSON: Mr. Poston?

4 MR. POSTON: Yes. Thank you.

5 CROSS-EXAMINATION BY MR. POSTON:

6 Q. Morning.

7 A. Morning.

8 Q. It's Mr. Larsen. Correct?

9 A. Yes, sir.

10 Q. Okay. And, Mr. Larsen, how did the Staff and
11 Dr. Johnson receive the information from the MITG companies
12 that were necessary to calculate the MITG companies switched
13 access costs?

14 A. I was not directly involved. I believe it was
15 a combination of direct submissions by the companies and
16 submissions through counsel.

17 Q. Those submissions were in response to data
18 requests that were sent from the Staff --

19 A. Yes, sir.

20 Q. -- is that correct?

21 And do you agree that this type of information
22 requesting inputs into cost studies is necessary to
23 accurately calculate the MITG companies' switched access
24 costs?

25 A. Certainly in terms of the methods that are

1 currently employed by the MITG companies, data is necessary.
2 Can I assume you're talking about in terms of the methods
3 that Dr. Johnson used for forward-looking costs?

4 Q. Well, let's just talk about cost studies in
5 general. Does the accuracy of the inputs -- as the accuracy
6 of the inputs increases, is the accuracy of the results of
7 the cost study -- are those also increased?

8 A. In every case, I would say, yes.

9 Q. Are you aware of Dr. Johnson's Surrebuttal
10 Testimony?

11 A. Yes.

12 Q. And have you seen the attachment that shows
13 the responses received to Staff's data requests?

14 A. Yes, I have.

15 Q. Do you have reason to dispute the response
16 results shown on that schedule?

17 A. As a matter of fact, I do.

18 Q. Okay. And please explain.

19 A. When we reviewed Dr. Johnson's surrebuttal,
20 counsel and myself reviewed the responses of the MITG
21 companies that were submitted to Dr. Johnson and in
22 coordination with Missouri PSC staff.

23 And what we discovered was that -- first of
24 all, we aren't exactly sure how he calculated the response
25 rates, but we did a census of the MITG companies' responses,

1 counting each question or each data request, each element
2 and found that contrary to his assertions, the MITG
3 companies responded in approximately 85 percent of the
4 cases.

5 So we've summarized it and -- and the
6 responses -- there were some non-responses, to be sure.
7 There were several that were responded with a not
8 applicable, but there were -- there was widespread
9 compliance, like I said, to about an 85 percent level for
10 the MITG companies.

11 Q. Okay. Is there any evidence in this case that
12 you've provided to indicate that those calculations were
13 incorrect or do you have anything to show us?

14 A. I don't have anything to show you right now.
15 I have a handwritten summary of our responses, you know,
16 that we tallied. I'm not aware -- I don't know how such
17 evidence would be introduced, but I know that there is a
18 thick file that does document those responses, and I would
19 think that Dr. Johnson would have those.

20 Q. Did MITG provide cost studies to document what
21 MITG companies would consider to be their own TSLRIC prices
22 if Ben Johnson's calculations are not correct?

23 A. I believe Mr. Schoonmaker presented evidence
24 of those cost studies in his testimony.

25 Q. Okay. Switching gears, are you suggesting in

1 your testimony that it is appropriate to adjust the switched
2 access rates of price cap companies and CLECs but not rate
3 of return carriers?

4 A. Am I suggesting it is proper to adjust the
5 rates of --

6 Q. Appropriate.

7 A. Appropriate. I don't believe I am, no.

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

9 JUDGE THOMPSON: Thank you, Mr. Poston.

10 Mr. Dandino?

11 MR. DANDINO: No questions, your Honor. Thank
12 you.

13 JUDGE THOMPSON: Mr. Conroy?

14 MR. LANE: I'll do it.

15 JUDGE THOMPSON: Mr. Lane.

16 MR. LANE: I got tired of sitting.

17 JUDGE THOMPSON: Didn't know you were still
18 with us.

19 MR. LANE: I'm not sure I am.

20 CROSS-EXAMINATION BY MR. LANE:

21 Q. Good morning, Mr. Larsen.

22 A. Good morning, counselor.

23 Q. Would you turn to page 4 of your Surrebuttal
24 Testimony? And the question that appears on that page and
25 your answer, you're discussing generally the concept of

1 cost. Right?

2 A. Are you talking about the top of page 4?

3 Q. I'm talking about the question that's listed
4 on page 4 and then your response to it. You're talking
5 generally about concept of cost. Right?

6 A. Let me review it here. Yes. We're talking
7 about costs.

8 Q. Okay. It's fair to say that both
9 forward-looking costs and embedded costs are each recognized
10 concepts of costs, but can yield widely differing results in
11 their application. Right?

12 A. Yes.

13 Q. And, in your view, both forward-looking and
14 embedded costs are hypothetical. Right?

15 A. Yes.

16 Q. It's also fair to say that your view is that
17 any assignment of cost is, by nature, subjective. Right?

18 A. Yes.

19 Q. Okay. And does that include the assignment of
20 loop costs to particular services?

21 A. Yes, it does.

22 Q. Okay. And is it fair to say that the use of a
23 LRIC standard as opposed to the standard that you endorsed,
24 which is Part 36 and Part 69 concepts, is less subjective
25 because the LRIC concept does not include an assignment of

1 the loop?

2 A. Let me answer your question this way. From
3 the testimony that I've heard and in my experience, the
4 allocation of -- without getting into semantical
5 differences, but if we can agree that fixed, common, shared
6 and joint costs are all roughly synonymous for this answer
7 in terms of their implication of loop costs and their
8 allocation, then I would say that it is as arbitrary to
9 allocate 0 percent of those costs as is 100 percent of those
10 costs to any particular service. So from 0 to 100 percent,
11 any number you choose on that continuum, in my opinion, is
12 arbitrary.

13 Q. Okay. It's fair to say that the LRIC standard
14 doesn't assign any portion of loop costs, nor does it
15 attempt to assign any shared and common costs. Right?

16 A. Yes. It is -- it is true.

17 Q. And in that respect, there is less
18 subjectivity because you're not actually making an
19 assignment or determination with regard to costs on that
20 portion of the LRIC standard. Right?

21 A. If you were looking at LRIC -- and I believe
22 your question is saying if you only are looking at LRIC as
23 the sole measure appropriate for assigning costs of exchange
24 access service, then I would be forced to agree with you
25 that if it's not being considered, then it's -- it's less

1 arbitrary than any other measure.

2 Q. And I'm trying to force you to agree with me.
3 That's part of the fun. Right?

4 On page 10 of your surrebuttal you state that
5 price cap LECs support LRIC on the basis that it would apply
6 to small LECs but not to themselves.

7 Do you see that?

8 A. Give me a line number here real quick, if I
9 might.

10 Q. Lines 5 through 7.

11 A. Yes.

12 Q. Okay. And are you aware that Southwestern
13 Bell has provided testimony from Mr. Unruh and Mr. Barch
14 that supports the use of LRIC to determine cost, but makes
15 clear that price may be set above LRIC?

16 A. As I state in the testimony that led to this
17 surrebuttal, I believe it was in my Rebuttal Testimony, if
18 the Commission is examining all of the issues leading to a
19 determination of rates, then the point of contention I was
20 making was that it can only be logically assumed that
21 Southwestern Bell's advocacy of LRIC as a cost standard that
22 could not apply to Southwestern Bell, but is in compliance
23 with the Commission's order, could only apply to other
24 carriers.

25 Q. Okay. That's true with regard to whatever

1 cost standard is applied, is it not, in that Southwestern
2 Bell's position as a price cap company is that the
3 Commission lacks the authority to adjust its access rates in
4 this proceeding or in subsequent proceedings?

5 A. Frankly, any cost standard that Southwestern
6 Bell supported as a price cap carrier could only apply to
7 all other carriers.

8 Q. So had we supported a cost standard that was
9 the same as yours, you'd still have the same position, that
10 it can't apply to us in application because we're a price
11 cap company. Right?

12 A. I believe that would be your position.

13 Q. So we haven't chosen LRIC, have we, in order
14 to force it upon your companies specifically, because LRIC
15 doesn't apply to us. Right?

16 A. I don't know if I can agree with that.

17 Q. It's also fair to say, isn't it, that while
18 Southwestern Bell supports the use of LRIC to identify cost,
19 that it's made it very clear that prices for access for
20 small companies and others can be set well above LRIC in the
21 Commission's discretion. Right?

22 A. I don't know how clear Southwestern Bell has
23 made that. They've made some general statements about the
24 fact that no prices should be set at LRIC.

25 Q. Okay. There's nothing in Southwestern Bell's

1 testimony that says that once you identify LRIC cost, that
2 price must be set precisely equal to LRIC, is there?

3 A. Oh, no.

4 Q. Are you generally familiar with the
5 Commission's decision in Case No. 18,309 in which it
6 reviewed the cost and pricing regime that would be
7 applicable to Southwestern Bell's services?

8 A. Only -- only very, very high level
9 conversationally. I really can't say I'm familiar with the
10 details.

11 Q. And you saw it referenced in the various
12 testimonies of Southwestern Bell witnesses in this case, did
13 you not?

14 A. I did.

15 Q. Did you then go get a copy of the order and
16 read it?

17 A. No, I did not.

18 Q. Based on what you know, would you agree that
19 the concepts of 18,309 are exactly what Southwestern Bell
20 proposes to utilize with regard to this case, the cost and
21 price of access?

22 A. I don't know.

23 Q. Okay. Would you agree that under the 18,309
24 decision, as outlined by Mr. Unruh and Mr. Barch, that LRIC
25 is used as a cost -- as a price floor, but that price is set

1 above cost based upon competitive and social factors?

2 A. Based on their testimonies, I am familiar with
3 that.

4 Q. Okay. And assuming that their testimony
5 accurately describes what the Commission ordered in Case
6 No. 18,309, would you agree that Southwestern Bell's
7 position with regard to access is entirely consistent with
8 this Commission's decision in 18,309 in that Southwestern
9 Bell recommends the use of LRIC as the price floor, but
10 recommends that price for access be set something above that
11 in order to reflect competitive and social factors?

12 A. I think the testimony that was offered by the
13 Bell witnesses in this case attempted to make that clear.
14 The purpose of my testimony was to state that it was not
15 entirely clear to me that Bell advocates LRIC only as a
16 price floor. I --

17 Q. Is it clear now?

18 A. I can't say that it is necessarily, no.

19 Q. Okay. Would you agree with me that LRIC, as
20 opposed to the embedded cost that you propose to use in this
21 case, provides more discretion to the Commission in
22 determining the price for access?

23 A. I don't -- I don't know that I agree.

24 Q. Okay. Is it your position that once cost is
25 determined under your method, Part 36, Part 69, that that

1 should be the price the company charges for access?

2 A. No. I think it -- I think it establishes the
3 cost, that the Commission does have discretion.

4 Q. Okay. And that's, I guess, an important
5 point. Do you ever say in your testimony what you think
6 should be done with price as opposed to -- after we
7 determine cost in the manner that you determine?

8 A. I don't have an instant recall. If you have a
9 specific cite, maybe I'll refer to it, but --

10 Q. No. I'm trying to understand. Is it your
11 view -- you understand that those that propose the use of
12 LRIC as the cost standard say that it should be the price
13 floor, but that the price may be set above LRIC. Right?
14 You understand that?

15 A. I understand that from an economics -- from an
16 economic principle, that is appropriate, that LRIC is a
17 price floor and that prices tend to be above LRIC.

18 Q. And I'm trying to understand if that's what
19 you're recommending that Commission do if they utilize your
20 cost standard, the Part 36, Part 69. Is it a price floor or
21 is it something that is irrelevant to the establishment of
22 prices?

23 A. It's not necessarily -- not necessarily a
24 price floor. It's not necessarily a price cap. It is an
25 identification of costs where -- in a Part 36, Part 69

1 study, as I testified, determinations of allocations of
2 certain common costs, and let's just say it's the loop, are
3 arbitrary and within the discretion of the Commission. So
4 the Commission can, in fact, make a decision as to an
5 arbitrary allocation of costs that could lead to rates.

6 Q. Okay. And the arbitrary allocation of costs
7 that you propose is the Part 36 and Part 69 methodology.
8 Right?

9 A. Yes, sir.

10 Q. And if the Commission adopts that, is it your
11 recommendation that that serve as a price floor, a price cap
12 or that it bears no resemblance or relationship whatsoever
13 to the price?

14 A. I think it can serve as a barometer of -- to
15 compare existing approved rates and current costs.

16 Q. Okay. And I want to get real specific. It's
17 a barometer, but if the current rates are below that which
18 is indicated by application of the Part 36, Part 69
19 methodology that you propose, is it your recommendation that
20 in the proper proceeding, that the rates be raised to the
21 Part 36, Part 69 level?

22 A. I don't have a recommendation there. As I
23 understand the procedures here in Missouri, that the -- the
24 total costs of the firm are examined in a rate proceeding
25 and that rates --

1 Q. Right. That's the proper proceeding that I'm
2 trying to --

3 A. Right.

4 Q. You're in a rate case. The Commission said, I
5 like using Part 36, Part 69 methodology. You're now in a
6 rate case, they've determined your total cost of service,
7 it's time to set rate design. Is it your position that the
8 Commission should set access rates at the Part 36, Part 69
9 level or not?

10 A. No. I think there's additional discretion
11 that the Commission enjoys in setting any rate.

12 Q. Okay. And, in your view, it would be your
13 recommendation that the Commission could set prices for
14 access at the Part 36, Part 69 level, below that level or
15 above that level. Right?

16 A. Yes. Yes.

17 Q. And what factors is the -- what factors should
18 the Commission consider in making that determination?

19 A. Well, they would start with the overall
20 financial picture of the firm and determine, you know,
21 within their authority what -- whether any rate adjustment
22 is necessary.

23 Q. I mean, we've done that.

24 A. Okay.

25 Q. We're in a rate case proceeding, they've

1 determined your cost of service and now they're in the rate
2 design phase, they're deciding what rates will be at what
3 level to get you to earn the level of earnings that the
4 Commission set. Okay?

5 A. Okay.

6 Q. Now, what factors should they consider in
7 deciding whether to set access rates below Part 36, 69,
8 equal to Part 36, 69 or above it?

9 A. They -- they would look at a combination of --
10 I don't want to limit myself for other considerations that
11 may, in fact, come up in the real world, but the fact is, is
12 that they would look at generally the contribution that --
13 for instance, exchange access service, the service at
14 question here, makes to the recovery of common costs, for
15 example, the loop.

16 So the Commission would have the discretion to
17 impact the inputs into the Part 36, 69 process to achieve a
18 desired goal by making decisions as to what percentage of
19 those common costs should be assigned to the service.

20 Q. Okay. Let's assume that they take the
21 analysis that Mr. Schoonmaker uses in this case and say,
22 When I look at cost, here's the percent of the loop I want
23 to allocate and this is the result that cost yields. Okay?
24 We're at that point and now we're in a rate case proceeding
25 for a particular company.

1 Is it your position that at that point the
2 rate should be set equal to cost because we've now
3 identified what portion of the loop we want to assign to
4 exchange access?

5 A. I think that would be a reasonable conclusion.

6 Q. Okay. And once you've decided then for all
7 companies what level of loop cost you want to assign to
8 exchange access, then it's your position that when you get
9 into a rate case proceeding, a company's rates for access
10 should be adjusted upward or downward as necessary to reach
11 that rate level indicated by the cost under Part 36, 69
12 methodology with an assignment of loop costs as determined
13 by the Commission. Right?

14 A. I think I agree with you.

15 Q. And the Commission then at that point doesn't
16 have any further discretion to adjust those rates either up
17 or down because it's identified a particular level of loop
18 costs that has to be recovered in the rate for exchange
19 access. Right?

20 A. I would presume that the Commission would have
21 additional authority that they could make other public
22 policy decisions to deviate from the cost that was
23 identified by the Part 36, 69 process, even if they had
24 substantial input authority into making those determinations
25 in advance.

1 Q. Would that include reducing the rate of access
2 to recover a smaller percentage of loop costs than the
3 Commission had identified as appropriate to recover in
4 exchange access rates?

5 A. I would assume within the confines of this
6 entire discussion about looking at the totality of the
7 firm's revenues and costs, that the Commission enjoys
8 substantial latitude to adjust all rates.

9 Q. And so in one respect then, either the cost
10 method that you propose or the cost method that Southwestern
11 Bell proposes are identical in that the Commission has great
12 discretion in setting rates, in Southwestern Bell's case,
13 some place above LRIC and, in your case, anything above or
14 below the cost that you've established under your
15 recommendation. Right?

16 A. With one minor correction, maybe a
17 clarification. I think the Commission probably would be
18 required to set any LEC's prices above LRIC as a starting
19 point. I think LRIC is a price floor, therefore, even for
20 small companies, that the Commission would probably be bound
21 by that. But I don't know that that's a matter of law.
22 Then I would --

23 Q. If it's not a matter of law, it would still be
24 your recommendation that the price of exchange access should
25 not be set below LRIC?

1 A. I would think that that would be an
2 appropriate decision.

3 Q. So under both your proposal and the
4 Southwestern Bell's proposal, LRIC is the price floor and
5 the Commission has discretion to set the rate for exchange
6 access at any level above LRIC that it chooses?

7 A. For my clients?

8 Q. Yes.

9 A. Yes.

10 Q. And would you agree that when the Commission
11 is exercising that discretion, either under a LRIC standard
12 or under the standard that you propose, that it should
13 consider social factors like whether a particular level of
14 access charges causes some distortions in the interexchange
15 market?

16 A. I would think consistent even with this
17 particular case that they would have to consider all of the
18 issues associated with costs.

19 Q. Okay. And if the Commission found, for
20 example, that certain interexchange carriers were choosing
21 not to provide originating toll service in some small ILEC
22 territories because of the high level of access rates, that
23 that would be an appropriate factor for the Commission to
24 consider in setting rates for access either under a LRIC
25 standard or under the Part 36, Part 69 standard that you

1 propose. Right?

2 A. If the Commission determined that a particular
3 IXC chose not to provide service based solely upon access
4 charges?

5 Q. Yes.

6 A. Would the Commission have authority to come in
7 and look at the access charges?

8 Q. No.

9 A. I'm sorry.

10 Q. When the Commission is in a rate case
11 proceeding and it's setting the price for exchange access,
12 would you agree that an appropriate factor to consider in
13 setting the rate would be factors such as whether
14 interexchange carriers are choosing not to provide
15 originating toll service in that small ILEC's exchange
16 because of high access rates?

17 A. I -- I really don't know if -- and maybe I'm
18 being too legalistic from a legal perspective -- as to what
19 the Commission can do to encourage or what actions they may
20 have taken that would have discouraged market participation
21 by IXCs.

22 Q. Well, is the level of access rates a
23 consideration that incents or disincent an IXC from
24 providing service in a particular territory?

25 A. I don't think it necessarily follows. In a

1 series of questions that Mr. England had asked, it appears
2 that the IXCs are more fully participating in the exchanges
3 of Sprint and Verizon whose access rates are in the same
4 neighborhood as the MITG LECs.

5 Q. So it's your position that the level of access
6 charges has no impact whatsoever on an IXC's choice on
7 whether to participate on an originating basis in a market?

8 A. That's not what I said.

9 Q. Okay. Is it a factor in an IXC's decision to
10 provide originating service -- the level of access rates, is
11 that a factor?

12 A. I think every factor of the production of a
13 long-distance minute faced by an interexchange carrier
14 influences their decision for market participation,
15 everything.

16 Q. And my question simply is, is it appropriate
17 for the Commission to consider the actions of IXCs in
18 choosing to provide or not provide service on an originating
19 basis in a territory in determining what rate level to set
20 access?

21 A. Yes. Consistent with my previous answer that
22 suggests that they have considerable authority to determine
23 an allocation of any cost, then they could use that logic in
24 making a determination as to how much of the common cost
25 they're going to allocate to exchange access service.

1 Q. And I agree they could. I'm trying to get you
2 to agree that it's appropriate for them to consider that.
3 Do you either -- do you agree that it's appropriate for them
4 to consider that?

5 A. A qualified yes.

6 Q. Okay.

7 A. Again, I don't want to be too legalistic. I'm
8 not really sure what their authority is in terms of that,
9 but I think from an economics perspective, that that might
10 be something the Commission is interested in.

11 Q. You're aware, are you not, from the testimony
12 in this case that some small ILECs have said that they are
13 disinclined to provide expanded calling services in their
14 territories because of the existence of high access rates in
15 the non-SWBT exchanges that surround them?

16 A. Are you saying in this case?

17 Q. Yes.

18 A. I think there are some quotes taken from
19 another case, if I'm not mistaken.

20 Q. You've read Mr. Unruh's testimony. Right?

21 A. Yes.

22 Q. And it relates in there quotations from
23 Mr. Johnson on behalf of the MITG group that you represent
24 and Mr. England on behalf of the STCG group?

25 A. I'm assuming that's what you're talking about,

1 yes.

2 Q. Yes.

3 A. Yes, I read that.

4 Q. Okay. Is that an appropriate factor for the

5 Commission to consider in setting the level of access rates

6 in a rate case proceeding that might follow this?

7 A. Again, consistent with my previous answer, I

8 think it arguably is something the Commission could

9 consider.

10 Q. On page 8 of your rebuttal you discuss whether

11 LRIC is a useful tool. Can you take a look at that?

12 A. You said page 8 of my rebuttal?

13 Q. Yes, sir.

14 A. In response to the question at 4?

15 Q. Yes, sir.

16 A. Okay.

17 Q. That's generally what that question and answer

18 is about. Right?

19 A. It would appear.

20 Q. Okay. And you make the statement that price

21 cap rules ensure that exchange access is not priced below

22 LRIC.

23 Do you see that, lines 8 through 11?

24 A. Yes.

25 Q. And I'm not aware of what rule or statute that

1 you're referring to. Can you point me in the right
2 direction?

3 A. That was a general economic statement and so,
4 no, I cannot point you to the rule. I can point you to
5 your-all's testimony where you talk about LRIC as a price
6 floor and how it applies to Bell's service. So I don't have
7 a citation for that.

8 Q. Isn't the testimony that Southwestern Bell
9 provided in the case that you're using LRIC as a cost that
10 it's appropriate to use it as a price floor, but --

11 A. That is Southwestern Bell's testimony.

12 Q. But there's nothing in the price cap statute
13 that says that exchange access rates have to be priced above
14 LRIC, is there?

15 A. I don't know.

16 Q. Okay. And so when you say in there on line 8,
17 Price cap rules applied to the exchange access service rates
18 charged by price cap ILECs ensure that exchange access
19 services are not priced below LRIC, that's not an entirely
20 correct because you don't know what -- you can't tell me
21 what the Missouri price cap rule that you're referring to
22 is. Right?

23 A. That's correct.

24 Q. Okay. Is it fair to say that the only
25 discussion of LRIC in relation to the price cap statute is

1 in the sections that deal with rebalancing of local and
2 access rates under 392.245.8 and .9, if you know?

3 A. I don't.

4 Q. Okay. Also, on page 8 of your rebuttal you
5 make the claim that the use of LRIC as a regulatory tool was
6 limited prior to the 1996 Telecom Act.

7 Do you see that, lines 16 and 17?

8 A. Yes.

9 Q. Okay. Would you agree with me that based on
10 what you now know, that that's not correct?

11 A. I'm assuming -- I'm assuming, if I recall from
12 previous testimony, that the Missouri price cap statutes
13 from -- that it predates 1996 is --

14 Q. No. I'm referring specifically to this
15 Commission's decision in 18,309 from 1977 --

16 A. 1977, right.

17 Q. -- in which they set LRIC as the basis to
18 determine costs and then price above LRIC for hundreds of
19 Southwestern Bell services. You agree that the Commission
20 has utilized LRIC for that purpose in Missouri for
21 Southwestern Bell's services since 1977?

22 MR. ENGLAND: Your Honor, I'm going to have an
23 objection to this question. First of all, assumes facts not
24 in evidence, the fact that LRIC in 18,309 is being used as
25 the basis for establishing rates for hundreds of

1 Southwestern Bell services; secondly, because this line of
2 questioning was set up or premised on an earlier question
3 that this witness knew something about this case, which he
4 specifically said he didn't. So I don't think there's any
5 foundation, as well as it assumes facts not in evidence.

6 MR. LANE: I'm trying to explore the basis of
7 his assertion on page 8 of his Rebuttal Testimony on
8 lines 16 and 17 that says, Generally, use of LRIC as a
9 regulatory tool was limited prior to the 1996
10 Telecommunications Act.

11 MR. ENGLAND: Have no problem with that
12 question or delving into that, but he's attempting to elicit
13 information through his question regarding 18,309 that this
14 witness specifically said he knows nothing about.

15 MR. LANE: If he doesn't know the answer,
16 Judge, that's an appropriate response.

17 MR. ENGLAND: That still doesn't -- I realize
18 that Mr. Lane isn't testifying, although he's trying very
19 desperately to do so through his questioning.

20 MR. LANE: I'm not that desperate. I've got
21 more witnesses.

22 MR. ENGLAND: I still have a problem with the
23 premise of the question as well as the scope of the
24 witness's knowledge, but I'll be satisfied with an, I don't
25 know from the witness.

1 MR. LANE: I think we have a possible solution
2 here.

3 THE WITNESS: May I offer it?

4 JUDGE THOMPSON: I'm not finding where he says
5 he doesn't know anything about 18,309.

6 Do you know anything about 18,309?

7 THE WITNESS: Only what I've heard in this
8 case.

9 JUDGE THOMPSON: Well, that's all I know about
10 it, so in that case I'm going to overrule the objection.

11 THE WITNESS: I don't know.

12 JUDGE THOMPSON: I think we're ready for the
13 morning recess at this time. We'll come back in 10 minutes,
14 Mr. Lane. Perhaps you can have some more questions for this
15 witness.

16 (A RECESS WAS TAKEN.)

17 BY MR. LANE:

18 Q. I just have one more line of questions, as
19 opposed to one more question.

20 A. I understand.

21 Q. Okay. Mr. Larsen, on page 28 of your Direct
22 Testimony you indicate that the cost analysis that MITG
23 supports is based on Parts 36 and 69 of the FCC rules.
24 Right?

25 A. Yes.

1 Q. Okay. Would you agree that the FCC rules in
2 Parts 36 and 69 apply for interstate service and are not
3 binding on this Commission for intrastate purposes?

4 A. I believe that's the case.

5 Q. Those rules are not designed to determine
6 intrastate access costs, are they?

7 A. They are commonly used to allocate access
8 costs to jurisdictions, so they can be applied to intrastate
9 access.

10 Q. Okay. I understand that your recommendation
11 is that they be applied in this manner, but they were not
12 designed to determine intrastate access charges or set rate
13 elements and rate levels for those access charges, right, on
14 the intrastate basis?

15 A. A pure reading of FCC 36 and 69 identifies
16 interstate services.

17 Q. Okay. Is it also fair to state that the use
18 of Part 36 and Part 69 by the MITG group is selective?

19 A. Based on sound public policy considerations,
20 yes, it is selective.

21 Q. And, in particular, would you agree with me
22 that Part 69 sends the costs that are identified under
23 Part 36 to the particular rate elements for recovery.
24 Right?

25 A. That's correct.

1 Q. And with regard to Part 69, in particular, the
2 FCC rules allocate costs sent to the interstate jurisdiction
3 to a subscriber line charge rate element. Right?

4 A. Well, that's rate design. That's not cost
5 assignment.

6 Q. Okay. My question is, Part 69 rules
7 themselves identify costs which are to be assigned to
8 particular rate elements including the subscriber line
9 charge. Correct?

10 A. Yes.

11 Q. Okay. And so while you follow Part 36 to
12 assign costs and Part 69 to attribute those costs to
13 particular rate elements, you do not follow Part 69's
14 allocation of costs to a subscriber line charge. Right?

15 A. That's correct.

16 Q. Okay. And would you agree with me that the
17 subscriber line charge under Part 69 is a charge that's
18 assessed to end-user local customers in conjunction with
19 their purchase of an access line?

20 A. As a rate design choice, it is.

21 Q. And it's not a charge assessed on
22 interexchange carriers, is it?

23 A. The subscriber line charge is only applied to
24 subscribers.

25 Q. And the Part 69 subscriber line charge that's

1 applied under the interstate rules, would you know what
2 level that is for residential and business customers?

3 A. I believe as of right now there is a
4 residential cap of \$6 per customer, per month. And if
5 memory serves, I believe there is a multi-line business cap
6 of \$9.20 for multi-line business -- and let me amend. The
7 \$6 applies to residential and single-line business
8 customers.

9 Q. Okay. And that subscriber line charge under
10 the FCC rules is designed to recover primarily loop costs,
11 is it not?

12 A. Historically, that's true. Recently with the
13 MAG orders, I think that there's additional costs that are
14 assigned to common line that are not loop related. In fact,
15 they're increasingly significant.

16 Q. Okay. But the majority of costs that are
17 assigned and then recovered under the subscriber line charge
18 are loop-related charges?

19 A. I would say, yes, the majority are probably
20 loop related.

21 Q. And, as I understand your proposal here, you
22 do not propose to follow that portion of the Part 69 rules
23 that would establish a subscriber line charge and collect
24 loop-related costs directly from end-user customers in
25 association with their purchase of an access line?

1 A. Again, I think that there's rate design -- the
2 cost is assigned and then the FCC did make decisions on the
3 other side, the rate design. So in this proceeding where we
4 are right now, identifying costs, we didn't see the need to
5 necessarily engage in rate design.

6 Q. Okay. Is it your position that if this
7 Commission decides to follow your recommendation and utilize
8 Part 36 and 69 to determine costs and assign them to
9 particular rate elements, that this Commission also adopt
10 the Part 69 requirement of a subscriber line charge?

11 A. I don't know that this particular phase of
12 this proceeding is where we would make a recommendation on
13 that count. So, no, at this point, no, we're not making
14 that recommendation nor would we rule it out.

15 Q. Okay. You don't have an objection at this
16 point to the adoption of a subscriber line charge directly
17 to the end-user if the Commission otherwise decides to
18 follow your recommendation with regard to Parts 36 and 69 on
19 the intrastate side; is that right?

20 A. At this point I would like to say that I have
21 no position on that rate design question.

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

23 JUDGE THOMPSON: Thank you, Mr. Lane.

24 Mr. Schiffman?

25 MR. SCHIFMAN: No questions.

1 JUDGE THOMPSON: Ms. DeCook?
2 MS. DECOOK: No questions.
3 JUDGE THOMPSON: Mr. Morris?
4 MR. MORRIS: No questions, your Honor.
5 JUDGE THOMPSON: Mr. Stock?
6 MR. STOCK: No questions, your Honor.
7 JUDGE THOMPSON: Mr. Fischer?
8 MR. DORITY: Not here, Judge.
9 JUDGE THOMPSON: Mr. Fischer is no longer with
10 us.
11 MR. DANDINO: That sounded kind of final.
12 QUESTIONS BY JUDGE THOMPSON:
13 Q. Now, Mr. Larsen, you're not an economist; is
14 that correct?
15 A. Not a professional economist. I studied
16 economics as a minor.
17 Q. Okay. And you've been a consultant your
18 entire working life?
19 A. Virtually. Eighteen years.
20 Q. Consulting in the area of communications?
21 A. Yes. Telecommunications related.
22 Q. And what is the purpose of your testimony in
23 this case?
24 A. My purpose is to support the cost studies that
25 were filed by the MITG and STCG companies and to address

1 some of the theories of cost causation and cost assignment
2 that were offered by other witnesses in this case.

3 Q. And what is your opinion of Dr. Johnson's
4 study, if you have one?

5 A. First of all, yes, I do have an opinion on the
6 study. And I'm going to -- I'm going to limit my -- well, I
7 don't know if I'm going to limit.

8 I'm going to start with his application of
9 his, what I think were characterized properly, as
10 proprietary methods as used with the MITG LECs, and by
11 extension, I believe the STCG LECs were also subjected to
12 his methods.

13 As I state in my Direct Testimony, the methods
14 that Dr. Johnson used for the small LECs I believe was
15 wholly inappropriate. He took cost elements provided by
16 Sprint and Verizon, that Sprint and Verizon subsequently
17 disputed in his use of them, and he took the results of his
18 study and used what is, in my opinion, a very simplistic
19 statistical analysis he labels a regression analysis to
20 predict or, as I say, imagine small ILEC costs.

21 And as I stated in my Direct Testimony, it --
22 it appears that statistically the data that he produced for
23 my clients and for the STCG companies is wholly unreliable.
24 If you look in my testimony on page 24 -- well, in my
25 testimony, I offer a summary output of his regression

1 statistics and in two out of the three elements of switching
2 costs his R-square value, which roughly equates to the
3 reliability of the regression, is 53 percent for getting
4 started costs and 66 percent for traffic sensitive.

5 Those confidence factors, those -- or those
6 numbers demonstrate, in my opinion, that his methods are
7 unable to predict forward-looking costs for small companies.

8 Q. Did the MITG and STCG companies not provide
9 cost data directly to Staff to be used by Dr. Johnson?

10 A. Frankly -- frankly, we're mystified as to that
11 allegation. As I responded to Mr. Poston, we did --

12 Q. I'm not inquiring about an allegation. I'm
13 just asking if it's a fact that those companies did provide
14 data?

15 A. It is a fact that the companies provided data
16 and that the response rate was -- approximately 85 percent
17 of the DR elements that were requested were provided or
18 responded to.

19 Q. And how do you account for the 15 percent that
20 were not responded to or provided?

21 A. Frankly, I -- I don't know about the
22 15 percent. I think in a couple of cases the -- I know in a
23 couple of questions he asked for maps of the service
24 territory, which in my opinion, do -- did not hamper his
25 ability in any way to -- to identify the costs associated

1 with the networks of the small companies.

2 So to the extent that a couple of companies, I
3 believe, did not provide the maps and that would be part of
4 the 15 percent, he -- again, in my opinion, it's
5 non-critical omission of data for purposes of him being able
6 to use our costs as provided in a manner consistent with the
7 methods that he used for Sprint, Verizon and Bell. So as
8 far as -- I don't know --

9 Q. Okay. Now, tell me about these allegations.

10 A. Well, he --

11 Q. What is the allegation? The response rate was
12 much lower than that?

13 A. That's correct. In his surrebuttal he
14 identified for the first time his allegation that the Small
15 Companies and the MITG companies did not respond to his data
16 request and -- and provided very, very low numbers or
17 percentage of response rates that we dispute.

18 Q. Okay. Is it your opinion that Dr. Johnson's
19 study would be useful to the Commission in the purposes of
20 this investigation?

21 A. Well, interestingly, as I testified, if you
22 look at the average costs, the two -- the two middle types
23 of costs, not the stand-alone costs necessarily, not the
24 TSLRIC cost, but the pro rata and the average weighted costs
25 that he provided, I think you'll find that those results are

1 generally consistent with existing access rates and would
2 also be generally consistent -- I know that there's
3 anomalies, but generally consistent with the level of rates
4 that the MITG LECs currently charge.

5 So if the Commission determines that for rate
6 of return companies a cost allocation scheme like Part 36 or
7 69 -- Part 36 and 69 or even Dr. Johnson's methods would be
8 the appropriate methods for determining small company costs,
9 I believe his evidence shows that we're all in the same
10 ballpark.

11 Q. And you believe that that's accurate?

12 A. I think it's serendipitous that those numbers
13 came -- so if the Commission determined that his methods
14 were appropriate, then you would still be able to conclude
15 that the existing rates are accurate.

16 I much prefer the methods that were submitted
17 by the small companies, the Part 36 and 69. My only point
18 is that for whatever reason, the Commission should be
19 comfortable that the relative costs of small companies -- or
20 the costs of small companies relative to large companies is
21 consistent with long-standing intuition and long-standing
22 accounting record and allocation results. It costs more to
23 serve rural areas under almost any measure.

24 Q. Okay. So that is your opinion?

25 A. Yes.

1 Q. And are you able to quantify those costs? In
2 other words, in terms of percentages how much more does it
3 cost to serve a rural area on the average?

4 A. I -- I guess I could pour through the numbers,
5 but I mean, a rough calculation would be two and a half to
6 three times --

7 Q. Okay.

8 A. -- subject to verification, of course.

9 Q. Did you hear Dr. Johnson's testimony that
10 costs in the telecommunications industry in general are
11 declining?

12 A. I heard that testimony.

13 Q. Do you agree with that testimony?

14 A. There are certain network components that one
15 can purchase today that provide more capability at the same
16 price as those that were purchased 5 or 10 years ago.

17 For Small Telephone Companies, however, I
18 think there are a couple things the Commission should
19 remember. We don't have the same bargaining power. The
20 small companies do not possess the same bargaining power
21 that the larger companies possess in terms of ability to get
22 deeper discounts for their telecommunications equipment is
23 certainly an issue.

24 Number two, is that the -- the comparison of
25 VCRs and televisions and other consumer goods where

1 everybody can clearly see the prices are dropping is unfair
2 when you're talking about highly sophisticated electronic
3 switching and more particularly the intellectual property
4 that is the software that is provided by the major vendors.

5 They may be able to produce and even perhaps
6 provide to telecom companies lower priced electronics, but
7 it's been my observation that the software costs in
8 particular do not fall. And so I think the Commissioners
9 should be very, very wary of those comparisons of VCRs to
10 highly sophisticated electronics gear when making the
11 assumption that prices fall.

12 And I would agree with Dr. Staihr that even if
13 the total price of a device is less today than it was
14 yesterday, if the amount of traffic that it's carrying is
15 declining, then the cost per unit must go up. So I think
16 his point was well made. And that's a particular concern in
17 small company territories where they never really have
18 enjoyed economies of scale or scope.

19 Q. And did you hear Dr. Johnson's testimony that,
20 in his opinion, the access rates of the price cap regulated
21 ILECs are too high?

22 A. I heard that.

23 Q. Do you agree with that testimony?

24 A. I really don't have an opinion on that.

25 Q. Okay. Did you hear his testimony that his

1 study shows that there is no subsidy from access rates to
2 other services?

3 A. Preferring -- if you're talking about that
4 section of his testimony where he preferred the term
5 "support" as opposed to "subsidy," yes, I heard that.

6 Q. Okay. Do you agree with that testimony?

7 A. Boy, you know, I think that the Commission
8 needs to understand that we are probably delving in some
9 relatively minute differences of opinion in terms of
10 terminology. There's a dispute as to what is a common cost
11 versus a shared cost versus a joint cost when we're all
12 talking, in essence, about the loop.

13 I understand some people say, Well, no, common
14 costs is only talking about overheads, but it's confusing
15 enough as it is dealing with a battery of consultants and
16 Ph.Ds that are telling you what appear to be conflicting
17 stories, but the point is we are talking about an allocation
18 of loop costs appropriate to exchange access.

19 So if access -- assuming the arguments that
20 the fans of TSLRIC take, that TSLRIC is the true cost, and
21 assuming again that the rates that are being charged for
22 that service are priced above or even well above TSLRIC,
23 then it follows that whether you call it a subsidy or
24 support, that additional money over and above that
25 definition of cost, that is, the TSLRIC cost, is made

1 available to the firm to cover other costs. We can call
2 them, as I said, common, shared, joint, fixed. We're
3 talking about the loop and other overheads.

4 And so it's clear to me that if you're
5 comparing a TSLRIC rate to -- or a TSLRIC cost, excuse me,
6 to current rates, that in virtually every case, if memory
7 serves from the testimony, the current rates exceed or
8 greatly exceed TSLRIC costs, therefore, I -- I don't have a
9 hard and fast preference for support or subsidy --
10 additional monies are being made available to support common
11 costs, as I define common costs being the loop.

12 So I think Dr. Johnson is correct -- support
13 perhaps, other people call it subsidy. Additional money is
14 made available to support the public policy that customers,
15 other than strictly local customers, should pay some portion
16 of the cost of the loop.

17 Q. And do you agree with that policy?

18 A. As a matter of fact, I do. I think it's a
19 tough question for any Commission to answer. You've heard
20 testimony about various and sundry services that may or may
21 not be properly supporting the cost of the loop.

22 As I testified, you know, in a truly
23 competitive market, market prices determine that
24 contribution, the difference between price and TSLRIC. And
25 the market price, thus, determines how much contribution of

1 fixed costs a firm may gather.

2 In a regulated environment, it's the
3 Commission that determines what that contribution is, but a
4 contribution must be made in either case. If the firm
5 cannot cover its fixed, common, shared, joint costs through
6 a combination of prices, then it's not going to survive.
7 The Commission gets to make that decision.

8 Q. Were you here for the testimony of Mr. Dunkle?

9 A. Yes, I was.

10 Q. And did you hear Mr. Dunkle testify that it
11 was his opinion that in rural Missouri that subscribers are
12 not getting much for what they pay for telephone service?

13 A. Yes, I did. I heard that.

14 Q. And do you agree with that testimony?

15 A. Generally, yes. I think -- I think he
16 articulated the phenomenon fairly accurately.

17 Q. Now, you're not an attorney?

18 A. Mercifully.

19 Q. Do you believe the Commission can and should
20 do anything to increase calling scopes in rural Missouri?

21 A. It's two questions, isn't it?

22 Q. Yes, it is.

23 A. Can the Commission and should the Commission.

24 Q. You can leave out the can if you want.

25 A. Thank you. Actually, I think that the first

1 choice of both the telecommunications carriers and the
2 Commission should be that the public should decide by their
3 demand.

4 I'm kind of concerned when the Commission
5 mandates expanded local calling in some respects. And I'm
6 going to dip a little bit into economics, but I think it's
7 mostly regulatory policy. Any time a mandate is created,
8 then somebody's going to be upset because they're going to
9 be forced to purchase a service that they may not want to --
10 may not desire.

11 So, for instance, a customer that is
12 thoroughly pleased with their existing local calling scope
13 that's asked to pay more could argue that they are providing
14 a subsidy to those customers that are very interested in
15 calling the additional exchanges.

16 You have a market where it is not just one
17 firm that is involved in that decision. Typically there's
18 at least two and sometimes three in terms of the originating
19 LEC, the terminating LEC, and in some cases the
20 interexchange carrier.

21 So if the market has failed, and I use that
22 word carefully, if the market has utterly failed or failed
23 to provide services that -- that consumers demand, then the
24 Commission should at least look at it within the confines of
25 its authority.

1 So I prefer the marketplace, I prefer that --
2 and if the demand is actually there, usually the marketplace
3 can come up with a plan that satisfies consumer demand. And
4 if it can't, then sometimes Commission investigation or
5 intervention may be appropriate.

6 Q. Let's assume that the Commission were to
7 mandate expanded calling scopes of some sort in rural
8 Missouri. Would there be revenue effects or cost effects on
9 the LECs?

10 A. There would be both. There would be -- let's
11 take them in order. Revenue effects would be that to the
12 extent that the existing calling route that -- the calling
13 scope does not include a town that customers want as a local
14 call, then that's currently being provided by a toll
15 provider or an IXC. And they collect revenue by the minute
16 and the local exchange carrier is probably collecting access
17 charges by the minute.

18 And if the Commission mandated that that be
19 included in a local calling scope, and let's just presume at
20 a flat rate, then the -- the companies involved will lose
21 their permanent revenues.

22 On the cost side, if the demand is great
23 enough, in other words, if the Commission has correctly
24 responded to a significant amount of demand for local
25 calling or expanded local calling scopes, then it can be

1 presumed that additional facilities would be required to
2 satisfy that demand.

3 And it would also follow that if two companies
4 are involved, each company would incur costs. So you would
5 have the double effect of generally reduced revenues and
6 generally increased costs and those costs will have to be
7 borne by someone. So you come back into a rate design where
8 presumably the end-user customers will be asked to pay for
9 that service.

10 Q. There has been testimony here that access
11 rates in Missouri tend to be on the high side for the nation
12 as a whole. Have you heard that testimony?

13 A. I have.

14 Q. If you know, do costs in Missouri tend to be
15 on the high side when compared to the nation as a whole?

16 A. A general answer is if you look at some
17 publicly available data for the country as a whole, yeah,
18 Missouri has higher costs than average to provide basic
19 network functions. And I'm referring specifically to the
20 USF. I think Missouri's costs tend to be higher than other
21 states on an average basis.

22 Q. And are you able to account for that
23 phenomenon?

24 A. I talked to some people in the past and this
25 is -- I don't -- this is a highly qualified opinion, but I

1 think that the geography here is that there's a lot of rock
2 and it's a bit more challenging to bury plant in Missouri
3 than it may be in other states, in that rock is close to the
4 surface and placing plant is pretty challenging in a lot of
5 cases.

6 Q. So, in other words, Missouri's costs may even
7 be higher than other states that have a similar percentage
8 of rural lines?

9 A. That's -- that's correct. It could be.

10 Q. If the Commission were to reclassify the cost
11 information provided by the parties in this case from highly
12 confidential to proprietary, do you have an opinion as to
13 whether that would have any detrimental economic effect upon
14 the parties?

15 A. With the admission and qualification that
16 other witnesses made that I'm not an attorney, I did read
17 the definition of highly confidential anticipating this
18 question.

19 And turning my attention to the results that
20 were offered by Dr. Johnson, it's really hard for me to
21 believe that the cost per minute data for any company that
22 Dr. Johnson developed could be considered highly
23 confidential. And one would argue that any forward-looking
24 estimate of costs cannot possibly be based on actual
25 experience. It's a prediction. So a prediction -- it's

1 hard to believe a prediction would be harmful.

2 So one could argue that beyond just the
3 results of Dr. Johnson's study that he labeled as HC,
4 specifically the various and sundry costs per minute that
5 were offered, I think that's clearly not HC. And one might
6 be able to argue that some of the predictions that went into
7 that may not be HC, but simply proprietary.

8 JUDGE THOMPSON: Thank you.

9 Cross-examination based on questions from the
10 bench, Mr. Lane?

11 MR. LANE: I think there are probably some
12 others first, but I'll do what you want.

13 MR. ENGLAND: Your Honor, I do have --

14 JUDGE THOMPSON: Am I looking at the wrong
15 list? You're right. I apologize. Mr. England, you are
16 first. We've switched from one set-up to another here and I
17 looked at the wrong list.

18 MR. ENGLAND: Thank you, your Honor. And I'll
19 try to be brief.

20 RE-CROSS-EXAMINATION BY MR. ENGLAND:

21 Q. I want to follow-up on the earlier line of
22 questioning by Judge Thompson regarding I guess the results
23 of Dr. Johnson's studies had he had 100 percent response,
24 100 percent accurate information from the Small Telephone
25 Companies.

1 My question is, would that have affected the
2 R-squared or confidence factor of his regression analysis,
3 in your opinion?

4 A. Actually, it would have -- if he had -- if
5 he'd used our cost data, he probably would not have
6 performed the regression analysis that I find so much fault
7 with. He would have found it unnecessary because he would
8 have had actual costs or actual -- yeah, actual costs to
9 deal with.

10 Q. Is that R-squared factor or confidence level
11 then a flaw, if you will, with input or a flaw with the
12 ana-- inherent in the analysis?

13 A. Actually, it is the latter. It's a major flaw
14 with his analysis. The input was provided and he chose not
15 to use it. I think ALLTEL testified that they also
16 cooperated extensively with Dr. Johnson and he still chose
17 to use the same faulty regression analysis on their data.

18 So his choice -- his initial choice of using
19 what is, in my opinion, a very, very simplistic statistical
20 technique using single variable line counts to try and
21 predict costs that are very, very complex and are not simply
22 related to lines was a fatal flaw in his method.

23 He could not have -- in my opinion, it would
24 be virtually impossible to come up with accurate costs for
25 the SCTG or MITG companies using the method he chose. And

1 in light of the fact that he had data that he could have
2 used, it was particularly troubling that he chose not to use
3 it.

4 Q. You mentioned also, I believe in response to
5 questions from Judge Thompson, that Dr. Johnson's middle two
6 columns, which I believe have been referred to as average
7 costs or fully distributed, one being pro rata, I believe
8 the other -- excuse me -- being average --

9 A. And pro rata -- weighted and pro rata.

10 Q. Thank you. Weighted and pro rata were within
11 the neighborhood, I think, of the existing access rates
12 charged by the small ILECs?

13 A. Uh-huh.

14 Q. Do you recall that line?

15 A. Yes.

16 Q. How about though the individual cost elements
17 or the costs for the individual elements that make up that
18 total per minute cost that he developed in those middle two
19 columns?

20 A. Well, there is a problem there. If you were
21 simply looking at the aggregated totals that he provided for
22 the small companies, my conclusion would be reliable or
23 correct, in my opinion, but underlying that is my
24 observations and I believe others observations were that he
25 tended to overestimate the costs of loops or common line, if

1 you will, and he tended to underestimate the traffic
2 sensitive being local switching and transport elements, of
3 the small companies' costs, so --

4 Q. And that was the basis for your conclusion
5 that the fact that his total cost approximated existing
6 rates was more serendipitous than anything else?

7 A. That's correct. It was a combination of
8 looking at the costs, as you just questioned about, the
9 common line costs being high, the traffic sensitive being
10 low, plus the fact that again through pure serendipity he
11 came up with those answers that are roughly equal.

12 Because, as I said, I believe his methods were
13 flawed. If the Commission's going to use it, they should be
14 comfortable that if they adopt that, notwithstanding my
15 opinion, that the current rates and the current costs that
16 the companies report are in the right neighborhood.

17 MR. ENGLAND: Thank you.

18 JUDGE THOMPSON: Thank you, Mr. England.

19 Mr. Dority?

20 MR. DORITY: Judge, based on a response to one
21 of Mr. England's questions, I don't have anything to
22 follow-up with. Thank you.

23 JUDGE THOMPSON: Mr. Poston?

24 MR. POSTON: No questions. Thank you.

25 JUDGE THOMPSON: Mr. Dandino?

1 MR. DANDINO: I have no questions, your Honor.

2 Thank you.

3 JUDGE THOMPSON: Mr. Lane, now it's your turn.

4 MR. LANE: Thank you, your Honor.

5 RECROSS-EXAMINATION BY MR. LANE:

6 Q. Mr. Larsen, I wanted to go into the area you
7 explored with Judge Thompson concerning the protective order
8 and the information displayed in Dr. Johnson's schedule.

9 A. Okay.

10 Q. It appeared to me that your answer was
11 properly carefully constructed and I want to explore that.
12 Your indication or your statement that you did not believe
13 that the results of the studies that Dr. Johnson conducted
14 which led to a particular per minute of use cost for access
15 were, in your view, not highly confidential; is that right?

16 A. They were not HC, that's correct. I thought
17 they were probably proprietary.

18 Q. Okay. And you were focusing on the schedules
19 that listed the end results of all of the underlying
20 calculations and inputs that had been provided to
21 Dr. Johnson. Right?

22 A. I'm assuming that it was the sum of his work,
23 yes.

24 Q. Okay. And in terms of the individual
25 components of information that would have been provided to

1 Dr. Johnson that allowed him to conduct and eventually yield
2 a single number for a company in a particular area is an
3 entirely different matter, isn't it, in terms of whether
4 that information is highly confidential, the underlying
5 inputs?

6 A. If -- if I might restate. You're drawing a
7 distinction between a single number, the result, versus the
8 inputs that drove to that single number?

9 Q. Precisely. Which is what I understood you
10 were drawing a distinction between.

11 A. And I'm drawing -- as an initial matter -- for
12 instance, if Dr. Johnson came up with the answer 20, okay,
13 20 is a value. I don't know if he got to 20 by dividing 80
14 by 4 or multiplying 5 times 4. There's no way for anybody
15 to be able to discern the underlying data that got him to
16 the answer 20. So 20 to me would not be highly
17 confidential.

18 I think that parties could make the argument
19 that if he divided and you were also aware that he started
20 with the number 80, but that the number 4 was hidden as
21 highly confidential, that a reasonable person could say
22 well, he started with 80, we know he used division, we know
23 his answer was 20, therefore, the highly confidential number
24 is 4.

25 Q. Okay. And my point is -- and I think you

1 agree with it -- is that the inputs that were provided to
2 Dr. Johnson that enabled him to yield his result of, in your
3 example, 20 may well be highly confidential information.
4 Correct?

5 A. Well, I speculated that it is possible that if
6 we're dealing with predictions that are associated with
7 using forward-looking economic costs, that I could see where
8 a party would argue that the forward-looking economic cost
9 to provide service in any given territory should be a number
10 that anybody should be able to get to and it may or may not
11 represent highly confidential data that exists.

12 Q. Line densities and demand in a particular
13 geographic level may well be highly confidential
14 information. Right?

15 A. It very well could be. It very well could be.
16 I'm just --

17 Q. And that type of information is included in
18 what is provided to Dr. Johnson in making his calculations.
19 Correct? Or it may be, you don't know?

20 A. I didn't see what you all provided.

21 Q. Right. And so when you're making your
22 recommendations or you're offering your opinions in response
23 to Judge Thompson's question, you weren't informed and don't
24 know what all of the inputs and other information were
25 provided by Southwestern Bell, for example, to Dr. Johnson,

1 do you?

2 A. Oh, absolutely not. I don't know.

3 Q. And you don't know whether the inputs and
4 information that Southwestern Bell provided to Dr. Johnson
5 that yielded his number were or were not highly
6 confidential. Right?

7 A. No. Again, I bifurcated my answer to say that
8 the results could not be highly confidential, but it would
9 be arguable that the inputs may be.

10 Q. Right.

11 A. So to answer your question, I do not know
12 exactly what SWBT provided.

13 Q. And some information, I think you would agree
14 with me, you know on the input side is likely to be highly
15 confidential such as the price that Southwestern Bell pays
16 for particular pieces of equipment that's utilized in
17 providing a particular service. Right?

18 A. I'm going to go ahead and answer your question
19 directly. No, I do not.

20 Q. Okay. If you were providing advice to a
21 company or a group of companies that was involved in making
22 acquisitions of switches, for example, would you be better
23 able to advise them and better able to negotiate on their
24 behalf, if you were asked to do so, if you knew precisely
25 what Southwestern Bell paid for particular pieces of

1 equipment?

2 A. Had paid or would pay in the future?

3 Q. Both.

4 A. Okay. Had paid I think that I would be better
5 off. My prediction of what you will pay may be no more or
6 less confidential than your prediction of what you will pay.

7 Q. And if you're representing a particular
8 company or group of companies that's going to negotiate with
9 a manufacturer that's providing telecommunications
10 equipment, that telecommunications manufacturer isn't going
11 to tell you what Southwestern Bell paid for its equipment or
12 what it will charge Southwestern Bell in the future. Right?

13 A. It's not likely.

14 Q. Okay. And why not?

15 A. Because I think -- as somebody testified, it's
16 a tough business and there -- from a business perspective,
17 the switching manufacturers are highly competitive and
18 coveted with their customers. And also, as I understand it,
19 there is probably some non-disclosure agreements that were
20 signed between the vendors and the customers.

21 Q. And that may apply -- I use the switched
22 equipment example, but that may apply to other information
23 that was provided to Dr. Johnson in order to permit him to
24 conduct his studies that yielded the one number that, in
25 your view, is not highly confidential. Right? You don't

1 know one way or the other. Right?

2 A. I don't know -- I do not know what
3 Southwestern Bell necessarily provided to Dr. Johnson.

4 MR. LANE: That's all. Thank you.

5 JUDGE THOMPSON: Thank you, Mr. Lane.

6 Mr. Schiffman?

7 RECROSS-EXAMINATION BY MR. SCHIFMAN:

8 Q. Hi, Mr. Larsen. Ken Schiffman on behalf of
9 Sprint. I just want to follow-up a little bit about this
10 proprietary agreement stuff that Mr. Lane just talked to you
11 about.

12 Is there any evidence that has been presented,
13 to your knowledge in this case, that the people who would be
14 looking at these highly confidential cost studies are the
15 same people that would be negotiating with switch
16 manufacturers?

17 A. It's not likely.

18 Q. Okay. And if the people who are looking at
19 this cost information signed an agreement that said, hey,
20 we're not the guys who negotiate with the switch
21 manufacturers, in fact, we promise that we'll never give
22 this information to the guys who negotiate with the switch
23 manufacturers, then there wouldn't be any harm in giving the
24 information to the cost experts who are involved in the
25 case, would there?

1 A. Yeah. I think that we're signing a sworn
2 statement, an affidavit, saying that we won't.

3 MR. SCHIFMAN: No further questions.

4 JUDGE THOMPSON: Thank you, Mr. Schifman.

5 Ms. DeCook?

6 RE-CROSS-EXAMINATION BY MS. DECOOK:

7 Q. Good morning, Mr. Larsen.

8 A. Good morning, counselor.

9 Q. A couple questions I want to ask you about
10 some cross-examination from the Bench that you received. It
11 relates to the area of are access rates too high in
12 Missouri.

13 You testified that you believe that the rates
14 are higher than average or the costs are higher than average
15 in Missouri. Do you recall that testimony?

16 A. I do.

17 Q. And I heard you allude to some sort of USF
18 analysis. Do you recall that?

19 A. Yes.

20 Q. What USF analysis are you referring to?

21 A. The results of the submissions of costs that
22 all local exchange carriers submit to USAC that are public
23 data.

24 Q. And that is analyzing the cost of providing
25 universal service support or basic local access to the

1 network. Right?

2 A. I think the distinction was correctly drawn
3 earlier. It's the costs that are associated with providing
4 universal services which include basic local, but have other
5 things added to it.

6 Q. Well, do you know if that has anything to do
7 with the costs of provisioning the switching access
8 components, for example, the tandem and transport rates that
9 are applicable to access services?

10 A. From -- for my clients, that's -- those costs
11 are not included.

12 Q. So they don't really tell you anything about
13 whether the cost of access is higher in Missouri than
14 somewhere else. Right?

15 A. Well, I'm going to go back to my original and
16 base position that the cost of access for interexchange
17 carriers to reach customers does include some reasonable
18 allocation of loop costs. So I'd have to say, no, it does
19 tell you something.

20 Q. If you set that issue aside, since that is a
21 debated point in this proceeding, does the USF study show
22 you anything about the remaining access costs?

23 A. Nothing meaningful.

24 Q. Okay. Have you participated in cost
25 proceedings in states beyond Missouri?

1 A. In Oklahoma.

2 Q. And do you know what the protective order in
3 Oklahoma permitted in-house experts to see?

4 A. If memory serves, I think it was possible in
5 Oklahoma for in-house experts to view proprietary data. I
6 don't think Oklahoma had an HC designation. I think it was
7 proprietary was as high as Oklahoma goes. But, again, I
8 might be wrong so maybe I don't know is the best answer.
9 I -- if memory serves, proprietary is all they go to in
10 Oklahoma and people were allowed to swear an affidavit that
11 they would not share it inappropriately.

12 Q. So if your memory is accurate, then the same
13 information that SWBT claims to be treated as highly
14 confidential here was treated as proprietary in Oklahoma?

15 MR. LANE: I'm going to object to that, your
16 Honor. There's no testimony or evidence in this case that
17 Southwestern Bell provided data in Oklahoma that's the same
18 as the data that was provided in this case. Assumes facts
19 not in evidence.

20 JUDGE THOMPSON: I'll allow the question if
21 you were to ask whether the same type of data provided in
22 this case were designated that way in Oklahoma.

23 BY MS. DECOOK:

24 Q. With that revision to my question, can you
25 answer it?

1 A. I really cannot. I really don't remember the
2 quality of information that was used in Oklahoma.

3 Q. Do you mean the type of information?

4 A. Exactly, yeah.

5 Q. Was it cost study information?

6 A. It was cost study information.

7 Q. And what kind of cost case was it?

8 A. It was a -- there was a couple, but the one
9 that leaps to mind was an effort in the mid '90s to
10 Southwestern Bell's -- let me restate -- replace what was
11 essentially equivalent to a PTC plan in Oklahoma with a
12 regime of interexchange carriers, slash, access provider
13 where the small LECs were no longer jointly providing toll
14 with Southwestern Bell, but were, in fact, situated as
15 access carriers, access providers.

16 Q. So I take it then the type of access -- the
17 type of cost study that would have been under review would
18 have been an access cost study?

19 A. Yes. And it was -- you know, it was primarily
20 our information, the Small Companies' information.

21 Q. And do you know if SWBT filed an access cost
22 study in that case?

23 A. I do not believe they did.

24 Q. And what is your view in terms of how the
25 Part 36, 69 cost studies that have been submitted by the

1 Small Companies in this case should be treated from a
2 confidential standpoint?

3 A. Well, certainly proprietary is appropriate.
4 Let me review -- I don't --

5 Q. I believe the information has been marked
6 pink -- well, I mark it pink, so that's the way we do it
7 in --

8 A. And your pink means?

9 Q. It means confidential.

10 A. Highly confidential?

11 Q. Highly confidential.

12 A. Consistent with my view for Dr. Johnson's
13 data, certainly the access cost per minute that we provided
14 is no more than proprietary.

15 Q. Well, what do you --

16 A. The --

17 Q. I'm sorry.

18 A. There is a significant amount of cost data
19 that the Small Companies -- let me restate. The cost data
20 of Small Companies is generally publicly available, for
21 instance, through the same Universal Service Fund
22 submissions that are made. Demand data in the aggregate for
23 Small Companies is available publicly. There's probably
24 data available from the annual reports that the Small
25 Companies file that is public.

1 So to answer your question, I think there's a
2 lot of data that the Small Companies use in their Part 36
3 and 69 studies that is publicly available, but there is
4 also -- I know that there's other data that may be specific
5 to exchange specific information that would be considered
6 proprietary at minimum, and perhaps even highly
7 confidential.

8 Q. And what, in particular, that's in your
9 Part 36, 69 cost study do you believe would be considered
10 highly confidential?

11 A. Well, I might have to retract that by saying
12 in the Part 36, 69, we're dealing at total company levels.

13 Q. So it wouldn't be considered --

14 A. For that -- actually, I probably answered your
15 question wrong. For Part 36 and 69, my memory suggests that
16 it's probably not HC data. Some of the responses to
17 Dr. Johnson that were probably more specific, I could
18 review, but may be considered more proprietary.

19 Q. In the case that you participated in Oklahoma
20 where Small Companies submitted access studies, were those
21 Part 36, 69 studies --

22 A. Yes.

23 Q. -- in that case?

24 A. Yes.

25 MS. DECOOK: All right. I have no further

1 questions.

2 JUDGE THOMPSON: Thank you, Ms. DeCook.

3 Mr. Morris?

4 MR. MORRIS: No questions, your Honor.

5 JUDGE THOMPSON: Mr. Stock?

6 MR. STOCK: No questions, your Honor.

7 JUDGE THOMPSON: Is Mr. Fischer back with us?

8 Redirect?

9 MS. CHASE: Thank you, your Honor.

10 REDIRECT EXAMINATION BY MS. CHASE:

11 Q. Mr. Larsen, you were asked from Mr. Poston
12 earlier about whether accurate data leads to accurate
13 results. And the inputs are not the only factor that
14 reflects the accuracy or reliability of cost studies; is
15 that right?

16 A. No. The inputs are not the only factor in the
17 accuracy of a study.

18 Q. Okay. The study itself must be accurate and
19 reliable; is that correct?

20 A. Yes. Yes. For instance, my criticism from
21 the very beginning of this proceedings -- these proceedings
22 with respect to Dr. Johnson's methods, I'm not sure that
23 using the regression analysis that he chose that he could
24 ever produce accurate predictions of costs for the Small
25 Companies.

1 My -- my complete lack of faith in that method
2 to provide the Commission with anything meaningful is pretty
3 profound. And especially in light of the fact that we did
4 submit data as requested where he could have performed a
5 more -- conceivably more accurate study of our costs, but
6 chose for whatever reason, not to. So, yes, clearly the
7 method applied -- the wrong method applied to the right data
8 will also lead to the wrong results.

9 Q. Okay. And with respect to Mr. Lane's line of
10 questioning, Southwestern Bell Telephone talked about the --
11 well, they talked about the LRIC and rate-making in
12 Missouri. Other than establishing a price floor, why is the
13 LRIC inappropriate as a rate-setting mechanism?

14 A. The main point that I would like for the
15 Commission to understand about LRIC is consistent with
16 Mr. Lane's questions, LRIC provides the Commission with
17 absolutely no data about the joint and common costs
18 associated with providing exchange access service, as -- as
19 the original order suggested that the Commission was
20 investing -- investigating all of these -- all of the issues
21 surrounding actual costs used to provide exchange access
22 service that could lead to a permanent solution to access
23 charge problems.

24 And LRIC is an interesting tool for economists
25 to explain certain phenomenon to their clients about costs

1 and how they behave. But the Commission asks the industry
2 to provide a discussion of all of the issues associated with
3 providing exchange access service.

4 And as the proponents of LRIC have repeatedly
5 presented to the Commission, LRIC does not address loop
6 costs. It is my opinion that loop costs are a member of the
7 set of issues that the Commission needs to address.

8 And, therefore, if the Commission is trying to
9 determine how to appropriately identify all of the costs --
10 and I'll even concede that LRIC can be considered a, quote,
11 actual cost for purposes of this discussion. If the
12 Commission is looking at all of the issues and is only asked
13 to address LRIC, then that analysis would fall short of
14 satisfying the Commission's needs because, again, at the
15 risk of being repetitive, loop costs are part of the issue
16 of providing exchange access service.

17 And as a final point, the tail end of the
18 Commission's charter in this case was that it would lead to
19 rates. Now, that may be in a future proceeding, it may not
20 be in this where we're only looking at costs, but it seems
21 to me that the Commission would be better served if LRIC's
22 place in the analysis is -- is fully explained. And I don't
23 believe that only looking at LRIC gives the Commission what
24 they need in this case.

25 Q. Okay. So is it your position that looking at

1 the Part 36, 69 study provides this Commission with more
2 information with respect to those joint common costs?

3 A. Substantially more, yes. It -- it necessarily
4 implies that there are choices that the Commission may have
5 to make in terms of the percentage of those joint and common
6 costs that are assigned to a particular service.

7 And the MITG and SCTG cost studies, by
8 necessity, have made a choice -- a quantitative choice as to
9 the percentage of those costs that we chose to allocate in
10 our cost studies, but it's within the Commission's purview
11 to determine what their choice might be.

12 That may or may not be different from ours,
13 but LRIC gives them no guidance. I mean, LRIC proponents
14 throw up their hands and say, on the one hand, exchange
15 access service has no loop costs, but they also admit that
16 rates are intended to help recover those costs to the extent
17 that those rates are priced above LRIC.

18 I believe the MITG and SCTG companies have
19 provided the Commission with more information than the other
20 parties to this case that have chosen to provide them with
21 less.

22 MS. CHASE: Okay. Thank you. I have nothing
23 more, your Honor.

24 JUDGE THOMPSON: Thank you, Ms. Chase.

25 You may step down, sir. Are you going to be

1 available later today?

2 MR. LARSEN: I will.

3 JUDGE THOMPSON: Okay. When the Commissioners
4 get down out of agenda, they may have some questions for you
5 in which case we'll give all of the parties another crack.

6 I believe we're ready for Mr. Warinner.

7 Excuse me. Is that Mr. Warinner? Very well.

8 Go ahead and spell your name for the reporter,
9 sir.

10 THE WITNESS: W-a-r-i-n-n-e-r, William J.

11 JUDGE THOMPSON: One R?

12 THE WITNESS: One R.

13 (Witness sworn.)

14 JUDGE THOMPSON: Thank you, sir.

15 Do you have some exhibits to mark,
16 Mr. England?

17 MR. ENGLAND: Yes, I do, your Honor. I've got
18 Direct Testimony of William J. Warinner on behalf of Holway
19 Telephone Company, et al., and attached to that are some, I
20 believe, highly confidential schedules. So that would be NP
21 and HC.

22 JUDGE THOMPSON: If I understand you
23 correctly, it's the schedules that are HC?

24 MR. ENGLAND: That's correct.

25 JUDGE THOMPSON: And the testimony itself is

1 NP?

2 MR. ENGLAND: Correct.

3 JUDGE THOMPSON: Why don't we mark the
4 schedules then as a separate exhibit? I think that might
5 our handling -- so we'll mark the highly confidential
6 schedules as Exhibit 32 and we will mark the NP Direct
7 Testimony as Exhibit 31. Is that acceptable?

8 MR. ENGLAND: Fine with me.

9 (EXHIBIT NOS. 31 AND 320HC WERE MARKED FOR
10 IDENTIFICATION.)

11 MR. ENGLAND: We also have a similar situation
12 with the Rebuttal Testimony in that we have Rebuttal
13 Testimony, which I believe is NP, but again, some highly
14 confidential schedules.

15 JUDGE THOMPSON: All right. Let's go ahead
16 and do the same thing. We'll mark the testimony as
17 Exhibit 33 and the highly confidential schedules as
18 Exhibit 34.

19 (EXHIBIT NOS. 33 AND 34-HC WERE MARKED FOR
20 IDENTIFICATION.)

21 MR. ENGLAND: And then, finally, we have
22 Surrebuttal Testimony that is all NP, no HC.

23 JUDGE THOMPSON: Very well. That's the
24 surrebuttal, that will be Exhibit 35.

25 (EXHIBIT NO. 35 WAS MARKED FOR

1 IDENTIFICATION.)

2 MR. ENGLAND: Thank you for your indulgence.

3 JUDGE THOMPSON: Quite all right.

4 WILLIAM J. WARINNER, having been sworn, testified as
5 follows:

6 DIRECT EXAMINATION BY MR. ENGLAND:

7 Q. Would you please state your name for the
8 record, please.

9 A. William J. Warinner.

10 Q. Your business address, please.

11 A. 10561 Barkley Street, Suite 550, Overland
12 Park, Kansas 66212.

13 Q. Mr. Warinner, by whom are you employed and in
14 what capacity?

15 A. I'm a principal with the certified public
16 accounting firm of Warinner, Gesinger & Associates, LLC.

17 Q. And on whose behalf are you appearing in this
18 proceeding?

19 A. I'm appearing on behalf of four independent
20 telephone companies in Missouri, I think referred to as the
21 Holway et al., group; Holway Telephone Company, KLM
22 Telephone Company, Iamo Telephone Company, and Green Hills
23 Telephone Corporation.

24 Q. Now, Mr. Warinner, have you caused to be
25 prepared and filed in this proceeding prepared Direct

1 Testimony that I believe has been marked for purposes of
2 identification as Exhibit 31 with some attached schedules
3 that contain highly confidential information that has been
4 marked for purposes of identification as Exhibit 32-HC?

5 A. Yes.

6 Q. And directing your attention to that testimony
7 and those schedules, do you have any changes or corrections
8 that need to be made at this time?

9 A. No, I don't believe so.

10 Q. If I were to ask you the questions that appear
11 in that testimony, would your answers here today under oath
12 be substantially the same?

13 A. Yes, they would.

14 Q. And would those answers be true and correct to
15 the best of your knowledge, information and belief?

16 A. Yes, they would.

17 Q. With respect to the information contained in
18 the schedules, is that information also true and correct to
19 the best of your knowledge, information and belief?

20 A. As originally filed, yes. I think some
21 revisions were made to those schedules that were filed in
22 subsequent testimony.

23 Q. Very good. Let's turn your attention then to
24 Rebuttal Testimony, which I believe you also caused to be
25 prepared and filed in this case?

1 A. Yes.

2 Q. My understanding is that's been marked for
3 purposes of identification as Exhibit 33?

4 A. Yes.

5 Q. And attached to it are certain highly
6 confidential schedules that have been marked for purposes of
7 identification as 34-HC?

8 A. Yes.

9 Q. Turning your attention to both testimony --
10 Rebuttal Testimony, excuse me, and the attached schedules,
11 do you have any corrections or changes to make at this time?

12 A. No, I do not.

13 Q. If I were to ask you the questions appearing
14 in the testimony -- Rebuttal Testimony, excuse me, would
15 your answers be substantially the same here today under
16 oath?

17 A. Yes, they would.

18 Q. And are those answers true and correct to the
19 best of your knowledge, information and belief?

20 A. Yes, they are.

21 Q. And is the information contained in the
22 schedules attached to your Rebuttal Testimony true and
23 correct to the best of your knowledge, information and
24 belief?

25 A. Yes, it is.

1 Q. Finally, let me turn your attention to what I
2 believe has been marked for purposes of identification as
3 Exhibit 35. Is that your Surrebuttal Testimony that you
4 caused to be prepared and filed in this case?

5 A. Yes, it is.

6 Q. Are there any changes or corrections that need
7 to be made to that testimony?

8 A. No.

9 Q. If I were to ask you the questions appearing
10 in that testimony, would your answers here today under oath
11 be substantially the same?

12 A. Yes, they would.

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

15 A. Yes, they are.

16 Q. Thank you, sir.

17 MR. ENGLAND: With those preliminary matters
18 aside, I have no other questions and would tender the
19 witness for cross-examination and offer the exhibits -- make
20 sure I get this correct -- 31, 32-HC, 33, 34-HC and 35.

21 JUDGE THOMPSON: Do I hear any objection to
22 the receipt of Exhibits 31, 32, 33, 34, 35?

23 Hearing no objections, those exhibits are
24 received and made a part of the record of this proceeding.

25 (EXHIBIT NOS. 31 THROUGH 35 WERE RECEIVED INTO

1 EVIDENCE.)

2 JUDGE THOMPSON: Cross-examination, Ms. Chase?

3 MS. CHASE: None, your Honor.

4 JUDGE THOMPSON: Mr. Dority?

5 MR. DORITY: No, Thank you, Judge.

6 JUDGE THOMPSON: Mr. Poston?

7 MR. POSTON: No questions.

8 JUDGE THOMPSON: Mr. Dandino?

9 MR. DANDINO: No questions, your Honor.

10 JUDGE THOMPSON: Mr. Lane?

11 MR. LANE: Thanks, your Honor.

12 CROSS-EXAMINATION BY MR. LANE:

13 Q. Good morning, Mr. Warinner.

14 A. I didn't think I would escape you.

15 Q. This means yes, this means no (indicating).

16 On page 4 of your surrebuttal, if you would
17 turn to that, Mr. Warinner.

18 A. Yes.

19 Q. In several of questions and answers on that
20 page you are dealing with the response to Mr. Barch,
21 Southwestern Bell's witness, who had discussed the Kansas
22 Corporation Commission order. Correct?

23 A. Correct.

24 Q. And you criticize Mr. Barch's discussion of
25 the Commission order in Kansas adopting a stipulation.

1 Right?

2 A. Correct.

3 Q. Would you agree with me that Mr. Barch's
4 Rebuttal Testimony to which you were responding, discusses
5 three specific findings that were made by the Kansas
6 Corporation Commission on pages -- in paragraphs 24, 25 and
7 26 of its order?

8 A. That's correct.

9 Q. And in your first question and answer on that
10 page in line 11 you put quotation marks around the word
11 "findings" when you state that you believe Mr. Barch's
12 findings were taken out of context. Right?

13 A. Correct.

14 Q. To clarify, would you agree with me that the
15 citations that Mr. Barch made were not to the stipulation
16 itself that was signed and submitted in Kansas, but to the
17 Kansas Corporation Commission's order adopting the
18 stipulation?

19 A. Yes.

20 Q. And the citations that Mr. Barch made in his
21 Rebuttal Testimony were to actual findings of the Commission
22 in support of its decision to adopt the stipulation.
23 Correct?

24 A. Yes. They were -- they referenced the order
25 of the Commission, although there were certain other parts

1 of the order that had reference to the material that was
2 being discussed that was not presented in the discussion by
3 Mr. Barch that I'm referring to.

4 MR. LANE: Okay. And, your Honor, may I
5 approach the witness?

6 JUDGE THOMPSON: You may.

7 BY MR. LANE:

8 Q. Mr. Warinner, I'm going to show you a copy of
9 the order approving Stipulation and Agreement by the Kansas
10 Corporation Commission in Docket No. 01-GIMT-082-GIT and ask
11 if this is the order that Mr. Barch discussed and that you
12 responded to in your Surrebuttal Testimony?

13 A. Well, subject to check, yes. I can assume
14 that that's the order that -- particular order that he was
15 addressing.

16 Q. Okay. And you read that order, did you not?

17 A. Yes.

18 Q. Okay. And he cited paragraphs 24, 25 and 26.
19 And would you agree with me that those paragraphs are
20 included under Section 4 of the order dealing with findings
21 and conclusions of the Commission?

22 A. Yes.

23 Q. Okay. And, in particular, would you agree
24 with me that paragraphs 24, 25 and 26 are all under
25 Subsection A of Part 4 under the heading, This stipulation

1 provides a more appropriate means of cost recovery for local
2 carriers access and local service rates?

3 A. That's correct.

4 Q. And in paragraph 21 that immediately precedes
5 that it says, The Commission finds that the stipulation is
6 reasonable and in the public interest for the following
7 reasons --

8 A. Correct.

9 Q. -- right?

10 And I may have misinterpreted your testimony,
11 but I understood what you were trying to imply was that the
12 Kansas Corporation Commission was simply citing testimony
13 that had been submitted in favor of the stipulation rather
14 than this being actual findings of the Commission.

15 And would you agree with me that, in fact,
16 portions of the order that were cited by Mr. Barch in
17 paragraphs 24, 25 and 26 were actual findings of the
18 Commission on why they were accepting the stipulation as
19 opposed to mere recitations of evidence that was presented?

20 A. That's correct.

21 Q. Okay. And in that Kansas order, the Kansas
22 Commission approved a stipulation that moved Southwestern
23 Bell and Sprint's access rates toward parity with interstate
24 access rates. Correct?

25 A. That is true.

1 Q. And it approved an increase in local rates to
2 offset the access charge reduction. Right?

3 A. That's correct.

4 Q. Okay. Now, on page 6 of your surr-- I'm
5 changing gears here -- you discuss the relationship of
6 shared costs as you see it between switched access and the
7 local loop. Right?

8 A. Correct.

9 Q. It's fair to say that some parties in this
10 case believe that the local loop is attributable to local
11 service while others believe that the cost of the local loop
12 should be allocated between local access and other services
13 which use the local loop. Right?

14 A. That's correct.

15 Q. Okay. Would you agree with me that any
16 allocation method is, to some degree, arbitrary?

17 A. I believe every allocation method is, to some
18 degree, arbitrary, yes.

19 Q. That's because some discretion must be
20 applied, if we use it in relation to the local loop, in
21 allocating the local loop among various services. Right?

22 A. Correct.

23 Q. There's no one correct answer on how much of
24 the local loop should be allocated to switched access when
25 one is trying to determine the cost of switched access, is

1 there?

2 A. No. I think if -- history dictates that the
3 allocation of the loop has always generally been a policy
4 decision.

5 Q. Both Dr. Johnson and Mr. Schoonmaker present
6 several different proposals on how an allocation could be
7 accomplished. Right?

8 A. That's correct.

9 Q. And none of those is necessarily the correct
10 answer. Right?

11 A. No. I don't know if you could classify them
12 as the correct answer. Every -- I guess every allocation
13 method proposed would have to be taken under its own merit,
14 I guess. And actually for the most part it can be almost
15 determined on a case-by-case basis. But for purposes of
16 this proceeding, I think we're proposing to allocate loops
17 based on models after the federal mandate which is on a
18 fixed allocation percentage.

19 Q. Okay. And actually Mr. Schoonmaker presents a
20 couple of different possibilities of how you could make that
21 allocation even there. Right?

22 A. That's correct.

23 Q. Not just one simple way to do it even if you
24 follow Part 36 or 69 principles. Right?

25 A. There can be optional methods, but --

1 Q. And he presents optional methods. Right?

2 A. Right.

3 Q. I want to look at the position of those
4 parties who oppose allocation of the loop when determining
5 cost of services other than basic local. Would you agree
6 with me that the parties that propose to utilize a LRIC type
7 approach separate pricing from costing. Right?

8 A. That's from the -- from all the testimony that
9 I've seen in this case, yes, those who advocate LRIC
10 indicate that that should not be a -- used as a basis for
11 setting price.

12 Q. They indicate that it should be used as a
13 price floor, but not necessarily the actual price that
14 should be charged --

15 A. Correct.

16 Q. -- right?

17 And would you agree with me that if the
18 Commission sets a price that is above the LRIC for a
19 particular company, that the increment above the LRIC cost
20 is attributable to recovery of joint and common costs of the
21 firm?

22 A. That's correct.

23 Q. Including, if one believes loop to be a joint
24 or a common cost, the loop. Right?

25 A. It potentially it could be if loop is

1 considered a joint and common cost.

2 Q. And if loop is considered a direct cost of
3 local service and the price of access is set above LRIC,
4 then the amount of that contribution above LRIC may be said
5 to be recovering a portion of the direct cost of local.
6 Right?

7 A. Repeat that question.

8 Q. I'll try it again in a different way. If one
9 believes that the cost of local is not a joint cost, but
10 is -- excuse me.

11 If one believes the cost of the loop is not a
12 joint cost but is, in fact, attributable to local service by
13 itself, even then a price that's set for access above LRIC
14 may be recovering a portion of the loop. Correct?

15 A. I don't know if I could answer that. I guess
16 it would depend on what rates were set for, in essence, the
17 local service which encompasses the loop and what rates were
18 set for other services based on LRIC plus some additive.

19 Q. If the rate for local loop is less than the
20 LRIC for the local loop, then it would be receiving a
21 subsidy from some other source. Right?

22 A. It could be receiving a contribution from some
23 other source, yes.

24 Q. Okay. And in economic terms, if a price is
25 below its long-run incremental cost, that service is

1 receiving a subsidy, is it not?

2 A. Yes.

3 Q. Would you agree with me that the use of a LRIC
4 approach, as compared to the Part 36, 69 approach
5 recommended by the Small Telephone Company Group that you're
6 a part of, provides the Commission with a greater level of
7 discretion in setting the price of exchange access?

8 A. You're saying using LRIC rather than a fully
9 allocated cost study to set price?

10 Q. I'll repeat it. You recognize that those that
11 support LRIC indicate that that should be a price floor, but
12 the Commission has discretion above that to set an actual
13 price. Right?

14 A. Correct.

15 Q. My question is, would you agree with me that
16 if you utilize LRIC as the price floor but have discretion
17 to set price above that, that that gives the Commission
18 greater discretion to determine an appropriate price than
19 does following the Part 36, Part 69 methodology that your
20 group recommends?

21 A. Well, I might agree that it provides the
22 Commission greater discretion, but I wouldn't agree that it
23 would probably provide the Commission a better result.

24 Q. And it's not clear to me from your testimony,
25 so let me ask it here. Is it your position that if the

1 Commission determines cost based on Part 36, 69 principles,
2 that that should also be used to establish the price of
3 access service?

4 A. I think the cost from a Part 36, 69 study
5 should be the initial basis for determining price, but not
6 necessarily the final basis or the absolute basis for
7 setting price. There's always going to be other factors
8 that need to be considered when setting rates.

9 Q. All right. And is it your opinion that the
10 price of access established by the Commission would
11 appropriately be set in some cases below the cost of access
12 and in other cases above the cost of access when cost is
13 determined via Part 36, 69?

14 A. When looking at all relevant factors within a
15 company's cost structure, yes, it could be priced at above
16 or below.

17 Q. Okay. And if a price is chosen by the
18 Commission that's below the cost of access as determined
19 under Part 36, 69, you don't see that as a problem in any
20 respect, do you?

21 A. If there are -- I'm trying to find a word --
22 oh, circum-- well, depending on the circumstances
23 surrounding why rates deviated from a Part 36, 69 cost
24 study, you know, the Commission could have an agenda to
25 raise or lower local rates to achieve a just and reasonable

1 rate level.

2 I guess we've got to recognize that in the
3 past rate-making in some cases has been arbitrary or based
4 on residual, taking into consideration public policy
5 decisions made by regulatory agencies. To that extent, they
6 can deviate from a Part 36, 69 cost to set rates, but we
7 would still say the starting point should be Part 36, 69
8 costs.

9 Q. What type of factors or considerations, in
10 your view, would make it appropriate for the Commission to
11 set a price for exchange access that is below the cost level
12 determined under the Part 36, 69 method that you recommend?

13 A. In some jurisdictions commissions have
14 residually set access based on factors including
15 contributions from local rates, contributions from universal
16 service and contributions from other revenue sources,
17 vertical services and so forth. So, in effect, they do in
18 some cases have residually priced access.

19 Q. Okay. My question was from your perspective,
20 what would be appropriate factors for this Commission to
21 consider in determining whether to set the price of access
22 below the cost as determined under Part 36, Part 69
23 principles?

24 A. Potentially all of the issues I just
25 mentioned.

1 Q. Okay. And would the existence of competition
2 or lack thereof in the long-distance market be a factor that
3 you believe would be appropriate for the Commission to
4 consider in determining whether access price should be set
5 below Part 36, 69 costs?

6 A. It could be a factor, but it -- I don't think
7 it could be the only factor.

8 Q. And, in particular, if the Commission
9 determined that some interexchange carriers were declining
10 to provide originating toll service in some small ILEC's
11 territory because of high access rates, would that be an
12 appropriate factor for the Commission to consider in
13 determining that it would be appropriate to set the price of
14 access below the Part 36, 69 costs?

15 A. Not by itself, no.

16 Q. Is it a factor for them to consider, is my
17 question?

18 A. It could be one of many factors.

19 Q. Okay. And if the Commission determines that
20 some small ILECs are choosing not to provide expanded
21 calling plans to customers because of their concern about
22 paying high access rates to non-SWBT companies that surround
23 that particular company, would that be a factor that would
24 be appropriate for the Commission to consider in determining
25 whether to set the price for exchange access at a rate lower

1 than the cost as determined under Part 36, 69 principles?

2 A. It could be a factor, but again, it could -- I
3 wouldn't recommend that it be the only factor.

4 Q. Okay. It's appropriate for them to consider
5 that, in your opinion?

6 A. It might be.

7 Q. Okay. And if the Commission determined that
8 other companies like Southwestern Bell were declining to
9 offer certain services to their own customers because of
10 concern about paying high access rates to terminate those
11 calls in small ILEC territories, would that be an
12 appropriate factor for the Commission to use in determining
13 to set the price of exchange access in small ILEC
14 territories at a level lower than cost as determined under
15 Part 36, 69?

16 A. Again, it could be a factor, but I would guess
17 that there would be a number of other factors that would
18 have to be considered at the same time that might even
19 circumvent that factor.

20 Q. Okay. In your Surrebuttal Testimony on
21 page 10 you discuss the Universal Service Fund. Do you see
22 that?

23 A. In -- you said surrebuttal?

24 Q. I believe so.

25 A. No. Page 10?

1 Q. Yes.

2 A. And you said I'm talking about what?

3 Q. You start on page 9 and you're talking about
4 the use of the Missouri Universal Service Fund.

5 A. Not in surrebuttal.

6 Q. What do you have on page 9 for your
7 surrebuttal?

8 A. Do you agree with Sprint's witness
9 Mr. Staihr's example of the local loop and the television
10 set?

11 MR. SCHIFMAN: It starts on page 11.

12 BY MR. LANE:

13 Q. Check page 11 on yours. It may be different
14 than what I have. Is that section entitled Use of Missouri
15 Universal Service Fund?

16 A. Yes. That's it.

17 Q. Okay. Goes both ways.

18 And for context, you've cited the Commission's
19 Universal Service Fund rule and the definition of essential
20 local service. Right?

21 A. That's correct.

22 Q. And to short circuit, you looked at 4 CSR
23 240.31-010(5) and you indicate that you would like to
24 interpret subpart F, equal access to interexchange carriers,
25 as the basis for the Commission to consider the cost of

1 exchange access in defining essential local
2 telecommunications services.

3 Is that a fair characterization of what you go
4 through?

5 A. Well, I'm suggesting that that's a possibility
6 for the Commission to look at item F of the definition of
7 services under the universal service definition.

8 Q. Okay. And would you agree with me that the
9 definition of essential local service that the Commission
10 adopted is patterned closely after the legislature's
11 definition of basic local service?

12 A. Well, subject to check, yes.

13 MR. LANE: May I approach the witness, your
14 Honor?

15 JUDGE THOMPSON: You may.

16 BY MR. LANE:

17 Q. Mr. Warinner, showing you Section 386.020 of
18 the Missouri Revised Statutes, and in particular, with
19 reference to subdivision 4, Basic Local Telecommunications
20 Service, would you agree with me that the definitions of
21 basic local is similar to the Commission's definition of
22 essential local telecommunications service in the USF
23 statute or USF rule?

24 A. It appears to be --

25 Q. Okay.

1 A. -- similar.

2 Q. And, in particular, there's a subdivision G in
3 the statutes that says, Equal access to interexchange
4 carriers consistent with rules and regulations of the FCC.
5 Right?

6 A. Correct.

7 Q. And that's identical to subdivision F of the
8 Missouri USF rule that you cite in your Surrebuttal
9 Testimony. Right?

10 A. That's correct.

11 Q. Okay. It's also fair to say, isn't it,
12 Mr. Warinner, that there's a separate definition of exchange
13 access service that's contained in Section 386.020(17)?

14 A. Correct.

15 Q. And that's a different definition than -- or
16 the definition of exchange access service is different than
17 subdivision F of the USF rule, is it not?

18 A. Well, I don't know that it's different when
19 they talk about providing access to interexchange carriers
20 consistent with the rules of the FCC. That very well could
21 be defining exchange access service in this context.

22 Q. All right. If the legislature considered
23 exchange access service to be identical to equal access to
24 interexchange carriers, would you agree with me that in the
25 definition of basic local under 386.020(4)(g) that they

1 simply could have said exchange access service?

2 MR. ENGLAND: Objection. Pure speculation as
3 to what the legislature could have or would have done.

4 JUDGE THOMPSON: Can you speak up Mr. England?

5 MR. ENGLAND: I said objection. That's pure
6 speculation as to what the legislature would have or should
7 have or could have done.

8 JUDGE THOMPSON: Would you read back the
9 question?

10 THE COURT REPORTER: "Question: All right.
11 If the legislature considered exchange access service to be
12 identical to equal access to interexchange carriers, would
13 you agree with me that in the definition of basic local
14 under 386.020(4)(g) that they simply could have said
15 exchange access service?"

16 JUDGE THOMPSON: And your objection is?

17 MR. ENGLAND: Speculation as to what the
18 legislature could have done.

19 JUDGE THOMPSON: I'm going to overrule the
20 objection.

21 You may answer, if you're able.

22 THE WITNESS: I don't know what the
23 legislature -- why they used equal access instead of
24 exchange access other than I believe it probably follows the
25 federal rule.

1 BY MR. LANE:

2 Q. Okay. Would you agree with me that in the
3 price cap statute, Section 392.245, that the legislature
4 also makes clear that basic local and exchange access are
5 two different services?

6 A. I don't know the details of the definitions,
7 but --

8 Q. Are you familiar with the price cap statute at
9 all?

10 A. In Missouri?

11 Q. Yes.

12 A. Not in detail, no.

13 Q. Would you agree with me that the price cap
14 statute identifies exchange access and basic local as
15 different services, both of which are subject to price cap
16 rules with adjustments based on various CPI factors?

17 A. Subject to check, yes.

18 JUDGE THOMPSON: Mr. Warinner, I've heard you
19 say that twice now so I'm going to have to jump in.

20 THE WITNESS: Okay.

21 JUDGE THOMPSON: We discourage the use of the
22 phrase "subject to check," because it seems to be saying,
23 well, I don't know the answer, but I'm going to take a stab
24 at it anyway. So you need to testify based on your
25 knowledge. And if you don't know, simply say you do not

1 know. Thank you, sir.

2 THE WITNESS: Okay. Then I do not know.

3 BY MR. LANE:

4 Q. Now, would you agree with me that if the
5 Commission believes that the price of exchange access for
6 non-price cap companies is too high and cause distortions in
7 the marketplace, that one alternative is to implement a
8 state subscriber line charge?

9 A. That is a possibility, yes.

10 Q. Okay. In fact, that's a possibility that you
11 actually lay out in your Surrebuttal Testimony. Right?

12 A. Correct.

13 Q. Would you agree that the Commission could
14 implement a subscriber line charge in the amount of at least
15 \$1 to \$5 without substantially decreasing penetration levels
16 for basic local service?

17 A. I don't have any knowledge of the impact of a
18 \$1 to \$5 increase in subscriber line charge.

19 Q. Okay. From a customer's perspective, is the
20 subscriber line charge equivalent to an increase in basic
21 local service rates?

22 A. Yes, it is.

23 Q. Okay. And you represent Holway Telephone
24 Company in this proceeding?

25 A. Yes, I do.

1 Q. And you lay out Holway's charges for basic
2 local service, do you not?

3 A. Yes.

4 Q. And it's \$13 today. Right?

5 A. Yes.

6 Q. But Holway's charge was in the \$18 range not
7 too long ago, was it not?

8 A. That's correct.

9 Q. Would you agree with me that when Holway had
10 an \$18 charge for basic local service, they did not have a
11 decrease in their penetration levels for basic local
12 service?

13 A. That they didn't have a decrease when they had
14 an \$18 rate?

15 Q. Right. Having an \$18 rate didn't cause Holway
16 to lose local service customers, did it?

17 A. I don't know if that \$18 rate caused them to
18 lose customers or not. I know that moving from \$18 to \$13
19 did not cause them to lose customers. I can assume that
20 there probably were some customers that maybe did not choose
21 to take service at the \$18 rate.

22 Q. Have you done any analysis -- I thought you
23 testified in a prior case, Mr. Warinner, that the increase
24 to an \$18 rate did not cause Holway Telephone Company to
25 incur any substantial decrease in the number of customers

1 subscribing to local service. Are you aware --

2 A. I don't recollect the testimony, but I don't
3 recollect when Holway increased their rate to \$18.

4 Q. Okay. On page 11 and 12 of your surrebuttal
5 you discuss the use of Part 36 and 69 methods to determine
6 costs in Missouri. Right?

7 A. Just a minute.

8 Q. Well, I might have the page wrong. Maybe try
9 page 14. You have a question, Which cost model should the
10 MPSC adopt is what I'm looking for.

11 A. Okay. Page 16.

12 Q. Page 16 of your copy. Would you agree with me
13 that Part 36 and Part 69 are FCC requirements that determine
14 what costs are to be assigned to the interstate jurisdiction
15 and then how those costs should be recovered in particular
16 rate elements?

17 A. Yes.

18 Q. Would you agree also that neither the FCC nor
19 Missouri statutes require the use of Part 36 and Part 69 for
20 Missouri intrastate purposes?

21 A. Well, I don't believe that the statutes
22 require it, but I do know that Part 36 was used in the last
23 cases that were performed for Holway, KLM, Iamo and Green
24 Hills to determine the intrastate revenue requirement.

25 Q. Okay. Part 36 and Part 69 aren't required to

1 be followed by this Commission for purposes of determining
2 the cost or the rate levels of intrastate access. Right?

3 A. I don't believe they're required, but I think
4 that they have been used.

5 Q. Okay. And it's fair to say that your proposal
6 to use Part 36 and Part 69 principles is selective on your
7 part. Right? You're not proposing to follow Part 36 and
8 Part 69 in their entirety, are you?

9 A. For purposes of setting access in Missouri?

10 Q. Yes.

11 A. Yes. We're proposing that we use Part 36 and
12 69.

13 Q. Would you agree with me that under Part 69
14 most of the local loop costs that are assigned to the
15 interstate jurisdiction are recovered under Part 69
16 principles from a subscriber line charge?

17 A. From the interstate side in Part 69 -- I think
18 that same question was asked of Mr. Larsen. Part 69
19 allocates cost between elements. The interstate -- there is
20 a provision in the interstate Part 69 rules that allow for
21 recovery of a portion of that common line charge from a
22 subscriber line charge, but that's not an allocation
23 process.

24 Q. Okay. Part of Part 69 involves treating
25 carrier common line charge and dividing it between -- strike

1 that.

2 Part of Part 69 takes cost allocated under
3 Part 36 from the loop and assigns it to the carrier common
4 line element --

5 A. Correct.

6 Q. -- and to subscriber line charge element.

7 Correct?

8 A. Well, it -- it allocates it to the carrier
9 common line element and then there are other provisions that
10 deal with how to recover the cost assigned to the common
11 line element of which a carrier common line per minute of
12 use rate was established as a portion of that recovery
13 mechanism as well as a subscriber line charge.

14 Q. Part 69.104 specifically describes the carrier
15 common line piece, does it not, and separates it into a
16 subscriber line charge and a carrier common line charge.
17 Right?

18 A. As a revenue recovery mechanism.

19 Q. Right. And the information that the companies
20 that you represent have laid out treats the loop portion
21 that's assigned to a carrier common line charge as all of
22 the cost going to that element and none going to a
23 subscriber line charge element. Right?

24 A. Well, again, once the cost is assigned to
25 carrier common line, depending on whatever rules are finally

1 established by the Commission, those costs can either be
2 recovered through a per minute of use rate or subscriber
3 line charge or both.

4 Q. All right. My question is, in presenting the
5 cost under Part 36, 69 you treated all of the loop cost as
6 if it should be recovered under a carrier common line rate
7 element and none of the loop cost as being recovered under
8 the subscriber line charge as the FCC Part 69 rules require.
9 Correct?

10 A. Correct. That's the way it is done today in
11 Missouri.

12 Q. Well, nothing's done today in Missouri. We're
13 in this proceeding, aren't we, to determine what the costs
14 are of exchange access?

15 A. Today we are recovering carrier common line
16 costs from a per minute of use charge.

17 Q. Okay.

18 A. Not from a subscriber line charge.

19 Q. But when you recommend to the Commission that
20 they follow Part 36 and Part 69, you haven't recommended
21 that they follow that portion of Part 69 that would
22 implement a subscriber line charge in lieu of a per minute
23 of use charge to interexchange carriers. Right?

24 A. The numbers that were presented basically
25 represent the costs on a per minute of use basis. We have

1 not -- or at least, to my knowledge, the rate part of this
2 proceeding, I guess, will follow whatever -- this docket --
3 to the effect that we recommend that all of the carrier
4 common line be recovered on a per minute of use. Whether
5 part of that should come back from a subscriber line charge
6 or whatever I guess will be also addressed in that case.

7 Q. Okay. I guess what I'm having problems with
8 is you say you want to follow Part 69, but you don't present
9 the rate elements pursuant to Part 69, you present them as
10 all being attributable to be charged to interexchange
11 carriers, don't you, even though that's not what Part 69
12 provides. Right?

13 A. Well, I guess we're just -- we have
14 disagreement as to what cost rules within Part 69 are.

15 Q. You agree that Part 69 contemplates that
16 portions of the loop that are assigned to the carrier common
17 line are to be -- element are to be recovered via a
18 subscriber line charge. Right?

19 A. Correct.

20 Q. Okay. And is it fair to say that you don't
21 have any problems with this Commission adopting a subscriber
22 line charge for Missouri on the same -- pursuant to Part 69
23 on the same basis that you propose they otherwise follow
24 Part 36 and 69?

25 A. I think that's -- there's a lot of issues that

1 go into that that I don't think have been addressed yet in
2 these proceedings. A lot of those are public policy
3 depending on what the level of access charges are on a fully
4 allocated basis as we propose and then how to recover those.

5 Q. And that's what I'm asking. I'm asking you to
6 say whether or not you're willing to recommend to the
7 Commission that they implement a subscriber line charge
8 pursuant to Part 69 principles if they otherwise follow
9 Part 36 and Part 69 principles, as you propose?

10 A. We haven't made that recommendation yet. I
11 don't propose to make that recommendation yet until we know
12 what final cost allocation methodology is adopted.

13 Q. Well, I'm asking you to assume that they adopt
14 your cost methodology that you're proposing, Part 36 and
15 Part 69. And I'm asking in conjunction with that, if the
16 Commission adopts what you want, are you also recommending
17 and do you think it's a good idea to adopt the subscriber
18 line charge that's included in Part 69 of the FCC rules?

19 A. It's a possibility, but I have not made that
20 recommendation or -- or analysis yet.

21 Q. Okay. Do you oppose doing that?

22 A. At this time I cannot say I'm opposed, no.

23 MR. LANE: That's all I have. Thank you, your
24 Honor.

25 JUDGE THOMPSON: Thank you, Mr. Lane.

1 We'll go ahead and take the lunch recess now
2 and we'll come back at 1:40.

3 (A RECESS WAS TAKEN.)

4 JUDGE THOMPSON: Mr. Schiffman?

5 MR. SCHIFMAN: No questions, your Honor.

6 JUDGE THOMPSON: Thank you.

7 Ms. DeCook?

8 MS. DECOOK: No questions.

9 JUDGE THOMPSON: Mr. Morris?

10 MR. MORRIS: No questions, your Honor.

11 JUDGE THOMPSON: Mr. Stock?

12 MR. STOCK: No questions, your Honor.

13 JUDGE THOMPSON: How about Mr. Fischer? Is he
14 back there anywhere? I'll stop calling on him then.

15 MR. DORITY: He's going to be here, Judge.

16 QUESTIONS BY JUDGE THOMPSON:

17 Q. Okay. Mr. Warinner --

18 A. Yes.

19 Q. -- am I correct in understanding that you are
20 an accountant?

21 A. I am an accountant.

22 Q. So if I asked you what kind of a costing
23 report an accountant would have produced, you can actually
24 answer that question?

25 A. Fair and reasonable.

1 Q. A fair and reasonable report. That's a fair
2 and reasonable answer.

3 And would you characterize the report produced
4 by Dr. Johnson as a fair and reasonable report?

5 A. I think the results that Dr. Johnson achieves
6 when we compare them to the results of cost study -- cost
7 studies using our methodologies, are similar.

8 As far as, again, looking at the methods used
9 by Dr. Johnson, I think there's some -- definitely some
10 issues that were uncovered as far as what -- I guess cost
11 ratios and things that were used. So, again, I believe as
12 Mr. Larsen indicated, I think the results are some--
13 somewhat -- they got the same results, but -- but by no
14 means by using the same methodologies.

15 Q. Okay. Were you here for the testimony of
16 Dr. Johnson?

17 A. No, I was not.

18 Q. Okay. If I were to tell you that Dr. Johnson
19 testified that, in general, the telecommunications industry
20 is experiencing declining costs, would you agree or disagree
21 with that testimony?

22 A. In general or on a --

23 Q. In general.

24 A. In general, I would say that I don't know if
25 you could classify costs as declining. I know that

1 companies have invested significant amounts of money into
2 infrastructure over the past 10 years or so and -- and that
3 those additional investments have somewhat curtailed. The
4 fact that we're depreciating that investment means net
5 investment may be declining. In terms of the expense of
6 operating and maintaining telephone companies, I don't
7 believe that that expense is going down at all.

8 Q. Okay. We also had testimony, and I'm sorry I
9 can't recall which witness it was, that because of the loss
10 of lines and minutes due to competition that, in fact, the
11 per unit cost is increasing?

12 A. That's correct.

13 Q. And do you agree with that testimony?

14 A. I agree with that testimony.

15 Q. Dr. Johnson also testified that, in his
16 opinion, the access rates of the price cap ILECs were too
17 high. Do you agree with that testimony?

18 A. I don't have an opinion on that, no.

19 JUDGE THOMPSON: That's all the questions I
20 have for you. Thank you.

21 Cross-examination based on questions from the
22 bench, Ms. Chase?

23 MS. CHASE: None, your Honor.

24 JUDGE THOMPSON: Mr. Dority?

25 MR. DORITY: No, thank you, Judge.

1 JUDGE THOMPSON: Mr. Poston?
2 MR. POSTON: No questions, thank you.
3 JUDGE THOMPSON: Mr. Dandino?
4 MR. DANDINO: No questions, your Honor.
5 JUDGE THOMPSON: Mr. Lane?
6 MR. LANE: No questions, your Honor.
7 JUDGE THOMPSON: Mr. Schiffman?
8 MR. SCHIFMAN: No questions.
9 JUDGE THOMPSON: Ms. DeCook?
10 MS. DECOOK: No questions.
11 JUDGE THOMPSON: Mr. Morris?
12 MR. MORRIS: No questions, your Honor.
13 JUDGE THOMPSON: Mr. Stock?
14 MR. STOCK: None, Judge.
15 JUDGE THOMPSON: Mr. Fischer?
16 Evidently Mr. Fischer has none.
17 You stay step down, sir. Are you planning to
18 be available -- well, wait a minute. We have redirect. I
19 forgot Mr. England. I do apologize.
20 MR. ENGLAND: That's okay. Mr. Lane was
21 distracting me. I think it was a conscious effort on his
22 part.
23 JUDGE THOMPSON: He was distracting me too.
24 MR. ENGLAND: Well, then we need to do
25 something about that, Judge.

1 JUDGE THOMPSON: This could be the case to do
2 it.

3 MR. ENGLAND: I may need him a little bit
4 later, so can we -- I'll give you the high sign when it's --

5 JUDGE THOMPSON: All right.

6 MR. ENGLAND: Thank you.

7 REDIRECT EXAMINATION BY MR. ENGLAND:

8 Q. Mr. Warinner, I'll try to be brief. I believe
9 in response to one of the questions or so from Mr. Lane, you
10 indicated that under the Part 36, 69 cost study utilized by
11 the small ILECs in this case, that we were proposing to
12 allocate the loop costs on a fixed allocator basis. Is that
13 what you said?

14 A. I don't remember. I might have.

15 Q. Okay. Well, if you did, was that right or --

16 A. No. I believe there -- initially there
17 were -- the Small Companies I think had -- were, I guess,
18 trying to determine what rules to use on the allocation of
19 fixed cost. And ultimately I think the allocation
20 methodology used in the studies of Mr. Schoonmaker was
21 subscriber line use factor.

22 Q. Okay. And then in response to a question by
23 Judge Thompson, you indicated that the results of
24 Dr. Johnson's study were somewhat similar to those produced
25 by the Part 36, 69 studies. Correct?

1 A. The results for two of his models, I think the
2 pro forma weighted average and -- well, the pro forma and
3 the weighted average.

4 Q. Referred to sometimes as the middle two
5 columns --

6 A. Right.

7 Q. -- of his study? Okay.

8 A. One was kind of in the low range, the other
9 was a high range and we were generally in between.

10 MR. ENGLAND: Thank you, sir. No other
11 questions.

12 JUDGE THOMPSON: Thank you, Mr. England.
13 Now you may step down. Are you going to be
14 available later this afternoon in case any of the
15 Commissioners have questions for you?

16 MR. WARINNER: Yes.

17 JUDGE THOMPSON: Mr. Schoonmaker.

18 MR. ENGLAND: Do you want to go ahead and get
19 him sworn in?

20 JUDGE THOMPSON: Go ahead and spell your name
21 for the reporter, please.

22 THE WITNESS: My name is Robert Schoonmaker,
23 R-o-b-e-r-t S-c-h-o-o-n-m-a-k-e-r.

24 JUDGE THOMPSON: I apologize for
25 mispronouncing your name.

1 (Witness sworn.)

2 JUDGE THOMPSON: Thank you. Please take your
3 seat.

4 Do you have some exhibits to mark?

5 MR. ENGLAND: Yes, sir, I do. First we have
6 Direct Testimony of Robert C. Schoonmaker with attached
7 proprietary schedules. As with Mr. Warinner's testimony,
8 they're separate, so if you want to give them separate
9 exhibit numbers --

10 JUDGE THOMPSON: Let's give them separate
11 exhibit numbers. So we have Direct Testimony.

12 MR. ENGLAND: Correct.

13 JUDGE THOMPSON: That would be Exhibit 36 and
14 the attached schedules would be Exhibit 37.

15 THE WITNESS: Mr. England, there is one
16 schedule that is not proprietary, Schedule RCS-1. I don't
17 know how that fits into this.

18 MR. ENGLAND: It's attached to Exhibit 36, so
19 the nonproprietary version.

20 (EXHIBIT NOS. 36 AND 37-HC WERE MARKED FOR
21 IDENTIFICATION.)

22 MR. ENGLAND: And, Judge, we have a revised
23 sheet, let me get the right one, a revision if you will, to
24 page 17 of Mr. Schoonmaker's Direct Testimony. Maybe now
25 would be a good time to mark that as an exhibit so it's at

1 least sequentially part of the Direct Testimony.

2 JUDGE THOMPSON: Very well. Let's mark that
3 as Exhibit 38.

4 (EXHIBIT NO. 38 WAS MARKED FOR
5 IDENTIFICATION.)

6 MR. ENGLAND: By the way, those changes are
7 noted on the revised sheet. We've tried to do a red-lined
8 version.

9 JUDGE THOMPSON: Okay.

10 MR. ENGLAND: Next, we have the Rebuttal
11 Testimony of Mr. Schoonmaker. And, again, we have some --
12 let me double check. My notes say highly confidential
13 schedules. Let me double check.

14 It appears one is proprietary and one is
15 highly confidential. Schedule RC -- I'm sorry. Should we
16 take the Rebuttal Testimony first?

17 JUDGE THOMPSON: Sure.

18 MR. ENGLAND: That will be 39.

19 JUDGE THOMPSON: And that will be NP?

20 MR. ENGLAND: Correct.

21 (EXHIBIT NO. 39 WAS MARKED FOR
22 IDENTIFICATION.)

23 MR. ENGLAND: The first of the two
24 confidential schedules is Schedule RCS-10, and that is
25 proprietary.

1 JUDGE THOMPSON: Very well. Exhibit 40.

2 (EXHIBIT NO. 40-P WAS MARKED FOR
3 IDENTIFICATION.)

4 MR. ENGLAND: The second is Schedule RCS-11.
5 This is highly confidential.

6 JUDGE THOMPSON: Very well. That will be 41.
7 (EXHIBIT NO. 41-HC WAS MARKED FOR
8 IDENTIFICATION.)

9 MR. ENGLAND: With regard to the Rebuttal
10 Testimony, we have corrected or revised two pages, 16 and
11 17, that I would propose making a separate exhibit.

12 JUDGE THOMPSON: Very well. Shall we make
13 them together one exhibit, 42?

14 MR. ENGLAND: That would be great. I've got
15 them stapled together.

16 (EXHIBIT NO. 42 WAS MARKED FOR
17 IDENTIFICATION.)

18 MR. ENGLAND: And, finally, we have the
19 prepared Surrebuttal Testimony which is all nonproprietary
20 and no correction sheets, so hopefully this is our last
21 exhibit.

22 JUDGE THOMPSON: Exhibit 43.

23 (EXHIBIT NO. 43 WAS MARKED FOR
24 IDENTIFICATION.)

25 JUDGE THOMPSON: You may inquire.

1 ROBERT C. SCHOONMAKER, having been sworn, testified as
2 follows:

3 DIRECT EXAMINATION BY MR. ENGLAND:

4 Q. Would you please state your full name for the
5 record, please.

6 A. My name is Robert C. Schoonmaker.

7 Q. Would you also state your business address,
8 please?

9 A. My business address -- I've got to see which
10 one I used. I have two of them.

11 Q. Preferably the one that goes with
12 Mr. Schoonmaker, not Mr. Schoonmaker.

13 A. Right. My business address is 2270 La Montana
14 Way, Colorado Springs, Colorado 80918.

15 Q. By whom are you employed and in what capacity,
16 Mr. Schoonmaker?

17 A. I'm a vice president of GVNW Consulting, Inc.

18 Q. And on whose behalf are you appearing today?

19 A. I am appearing on behalf of the companies
20 whose names appear on Schedule RCS-1 to my testimony. There
21 are 25 of them altogether.

22 Q. Have they also been referred to as the Small
23 Telephone Company Group or STCG?

24 A. Yes.

25 Q. Let's turn your attention to the exhibit that

1 has been marked for purposes of identification I believe as
2 36. Is that your direct -- prepared Direct Testimony?
3 A. Yes.
4 Q. And with respect to that testimony, did you
5 also have some high-- or excuse me, proprietary schedules
6 attached to that --
7 A. Yes, I did.
8 Q. -- that have been marked for purposes of
9 identification as 37-P, I guess?
10 A. Yes.
11 Q. Thank you. And then, finally, you had a
12 correction to that testimony, did you not?
13 A. That's correct.
14 Q. And that has been marked for purposes of
15 identification as Exhibit 38?
16 A. Yes.
17 Q. Taking those three exhibits as a whole, do you
18 have any further corrections or modifications to that
19 testimony --
20 A. No.
21 Q. -- or schedules?
22 A. No.
23 Q. If I were to ask you the questions that appear
24 in that Direct Testimony, would your answers be
25 substantially the same as appearing in that Direct Testimony

1 as revised?

2 A. Yes.

3 Q. And are those answers true and correct to the
4 best of your knowledge, information and belief?

5 A. Yes.

6 Q. And is the information contained in the
7 proprietary schedules also true and correct to the best of
8 your knowledge, information and belief?

9 A. Yes.

10 Q. Now, let me turn your attention to Exhibit 39,
11 which I believe is your Rebuttal Testimony.

12 A. Yes.

13 Q. And Exhibit 40, which I believe is a
14 proprietary Schedule RCS-10 to that testimony.

15 A. Yes.

16 Q. Exhibit 41-HC, which I believe is a highly
17 confidential exhibit or schedule to that testimony.

18 A. Yes.

19 Q. And Exhibit 42, which is two revised pages
20 pertaining to that testimony.

21 A. Yes.

22 Q. Taking them as a group, if you will, are there
23 any further changes or modifications which you need to make
24 to that Rebuttal Testimony or the schedules attached
25 thereto?

1 A. No.

2 Q. If I were to ask you the questions appearing
3 in that Rebuttal Testimony, would your answers today here
4 under oath be substantially the same?

5 A. Yes, they would.

6 Q. Are they true and correct to the best of your
7 knowledge, information and belief?

8 A. Yes.

9 Q. Finally, let me turn your attention to
10 Exhibit 43, which I believe is your Surrebuttal Testimony.

11 A. Yes.

12 Q. There are no additions or corrections that
13 need to be made to that testimony at this time?

14 A. That's correct.

15 Q. Okay. With respect to that testimony, if I
16 were to ask you the questions appearing in that testimony,
17 would your answers today here under oath be substantially
18 the same?

19 A. Yes.

20 Q. And are those answers true and correct to the
21 best of your knowledge, information and belief?

22 A. Yes.

23 Q. Thank you, sir.

24 MR. ENGLAND: Your Honor, I have no further
25 questions of the witness and would tender him for

1 cross-examination as well as offer Exhibits 36, 37-P, 38,
2 39, 40-P, 41-HC, 42 and 43, I believe.

3 JUDGE THOMPSON: Very well, Do I hear any
4 objections to the receipts of Exhibits 36, 37, 38, 39, 40,
5 41, 42 and 43?

6 Hearing no objections, those exhibits are
7 received and made a part of the record of this proceeding.

8 (EXHIBIT NOS. 36 THROUGH 43 WERE RECEIVED INTO
9 EVIDENCE.)

10 JUDGE THOMPSON: Cross-examination, Ms. Chase?

11 MS. CHASE: I have no questions, your Honor.

12 JUDGE THOMPSON: Mr. Dority?

13 MR. DORITY: No questions, Judge.

14 JUDGE THOMPSON: Mr. Poston?

15 CROSS-EXAMINATION BY MR. POSTON:

16 Q. Good afternoon.

17 A. Good afternoon, Mr. Poston.

18 Q. Will you just explain in a little more detail
19 your safe harbor CLEC cap recommendation for the Commission,
20 please?

21 A. Yes. What I'm specifically recommending is
22 that -- that there be an alternative available beyond simply
23 the cap of the -- the existing ILEC rates in that exchange.
24 And that cap would be an alternative second cap which would
25 be the National Exchange Carrier Association rates for the

1 appropriate access elements.

2 The reason that I propose that is that large
3 companies such as Southwestern Bell and Verizon, now
4 Century, I guess, Sprint, average their access rates over
5 the total area that they serve. And particularly for
6 Southwestern Bell, who has a large number of its customers
7 in very urban areas such as Kansas City and St. Louis,
8 their -- their access costs and undoubtedly their access
9 rates as well reflect an average of those costs.

10 And if a CLEC competes with Southwestern Bell
11 in a rural area -- and my proposal did include that this
12 would only be available for companies in a rural area -- but
13 if a CLEC competes in a rural area, in that area the costs
14 both for Southwestern Bell and for the CLEC of access may be
15 considerably higher because of the lower economies of scales
16 of operating in that urban area. For the incumbent that may
17 be hidden in their average statewide access rates. If a
18 CLEC is operating there and only operating there, it
19 wouldn't be hidden.

20 And -- and this was consistent with the
21 recommendation or the guidelines that were established by
22 the FCC that Mr. Harper had referred to -- I believe it was
23 Mr. Harper. And I believe it's appropriate that they be
24 given that additional flexibility to set their rates based
25 on those NECA rates, if -- if they are higher than the

1 incumbent's actual access rates.

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

3 JUDGE THOMPSON: Thank you, Mr. Poston.

4 Mr. Dandino?

5 MR. DANDINO: No questions, your Honor.

6 JUDGE THOMPSON: Mr. Lane?

7 MR. LANE: Thank you, your Honor.

8 CROSS-EXAMINATION BY MR. LANE:

9 Q. Good afternoon, Mr. Schoonmaker.

10 A. Good afternoon, Mr. Lane. We meet again over
11 the podium and the witness table.

12 Q. I like it better with me here and you there.

13 A. Well, I feel more comfortable here than where
14 you are.

15 Q. Let me first direct you to your Surrebuttal
16 Testimony on page 1 where you discuss the declining cost
17 industry argument that Dr. Johnson gives. And I'm going to
18 beat Judge Thompson to the punch here and ask some of his
19 questions.

20 JUDGE THOMPSON: That will speed things up.

21 THE WITNESS: Maybe not.

22 Okay. I see where you're talking about, yes.

23 BY MR. LANE:

24 Q. Okay. First, it's fair to state that
25 Dr. Johnson's claim that you were responding to deals only

1 with the cost of switching. Right? And I should say
2 transport too in the -- as you go to the second page. But
3 specifically in responding to Dr. Johnson, you're talking
4 about switching?

5 A. Initially talk about switching, yes.

6 Q. Is it your opinion that labor costs for
7 telephone companies are declining?

8 A. No, they're not. At least not for the small
9 companies. And certainly the -- the wages aren't declining.
10 I guess there are some larger companies that are having some
11 labor cost reductions through reductions in the number of
12 employees.

13 Q. Those are companies that are typically seeing
14 a loss of revenue from a loss of access lines as well.
15 Correct?

16 A. Well, there's a variety of reasons why they're
17 doing that. If they're experiencing that kind of condition,
18 that certainly would be one thing that would motivate them
19 to do that.

20 Q. From your experience in the telephone
21 industry, are labor costs -- do they comprise for most
22 companies the majority of the costs that are incurred?

23 A. I wouldn't say a majority, but they certainly
24 involve a significant part of the total cost, if I look at
25 it from a revenue requirement basis.

1 Q. Okay. From a revenue requirement basis, do
2 labor costs cause more of the total revenue requirement than
3 switching costs?

4 A. More than switching hardware would.

5 Q. How about copper cable and fiberoptics areas
6 that aren't involved in switching costs? Are those going
7 down?

8 A. Copper cable costs are generally not going
9 down, to my knowledge.

10 Q. Now, with regard to the one category of cost
11 that Dr. Johnson notes, switching equipment, you point out
12 in your Surrebuttal Testimony that his claim might not be
13 true for rural exchanges. Correct?

14 A. Yes.

15 Q. And would you agree with me that what you
16 point out with regard to small company rural exchanges is
17 also true for the rural exchanges of larger companies?

18 A. The same factors would impact them. The
19 impacts may be somewhat different for large companies versus
20 large -- smaller companies because of their -- at least
21 their potential because of their size to get different
22 prices for their switching software than the smaller company
23 might.

24 Q. But the regulatory requirements that you
25 reference in there including four-digit CIC codes,

1 interchangeble NPA/NXX codes, intraLATA presubscription and
2 CALEA requirements all apply to the rural exchanges of
3 larger companies as well, do they not?

4 A. Yes. And all those apply to the urban
5 exchanges of larger companies as well.

6 Q. And the size of switches that large companies
7 utilize in rural exchanges are comparable to the size of
8 switches that smaller ILECs serving communities of the same
9 size utilize. Correct?

10 A. The size of the switches would generally be
11 the same.

12 Q. Okay. And if switching costs go down in a
13 particular year for the companies that you represent, have
14 they replaced then all of their existing switches in a year
15 where the cost of switching has gone down?

16 A. No. That -- I mean, they obviously don't
17 replace their switches every year. They replace those every
18 10 to 15 to 18 years typically. And once those investments
19 are made, even if the price goes down the next year, they
20 continue to use the switch that they've already purchased.

21 Q. And that expense is a continuing one for them
22 as they depreciate it and as they incur capital costs with
23 respect to those switches. Correct?

24 A. That's correct. And -- and they also have to
25 frequently make updates to the software associated with that

1 switch to handle some of these new regulatory requirements
2 such as those that we were talking about a minute ago.

3 Q. And with regard to transport costs that you
4 discuss in your surrebuttal on page 2, you make the point
5 that for the transport costs in rural areas of small
6 companies that the price reduction isn't -- there is not
7 truly a decline in cost in that area. Right?

8 A. My reaction at this point in time would be no.
9 There was -- there was a period from probably the late '80s
10 to the '90s when copper cable was generally replaced by
11 fiber cable in the interoffice transport area where there
12 may have been some cost reductions. And that's -- that was
13 one of the places where the perception that there are
14 declining costs in the transport industry came from.

15 There may have been a period of time in there
16 where -- where there were some cost reductions from that
17 factor, but virtually all our clients now have fiber cable
18 in their interoffice transport area and -- and, again,
19 that's a cost that's there and for them that's not declining
20 at this point in time.

21 Q. And that's true for the rural exchanges of
22 large ILECs as well, is it not?

23 A. In general, I'm not familiar in total with
24 their schedules as to whether all of their copper cable
25 interoffice has been replaced by fiber, but certainly a

1 large part of it has and -- so they -- it would be similar,
2 maybe not identical.

3 Q. All right. On page 4 of your surrebuttal you
4 take the position that both LRIC and fully allocated studies
5 that you present include judgmental or arbitrary factors.

6 Do you see that?

7 A. Yes.

8 Q. Is it fair to say that a fully allocated study
9 attempts to allocate the loop to switched access while the
10 LRIC approach does not. Right?

11 A. Yes. That would be fair. I think all three
12 uses of the LRIC don't allocate the loop to switched access.
13 There are some differences.

14 Q. And the allocation of the loop is probably the
15 primary factor in terms of the total percent of the cost
16 difference between what you present on behalf of small
17 companies and what others have presented under a LRIC type
18 approach for their respective companies. Would you agree
19 with that?

20 A. I can't remember the first part of your
21 question. Let me respond this way and see if it's
22 responsive.

23 Q. Okay.

24 A. I mean, it's a major portion of the
25 difference. It's not the total difference between them.

1 Q. Okay. And the allocation of the loop that you
2 find in the fully allocated studies, that forms a major
3 portion of the costs that ultimately finds its way into
4 rates under the analysis that you presume. Right?

5 A. Potential rates, yes, that's true.

6 Q. The carrier common line element that you
7 present under your Part 36, Part 39 analysis is the -- is
8 the primary driver from a percentage standpoint of the rates
9 or the cost?

10 A. It's a significant portion of the cost.

11 Q. And generally it's more than 50 percent, is it
12 not?

13 A. Let me check. Generally, but not in all
14 cases.

15 Q. But in all cases a very substantial factor in
16 determining the total cost under your analysis. Right?

17 A. Yes.

18 Q. It's the inclusion of loop costs that make the
19 cost of access under the Part 36, Part 69 analysis a
20 multiple of the cost that's derived under a LRIC type
21 analysis. Right?

22 A. It's one of the factors, but not the only one.
23 There are -- the differences between local switching and
24 local transport are also multiples, at least in
25 Dr. Johnson's theory.

1 Q. But of the total cost that you come up with
2 under your analysis versus the total cost that Dr. Johnson
3 comes up with for your companies under his TSLRIC approach,
4 you would agree with me that it's the allocation of the loop
5 that is the largest factor in the difference between those
6 two rates?

7 A. I would agree it's the largest factor.

8 Q. Okay. You also note that your view is that
9 LRIC introduces a level of subjectivity in determining the
10 price for access service. Right?

11 A. Are we back on surrebuttal now?

12 Q. Yeah. Page 4 --

13 A. Okay.

14 Q. -- lines 19 to 22. Do you see that?

15 A. Yes.

16 Q. And it looked to me like you were drawing a
17 comparison between a LRIC approach and the approach that you
18 present. Is that the purpose of what you're trying to
19 describe there?

20 A. Yes.

21 Q. And from that, I will take it that LRIC
22 introduces a level of subjectivity because all of the
23 proponents of that indicate that LRIC would be a price
24 floor, but that the actual price could be set in excess of
25 LRIC. Right?

1 A. To the extent that the proponents say that it
2 should be a price floor, that's true. I guess, as I
3 understood Sprint's testimony -- and they used total element
4 long-run incremental cost rather than the straight LRIC
5 study, my -- the impression I gained from their testimony
6 was they were proposing that the TELRIC cost should be the
7 rate, not a floor.

8 Q. Okay. And so in that case, there's no
9 subjectivity. Correct? In terms of -- right?

10 A. I guess if you buy their proposal that the
11 TELRIC rate is the rate and that's what's done, then the
12 subjectivity is all in the TELRIC cost study and not in the
13 rate-making.

14 Q. Right. But for those like Southwestern Bell
15 that propose that a LRIC should be used to determine the
16 cost but that price should be something above LRIC, then you
17 indicate that there's subjectivity because you're
18 considering whatever factors one wants to consider in
19 arriving at a price. Right?

20 A. That's correct.

21 Q. And I take it that if you consider that a
22 disadvantage, as compared to the approach that you
23 recommend, that you must be proposing that the cost analysis
24 under a Part 36, Part 69 approach yields a cost and that the
25 price should be then equal to that cost as you've derived

1 it. Is that a fair assessment?

2 A. Let me ask you to rephrase the question,
3 because I sort of got hung up on the first phrase which I
4 don't necessarily agree with and didn't get to the rest of
5 the question.

6 Q. Okay. I took what you said in your
7 Surrebuttal Testimony that it was a criticism of the LRIC
8 analysis that it would introduce subjectivity in the pricing
9 of access after one determines the LRIC. Correct?

10 A. That really wasn't my intention. What my
11 intention was, was to suggest that both LRIC and fully
12 allocated cost studies in order to get to rates have
13 subjective judgments that are associated with them.

14 And, therefore, LRIC isn't necessarily better
15 than the embedded cost because the embedded cost studies use
16 arbitrary allocations in the cost study. The arbitrariness
17 is applied at a different place, but both of them to arrive
18 at rates end up using arbitrary factors.

19 Q. Okay. And once one has determined cost under
20 the approach that you recommend, the Part 36, Part 69, the
21 Commission, in your view, should and would have the same
22 absolute level of discretion in setting a price as they
23 would compared to utilizing a LRIC approach. Is that a fair
24 statement?

25 A. I could struggle over "same" exact, so let's

1 just say that they're certainly very similar at least.

2 Q. Okay. If one sets cost based on the Part 36,
3 Part 69 analysis, you are clearly not recommending to the
4 Commission that price should be set at the cost as derived
5 under your proposal. Correct?

6 A. Not that only, no. I mean, in some cases that
7 may be appropriate, but there are other factors that need to
8 be considered in arriving at that judgment. I think I point
9 that out in my Direct Testimony.

10 Q. Okay. Why don't you tell me some of the
11 factors that would make the Commission -- make it
12 appropriate for the Commission to set a price for access
13 that would be less than the cost derived under your
14 proposal?

15 A. Well, in the context of a rate case, let's
16 assume that the -- let's make it a very real context. Let's
17 make it the context of an earnings investigation where the
18 Commission determines overall that there is a need for
19 reduction in the company's revenues and that they are
20 satisfied that the local rates are at a reasonable level.

21 It might be appropriate, and the Commission
22 has done it in a number of those cases over the past three
23 or four years, reduced the access rates. And in some of
24 those cases, certainly they ended up being lower than the
25 costs that are now being displayed. Not -- in all those

1 cases that -- that information wasn't there, but that kind
2 of circumstance might be one where it would be appropriate
3 for the Commission to set the rates below the cost.

4 Q. Okay. And let me ask a couple of other
5 examples and see if you agree that these are factors that
6 would be appropriate for the Commission to consider in
7 setting price for access below the level of cost as derived
8 under your methodology.

9 First, if the Commission determines that some
10 interexchange carriers are choosing not to offer originating
11 toll service in small company exchanges because of the high
12 level of access charges in those exchanges, would that be an
13 appropriate reason for the Commission to set access rates at
14 a level lower than cost as derived under your methodology?

15 A. I would agree that that would be an
16 appropriate factor for their -- for them to consider in
17 making that judgment.

18 Q. Okay. And if the Commission determines that
19 some small companies are choosing not to offer expanded
20 calling plans to their customers because of concerns about
21 the level of terminating access that they would have to pay
22 to non-Southwestern Bell companies in surrounding exchanges,
23 would that be an appropriate factor for the Commission to
24 rely upon in deciding to set price of access at a level
25 lower than cost as derived by your methodology?

1 A. That's certainly a factor that could be
2 considered. It -- it may not be very workable in the case
3 of a single-company rate case. If that's the company that's
4 concerned about wanting to terminate service in some other
5 company's area, they may not be able to do anything about
6 it.

7 If it's company one's case, company one is
8 concerned about terminating traffic in -- in company two's
9 area, they may not be able to do much about company two's
10 rates in company one's case. But it's certainly a factor
11 that could be considered overall in dealing with that.

12 My -- my experience in regards to local
13 calling concerns is much more often those cases are
14 concerned with going to a larger town, which is normally
15 served either by Southwestern Bell or Sprint or Verizon.
16 And -- and so there aren't as many cases where customers are
17 interested in calling other independent exchanges, but they
18 certainly could occur.

19 Q. And is it your view that the Commission would
20 have the authority for rate of return regulated companies to
21 lower access and increase other rates in a revenue neutral
22 fashion outside of a rate case?

23 A. I believe they would.

24 Q. Okay. And so if they were -- if the
25 Commission were concerned that some small ILECs were not

1 offering expanded calling to their customers because of
2 concerns about the high exchange access rates for
3 non-Southwestern Bell companies, one way they could do it is
4 to allow all of the small ILECs to do a revenue neutral rate
5 adjustment in which they reduced exchange access and
6 increased some other rates outside of a rate case. Right?

7 A. That -- that's one thing that I believe could
8 be done.

9 Q. Okay. If the Commission determines that some
10 large ILECs, including Southwestern Bell, are choosing not
11 to offer or to withdraw certain services because those
12 services entail high terminating access costs in small ILEC
13 exchanges, would that be an appropriate factor for the
14 Commission to consider in determining whether to set into
15 motion something to lower exchange access rates in small
16 company exchanges?

17 A. It would certainly be something that could be
18 considered. One would have to look at in that case whether
19 the access rates themselves were the primary cause or the
20 volumes that customers were using or both as -- as to
21 whether fixing the rates would solve the problem, for
22 example, or not, but it's a factor that could be considered.

23 Q. Okay. If the Commission were to adopt the
24 cost methodology that you propose and adopted that as the
25 price for access, would you agree that that would cause some

1 significant anomalies in the resulting -- strike that.

2 Let me try it again. Assume the Commission
3 adopts your cost methodology, assume again that the
4 Commission sets price equal to cost as determined under your
5 methodology and that it adjusts local rates on a revenue
6 neutral basis after it determines what should happen to
7 access charges. Follow that assumption?

8 A. Yes.

9 Q. And would you agree with me that the
10 Commission, if they did that, that that would cause some
11 significant anomalies in the resulting local exchange rates
12 for many of the companies that you represent?

13 A. Yes. I -- I, in fact, said that in my Direct
14 Testimony.

15 Q. Okay. And, if you would, I'm going to try to
16 do this without having you discuss the numbers themselves,
17 but if you feel you can't, let me know and we'll go
18 in-camera.

19 But if you would turn to your Direct
20 Testimony, Schedule 7?

21 A. All right.

22 Q. And make sure I'm tracking with you.
23 Schedule 7 is a follow-up to Schedule 5 where you lay out
24 the cost of access utilizing Part 36 and Part 69 principles
25 that you actually propose to have the Commission follow in

1 this case; is that correct?

2 A. Other than I believe it's Schedule 4 that I
3 set those out in rather than Schedule 5.

4 Q. Okay. And just for clarity, Schedule 2 is a
5 different way of following Part 36, Part 69 that yields one
6 set of rate -- one set of costs, but you don't pose that the
7 Commission follow that, instead you propose that the
8 Commission follow the method that -- the results of which
9 are laid out in Schedule 4; is that fair?

10 A. That -- that's correct.

11 Q. Okay.

12 A. Schedule 2 and 3 reflect a methodology which
13 the Commission last adopted a number of years ago very early
14 after divestiture.

15 Q. Okay. And Schedule 5, that shows what happens
16 to the access rates of the companies that you've examined if
17 you utilize the methodology that gives the results in
18 Schedule 4. Right?

19 A. That -- if the unit costs or the costs that we
20 developed became the rates, yes.

21 Q. Yes. Okay. And would you agree with me that
22 if the Commission adopted the methodology that yields the
23 costs in Schedule 4 and makes those the rates, that 19 of
24 the 37 companies that you lay out the resulting access
25 charges would actually have an increase in rates as a

1 result?

2 A. Yes.

3 Q. And then if we turn to Schedule 7, that shows
4 us what would happen if the Commission took the rates from
5 Schedule 4, applied them and then caused a revenue neutral
6 rate change by impacting only basic local service. Right?

7 A. That's correct. And impacting it the same
8 amount of per line for both residents and business.

9 Q. Okay. And that schedule would indicate that
10 several companies would have a negative basic local
11 residential rate. Correct?

12 A. Yes.

13 Q. Which would mean if we actually followed it,
14 that the companies would have to pay their local customers
15 to take local service in those exchanges if we followed it
16 to its logical conclusion?

17 A. Right. Which is why I suggested in my Direct
18 Testimony that the company or the Commission would need to
19 look at this on an individual case basis, because that
20 wouldn't be a logical thing to do.

21 Q. Right. And there's a number of other
22 companies that would have resulting local rates that would
23 be positive, but extremely small and not what you would
24 recommend the Commission actually adopt. Is that a fair
25 statement?

1 A. Probably.

2 Q. Okay. So the Commission would have to
3 exercise a significant amount of discretion in determining
4 what rate to set even if they buy into the cost methodology
5 that you propose. Right?

6 A. Yes.

7 Q. On page 5 of your surrebuttal, you discuss the
8 criticism of your proposal to use Part 36 and Part 69 to
9 identify costs. Would you turn to that section?

10 A. Okay. Yes.

11 Q. Would you agree with me that Part 36 is
12 designed to assign costs to the interstate jurisdiction?

13 A. Not exactly. I would agree that it's the
14 method to separate the total company costs into the
15 interstate and intrastate jurisdictions, but it's applicable
16 to both.

17 Q. And Part 69 then takes the costs that are
18 assigned to the interstate jurisdiction and places them into
19 specific rate elements. Correct?

20 A. Well, it ultimately gets to rate elements, but
21 as I discussed in my Direct Testimony, there are two parts
22 of Part 69, one which is a cost allocation method, which
23 gets the costs into certain rate element or rate categories
24 that the FCC has determined which include common line,
25 switching, transport, special access and some others. And

1 then a second piece of Part 69, which takes those costs and
2 translates them and applies a rate design to them and ends
3 up determining the interstate rates.

4 Q. All right. So Part 69 does specify the
5 precise rate structure for recovering the costs that are
6 assigned to the interstate jurisdiction pursuant to Part 36?

7 A. And 69. I -- the cost allocation methods in
8 69. And actually there are a few anomalies between those
9 methods, between Part 36 and Part 69.

10 Q. It's fair to say that Part 69 does not
11 prescribe the rules that should be followed in the
12 intrastate jurisdiction with regard to rate design. Right?

13 A. They are specifically applicable only to
14 interstate.

15 Q. And it's fair to say that while you recommend
16 that the Commission follow Part 69, that you don't propose
17 and don't lay out all of the impacts of following Part 69 as
18 the FCC rules would require. Correct?

19 A. As I indicated in my Direct Testimony, we
20 proposed using the cost allocation rules in Part 69. We did
21 not propose necessarily using the rate design portions of
22 Part 69 to arrive at the rate elements.

23 Q. Well, you used them at least to the extent of
24 adopting a category called carrier common line. Right?

25 A. There is a cost category called common line

1 and -- and we use the Part 69 cost allocation procedures to
2 determine how much of the Part 36 should be in the common
3 line category.

4 Q. And on the federal side then, those costs that
5 are determined pursuant to Part 36 and 69 are also under
6 Part 69 allocated to first a subscriber line charge. Right?

7 A. Yes. There's a subscriber line charge,
8 there's a carrier common line charge through July of next
9 year, and there is an interstate universal service mechanism
10 called interstate common line support. And those costs go
11 to all three of those areas.

12 Q. The bulk of the costs that are assigned to the
13 carrier common line rate category are ultimately recovered
14 in a subscriber line charge. Right?

15 A. Certainly on a nationwide basis, that's true.
16 And for individual companies, certainly for many of them it
17 may be the majority of the costs. In other companies, over
18 50 percent of that might come from the interstate common
19 line support.

20 Q. And what is the subscriber line charge
21 pursuant to Part 69? What's the dollar amount of that
22 today?

23 A. For residents and single-line business it's \$6
24 and for multi-line business it's 9.20 is the cap. If the
25 costs are less than that, then the subscriber line charge

1 would be less than that. But that's -- that's the cap on
2 the charge. And the \$6 charge will go to 6.50 on July 1st
3 next year.

4 Q. Okay. And only to the extent that the costs
5 assigned to the carrier common line category exceed what's
6 recovered by the subscriber line charge is there a carrier
7 common line rate element applied. Correct?

8 A. Yes. I believe that's true.

9 Q. Okay. But your proposal would lay out costs
10 as if all of the carrier common line category costs would be
11 recovered via a carrier common line charge. Right?

12 A. The illustration I made of the costs in the
13 rates were done on a per minute basis as if that all came
14 from carrier common line charge.

15 Q. If the Commission decides that it's
16 appropriate to follow Part 36 and Part 69 to determine costs
17 and rate elements, do you believe it would also be
18 appropriate for the Commission to adopt the subscriber line
19 charge that's included in Part 69?

20 A. I think that question's got an irreconcilable
21 conflict in it. Because you said if they recommended you
22 did all the Part 69 pricing rules -- I mean, it's not my
23 recommendation that they follow all the Part 69 pricing
24 rules in the intrastate jurisdiction. Subscriber line
25 charge --

1 Q. Specifically --

2 A. -- is one of those, the local transport rate
3 structure is another one. There may be others beyond that,
4 but those are two that particularly come to mind.

5 Q. Okay. So basically one can choose to recover
6 the carrier common line category costs via subscriber line
7 charge that's applicable to an end-user directly or through
8 a carrier common line charge that's applicable to
9 interexchange carriers. And your preference is to recover
10 it from interexchange carriers. Right?

11 A. That would be my preference. I didn't make
12 any specific recommendation in regard to that.

13 Q. Do you think that any of the costs that are
14 assigned to the carrier common line category should be
15 recovered via an intrastate subscriber line charge?

16 A. I don't think an intrastate subscriber line
17 charge makes a whole lot of sense unless you're going to get
18 into some kind of statewide charge and a statewide pooling
19 mechanism. If you're going to do it on an individual
20 company basis, it seems to me that it's probably easier to
21 explain to customers and everybody else and put it in the
22 local service rate as opposed to a separate rate element.

23 Q. From a customer's --

24 A. But --

25 Q. Go ahead.

1 A. So I guess I wouldn't -- unless the Commission
2 wants to consider some kind of a pooling mechanism where
3 they charge a statewide subscriber line charge and companies
4 draw out of that pool based on costs or some other
5 mechanism, then a statewide subscriber line charge might
6 make sense. But on an individual company basis, if -- if
7 the Commission thinks that should be recovered on a flat
8 rate basis, it makes more sense to me to put it in the local
9 service rate.

10 Q. All right. Would it be your recommendation to
11 the Commission that if they do adopt your proposal for
12 Part 36 and Part 69 methodology, that some of the costs
13 assigned to the carrier common line category be recovered
14 via an increase in basic local rates?

15 A. Well, I think that gets down to, again, an
16 individual case situation and looking at what the basic
17 local rates are and what the access rates are and -- and
18 what the impact of that is.

19 And in some cases if I fix the amount of
20 allocation that's in the cost study, it might be appropriate
21 to increase local service rates which would effectively
22 reduce the amount of recovery that's coming from the access
23 rates. In other cases it might not.

24 Q. Okay. What type of cases would it make sense
25 to do that?

1 A. Well, let's take a -- a company that has a
2 very high existing local rate. Let me think a minute.

3 Q. I think you probably --

4 A. I probably want to go the other way, yeah. A
5 company that has a fairly low local rate and for whatever
6 reasons has -- perhaps it has quite high access rates so the
7 cost would be quite high using the allocation in the cost
8 study. It might be appropriate in that kind of case to --
9 either through changing the cost or determining that you're
10 going to set the rate lower than the cost, have a lower
11 amount of recovery from the access rate and a higher local
12 service rate.

13 Q. Okay. On page 6 of your surrebuttal, you make
14 the proposal that a company which chooses to compete only in
15 rural areas served by large ILECs, i.e., Southwestern Bell,
16 Verizon and Sprint, be permitted to charge higher switched
17 access rates than the ILEC. Do you see that discussion?

18 A. Yes.

19 Q. First, can you tell me what Southwestern Bell
20 areas are rural?

21 A. I mean, that -- that's something the
22 Commission could determine. The FCC in their order which
23 related to this had a definition. I think it was -- you
24 know, I -- I don't remember that well. I'd have to go back
25 and review it.

1 But there was a specific definition related to
2 the population in the areas that that rural CLEC served in.
3 If the population was below a certain level or the towns
4 that they were serving had populations of a certain level,
5 then this exception would apply.

6 Q. Okay. I guess the point I was trying to get
7 to is if you're recommending to the Commission that they
8 adopt an exception like this that would apply in rural
9 areas, wouldn't it be important and necessary for the
10 Commission to know and all the parties to know what the,
11 quote, rural areas are that would be subject to the
12 exception?

13 A. Yes. And I agree that's important and it is
14 in the FCC safe harbor rules that I refer to. I didn't
15 bring those with me today.

16 Q. Okay. But you don't specifically recommend in
17 your testimony that the definition of rural areas be the
18 same as the FCC, at least that I found -- well, let me --

19 A. No. I think this was a general recommendation
20 that the Commission consider something like the provision in
21 the -- that the FCC had in their safe harbor rules, but I
22 didn't make a specific recommendation that it should be
23 exactly that.

24 Q. As you sit here today, is that your
25 recommendation, that the Commission adopt an exception for

1 rural areas and rural areas be defined precisely as the FCC
2 has done in its safe harbor rules that you talked about?

3 A. I believe that would be a good place for them
4 to start consideration. It would not trouble me if they
5 perhaps chose a different definition of rural areas.

6 Q. Okay. But no other definition of a rural area
7 has been presented?

8 A. That's correct.

9 Q. Okay. You claim that a competitor operating
10 in a rural area would be substantially disadvantaged since
11 the rural access rates don't necessarily reflect access
12 costs. That's the rationale for the proposal. Right?

13 A. Yes.

14 Q. Okay. If the Commission were to adopt LRIC as
15 a cost standard, the access rates for Southwestern Bell,
16 Sprint and Verizon are all substantially above a LRIC level,
17 are they not?

18 A. That certainly has been the basis of the
19 studies that have been presented here in this case.

20 Q. So in that case, your concern wouldn't apply
21 and we wouldn't need to make an exception. Right?

22 A. The studies of Verizon and Southwestern Bell
23 and Sprint don't identify necessarily the costs of the
24 competitor itself --

25 Q. All right.

1 A. -- so, no, it wouldn't necessarily.

2 Q. But if the concern is that in the rural areas
3 the rates don't reflect access costs, that's why the CLEC
4 would be substantially disadvantaged, if the costs are
5 determined under LRIC and the incumbent's rates are above
6 those costs, then that concern wouldn't apply in that case.
7 Right?

8 A. Well, again, we haven't determined what the
9 CLEC's costs are under LRIC and -- and --

10 Q. All right.

11 A. -- I'm not sure that LRIC is the appropriate
12 measure of those costs to determine this test either.

13 Q. Okay. You don't propose in your analysis on
14 page 6 of your surrebuttal that CLECs be required to
15 demonstrate that their access costs are above the rates for
16 access charged by incumbents, do you?

17 A. No.

18 Q. But I gather, based on our discussion that we
19 just had, that you now believe that that would be an
20 appropriate predicate before the Commission should adopt or
21 permit a CLEC to charge more than the cap in that instance?

22 A. Well, I didn't -- I didn't do that and I
23 didn't think I did that in the discussion that we had --

24 Q. Oh.

25 A. -- in terms of a proposal.

1 Q. All right.

2 A. My -- my discussion here in the testimony was
3 that the Commission consider the FCC's safe harbor rules
4 that Mr. Harper had discussed and that they also consider,
5 as the FCC did, a provision which would allow companies that
6 operate in rural areas -- and we discussed that that -- the
7 FCC did define that and the Commission could also -- and
8 that if they are to operate in those rural areas, that they
9 be able to use the NECA rates without making a cost showing.

10 Q. All right. So I'm clear, under your proposal
11 then if the Commission were to adopt it, the CLEC competing
12 in the rural area would not need to show that its cost were
13 greater than the access rates of the ILEC?

14 A. That's correct.

15 Q. What's the nature again of the disadvantage
16 that a CLEC would suffer in the rural area if its costs
17 were --

18 A. The rationale --

19 Q. -- less than the rates that the ILEC charged
20 for access?

21 A. The rationale is based on the generalization,
22 as the FCC did, without a specific showing and on the
23 presumption that in rural areas that the cost of providing
24 service are higher than they are in urban areas which would
25 dominate the cost that a Southwestern Bell, for example,

1 would have. At the interstate level, I guess the FCC's
2 presumption was that the rates were established at a level
3 near the cost.

4 Q. That's because on the interstate jurisdiction
5 with the use of the subscriber line charge, the costs that
6 are actually paid by interexchange carriers reflect
7 something that is, quote, cost based. Right?

8 A. That may be one part of the FCC's
9 consideration.

10 Q. For the non-average schedule companies or the
11 non-NECA average schedule companies on the interstate side,
12 would you agree that the cost of access is typically less
13 than a penny a minute?

14 A. Would you repeat the question again?

15 Q. For non-average -- for non-NECA average rate
16 scheduled companies, would you agree the price of access on
17 the interstate jurisdiction is typically around or under a
18 penny a minute?

19 A. I would agree to that for price cap companies
20 on the interstate -- in the interstate jurisdiction.

21 Q. Okay. And what your proposal would apply to,
22 Sprint, Verizon and Southwestern Bell are all price cap
23 companies on the interstate jurisdiction. Right?

24 A. I believe so.

25 Q. Okay. And would you agree that there's a

1 significant difference in deciding if safe harbor rules are
2 appropriate when the incumbents on the interstate
3 jurisdiction are charging around a penny or less a minute
4 versus whether it's necessary or advisable to have a safe
5 harbor rule on the intrastate side where the access rates
6 for those companies are substantially in excess of a penny a
7 minute?

8 A. No, I don't necessarily agree to that.

9 Q. Okay. Let's assume for purposes of discussion
10 that a company has a cost of access from the interstate side
11 of a penny a minute. And let's assume that the rate on the
12 intrastate side is a nickel a minute.

13 Would you believe that a CLEC that has costs
14 of a penny a minute for access would be disadvantaged if
15 they couldn't charge greater than the rate of the ILEC?

16 A. Well, in your hypothetical does the penny a
17 minute cost include any recovery of the loop cost?

18 Q. It would be determined on the same basis that
19 the FCC access rates are determined.

20 A. Okay. So the penny a minute doesn't include
21 any recovery of the loop cost then?

22 Q. Just to the extent that there's any overage as
23 there is on the FCC side, there would be common carrier line
24 charge. Right? At least until next July?

25 A. Not in the price cap companies.

1 Q. Okay.

2 A. And, again, no. And the reason for my answer
3 is if the Commission allows on the intrastate side the
4 incumbent LEC to recover a penny or a penny and a half or
5 two cents or five cents a minute for common line on the
6 intrastate side, the CLEC should be afforded the same
7 opportunity. Actually, my proposal won't give that to them.

8 Q. Let me flip it around then and ask, if it's
9 your view that a CLEC operating only in the rural area is at
10 a disadvantage if they can't charge more than the incumbent
11 for access, would you agree that a CLEC operating only in
12 the urban area of that ILEC is given a substantial
13 advantage?

14 A. Might be given a slight advantage. I wouldn't
15 expect it to be substantial.

16 Q. Wouldn't it be --

17 A. In other words, I would --

18 Q. Wouldn't it be the flip side of the same
19 advantage or disadvantage that you claim for the CLEC in the
20 rural area?

21 A. Well, the -- the difference is that my
22 presumption would be that the averaging of the high cost --
23 of the incumbent's high cost rural areas with their lower
24 cost urban areas would cause a minor increase in their
25 access rates because of the large volume of traffic and

1 customers that are located in those urban areas versus the
2 rural area. That's why I said it might be a minor
3 difference on the other side, but probably not a significant
4 difference.

5 Q. The net sum of the advantages and
6 disadvantages on both sides obviously have to be equal
7 ultimately. Right?

8 A. Well, not for any one CLEC. I mean, if I had
9 a CLEC that was competing with Southwestern Bell, for
10 example, in every exchange around the state and -- and was
11 getting equal numbers of customers percentage-wise in all
12 those exchanges, then they would tend to net out. But if a
13 CLEC is only operating in three or four exchanges or six or
14 something in a rural area, they wouldn't net out.

15 Q. All right. Let me ask about in the rural area
16 where you claim that if the CLEC isn't permitted to charge
17 above the ILEC's rates, that they would be substantially
18 disadvantaged.

19 Would you agree with me that if the CLEC is
20 given the ability to charge greater than the cap, that the
21 ILEC then would be substantially disadvantaged in that area,
22 or is it a disadvantage only one way?

23 A. Well, I -- in that particular area, the ILEC
24 would be somewhat disadvantaged. In terms of its total
25 operation, it probably would be very small.

1 Q. But in that particular area is where it would
2 be competing with the CLEC. Right?

3 A. Yes.

4 Q. From a competitive parity standpoint, do you
5 believe it would be appropriate for the Commission to adopt
6 a scenario in which the CLEC in a rural area is given a
7 competitive advantage over the ILEC in that area?

8 A. Well, it probably would be better not, but the
9 alternative would be to require Southwestern Bell to have
10 different access rates in urban and rural areas and that
11 might be more cumbersome than it was worth in terms of the
12 kind of disadvantage that -- competitive disadvantage that
13 Southwestern Bell would serve -- would have in that one CLEC
14 area.

15 Q. Some of the companies that you represent
16 either are or may want to come and compete in Southwestern
17 Bell's territories as a CLEC. Right?

18 A. It's possible. I'm not aware of any
19 additional plans beyond -- I mean, there are some companies
20 that are competing in some Verizon areas -- well, I guess
21 they're Spectra areas now, one that I can think of.

22 Q. I mean, this has --

23 A. But -- but in terms of competing with
24 Spectra -- and, in fact, in both of these areas, this may
25 not have much impact at all because even the NECA rates at

1 the interstate level now are fairly low.

2 I mean, we spent a lot of time talking about
3 this, how much impact this would have. Certainly in a
4 Verizon area the state access rates, which they would be
5 allowed to have, would be higher than the NECA rates which
6 this exception would -- would provide and -- and --

7 Q. How about Southwestern Bell?

8 A. I actually haven't gone back and looked.
9 Southwestern Bell's rates at this point in time may still be
10 higher, the NECA rates may be higher, but it wouldn't be a
11 whole lot.

12 Q. Given that you haven't examined whether it
13 would even have an impact, do you think it would be
14 appropriate for the Commission to make sure it had that
15 information and analyzed it before it made a decision in
16 this area?

17 A. I mean, that would take care of the immediate
18 issue. Even though it doesn't have much of an impact now,
19 it could become greater in the future for some reason, for
20 example, if Southwestern Bell lowered its access rates.

21 Q. Let me switch -- or continue on the same topic
22 and talk a little bit about the FCC's order as it applies to
23 CLECs with rate caps. You're familiar with that order, are
24 you not?

25 A. Generally familiar with it. I've read it once

1 or twice, but it's been some months ago and I don't
2 necessarily remember all the details.

3 Q. All right. Would you agree with me that in
4 urban areas the FCC rules require that the CLEC be subject
5 to a cap of no greater than either the rate charged by the
6 ILEC or two and a half cents a minute?

7 A. I believe that's correct.

8 Q. Okay. And that two and a half cents a minute
9 is something that declines over three years to the rate of
10 the ILEC itself. Right?

11 A. It -- I -- I believe that's correct. I don't
12 remember the exact terms of that phase down, but I remember
13 there is a phase down.

14 Q. And there's a provision in that order that
15 essentially makes it apply only to a CLEC -- a new CLEC
16 choosing to enter into an area as opposed to letting any
17 existing CLEC raise its access rates up to two and a half
18 cents a minute. Right?

19 A. In general, I believe that's correct. I don't
20 remember whether that applies specifically to this rural
21 exemption or not.

22 Q. And if a CLEC wants to charge above that rate
23 in an urban area, it can't do so pursuant to tariff, it has
24 to go out and get interexchange carriers to sign a contract
25 agreeing to pay that higher rate. Right?

1 A. I believe that's the case, which is --
2 probably would be fairly difficult to do.

3 Q. Futile, in your opinion?

4 A. I mean, I guess I would be very surprised if
5 an interexchange carrier would agree to that. The
6 negotiations might be valuable as a tool to go back to the
7 Commission and say they established a poor policy in that
8 regard because they don't have enough negotiating power to
9 get an interexchange carrier to do something different.

10 Q. And that mandatory de-tariff thing above the
11 permitted level also applies under the safe harbor
12 exception, does it not?

13 A. I don't know.

14 MR. LANE: Okay. That's all I have. Thank
15 you.

16 JUDGE THOMPSON: Thank you, Mr. Lane.

17 We've been going about 90 minutes since we
18 came back from the lunch break, so let's take 10 minutes
19 now.

20 (A RECESS WAS TAKEN.)

21 JUDGE THOMPSON: I'll remind you, Mr. Larsen,
22 you're still under oath.

23 And Mr. Warinner, you're excused whenever
24 convenient.

25 Commissioner Murray has some questions for

1 you, sir.

2 THE WITNESS: Okay.

3 KENT LARSEN, having been previously sworn, testified as
4 follows:

5 QUESTIONS BY COMMISSIONER MURRAY:

6 Q. Good afternoon, Mr. Larsen.

7 A. Good afternoon, Commissioner.

8 Q. Thank you for staying around in case we had
9 questions for you.

10 My first question is, did the MITG companies
11 provide Dr. Johnson with actual cost data that was
12 requested?

13 A. Yes, ma'am. He -- the MITG companies provided
14 approximately 85 percent of the responses that were made of
15 them. There were a couple of responses where, frankly,
16 there was no answer provided.

17 Our examination is of that 15 percent, a
18 couple of the questions were dealing with the maps of the
19 exchanges and the relationship -- the physical relationship
20 of the switches and the transport network that, frankly,
21 were not provided, but that the cost data underlying those
22 switches and transport networks were.

23 Q. So it wasn't your companies when he said that
24 he only received about 7 percent of the responses?

25 A. No, ma'am.

1 Q. And the 15 percent you say you did not supply,
2 you say you did supply cost data, but not maps?

3 A. There may have been a couple of instances
4 where cost data may not have been available and was not
5 provided. The company did respond to -- well, let me back
6 up.

7 Some responses that were, in our opinion,
8 included within the 85 percent response rate were NA, or not
9 applicable. Of the 15 percent where there was absolutely no
10 response, I believe our review of those responses is that
11 it's possible that there may be -- may have been some
12 substantive data that was missing.

13 And then another portion of the 15 percent
14 that was not responded to at all in any way, as I said, is
15 was some maps and some further clarification that was not
16 cost data specifically.

17 Q. And were objections filed to those requests
18 that you say were inapplicable?

19 A. I do know that we have a series of e-mails and
20 I believe correspondence that took place between MITG
21 counsel and I believe PSC Staff and I believe Dr. Johnson's
22 firm where responses were back and forth, but I don't think
23 any official request came from this Commission to compel any
24 additional response.

25 Q. That wasn't what I asked you.

1 A. I'm sorry.

2 Q. I asked if your companies objected --

3 A. Oh, I'm sorry.

4 Q. -- to those requests.

5 A. No, not to my knowledge.

6 Q. On page 21 of your Rebuttal Testimony at

7 lines 10 and 11, you say, The Commission should cap CLEC

8 exchange access rates at the maximum permissible exchange

9 access rate an ILEC is permitted to charge.

10 Do you see that?

11 A. Yes, ma'am.

12 Q. Wouldn't doing it the way you suggest provide

13 an incentive for the price caps LECs to raise their access

14 rates the full percent each year?

15 A. I suppose it could. I hadn't really thought

16 of it in those terms, but given that they have permission to

17 price to the caps and if this rule were enacted, as I

18 suggest, one would make the argument that there would be an

19 incentive for that to take place, I would say, yes.

20 Q. And is that because if the CLECs were

21 permitted to charge up to that maximum allowable but the

22 ILEC did not raise theirs to that level, then there might be

23 a competitive disadvantage?

24 A. Or a competitive advantage. I guess, you

25 know, if an ILEC has discretion and chooses not to exercise

1 it, one would argue that the ILEC that had the opportunity
2 but chose not to would do it for what I would assume would
3 be sound business reasons.

4 Q. On page 20 of your Rebuttal Testimony --

5 A. Okay.

6 Q. -- in making your recommendations beginning on
7 line 5, your third recommendation on line 9 is that we
8 recognize that existing MITG ILEC cost allocation methods
9 and existing rates are still just, reasonable and lawful and
10 continue to support other public policy goals.

11 Please elaborate on those other public policy
12 goals that your ILEC allocation methods support.

13 A. I think chief among those is affordable local
14 rates. The Commission heard testimony from OPC Witness
15 Dunkle elaborating on some of the calling scope issues and I
16 thought he made some interesting points. Chief among those
17 is that a \$5 or \$8 basic local rate for a residential
18 customer in a rural area where he or she may only have
19 access to several hundred other customers would have
20 arguably less value derived from local service than the
21 customers in the metro areas who can access millions of
22 customers for \$12 or \$15.

23 Q. And is it your position that there is no
24 subsidy going from intrastate access rates to local rates?

25 A. My position is -- and I'm not going to -- I'm

1 going to go ahead and agree with the term of "subsidy." I'm
2 not going to go into the arguments that were made earlier in
3 here earlier about the relationship of a subsidy to or from
4 LRIC versus stand-alone.

5 I will say that the Commission has
6 considerable discretion in allocating telephone company
7 costs, especially MITG costs. And in that process, even
8 assuming that the Commission agreed with those parties that
9 LRIC does not include loop costs, the fact of the matter is
10 that that loop cost must be recovered from some group of
11 customers.

12 And so if by defining the LRIC cost of
13 exchange access that does not include the loop, you say that
14 any rate above LRIC has a subsidy, I would say I agree it
15 does have a subsidy or support or a contribution to help
16 offset the loop costs. And so the bottom line is, is that,
17 yes, exchange access does have a subsidy that does support
18 loop costs.

19 Q. Okay. And you have heard, I'm sure, the
20 testimony regarding the allocation of those loop costs and
21 the difficulty, if not impossibility, of doing it properly
22 or in a fair or accurate manner or a consistent manner.

23 Can you tell me how you think that is possible
24 to allocate those loop costs in a way that appropriately
25 gives exchange access rates or exchange access costs a

1 portion of that loop cost?

2 A. I can make some general statements and maybe a
3 specific recommendation without a quantifiable number.
4 First, let me say that I've testified earlier that any --
5 any allocation of loop costs, whether it's 0 percent or
6 100 percent, to any particular service is by necessity
7 arbitrary. It is a very, very tall order to factually,
8 scientifically and empirically assign such a common cost.

9 So as rate of return regulated carriers,
10 subjected to the rules of this Commission, it falls on your
11 shoulders to make a determination -- and I'm going to pick a
12 word you said -- fair, and I will elaborate on that and say
13 just and reasonable, a determination as to how much of the
14 loop costs shall be supported by exchange access or any
15 service that uses the loop.

16 So having said that, that it's essentially
17 your decision as the authority in Missouri for making those
18 decisions, we have chosen to present you with our cost
19 studies with an allocation method that uses the subscriber
20 line usage factor or the SLU.

21 That probably -- well, we're arguing it is a
22 fair, just and reasonable method by allocating the relative
23 usage as measured in relative minutes of the facilities to
24 the services that use the facilities.

25 So the SLU represents -- the intrastate access

1 SLU, if you will, represents the percentage of time measured
2 in terms of minutes that the loop is occupied for intrastate
3 exchange access services. And that has some historical
4 background to be sure and it has a rational aspect to it
5 that I believe is appealing. And it is -- I believe it
6 satisfies your obligation to seek a fair, just and
7 reasonable method for allocation.

8 Q. And does that vary company by company, that
9 percentage?

10 A. Yes, it does.

11 Q. So in order to determine that correctly, you
12 need to be very specific about the cost development for each
13 particular company; is that true?

14 A. Yes.

15 Q. And is that a ratio that is likely to remain
16 constant or is that likely to change over time?

17 A. I'm going to give you a couple examples. To
18 the extent that a company is -- calculates its costs on the
19 cost basis that is used for NECA studies, for interstate
20 studies, that ratio historically was measured every year
21 using actual minutes every year, traffic studies that
22 arrived at a SLU were developed.

23 Recently the FCC chose to freeze those
24 relative allocations, so each individual company -- and I'm
25 simplifying a very complex decision that the FCC made, but

1 suffice it to say they did choose to freeze the allocation
2 factor for all cost elements; in other words, all traffic
3 factors are now locked in place where they were at a
4 particular point in time.

5 Further back in history, the FCC determined
6 that the interstate allocation specifically related to
7 loops, a factor that was called a subscriber plant factor,
8 also referred to as the SPF, back in the 1980's they froze
9 that at an across the board, across the country 25 percent.
10 Again, it was within their power just like it is within
11 yours for intrastate purposes. The FCC made a policy choice
12 to freeze that allocation.

13 So coming back full circle to the original
14 question, which I think I'm amplifying sufficiently for you,
15 you could make a decision to make a similar policy decision
16 and say for purposes of Missouri, we are going to allow
17 either actual measurement every year, but that would
18 necessitate adjustments to rates every year, or you could
19 make a policy decision that we're going to freeze the
20 allocation of the loop -- the percentage that is used to
21 freeze that allocation of loop one time only and apply that
22 across the board.

23 Q. And what have other states done in that
24 regard, if you know?

25 A. A lot of them have chosen to freeze it. I

1 can't -- you know, maybe a lot is not a fair
2 characterization. I know that several have chosen to make a
3 decision -- they can make a decision two ways. You know, in
4 essence, this Commission made a decision in the past by not
5 requiring annual cost studies. So the relationships that
6 existed at the time that the cost studies were developed
7 that led to the rates that are currently charged, in
8 essence, the Commission has determined to have frozen that
9 relationship just by not requiring an annual update.

10 Many other states have chosen that same route,
11 where they really have not annually or periodically examined
12 costs and rates. And so, in essence, it's a de facto
13 default choice to freeze that relationship. Some states
14 have chosen to freeze it and continue to require cost
15 studies. And I think very few still use annual cost studies
16 that have an annual development of SLU.

17 And I think, frankly, with the FCC's activity
18 freezing the interstate traffic factors, that that is
19 becoming a more likely and more likely to be popular policy
20 choice by state commissions that we're going to establish,
21 as a matter of public policy, the allocations of these
22 various services to the various -- excuse me -- the uses of
23 the telecommunications equipment to the various services
24 using a frozen relationship and get on down the road.

25 Q. And do you know how many states have made the

1 decision that the local loop should not be included in the
2 cost of exchange access?

3 A. There may be a couple, but I think it's very,
4 very few that have made a conscious choice -- I'm going to
5 turn your question around, I hope it's appropriate,
6 Commissioner.

7 If what you're saying is if they've asked
8 their local customers to pay the full cost of the local loop
9 with no costs being assigned or included in exchange access
10 rates, I think that's a very, very small minority of states,
11 if any, that have done that. I'm not aware of any, but I
12 would hold out the possibility -- I think a couple are awful
13 close.

14 If I might add as an example, Wyoming chose
15 to -- chose a point and they said all of the costs get
16 allocated to local customers, but they have a USF that kicks
17 in that picks up the cost. So on the one hand they said,
18 yes, all the costs are assigned to local, I believe, but,
19 no, the customer doesn't have to pay it. We've established
20 a rate level that we believe is fair, just and reasonable
21 and to the extent the costs exceed that, they have a state
22 USF that picks up the difference.

23 Q. Do you know if they did rate cases to
24 determine whether or not the ILECs were overearning prior to
25 setting the appropriate local rates as well as --

1 A. I don't have a census on that. I would -- I
2 would -- I really don't know. It's probably a mixed bag
3 of -- mixed between revenue neutrality and full rate case
4 proceedings.

5 Q. If we were to provide revenue neutrality by
6 adjusting access rates, and I'm not suggesting one way or
7 the other whether we'd be doing anything with rates in this
8 case, but whether in this case or some other case we were to
9 rebalance access rates and maintain revenue neutrality,
10 would that not require rate cases?

11 A. As a matter of law?

12 Q. Well, let's not even take it as a matter of
13 law. Let's just say as a matter of practicality, how else
14 would you do it?

15 A. As a matter of practicality, with all due
16 respect the Commission could say that the cost of the rate
17 case exceeds the benefit and forego the rate cases for
18 certain companies and say, We're going to make a decision to
19 consciously lower access and create a USF or increase local
20 rates by establishing some benchmark of what is fair, just
21 and reasonable and perform that rebalancing on a revenue
22 neutral basis.

23 And so, you know, I think given the -- you
24 know, I would believe that the best thing to do would be
25 to -- on an across the board basis if you're doing this as a

1 generic process with all the local exchange carriers in a
2 single proceeding, that the efficiency and to some extent
3 equity would demand it be on a revenue neutral basis.

4 I'm not trying to take away any of the
5 Commission's authority. The Commission is well aware of its
6 ability to regulate earnings. I'm just thinking of it in
7 terms of from an industry perspective, if you wanted an
8 industry-wide rate rebalancing, with those caveats, it seems
9 to me that it would be much, much better to do it all at
10 once and not piecemeal.

11 Q. Would that not be an incentive for carriers to
12 be charging access rates that were much higher than need be
13 prior to that time to allow them to take advantage of
14 Universal Service Funding and yet maintain their current
15 level of earnings which might be excessive?

16 A. If I might clarify, are you saying that it
17 would be an incentive for a carrier to increase its access
18 rates in order to take advantage of that situation?

19 Q. Or to hold the access rates at a level that
20 allows them to have excessive earnings at this point in time
21 looking forward to a Universal Service Funding mechanism
22 whereby they could continue to receive the same level of
23 earnings without investigation as to whether it was an
24 appropriate level.

25 A. I'd have to say that arguably if a company is

1 overearning, it's going to have every incentive to maintain
2 its earnings for as long as possible regardless of rate
3 design.

4 I would think -- I'm not sure that I would
5 necessarily agree that they would maintain access
6 individually. I would -- I would suggest that common sense
7 suggests that if a company is making a lot of money, it's
8 going to want to continue to make a lot of money. And
9 should that situation exist, it's going to have no incentive
10 to do anything to its rates.

11 Q. If we were looking toward rebalancing in the
12 near future with the idea that any reduction in access rates
13 would be offset by a universal subsidy -- universal funding
14 subsidy, would that not be an incentive to have those access
15 rates as high as possible?

16 A. Yes. Yes, it would. If -- yes. Let's just
17 leave it at that.

18 COMMISSIONER MURRAY: Thank you.

19 I think that's all my questions, your Honor.
20 Thank you.

21 JUDGE THOMPSON: Thank you, Commissioner
22 Murray.

23 Commissioner Lumpe?

24 QUESTIONS BY COMMISSIONER LUMPE:

25 Q. Sort of a follow-up, Mr. Larsen. You talked

1 about the Commission having discretion on costs I think as
2 you were talking to Commissioner Murray; is that correct?
3 You talked about the Commission has considerable discretion
4 on costs?

5 A. Yes. And just to clarify, you have discretion
6 to make determinations as to how costs might be allocated
7 for purposes of establishing support flows.

8 Q. Okay. If I look on page 15 of your direct, is
9 your suggestion there, however, for rate of return we would
10 have to do it in the context of a rate case? Page 15, I
11 think it's the paragraph that starts at line 9.

12 A. It's my understanding that there's an issue in
13 the Missouri of single-issue rate-making and that you would
14 have to examine all of the costs of the carrier so that you
15 would then make -- if you made a determination that a
16 carrier was overearning, then it would be wholly within your
17 authority to -- to determine how you wanted to use cost
18 information in order to adjust individual rates from the
19 whole panoply of rates that are available to that company to
20 achieve public policy objectives that would include managing
21 that company's earnings.

22 Q. But, in your opinion, it would have to be in
23 the context of a rate case?

24 A. No. Well, I think that there could be the
25 opportunity for a stipulated agreement amongst all parties

1 that on a revenue neutral basis we were going to, all of us,
2 make adjustments to rates. But if the Commission made a
3 unilateral decision, I think there would be issues.

4 Q. And whether there would be an incentive to
5 raise those access rates as high as possible, wouldn't they
6 have to do that within the context of a rate case?

7 A. Correct.

8 Q. I mean, you don't think they could just go out
9 and say, I have an incentive to raise these very high and
10 I'm going to do that?

11 A. Correct. Correct. And I don't think they
12 have the ability to unilaterally raise any rates at this
13 point.

14 Q. Okay. And then you do mention something about
15 but it's questionable if the access rates of price cap ILECs
16 could be adjusted.

17 Is that still your opinion, that we would not
18 have the ability to determine access rates for price cap
19 companies?

20 A. Again, not being a lawyer and as Mr. Lane
21 pointed out, I may not be as totally familiar with the
22 18,309 rules or legislation that enable. My understanding,
23 and it's certainly the position of the price cap carriers,
24 that this Commission does not have that authority. So I
25 would say this statement is factually correct, that if the

1 price cap carriers are to be believed, the Commission does
2 not have the authority to adjust those rates.

3 Q. But it's in the context if they are correct,
4 we don't?

5 A. Yes, ma'am.

6 COMMISSIONER LUMPE: Okay. Thank you. That's
7 all I have.

8 JUDGE THOMPSON: Thank you, Commissioner.

9 Additional recross based on the further
10 questions from the Bench, Mr. England?

11 MR. ENGLAND: No questions. Thank you.

12 JUDGE THOMPSON: Mr. Dority?

13 MR. DORITY: Yes. Thank you, Judge.

14 FURTHER RECROSS-EXAMINATION BY MR. DORITY:

15 Q. Good afternoon, Mr. Larsen.

16 A. Good afternoon, counselor.

17 Q. I just have a couple of questions to follow-up
18 on the line of questions that Commissioner Murray was asking
19 regarding the appropriate allocation of loop costs to
20 switched access services.

21 And you indicated in your response that there
22 could be, in fact, a number of rational responses in looking
23 at that issue. And while your particular group of companies
24 has chosen to utilize SLU or the subscriber line usage
25 approach, that indeed, the 25 percent allocator similar to

1 what the FCC has in place would be a rational approach as
2 well. Is that the gist of your testimony?

3 A. Yeah. And let me clarify. I'm hopeful that
4 my answer said that we provided a couple of alternatives
5 there and that my personal preference was the SLU.

6 Q. Okay. Are you familiar with the testimony of
7 Steve Brandon that was filed in this matter on behalf of
8 ALLTEL Missouri, Inc.?

9 A. I am.

10 Q. And are you aware that, indeed, Mr. Brandon
11 has suggested that using the 25 percent factor would be
12 appropriate and that is his recommendation in this
13 proceeding?

14 A. I believe I recall that, yes.

15 Q. He basically, as the justification for that,
16 in his surrebuttal states -- I'd like to read this and see
17 if you agree with this. While the FCC is moving to a
18 flat-rate basis through increased subscriber line charges to
19 provide for recovery of the loop costs, it still recognizes
20 that interstate calls account for 25 percent of loop costs.

21 And it's on that basis that it's in his
22 opinion that state access should also recover 25 percent of
23 loop costs. Would you generally agree with that statement?

24 A. I would.

25 MR. DORITY: Thank you. That's all I have.

1 JUDGE THOMPSON: Thank you, Mr. Dority.

2 Mr. Poston?

3 MR. POSTON: No questions.

4 JUDGE THOMPSON: Mr. Dandino?

5 MR. DANDINO: No questions, your Honor.

6 JUDGE THOMPSON: Mr. Lane?

7 FURTHER RECROSS-EXAMINATION BY MR. LANE:

8 Q. Hello again.

9 A. Hello again.

10 Q. Commissioner Murray and I believe Commissioner
11 Lumpe were asking you questions about adjusting the rates
12 of -- or access rates of Small Telephone Companies and I
13 want to make sure I understand what your view is.

14 Were you present when Mr. Schoonmaker was
15 asked whether he thought the Commission had authority to
16 adjust access rates downward and increase other rates
17 upwards on a revenue neutral basis for a company outside of
18 a rate case?

19 A. I don't believe I was in the room.

20 Q. Okay. Would you agree that the Commission
21 does have that authority and could, if it decides it's
22 appropriate for the non-price cap companies, lower the
23 access rates and increase some other rates including
24 possibly local rates in a revenue neutral manner without
25 engaging in a rate case proceeding?

1 A. Yeah. I'm -- I can't say that I'm sure I
2 understand exactly what their authority would be in that
3 respect.

4 Q. All right. Separating authority out for a
5 minute, would you agree that -- assuming they have the
6 authority, that it might be appropriate for the Commission
7 to adjust access rates downward and increase some other
8 rates upward on a revenue neutral basis outside the context
9 of a rate case for the small ILECs in Missouri?

10 A. Assuming the authority, would I say that would
11 be a good thing?

12 Q. Yes.

13 A. I think if one looked at the facts, that there
14 certainly could be facts before this Commission that would
15 suggest that that would be a good thing, a rational thing,
16 an economically valid decision, that it's --

17 Q. And those things that are before the
18 Commission, would that be things like we discussed earlier,
19 the fact that some interexchange carriers are choosing not
20 to provide originating toll and some small companies aren't
21 offering expanded calling plans because of high access
22 rates? Are those some of the factors that you were
23 referring to that might make it appropriate?

24 A. Among others, I think that the Commission
25 could certainly consider that.

1 Q. And you had a discussion with Commissioner
2 Murray concerning allocation of the loop and that there's no
3 necessarily correct answer, is how I took it. Is that what
4 you were intending to convey?

5 A. Let me try and make sure that it's conveyed,
6 so everybody understands real clearly. My point is, is that
7 if we've learned nothing else from this week of testimony,
8 it's that there will never be an agreement on the precise
9 allocation of loop cost to any particular service.

10 And it's my position that 0 percent allocation
11 of loop to exchange access has no more basis to be factually
12 correct than 15 percent, 75 percent or 100 percent. And so
13 if any number between 0 and 100 percent is equally
14 arbitrary, then any number is going to be arbitrary, that --
15 that neither accountants nor economists can pin that number
16 down so it always becomes a judgment.

17 Q. Would it be fair to say that if the Commission
18 exercises some judgment and says X percent of the costs of
19 the loop should be included in the cost of switched access,
20 that they should nevertheless look real closely to see what
21 that does to the rate and that the rate that they set may
22 still be above or below that measure of cost?

23 A. Yeah. I think it's -- I do believe it's
24 within the Commission's discretion to look at exchange
25 access rates and determine if they're just and reasonable.

1 I think that in a revenue neutral filing, it would then be
2 reasonable to assume the Commission could look at resulting
3 changes and other prices to ensure that they're just and
4 reasonable. And if a presumption of a cost allocation
5 doesn't yield desired results, then the Commission can
6 re-examine the rates.

7 Q. Okay. And to be precise, let's say that the
8 Commission decides that the allocation of the loop that's
9 proposed by the Small Telephone Companies in this state
10 should be used for determining cost of access, that
11 nevertheless, the Commission shouldn't necessarily set the
12 rate for access in a manner equal to that which would be
13 determined under that cost formula because there might be
14 distortions in the market as a result?

15 A. Yeah. I believe the Commission's charge is to
16 determine just and reasonable rates. And the Commission can
17 use cost allocation methods to achieve that objective.

18 Q. Okay. And to be specific with regard to the
19 cost allocation method that your companies propose, would
20 you agree with me that Mr. Schoonmaker's analysis would show
21 that if the Commission set access rates equal to cost as
22 determined under his method and then adjusted local rates
23 either up or down to reflect on a revenue neutral basis the
24 impact of changing access, that for some companies we would
25 see negative local exchange rates for residential customers?

1 A. Yeah. Pure -- I believe Mr. Schoonmaker's
2 data would demonstrate that pure adherence to a rigid cost
3 allocation scheme could, in fact, result in anomalous rates.

4 Q. Okay. And you're not recommending that the
5 Commission, even if it adopts your cost allocation method
6 which you propose, necessarily set the rate equal to the
7 cost because of the anomalous results that could occur?

8 A. I -- I am not recommending?

9 Q. You are not recommending that the Commission
10 set access rates equal to access costs even if cost is
11 determined under the methodology that you propose?

12 A. Let me tell you what I am recommending. What
13 I am recommending is, is that the costs that were identified
14 in the studies demonstrate that exchange access rates that
15 currently exist are in most or many cases roughly equivalent
16 to the costs that were developed or roughly equivalent to
17 existing rates.

18 So under that scenario, under the -- at this
19 point in this proceeding where we're only examining costs,
20 you know, I'm not really ready to commit to rate design
21 responses just yet, but what I am saying is, is that our
22 interpretation of our cost study suggests that our existing
23 rates can be considered just and reasonable based on the
24 cost standards that we utilized.

25 Q. Okay. I need to ask you to answer the

1 questions that I'm going to ask. Okay?

2 A. Okay.

3 Q. It's fair to say that if the Commission were
4 to set access rates equal to access cost with cost as
5 Mr. Schoonmaker has defined it, that rates for 19 of the 37
6 companies -- access rates would actually go up. Right?

7 A. I believe that was the number Mr. Schoonmaker
8 testified to.

9 Q. And if the increases then in access rates were
10 made revenue neutral by changing local exchange rates, that
11 we would have 19 companies decreasing their local rates and
12 several of those would have negative local exchange rates.
13 Correct?

14 A. I believe that's also correct.

15 Q. And my question is, you're not recommending
16 then that the Commission blindly say, I'm setting the access
17 rate equal to access cost as Mr. Schoonmaker and Mr. Larsen
18 propose that cost be determined?

19 A. With -- with the caveat that this is not the
20 rate-making process, on your hypothetical, no, I would not
21 recommend that such anomalous rates would result from a
22 strict adherence to our cost schemes.

23 Q. Okay. Thank you.

24 A. All right.

25 JUDGE THOMPSON: Thank you, Mr. Lane.

1 Mr. Schiffman?

2 FURTHER RECROSS-EXAMINATION BY MR. SCHIFMAN:

3 Q. Hi, Mr. Larsen. Ken Schiffman again on behalf
4 of Sprint.

5 Commissioner Murray asked you some questions
6 about whether you're aware if certain states allocated loop
7 costs to the cost of basic local service. And I believe you
8 mentioned that you would know -- you knew one state, state
9 of Wyoming, that allocated all the loop costs to basic local
10 service?

11 A. I believe that's true.

12 Q. Okay. I'm going to have you take a look at an
13 order from the PSC of South Carolina Docket 97-239-C, Order
14 No. 2001-419 dated June 6th, 2001. And the docket is In Re:
15 Proceeding to Establish Guidelines for an Intrastate
16 Universal Service Fund.

17 And I'm going to direct you to -- the findings
18 and conclusions begin on page 31 of this order. On page 41
19 there's a paragraph that I have a portion of it underlined.
20 I'm wondering if you could read that to the Commission and
21 then tell me if you think there's possibly another state
22 that allocates the loop cost all to basic local service?

23 A. Okay. So we're up to two?

24 Q. We'll see.

25 A. Let's see. You want me to read and then offer

1 an opinion?

2 Q. Yes. Yes.

3 A. Okay. From this document, Furthermore, even
4 if we were to address cost models and methodologies anew, we
5 do not believe it would be appropriate to allocate the costs
6 of the networks to services other than basic local service.
7 Basic local service is the, quote, cost causer, unquote, of
8 loop costs.

9 The consumers -- the consumer advocates
10 witness states that a portion of the joint and common loop
11 costs should be allocated to access, yet access currently
12 provides significant support for basic local exchange
13 service.

14 In other words, it is one of the services
15 whose rates are subject to downward competitive pressure and
16 whose implicit support the state USF is intended to replace
17 with explicit support. Any mechanism that relied on support
18 from these services would be neither, quote, predictable,
19 unquote, nor, quote, sufficient, unquote, and would violate
20 Section 254(f) of the 1996 Act.

21 Now, you have it underlined there --

22 Q. And turn it over to the next page.

23 A. Now, that's not underlined. The other page
24 isn't. I'll read that sentence too.

25 Q. Yeah. The next one.

1 A. The same arguments regarding allocation of
2 costs were made to the FCC and rejected. We, likewise,
3 reject them here.

4 Now I'm going to reread it to myself so I can
5 comprehend it.

6 Q. Take your time.

7 A. Well, as an initial observation, counselor,
8 there's a lot here. Let me address the notion of the cost
9 causer first, if I might. This notion of cost causation has
10 been used in this proceeding by various parties for various
11 purposes, but the consistent use of this idea of cost causer
12 is usually used by entities that pay access.

13 And the position that the local user caused
14 the cost of the local loop is the predicate that they hang
15 their hat on to say that, therefore, that cost causer should
16 pay all of the costs.

17 I disagree. I do not believe that one can
18 make such a blanket statement that other users of any
19 service should be expected to pay for the use of that
20 service. And the idea that -- well, let me stop.

21 Ms. Meisenheimer made a pretty good
22 observation in her testimony that I supported in I believe
23 my rebuttal and that is, is, frankly, the question is what
24 if a customer connected to the network with no intention of
25 making local calls, but intended only to make toll calls.

1 This same argument would suggest that the cost
2 causation was toll calls or exchange access as an underlying
3 factor in the production of toll calls. And, therefore,
4 toll use was the cost causer and, therefore, toll services
5 should pay the entire cost of the loop.

6 It's not as easy -- I just object to those
7 parties that would say that a single service causes all
8 fixed costs. I don't -- I don't believe that makes rational
9 sense. It may satisfy economists, but in the real world all
10 common costs have to be recovered in some manner. Now --

11 Q. Let me stop you right there. You said common
12 costs recovered in some manner. There's a difference
13 between calculating a cost and recovering a cost, isn't
14 there?

15 A. Yes.

16 Q. Okay. Okay. Go ahead. I'm sorry to
17 interrupt.

18 A. That's okay. Now, the Commission in this
19 finding does go on to say that access currently provides
20 significant support for basic local exchange service. And
21 it appears that the Commission then made a decision that
22 they believe is consistent with federal decisions in
23 addressing loop cost problems where this Commission felt
24 like if it is a subsidy or even support -- I believe they
25 use the word support so we will use those terms

1 interchangeably here -- that the Commission -- the State
2 Commission here is compelled to replace implicit support
3 with explicit support, specifically a state USF.

4 I think that's a controversy that is probably
5 being discussed in many, many states and that is whether you
6 are obligated as a state to replace implicit support with
7 explicit support with the common determination at that point
8 being a state USF.

9 So what this Commission appears to have
10 decided is that any support or any subsidy in excess of a
11 certain level of costs that they evidently toss out and say
12 we're not going to worry about new cost methodologies and
13 models, that they made a determination that it would appear
14 from the paragraph I read, all of the local -- or excuse
15 me -- all of the costs of the loop that are not recovered in
16 local rates would be recovered from state USF by either
17 reducing or eliminating exchange access revenues that
18 support the loop.

19 And I would argue that that's certainly
20 well -- it apparently is obvious that it's well within the
21 rights of the South Carolina Commission. I'm assuming this
22 is an unappealed order or that it's now law. I don't know.

23 Just looking at this here and assuming nothing
24 else has happened and assuming this is a decision they made
25 and it's a decision this Commission can make. This

1 Commission could determine the same thing, that all or --
2 some or all of the support that is currently embedded in
3 exchange access rates that support the loop could be
4 transferred to a state USF.

5 Q. Thank you. So to sum up here --

6 A. Okay.

7 Q. -- it appears at least that the South Carolina
8 Commission, based on what you read, and I realize the whole
9 order will speak for itself and I'm sure I'll be able to
10 cite to it in our briefs and examine all portions of it. It
11 appears from the portion that you read that the Commission,
12 when determining the cost of basic local service, included
13 all of the loop costs. Right?

14 A. Yes. They said, We do not believe it would be
15 appropriate to allocate the costs of the network to services
16 other than basic local service.

17 MR. SCHIFMAN: Okay. Thank you. Nothing
18 further.

19 JUDGE THOMPSON: Thank you, Mr. Schiffman.

20 Ms. DeCook?

21 FURTHER RE-CROSS-EXAMINATION BY MS. DECOOK:

22 Q. Hello again.

23 A. Hello again.

24 Q. I'm going to follow-up on that line, but I'm
25 not going to try to get you to admit that there are more

1 states --

2 A. Please.

3 Q. -- yet.

4 In your response you indicated that there was
5 one state, and I think you turned the question around and
6 answered it fairly carefully. And I'd like to just explore
7 if in your answer you considered any states that have
8 shifted the support, subsidy, contribution, whatever you
9 want to call it, that is in an access service from access
10 into a fund or some other mechanism?

11 A. So you want a careless answer?

12 Q. No.

13 A. I'm sorry. Go ahead.

14 Q. That was my question. Did you consider that?

15 A. Did I consider that other states had created a
16 fund?

17 Q. Right. When you answered one, did you take
18 into consideration in that answer states that have shifted
19 the support, subsidy, contribution from access into a fund
20 or into a subsidy mechanism?

21 A. Yeah. You know, Wyoming only came to mind and
22 now I know that South Carolina has made a decision. I think
23 Texas has a state USF.

24 Q. But have you analyzed how many states have
25 done that?

1 A. No, I have not.

2 MS. DECOOK: All right. Thank you.

3 JUDGE THOMPSON: Thank you, Ms. DeCook.

4 Mr. Morris?

5 MR. MORRIS: No questions, your Honor.

6 JUDGE THOMPSON: Mr. Stock?

7 MR. STOCK: None, Judge. Thank you.

8 JUDGE THOMPSON: Mr. Fischer?

9 FURTHER RECROSS-EXAMINATION BY MR. FISCHER:

10 Q. Good afternoon. You spoke with Commissioner
11 Murray about the SPF factor and the SLU factor and how
12 things have changed. And I know in your testimony you
13 discuss what happened at the FCC in the '80s regarding those
14 changes.

15 It caused me to think about a time whenever I
16 was on the Federal State Joint Board and people would walk
17 around with big buttons that would encourage you to do
18 something. And at that time the slogan that seemed to
19 appear at the NARUC meetings was, SPF to SLU in '92.

20 A. 1992, as a matter of fact.

21 Q. 1992, yeah. And my question to you is, is
22 your recommendation to the Commission to accept a slogan
23 that would basically be freeze SLU in 2002?

24 A. Oh, gosh. My recommendation is that the
25 Commission acknowledge the financial reality that exchange

1 access is capable of producing revenues that can support the
2 basic loop costs.

3 And within that -- within that framework, that
4 overall framework, I mentioned that SLU was a fine
5 allocator, it represented relative use of the network. And
6 if the Commission should determine simply within the
7 confines of that calculation or if, as Mr. Lane suggests,
8 there would be other issues that the Commission would have
9 to address to make sure that rates were not anomalous, then
10 I'm not necessarily married to the SLU as the singular
11 answer.

12 I'm saying the SLU is a fine starting point
13 for the evaluation of costs. Should we get to rate design
14 in a subsequent proceeding, then those questions could be
15 answered then.

16 Q. Freeze SLU in 2002 would end up with negative
17 local rates for some of your companies, as I understand it?

18 A. As I understand it, that's true. I think
19 that's what Mr. Schoonmaker testified to.

20 MR. FISCHER: Okay. Thank you.

21 JUDGE THOMPSON: Thank you, Mr. Fischer.

22 Ms. Chase, additional redirect limited to
23 further questions from the Bench and the additional recross?

24 MS. CHASE: Thank you, your Honor.

25 FURTHER REDIRECT EXAMINATION BY MS. CHASE:

1 Q. Mr. Larsen, I believe Commissioner Murray
2 asked you about the MITG responses to data requests.

3 A. Uh-huh.

4 Q. And I believe that you responded that you were
5 aware of some informal e-mail information from counsel for
6 the MITG to counsel for Staff as well as to Dr. Johnson's
7 office?

8 A. Yes.

9 Q. Do you know when was the first time the MITG
10 was made aware of any concerns regarding lack of response to
11 data requests?

12 A. Other than the correspondence -- first time I
13 was aware was in Dr. Johnson's Surrebuttal Testimony.

14 Q. The Surrebuttal Testimony?

15 A. The Surrebuttal Testimony is when Dr. Johnson
16 produced his attachments that discuss his allegations of a
17 lack of response.

18 MS. CHASE: Thank you. That's all I have.

19 JUDGE THOMPSON: Thank you, Ms. Chase.

20 You may step down, Mr. Larsen. You are
21 excused.

22 Mr. Schoonmaker. I'll remind you,
23 Mr. Schoonmaker, you're still under oath.

24 Mr. Schiffman, you may inquire.

25 ROBERT C. SCHOONMAKER, having been previously sworn,

1 testified as follows:

2 CROSS-EXAMINATION BY MR. SCHIFMAN:

3 Q. Hello, Mr. Schoonmaker. Ken Schifman on
4 behalf of Sprint.

5 I believe I heard you testify when you were
6 responding to some questions from Mr. Lane about a certain
7 statement and I want to clarify and make sure what you said.
8 I believe you said -- and please, please correct me if I'm
9 misstating what I thought I heard you say.

10 I believe you said that you thought that
11 Sprint's position in this case was that it wanted access
12 rates to be set at the results of a TELRIC cost study. Is
13 that what you said?

14 A. I said that was my impression of their
15 testimony, yes.

16 Q. Okay. Can you point to any place in Sprint's
17 testimony where Sprint asked the Commission to set access
18 rates according to the results of a TELRIC cost study?

19 A. I don't have Sprint's testimony up here with
20 me and --

21 Q. Okay.

22 A. -- it might take some time. Again, I'm not
23 sure that was said directly. As I said, that was my -- the
24 impression that I got from the testimony, but that may have
25 been mistaken.

1 Q. Okay. Well, I'm just going to hand you
2 Sprint's position statement.

3 A. Okay.

4 Q. I want to make sure we clear this up.

5 A. That would be fine.

6 Q. First question -- I'll come bring it to you.
7 The first question is, first of all, I want to
8 clear up that Sprint is not asking that the Commission adopt
9 a TELRIC methodology, but a TSLRIC methodology consistent
10 with the FCC's forward-looking economic cost standards. So
11 I'm --

12 A. Well, the FCC's forward-looking cost standards
13 are a TELRIC methodology, not a TSLRIC methodology, at least
14 the ones that I thought you were referring to in part 51, I
15 believe it is, of the FCC's rules.

16 Q. Okay. Were you here when Commissioner Lumpe
17 was asking some questions of Sprint Witness Mr. Farrar?

18 A. I believe so.

19 Q. Okay. And did you hear Mr. Farrar clarify
20 that the forward-looking economic cost study that Sprint
21 is -- or standard that Sprint is advocating here is a TSLRIC
22 cost study plus common costs? Did you hear that?

23 A. That's I think what the FCC's TELRIC procedure
24 is, yes.

25 Q. All right.

1 A. That's my understanding of what Sprint's
2 proposing.

3 Q. Okay. And TELRIC is a total element
4 long-range incremental cost and TSLRIC is total service
5 long-run incremental cost. Right?

6 A. Right.

7 Q. And TELRIC is for costing unbundled network
8 elements and TSLRIC is for costing out services. Right?

9 A. I guess it's my impression that total service
10 long-run incremental cost doesn't necessarily include the
11 common cost of the company.

12 Q. Right. And I think --

13 A. The total element long-run incremental cost
14 does.

15 Q. Okay. I'll just hand you Sprint's position
16 statement and we can clear this up hopefully.

17 A. Okay.

18 Q. First question discusses what cost study
19 methodology does the particular company suggest should be
20 used in this proceeding. I believe Sprint says that it
21 wants the Commission to look at its TSLRIC methodology
22 consistent with the FCC's forward-looking economic cost; is
23 that correct?

24 A. That's what it says.

25 Q. Okay.

1 A. And I guess if that's your position, I find
2 that contradictory because the FCC, I thought in its FCC
3 local competition order, drew a distinction between a TSLRIC
4 study and the TELRIC study, which they were adopting in
5 their rules.

6 Q. And I think you'll find a paragraph in the FCC
7 order does say that.

8 And as far as clearing up whether or not
9 Sprint suggests rates in this proceeding be set at either a
10 TSLRIC rate or a TELRIC rate, turn to No. 7 in that position
11 statement or the response to issue No. 7. Is there anything
12 in that response that suggests that Sprint wants this
13 Commission to set access rates at a TSLRIC level or at a
14 TELRIC level?

15 A. No. The answer to No. 7 gives no indication
16 of what Sprint thinks the rates should be set at.

17 Q. Okay. And you've been here while Sprint
18 witnesses have testified and have indicated that they
19 believe that there's a difference between costs, how they're
20 calculated and how costs should be recovered?

21 A. Now that you mention that, I believe there
22 were some comments made like that perhaps by Mr. Staihr.

23 Q. Okay. Have we cleared up your misperception
24 of Sprint's position then?

25 A. Yes. I guess, as I understand your statement,

1 you didn't take a position as to how rates should be set.

2 Q. Okay.

3 MR. SCHIFMAN: Thank you. No further
4 questions.

5 JUDGE THOMPSON: Thank you, Mr. Schifman.

6 Ms. DeCook?

7 CROSS-EXAMINATION BY MS. DECOOK:

8 Q. Good afternoon, Mr. Schoonmaker.

9 A. Good afternoon.

10 Q. I want to focus you to your Direct Testimony,
11 pages 16 and 17. Are you with me?

12 A. Yes.

13 Q. Okay. On those two pages, as I understand
14 your testimony, you're describing the methodology that you
15 used in allocating the 75 percent costs either for
16 subscriber plant or switching to the intrastate
17 jurisdiction. Is that a fair summary?

18 A. The 75 percent relates to the subscriber plant
19 only, but pages 16 and 17 also discuss the allocation of the
20 switching costs as well.

21 Q. Okay. And let's focus on subscriber plant
22 first.

23 A. Okay.

24 Q. As I understand it, you first applied the
25 75/25 split between the interstate and intrastate

1 jurisdiction and that 75 percent split is the cost
2 assignable to the intrastate jurisdiction?

3 A. That's correct.

4 Q. And then, as I understand it, except for four
5 companies, you applied subscriber line usage as the means to
6 allocate those 75 percent intrastate costs between local
7 service and access jurisdiction?

8 A. I guess I would say it in a slightly
9 differently way.

10 Q. All right. You say --

11 A. We may have the same understanding. And let
12 me use an example. If the state toll through was 34 percent
13 for a company, we would allocate 34 percent of the total
14 cost to the state toll jurisdiction and then there would be
15 41 percent that would be remaining to allocate to the local
16 jurisdiction.

17 Q. Okay. What I want to get at is your
18 terminology. When you say you used access jurisdiction in
19 your testimony and now you're saying toll --

20 A. Toll.

21 Q. -- when you use those terms, are you referring
22 to both access and toll?

23 A. Yes.

24 Q. And when you say local, what are you
25 allocating the 41 percent to? Just local service?

1 A. That would be to exchange services and -- and,
2 yes, in this case -- I mean, it would go to the exchange
3 category. We didn't do any allocation below that between
4 various exchange services.

5 Q. And what do you define as being included in
6 exchange services?

7 A. Well, in the separation study they're
8 essentially all the services that aren't access and toll
9 services.

10 Q. That are usage based?

11 A. It would be their -- I mean, it would be
12 essentially all the services that we typically talk about in
13 the local jurisdiction and could include beyond the basic
14 exchange services, vertical services and other kinds of
15 things.

16 Q. Have you allocated anything to ADSL services?

17 A. Well, ADSL service is considered an interstate
18 service facility, so to the extent that a company offers
19 ADSL service, that would be included in the 25 percent
20 allocation interstate.

21 Q. I'm sorry. It's your position that the
22 companies that you represent do not offer an intrastate ADSL
23 service?

24 A. My understanding is that the FCC required that
25 ADSL service be tariffed as an interstate service. There

1 was a case involving GTE very early in the offering of that
2 and they determined that because the ultimate access on ADSL
3 service typically was to the Internet where most of the
4 usage would be interstate in nature, that ADSL should be
5 treated as an interstate service.

6 Q. So your testimony is there are no ADSL
7 service -- intrastate ADSL service offerings by any of the
8 companies you represent?

9 A. That's correct. They're all interstate
10 services to the extent they're offered.

11 Q. What about wireless services? Have you
12 allocated any of the SLU usage of the loop to the wireless
13 services?

14 A. Let me get some clarification on what you mean
15 by wireless services. Our companies do not offer wireless
16 services so in that sense there's been --

17 Q. But there are companies that are serving in
18 your territory that provide wireless services. Right?

19 A. I mean, we have minutes that terminate from
20 wireless carriers, if that's what you're referring to.

21 Q. That's what I'm getting to. And have any of
22 the allocations that you've done allocated the local loop to
23 those services?

24 A. Well, in the time period this -- the studies
25 were done, which was the year 2000, we were getting no

1 compensation for those services from the wireless carriers.

2 Q. So I take it your answer is no, because of the
3 time period of your study?

4 A. Well, actually, the way the traffic studies
5 are done -- the way the traffic studies are done for the
6 cost study, part of that traffic study procedure involves
7 taking measurements at the switch and measurements of
8 traffic that comes over the toll trunks.

9 And since they typically terminate on the same
10 trunks that -- that at least intrastate and in some cases
11 all interstate traffic comes across, there probably is an
12 allocation to the toll jurisdiction for wireless terminating
13 services.

14 Q. So are you now saying it's in the traffic
15 studies, or do you know whether it's in there or not?

16 A. In the -- well, I don't know for all the
17 different companies. The way that our company does traffic
18 studies, some of those minutes at least would be included in
19 the state toll jurisdiction.

20 Q. Now, you also say that a minimum 15 percent
21 allocation was made to the access jurisdiction access toll
22 for four studies.

23 A. That's correct. I say that.

24 Q. And that's irrespective of the usage?

25 A. That's correct.

1 Q. And you would agree that that's a somewhat
2 subjective determination. Right?

3 A. Yes.

4 Q. Okay. Looking at the local switching costs
5 and how you allocated them, I believe you stated at the
6 outset that you did a different allocation for those costs.
7 Correct?

8 A. Yes. And the interstate allocation for those
9 costs is quite different too.

10 Q. And, again, as I understand it, the way you
11 allocated costs amongst local and access toll services is
12 based on minutes of use; is that right?

13 A. Yes.

14 Q. And so to the extent that there are flat-rated
15 services that use the loop, they wouldn't be reflected in
16 this calculation, would they be?

17 A. Well, for all our companies local service is a
18 flat-rated service, but there is in the cost study
19 procedures measurement of local traffic and local usage
20 and -- which is the local part of the SLU equation. So
21 there is, in fact, allocation related to local usage.

22 Q. Let's talk about vertical features. Those are
23 separate stand-alone rates for vertical features, are they
24 not?

25 A. Yes.

1 Q. And they're fixed or flat-rated rates --

2 A. Yes.

3 Q. -- that have no relationship to minutes,
4 they're not usage based?

5 A. The rates aren't usage based, but the use of
6 some of those service -- services, in fact, causes minutes
7 of use on local service. For example, if at my home I have
8 a voice message -- voice mail service. If somebody calls me
9 and leaves a three- or four-minute voice mail message, there
10 is usage of the local network and that would be allocated --
11 I mean, there would be a recognition of that usage.

12 Q. But it would be assigned to local service, not
13 to the vertical feature service. Correct?

14 A. Well, it -- I mean, in the cost study it gets
15 assigned to that general local category. And we didn't go
16 anywhere beyond that to try to allocate between basic local
17 services and other kinds of things. And it would be
18 difficult to do that because we don't -- the traffic
19 measurement wouldn't tell how many minutes were used talking
20 to people over the line versus how many were used to access
21 the voice mail service.

22 Q. And I assume if I were to ask you about ADSL
23 service in this context, you would give the same answer,
24 that it's interstate in nature and as far as you know, there
25 aren't any intrastate tariffs for ADSL?

1 A. That's correct. And -- and my understanding
2 of that service is that it's not measured because it
3 doesn't -- let me think about the technology a minute.
4 Certainly in the vast majority of cases the traffic that
5 comes over the ADSL service does not go through the switch
6 and is not measured, so there wouldn't be a usage
7 measurement of ADSL.

8 Q. Do you understand that the FCC has in its
9 Internet service provider orders -- I'm probably tapping
10 your knowledge here, but do you understand that what they've
11 addressed in those orders is the termination of traffic of
12 Internet service providers from a reciprocal compensation
13 standpoint?

14 A. I think they've definitely addressed that.
15 Whether that's all they've addressed, I mean, the
16 Internet -- the FCC's Internet orders have been a little
17 difficult to keep track of because there's been several of
18 them and they haven't done very well in the courts and --

19 Q. I'll give you that. So you're not certain?

20 A. I -- again, certainly part of that order
21 relates to traffic that originates with local exchange
22 carriers and terminates to Internet service providers.

23 Q. Okay. And in your calculation of the relative
24 usage or the DIM that you performed in connection with local
25 switching costs, are wireless minutes included?

1 A. Through the traffic studies, as I discussed
2 earlier in regards to the SLU allocator, it would be similar
3 for the DIM allocator and there would be some inclusion of
4 wireless minutes in those factors in the state toll
5 jurisdiction generally.

6 MS. DECOOK: All right. Thank you.

7 JUDGE THOMPSON: Thank you, Ms. DeCook.

8 Mr. Morris?

9 MR. MORRIS: No questions, your Honor.

10 JUDGE THOMPSON: Mr. Stock?

11 MR. STOCK: No questions, your Honor.

12 JUDGE THOMPSON: Mr. Fischer?

13 MR. FISCHER: No thank you, your Honor.

14 JUDGE THOMPSON: Commissioner Murray?

15 COMMISSIONER MURRAY: Thank you.

16 QUESTIONS BY COMMISSIONER MURRAY:

17 Q. Good afternoon, Mr. Schoonmaker.

18 A. Good afternoon.

19 Q. Which one of your exhibits shows what was
20 referred to earlier about certain companies ending up with
21 negative local rates?

22 A. It's in the Direct Testimony on Schedule
23 RCS-7, which is a proprietary schedule.

24 Q. I just want to look at it for a moment.

25 A. Sure.

1 Q. And I'm sure this is explained elsewhere, but
2 just so I understand your exhibit, the R1 and B1 represent
3 what?

4 A. Well, the current rates, R1 and B1, is
5 residence one party and business one part rate all the way
6 across. And the Columns B and C, the first two columns are
7 their current rates. Columns D and E are the shifts that
8 would occur if access was set at the cost levels that we had
9 determined in our cost studies and the difference on a per
10 line basis that would result from if access rates were set
11 at those rates rather than the current rates.

12 And then the last two columns, which are
13 titled the Implied Rate Level is essentially the sum of the
14 previous two columns, the current rate plus the shifts. And
15 in some case those shifts are -- are increases and in some
16 cases they're decreases.

17 Q. And how many approximately or exactly end
18 up -- would end up with negative local rates?

19 A. It looks like there's four in the R1 column
20 and one in the B1 column.

21 COMMISSIONER MURRAY: I think that's all I
22 have. Thank you.

23 JUDGE THOMPSON: Thank you, Commissioner
24 Murray.

25 Commissioner Gaw?

1 COMMISSIONER GAW: No, thank you.

2 QUESTIONS BY JUDGE THOMPSON:

3 Q. Mr. Schoonmaker, Commissioner Lumpe asked me
4 to inquire of you. I'm looking at your Schedule RCS-8,
5 which I believe has been marked Exhibit 37. This is a
6 proprietary schedule.

7 A. Yes.

8 Q. Her question is simply where in the schedule
9 is she to find the access rates that you recommend?

10 A. The rates themselves do not appear on -- on
11 Schedule 38, is it -- Schedule RCS-8. Schedule RCS-8
12 essentially includes the revenue requirements or the costs
13 for the various companies. And those are -- generally by
14 category are near the bottom. There's typically a line
15 called Total Revenue Requirement. I then took those revenue
16 requirements in Schedule RCS-8 and -- and -- let me double
17 check here.

18 Okay. The sum of those for each of the
19 appropriate categories were summed together and shown on
20 Schedule RCS-6 in Column C. The rates that I am
21 proposing -- or not the rates that I am proposing, but the
22 cost per unit on a per minute basis and by the common line,
23 local switching and information and local transport
24 categories are shown on Schedule RCS-4.

25 Q. Is there any place in your testimony and the

1 schedules that does show the rates that you propose?

2 A. Yes. Schedule RCS-- well, no. The rates that
3 I propose, I -- I think what I did in my testimony is said
4 these are the costs and -- and then I provided some of the
5 later schedules, 6 and 7 particularly, to show if these
6 particular costs were turned into rates and there were
7 certain revenue adjustments made, here's what the rates
8 would look like, here's the impact it would have on the
9 residents rates.

10 But in the closing part of my Direct Testimony
11 on page 20, I basically say that obviously some of these
12 results on Schedule 7 aren't reasonable and that the
13 Commission should approach looking at rates on a
14 case-by-case basis, review the costs, but also look at the
15 impacts of what that would have on rates and make decisions
16 accordingly and not necessarily base the rates specifically
17 on the cost.

18 Q. So nowhere in your testimony is there a set of
19 rates that you propose?

20 A. That's correct.

21 Q. Okay. Do you have an opinion as to whether or
22 not the interim cap set by this Commission in a prior case
23 from which this case has developed -- the interim cap on
24 CLEC access rates provides an adequate revenue flow to
25 CLECs?

1 A. Is -- in my Surrebuttal Testimony I made a
2 proposal for an additional exception which Mr. Lane
3 discussed with me in great detail this afternoon.

4 There may be cases either now or in the future
5 where a CLEC who chooses to operate in a very limited rural
6 area -- I do have concerns as to whether that cap might be
7 too limiting in some cases, probably in the bulk of the
8 areas.

9 And as other people have commented based on
10 the lack of participation here, the cap that's currently
11 there is reasonable at least given today's access rates. If
12 they were to change drastically, I suppose some of the CLECs
13 might be more concerned about it and might come and approach
14 you with a greater concern than they have in this case.

15 JUDGE THOMPSON: Thank you, Mr. Schoonmaker.
16 Recross based on questions from the Bench,
17 Ms. Chase?

18 MS. CHASE: None, your Honor.

19 JUDGE THOMPSON: Mr. Dority?

20 MR. DORITY: No, thank you.

21 JUDGE THOMPSON: Mr. Poston?

22 MR. POSTON: No questions.

23 JUDGE THOMPSON: Mr. Dandino?

24 MR. DANDINO: No questions.

25 JUDGE THOMPSON: Mr. Lane?

1 FURTHER CROSS-EXAMINATION BY MR. LANE:

2 Q. Just a follow-up to a couple of questions, if
3 I could.

4 Commissioner Murray asked you about your
5 Schedule RCS-7 in your direct that shows potential negative
6 local rates if the Commission adopted your costing
7 methodology and set the rate at the cost that you propose.
8 Right?

9 A. And did a revenue neutral --

10 Q. Adjustment?

11 A. -- adjustment on a per access line basis.

12 Q. Right. And would you agree with me that in
13 Column D, that that would show that 19 of the 37 companies
14 that you look at would have a reduction in their residential
15 local rates if your methodology were adopted, rates were set
16 at your cost and the revenue neutral rate adjustment were
17 made?

18 A. Yes.

19 Q. Okay. And on the flip side, you'd have
20 18 companies that would have increases in residential local
21 rates up to in excess of \$20, right, if your cost
22 methodology were adopted, rates set at cost and revenue
23 neutral rate adjustment on local. Right?

24 A. Yes.

25 Q. And both from a rate decrease perspective and

1 a rate increase perspective, both of those would argue that
2 the Commission, if it accepts your cost methodology, should
3 not make that the absolute determinant of what the rates
4 should be, but should, nevertheless, exercise significant
5 discretion to set the rate for access either above or below
6 the cost as it would be determined under your methodology.
7 Right?

8 A. I would agree with that.

9 MR. LANE: Okay. That's all I have. Thanks.

10 JUDGE THOMPSON: Thank you, Mr. Lane.

11 Mr. Schiffman?

12 MR. SCHIFMAN: No questions, Judge.

13 JUDGE THOMPSON: Ms. DeCook?

14 MS. DECOOK: No questions.

15 JUDGE THOMPSON: Mr. Morris?

16 MR. MORRIS: No questions, your Honor.

17 JUDGE THOMPSON: Mr. Stock?

18 MR. STOCK: None, sir.

19 JUDGE THOMPSON: Mr. Fischer?

20 MR. FISCHER: No questions.

21 JUDGE THOMPSON: Mr. England, redirect?

22 MR. ENGLAND: Thank you. Please.

23 REDIRECT EXAMINATION BY MR. ENGLAND:

24 Q. Mr. Schoonmaker, let's stay with RCS

25 Schedule 7 for a minute. And I think you've made it pretty

1 clear that this is the, if you will, local rate impact that
2 would result if the Commission were to adopt access rates
3 based on the Part 36, 69 studies that you've presented; is
4 that right?

5 A. And with a revenue neutral shift, yes.

6 Q. But you've also made it clear that's not your
7 rate proposal, if you will?

8 A. That's correct.

9 Q. This is illustrative of the shifts both up and
10 down that can occur by setting access rates on your proposed
11 cost measure?

12 A. That's correct.

13 Q. Now, for the proponents of LRIC in this
14 docket, are you aware if they've proposed or shown, excuse
15 me, what the impact on local rates would be if LRIC was
16 adopted as the cost basis for access as well as the basis
17 for setting rates?

18 A. With the possible exception of Mr. Kohly, I
19 don't think anybody has done that.

20 Q. Okay. Then let me confine it just to the
21 ILECs, if you will.

22 A. Okay.

23 Q. So the --

24 A. No. The -- not that I recall.

25 Q. So the purpose of your schedule is to put both

1 cost and rates -- or an attempt, as I understand it, to put
2 them in perspective. Correct?

3 A. That's correct.

4 Q. Okay. To your knowledge, that was not done by
5 the proponents of LRIC?

6 A. That's correct.

7 Q. So we have nothing in the record that tells us
8 what local rates might be access rates are priced at LRIC?

9 A. Just a minute.

10 No. And I mentioned Mr. Kohly's exhibit a
11 minute ago, but I guess it's Mr. Pauls' exhibit --
12 Mr. Pauls' exhibit that -- in thinking more about that, that
13 wasn't based on LRIC either.

14 Q. And the same with Staff. To the extent that
15 they have a TSLRIC cost element in their testimony, there's
16 no subsequent rate impact associated with a revenue neutral
17 shift to a LRIC-based access rate. Right?

18 A. That's correct. And in being fair to Staff, I
19 don't think they proposed a LRIC-based access rate.

20 Q. Well, did Staff show any local rate impact on
21 any of their cost analysis, TSLRIC --

22 A. Not that I recall.

23 Q. Okay. Looking again at Schedule RCS-7 and
24 your first -- well, I guess it's your second two columns,
25 B and C, current rates R1, B1.

1 A. Yes.

2 Q. Those rates are exclusive of the federal
3 subscriber line charge. Correct?

4 A. That's correct.

5 Q. So local ratepayers actually pay that rate in
6 addition to the \$6 SLC that I believe you testified to in
7 response to some earlier cross-examination?

8 A. That's correct.

9 Q. Ms. DeCook asked you about wireless -- or I
10 guess an allocation to wireless carriers who terminate
11 traffic to the Small Company exchanges. Do you recall that
12 line of questioning?

13 A. Yes.

14 Q. A number of the companies have implemented a
15 wireless termination tariff. Am I correct?

16 A. That's correct.

17 Q. Included in that rate, is there a recovery of
18 or an attempted recovery of loop costs?

19 A. In the tariff there is.

20 MR. ENGLAND: Thank you, sir. I have no other
21 questions.

22 JUDGE THOMPSON: Thank you, Mr. England.
23 You may step down, Mr. Schoonmaker. You are
24 excused.

25 We will be in recess until tomorrow morning at

1 8:30.

2 WHEREUPON, the hearing was adjourned until
3 September 13th, 2002 at 8:30 a.m.

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