

1                               BEFORE THE PUBLIC SERVICE COMMISSION

2                               STATE OF MISSOURI

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4                               TRANSCRIPT OF PROCEEDINGS

5                               HEARING

6                               December 21, 2006

7                               Jefferson City, Missouri

8                               Volume 2

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10           In the Matter of Southwestern Bell           )  
11           Telephone, L.P. d/b/a AT&T Missouri's       )  
12           Revision to Its General Exchange           )Case No.  
13           Tariff, PSC Mo. No. 35, Regarding         )IT-2007-0187  
14           Provision of 811 Service                    )

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17                               HAROLD STEARLEY, Presiding,  
18                               REGULATORY LAW JUDGE

19                               STEVE GAW

20                               ROBERT M. CLAYTON, III,

21                               LINWARD "LIN" APPLING,  
22                               COMMISSIONERS.

23                               \_\_\_\_\_

24                               REPORTED BY:

25                               TRACY L. THORPE, CSR, CCR

                              MIDWEST LITIGATION SERVICES

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

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1 P R O C E E D I N G S

2 JUDGE STEARLEY: Let's bring this hearing to  
3 order. Good morning. It's Thursday, December 21st, 2006 and  
4 we're here for an evidentiary hearing in Case No. IT-2007-0187  
5 in the matter of Southwestern Bell Telephone, LP doing  
6 business as AT&T Missouri's revision to its general exchange  
7 tariff, PSC Missouri No. 35, regarding provision of 811  
8 service.

9 My name is Harold Stearley. I will be the  
10 presiding officer in this case. And our court reporter this  
11 morning is Tracy Thorpe.

12 Let's begin by taking entries of appearance  
13 beginning with AT&T Missouri.

14 MR. GRYZMALA: Good morning, your Honor. My  
15 name is Bob Gryzmala appearing on behalf of Southwestern Bell  
16 Telephone, LP d/b/a AT&T Missouri. I office at One AT&T  
17 Center, Room 3516, St. Louis, Missouri 63101.

18 JUDGE STEARLEY: Thank you, Mr. Gryzmala.

19 Missouri One Call System?

20 MR. COMLEY: Good morning, Judge Stearley.  
21 Let the record reflect the entry of appearance of Mark W.  
22 Comley; Newman, Comley and Ruth, 601 Monroe Street, Suite 301,  
23 Jefferson City, Missouri 65101 on behalf of the Missouri One  
24 Call System, Inc.

25 JUDGE STEARLEY: All right. And thank you,

1 Mr. Comley.

2 And Staff?

3 MR. MEYER: Good morning. David Meyer on  
4 behalf of the Staff of the Missouri Public Service Commission.  
5 Our address is PO Box 360, Jefferson City, Missouri 65102.

6 JUDGE STEARLEY: Thank you, Mr. Meyer.

7 And as I'm sure the parties are aware, the  
8 Office of Public Counsel has withdrawn from this matter.

9 A few preliminary matters. I've got your list  
10 of witnesses. Were there going to be opening statements this  
11 morning?

12 MR. GRYZMALA: I believe so, your Honor, on  
13 behalf of AT&T.

14 MR. COMLEY: One Call as well.

15 JUDGE STEARLEY: We'll go in the order of AT&T  
16 followed by Missouri One Call Systems and then followed by  
17 Staff.

18 Are there any other preliminary matters we  
19 need to take up at this time?

20 MR. GRYZMALA: Your Honor, we might take up  
21 briefly the marking of exhibits or we can do that as they come  
22 in, however your Honor would prefer.

23 JUDGE STEARLEY: Are there a great number of  
24 exhibits?

25 MR. GRYZMALA: Your Honor, we would anticipate

1 12 or 13.

2 JUDGE STEARLEY: All right. We're going to  
3 take a short intermission here while I round up some  
4 Commissioners. And why don't, during that time period, I have  
5 you all mark your evidence.

6 MR. GRYZMALA: Your Honor, what we could do  
7 perhaps is the court reporter -- we can identify the exhibits  
8 on behalf of AT&T so she would have those available to her or  
9 we could do those off the record.

10 JUDGE STEARLEY: We can go ahead and -- you  
11 can go ahead and give those to her while we're on.

12 MR. GRYZMALA: Okay. Your Honor, Exhibit 1  
13 would be the copy of the -- and we'll lay a foundation for all  
14 this material, but Exhibit 1 is a copy of the AT&T Missouri  
15 file tariff and cover letter.

16 (AT&T Exhibit Nos. 1 and 2 were marked for  
17 identification.)

18 MR. GRYZMALA: Exhibit 2 would be pertinent  
19 portions of the Pipeline Safety Improvement Act of 2002 and  
20 Section 17.

21 (AT&T Exhibit No. 3 was marked for  
22 identification.)

23 MR. GRYZMALA: Exhibit 3 would be a copy of  
24 the FCC's Sixth Report and Order dated on or about March 14 of  
25 2005, your Honor.

1 (AT&T Exhibit No. 4 was marked for  
2 identification.)

3 MR. GRYZMALA: Exhibit 4, your Honor, would be  
4 report and recommendation of a subgroup of the North American  
5 Numbering Council dated October 29, 2003.

6 Number 5, your Honor, would be a copy of AT&T  
7 Missouri's 211 tariff.

8 (AT&T Exhibit No. 5 was marked for  
9 identification.)

10 MR. GRYZMALA: Number 6, your Honor, is a copy  
11 of AT&T Missouri's 311 tariff.

12 (AT&T Exhibit No. 6 was marked for  
13 identification.)

14 MR. GRYZMALA: Exhibit No. 7, your Honor,  
15 would be a copy of the Kansas 811 tariff. And No. 8 would be  
16 a copy of the Kansas Commission's approval order.

17 (AT&T Exhibit Nos. 7 and 8 were marked for  
18 identification.)

19 I have to skip three exhibits for just now.  
20 I'll come back to them, your Honor, but Exhibit No. 13 will be  
21 a copy of the agreed final order by the -- or entered before  
22 the Mississippi Commission. I'm sorry. That would be 12. I  
23 miscounted.

24 (AT&T Exhibit No. 12 was marked for  
25 identification.)

1                   MR. GRYZMALA: Your Honor, proposed Exhibits  
2 9, 10 and 11 are contracts -- as the evidence will show, are  
3 contracts entered into between affiliates of AT&T Missouri and  
4 other states and One Call providers in other states. The  
5 parties have requested that those contracts be confidential.  
6 I've marked them all as HC with your Honor's permission.  
7 They're available for distribution to counsel under the terms  
8 of the protective order and I have sufficient copies for all.

9                   JUDGE STEARLEY: All right. Very good. Which  
10 number is this, Mr. Gryzmala?

11                  MR. GRYZMALA: That would be No. 9, your  
12 Honor, I believe.

13                   (AT&T Exhibit No. 9-HC was marked for  
14 identification.)

15                  MR. GRYZMALA: Number 10, your Honor, is  
16 California.

17                   (AT&T Exhibit No. 10-HC was marked for  
18 identification.)

19                  MR. GRYZMALA: And I believe the last, your  
20 Honor, if I'm numbering properly, Exhibit 11 would be between  
21 AT&T Nevada and the One Call folks in Nevada.

22                   (AT&T Exhibit No. 11-HC was marked for  
23 identification.)

24                  MR. GRYZMALA: Your Honor, I do believe -- I  
25 would have one last with your Honor's permission, Exhibit 13.

1 It's a single page. And it will be -- we'll talk more about  
2 it later, but it would be from the Missouri One Call website.

3 JUDGE STEARLEY: All right.

4 (AT&T Exhibit No. 13 was marked for  
5 identification.)

6 JUDGE STEARLEY: Thank you, Mr. Gryzmala.

7 Mr. Comley, do you have any evidence to mark?

8 MR. COMLEY: Not right now. Thank you, Judge.

9 There may be exhibits or two during the course of  
10 Mr. Lansford's testimony, but right now I think we could  
11 dispense with that.

12 JUDGE STEARLEY: All right. Thank you.

13 Mr. Meyer?

14 MR. MEYER: The only that thing that I have  
15 that has not already been marked as part of Mr. Gryzmala's  
16 case is a background exhibit on Ms. Dietrich's background and  
17 experience to spare us having to go through all cases she's  
18 participated in, so I can go ahead and have that marked. Do  
19 you want that as Staff's Exhibit 14?

20 JUDGE STEARLEY: Let's see. I believe you are  
21 up to 13 since I had corrected the one -- yes, it would be  
22 Exhibit No. 13.

23 MR. MEYER: Fourteen?

24 MR. GRYZMALA: You're 14. Although I believe  
25 the last exhibit was the one-pager.

1 JUDGE STEARLEY: That's right. I'm sorry.

2 You're correct.

3 MR. MEYER: So Staff's Exhibit 14.

4 (Staff's Exhibit No. 14 was marked for  
5 identification.)

6 JUDGE STEARLEY: All right. We will take a  
7 short intermission here while I summon the Commissioners and  
8 we'll come back and begin with opening statements.

9 (A recess was taken.)

10 JUDGE STEARLEY: Okay. We're back on the  
11 record and we're going to continue with opening statements  
12 starting with AT&T Missouri. You may proceed, Mr. Gryzmala.

13 MR. GRYZMALA: Thank you, your Honor. Good  
14 morning.

15 Good morning, Commissioner Appling, good to  
16 see you again.

17 COMMISSIONER APPLING: Good to be seen.

18 MR. GRYZMALA: I'll try to keep my opening  
19 remarks brief. We would request that the Public Service  
20 Commission approve the 811 service tariff that SBC -- excuse  
21 me, AT&T Missouri filed on October 19, 2006.

22 As a general matter -- and we will hear much  
23 about what the service is intended to do today, but as a  
24 general matter, 811 service features an abbreviated dialing  
25 code, which would allow a contractor or anyone else who is

1 doing an excavation project or a digging project to make a  
2 single three-digit call to the state's One Call Notification  
3 System and that system, that organization then would act as a  
4 clearinghouse to give advanced notice to owners of underground  
5 facilities or pipelines, owners and operators of underground  
6 facilities and pipelines so that they can mark their  
7 facilities and make sure they're not damaged or torn up.

8                   And heretofore, as I understand it, the  
9 one-call notification folks have used an 800 number. As I  
10 indicated, 811 would be an abbreviated, three-digit dialing  
11 sequence.

12                   There is no issue -- there are certain items  
13 here about which there is no issue whatsoever. No one has  
14 questioned the terms and conditions of the tariff.  
15 Additionally, Staff has already found the proposed charges to  
16 be reasonable.

17                   There was a suggestion early on in the One  
18 Call -- One Call's motion to suspend that 811 was never  
19 intended to be a revenue source to the telephone companies.  
20 Let's put that aside and deal with it now. That issue is not  
21 an issue.

22                   The Staff has found the charges to be  
23 reasonable and the Missouri One Call Center has confirmed, as  
24 we stated in our position statement, that it will not raise an  
25 issue with respect to the reasonableness of our charges.

1     Consequently, there is only one issue left in this case, how  
2     are AT&T Missouri's costs associated with the implementation  
3     of 811 to be recovered.

4                     Now, we're here today because that question  
5     has not squarely been answered. The FCC's 811 order, which  
6     we'll talk about, issued in March 2005 left that unaddressed.  
7     The Commission was invited to make a cut, it declined to do so  
8     and stated that matters regarding 811 cost recovery should be  
9     resolved by the State and local authorities. That is the  
10    single issue that we are here today to decide, whether AT&T  
11    Missouri's tariff should be approved, and we submit that it  
12    should.

13                    Our evidence will show that this result would  
14    be consistent with a number of important factors. Firstly, it  
15    would be consistent with federal law. Mister -- I'm sorry,  
16    One Call's motion to suspend at page 6 suggests that 811 is  
17    not intended to have customers. Federal law and we disagree.

18                    The Pipeline Safety Improvement Act of 2002  
19    squarely states that the abbreviated dialing code to be  
20    established by the Safety Act of 2002 is to be used by the  
21    state One Call Notification Systems.

22                    The FCC, likewise, indicated quite clearly  
23    that the national -- or abbreviated dialing code would be used  
24    by state One Call Notification Systems. The North American  
25    Numbering Council's recommendation, which was before the FCC

1     when they made -- when they issued the 811 order, made it  
2     abundantly clear that 811 would be -- that One Call Centers  
3     would be customers of that service. We will put all of these  
4     documents into evidence so you will see that for your own  
5     eyes.

6                     811 cost recovery for our -- for my company  
7     would be consistent not only with federal law, it would be  
8     consistent with other services, other abbreviated dialing  
9     services.

10                    A couple of examples which you will hear our  
11     witness, Jason Olson, testify about, one of which is 211.  
12     211 service is a service having to do with information and  
13     referral services that may be purchased by information  
14     referral service providers. For example, a United Way who can  
15     act as a clearinghouse for health and human services  
16     information useful to individuals.

17                    We have an approved tariff. It will be put  
18     into evidence. And the tariff reflects squarely that the  
19     charges for the 211 service are imposed on the 211 provider.

20                    Another example Mr. Olson will testify to is  
21     311, which allows telephone customers to reach non-emergency  
22     local government services by dialing three digits, 311. Now,  
23     that service is a tariffed service. It may be purchased by a  
24     local municipality or other state and local government.

25                    The key point of that tariff is, as in the

1 case of 211, is that there are -- is that there are charges  
2 for the work done by AT&T Missouri and in this case, the  
3 applicable governmental unit is charged those services.

4 Our request would be consistent with other  
5 states' experience. We will put into evidence the approved  
6 tariff of AT&T Kansas, which is substantially the same as what  
7 we have put before the Commission. And we will put into  
8 evidence the Kansas order, which determined that that tariff  
9 should take effect and it is in effect today.

10 We will put into evidence contracts between  
11 AT&T Oklahoma and One Call -- and the One Call operator there  
12 in which the One Call operator agrees to pay the very same  
13 type of charges that we are talking about in AT&T Missouri's  
14 tariff.

15 We will, likewise, put into evidence the  
16 contract established between AT&T California and the One Call  
17 provider there -- I believe it's actually Northern California,  
18 excuse me. And AT&T Nevada and the One Call operator in  
19 Nevada. To be clear, the evidence will show only one side of  
20 that contract is actually signed at this time, that being the  
21 One Call side in California and Nevada. Those contracts await  
22 AT&T's signature. We expect those to be forthcoming  
23 momentarily.

24 There is an agreed-upon order by the  
25 Mississippi Commission in which the One Call operator in that

1 state approached the Commission, stepped up to the plate, and  
2 stated that it would pay the charges that would be imposed for  
3 811 service. And the Commission made that a finding in its  
4 order. We will put that into evidence. And that, likewise,  
5 indicates that the result here would be a fair and reasonable  
6 one.

7                   Finally, I am informed that the Illinois  
8 tariff -- stated another way, we filed an Illinois tariff  
9 substantially the same as we had filed in Missouri and I'm  
10 informed that yesterday the Illinois Commission approved that  
11 tariff. I have no support to back that up. Perhaps with the  
12 court's indulgence, depending on how that plays out, we might  
13 be permitted to make a late-filed exhibit so that that can be  
14 documented.

15                   But in any case, regardless of the Illinois  
16 development, at this point we have substantial evidence in the  
17 body that has been developed from other states that that is an  
18 appropriate course.

19                   There are two final considerations that we  
20 think are very, very important, aside from the law and aside  
21 from the other states what other states have done. Number  
22 one, the evidence will show that this is not unlike other  
23 expenses that the One Call folks in Missouri incur.

24                   Today we assume that they pay the provider for  
25 the 1-800-DIG-RITE number they have. We assume they pay for

1 Internet services, facsimile services and what have you. The  
2 charge that would be imposed for purposes of 811 is exactly of  
3 the same ilk as an expense which should be borne in the same  
4 manner as the remainder of their expenses.

5           It may well be per their -- what has come to  
6 be called the per locate fee where each member participant  
7 company pays when they are notified that they may have  
8 pipeline under the ground. So the first point there is that  
9 as an expense matter, it really is analogous, if not on all  
10 fours, with other expenses they're already paying today.

11           Perhaps fundamentally we need to look at this  
12 also from the benefits perspective. Our evidence will show  
13 that there are a lot of companies who are member participants  
14 in the One Call System organization. The telephone company is  
15 a member, my client, AT&T Missouri, is a member, but likewise,  
16 so is Ameren, Laclede, Conoco Phillips, sewage companies,  
17 water companies. All of them benefit by the services the  
18 valuable services provided by the One Call organization.

19           Approval of the tariff in Missouri would mean  
20 that if the service is purchased by Missouri One Call, those  
21 charges could be equitably dispersed in the same manner among  
22 all those companies. Denying the tariff would deny AT&T cost  
23 recovery for a service it is performing and is entitled to  
24 recover its costs for and it would impose an undue burden on  
25 AT&T because, as I said, a great number of companies are

1 member participants, not just telecommunications companies.

2 That's all I have. Thank you.

3 JUDGE STEARLEY: All right. Thank you,

4 Mr. Gryzmala.

5 Opening statements from Missouri One Call

6 Systems, Mr. Comley.

7 MR. COMLEY: Thank you, Judge Stearley. May

8 it please the Commission.

9 I'm Mark Comley and I represent the Missouri

10 One Call System in this matter. And I think I'll begin with a

11 little background about the Missouri One Call System itself, a

12 brief biography, for instance.

13 The Missouri One Call System was created as

14 part of the implementation of the Underground Facility Safety

15 and Damage Prevention Act, which was set out in Chapter 319 of

16 the Revised Statutes.

17 It is the only notification center created

18 under that section and has continuously served in that

19 capacity since 1985. It receives no funding from the Missouri

20 legislature. It does not receive any funding from any other

21 government grants. The sole funding that Missouri One Call

22 System receives is from charges to the underground facility

23 operators or owners that provide notification and -- to which

24 we provide notification services.

25 The Missouri One Call members include, as

1 Mr. Gryzmala has mentioned, not only telecommunication  
2 carriers, his own company included, but every regulated or  
3 unregulated public utility in the state which owns underground  
4 plant. The fees charged to those members are -- provide the  
5 financial support for the One Call Center.

6 Missouri One Call's operations are not small.  
7 During the course of calendar year 2006, Missouri One Call  
8 projects that it will receive in excess of 660,000 requests  
9 from excavators related to proposed underground excavation in  
10 the state of Missouri. The system will send out approximately  
11 3 million -- 3.5 million, excuse me notices to those  
12 underground facility operators in response to those requests.

13 Our witness, Mr. Lansford, will give you  
14 perhaps more detailed information and perhaps more exact  
15 numbers than I have in my statement this morning about those  
16 operations.

17 The toll free number that Missouri One Call  
18 System uses is called 1-800-DIG-RITE. It may not necessarily  
19 be a household phrase, but Missouri One Call wages an  
20 extensive public relations campaign. And as was mentioned in  
21 our motion to suspend, Missourians need not travel too far to  
22 find a billboard that advertises that number and why it is  
23 important to public safety to call that number. Missouri One  
24 Call places a great reliance on radio and television spots in  
25 advertising that number.

1                   The number is not the only means by which  
2   excavators contact Missouri One Call System. Because of  
3   advances in technology, there is an Internet technology that's  
4   available and the ITIC system, which I think Mr. Lansford will  
5   mention, is also a part of a way of connecting with Missouri  
6   One Call.

7                   The reason that Missouri One Call filed its  
8   motion to suspend in this case can, I think, justifiably be  
9   placed at the feet of Congress and the FCC. Section 17 of the  
10   Pipeline Safety Improvement Act, Congress directed the  
11   Secretary of Transportation, in conjunction with the FCC, to  
12   provide for the establishment of a three-digit nationwide  
13   toll-free number system for use by One Call Notification  
14   Systems.

15                  The FCC entered its order on the subject on  
16   March 14th, 2005. The Sixth Report and Order was in CC docket  
17   92-105. In that order they reserved 811 as the national  
18   abbreviated dialing code to be used for advanced notice of  
19   excavation activities to underground facility operators. The  
20   FCC gave carriers two years from the date the order was  
21   published in the Federal Register to implement.

22                  Missouri One Call was not a party to the FCC  
23   docket. Missouri One Call is not under the jurisdiction of  
24   the Federal Communications Commission. None of the One Call  
25   Notification Systems operating in the states are subject to

1 FCC jurisdiction.

2                   As best as can be discerned from the order --  
3 and I here I think I'll break ranks from Mr. Gryzmala's  
4 statement about the issues in this case. We still think the  
5 issue concerns what the FCC anticipated telecommunication  
6 providers to do.

7                   We think that the order did not anticipate  
8 that the telecommunications providers would request  
9 reimbursement from the One Call Centers. In fact, there's  
10 nothing in the order of either the Pipeline Safety Act or the  
11 order that refers -- that says a telecommunications provider  
12 had -- that would give an intention on the FCC rather to bill  
13 a One Call Center for that telecommunication provider's  
14 implementation or ongoing participation in its 811  
15 obligation.

16                  Again, the FCC directed telecommunications  
17 carriers to implement 811. It did not direct One Call Centers  
18 to take the service. It is essentially a legal argument and I  
19 think that's partly where we're divided today. But our  
20 position is that the FCC must have intended this obligation to  
21 fall on the party intended; namely, the telecommunications  
22 provider that was within its jurisdiction.

23                  This obligation to us is no different from  
24 others imposed each year by government on regulated utilities.  
25 The 811 initiative was never intended to be a revenue source

1 to the telecommunications providers. That is our position on  
2 the order.

3 It's true we have not raised an issue about  
4 the reasonableness of the rate. As far as the information may  
5 go about how this rate was composed, what kind of costs are  
6 involved, that's an issue collateral to the one that we are  
7 addressing today. Again, we think the FCC order and the  
8 Pipeline Safety Improvement Act never intended 811 to be a  
9 revenue source for the affected carriers.

10 We think it's very important for the  
11 Commission to note that MOCS, the Missouri One Call System,  
12 has not requested this service. Normally a customer would  
13 request a service and in terms of a request, impose costs on a  
14 carrier. Again, there has been no request for this service  
15 either to Congress in connection with the Pipeline Safety Act  
16 or to the FCC in connection with the order.

17 AT&T is subject to the order. Missouri One  
18 Call System is not. Yet in this proceeding, AT&T intends to  
19 ask Missouri One Call to pay for the costs of AT&T's  
20 implementation duty.

21 Missouri One Call has not interfered with  
22 AT&T's efforts to comply with the order. There is nothing in  
23 the order suggesting that Missouri One Call or other One Call  
24 Centers were mandated to accept 811 as a customer service.

25 And that is somewhat of a segue to the final

1 point of my opening remarks. What can be devised from the  
2 Pipeline Safety Act, Congressional intent and the FCC's order,  
3 is a desire for a universal provision of 811 service in the  
4 nation.

5                   This is a departure from the other services  
6 that Mr. Gryzmala mentioned in his opening; 211, 311, for  
7 example. Neither of those services comes with it the  
8 direction by Congressional delegation that it be on a  
9 nationwide scale. Neither or not at the level -- neither are  
10 at the level of public safety that can be discerned from both  
11 the FCC order and the Pipeline Safety Act.

12                   At this time, Missouri One Call System has no  
13 intention of paying AT&T for a safety device that the FCC has  
14 ordered AT&T to implement in its service territories.  
15 Missouri One Call has no intention to pay for a service that  
16 it has never requested.

17                   If the tariff is approved, excavators in the  
18 AT&T exchanges will not have access to 811. And that is what  
19 we contend is not the intention of Congress. They both  
20 intended that there would be no geographical gaps in the  
21 provision of 811.

22                   The benefits of 811 were mentioned by Mr.  
23 Gryzmala. He's also mentioned the number of other states in  
24 which One Call Centers like Missouri One Call have given up  
25 their objections to the way in which this has been billed. We

1 will question the relevance of those in this proceeding. We  
2 think that that evidence is not necessary to the issues that  
3 you're presented today. Whether other carriers have decided  
4 to forego their objections that are obviously in these two  
5 orders -- or the Congressional Act and the order is not a  
6 matter for the Commission to concern itself with.

7 We think the Commission should not approve the  
8 tariffs in their present form. We believe that AT&T should  
9 cover itself the implementation costs of 811 pursuant to the  
10 directives in the FCC order.

11 JUDGE STEARLEY: Mr. Comley, before you're  
12 seated, I believe the Commission has a couple questions for  
13 you.

14 COMMISSIONER APPLING: Good morning. It's  
15 nice to see you so early today --

16 MR. COMLEY: Well, good morning, Commissioner  
17 Appling.

18 COMMISSIONER APPLING: -- after last night.  
19 But anyway, I think you answered one of the questions I had.  
20 Missouri One Call System is saying that Southwestern Bell  
21 should put -- if the tariff is approved, should put this in  
22 place at no cost to the Missouri One Call System. Is this  
23 what you're telling us?

24 MR. COMLEY: That's correct.

25 COMMISSIONER APPLING: Do this boil down to a

1 legal question here?

2 MR. COMLEY: I think that's pretty much where  
3 we are right now. I think it is. At least I think for the  
4 most part -- it may be a little mixed, but I think for the  
5 most part it will be an issue of your discernment and of your  
6 interpretation of the orders that are affecting AT&T.

7 COMMISSIONER APPLING: Mr. Comley, do you have  
8 any information or background of which one of these systems  
9 would serve the public the best, whether the 811 or the  
10 1-800-DIG-RITE?

11 MR. COMLEY: Mr. Lansford, who is our witness  
12 on this, can probably enlighten you a little bit. My  
13 understanding in visits with him is that there are some  
14 concerns about implementation of 811.

15 There will be components of our society in  
16 Missouri that will benefit from it. At the same time, there  
17 are components of the excavating public that will continue to  
18 use the 1-800-DIG-RITE number that's been in place since 1985  
19 and they will do so because it is more convenient for them.

20 811 has certain implementation issues, whether  
21 or not would be confused with 911. How would Missouri One  
22 Call contend with that? So there are some things about it,  
23 but I think as a general proposition, abbreviated dialing  
24 codes have proven themselves to be a convenience to the  
25 public.

1 COMMISSIONER APPLING: Okay, sir. Thank you  
2 very much.

3 JUDGE STEARLEY: I have a couple other  
4 questions that have been passed onto me. Is it your client's  
5 position that AT&T Missouri's tariff would require your client  
6 to take and pay for the 811 service?

7 MR. COMLEY: No. Our position is not that it  
8 would require us to do so. No. We don't consider the tariff  
9 or any of the documents or any of the orders of the FCC or the  
10 Act that would bind us to -- or mandate One Call Centers to  
11 take the service.

12 JUDGE STEARLEY: All right. And one other.  
13 You had mentioned that the charges that Missouri AT&T had in  
14 their tariffs were a collateral issue. Is it your client's  
15 position that those charges are unreasonable?

16 MR. COMLEY: We're not taking that position in  
17 this case. We decided not to do that. Now, I'm not prepared  
18 to say that we don't think they're unreasonable, but we're not  
19 taking that position in the case.

20 JUDGE STEARLEY: All right. Thank you,  
21 Mr. Comley.

22 We'll now take opening statements from Staff.  
23 Mr. Meyer?

24 MR. MEYER: Good morning. In this case, the  
25 Commission must make a decision in the gray area between two

1 certainties. The first certainty is that it's clear the  
2 Commission has the legal authority to approve AT&T Missouri's  
3 proposed tariff sheets containing a charge for the service of  
4 providing 811 dial. The second certainty is that it's equally  
5 clear the Commission cannot mandate the Missouri One Call  
6 System to subscribe to the 811 service.

7                   In between those two points of agreement among  
8 all the parties, the Commission has two options. Should it  
9 prefer, the Commission could approve AT&T Missouri's tariff  
10 sheets or permit them to go into effect as a matter of law and  
11 permit AT&T Missouri to obtain a charge to cover costs of  
12 implementing 811.

13                   But as a result, there may be no 911 service  
14 in AT&T Missouri service territory because the Commission  
15 cannot mandate One Call to subscribe to that service. And as  
16 you just heard, Mr. Comley's indicated that Missouri One Call  
17 will decline to take that service.

18                   I agree with his view that there is no  
19 authority that the Commission has to mandate that they do  
20 that.

21                   Alternatively, the Commission can deny to  
22 approve AT&T Missouri's tariff sheets. Presumably, in order  
23 to comply with federal requirements, subsequent tariff sheets  
24 will be filed and -- as 811 must be implemented, I think we  
25 also all agree on that. If there was no charge apparently,

1 MOCS will subscribe to that service and AT&T will be unable to  
2 directly recover their costs.

3           In the face of these legal certainties and the  
4 parties proposed outcomes, the Commission must make a  
5 determination based on public policy. The question is whether  
6 the Commission should approve or reject the proposed tariffs  
7 and the effect of that decision will determine who will bear  
8 the cost of 811 implementation.

9           Just to make it clear, the FCC has delegated  
10 authority to the states pursuant to Section 251E to address  
11 the technical and operational issues associated with the  
12 implementation of the 811 code. That's a quote from the FCC's  
13 order.

14           The FCC also decreed that the 811 abbreviated  
15 dialing code shall be deployed ubiquitously by carriers  
16 throughout the United States for use by all telecommunications  
17 carriers, including wireline, wireless and payphone service  
18 providers that provide access to state One Call Centers.

19           All the parties agree that AT&T Missouri, as  
20 an incumbent local exchange carrier, has the obligation under  
21 the FCC's order to deploy the systems necessary for 811 to  
22 function.

23           The FCC has also recognized that there may  
24 be -- this is a quote, there may be some costs associated with  
25 implementation of the 811 code. But the FCC did not specify

1 parameters for cost recovery in its order. The Commission  
2 cannot mandate reimbursement for teleco providers other than  
3 through approving a rate established under a tariff for  
4 providing that service.

5 AT&T is a price cap company and such a carrier  
6 may propose a new telecommunications service, such as 811  
7 service, and establish the price for that service at the rate  
8 of its choice under Section 392.245, subsection 11.

9 In keeping with this principle, AT&T Missouri  
10 submitted tariff sheets that include charges to recover this  
11 implementation cost and Staff has no objection to the tariff  
12 sheets. Even should One Call not choose to take the service,  
13 AT&T must still comply with the FCC mandate to deploy,  
14 implement or otherwise prepare the network for 811 service by  
15 installing required infrastructure. And that is where this  
16 Commission has a role in enforcing the FCC's order.

17 Again, as Mr. Comley discussed and I'm sure  
18 we'll get into, although this is really more of a question of  
19 law, Missouri One Call is serving as the statutorily  
20 designated notification center. That's in Chapter 319 of the  
21 Missouri statutes. It is not a telecommunications company as  
22 that term is defined by our chapter, Section 386.020, nor is  
23 it a public utility under Section 386.020's definitions.

24 They don't provide telecommunications services  
25 or own telecommunications facilities, and thus, they're not

1 under the scope of the Commission's jurisdiction and the  
2 Commission cannot direct them to subscribe to 811 service.

3 So, again, the Commission is faced with a  
4 decision of whether to permit AT&T to charge for the service.  
5 Staff's looked at parallel situations from the past involving,  
6 as has been previously discussed in the other openings, 211,  
7 311, 511.

8 The Commission has permitted tariff sheets to  
9 go into effect that charge for those types of services that  
10 covered the implementation costs and placed those costs on an  
11 entity that was involved with receiving that type of service.  
12 Staff, therefore, believes that it's reasonable for the  
13 Commission to act again in the same way in this case and  
14 recommends the Commission approve the tariff sheets.

15 Ms. Dietrich is here to provide her additional  
16 insights on what the FCC may have intended. Also, and he is  
17 not on our witness list, but if the Commissioners are  
18 interested, Bob Leonberger, who's the manager of the  
19 Commission's Gas Safety Department, has been briefed on this  
20 case and is monitoring and can also be made available should  
21 the Commission have any questions on the public policy  
22 implications of 811 service from our Gas Safety Department's  
23 perspective. That's all I have. Thank you.

24 JUDGE STEARLEY: All right. Mr. Meyer, I  
25 believe Commissioner Clayton has some questions.

1                   COMMISSIONER CLAYTON: I have questions I  
2 think for each of the attorneys. And I don't have a problem  
3 if -- so David doesn't have to stand up at the podium, it may  
4 be easier just -- because I want to go around quickly before  
5 agenda starts.

6                   First of all, does Staff have a position on  
7 whether the tariff price for the 811 service is reasonable or  
8 unreasonable? Is there a position?

9                   MR. MEYER: Staff has reviewed the costs. I  
10 believe Staff had access to the cost studies, has reviewed  
11 them and did determine that they were reasonable.

12                  COMMISSIONER CLAYTON: That they were  
13 reasonable reflections of cost?

14                  MR. MEYER: That's correct.

15                  COMMISSIONER CLAYTON: Okay. Does Staff  
16 believe that we have the legal ability to force AT&T to  
17 provide a free service?

18                  MR. MEYER: Should you choose to do so, there  
19 would be legal authority to do that, yes.

20                  COMMISSIONER CLAYTON: So we do have the  
21 ability to mandate them to provide some service for free?

22                  MR. MEYER: There is statutory support. I  
23 suspect others may disagree, but I think there is some  
24 statutory support in Chapter 392 to support --

25                  COMMISSIONER CLAYTON: Just general provisions

1 or any specific provisions?

2 MR. MEYER: I think it's in Chapter 392,  
3 Section 392.200.7. It's a very old statute and there -- it's  
4 a little bit -- it's worded a --

5 COMMISSIONER CLAYTON: Why don't you look for  
6 that?

7 Mr. Gryzmala, do you all believe that this  
8 Commission has the ability to impose this responsibility on  
9 you?

10 MR. GRYZMALA: No, your Honor.

11 COMMISSIONER CLAYTON: We do not?

12 MR. GRYZMALA: The Commission does not have  
13 the legal authority to mandate that AT&T Missouri offer a  
14 service without compensation. We believe that even apart from  
15 public policy, justification for the proposed tariff, the law  
16 requires that we be permitted compensation.

17 On the price cap point, I think that is  
18 germane. Section 392.245.11 squarely states, This subsection  
19 shall not preclude an incumbent local exchange  
20 telecommunications company from proposing new  
21 telecommunications services and establishing prices for such  
22 new services.

23 There's no dispute this is a new service. It  
24 qualifies under that statute. And the general principle that  
25 a telecommunications company cannot be mandated to offer a

1 service without compensation.

2 COMMISSIONER CLAYTON: Okay. Thank you.

3 Mr. Meyer do you have a response to that?

4 MR. MEYER: Yes. Section 392.200.7 says  
5 quote, The Commission shall have power to provide the limits  
6 within which telecommunications messages shall be delivered  
7 without extra charge.

8 Messages is not defined as far as I can see in  
9 our section. It is, again -- I don't believe the section's  
10 changed since the very beginning of the statutes, but that  
11 does seem to indicate that the Commission can require a  
12 company to provide an additional service and perhaps not  
13 charge extra for that.

14 COMMISSIONER CLAYTON: Mr. Comley, do you have  
15 any comment on that issue?

16 MR. COMLEY: Your Honor, we look at this as  
17 some sort of a safety device that can be added and configured  
18 into the switches of AT&T. I think that the government  
19 regulators insist that AT&T conform with other safety  
20 requirements and do so without making it a direct charge on  
21 those who may be given the benefits of that safety device. So  
22 it rolls itself -- rolls those costs into its rates and I  
23 think that's what we're looking at here. At least we feel  
24 like there's a close parallel.

25 COMMISSIONER CLAYTON: So you believe that we

1 can mandate this service --

2 MR. COMLEY: Yes

3 COMMISSIONER CLAYTON: -- on AT&T?

4 Okay. Would you agree, Mr. Comley, that your  
5 client has waived any ability to object to the reasonableness  
6 of the prices charged by AT&T on this tariff?

7 MR. COMLEY: I'll go so far as to say we do  
8 not intend to make any objections in the Commission's order  
9 concerning the reasonableness of the rates that are proposed  
10 to be charged.

11 COMMISSIONER CLAYTON: So you agree with me  
12 that you've waived the opportunity to object?

13 MR. COMLEY: Do I have to do that, Judge?

14 COMMISSIONER CLAYTON: Well, if you say you  
15 haven't waived, then tell me how you haven't waived it.

16 MR. COMLEY: We're not going to object to it.  
17 To that extent, there would be a strong argument that we have  
18 waived the right to do so.

19 COMMISSIONER CLAYTON: Okay. Mr. Comley, I  
20 may brush up against the line of asking you factual questions  
21 and I apologize for that, but we have to go upstairs. For  
22 your client, 811 would -- an 811 service would have to be set  
23 up by basically every ILEC in the state; is that correct?

24 MR. COMLEY: That's correct.

25 COMMISSIONER CLAYTON: So in the ILEC

1 territories that are not AT&T's territories, you'd have to  
2 have a CenturyTel tariff, you'd have to have an Embarq tariff,  
3 you'd have to have a Mark Twain telephone tariff; is that  
4 correct?

5 MR. COMLEY: Exactly.

6 COMMISSIONER CLAYTON: Has your client done an  
7 assessment of the costs between having a single 1-800 service  
8 versus an 811 service? Is there a comparison in the cost  
9 between using the 1-800-DIG-RITE that Commissioner Appling  
10 says on our recorded messages over the wait system on the  
11 phone calls or are the prices the same depending on the  
12 service, do you know?

13 MR. COMLEY: 811 would be an addition to the  
14 existing toll-free number.

15 COMMISSIONER CLAYTON: So you'd have to have  
16 both of them?

17 MR. COMLEY: We'd have to have both because  
18 one is required by state law.

19 COMMISSIONER CLAYTON: Okay.

20 MR. COMLEY: And the other would be sort of  
21 ancillary. The 811 would be an ancillary service available to  
22 excavators.

23 COMMISSIONER CLAYTON: What would be the need  
24 of having two different numbers? I understand -- it sounds to  
25 me like someone needs to address the whole state law issue

1 about whether or not that 1-800 number is appropriate with the  
2 availability of 811.

3 MR. COMLEY: There may be things in place  
4 looking at that now. And at the -- at this stage, though, the  
5 law is as it is and that has not been given any greater  
6 exploration I think than just --

7 COMMISSIONER CLAYTON: Okay. That's helpful.  
8 Now, if you only had one or the other, a 1-800 number or an  
9 811, assuming state law is changed, is it possible to compare  
10 the costs of the two? And obviously your witness will address  
11 this. If you don't know, that's fine.

12 MR. COMLEY: I don't know.

13 COMMISSIONER CLAYTON: Mr. Gryzmala, do you  
14 want to comment on that briefly?

15 MR. GRYZMALA: Just very briefly. My  
16 understanding is that the FCC contemplates that the One Call  
17 provider -- that the One Call provider would provide the  
18 teleco with a toll-free number to which the 811 dialing code  
19 would point. So it is -- subject to my witness's greater  
20 details, it's sort of a two step.

21 There has to be routing functions performed  
22 when you dial a 311 for which costs are generated and then  
23 there's that separate, and I suppose currently standing, 800  
24 number, if that be the number of choice, or another 800 number  
25 so it would be two separate costs, two separate functions.

1                   COMMISSIONER CLAYTON: So it sounds to me 811  
2 is going to cost everybody more money in the infinite wisdom  
3 of our colleagues in Washington. Is that a fair statement,  
4 Mr. Gryzmala?

5                   MR. GRYZMALA: I think that there are costs  
6 that are additional to what currently exists in the 1-800  
7 environment across the country.

8                   MR. COMLEY: Following up on what Mr. Gryzmala  
9 said, it's true the Missouri One Call System has notified  
10 telephone carriers that there is another toll-free number to  
11 which 811 can be routed. And that toll-free number is one  
12 that Missouri One Call System has provided at no cost, at its  
13 own cost.

14                  COMMISSIONER CLAYTON: At its own cost, not at  
15 no cost?

16                  MR. COMLEY: Well, yes. At no cost to the  
17 excavating public. It would be Missouri One Call's cost.

18                  COMMISSIONER CLAYTON: So basically the 811  
19 call only routes it to a certain point, then it has to be  
20 routed to the 800 number and I guess that's how the charges  
21 are set up. Is that what you're talking about?

22                  MR. COMLEY: That's my understanding.

23                  MR. GYZMALA: I think it routes directly to  
24 the 800 number provided us by the One Call operator whether  
25 it's one number, a different number.

1                   COMMISSIONER CLAYTON: So you're going to have  
2 the same charges on the 1-800 system regardless of whether  
3 811 -- this is just purely a -- it's an easy way to dial it,  
4 but the charges for the 1-800 number are going to be the same  
5 and in addition to that, you have to pay for the convenience  
6 of having the 811 on top?

7                   MR. COMLEY: I think that's a fair analysis.

8                   COMMISSIONER CLAYTON: Okay. Legally  
9 speaking, let's assume -- let's say we approve the tariffs or  
10 let the tariffs go into effect. Say we can't order you all --  
11 I assume that we can't order you all to take any action,  
12 you're not a regulated utility.

13                   So basically everybody goes home, there's a  
14 tariff in place, you all don't access the tariff. The federal  
15 law says that 811 will be implemented as the DIG-RITE  
16 telephone number ubiquitously nationwide. Who's in trouble  
17 when you all do not use 811?

18                   MR. COMLEY: Our analysis is that we are  
19 complying with the state law. The additional of 811 is an  
20 option. It's not mandated by state law.

21                   COMMISSIONER CLAYTON: What about federal law?  
22 Are you saying you're not subject to federal law?

23                   MR. COMLEY: Not on this score. We are not  
24 governed by the Pipeline Safety Improvement Act.

25                   COMMISSIONER CLAYTON: Do you have pipelines

1     that are members of your organization?

2                     MR. COMLEY:   Yes.

3                     COMMISSIONER CLAYTON:   Would they be in  
4     violation by not -- because they are subject to federal law.  
5     Would they be in violation for not having a DIG-RITE  
6     connection to 811?

7                     MR. COMLEY:   This may be -- they may have a  
8     different idea, but the way we interpret the Act, it is  
9     directed toward the Secretary of Transportation and the FCC to  
10    create an abbreviated dialing code for this purpose and that's  
11    what the law required.  It did not require or mandate  
12    compliance.

13                    COMMISSIONER CLAYTON:   No confusion on who's  
14    paying your bill.  Right?  Right.  Got it.

15                    Mr. Gryzmala.

16                    MR. GRYZMALA:   Your Honor, a very good  
17    question, very tricky question.  I would point -- as pertinent  
18    matters of consideration, I would point to what we typically  
19    look for in an order and that is the ordering clauses.

20                    The ordering clauses in the FCC's March order  
21    state, 811 is assigned as the national abbreviated dialing  
22    code to be used exclusively for access to One Call Centers  
23    effective -- and it will be effective, your Honor, April --  
24    mid April of 2007.

25                    We will have met our obligation under the

1 ordering clauses. To the extent that the One Call folks do  
2 not decide that they want the service, they're free to decline  
3 to purchase the service.

4 COMMISSIONER CLAYTON: Okay. That's in the  
5 FCC order. So you have met your obligation by filing the  
6 tariff and making the service available. Does the federal law  
7 mandate anything, I mean aside from what the FCC's done?

8 MR. GRYZMALA: The one point that is germane  
9 to the One Call folks, is that the FCC, you know, indicates at  
10 paragraph 26, We conclude that One Call Centers shall provide  
11 to carriers its toll-free number which can be an 8YY number or  
12 any number that is not an intraLATA toll call from the area to  
13 be served for use in implementing 811.

14 So until we get that direction affirmatively  
15 from the One Call folks, which we regard as an order  
16 placement, we would -- we would be in compliance having  
17 reserved the 811 code.

18 As to whether they would be in trouble, to use  
19 your Honor's terms or words --

20 COMMISSIONER CLAYTON: It's a non-regulatory  
21 term, I know, but --

22 MR. GRYZMALA: -- you know, the Pipeline Act  
23 is pretty clear, but there's room for argument relative to the  
24 authority of a Secretary of Transportation, vis-a-vis the  
25 member participants of One Call operations throughout the

1 country.

2 COMMISSIONER CLAYTON: So you think they'd be  
3 in trouble for not accessing it, or do you have an opinion on  
4 that?

5 MR. GRYZMALA: I don't have an opinion.

6 COMMISSIONER CLAYTON: You don't have to read  
7 anything outside the Telecommunications Act so it's not  
8 your -- that's fine.

9 MR. GRYZMALA: Thank you.

10 COMMISSIONER CLAYTON: Staff?

11 MR. MEYER: I'd just draw the Commission's  
12 attention to Congress itself what actually said. They use the  
13 word "establish" as far as what we're dealing with here.

14 They directed the Secretary of Transportation  
15 and the Federal Communications Commission to jointly, with the  
16 facility operators, the equivalent of our Missouri One Call  
17 System, to provide for the establishment of a three-digit  
18 nationwide toll-free telephone number system to be used by  
19 state One Call Notification Systems.

20 So establishment is sort of our verb that  
21 we're looking to have be implemented here -- implemented. And  
22 so from our perspective, tiff certainly this Commission is not  
23 in violation of anything. It does not appear as though AT&T  
24 is in violation of anything that the Congress has set in  
25 motion here as long as the establishment has taken place.

1 COMMISSIONER CLAYTON: Well, as long as we're  
2 not in trouble, that's --

3 MR. MEYER: That's my primary interest here as  
4 well.

5 COMMISSIONER CLAYTON: Just Staff questions  
6 quickly. We have 211 tariffs that have taken effect in  
7 Missouri. In fact, I think Mr. Comley represented one of the  
8 clients. Does the person that uses 211, the service provider,  
9 pay a tariff rate to the ILEC?

10 MR. MEYER: I believe that's how the tariff is  
11 provided, yes.

12 COMMISSIONER CLAYTON: So yes?

13 MR. MEYER: Yes.

14 COMMISSIONER CLAYTON: Is there a 311 service?

15 MR. MEYER: Yes.

16 COMMISSIONER CLAYTON: What is 311?

17 MR. MEYER: I believe it's the same  
18 arrangement.

19 COMMISSIONER CLAYTON: What is 311?

20 MR. COMLEY: I think it's for municipal  
21 governments to use for emergency services.

22 MR. GRZYMALA: Non-emergency.

23 COMMISSIONER CLAYTON: Non-emergency.  
24 Government non-emergencies. Do those municipal governments  
25 pay a tariff rate?

1 MR. MEYER: Yes, they do.

2 COMMISSIONER CLAYTON: 411 is directory  
3 assistance, which would be directly to the retail customer,  
4 and I know we pay.

5 511 is MoDOT. Does MoDOT pay?

6 MR. GRYZMALA: My understanding is it's not  
7 been implemented.

8 COMMISSIONER CLAYTON: Not in Missouri. It  
9 has in other states.

10 MR. MEYER: Some tariffs may be in effect,  
11 yes.

12 COMMISSIONER CLAYTON: And then MoDOT does  
13 pay?

14 MR. MEYER: In those cases they do.

15 COMMISSIONER CLAYTON: Do you want to chime  
16 in, Mr. Comley?

17 MR. COMLEY: I don't disagree with anything  
18 that's been said. The differences we pointed out in the  
19 opening statement and I'm not saying anything more about it.

20 COMMISSIONER CLAYTON: I understand. I  
21 understand. Is there 611? What is 611 or is it open?

22 MR. GRYZMALA: I'm sorry, your Honor. My only  
23 familiarity with that is in the old days repair service,  
24 but --

25 COMMISSIONER CLAYTON: I thought 711 was

1 repair service.

2 MR. GRYZMALA: 711 is telecommunications  
3 relays.

4 COMMISSIONER CLAYTON: Oh, that's relay.

5 MR. MEYER: As we understand it, 611 is  
6 internal still.

7 MR. GRYZMALA: Yes, internal teleco use.

8 MR. MEYER: Correct.

9 COMMISSIONER CLAYTON: Do you all pay  
10 yourselves for that?

11 MR. GRYZMALA: I don't know the answer.

12 COMMISSIONER CLAYTON: Does relay pay for the  
13 service?

14 MR. GRYZMALA: There's cost recovery  
15 prescribed by federal rules. And I believe as you may recall,  
16 there is a specific state statutes on recovery of other  
17 expenses through an access line.

18 COMMISSIONER CLAYTON: Who do the federal  
19 rules -- since 711 is different, how do they set out how  
20 those -- do you know that?

21 MR. GRYZMALA: I have it with me, but it will  
22 take me just a moment.

23 COMMISSIONER CLAYTON: Maybe we can deal with  
24 that at briefing because I don't expect that right now.

25 Emergency services are tariffed and the PSAPs

1 pay for that service. Correct?

2 MR. MEYER: Yes.

3 COMMISSIONER CLAYTON: Okay. Thank you all  
4 very much. Got to go.

5 JUDGE STEARLEY: All right. Mr. Gryzmala, you  
6 may call your witness.

7 MR. GRYZMALA: Your Honor, I call Mr. Jason  
8 Olson.

9 JUDGE STEARLEY: Please state and spell your  
10 name for our court reporter.

11 THE WITNESS: My name is Jason Olson. It's  
12 spelled J-a-s-o-n O-l-s-o-n.

13 JUDGE STEARLEY: And, Mr. Olson, I will swear  
14 you in now.

15 (Witness sworn.)

16 JUDGE STEARLEY: Thank you.

17 Mr. Gryzmala, you may proceed.

18 MR. GRYZMALA: Thank you, your Honor.

19 JASON OLSON testified as follows:

20 DIRECT EXAMINATION BY MR. GRYZMALA:

21 Q. Mr. Olson, would you kindly identify your  
22 employer and title?

23 A. Yes. I work for Southwestern Bell Telephone,  
24 LP, d/b/a AT&T Missouri. My title is director of regulatory  
25 affairs.

1           Q.       And could you provide the Commission a summary  
2 of your present work responsibilities?

3           A.       Yes. I have responsibility for several of the  
4 tariffs associated with N11 services and the associated  
5 regulatory issues with those tariffs.

6           Q.       Would your -- strike that.

7                    Would you inform the Commission of the purpose  
8 of your testimony, sir?

9           A.       The purpose of my testimony is to explain why  
10 the Commission should approve AT&T's -- AT&T Missouri's tariff  
11 as filed on October 19th, 2006.

12           Q.       And, Mr. Olson, I put some of the exhibits  
13 that we've already previously marked near your reach. Let me  
14 ask you to put your hand on what has been previously marked as  
15 Exhibit 1.

16           A.       I have that in front of me.

17           Q.       And, Mr. Olson, kindly identify that exhibit  
18 for us, please.

19           A.       This is the filing letter and the tariff which  
20 I filed for the 811. It is AT&T Missouri's 811 tariff.

21           Q.       The proposed tariff --

22           A.       Yes.

23           Q.       -- is attached?

24           A.       Yes. The proposed tariff.

25           Q.       And what is the date of that letter, sir?

1           A.       October 19th, 2006.

2           Q.       And reading in the letter, it appears that the  
3 request was to have the tariff become effective on or about  
4 November 18; is that fair?

5           A.       Yes. That is correct.

6           Q.       Can you summarize, in a brief overview, the  
7 testimony you will provide in support of the Commission's  
8 approval of the tariff you just referred to?

9           A.       I think there's just four -- four main points  
10 that I'd like to draw attention to. One is the approval of  
11 this tariff I believe is in the -- consistent with the federal  
12 laws that govern the 811 service.

13                   Also, I think approval of this tariff is  
14 consistent with the approval -- with the Commission's approval  
15 of other N11 tariffs that AT&T has filed with this Commission  
16 and have been approved by the Commission.

17                   Third, the approval of this tariff would be  
18 consistent with what has occurred in other state jurisdictions  
19 and it's consistent with what other One Call organizations  
20 have agreed to do, which is, namely, reimburse AT&T for the  
21 use of 811 or the provisioning of 811.

22                   And fourth, and most importantly, is the  
23 benefits of this service are going to be gained by Missouri  
24 One Call and its member utilities. And it's AT&T's position  
25 that it's perfectly reasonable for the people who benefits

1 from 811, namely, the utility companies, to pay for this  
2 service through its organization, Missouri One Call.

3 Q. Thank you. Moving into the substance of your  
4 testimony, could you provide a high-level description of what  
5 service would be provided by the tariff?

6 A. 811 would allow excavators or contractors,  
7 people engaging in excavating activities, to reach Missouri  
8 One Call on an abbreviated dialing basis by dialing 811. The  
9 811 call would then route to an 800 number that would be  
10 pointed to the Missouri One Call Center.

11 The Missouri One Call Center would take this  
12 information from the excavator of their excavation activities  
13 and issue a notice to their end -- or their cus-- well, their  
14 customers or their member utilities of this notice of  
15 excavation activity. And these -- these members, these  
16 utilities would then be able to go out to the excavation site  
17 and mark where the utilities are located to prevent damage to  
18 those facilities during excavation.

19 Q. Thank you. There was some discussion this  
20 morning about 800 numbers and how that would work with 811.  
21 Not being too technical about it, but may I ask that is my  
22 understanding correct that the 811 number when dialed by a  
23 customer -- or rather dialed by an end-user, one who seeks  
24 access to the system, would that 811 number point to a  
25 telephone number already provided by the One Call operator?

1           A.       Yes. The short answer to that is yes. I  
2 mean, our switch would recognize -- when 811 number was  
3 dialed, it would know, okay, this number needs to be pointed  
4 at another number, the 800 number that belongs to an IXC.

5           Q.       But that all depends, does it not, on the fact  
6 that the One Call operator must provide us --

7           A.       Oh, absolutely. Absolutely.

8           Q.       Let me --

9           A.       Before we can --

10          Q.       Let me finish. That the efficacy of the  
11 system depends on the One Call operators providing us an 800  
12 or other toll-free number from the beginning; is that correct?

13          A.       Yes, that is correct.

14          Q.       And go on. I'm sorry. You were talking about  
15 translations.

16          A.       We would translate our switch to point to  
17 whatever number the One Call Center would provide to us.

18          Q.       Okay. You mentioned in your introductory  
19 remarks the proposition that approval of the tariff would be  
20 consistent with federal law. Let me hand you -- I'm sorry --  
21 what you have before you is Exhibit 2, what's been marked as  
22 Exhibit 2. Would you kindly identify that, sir?

23          A.       Yes. I don't have a copy of that in front of  
24 me. That one was not provided to me.

25          Q.       I'm sorry. I'll be right there.

1           A.       Thank you. This is the Pipeline Safety Act of  
2 2002.

3           Q.       How many pages is that exhibit comprised of?

4           A.       I have two sheets of paper here.

5           Q.       Okay. So is it fair to state that that  
6 exhibit is the title page from the Act and another select  
7 page?

8           A.       Yes, that is true.

9           Q.       Okay. There was some discussion in the motion  
10 papers filed by One Call regarding 811 not having a customer.  
11 Do you recall that?

12          A.       Yes, I do.

13          Q.       I would like to direct your attention to the  
14 Federal Safety Improvement Act of 2002, Section 17, which I  
15 understand is on the second page of your Exhibit 2?

16          A.       Yes, I see that here.

17          Q.       Would you kindly read that short passage, that  
18 short statement to us?

19          A.       Yes. Section 17 states, with the --

20                   MR. COMLEY: Your Honor, I'm going to object  
21 to the line of questioning about the Act itself. I think that  
22 we have no objection to having the Act in front of the  
23 Commission for review, but I think the interpretation of the  
24 Act and what its significance is as to what the relationship  
25 to the parties is, that's something for the Commission to

1 determine and not necessarily for this witness. It's beyond  
2 his qualifications and I object to the line of questioning.

3 JUDGE STEARLEY: Mr. Gryzmala.

4 MR. GRYZMALA: Your Honor, I'm not asking this  
5 witness to provide a legal opinion or legal conclusion, but to  
6 the extent that his testimony will indicate what is in the  
7 public interest, I merely want to ask him as to whether he  
8 regards this as consistent with the public policy position  
9 we're advancing.

10 MR. COMLEY: Your Honor, again, if he's asking  
11 the witness whether this Act is consistent with AT&T's public  
12 policy statement, that is asking him to render a legal  
13 conclusion about this document and I object to it.

14 MR. GRYZMALA: We disagree.

15 JUDGE STEARLEY: I'm going to overrule the  
16 objection at this time. The witness is free to read this  
17 portion of the Act into the record.

18 Mr. Comley, you can raise your objection again  
19 if Mr. Gryzmala follows with a question that you believe calls  
20 for a legal conclusion.

21 BY MR. GRYZMALA:

22 Q. Go ahead.

23 A. Section 17 states, Within one year after  
24 the date of the enactment of this Act, the Secretary of the  
25 Tran-- the Secretary of Transportation shall, in conjunction

1 with the Federal Communications Commission, facility  
2 operators, excavators and One Call Notification System  
3 operators, provide for the establishment of a three-digit  
4 nationwide toll-free telephone number system to be used by  
5 state One Call Notification Systems.

6 Q. What portion do you regard as consistent with  
7 AT&T's public policy position that a One Call operator  
8 purchasing the system would be the user of the -- purchasing  
9 the service would be the user of the service?

10 A. The last --

11 MR. COMLEY: Same objection, calling for a  
12 legal conclusion by this witness.

13 JUDGE STEARLEY: Mr. Gryzmala.

14 MR. GRYZMALA: Same response, your Honor.  
15 It's a simple question as to elicit whether or not he regards  
16 that as consistent with the public policy position. I'm not  
17 asking him to render a legal opinion.

18 JUDGE STEARLEY: I will overrule the  
19 objection. You may answer the question.

20 THE WITNESS: The last two sentence of this --  
21 this Act states that the telephone number system to be used by  
22 the state One Call System. When we filed our tariffs, we were  
23 anticipating since the, you know, state One Call Systems would  
24 be using 811 service, we filed a tariff for them to -- to have  
25 the ability to use or purchase the 811 service from AT&T

1 Missouri.

2 BY MR. GRYZMALA:

3 Q. Thank you. Do you have before you what's  
4 marked as Exhibit 3?

5 A. Yes, I do.

6 Q. And would you kindly identify that exhibit for  
7 us?

8 A. It is the FCC, the Federal Communications, 811  
9 order, CC docket No. 92-105. It's the Sixth Report and Order  
10 in the matter of the use of N11 codes and other abbreviated  
11 dialing arrangements.

12 Q. Thank you. And I have the same question. Is  
13 there a passage anywhere which you regard as being consistent  
14 with AT&T Missouri's public policy position and which led to  
15 AT&T Missouri's filing of its proposed tariff in October?

16 A. Yes, I do. The first paragraph simply states,  
17 This in order, we designate 811 as the national abbreviated  
18 dialing code to be used by state One Call Notification Systems  
19 for providing advanced notice of excavation activities to  
20 underground facility operators in compliance the Pipeline  
21 Safety Act of 2002.

22 Q. Now, before we leave that order, with -- the  
23 FCC's order, I would like to ask you to turn to a portion in  
24 the rear. And I don't think it's in the principle order so  
25 much as in appendix B, if I recall. But the operative

1 paragraph is paragraph 39, which has come to be referred to as  
2 the cost recovery or cost paragraph. It's near the end of the  
3 document perhaps about three or four -- three, four pages from  
4 the very back.

5 A. All right. I am there.

6 Q. Okay. What is your understanding of the cost  
7 recovery resolution reached by the FCC, if any?

8 A. I think the FCC simply stated that they are  
9 not going to rule on the issue and they left it to the  
10 states --

11 Q. Is there any --

12 A. -- state and local governments to decide  
13 appropriate cost recovery.

14 Q. I noticed that the first line of paragraph 39,  
15 the statement, To the effect that the FCC recognized that  
16 there may be some costs associated with implementation of the  
17 811 code. Do you see that?

18 A. Yes, I do.

19 Q. Are you aware of any input that was provided  
20 the FCC prior to its having adopted or released the --

21 A. Yes, I believe --

22 Q. -- 811 order?

23 A. Yes. The North American Numbering Council I  
24 believe generated a report for the Federal Communications  
25 Commission on the abbreviated dialing pattern.

1           Q.       Thank you. And that would lead us to  
2 Exhibit 4, if you'd kindly put your hand on that. And would  
3 you identify that exhibit for us, please?

4           A.       This is a report of the North American  
5 Numbering Council. It is generated by a subgroup within NANC.  
6 It's called the issue management group. The report, it's  
7 called the Report and Recommendation of the Abbreviated  
8 Dialing for One Call Notification.

9           Q.       Okay. Let's just go back a little bit because  
10 there are a lot of words in there. What is NANC?

11          A.       NANC is the North American Numbering Council.  
12 They are an authority on numbering issues in the United  
13 States.

14          Q.       And this report was not -- or rather, this  
15 report and recommendation was prepared by an issue management  
16 group within NANC, as it were?

17          A.       That is correct.

18          Q.       What is the title of that issue management  
19 group?

20          A.       Oh --

21          Q.       It's on the cover page, I think, if I'm seeing  
22 it correctly.

23          A.       The Abbreviated Dialing for One Call  
24 Notification Issue Management Group.

25          Q.       Okay. And what is the date of that document?

1           A.       It is October 29th, 2003.

2           Q.       I would like to direct your attention to the  
3 bottom of page 11. And, Mr. Olson, I believe there's a  
4 caption there, if you're with me, entitled Cost Recovery?

5           A.       I do see that.

6           Q.       There is a very short paragraph after that.  
7 Would you read the recommendation of the issue management  
8 group with regard to that captioned subject?

9                   MR. COMLEY: Your Honor, before we go much  
10 further in this document, the issue comes to mind about  
11 whether or not this is an authenticated document of this  
12 organization. The questions so far have not gotten that way  
13 and until this document is officially admitted into the record  
14 as an exhibit, I think it inappropriate for the witness to  
15 start quoting from it.

16                   JUDGE STEARLEY: Mr. Gryzmala, your response?

17                   MR. GRYZMALA: Yes, your Honor. If you'll  
18 bear with me just a moment. I'm sorry. I did not anticipate  
19 the objection. The FCC expressly indicated that it had  
20 received this document, if I recall, and which formed a part  
21 of its conclusions reached in the 811 order. I just need a  
22 moment to locate it, if I may.

23                   JUDGE STEARLEY: All right. You may.

24                   MR. GRYZMALA: Your Honor, in support of our  
25 discussion here and in response to Mr. Comley's objection, I

1 would refer the court to paragraph 8 of the order. And the  
2 FCC states, In January 2003, the NANC, that's the Northern  
3 American Numbering Council, formed the Abbreviated Dialing for  
4 One Call Notification Issue Management Group, DIGIMG, to  
5 identify and analyze the impact of employing the various  
6 abbreviated dialing arrangements to implement the Pipeline  
7 Safety Act.

8                   It references, your Honor, to a note 17, which  
9 if you look further, references, in turn, the chair of the  
10 North American Numbering Council's having adopted the exhibit  
11 we're talking about here. In specific, the chair of the North  
12 American Numbering Council's having adopted the report and  
13 recommendation of this DIGIMG subgroup. And you'll notice the  
14 date is October 29, 2003.

15                   I hope and trust this is sufficient foundation  
16 to authenticate the document. We do not have a NANC  
17 representative here today.

18                   MR. COMLEY: And, your Honor, I think in the  
19 absence of someone who can actually identify this document as  
20 the one the FCC reviewed during the course of its  
21 deliberations, than the authentication fails. It's hearsay  
22 and should not be admitted.

23                   MR. GRZYMALA: I will respond to that, your  
24 Honor. There is a general -- it is not hearsay. To the  
25 extent it is hearsay, it bears all of the earmarks of

1 integrity and accuracy that one would expect.

2 If there's any specific question as to its  
3 authenticity, we can field it. If the question is the weight  
4 to which it's entitled, we're prepared to deal with that in  
5 briefing. All we're simply asking for is that it be admitted  
6 at this time or when -- after we're done discussing it on the  
7 stand, be admitted at this time.

8 JUDGE STEARLEY: All right.

9 MR. GRYZMALA: We're not saying it is entitled  
10 to, you know, gospel. That is subject to argument.

11 JUDGE STEARLEY: All right. At this point I'm  
12 going to overrule the objection. The witness may read from  
13 the document and we can take up the hearsay objection again  
14 when you go to offer it into evidence.

15 BY MR. GRYZMALA:

16 Q. Let me go back to page 11, Mr. Olson. And  
17 please read the short paragraph which appears under the title  
18 Cost Recovery.

19 A. It is recommended that the cost of  
20 implementing this service not be an unfunded mandate. See the  
21 letter from the National Telecommunications Damage Prevention  
22 Council dated July 18, 2003 in attachment 1. The IMG notes  
23 the availability and means of cost recovery are not specified.  
24 Some LECs offer N11 service based on monthly recurring charges  
25 per existing advanced intelligent network, AIN, tariffs and

1 nonrecurring charges that vary with the number of switches  
2 involved.

3 In this proposed model, as with 211 and 511,  
4 the One Call Centers would be customers of the LECs providing  
5 the service and reimbursing them per service agreements after  
6 the cost of preparing the network is completed.

7 Q. In AT&T Missouri's view, is the language of  
8 the North American Numbering Council group regarding the One  
9 Call Centers being customers of the 811 service consistent  
10 with the testimony you have provided regarding the Pipeline  
11 Safety Act and the FCC's order?

12 MR. COMLEY: I'll object to the form of the  
13 question. I don't think the witness can talk about the  
14 consistency of his own testimony.

15 JUDGE STEARLEY: Mr. Gryzmala.

16 MR. GRYZMALA: I'll rephrase.

17 JUDGE STEARLEY: Thank you.

18 BY MR. GRYZMALA:

19 Q. Mr. Olson, would you regard this language as  
20 being further supportive of the proposed tariff filing of its  
21 reasonableness and why?

22 A. Yes. I think if you look at our tariff, it  
23 contemplates the customers being the One Call Center. Just as  
24 in this report, the customers are contemplated as being -- the  
25 customers of the LECs as being the One Call Centers.

1           Q.       Thank you. I want to at this time move away  
2 from this general line of questioning and talk about other N11  
3 services.

4                   And let me start out first with a simple  
5 question, Mr. Olson. If Missouri One Call decides to use the  
6 800 -- or the 811 service that is the subject of AT&T  
7 Missouri's proposed tariff, would One Call's payment of  
8 charges for that service be consistent with how other N11  
9 costs are recovered?

10          A.       Yes.

11          Q.       Let's start off with an example, if I may.  
12 I'll ask you to refer to Exhibit 5 near you.

13          A.       Yes, I have that in front of me.

14          Q.       And why don't you take an opportunity to  
15 review that and then let me know when you're finished.

16          A.       I'm ready.

17          Q.       Okay. Identify that document for us, please.

18          A.       This is AT&T Missouri's apr-- Commission  
19 approved 211 tariff.

20          Q.       And when did that become effective, if it's  
21 indicated on the document?

22          A.       Became effective February 28th, 2005.

23          Q.       Is there any indication in the tariff language  
24 as to whom AT&T Missouri regards as the customer?

25          A.       The 211 provider is the customer in this case.

1           Q.       Tell us about -- from a high level, the nature  
2   of 211 service, what it provides and who might be expected to  
3   be the provider of 211 service.

4           A.       I think of 211 as an information clearinghouse  
5   for health and human services.  Maybe the best way to  
6   illustrate what 211 is is to give you an example.

7                   A United Way agency may purchase 211 and be  
8   the 211 provider in a certain geographic area.  This would  
9   allow -- they would purchase 211 service which would allow  
10  people, the general public, to reach its -- its operators by  
11  dialing 211.  And these operators would then be able to  
12  provide information, health and human services referrals to  
13  people of the public requesting, you know, assistance of some  
14  form.

15          Q.       And the tariff regards the 211 provider in  
16  your testimony, for example of the United Way, as being the  
17  customer?

18          A.       Yes.  That is true.

19          Q.       Does the tariff, likewise, provide for -- or  
20  can you tell us where in the tariff there are charges provided  
21  for that would be imposed upon the service provider, the 211  
22  provider?

23          A.       Yes.  Section 29.4, Rates and Charges.

24          Q.       Now, I notice that there is a monthly rate --  
25  there is a monthly rate and a nonrecurring rate.  Before we go

1 any further, the 811 -- let's go back for just a moment to the  
2 811 tariff that you filed in October of 2006. And would you  
3 know from -- can you tell us what monthly charges, if any, are  
4 imposed by that tariff?

5 A. There are no monthly charges in the 811 tariff  
6 that is before this Commission.

7 Q. Okay. The only charges that would be imposed  
8 by the 811 tariff would be a one-time nonrecurring charge per  
9 switch if that -- if I recall properly?

10 A. Yes. That is correct.

11 Q. Thank you. So let me ask you now to refer to  
12 Exhibit 6. And take a moment to review that and after you  
13 have finished, let me know, please.

14 A. I've reviewed this.

15 Q. Would you identify that exhibit, please?

16 A. This is AT&T Missouri's Commission approved  
17 non-emergency 311 service tariff.

18 Q. And am I correct in that this bears an  
19 effective date of June 21, 2005?

20 A. Yes, that is correct.

21 Q. As you did in the case of 211, would you give  
22 us an overview -- high-level overview of what 311 service  
23 provides?

24 A. Yes. At a high level, 311 is a non-emergency  
25 abbreviated dialing pattern which allows citizens of the

1 community to the reach its local governments or local  
2 municipalities for non-emergency services. As an example, 311  
3 may be used for the public. If their garbage hasn't been  
4 picked up for a week, they would dial 311, be routed to the  
5 city and they'd be able to get to the trash collection  
6 department as an example of how 311 would be used by.

7 Q. Is there language in the tariff reflecting who  
8 is the customer of the service?

9 A. Yes, there is. In the second sentence of the  
10 second paragraph, Non-emergency 311 service is an optional  
11 service which may be purchased by local municipalities,  
12 councils of governments. Goes on to state many -- many forms  
13 of governments that can purchase this.

14 Q. And as in the case of 211, is it fair to state  
15 that there are charges in this tariff that are imposed upon  
16 the customer?

17 A. Yes, there are.

18 Q. And those appear at what page?

19 A. Original sheet 4, Section 56, Section 5.1.

20 Q. Apart from the tariffs that you've just  
21 discussed, Mr. Olson, I want to move now to developments in  
22 other states. And in that connection, I would like to ask you  
23 to refer to Exhibits 7 and 8, take a look at those, if you  
24 would. And when you're finished, please let me know.

25 A. Yes, I'm ready, Mr. Gryzmala.

1 Q. Would you identify each of those exhibits  
2 starting with Exhibit 7?

3 A. Exhibit 7 is a tariff of AT&T Kansas for 811  
4 service. It appears, by the tariff effective date, this went  
5 into effect on December 1st, 2006.

6 Q. And Exhibit 8?

7 A. Exhibit 8 is Commission order approving AT&T  
8 Missouri's K-- AT&T -- excuse me, AT&T Kansas's tariff.

9 Q. To be clear on this, would you kindly  
10 identify, if you could, the date on which the Kansas  
11 Commission issued this order?

12 A. Yes. I'm looking at the second page down at  
13 the bottom. It looks like the order is dated October 27th,  
14 2006.

15 Q. And the order states above, if I see, that the  
16 effective date is, as you alluded to with regard to Exhibit 7,  
17 effective on December 1; is that correct?

18 A. Yes, that's correct.

19 Q. I want to ask you a few questions about  
20 exhibits -- briefly Exhibits 9, 10 and 11.

21 JUDGE STEARLEY: Your Honor, at this point I  
22 need to inform that these are highly confidential so that  
23 under the terms of the protective order to some extent we may  
24 need to go in-camera if there's going to be discussion about  
25 the contents, but I don't propose to elicit testimony that

1 would be of a highly confidential nature, if that's okay.

2 JUDGE STEARLEY: All right. If you need for  
3 us to go in-camera, please state so.

4 MR. GRYZMALA: All right. Not at this time.

5 BY MR. GRYZMALA:

6 Q. Please confirm for us, if you would,  
7 Mr. Olson, with regard to Exhibits 9, 10 and 11 -- first, you  
8 have those before you?

9 A. Yes, I do.

10 Q. And secondly, all three of them have been  
11 designated as highly confidential; is that correct?

12 A. Yes.

13 Q. And consistent with what we just talked about  
14 here, I hope not to ask you anything that would be regarded as  
15 highly confidential. Alternatively, if you sense that you  
16 have to respond by disclosing highly confidential, let us know  
17 before that.

18 But with that in mind, please first start out  
19 by identifying Exhibit 9.

20 A. Exhibit 9 appears to be a contract between  
21 AT&T Oklahoma and the -- excuse me, and the Oklahoma One Call  
22 Notification System.

23 Q. All righty. That is the contract, is it not?

24 A. Yes, it is.

25 Q. Rather a copy thereof; is that correct?

1           A.       That is correct.

2           Q.       And when was that entered into?

3           A.       December 13th, 2006.

4           Q.       And there is -- I'm sorry. What is the  
5   pertinent thing, the pertinent item with regard to that  
6   contract insofar as this matter is concerned?

7           A.       It outlines a price and a total bill that will  
8   be paid for by the Oklahoma One Call System.

9           Q.       They --

10          A.       I'm sorry. Mr. Gryzmala. I didn't hear you.

11          Q.       No, I'm sorry.

12                   And without disclosing the amount, there is a  
13   quantity reflected as a nonrecurring charge and a total for  
14   each switch; is that correct?

15          A.       That is correct.

16          Q.       Without disclosing any particular data or  
17   numbers, are you aware of the non-recurring charge which AT&T  
18   Missouri proposes for its own tariff?

19          A.       Yes, I am.

20          Q.       And can you compare and provide us in laymen's  
21   terms an opinion as to how they stack up, how the two compare;  
22   that is, AT&T Oklahoma and AT&T Missouri?

23          A.       The AT&T Missouri proposed tariff price is  
24   very similar to the agreed-to price between AT&T Oklahoma and  
25   their One Call organization.

1           Q.       Now, the AT&T Missouri proposed non-recurring  
2 charge is not a highly confidential matter?

3           A.       That is --

4           Q.       What is the price that is proposed in  
5 Exhibit 1?

6           A.       \$235.12 cents per switch.

7           Q.       Okay. I should have done it better that way  
8 starting out.

9                     But going back with that number in mind, how  
10 does that compare to the contract price indicated in the  
11 Oklahoma contract?

12          A.       They're very close to each other.

13          Q.       Thank you. Would you kindly identify  
14 Exhibit 10?

15          A.       Exhibit 10 is a contract between AT&T  
16 California and the Northern California One Call organization.

17          Q.       And what is the pertinence of that particular  
18 contract to this case as well?

19          A.       Again, it outlines a unit price for the  
20 non-recurring charge that the One Call organization will pay  
21 on a per switched basis to have 811 established.

22          Q.       And I notice -- is it fair to state that that  
23 unit price per switch is above that which is proposed by AT&T  
24 Missouri's own proposed tariff?

25          A.       Yes, that is true.

1           Q.       And this document has been signed by the One  
2   Call organization for Northern California?

3           MR. COMLEY:   Your Honor, I'd -- again, we're  
4   going back to authentication issues.   The witness has not  
5   identified himself as being a person who's a representative of  
6   SB Global Systems and is not prepared and has not been  
7   qualified to say that he recognizes the signature of the  
8   person who signed.

9           We're at this stage of talking about exhibits  
10   that have not been admitted into evidence and I think lack the  
11   identification and authentication they deserve before they're  
12   admitted.   So I would object to a continued line of  
13   questioning about this.

14           And I think Mr. Olson is not qualified to  
15   state to the Commission whether a party has signed this.   He  
16   has not been -- the foundation for that has not been laid.

17           JUDGE STEARLEY:   Mr. Gryzmala, your response?

18           MR. GRYZMALA:   Your Honor, my response is that  
19   this hearsay objection is not well taken.   It bears the  
20   earmarks of accuracy and integrity.   And I note that  
21   Mr. Comley points to nothing which questions its reliability.

22           To the extent there is an offer from the other  
23   side that does show, we'd be happy to entertain that, but it  
24   has been -- it is a document which has been prepared in the  
25   course of our business and awaits my client's signature.

1 Other than that, it speaks for itself.

2 JUDGE STEARLEY: I will overrule the  
3 objection.

4 BY MR. GRYZMALA:

5 Q. One last point, Mr. Olson. I'm sorry. I'm  
6 not sure I got to the point that I want to make. Does this  
7 contract -- this contract, likewise, provides for compensation  
8 from the One Call provider which has signed the document?

9 A. Yes, it does.

10 Q. And I notice the AT&T Global Services square  
11 is not signed, the signatory block is not signed. What is  
12 your understanding of the status of this document?

13 A. It is my understanding that the representative  
14 from AT&T will be signing this document shortly.

15 Q. All right. Let me ask you to identify  
16 Exhibit 11.

17 A. Exhibit 11 is a contract between AT&T Nevada  
18 and the One Call organization in Nevada.

19 Q. And as in the case of Oklahoma and Northern  
20 California, please identify the pertinence of this document.

21 A. This is -- this contract includes a rate on a  
22 per switch basis that the One Call will pay to AT&T Nevada for  
23 provisioning of 811 service.

24 Q. And is it fair to state that while this  
25 document has likewise been signed by the One Call operation,

1 it awaits signature momentarily by AT&T Nevada?

2 A. Yes, that is correct.

3 Q. That is fair. I'll -- excuse me.

4 Finally, let me hand you what's been marked as  
5 Exhibit 12. You may have that already before you.

6 A. Yes, I do.

7 Q. Okay. Would you please identify that  
8 document?

9 A. This is an agreed-upon final order before the  
10 Mississippi Public Service Commission in the case involving  
11 petition for Missouri [sic] One Call System for allocation of  
12 811.

13 Q. When is that -- or excuse me, what is the date  
14 of that order?

15 A. Date of this order is October 20th, 2006.

16 Q. And for the record, identify the docket  
17 number.

18 A. The docket number is 2006-AD-383.

19 Q. Have you reviewed this agreed-upon order,  
20 Mr. Olson?

21 A. Yes. I briefly read it.

22 Q. What portion of the order references testimony  
23 which is pertinent in this case?

24 A. I believe on page 5.

25 Q. Go on.

1           A.       At the bottom of the top paragraph starting  
2 with, Mr. Johnson also testified.

3           Q.       Now, Mr. Johnson, for the reader, was the One  
4 Call representative in this matter?

5           A.       Yeah. I believe he's the representative of  
6 Mississippi One Call.

7           Q.       Okay. Go on.

8           A.       Mr. Johnson also testified -- and this is  
9 reading from the order. Mr. Johnson also testified at the  
10 hearing that the fair and reasonable costs incurred by the  
11 telecommunications carriers to implement 811 will be borne by  
12 Mississippi One Call through its member charges.

13                   Additionally, the order goes on to state that,  
14 The Commission finds that the Mississippi One Call shall  
15 reimburse the telecommunications carriers who submit bills for  
16 their reasonable costs in implementing the switching and other  
17 changes required to allow Mississippi One Call to utilize the  
18 811 dialing code as authorized in this order.

19           Q.       What is the -- apart from the testimony  
20 offered by the One Call operator and the Commission's finding,  
21 is there other -- anything otherwise remarkable about this  
22 order?

23           A.       I believe this is an agreed-upon order, which  
24 I take that to mean that all the parties have agreed to this  
25 order, that there's no disputed issues in this order.

1 Q. Including the One Call operator?

2 A. Yes.

3 Q. Thank you. I want to move to a different  
4 subject briefly. How familiar are you -- excuse me.

5 How familiar are you, Mr. Olson, with the  
6 Missouri One Call organization?

7 A. I've -- I've reviewed its website and I've  
8 also spoke to AT&T's representative on -- on the Missouri One  
9 Call board.

10 Q. What is your understanding as to the  
11 constituency of the member participants of Missouri One Call?

12 A. Missouri One Call, from reviewing its website,  
13 represents all owners of underground facilities in the state  
14 of Missouri -- right-of-way of companies from cable companies,  
15 water, sewer, gas, electric, telecommunications.

16 Q. Let me -- if I have placed before you  
17 properly, let me have you take a look at Exhibit 13. And when  
18 you've reviewed that, let me know, please.

19 A. I've reviewed it.

20 Q. Would you identify that document, please?

21 A. It appears to be listing of the board of  
22 directors for the Missouri One Call organization.

23 Q. This is a single-page document?

24 A. Yes.

25 Q. And where did it -- how did you obtain this

1 document?

2 A. This is from their website.

3 Q. Okay. And consistent with Mr. Comley's  
4 opening remarks, I see a reference, do I not, to the number of  
5 outgoing member notifications up at the top right?

6 A. Yes, I see that.

7 Q. What number is provided there?

8 A. It's about 3 and a half million.

9 Q. And the estimated call volume is listed as  
10 well, consistent with Mr. Comley's opening remarks?

11 A. Approximately 663,000.

12 Q. And going back to your point with regard to  
13 the members, take a look at the represented board of  
14 directors. And can you identify how those relate to the  
15 testimony you provided on the One Call member participants?

16 A. I just see the names of some very large, very  
17 common utilities in the state of Missouri. Utilities and  
18 non-utilities, Ameren, Laclede, Kansas City Water, Time  
19 Warner, Conoco Phillips, including AT&T Missouri is on this  
20 board as well.

21 Q. Now, if one were to -- strike that.

22 How is Missouri One Call notified by  
23 excavators?

24 A. There are several ways for Missouri One Call  
25 to be notified. Again, this is based upon my review of their

1 website. Is there's an 800 number, 800-DIG-RITE, which a  
2 contractor engaging an excavation activity can dial that 800  
3 number and reach the Missouri One Call center.

4 Q. Is there also an electronic or Internet means  
5 of doing the same?

6 A. Yes. There's an online form that can be  
7 submitted to Missouri One Call for notification of excavation  
8 activities. And also I think there's a fax form that you can  
9 fax to Missouri One Call that provides the information of the  
10 contractors' excavation activities.

11 Q. Okay. So while Missouri One Call could  
12 confirm, as your website review indicated, a telephone means,  
13 an Internet means and a fax means to reach Missouri One Call  
14 by those who want to access their service?

15 A. Yes.

16 Q. Are there additional reasons other than the  
17 federal law, the consistency with other 911 matters and how  
18 other states have addressed this issue, why you believe -- why  
19 AT&T Missouri believes it's particularly important to approve  
20 this tariff?

21 A. From a pol-- policy perspective, I see two  
22 important issues and one of them being the expenses associated  
23 with contacting Missouri One Call and the benefits of the One  
24 Call Notification System.

25 With respect to the expenses, as we just

1 discussed, there's three ways that I saw on their website to  
2 contact Missouri One Call: An 800 number, an online form and  
3 a facsimile form.

4                   And I have to presume that Missouri One Call  
5 pays for its 800 number on a per minute basis when somebody  
6 calls them. Also, I have to assume that Missouri One Call  
7 pays an Internet provider to provide it Internet access so it  
8 can receive online requests from -- from contractors. And  
9 similarly with the facsimile, I'm assuming they purchase  
10 similar telecommunications services to receive facsimiles.

11                   And our simple point is 811 is but another  
12 expense that Missouri One Call would incur to engage or  
13 interact with its contractors. It would be -- it's similar to  
14 8-- or the -- 811 is similar to the 800 service used, similar  
15 to the online request, similar to the facsimiles in that it's  
16 a way to contact Missouri One Call.

17                   And it is AT&T's position that it's completely  
18 reasonable to ask Missouri One Call to pay for these services  
19 just as they pay for the 800 service, just as they pay -- we  
20 assume they pay for the 800 service and online Internet  
21 services as well.

22                   AT&T is only one of the companies that benefit  
23 from the 811. You know, all members of Missouri One Call will  
24 benefit from this. And the most equitable way for this cost  
25 recovery would be to charge it to One Call who would then

1 recover it from its members.

2 Q. Mr. Olson, I just have a couple of follow-ups.  
3 Is it AT&T Missouri's position that Missouri One Call must  
4 purchase the service that AT&T Missouri proposes to offer?

5 A. No. I -- I do not believe that Missouri One  
6 Call is required to purchase this service.

7 Q. Well, or otherwise stated, does AT&T Missouri  
8 believe that it has the right to compel Missouri One Call to  
9 purchase its service?

10 A. No.

11 Q. And isn't it also fair to state that before we  
12 can provision the service, it must be requested by a One Call  
13 operator and that One Call operator has to give us an order  
14 directing the telephone number, the 800 or other toll-free  
15 number to which it would like those 811 calls routed? Are  
16 those two points correct as well?

17 A. Yes.

18 MR. GRYZMALA: That's all I have, your Honor.

19 JUDGE STEARLEY: All right. Thank you,  
20 Mr. Gryzmala.

21 We've been going for a considerable bit of  
22 time here and we will take a short 10-minute break at this  
23 time and we will resume with the cross-examination of  
24 Mr. Olson when we get back. Thank you.

25 (A recess was taken.)

1 JUDGE STEARLEY: All right. We are back on  
2 the record.

3 MR. GRYZMALA: Your Honor, at this time AT&T  
4 Missouri would move exhibits previously marked as 1 through 13  
5 into evidence.

6 JUDGE STEARLEY: All right. Are there any  
7 objections to the admission of Exhibits 1 through 13?

8 MR. COMLEY: Your Honor, we have no objection  
9 to Exhibit 1, Exhibit 2, Exhibit 3 except to the extent it may  
10 differ. We have another copy of the FCC's decision. I think  
11 this is the same, but I think it's a matter of public record  
12 and we can confirm that.

13 We have an objection to Exhibit No. 4 on  
14 grounds that it has not been properly authenticated. There  
15 has been no witness presented that can tie this document to  
16 the one that was filed in connection with the FCC case. We  
17 renew our objection that because of the lack of authentication  
18 it does have hearsay qualities to it.

19 MR. GRYZMALA: Your Honor, in response to the  
20 objection on 4, we made our point. You'll recall earlier the  
21 FCC specifically identified the order that we tendered and it  
22 bears all the earmarks of accuracy and reliability and would  
23 offer the document on that basis.

24 JUDGE STEARLEY: Okay. I will overrule that  
25 objection and we will receive that into evidence.

1 (AT&T Exhibit No. 4 was received into  
2 evidence.)

3 MR. COMLEY: I have no objection to Exhibit 5.  
4 Exhibit 6 is the Missouri tariff, isn't it? No, it's the  
5 Kansas tariff for 811?

6 MR. GRYZMALA: No, 6 is 311. AT&T Missouri  
7 311 is 6. The Kansas is 7 on the tariff and 8 on the order.

8 MR. COMLEY: I've got them mismarked. Okay.  
9 The objection would be to AT&T's 811 tariff in Kansas and the  
10 Kansas approval order on grounds of relevance.

11 JUDGE STEARLEY: Mr. Gryzmala.

12 MR. GRYZMALA: Our response would be as stated  
13 earlier. And I would also add that is directly relevant to  
14 the purposes and reason for which AT&T Missouri filed its  
15 tariff and it bears directly on its reasonableness.

16 JUDGE STEARLEY: I will overrule the objection  
17 and it will be received and admitted.

18 (AT&T Exhibit No. 8 was received into  
19 evidence.)

20 MR. COMLEY: We object to Exhibits 9, 10 and  
21 11, first, on grounds that they have been improperly  
22 authenticated, they have not been authenticated. The witness  
23 did not qualify himself as being familiar with any of the  
24 people who signed these documents and did not even connect  
25 himself with the companies involved; furthermore, on grounds

1 of relevance.

2 MR. GRYZMALA: Your Honor, we quite agree.  
3 Mr. Olson has not connected with, as it were, the One Call  
4 operators which are referenced in these three, but he squarely  
5 testified that he is an employee of AT&T Missouri and that  
6 these are affiliates of AT&T Missouri. And he also testified  
7 that they await signature by his -- by our member affiliate  
8 management. And they are directly relevant and pertinent for  
9 the same reason as is the Kansas developments and that's what  
10 we would offer.

11 JUDGE STEARLEY: Mr. Gryzmala, I'm going to  
12 ask you to step up to a microphone, which will help with our  
13 recording.

14 And on the basis of your arguments, I'm going  
15 to overrule the objection and we will receive the documents  
16 into evidence.

17 (AT&T Exhibit Nos. 9-HC, 10-HC and 11-HC were  
18 received into evidence.)

19 MR. COMLEY: Those are all the objections I  
20 have, Judge.

21 JUDGE STEARLEY: For the remaining documents,  
22 exhibits to which there were no objections, those will all be  
23 received and admitted into evidence.

24 (Exhibit Nos. 1, 2, 3, 5, 6, 7, 12 and 13 were  
25 received into evidence.)

1 MR. GRYZMALA: So my scorecard's proper, 1  
2 through 13 are admitted?

3 JUDGE STEARLEY: Yes, your scorecard is  
4 correct.

5 MR. GRYZMALA: Thank you, your Honor.

6 JUDGE STEARLEY: Thank you, Mr. Gryzmala.

7 And Mr. Olson has retaken the stand and I'd  
8 like to remind you that you're still under oath, sir. And  
9 we'll begin with cross-examination from Mr. Comley.

10 CROSS-EXAMINATION BY MR. COMLEY:

11 Q. Mr. Olson, I'm Mark Comley, and I represent  
12 the Missouri One Call System.

13 A. Good morning.

14 Q. Good morning. First, about your  
15 qualifications, could you remind me, what is the title of your  
16 position?

17 A. I'm director of regulatory affairs.

18 Q. And how long have you been in that position?

19 A. Approximately six years.

20 Q. In that position, have you been in the office  
21 in St. Louis all that time?

22 A. Yes, I have.

23 Q. Have you had any legal training?

24 A. Nothing formal.

25 Q. Do you have a degree in law school?

1 A. No, I do not.

2 Q. Have you ever served on a One Call operations  
3 committee?

4 A. No, I have not.

5 Q. Have you ever been a director on a One Call  
6 Notification Center System?

7 A. No.

8 Q. In connection with your testimony today, did  
9 you visit with any AT&T representative that was part of the  
10 operating committee for the Missouri One Call System?

11 A. I'm not sure.

12 Q. Did you visit with a board member?

13 A. I believe I -- I did visit with Mr. Kirk  
14 Proffer at one time.

15 Q. Mr. Kirk Proffer.

16 A. Yes.

17 Q. Did you visit with the other AT&T member of  
18 the board?

19 A. No, I did not.

20 Q. Before the filing of your tariff in this case,  
21 did you or someone on your staff within your employ attend a  
22 meeting involving 811 implementation that was sponsored by the  
23 Staff of the Missouri Public Service Commission?

24 A. I personally did not.

25 Q. Did you have a representative there?

1           A.       I believe Tim Judge from AT&T Missouri  
2     attended those meetings.

3           Q.       Did he make a report to you about the  
4     conclusions of that meeting?

5           A.       He may have. I don't recall off the top of my  
6     head.

7           Q.       At that time did AT&T make any choices or  
8     recommendations about how 811 would be implemented in the  
9     state?

10          A.       I am not sure.

11          Q.       When did AT&T first develop this tariff for  
12     proposal to the Missouri Commission?

13          A.       I don't have an exact date.

14          Q.       The first time -- did you have a direct  
15     contact with the language used in this tariff?

16          A.       I engaged in discussions with the project  
17     manager and with Mr. Gryzmala about the development of the  
18     language for this tariff.

19          Q.       Do you know how long that was in advance of  
20     the filing date of 2006?

21          A.       I can't give you an exact date. I can say  
22     probably a month or two before that.

23          Q.       Did you advise Missouri One Call System in  
24     advance of filing of the terms and conditions of the tariff?

25          A.       I personally did not. In conversations with

1 other people at the company who were -- who did discuss this  
2 with Missouri One Call, I believe it was informed to me that  
3 we made it clear that we intended to recover our costs for  
4 implementing 811.

5 Q. Did you have any other customer in mind for  
6 this service besides Missouri One Call System?

7 A. No.

8 Q. Did you attend any meeting with Mr. Lansford  
9 or any other Staff members of the Missouri One Call System in  
10 advance of the filing of this tariff?

11 A. No, I did not.

12 Q. To confirm something I think was in your  
13 testimony, AT&T has filed this tariff so that Missouri One  
14 Call System might have the ability to use 811; is that  
15 correct?

16 A. That is correct. If they choose to.

17 Q. If they choose to. Part of your testimony was  
18 comparisons with other abbreviated dialing code services.  
19 It's true that 211 is an information and referral type of  
20 abbreviated dialing code; isn't that correct?

21 A. That is correct.

22 Q. And isn't it also true that 211 is right now  
23 rather a regional type service; is that correct?

24 A. I don't have any reason to say no to that  
25 question. I don't know how it's been deployed --

1 Q. Do you know that --

2 A. -- in re--

3 Q. You're not aware that it is just restricted to  
4 an area perhaps I'll say the stat-- the metropolitan  
5 statistical area of Kansas City? Do you know that?

6 A. I know there's somebody in Kansas City who may  
7 have been wanting to purchase the service. I'm not sure of  
8 their geographic footprint.

9 Q. Do you know how the person that requested  
10 service or would have been able to request service qualified  
11 to request service for that 211 abbreviated dialing code?

12 A. I believe they need to make a request pursuant  
13 to Missouri rules to be certified as 211.

14 Q. And they would have to be approved as a  
15 certified 211 provider before acquiring that service; is that  
16 correct?

17 A. I believe that is how the rule in Missouri  
18 works.

19 Q. Under your tariff, the only candidate for  
20 requesting the service is one that's been certificated by the  
21 Commission; is that correct?

22 A. I don't have the tariff in front of me, but I  
23 believe it does specifically mention the Missouri rule that  
24 you need to become certified to --

25 Q. Do you need to see that exhibit?

1           A.       I'm okay. I think I recall from my  
2       recollection.

3           Q.       Okay. It's true that -- is it also true that  
4       211 was not the subject of a Transportation Act, for instance;  
5       is that correct?

6           A.       I do not believe it was -- had anything to do  
7       with the Transportation Act.

8           Q.       Did it have anything to do with any federal  
9       act requiring the 211 to be offered for service?

10          A.       I'm not -- I'm not -- I don't know for sure  
11       the reasoning for the FCC establishing 211 as informational  
12       referral service.

13          Q.       But it did have an FCC order reserving the 211  
14       service --

15          A.       Yes.

16          Q.       -- 211 area -- excuse me. I'll get it  
17       straight in a minute.

18                   The FCC did order that 211 would be reserved  
19       for information and referral type services?

20          A.       I believe that to be the case, yes.

21          Q.       Now, with 211, the person dialing 211 is able  
22       to use that abbreviated dialing code to reach agencies that  
23       have information and referral information?

24          A.       I think maybe a more precise way to say it  
25       would be to reach an agency who can provide information

1 referral services to them. So it would be an agency who then  
2 can refer them to other agencies.

3 Q. I'll take that. The convenience does come to  
4 the dialer in that situation, wouldn't it?

5 A. I think there probably -- they would  
6 convenience from it and, you know, the charitable organization  
7 would -- would have convenience from that as well.

8 Q. But dealing strictly with the person who's  
9 making the phone call, there is a tangible convenience in  
10 dialing just three digits rather than ten?

11 A. Yes.

12 Q. Now, for 211, AT&T charges a nonrecurring  
13 charge on a per host switch basis; is that correct?

14 A. That is correct.

15 Q. And it also charges a monthly recurring  
16 charge?

17 A. That is correct.

18 Q. And that charge is applied against the  
19 certified provider, the person requesting the service who has  
20 qualified under your tariff; is that correct?

21 A. That is correct.

22 Q. 311 service -- we talked about 311 service.  
23 And as I understand that, that would be a service requested by  
24 a municipality that would allow people to make non-emergency  
25 related calls to the city; is that correct?

1           A.       That is correct.

2           Q.       Now, is it true that 311 was not mandated by  
3 an act of Congress?

4           A.       I don't know for sure.

5           Q.       We do know that it was -- that the 311 dialing  
6 code was set aside by the FCC for this non-emergency  
7 governmental purpose; is that correct?

8           A.       Yes.

9           Q.       Tell me what 711 is.

10          A.       711 is a service whereby hearing impaired  
11 citizens can reach an operator to assist with making telephone  
12 calls.

13          Q.       Is this a service that's offered statewide  
14 through your switches?

15          A.       Yes, I believe it is.

16          Q.       So in every AT&T exchange, a person who needs  
17 711 service can dial 711; is that correct?

18          A.       That is correct.

19          Q.       In the list of exhibits that Mr. Gryzmala has  
20 provided us, there is no tariff for 711 in the exhibit list;  
21 is that correct?

22          A.       That is correct. There's no tariff for 711.

23          Q.       There is no tariff for 711. Since there is no  
24 tariff for 711, I take it then that AT&T does not charge for  
25 711?

1           A.       There is no charge for 711. There is a --  
2     there -- the FCC did prescribe cost recovery mechanisms to do  
3     this, but having a tariff charge, no, there is none.

4           Q.       So there is no charge for the person who dials  
5     711; is that correct?

6           A.       That's correct.

7           Q.       And in this situation, there was no one  
8     requesting service, is that correct, for 711?

9           A.       I believe we implemented pursuant to an FCC  
10    order.

11          Q.       And with the 711 idea, there is no customer  
12    requesting service; is that correct?

13          A.       Well, there is a call center that receives 711  
14    calls and they provide us with an 800 number to route the  
15    calls to.

16          Q.       And the call center is owned by AT&T; is that  
17    correct?

18          A.       No. I believe the State contracts with --  
19    with an agency. I don't know all the specifics on that.

20          Q.       But the call center does not get charged for  
21    the service?

22          A.       Not for the routing of 711 calls.

23          Q.       During the course of your direct examination  
24    by Mr. Gryzmala, you discussed certain orders of other sister  
25    jurisdictions about 811. Are you aware of an order in

1 Michigan?

2 A. No, I don't think I have reviewed any orders  
3 from Michigan.

4 Q. Is Michigan also an area where AT&T, an  
5 affiliate of AT&T provides service?

6 A. Yes, it is.

7 Q. During your direct examination by  
8 Mr. Gryzmala, you went through the benefits that you perceive  
9 Missouri One Call would obtain by having 811. And, again, let  
10 me ask you this question. Have you independently conducted  
11 any examination or evaluation in conjunction with people who  
12 are working with Missouri One Call either as a director or on  
13 an operating committee evaluating the benefit in terms of cost  
14 or even in tangible benefit that 811 may supply this service?

15 A. I'm not sure I followed your question.

16 Q. Let me see if I can do it a little better.  
17 Have you conducted any kind of evaluation in conjunction with  
18 the members of AT&T that are on either an operating committee  
19 with the Missouri One Call or who are in a position of  
20 management with Missouri One Call as to the benefits that 811  
21 would provide to the existing Missouri One Call system?

22 A. Not with -- not specifically to 811, but I  
23 have discussed the benefits of the Missouri One Call System.

24 Q. In terms of cost?

25 A. I'm not sure if you mean cost to me as a

1 company or cost to --

2 Q. Missouri One Call.

3 A. Missouri One Call. No, I have not.

4 Q. Have you evaluated whether 811 may in some  
5 respects confuse the caller with 911 calls?

6 A. I have not.

7 Q. Or whether the availability of 811 may  
8 increase costs of advertising for Missouri One Call in terms  
9 of public education?

10 A. Again, I've not examined that.

11 Q. Mr. Gryzmala also asked you a question about  
12 whether there would be sufficient benefit to membership so  
13 that the membership of Missouri One Call would be obliged to  
14 pay for the service. Let me ask you this question. Have you  
15 or any members of your staff or do you know of any discussions  
16 on this about whether AT&T would object -- let me back up a  
17 minute. I need to preface that question.

18 Let's presume that the Commission does approve  
19 the tariff and let's assume further that Missouri One Call  
20 decides to subscribe to the service as laid out in the tariff.  
21 Do you know whether AT&T, whether in your department or  
22 others, has discussed whether it would have an objection to  
23 Missouri One Call adding a surcharge to the telecommunications  
24 carriers who are members of its organization for payment of  
25 this amount for the service?

1           A.       I have not had that discussion with anybody at  
2   AT&T.

3           Q.       So you don't know whether they would object or  
4   not?

5           A.       I do not believe that they would object, but  
6   we have not discussed it specifically.

7           Q.       With respect to the FCC order, do you know  
8   whether AT&T will configure its switches to implement 811 even  
9   if Missouri One Call System does not order the service?

10          A.       We will configure our switches to do 811, but  
11   configuring our switches to do 811 doesn't -- it's not the  
12   exact same as saying -- we've -- we've implemented 811. Let  
13   me make that statement.

14          Q.       It has been implemented in your switches  
15   already?

16          A.       Yes. There are certain things that still need  
17   to be done, but the preliminary process has started. As with  
18   all services, you make investment before you actually start  
19   offing the service.

20          Q.       And that investment is already underway or has  
21   that been made completely?

22          A.       I don't know for sure. I believe to complete  
23   it we would have to have an order from the One Call with an  
24   800 number to fully route the call, test the call. So I do  
25   believe there's still work to do, but preliminary work has

1     been done.

2             Q.       Mr. Gryzmala also talked to you about a phone  
3     number that needs to be part of the 811 implementation. Have  
4     you received notice from Missouri One Call of the availability  
5     of a toll-free number for purposes of routing 811 calls?

6             A.       I'm not aware of any, but if they were to have  
7     done that, they would not have contacted me.

8             Q.       They would not have contacted you?

9             A.       I don't believe so.

10            Q.       Is there someone else in your office that  
11    would have done that?

12            A.       In -- in my office as in the -- I would say  
13    the answer's no. I'm assuming they would contact a sales  
14    group.

15                    MR. COMLEY: I have no other questions.

16                    JUDGE STEARLEY: Thank you, Mr. Comley.

17                    Cross-examination by Staff, Mr. Meyer?

18    CROSS-EXAMINATION BY MR. MEYER:

19            Q.       Good morning, Mr. Olson. I'll be very brief.

20            A.       Good morning.

21            Q.       Drawing your attention to what's been admitted  
22    as Exhibit 3, the FCC Commission -- Federal Communication  
23    Commission's order, I just kind of wanted to walk you through  
24    paragraph 26 of that order.

25            A.       Okay. I don't have that order in front of me.

1           Q.       Do you have a copy of that?  Could your  
2   counsel provide you a copy?

3           A.       And you said paragraph 27?

4           Q.       Twenty-six.

5           A.       Twenty-six.  All right.  I'm there.

6           Q.       Okay.  Just to kind of walk through the  
7   language of this, would you agree with me the first sentence  
8   says, To ensure that calls to One Call Centers are toll-free,  
9   we conclude that One Call Centers shall provide the carrier  
10   its toll-free number, which can be an 8YY number, or any  
11   number that is not an intraLATA toll call, from the area to be  
12   served for use in implementing 811?

13          A.       That is what the paragraph reads.

14          Q.       And you would agree that the FCC has no  
15   authority to direct the One Call Centers to actually provide  
16   those numbers to you as AT&T?

17          A.       In discussions with my legal counsel, that is  
18   how I understand that the -- the FCC would not have authority  
19   over Missouri One Call.

20          Q.       Okay.  And in practice, has AT&T received  
21   numbers along those lines, to your knowledge?

22          A.       To my knowledge, we have not been provided an  
23   800 number.

24          Q.       Okay.  Then let me ask you this.  How do you  
25   conceive that AT&T would comply with this sentence?

1           A.       We would wait for a One Call Center to provide  
2   us with an 800 number to route a call when they ordered  
3   service.

4           Q.       Okay. The next sentence says, Thus, when a  
5   carrier dials 811, the carriers will translate 811 into the  
6   appropriate number to reach the One Call Center.

7                    Would you agree with me that's what that says?

8           A.       Yes, I do.

9           Q.       And, again, how would you conceive that AT&T  
10   will implement this sentence of the FCC's order?

11          A.       Again, I think it's dependent upon the first  
12   sentence of us getting an 800 number. And we can't do  
13   sentence two until we actually get an 800 number from a One  
14   Call organization to do what sentence two says.

15          Q.       If AT&T had an 800 number that was provided  
16   separate and independent from an order, so to speak, from  
17   something like the One Call Center, do you believe that  
18   that -- and I realize this might be a legal conclusion, but  
19   you're also, as AT&T, responsible for implementing the FCC's  
20   order. If you were to have that 800 number, would AT&T then  
21   put that into place such that the translations would take  
22   place?

23          A.       I don't know the answer to that question.

24          Q.       At this point -- and I guess this is somewhat  
25   of a hypothetical. If One Call does not subscribe to the

1 service even though the tariffs are approved and a customer in  
2 an AT&T Missouri area -- a customer of AT&T Missouri dials  
3 811, what would happen?

4 A. I don't know for sure. I'm going to assume  
5 that it would -- an error message would be played like any  
6 other non-working telephone number would be played. And I  
7 don't know the exact message, but I would have to assume that  
8 it would be a, This is a non-working number message.

9 Q. I guess this is another hypothetical. If the  
10 811 number is directed to an 800 number but Missouri One Call  
11 System does not subscribe, what would happen if somebody  
12 places an 811 call who's an AT&T customer?

13 A. I don't think that situation could ever happen  
14 because AT&T would never point 811 to an 800 number if one  
15 weren't provided by Missouri One Call. So, in other words, I  
16 would never have an 800 number to point it to without Missouri  
17 One Call placing an order for service and providing us an  
18 800 number.

19 Q. In a hypothetical basis, if you did have an  
20 800 number, even though that might not happen, would AT&T be  
21 in a position to translate that 811 dialed number to the  
22 800 number?

23 A. I don't know the answer to that question.

24 MR. MEYER: Okay. Thank you. That's all I  
25 have.

1 JUDGE STEARLEY: All right. Thank you,  
2 Mr. Meyer.

3 Since none of the Commissioners are present at  
4 this moment, we will go with redirect, Mr. Gryzmala.

5 MR. GRYZMALA: Thank you, your Honor.

6 REDIRECT EXAMINATION BY MR. GRYZMALA:

7 Q. Let me start in reverse order, if you will,  
8 Mr. Olson, with the last series of questions. Is it your  
9 understanding that the FCC contemplates and that, as a  
10 business matter, AT&T Missouri has to be provided by a One  
11 Call operator the telephone number, the toll-free number to  
12 which the 811 would point a call?

13 A. Yes. I believe in the FCC's order it states  
14 that companies would be provided a telephone number.

15 Q. And that's -- I'm sorry. I didn't mean to  
16 interrupt.

17 A. I don't know exactly where that is, but I  
18 think I remember reading that, you know, the One Call Center  
19 shall provide a number to the companies to route the call.

20 Q. Well, let's go back for a moment to where  
21 Mr. Meyer took you, and that's the first sentence of  
22 paragraph 26.

23 A. I'm there.

24 Q. And is that the directive you're referring to?

25 A. Yes.

1 Q. Okay.

2 A. We conclude that One Call Center shall provide  
3 to carriers its toll-free number.

4 Q. Now, I think you established -- I want to make  
5 sure I heard this correctly. You personally have not been  
6 given a toll-free number of any sort by Missouri One Call as  
7 being the number to which they would want the 811 number to  
8 point?

9 A. That is correct.

10 Q. But it's crystal clear as an operational  
11 matter, that we need to have that?

12 A. Absolutely.

13 Q. Otherwise, there's nowhere to point the call?

14 A. That is correct.

15 Q. Ergo, the error recording or error that -- did  
16 you say error recording that the user --

17 A. I don't know the exact -- I know we have  
18 several recordings, but I don't know how to exactly  
19 characterize each different recording.

20 Q. Is it fair to say, in closing this matter out,  
21 we cannot assume what the telephone number that Missouri One  
22 Call would request the pointer be directed to is?

23 A. That is correct.

24 Q. Now, if you are provided an 800 telephone  
25 number by Missouri One Call to which the One Call organization

1 requests that you point the 811 service, is it your  
2 understanding that AT&T Missouri is justified to regard that  
3 as an order for the service?

4 A. Yes.

5 Q. You were asked some questions about  
6 abbreviated dialing codes, and I think the point that I recall  
7 is that there is tangible convenience. Do you remember that  
8 line of discussion?

9 A. Yes.

10 Q. Okay. Picking up on that, isn't it true that  
11 there's a tangible convenience for anyone --

12 A. Oh, certainly --

13 Q. Let me finish.

14 A. Oh.

15 Q. Isn't it true that there is a tangible  
16 convenience for anyone who accesses an organization by dialing  
17 three digits instead of the traditional telephone number?

18 A. Yes. Certainly. I hope I didn't, in my  
19 earlier testimony, limit the benefits. I know the discussion  
20 revolved around 2-- only 211 customers' benefit by abbreviated  
21 dialing customers -- I mean all citizens abbreviated by --  
22 benefit by abbreviated dialing codes whether it's a  
23 non-emergency number, an information referral or true  
24 emergency to call 911.

25 Q. I would like you to expand on the point that

1     you broached but were not able to expand on, which was, if I  
2     recall, that the 211 provider, likewise, receives a tangible  
3     benefit by that convenience.

4             A.       Oh, certainly. I mean, using United Way, for  
5     example, they're in the business of helping people. So to the  
6     extent that they would receive a benefit of being a single  
7     clearinghouse getting people to the right health and human  
8     services organizations early that -- you know, more  
9     accurately, quicker, that is a benefit to the United Way  
10    agency acting as a charitable organization for the citizens of  
11    that community.

12            Q.       And in each of those contexts, the 211 and the  
13    311 context, the service provider pays the tariff charge for  
14    AT&T Missouri service?

15            A.       Yeah, that is correct. 211 and 311 have  
16    tariff charges.

17            Q.       Paid by the service provider?

18            A.       Correct.

19            Q.       All right. And in those three cases as well,  
20    there is no tariff charge for anyone who picks up the  
21    telephone and punches 211 or 311 or here 811 or even 711, is  
22    there?

23            A.       That's correct.

24            Q.       So that if I dial those three codes, I'm not  
25    going to see a charge on my bill saying on X date I dialed

1 this code and I'm being charged for that call?

2 A. Yes.

3 Q. Okay. Do you understand, however -- are you  
4 clear in your understanding that the FCC has discussed all it  
5 has to say on the subject of cost recovery in the Sixth Report  
6 and Order?

7 A. Yes.

8 Q. Do you know whether 211 or 311 offer  
9 clearinghouse functions of a nature not unlike 811?

10 A. I think they're very similar in the fact that  
11 they -- they allow a single point of contact to receive calls  
12 and act as a clearinghouse, as you said, and point people in  
13 the right direction for needed services. I believe 211, 311  
14 and 811 are all similar in that respect.

15 Q. Finally, I want to ask you about a line of  
16 questioning that had to do with whether there were benefits or  
17 non-benefits to the One Call system here by being able to use  
18 an 811 service. Do you recall that line of questioning?

19 A. Yes.

20 Q. Do you have an understanding as to whether the  
21 One Call entities -- various One Call entities voiced various  
22 concerns before the FCC issued its order in 2005?

23 A. The short answer's yes.

24 Q. Well, let me ask you -- if I can get to the  
25 point here. Why don't you take a look at Exhibit 3. And at

1 the end of this order as is often the case, there may well be  
2 a list of parties.

3 A. Yes, I see that. I believe it's in  
4 appendix A, List of Parties Filing Comments in Response to the  
5 Notification of Proposed Rulemaking.

6 Q. And would you take a look at that list and let  
7 me know when you're done, please?

8 A. I have looked at this list.

9 Q. Based on the representative -- based on the  
10 list of companies and entities listed, can you provide us some  
11 insight as to whether entities similarly situated to Missouri  
12 One Call were able to voice their concerns, issues and what  
13 have you at the FCC?

14 MR. COMLEY: Your Honor, I'm going to object  
15 to the question. And I think that the FCC's order and the  
16 extent of participation by the parties is clear from the face  
17 of the document itself and needs no further interpretation  
18 from this witness unless he can establish that he was there,  
19 saw the documents them self and perhaps participated in the  
20 commentary.

21 JUDGE STEARLEY: Mr. Gryzmala?

22 MR. GRYZMALA: Well, I think the question is  
23 relevant. I will say this, your Honor. I would be prepared  
24 to withdraw the objection if Mr. Comley's prepared to  
25 stipulate that these parties, in fact, provided comments

1 and/or reply comments as appendix A indicates.

2 MR. COMLEY: I'm not prepared to stipulate.  
3 I've already said we agreed to the admission of this exhibit.

4 JUDGE STEARLEY: I agree the document does  
5 speak for itself so I will sustain the objection.

6 MR. GRYZMALA: Thank you, your Honor. That's  
7 all I have.

8 JUDGE STEARLEY: Commissioner Gaw has joined  
9 us now. Commissioner Gaw, do you have questions for this  
10 witness?

11 QUESTIONS BY COMMISSIONER GAW:

12 Q. I suspect my questions are really more  
13 directed to the other witnesses and One Call, but I might ask  
14 from the standpoint of access for individuals who are in a  
15 position where they are supposed to call One Call or DIG-RITE,  
16 how does the proposal that AT&T has affect that and does it  
17 provide more convenience or more certainty of response in any  
18 way?

19 A. There's -- I'm going to do the best to answer  
20 your question. There's three existing ways to contact  
21 Missouri One Call: 800 number, DIG-RITE, online and fax. 811  
22 would be another way to contact Missouri One Call. So I think  
23 if you're a contractor, you would have four ways to do it and  
24 you would have to determine what's the most convenient for  
25 you.

1           Q.       Okay. And would you think that it would be  
2 something that would be easier for an individual who is not  
3 used to calling the number to find and locate the number or  
4 would it be the same as it currently is --

5           A.       I don't know the answer.

6           Q.       -- if you know?

7           A.       I don't think I know the answer to that, if  
8 one number would be easier than the other. I mean, it -- it's  
9 shorter.

10          Q.       Is it AT&T's general position here that this  
11 is just a requirement you're trying to fulfill?

12          A.       We are implementing an FCC order through our  
13 tariff filing.

14                   COMMISSIONER GAW: I think I'll just wait and  
15 ask the other witnesses. I assume we have some coming up that  
16 deal with One Call and DIG-RITE.

17                   JUDGE STEARLEY: That's correct.

18                   COMMISSIONER GAW: Thank you.

19 QUESTIONS BY JUDGE STEARLEY:

20          Q.       I have one question for you, Mr. Olson, just  
21 for clarity. I think Mr. Meyer was asking about this. And I  
22 understand you're not an attorney, can't offer a legal  
23 opinion. But you had stated that the 811 system as you have  
24 it been developing is essentially implemented at this point;  
25 is that correct?

1           A.       The best way I can make this point is not  
2     unlike any other service, before you file a tariff, you should  
3     be ready to offer it. So we're in the process of getting our  
4     network ready to offer 811 service. You do that work before  
5     you actually file a tariff. I mean, you don't come up with  
6     the service, file a tariff, implement it and then, you know,  
7     have the tariff become effective. You do work before you  
8     actually file the tariff.

9           Q.       Is it your opinion that if you don't have a  
10    customer to serve, that you will have fully implemented the  
11    811?

12          A.       Oh, absolutely. Well, we'll have implemented  
13    the FCC's order. There will still be additional steps to take  
14    because we'll need a number from a One Call organization to  
15    finish out the translations of routing and testing of the  
16    811 number.

17          Q.       So it's your belief you would be in compliance  
18    with the FCC order even if you did not have a customer?

19          A.       Correct.

20                   JUDGE STEARLEY: All right. Thank you.

21                   Any redirect based on questions from the  
22    Bench?

23                   MR. COMLEY: I have no questions on recross.

24                   MR. GRYZMALA: No, your Honor.

25                   MR. MEYER: Nothing. Thank you.

1 JUDGE STEARLEY: All right. Then, Mr. Olson,  
2 you'll be allowed to step down. You'll not be finally excused  
3 in case Commissioners would have questions for you later on  
4 today.

5 THE WITNESS: thank you.

6 JUDGE STEARLEY: Thank you for your testimony.  
7 Yes, Mr. Gryzmala.

8 MR. GRYZMALA: Your Honor, before closing,  
9 resting, two quick items, if I may. I would respectfully  
10 request the opportunity to file as a late-filed exhibit  
11 documents which would support what we've heard this morning;  
12 that is, that the Illinois Commission approved our 811 tariff.

13 I will confirm that, your Honor, and if that  
14 is indeed the case, I would like the opportunity to make that  
15 filing as a late-filed exhibit, i.e., the tariff and any  
16 accompanying approval order from the Illinois Commerce  
17 Commission. Again, I just learned of this moments ago and --  
18 if that be acceptable. And I have one other item.

19 JUDGE STEARLEY: That would be acceptable.

20 MR. GRYZMALA: Okay. Finally, for the record,  
21 I believe it's -- I just would like to point out that the  
22 Commission's order, the FCC's order, was published in the  
23 Federal Register on April 13, '05 at 70 Fed Reg 1934. The  
24 implementation I believe is a two-year period. So for your  
25 Honor's and the Commission's direction, I understand then

1 implementation expectation pursuant to paragraph 32 is two  
2 years from April 13, 2005. The other parties can confirm  
3 that, but I just wanted to round that out.

4 JUDGE STEARLEY: All right. Thank you,  
5 Mr. Gryzmala.

6 Missouri One Call System, Mr. Comley, you may  
7 call your witness.

8 MR. COMLEY: We call John Lansford.

9 JUDGE STEARLEY: You may proceed, Mr. Comley.

10 MR. COMLEY: Do you need to swear the witness?

11 JUDGE STEARLEY: I certainly do. Thank you.

12 Wake me up from my note-taking here.

13 Mr. Lansford, if you would please state and  
14 spell your name for our court reporter.

15 THE WITNESS: My name is John P. Lansford,  
16 J-o-h-n L-a-n-s-f-o-r-d.

17 (Witness sworn.)

18 JUDGE STEARLEY: Thank you. Now you may  
19 proceed, Mr. Comley.

20 MR. COMLEY: Thank you, Judge.

21 JOHN LANSFORD testified as follows:

22 DIRECT EXAMINATION BY MR. COMLEY:

23 Q. Mr. Lansford, I know you've introduced  
24 yourself to the reporter and all, but would you mind stating  
25 your name again for the record, please?

1           A.       My name is John P. Lansford.

2           Q.       And what is your position of employment?

3           A.       I'm the executive director of Missouri One  
4 Call System, Incorporated.

5           Q.       And how long have you been executive director  
6 for Missouri One Call System?

7           A.       Almost six years.

8           Q.       In general, can you describe for the  
9 Commission your duties and responsibilities as executive  
10 director?

11          A.       My duties entail the day-to-day operation of  
12 Missouri One Call System.

13          Q.       How many employees does the Missouri One Call  
14 System have?

15          A.       Including myself, five.

16          Q.       And, in general, what do those employees do?

17          A.       We're broken up into different areas. I have  
18 one office administrator, I have one membership administer,  
19 one field manager and one operations manager.

20          Q.       With respect to the One Call Center itself,  
21 how are those services provided?

22          A.       The One Call Center is operated under contract  
23 to a vendor.

24          Q.       And the vendor employs call operators and  
25 other --

1           A.       Customer service representatives and provides  
2 all the services --

3           Q.       Can you give --

4           A.       -- under a contract.

5           Q.       Can you give us an idea of the number of One  
6 Call operators that are available through the contract?

7           A.       Approximately 40.

8           Q.       Is this a 24-hour service?

9           A.       Yes, it is.

10          Q.       Let's talk a little bit about Missouri One  
11 Call System itself. Can you tell the Commission when it was  
12 created?

13          A.       The original bylaws were put together in  
14 mid-1985. It became -- I mean, how far do you want to go?

15          Q.       After it was created, when did it first start  
16 its notification system operations?

17          A.       The first notification actually came in in  
18 September of '86.

19          Q.       Can you tell the Commission the purpose and  
20 mission of Missouri One Call System?

21          A.       Pursuant to our bylaws, it is to provide the  
22 centralized location in Missouri which excavators and the  
23 general public may call to secure adequate information  
24 regarding underground facilities located in the area where  
25 excavation is planned and to encourage all excavating or

1 digging parties to utilize this central information office.

2 Q. Is that the mission statement of Missouri One  
3 Call?

4 A. Yes.

5 Q. Okay. Are there any other notification  
6 systems like Missouri One Call in the state of Missouri?

7 A. Not to my knowledge.

8 Q. Is it fair to say it's the only One Call  
9 notification center in Missouri?

10 A. Yes.

11 Q. Briefly describe the membership of Missouri  
12 One Call.

13 A. Membership is made up of any underground  
14 facility owner in the state of Missouri as pursuant to  
15 Missouri State Law 319.

16 Q. Is membership optional in Missouri One Call  
17 System?

18 A. According to the state statute, no.

19 Q. So every operator or owner of underground  
20 facilities in the state must become a member in accordance  
21 with state law?

22 A. Yes. If they have facilities in a public  
23 right-of-way.

24 Q. How is Missouri One Call System funded?

25 A. The membership receive a notification of

1 intent to excavate, they are then -- reimburse Missouri One  
2 Call a certain amount per notification received.

3 Q. Why don't we break this down a little bit for  
4 everyone. I think it would be wise to go ahead and could you  
5 describe the sequence of events that occurs when an excavator  
6 makes the phone call to the One Call Center and then on down  
7 and then include in that how the member would be billed?

8 A. All right. Basically the excavator would  
9 contact Missouri One Call in one of various ways that was  
10 discussed earlier. In the case of a phone call, they reach a  
11 customer service representative that gets all their  
12 information as pursuant to the law and required along with any  
13 other information we can glean from them.

14 At that point, the location -- everything is  
15 read back to the caller to confirm it. It is -- the location  
16 is mapped. We try to get as much information again as  
17 possible so that the map is as accurate as possible as far as  
18 the dig site location.

19 At that point, the caller is told who's to  
20 respond and told also exactly how long they are to wait before  
21 they are to call, again, pursuant to the law.

22 Q. Who is to respond, that would be the member --

23 A. Correct.

24 Q. -- with facilities in the area that the  
25 excavator intends to dig in; is that --

1           A.       That's correct.

2           Q.       I'm sorry. Go ahead.

3           A.       At that point, the call is terminated and then

4       the notice is then sent to the facility owners in that area

5       that are members of Missouri One Call.

6           Q.       Now, for that notice there's a charge?

7           A.       Correct.

8           Q.       And the member is charged for that notice and,

9       in turn, they send that charge into Missouri One Call Center?

10          A.       Correct.

11          Q.       That's the way the center is then funded?

12          A.       Correct.

13          Q.       Okay. Let's talk a little bit about

14       operations for the system this year. We've seen Exhibit 13, I

15       think was the front page of the website. Can you tell the

16       Commission what is the projected number of locate requests

17       that Missouri One Call System will process as you projected

18       until the end of the calendar year?

19          A.       As stated in the document that was shown as

20       the front page of our newsletter, it is approximately 635,000.

21          Q.       Approximately 635-- and how does that

22       translate into the number of issued notices of intention to

23       excavate to the facility owners?

24          A.       It will be approximately 3 1/2 million.

25          Q.       We've talked about a number of ways that

1 excavators contact the Missouri One Call System, but isn't  
2 there a toll-free number available?

3 A. Yes, there is.

4 Q. Is that toll-free number a requirement of  
5 state law?

6 A. Yes, it is.

7 Q. Who pays for that number?

8 A. Ultimately Missouri One Call.

9 Q. What are the other ways of contacting Missouri  
10 One Call at this time?

11 A. They can be contacted by -- through fax at a  
12 toll-free number. They can also be -- we can be contacted  
13 over the Internet.

14 Q. Between the toll-free number that's available,  
15 the Internet way of contacting Missouri One Call and the fax  
16 way of contacting Missouri One Call, do you see trends  
17 developing on which is being used more than the other?

18 A. The Internet is relatively new, within the  
19 last 18 months or two years. It's growing as we continue on  
20 with it. Right now we receive -- in the past month we  
21 received over one-third of all of our requests by Internet.  
22 And the fax, of course, has fallen off. It's -- there's very  
23 few actually.

24 Q. Are the ways to contact Missouri One Call made  
25 part of your public education campaign?

1           A.       Yes, it is.

2           Q.       Is it also part of the website?

3           A.       Yes, it is.

4           Q.       All right. How does Missouri One Call  
5 advertise the toll-free number?

6           A.       The toll-free number has been advertised over  
7 the past several years in several ways. Of course, we have a  
8 few billboards out there. The majority of it is done over the  
9 television directed at as many people as possible. We also  
10 have a radio campaign.

11                   We also have a field manager that does --  
12 makes trips to different areas, talk to excavators to  
13 enlighten them as to what's going on if we have a problem  
14 area. Also, he will conduct several meetings per year where  
15 we invite excavators and invite our members to invite  
16 excavators to these meetings for education purposes.

17           Q.       Are there video displays of that sort of thing  
18 at these meetings?

19           A.       Some, yes.

20           Q.       What is the number and how long has Missouri  
21 One Call System had it?

22           A.       Oh, I'm sorry.

23           Q.       The toll-free number.

24           A.       The toll-free number. It's 800-344-7483. And  
25 to the best of my knowledge, we've had it since 1985.

1           Q.       And is that the -- and also when you use the  
2   digits and compare them to the letters on the key pad, is that  
3   1-800-DIG-RITE?

4           A.       RITE, correct.

5           Q.       A few questions about the FCC's 811  
6   implementation order. Just to confirm, was Missouri One Call  
7   System a party to that order?

8           A.       No.

9           Q.       Do you know if the Missouri One Call System or  
10   any other One Call Notification Center itself requested that  
11   811 be set aside for purposes of One Call notification?

12          A.       Not to my knowledge.

13          Q.       Has the Missouri One Call System ever  
14   requested AT&T to provide 811 service --

15          A.       No.

16          Q.       -- pursuant to that order?

17          A.       No.

18          Q.       Because it was affected by that order, did the  
19   Missouri One Call System react in some way?

20          A.       We had a -- another toll-free number in  
21   reserve simply to keep other people from using it. It was the  
22   866-DIG-RITE. And we made that available.

23                   MR. COMLEY: I have an exhibit I need to mark.

24                   JUDGE STEARLEY: This exhibit will be marked  
25   as Exhibit No. 15.

1                   (One Call Exhibit No. 15 was marked for  
2   identification.)

3                   MR. COMLEY: May I approach the witness,  
4   Judge?

5                   JUDGE STEARLEY: Yes, you may.

6   BY MR. COMLEY:

7                   Q.     Mr. Lansford, I've handed you what the court  
8   reporter has marked for identification as Exhibit 15. Are you  
9   familiar with this document?

10                  A.     Yes, I am.

11                  Q.     And can you describe briefly what this  
12   document is?

13                  A.     Basically it's a letter to the -- to our  
14   contact in the Public Service Commission.

15                  Q.     Can you identify that contact for the  
16   Commission, please?

17                  A.     Natelle Dietrich.

18                  Q.     And, again, the general nature of the letter?

19                  A.     The general nature of the letter is two fold.  
20   One, we are letting the Public Service Commission know that  
21   there is a toll-free number available to point anyone wishing  
22   to use 811 for the carriers, to point their -- the 811 to.  
23   And also it asks the Public Service Commission to make them  
24   aware of it.

25                  Q.     And that's in the last paragraph of the

1 letter?

2 A. Yes.

3 Q. Do you know whether Ms. Dietrich made the  
4 notification to all the other carriers in the state?

5 A. I -- we received an e-mail back to that  
6 effect.

7 MR. COMLEY: I have another exhibit to mark.

8 JUDGE STEARLEY: Exhibit 16.

9 (One Call Exhibit No. 16 was marked for  
10 identification.)

11 BY MR. COMLEY:

12 Q. Mr. Lansford, do you have a copy of Exhibit 16  
13 in front of you?

14 A. Yes, I do.

15 Q. Thank you very much. Even though this has my  
16 name at the top of it, can you identify this e-mail for the  
17 Commission, please?

18 A. This is an e-mail received from Natelle  
19 Dietrich.

20 Q. And the nature of the subject matter of the  
21 e-mail?

22 A. Basically it's -- it's telling us that -- what  
23 the approximate costs are going to be in the state of  
24 Missouri. It also refers to the toll-free number that 811 can  
25 be routed to by the Missouri telecommunications carriers and

1 others.

2 Q. Can you also look at the address line of the  
3 e-mail, second line? Do you see an e-mail address that ends  
4 with a subscription AT&T.com?

5 A. Yes, I do.

6 Q. And in the last line?

7 A. I see one the next to last line.

8 Q. Okay. That's one I hadn't picked up on. Is  
9 there also one in the last line?

10 A. Yes, there is.

11 Q. Would you mind reading into the record the  
12 second paragraph of Ms. Dietrich's e-mail, first sentence?

13 A. I recently received a letter from Missouri One  
14 Call System indicating that it procured a toll-free number,  
15 866-344-7483, to which all 811 calls can be routed from or by  
16 Missouri telecommunications carriers, other -- I don't know  
17 how to pronounce that -- VoIP, V-O-I-P, providers and wireless  
18 carriers.

19 Q. And let's go back to Exhibit 15. What is the  
20 date of your letter?

21 A. August 2nd.

22 Q. And what does the date stamp show indicating  
23 that it was received by the Commission?

24 A. August 3rd.

25 Q. Is Exhibit 15 a true and correct copy of the

1 original which you sent to Ms. Dietrich?

2 A. Yes, it is.

3 Q. With respect to Exhibit 16, can you tell the  
4 Commission the date of that e-mail?

5 A. August 9th, 2006.

6 Q. And is this a true and correct copy of the  
7 e-mail that you received on that date from Ms. Dietrich?

8 A. Yes, it is.

9 MR. COMLEY: Your Honor, I would move for the  
10 admission of Exhibits 15 and 16.

11 JUDGE STEARLEY: Any objections to the  
12 admission of Exhibits 15 and 16?

13 MR. GRYZMALA: No, your Honor.

14 MR. MEYER: No objection.

15 JUDGE STEARLEY: Hearing none, they will be  
16 received and admitted into evidence.

17 (Exhibit Nos. 15 and 16 were received into  
18 evidence.)

19 BY MR. COMLEY:

20 Q. Mr. Lansford, did you send this letter,  
21 Exhibit 15, to Ms. Dietrich in response to any tariff of any  
22 telecommunications carrier in connection with 811?

23 A. No, I did not.

24 Q. With respect to the FCC order, does the  
25 Missouri One Call System consider itself in any way bound to

1     that order?

2             A.       No.

3             Q.       After the Sixth Report and Order was issued  
4     and sometime during the course of 2005, did you attend a  
5     workshop or other kind of meeting conducted either by the  
6     Staff or members of the Staff of the Missouri Public Service  
7     concerning 811 implementation?

8             A.       Yes, I did.

9             Q.       Do you remember the date of that meeting?

10            A.       October 28th, 2005.

11            Q.       Where was that meeting held?

12            A.       In this building.

13            Q.       Who attended that building?

14            A.       Myself, along with other -- other  
15     representatives of Missouri One Call, the Staff and various  
16     car-- telephone providers in the state of Missouri.

17            Q.       Do you recall the purposes for the meeting?

18            A.       Basically, it was called as a workshop, billed  
19     that way, to discuss the issue of 811.

20            Q.       Were there any recommendations or conclusions  
21     made at that meeting about how implementation should occur?

22            A.       No.

23            Q.       Were there any follow-up meetings after that?

24            A.       No.

25            Q.       Was a member of AT&T's staff present at that

1 meeting?

2 A. I do not know.

3 Q. All right. Regarding the AT&T tariffs that  
4 have been proposed in this case, please explain to the  
5 Commission your understanding of how AT&T proposes to  
6 implement 811 in its exchanges.

7 A. Basically from what I understand, AT&T will  
8 configure a switch that when an individual dials 811, it will  
9 be pointed to a -- the toll-free number provided and then it  
10 will come on into the call center.

11 Q. And who will be paying for the cost of that?

12 A. Missouri One Call.

13 Q. Do you have in mind what it may cost Missouri  
14 One Call if it were to accept 811 service as described in the  
15 AT&T proposed tariffs and if those tariffs were approved, of  
16 course?

17 A. The number that we have approximated is  
18 \$70,000.

19 Q. Finally -- not quite finally, but on this  
20 issue anyway, at this time does the board of the Missouri One  
21 Call System intend to subscribe to the 811 service if it is  
22 approved -- if it is approved as proposed by AT&T?

23 A. The position of the board is that it is not  
24 interested or has the intention to purchase any service that  
25 has not been requested concerning 811 abbreviated dialing

1 code.

2 Q. We've talked a number of times in a variety of  
3 things with Mr. Olson about the conveniences of 811. And if  
4 you can explain to the Commission, do you, as executive  
5 director, believe that the way the Missouri One Call  
6 operations are now, that 811 would provide any enhancement to  
7 the services provided by the One Call Center; and if so, let  
8 us know what those are.

9 A. I cannot envision any direct enhancements  
10 simply because we're trying to go -- we are providing more and  
11 more. People are -- people are using the Internet.

12 In addition, our contractors that call us in  
13 as we talk to them and we work with them, they indicate to us  
14 that they have our number on speed dial so they hit one button  
15 and it drops -- they are given a code where they can bypass  
16 some of the information and drop directly into the que. With  
17 the addition of 811, that wouldn't be available to them. They  
18 would have to go through the 811 part first.

19 Q. Do you know whether there would be -- do you  
20 foresee any difficulties -- presuming that Missouri One Call  
21 would subscribe to the service, any difficulties in merging it  
22 into your operations?

23 A. The only issues that we can see is, one, the  
24 dealing with the -- the 911 misdial, which we are addressing  
25 if the -- the number is called.

1           Q.       And I think that's a subject of the letter you  
2 sent to Ms. Dietrich, isn't it --

3           A.       Correct.

4           Q.       -- in Exhibit 15?

5           A.       And this would require the listener to go  
6 through some extra language, hit another -- have to select  
7 Missouri or neighboring state, which at that time will give  
8 them a 10-digit toll-free number to call the other state  
9 because that's how -- we don't have any access to any other  
10 way of doing it.

11          Q.       Besides those two things, is there anything  
12 else you have in mind right now that may be an impediment to  
13 merging 811 to the existing Missouri One Call operations?

14          A.       Just the cost.

15          Q.       Just the cost. Mr. Lansford, do you have an  
16 opinion about whether or not the absence of 811 as part of  
17 Missouri One Call's operations will in any way affect the  
18 quality of the mission of Missouri One Call or its service to  
19 the excavating public?

20          A.       My opinion, based on surveying that we've done  
21 and what we've seen from our advertising and everything, is --  
22 is it would not be a direct benefit right away. Who knows in  
23 the future. There's -- there's nothing to go on that.  
24 Surveys that I've seen indicate that Missouri One Call,  
25 DIG-RITE has a very high retention factor with the general

1 public.

2 MR. COMLEY: That's all the questions I have.

3 JUDGE STEARLEY: Thank you, Mr. Comley.

4 Cross-examination, Mr. Gryzmala.

5 CROSS-EXAMINATION BY MR. GRYZMALA:

6 Q. I'm a little bit shorter than Mr. Comley.

7 Excuse me.

8 Mr. Lansford, I just have a few questions. Do  
9 I understand your summary position to be that as you sit here  
10 today, on behalf of your organization, you don't regard 811 as  
11 potentially providing an enhancement to your organization or a  
12 tangible benefit. Is that a fair statement?

13 A. We have no way of measuring it. We don't  
14 know. It's never been done before so we don't see how, but we  
15 don't know.

16 Q. Future may unfold, but as you sit here now,  
17 there's nothing that you're aware of that would suggest to you  
18 a tangible benefit?

19 A. Not that I can see.

20 Q. Okay. Well, let me ask you that -- ask you,  
21 if I may. If you don't request the service -- let's assume  
22 that you hold to that belief as we near April and you and your  
23 organization continue to hold to that belief and you don't  
24 order the service, don't request the service. Would you be --  
25 would you regard yourself -- would your organization regard

1     itself as being in violation of federal law in any way, and in  
2     particular, the Federal Pipeline Act of 2002?

3                     And you'll remember the reference to  
4     Section 17 where the language speaks for itself that One Call  
5     operators, the Secretary of Transportation, the FCC, facility  
6     operators shall provide for the establishment of a three-digit  
7     dialing code.

8                     The short question is, would you regard  
9     yourself as being in violation of any act, any law if you  
10    decline to take the service?

11            A.     No.    We would not be in violation because we  
12    provided the toll-free number to be pointed to.

13            Q.     If you were not of a mind to order the service  
14    and you didn't feel you had a legal obligation to order the  
15    service, would you have any objection to the Commission's  
16    approving AT&T Missouri's tariff?

17            A.     At this point we have not objected to the  
18    tariff because our position is that we -- we didn't order it,  
19    so we have no opinion on that.

20            Q.     What is the basis of your statement that you  
21    haven't ordered it?

22            A.     Simply that we have not requested the 811  
23    service.

24            Q.     So with regard to the letter that you prepared  
25    on August 2, which is Exhibit 15 -- August 2 of 2006, which is

1 Exhibit 15 to Ms. Dietrich, you do not regard that as an order  
2 for service or a directive to the telephone company to  
3 implement?

4 A. No. We cannot direct anything to the  
5 telephone companies. It was simply that we made this  
6 available in the -- because of how the law was written. We  
7 just made it available. It was our attempt to work within  
8 those parameters given by the Transportation Act.

9 Q. When and if you decide as an organization to  
10 utilize 811 service in the course of your business, would you  
11 regard -- would you believe that you would telephone or write  
12 or call your sales representative at AT&T Missouri and  
13 indicate that expression of a request if you wanted the  
14 service?

15 A. No. We would make it available to our  
16 designated representative as -- as given to us by AT&T.  
17 For -- to -- the designated representative, if I may step  
18 back, is provided to us by our membership as the person that  
19 we are to contact for anything that has to do with Missouri  
20 One Call. So that would be the person that we would contact.

21 Q. Okay. And would you regard it as reasonable  
22 that until such time as we receive that form of contact, we  
23 should not proceed -- you would not expect that we should  
24 proceed to program our switches to program to any number until  
25 you let us know that contact by that means?

1           A.       Yes.

2           Q.       Okay.  Are you familiar -- if you have it  
3   handy, Exhibit 2.  I was light one copy so give me just a  
4   moment.

5                   Let me hand you what's been marked as  
6   Exhibit 2.  And please bear with me, I don't have a personal  
7   copy with me.  But would you regard your member participants,  
8   that is your -- excuse me, when I say "you" or "your," I mean  
9   the organization, Mr. Lansford, unless I say otherwise.  Would  
10  you regard your member participants as owners or operators --  
11  I'm sorry.

12                   Would you regard your member participants as  
13  being facility operators within the language of Section 17 of  
14  the Act?

15          A.       Yes.

16          Q.       Would you regard your organization, Missouri  
17  One Call Systems, Inc, as a One Call Notification System  
18  Operator as that language is likewise used in Section 17?

19          A.       Yes.

20          Q.       Okay.  Thank you.  And if I understand  
21  correctly, the sole funding of Missouri One Call is from  
22  charges to underground facility operators for providing the  
23  notification service as you mention; is that correct?

24          A.       No, that is not correct.  The facility --  
25  underground facility owners, not operators.

1 Q. Okay. Can you give me a moment?

2 A. And that's pursuant to Missouri Statute 319,  
3 because we have members that are not utilities or operators.

4 Q. Okay. I apologize. I thought I transcribed  
5 that from the motion to suspend you filed, but I obviously got  
6 it wrong.

7 Tell us what the funding is if you can  
8 summarize that for your organization.

9 A. Notifications that are received by the member  
10 are then billed to them and they reimburse Missouri One Call  
11 for the services.

12 Q. Is that what you all refer to as the per  
13 request notification fee?

14 A. Yes.

15 Q. Okay. So bear with me, I'm not as familiar  
16 with your organization. There is no membership fee?

17 A. Correct.

18 Q. There is no dues?

19 A. Correct.

20 Q. Okay. So everything -- frankly, all the --  
21 the 800 number that you pay -- that the company -- or that the  
22 system pays for, the Internet services, the fax, the employee  
23 salaries for the five individuals that you referred to  
24 earlier, all of the expenses represented by those items are  
25 paid for by the per locate notification fees?

1           A.       Correct.

2           Q.       And is it a public or a private -- is it a  
3 public number as to what that fee is?

4           A.       Only to our members.

5                   MR. COMLEY:  We're under a protective order,  
6 aren't we?

7                   MR. GRYZMALA:  Well, yes, but depending on  
8 what level of protection you want to give to it, I don't know  
9 if everyone qualifies.  If it's HC, you know, versus  
10 proprietary.

11                  MR. COMLEY:  Your Honor, before we get into  
12 that, I need to visit with Mr. Lansford on the nature of the  
13 board's position on how sensitive that price per ticket is.  
14 And then at that time we can talk about the degree to which it  
15 should be classified for purposes of our discussions this  
16 morning.

17                  JUDGE STEARLEY:  All right.  We can briefly go  
18 off the record so you can have that conversation.

19                  MR. GRYZMALA:  I might be able to alleviate  
20 that, your Honor, if I may.  Okay.  I think I can.  Would you  
21 defer for just a moment between myself and Mr. Comley?

22                  JUDGE STEARLEY:  All right.

23 BY MR. GRYZMALA:

24           Q.       Mr. Lansford, let me ask, you are you  
25 acquainted with whether your system's website indicates the

1 charge for the per locate notification?

2 A. It does in some spots, depending what your  
3 level of ability to get in with passwords.

4 Q. May I represent to you that I went to that  
5 website and I obtained the information that I'm referring to  
6 and I don't have a password?

7 A. Okay.

8 Q. I did that -- I conducted that analysis.

9 A. All right.

10 Q. With that in mind, am I able to speak to what  
11 that fee may be?

12 A. Yes.

13 Q. Okay. Now, let's go back to what we  
14 established with regard to the 800 number you subscribe to and  
15 other services that represent expense to the system. And we  
16 move to the revenue side, if you will. Is it a fair statement  
17 that members are charged \$1.20 per locate notification?

18 A. At this time, yes.

19 Q. So if one wanted to identify what the total  
20 revenue, as it were, or income -- cash income to the system  
21 were, would one not go about it by taking \$1.20 times the  
22 number of outgoing member notifications you would anticipate?

23 A. Correct.

24 Q. And in that case you talked about 3.5 million  
25 annually?

1           A.       Correct.

2           Q.       So the annual revenue generated would be the  
3 product of \$1.20 times 3.5 million. Correct?

4           A.       Correct.

5           Q.       Okay. Thank you. Let's assume just for  
6 purposes of my question, Mr. Lansford, that AT&T would provide  
7 811 service without any charge whatsoever. Even under that  
8 scenario, isn't it fair to state that your organization would  
9 still incur several expenses in order to implement an 811  
10 arrangement?

11                   And I'll refer your -- I'll refer to your  
12 discussion in your Direct Testimony about the educational  
13 efforts you would have to take on with the public, billboard  
14 advertising perhaps or business cards or the like; in other  
15 words, public outreach and education. Let me come to the  
16 question. I spoke quite a bit.

17                   Isn't it fair to say that even if you were --  
18 there was no charge for the 811 service that we're talking  
19 about today, your organization would still incur expense to  
20 implement 811?

21           A.       That would be determined by the board at -- at  
22 what level and how fast they would -- they would actually want  
23 to -- to promote the 811. So that I can't answer at this  
24 point. I don't know at what level we would go into or how  
25 fast, if we would.

1           Q.       I understand that. In today's environment,  
2   you have basically three portals, the telephone, the Internet  
3   and the fax --

4           A.       Correct.

5           Q.       -- right?

6                   And if you were to develop or implement a  
7   fourth portal, the abbreviated dialing code, depending upon  
8   the extent to which you sought to educate the public would  
9   involve a small or a larger expense. Isn't that fair to  
10   state?

11          A.       I'm not sure how I understand your question.  
12   I guess I can't figure out the difference between how 811 is a  
13   different portal.

14          Q.       It is a different dialing mechanism than  
15   1-800-DIG-RITE. Correct? I mean for one who wish -- let me  
16   back up.

17                   Today a customer can reach you -- a contractor  
18   can reach you by dialing 1-800-DIG-RITE or they can sit at the  
19   laptop or Internet and reach your organization or they can  
20   send you a fax. Correct?

21          A.       Correct.

22          Q.       If you were of a mind to take and order and  
23   request 811 service, that would represent another vehicle by  
24   which a contractor or person could reach you. Correct?

25          A.       No. I don't see it that way because it would

1 still be coming over the telephone, which would be -- 811 is  
2 then forwarded to the toll-free -- our toll-free number which  
3 would come in the same way. So to me, it's the same portal.

4 Q. I see your point. I see your point. And I  
5 apologize. I'm not being very clear.

6 To the person who's actually dialing the  
7 telephone though, it's a different dialing pattern. Instead  
8 of dialing 10 digits -- one-plus 10 digits, that person now is  
9 only dialing three digits; is that correct?

10 A. No. As we talked to our excavators, what they  
11 have done -- at least the commercial excavators --

12 Q. Okay.

13 A. -- what they have done is put us on speed dial  
14 so they hit one button. I guess what you're referring to  
15 would be the homeowners, the people that don't call on a  
16 regular basis. Am I understanding?

17 Q. Anyone who -- what I'm referring to is whether  
18 there would be a change of behavior on those who most call  
19 you, contractors, excavators, homeowners. That was what I was  
20 asking you, whether there would be a change in dialing  
21 behavior?

22 A. That I can't answer. I don't know. We  
23 promoted our numbers -- our toll-free number so heavily for so  
24 many years I -- and again, nobody knows what's going to happen  
25 with 811 so I can't answer your question.

1           Q.       When the day is done, Mr. Lansford, is it your  
2       organization's view that you would prefer that the FCC not  
3       issue its order in March of 2005?

4           A.       No.

5           Q.       And why would that be?

6           A.       The only thing that -- and not just Missouri  
7       One Call, but other call centers, we asked --

8           Q.       Well, let me move to strike that. I'm just  
9       asking about your organization, if I may.

10          A.       We asked -- Missouri One Call asked different  
11       national organizations that we belong to to go forward and ask  
12       certain questions in conjunction with others. And the answers  
13       were never brought -- never answered.

14                   One of the questions were, who's it going to  
15       benefit? How's it going to be done? And the third question  
16       was, who's going to pay for it? And those answers never came  
17       forward. The order came through because it had to because of  
18       the Pipeline Improvement Act. So nobody ever answered our  
19       questions, Missouri One Call's questions.

20          Q.       And because they didn't answer your questions,  
21       would your organization have preferred that the FCC not  
22       released its order?

23          A.       I have no opinion on that.

24          Q.       Would it have been your organization's view  
25       that it would have preferred that Section 17 of the Pipeline

1 Safety Improvement Act not be enacted to provide for 31-- or  
2 to provide for three-digit dialing?

3 A. That's hypothetical and it's already been done  
4 so I can't answer your question, sir. I'm sorry.

5 Q. At this point, however, you have no current  
6 int-- I'm sorry.

7 Missouri One Call System's, Inc. has no  
8 current intention to utilize 811 service; is that correct?

9 A. It -- we have no intention of paying for a  
10 service we have not requested.

11 Q. And if you have not requested the service,  
12 then you would not expect AT&T to reconfigure the service; is  
13 that correct?

14 A. It's our understanding that -- it's my  
15 understanding, Missouri One Call's understanding that it's a  
16 service that -- that the FCC has ordered AT&T to provide, so  
17 that's -- that's between you and them.

18 Q. So with all due respect, isn't it a bit like  
19 having your cake and eating it too? You don't want to request  
20 the service, but if you're provided the service, you don't  
21 want to pay for it.

22 MR. COMLEY: I'll object on the grounds it's  
23 an argumentative question and object to the form of the  
24 question.

25 JUDGE STEARLEY: Could you rephrase,

1 Mr. Gryzmala?

2 BY MR. GRYZMALA:

3 Q. Do you think it's fair and reasonable for a  
4 company to have it both ways; that is, the company assuming --  
5 assume that the company indicates that it does not want to  
6 request the service, it does not want to have that service,  
7 but if the company is provided that service, nonetheless, it  
8 doesn't wish to pay for it?

9 A. I guess the question goes back to -- I'm  
10 sorry. I can't answer your question because the service that  
11 you're talking about, who benefits from it?

12 Q. Okay. We've discussed that.

13 MR. GRYZMALA: May I approach, your Honor?

14 JUDGE STEARLEY: Yes, you may.

15 BY MR. GRYZMALA:

16 Q. Let me refer you to Exhibit 3, which is a copy  
17 of the FCC's 811 order. And can you point to any language in  
18 that order which constitutes an affirmative obligation imposed  
19 upon the telecommunications companies to configure 811 service  
20 to a customer who has not requested it and who refuses to pay  
21 for it?

22 A. No.

23 Q. Can you point to any language in that order  
24 which supports the proposition that the telecommunications  
25 companies are required to configure the service?

1           A.       I have not read it, so no.

2           Q.       Would you refer to -- excuse me. Would you  
3 refer to paragraph 41 of the -- it is the ordering clause.  
4 And would you just kindly read that single sentence because I  
5 don't have that in front of me?

6           A.       It is further ordered that pursuant to Section  
7 251 E3 of the Communications Act of 1934 and Amended 47 USC  
8 251 E3, 811 is assigned as the national abbreviated dialing  
9 code to be used exclusively for access to One Call Centers  
10 effective 30 days after publication of this order in the  
11 Federal Register.

12          Q.       Do you have any information suggesting that  
13 811 has not, in fact, been assigned as ordered by the FCC?

14          A.       No.

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

16                   JUDGE STEARLEY: Thank you, Mr. Gryzmala.

17                   Cross-examination by Staff, Mr. Meyer?

18 CROSS-EXAMINATION BY MR. MEYER:

19          Q.       Good morning, Mr. Lansford.

20          A.       Good morning.

21          Q.       In your response to Mr. Gryzmala's questions,  
22 I believe you did indicate that at this point in time it's a  
23 \$1.20 that your organization receives per call that is  
24 processed by your organization; is that correct?

25          A.       That's correct.

1 Q. Is that your sole source for your budget?

2 A. Yes.

3 Q. There was some discussion in some pleadings  
4 that were filed earlier in this case that there was also  
5 possibly an opportunity to obtain grants for this type of  
6 service or for other types of services that you provide. Is  
7 that your perspective?

8 A. From what I understand, they're -- they're not  
9 provided to Missouri One Call. We have to go through a  
10 different agency. Somebody would have to go through a  
11 different agency to receive those.

12 Q. Has One Call gotten grants in the past for  
13 providing this type of service or to engage in this type of  
14 activity, to your knowledge?

15 A. No.

16 Q. If it's something that's publicly available  
17 and if you're aware of it, do you know what the current  
18 Missouri One Call budget is per year?

19 A. The current year is approximately 4.3 million.

20 Q. You had said that there is a statutory mandate  
21 that any entity with systems that would be affected by  
22 construction be a member of your organization; is that  
23 correct? Am I summarizing that correctly?

24 A. Well, they have to be in a public  
25 right-of-way.

1           Q.       Okay. And so does that also apply to  
2       municipal utilities and co-ops?

3           A.       Yes.

4           Q.       When you say participate, do you mean by  
5       participate -- do you mean that they accept calls that you  
6       forward to them? What exactly does that entail on the other  
7       end?

8           A.       Yes. That they have membership, that we have  
9       a way of contacting them and that they pay for the service.

10          Q.       And do you have enforcement mechanisms if they  
11       fail to do so?

12          A.       The enforcement is handled through the  
13       Attorney General's office.

14          Q.       Okay. So you receive money from all  
15       utilities, that would be electric, gas, telecommunications,  
16       water and sewer?

17          A.       As -- as well as other entities that have  
18       facilities such as Boeing.

19          Q.       Sure. Do you have a sense on a proportional  
20       basis where the income you receive from telecommunications  
21       companies falls relative to, say, some of the other utilities?

22          A.       No, I do not.

23          Q.       And you've indicated that Missouri One Call is  
24       a not-for-profit entity, I believe?

25          A.       Correct.

1           Q.       And it fulfills a statutory role. Do you have  
2 a contract that indicates that that is the role that you're  
3 filling or how do you know that Missouri One Call is, in fact,  
4 that entity that's established in Chapter 319?

5           A.       It's not established by name. It says that  
6 there has to be a statewide notification center. To our  
7 knowledge, we're the only one.

8           Q.       So you believe that you are, but it's not as  
9 though you have a contract with the State of Missouri --

10          A.       Correct.

11          Q.       -- or otherwise?

12                    Okay. If the Commission were to approve the  
13 tariff that AT&T has provided and if hypothetically Missouri  
14 One Call did subscribe, do you have any sense of how the costs  
15 would be distributed? And I realize this is purely  
16 hypothetical.

17          A.       It would be up to the discretion of the board.

18          Q.       Okay. If, under that hypothetical, you were  
19 to subscribe to AT&T's proposed 811 service, could you choose  
20 to cancel the 800 number that you currently have?

21          A.       No.

22          Q.       You would need to maintain that 800 number?

23          A.       Correct.

24          Q.       Okay. And the cost associated with that as  
25 well?

1           A.       Correct.

2                   MR. MEYER:   Okay.   Thank you.   That's all I  
3   have.

4                   JUDGE STEARLEY:   Thank you, Mr. Meyer.

5                   Questions from the Bench, Commissioner Gaw?

6   QUESTIONS BY COMMISSIONER GAW:

7           Q.       I'd like to go back to some discussion that  
8   you had at the first part of your testimony, first in regard  
9   to the description of what the Missouri One Call does.   And  
10   would you mind telling me, first of all, again what the  
11   relationship is with the DIG-RITE?

12          A.       DIG-RITE is simply the -- it works out to be  
13   the phone number.   It is not an entity.   It's the phone  
14   number.

15          Q.       And there is a contractor though that you  
16   contract with to perform much of the work in regard to the  
17   calling and the activities around the call-ins that are  
18   received.   Right?

19          A.       The call center vendor provides the services  
20   of the call center, yes.

21          Q.       Okay.   And who is that entity?

22          A.       One Call Concepts, Incorporated.

23          Q.       Okay.   And how long have they had the contract  
24   with Missouri One Call?

25          A.       Four years.

1 Q. Who had it before that?

2 A. A different organization known as One Call  
3 Systems.

4 Q. Okay. Is this company that does the service  
5 now, is it a Missouri corporation, do you know?

6 A. It is not.

7 Q. Okay. Where are they headquartered out of?

8 A. Maryland.

9 Q. Do they do the service in other states?

10 A. Yes. Approximately 13 other states.

11 Q. Okay. Are any of them in the Midwest?

12 A. Yes.

13 Q. Can you name a few of the Midwestern states?

14 A. Kansas.

15 Q. Okay. Is there a process -- do they renew --  
16 do you all renew that contract annually?

17 A. No.

18 Q. How often is it renewed?

19 A. The first contract was for four years, the  
20 second one is for five.

21 Q. And Missouri One Call, is it a public or  
22 private entity?

23 A. Private.

24 Q. Okay. And so is it a Missouri corporation?

25 A. Yes, it is.

1           Q.       And is it in any way governed in makeup on the  
2 board or in any way by Missouri law?

3           A.       No.

4           Q.       How is it set up initially under Missouri law  
5 then?

6           A.       Under Statute 319 it provides for a statewide  
7 notification center.

8           Q.       Okay.

9           A.       And the utilities -- the facility owners, I  
10 should say, banded together to create Missouri One Call --  
11 Missouri One Call to fill that need in 1985.

12          Q.       Was that pursuant to the statute requiring the  
13 utilities to do that or is this just one option that could  
14 have been done at the time, do you know?

15          A.       Originally it was a volunteer. You  
16 voluntarily belonged.

17          Q.       Okay.

18          A.       And in 2001, the law was changed and it became  
19 mandatory in steps starting 2002.

20          Q.       And what became mandatory, if you know?

21          A.       The membership.

22          Q.       All right. Membership in your particular  
23 organization or in an organization of that type?

24          A.       In that type. Missouri One Call was not  
25 named.

1           Q.       Okay. Is it possible then under the law for  
2 another organization to form?

3           A.       Yes, it is.

4           Q.       If that organization were formed, do you know  
5 how -- and, of course, it isn't today, but how is it  
6 anticipated that an 811 number would be directed to the  
7 correct -- to the correct entity if there were more than one?

8           A.       I'm not -- I'm not sure.

9           Q.       Is it anticipated or is it under Missouri law  
10 that there would be more than one entity?

11          A.       I have no idea.

12          Q.       Okay. There was some discussion earlier  
13 about -- that you said that there was -- many of the  
14 excavators and others that regularly use your service may have  
15 the 10-digit number -- is it 10-digit -- plugged into --  
16 counting one depending on whether you're on a cell phone or  
17 not -- would have that number plugged into their phones and  
18 just have to hit one number; is that correct?

19          A.       That's what we understand.

20          Q.       I want to talk to you about the people that  
21 don't use your service on a regular basis. What is it that --  
22 now, those people wouldn't know -- wouldn't have, I wouldn't  
23 think as a matter of practice, your number plugged into their  
24 speed dial, would they?

25          A.       I wouldn't think so, no.

1           Q.       We're talking about property owners who can  
2 also be a party that call you; is that correct?

3           A.       Correct.

4           Q.       And for those individuals, wouldn't you think  
5 it would be easier for them to dial the three digits than it  
6 would be the full nine or ten?

7           A.       Easier? I mean -- I mean just you're hitting  
8 numbers, so yes. The short answer is yes.

9           Q.       Actually could be 10 or 11, I guess. So it  
10 would be of some degree of ease?

11          A.       For them, yes.

12          Q.       Okay. Well, isn't the customer and their ease  
13 in contacting One Call important to you?

14          A.       Yes. That's why we provide as much education  
15 as possible.

16          Q.       And you tell individuals to call the DIG-RITE  
17 number as a part of your education process. Correct?

18          A.       Correct.

19          Q.       You have -- I believe you might have said, you  
20 have announcements out on radio. Correct?

21          A.       Yes.

22          Q.       You have announcements on television from time  
23 to time?

24          A.       Yes.

25          Q.       And so if an individual -- and I assume the

1     number is listed in the phonebooks?

2             A.       If the phonebooks provide them, yes.  They're  
3     also sent out by the facility owners in -- in billing  
4     stuffers.  Multitude of ways.

5             Q.       Okay.  The appearance of the number in  
6     phonebooks, would it be -- to your knowledge, would it be  
7     located in the same place in the phonebook for ease of access  
8     as, say, 911 would be in a phonebook?

9             A.       I have no idea.

10            Q.       Or 411?

11            A.       I -- I've seen it in both places.

12            Q.       If an individual is trying to get in touch  
13     with Missouri One Call and they do so and they don't get a  
14     response back from anyone, what does Missouri One Call do to  
15     ensure that that customer is -- knows what's going on if  
16     they're not a contractor that normally does business?

17            A.       Basically, as we go through the education  
18     process and through the auto attendant and through the  
19     information, we tell them who is supposed to respond.  And  
20     according to the state statute, there is a no response that is  
21     required.  So we try to educate everyone that if they don't  
22     hear from the facility owners, they need to let us know.

23            Q.       And what number do they call when they're  
24     supposed to let you know that?

25            A.       The same number, the 800 number, DIG-RITE.

1           Q.     And if they still don't hear back, what are  
2 they supposed to do then?

3           A.     By state law, then they are allowed to  
4 excavate in a safe and practical manner.

5           Q.     But if there's no response and there is a line  
6 there, what are they supposed to do?

7           A.     Then they would -- if they hit the line -- is  
8 that what you're referring to?

9           Q.     Well, it could occur, I assume --

10          A.     Yes.

11          Q.     -- if no one's come out to mark it.

12          A.     Then by law, they're supposed to be calling a  
13 dig-up ticket, a dig-up notification.

14          Q.     What does that mean?

15          A.     That means that they call the 800 number to  
16 let us know that they have struck -- or the exact wording is  
17 damaged, dislodged or dislocated, I think is the correct word,  
18 a facility. Then we go and let the facility owners in that  
19 area know.

20          Q.     Now, if the individual that's trying to  
21 contact you is trying to do their best to ensure that someone  
22 comes out and marks those lines, is there any additional  
23 assistance that's given to them to ensure that the result  
24 isn't just go ahead and dig and hit the line?

25          A.     We try -- if the caller requests -- say they

1 still haven't called -- and we get this on a regular basis. I  
2 shouldn't say regular basis. We do have it happen. Generally  
3 what they'll do is it gets -- makes its way to the  
4 administrative office, which is where I'm at and the rest of  
5 the staff. And what we try to do is we contact the facility  
6 owner through another means that, hey, this ticket's not being  
7 taken care of, what's going on. Try to help them as much as  
8 possible.

9 Q. And who gets back to the individual then to  
10 tell them what has happened as a result of the call that you  
11 made to the company?

12 A. Whoever talks to them in the administrative  
13 side, which would be myself or one of the other four members.

14 Q. Will always call them back?

15 A. If that's what they ask us to do, yes, or  
16 that's what we suggest to them, as a matter of fact.

17 Q. So your testimony is that there is a policy in  
18 your organization to always call back the individual who is  
19 trying to get their lines marked if there's no -- if there's  
20 no response given?

21 A. No. There's not a policy. It's a course of  
22 doing business.

23 Q. What is the ramification to the entity that  
24 does not respond to the request to mark lines?

25 A. The enforcement is -- is covered by the

1 Attorney General's office.

2 Q. And how many enforcement actions have you seen  
3 in your tenure?

4 A. Concerning?

5 Q. Concerning lines -- non-responses to request  
6 for marking of lines.

7 A. To my knowledge, none.

8 Q. So, in other words, there's no enforcement?

9 A. As far as I can tell, the Attorney General has  
10 not at this time elected to go forward with that.

11 Q. Do you have records that would indicate --  
12 that would be available in regard to your responses back to  
13 individuals who have been trying to get their lines marked and  
14 have not heard back from you?

15 A. Only in our personal notes.

16 Q. So there's no way of checking on that unless  
17 you go back through those?

18 A. No. It's not a normal course of business.

19 Q. Who is Missouri One Call accountable to?

20 A. Our membership.

21 Q. And who is your membership?

22 A. Facility owners of underground facilities.

23 Q. Those are utilities, aren't they?

24 A. Among others.

25 Q. Who else?

1           A.       They can be private entities that have  
2 facilities on -- in public right-of-ways such as -- the most  
3 recent one that comes to mind is Boeing.

4           Q.       Okay. Well, if the Public Service Commission  
5 gets complaints about not having lines marked and no response  
6 back from One Call or from the utility that has a line across  
7 their property, who would you suggest they contact to seek  
8 enforcement of some sort or try to get something done to  
9 ensure that they don't cut into those lines that are going  
10 across the property?

11          A.       To the state statute, it has to go to the  
12 Attorney General's office. I would hope I would get a call or  
13 something because evidently it had fallen through a crack or  
14 something.

15          Q.       Don't know. Maybe that is an explanation for  
16 it. But I'm concerned about this -- what might be perceived  
17 to be if those kinds of things are happening. And from what I  
18 heard a while ago in your testimony, that you were -- that you  
19 thought your main customers were taken care of by this longer  
20 number and that the convenience for other customers of an 811  
21 number might not be as important. Did you --

22          A.       No.

23          Q.       -- intend to infer that?

24          A.       Not at all.

25          Q.       So if there is a convenience to this 811

1 number that might provide others who are not so used to  
2 calling DIG-RITE but who have some obligation to do so in  
3 certain instances when they're digging on their property, in  
4 an 811 number, you would see some reason why that might be a  
5 positive thing?

6 A. I -- I can see where -- your point. I  
7 honestly can. However, what I have seen as far as different  
8 surveys and everything, it appears that the general public --  
9 we've worked very hard to get our number out there. They know  
10 who DIG-RITE -- who to call because it's DIG-RITE. They know  
11 that that's who they call in the state of Missouri.

12 I see your point. I don't know how much  
13 validity it has to it because it hasn't taken -- it hasn't  
14 gone down the road yet. We don't know. It's an unknown.

15 Q. Well, isn't one of your commercials that you  
16 put on the air, doesn't it show people maybe digging in their  
17 garden as an example when you might want to call?

18 A. No. If you'll look at that carefully, what  
19 he's doing is he's tearing up a new bed.

20 Q. Tearing up a new --

21 A. A new flower bed, garden bed, whatever you  
22 want to call it. He's tearing up sod.

23 Q. Okay. What's the difference between that and  
24 planting -- plowing in your garden?

25 A. A whole lot. There's no sod in a garden.

1           Q.       Well, it might be that if -- there's no sod in  
2   a garden?

3           A.       Not in an established garden.

4           Q.       Okay. So if it's an established garden, you  
5   don't have to call?

6           A.       That's --

7           Q.       Is that the rule?

8           A.       It depends on how you look at it. It could be  
9   considered under the state statute that that is agricultural  
10  purposes and they have an exemption.

11          Q.       So perhaps they have an exemption, but perhaps  
12  they don't?

13          A.       We encourage everybody to call just to be  
14  safe.

15          Q.       So you want people to call you?

16          A.       Or contact us one way or another, yes.

17          Q.       Or contact you through the Internet or  
18  whatever?

19          A.       Correct.

20          Q.       You want them to do that?

21          A.       Correct.

22          Q.       You want to make sure that if there's a  
23  problem out there where they're doing some sort of digging,  
24  maybe even digging in their yard, right --

25          A.       Correct.

1 Q. -- that they call you?

2 A. Yes. And that's why we do the advertising and  
3 everything else.

4 Q. And you want to make -- you want to make it as  
5 obvious as possible or as easy as possible for people to know  
6 how to contact you. Correct?

7 A. We have, yes.

8 Q. And having an 811 number might help facilitate  
9 that, wouldn't you agree?

10 A. We don't know. I can't -- again, it goes back  
11 to your question before. Dialing three digits versus ten,  
12 okay, but you got to know what it is. And you go back the  
13 other way, what if they hit 711 or 911 or maybe they wanted to  
14 call one of those and they hit 811. Then what do we do?

15 Q. Well, isn't there some proposal here in regard  
16 to what would occur if someone intended to dial 911 and hit  
17 811 instead for there to be some sort of direction about that?

18 A. The only thing that we've been able to do is  
19 we have an auto attendant as it comes on. The first thing it  
20 says is, You have dialed 811. If you intended to dial 911,  
21 please hang up and redial. That's as far as we can go.

22 Q. There is some direction. Correct?

23 A. That's a service we have provided.

24 Q. But you believe that it is important for  
25 people to be able to call you?

1           A.       Correct.

2           Q.       You believe it's important for people -- from  
3     the standpoint of ease of access and if that -- if ease of  
4     access results in additional calls that you might not  
5     otherwise get, that would be helpful.   Correct?

6           A.       Correct.

7           Q.       In regard to the policy of Missouri One Call,  
8     if individuals are having difficulty in any way, that is not  
9     Missouri One Call's intention; is that correct?

10          A.       That's correct.

11          Q.       But if a utility won't respond, do you have  
12     any power to ensure that they do go out there?   Have you got  
13     any authority to ensure that they actually appear to mark  
14     their --

15          A.       No, I don't.   That is held strictly by the  
16     Attorney General's office.

17          Q.       And who is your -- who is your contact at the  
18     Missouri Attorney General's office when you have a problem  
19     with one of your utilities?

20          A.       Our current contact is a gentleman by the name  
21     of Clint Barnett.

22          Q.       And how many complaints have you filed with  
23     Mr. Barnett regarding lack of response to calls by a utility  
24     or someone else who has lines?

25          A.       I don't know that I've -- would categorize it

1 as a filed complaint. I've let him know of individual -- of  
2 times when things have not worked properly so that he knows  
3 what's going on. I've also indicated to excavators When they  
4 had problems, that's the person to contact as -- that's the  
5 way he wanted it done.

6 Q. Well, he's not here to defend himself so I  
7 won't go down here very long, but I'm asking you how many  
8 formal complaints you have filed with the Attorney General's  
9 office regarding the failure of entities who should be marking  
10 their lines to do so.

11 A. None. The --

12 Q. How many incidences of those -- of that type  
13 have you had over the course of your tenure, would you  
14 estimate?

15 A. I have no idea, sir.

16 Q. Would it be a significant number?

17 A. I have no idea, sir.

18 Q. More than 10?

19 A. I have no idea, sir.

20 Q. More than 100?

21 A. I have no idea.

22 Q. You're telling me you have no clue?

23 A. No. Because the -- the caller would be the  
24 one that initiate that -- the excavator would be the one to  
25 initiate that complaint, not us.

1           Q.       I didn't ask you that. I said how many times  
2 have you known -- have you received information that a utility  
3 or other entity that was supposed to be marking lines had  
4 failed to do so. And you're --

5           A.       Okay. All right. Pick a number.

6           Q.       Okay. More than 1,000?

7           A.       Yes. In my tenure, yes.

8           Q.       And how long have you been there again?

9           A.       Almost six years. And, again, going back to  
10 that point, when we get to that -- when we get notified,  
11 that's where we notify our other contacts within the utility  
12 if that's the -- whatever one is named to let them know what's  
13 going on, because not all utilities locate their own lines.  
14 Some of them use a location service.

15          Q.       Not all utilities will call you back either,  
16 will they?

17          A.       Generally I -- yes, generally they do.

18          Q.       That's interesting.

19          A.       Again, because I'm calling a different person  
20 than what the general public would call.

21                   COMMISSIONER GAW: No further questions.

22 Thank you.

23                   JUDGE STEARLEY: Thank you, Commissioner Gaw.

24                   Commissioner Clayton?

25 QUESTIONS BY COMMISSIONER CLAYTON:

1           Q.       Just a few questions. Your organization is a  
2 not-for-profit; is that correct?

3           A.       Correct.

4           Q.       And do you all publish an Annual Report with  
5 your budget and income and expenses?

6           A.       It's provided to -- by law, it's provided to  
7 the Speaker of the House and the President of the Senate.

8           Q.       Is that public information?

9           A.       Once it gets to their office, I would assume  
10 so, yes.

11          Q.       Okay. How big of a report is it? Is it a  
12 thick report or is it just --

13          A.       It's probably two dozen pages. It's --

14          Q.       Would that be something you could give to us?

15          A.       I'd have to ask my board, but I don't see any  
16 reason why not.

17          Q.       All right. I'd like to ask for a copy if  
18 that's not a problem.

19          A.       Which year would you prefer?

20          Q.       Just a current year.

21          A.       Okay.

22          Q.       Just one just to see what it looks like.

23                   And you may have gone through this with  
24 Commissioner Gaw and I apologize for being repetitive, but  
25 generally speaking, aside from utilities that would be your

1 members, you have private parties that would have another  
2 reason for having some sort of infrastructure in the ground,  
3 you said?

4 A. On public right-of-ways, yes.

5 Q. On public right-of-ways. Do you have  
6 municipalities that are members?

7 A. Yes.

8 Q. And how about rural electric cooperatives?

9 A. Yes.

10 A. And I think they got dragged in kicking and  
11 screaming a couple of years ago. Is that a fair assessment?

12 A. Yes.

13 Q. Okay. They've been in now for, what, three  
14 years?

15 A. Most of them have been in four years.

16 Q. Most have been in four years. Is there anyone  
17 that is not a member that you believe should be a member?

18 A. Well, that's a loaded question.

19 Q. Well, speak in generalities.

20 A. To our -- yes.

21 Q. In generalities, what type of entity would  
22 have infrastructure in the ground that ought to be a member?  
23 Is that a loaded question?

24 A. Due to a -- an omission in the law, there is  
25 some entities that are not members that I feel should be

1 simply because of an omission on how the law was written.

2 Q. What type of entity would that be?

3 A. A municipality.

4 Q. Well, I just asked you if municipalities were  
5 part of it.

6 A. They are, but this one is not.

7 Q. Is it just one single municipality?

8 A. It's a facility that a municipality operates.

9 I mean, I can tell you who it is.

10 Q. Go ahead and tell me.

11 A. St. Louis -- City of St. Louis.

12 Q. City of St. Louis?

13 A. City of St. Louis.

14 Q. Their water, you mean?

15 A. Actually, their water is a member but not  
16 their -- their street department for their street lights.  
17 There are probably -- we have a list of other people that  
18 we've been trying to contact, very small possible members.  
19 We're not even sure they should be members, but we're trying  
20 to make every effort to let them know of what the requirements  
21 are.

22 Q. Regarding the people that are not members --

23 A. Uh-huh.

24 Q. -- is it possible for you quantify the amount  
25 of work that is generated that would affect them? For

1 example, how many calls would you get -- how many  
2 1-800-DIG-RITE calls would you get on an annual basis that  
3 address -- that possibly would cross over St. Louis City  
4 street light right-of-way where there would be a potential  
5 problem because they're not a part of the system?

6 A. They were a member for a short period of time  
7 and at that point I think they were -- and I'm going strictly  
8 from memory, but it was -- they received a few hundred  
9 requests -- or notifications per month.

10 Q. Few hundred per month?

11 A. Yes.

12 Q. And now they don't receive any?

13 A. No.

14 Q. Does your organization have follow-up? Do you  
15 know -- are you reported to if there is a line severed or a  
16 breach of some infrastructure in the ground? Are you notified  
17 after the fact?

18 A. By law, they have to -- we're required to  
19 allow them to do what is known as a dig-up notification and  
20 then we let the facility owners in that area know.

21 Q. So even people who are not members of your  
22 organization have to report, or no?

23 A. I guess I misunderstood your question.

24 Q. You're saying the excavator -- say, for  
25 example, a contractor that hits a line, they have to do a --

1           A.     Dig-up.

2           Q.     -- a report?

3           A.     Yes.

4           Q.     Where does that report go?

5           A.     It goes to the facility owners in that area.

6           Q.     To all facility owners?

7           A.     Yes.

8           Q.     But does that -- is there a central

9 clearinghouse where those reports are gathered? I mean, is

10 there a place where statistics are held that would show how

11 many -- how many breaches of infrastructure occurred for

12 St. Louis City street lights other than them?

13          A.     It's -- it's divided up basically by -- as the

14 member calls it, district codes. And a utility -- our

15 facility may have several district codes. So let's use

16 St. Louis as an example. We could -- if our member -- say

17 it's AmerenUE -- wished to know how many dig-ups were in -- in

18 a certain district code in their area that they have

19 designated, they could see that, yes.

20          Q.     Okay. Are you aware -- in terms of follow-up,

21 is there some entity that will go after, say, a contractor who

22 breaches a line, causes expense on one of your members? Is

23 there some place where a decision is made to -- you were

24 talking about the Attorney General at one point and I don't

25 know if the Attorney General is the right person, but does

1 someone pursue a contractor for breach of infrastructure for  
2 compensation?

3 A. The facility owner does.

4 Q. Usually the utility or the member would  
5 actually do that?

6 A. Right.

7 Q. Okay.

8 A. Missouri One Call is strictly a notification  
9 center.

10 Q. I understand. But you don't keep records  
11 of -- you don't keep information to compile a report on  
12 whether or not one of your members was made whole or --

13 A. No.

14 Q. -- received compensation?

15 A. No. That's between them and that contractor.

16 Q. Okay. Can you tell me -- and I don't know if  
17 this is public or not so if it's not public information or  
18 it's secret, please let me know.

19 Have you calculated how much it would cost  
20 your organization if you were mandated to participate in the  
21 811 service and the tariffs that have been provided at  
22 least -- I'm looking for a statewide number, but we only have  
23 one tariff. Have you calculated how much you would estimate  
24 this type of 811 service would cost you?

25 A. It's our estimation -- and strictly an

1 estimation and guess because we don't have access to exactly  
2 how many switches are affected in the state of Missouri, but  
3 if we use the AT&T tariff as a base to do the calculations on,  
4 we estimate it's going to be just right at \$200,000.

5 Q. Annually?

6 A. It's -- it's a one-time charge. There's is a  
7 one-time charge.

8 Q. It's a one-time --

9 A. Yes.

10 Q. Would that be for statewide or just for AT&T?

11 A. That would be statewide.

12 Q. Statewide. Okay. And I haven't looked at the  
13 tariff. Is it set up by number of calls or just a flat fee  
14 per ILEC? Do you know?

15 MR. COMLEY: Flat fee per host switch that's  
16 affected.

17 MR. GRYZMALA: \$235 for each host switch.

18 BY COMMISSIONER CLAYTON:

19 Q. Okay. And I think it was stated earlier that  
20 even if you did this 811 service, you would still have to  
21 maintain the 1-800-DIG-RITE phone number?

22 A. Yes. Because the 811 is pointed to a  
23 toll-free number.

24 Q. So the 811 wouldn't actually replace the 1-800  
25 number, it is in addition to it?

1           A.       Correct.

2           Q.       How much does your organization pay for the  
3 1-800 service right now? Is that a public number?

4           A.       I don't know. It's wrapped into the -- the  
5 cost of the vendor, so I don't know exactly what it is.

6           Q.       The vendors.

7                    COMMISSIONER CLAYTON: Okay. No other  
8 questions. Thank you.

9                    COMMISSIONER GAW: I have a few more, Judge.

10                   JUDGE STEARLEY: Commissioner Gaw.

11 FURTHER QUESTIONS BY COMMISSIONER GAW:

12           Q.       Would you say -- thank you. I don't know if  
13 this was clear earlier. When you are called, is there a  
14 requirement -- after you call the utilities that are involved  
15 or the other entities that are involved, is there a  
16 requirement that they report back to you to say that the lines  
17 have been marked?

18           A.       No, there is not.

19           Q.       Is that a statutory flaw or is it a -- is it  
20 something that you could do under your current authority?

21           A.       That I don't know. The way it's listed right  
22 now is the -- the -- the onus on that is put back onto the  
23 excavator that they -- they make sure that everyone has  
24 contacted them. And --

25           Q.       How is the excavator supposed to know who all

1 is supposed to call them?

2 A. They're given a list of everyone that has been  
3 contacted.

4 Q. Okay. Who gives them that list?

5 A. The call center.

6 Q. They give it by phone?

7 A. They give it by phone or if it's by Internet,  
8 they get a copy of the ticket back or fax, it's on the fax.

9 Q. And is that a policy of Missouri One Call?

10 A. That's required by the state statute, if I'm  
11 not mistaken. But it's something that's always been done by  
12 Missouri One Call.

13 Q. What is it that's required under the statute?

14 A. To let them know who is going to be  
15 responding.

16 Q. But your entity, could it -- it could make  
17 some requirement of those that you call that they respond back  
18 to you to let you know that they have taken care of the issue.  
19 Correct?

20 A. The -- what you're describing is called  
21 positive response.

22 Q. Yes, and you could do that?

23 A. If our membership so desired.

24 Q. But currently they do not?

25 A. Correct.

1           Q.     Now, the type of incidence that can occur if  
2 lines are cut, have you had lines cut despite this program?

3           A.     Yes.

4           Q.     And have there been injuries or deaths as a  
5 result of those lines being cut?

6           A.     That I do not know.

7           Q.     Haven't there been gas explosions with lines  
8 cut?

9           A.     I'm sure there have. If you're --

10          Q.     But you --

11          A.     If you're referring to the one most recently  
12 south of St. Louis --

13          Q.     I'm not referring to anything in particular.

14          A.     Okay.

15          Q.     Just asking you what you know about it.

16          A.     Okay. Well, there was one there, but it  
17 was -- there was a locate request made and it was still cut.

18          Q.     Was it marked?

19          A.     Yes.

20          Q.     So you know of at least one instance where  
21 there's been -- was there an injury or death involved in that  
22 one?

23          A.     I don't believe there was a death.

24          Q.     There was an explosion?

25          A.     Yes, there was.

1           Q.     And do you think that's the only time that  
2     there's been a line cut where there's been an explosion in  
3     your tenure?

4           A.     That I know -- in my tenure, yes.

5           Q.     I'm not talking about whether it's marked or  
6     not now.

7           A.     As far as facilities that were cut -- it's  
8     hard to answer that one because of the situation that happened  
9     in Springfield, but it had nothing to do with -- it wasn't --  
10    didn't have anything to do with Missouri One Call. It was  
11    gas -- in that situation, gas migrated from another issue, but  
12    I can't think of any off the top of my head, sir.

13          Q.     Do you keep a record of those incidents that  
14    occur when lines are cut?

15          A.     No.

16          Q.     Does someone do that?

17          A.     The members take care of that part of it  
18    because, again, we're a notification center.

19          Q.     So there is no central filing place that  
20    exists in the state of Missouri for recording where lines are  
21    cut or disturbed as a result of digging?

22          A.     Depending on the type of line, there is. But  
23    not through Missouri One Call, no.

24          Q.     Is there a central location for those  
25    incidents where digging results in a disturbance or a cutting

1 or damaging of lines?

2 A. From what I understand, the -- in the case of  
3 a gas line, it has to be reported to the Public Service  
4 Commission.

5 Q. All right.

6 A. In the case of a pipeline, it has to be  
7 reported to the Office of Pipeline Safety.

8 Q. Okay. But there is no reporting back to any  
9 entity that is responsible for the process of notification  
10 itself, which in this case --

11 A. No.

12 Q. -- would be you?

13 A. No. Not that I know of.

14 Q. Is that a policy that could be implemented by  
15 your entity?

16 A. I don't know.

17 Q. Okay. But currently if we wanted to go and  
18 discover how or if a notification procedure had failed  
19 resulting in a damage to a line from digging, is there any  
20 place we could go to gather that information?

21 A. Yes. The -- as an example --

22 Q. Okay.

23 A. -- the Attorney General's office will call and  
24 in the case of asking if somebody -- say an excavator hit a  
25 line. First thing they ask me, Does he have a locate request.

1 We can do a records search to see if there was a request even  
2 made, yes or no. We have that ability.

3 Q. So if someone checks, you can go back and  
4 trace down whether there was a locate request?

5 A. Correct.

6 Q. And you could also, I suppose, contact the  
7 entity who was supposed to mark the lines and see whether or  
8 not they actually marked the lines, or someone could?

9 A. Someone could, yes.

10 Q. But there is no central clearinghouse for all  
11 that information to be kept?

12 A. No.

13 Q. But would you say that the existence of  
14 Missouri One Call and having a number to call is helpful in  
15 avoiding incidents where lines could be otherwise damaged  
16 or --

17 A. Yes.

18 Q. -- cut?

19 A. Yes.

20 Q. And you base that upon what -- what --

21 A. The thousands and thousands --

22 Q. -- what information?

23 A. The thousands and thousands of requests we do  
24 receive where people have excavated safely.

25 Q. But you don't have any data that actually has

1 accumulated information, it's just based upon what you believe  
2 to be the case. Correct?

3 A. The only thing they're required to -- to file  
4 with Missouri One Call is a dig-up notice whenever they do hit  
5 a facility and we have that ability. And our members use that  
6 information.

7 Q. Okay. But there's no effort made to determine  
8 whether or not One Call's existence -- how One Call's  
9 existence or their operation interrelated to that damage?  
10 There's just a requirement to call and let you know that the  
11 damage occurred?

12 A. Correct.

13 Q. But you believe that it is important for  
14 public safety reasons that One Call have an efficient way of  
15 allowing individuals to contact it?

16 A. Which we have, yes.

17 Q. And the more efficient, the better?

18 A. Yes.

19 COMMISSIONER GAW: That's all I have. Thank  
20 you. I apologize for belaboring that.

21 JUDGE STEARLEY: Thank you, Commissioner Gaw.  
22 I think this would be an appropriate time for us all to break  
23 for lunch. And when we get back, reconvene, we will resume  
24 with recross and redirect of Mr. Lansford. So we will go off  
25 the record.

1 (A recess was taken.)

2 JUDGE STEARLEY: All right. We are  
3 reconvening in Case No. IT-2007-0187. We left off with  
4 Mr. Lansford on the Bench.

5 Mr. Lansford, now that we've returned from  
6 break, I'd like to remind you that you're still under oath and  
7 we will pick up with recross-examination following the  
8 questions from the Bench beginning with AT&T. Mr. Gryzmala.

9 MR. GRYZMALA: No questions, your Honor.

10 JUDGE STEARLEY: All right. Thank you,  
11 Mr. Gryzmala.

12 From Staff, Mr. Meyer.

13 RECROSS-EXAMINATION BY MR. MEYER:

14 Q. Thank you. Very briefly, Commissioner Gaw  
15 asked a series of questions about benefits of 3-digit dialing  
16 versus 10-digit dialing. I assume you recall those. To your  
17 knowledge, has 811 already been implemented in Missouri by  
18 some carriers?

19 A. Yes, it has.

20 Q. Okay. Do you have any record or insights as  
21 to how many calls have been received via 811 service since it  
22 was implemented in those areas where it has been implemented?

23 A. We have a count of 700 -- I'm sorry, 279 --  
24 approximately 279 calls coming into our toll-free number from  
25 811. The majority -- all of those basically were tests

1 because they all lasted only a couple of seconds. To our  
2 knowledge, there were no tickets generated.

3 Q. And you would be able to tell?

4 A. By the length of the call, yes.

5 Q. Okay. Would it be correct to say that  
6 Missouri One Call is not paying the telecommunications  
7 carriers who are providing those 811 arrangements?

8 A. Correct.

9 MR. MEYER: Okay. Thank you. That's all I  
10 have.

11 JUDGE STEARLEY: Thank you, Mr. Meyer.

12 Redirect, Mr. Comley.

13 MR. COMLEY: Thank you, Judge.

14 REDIRECT EXAMINATION BY MR. COMLEY:

15 Q. Mr. Lansford, in connection with questions  
16 from Commissioner Gaw and others, if AT&T were to offer 811 to  
17 Missouri One Call System at no charge, would Missouri One Call  
18 agree to incorporate that into the way in which excavators can  
19 dial Missouri One Call?

20 A. Yes, I believe so.

21 Q. And my understanding is that that is being  
22 done with other carriers right now?

23 A. Correct.

24 Q. Now, why would Missouri One Call do that?

25 A. Simply as part of our part of working with

1 the -- the communications companies and providing that.

2 Q. Do you have any objection to the idea that 811  
3 could be a statewide service?

4 A. No.

5 Q. If it's a statewide -- would the idea of an  
6 811 as a compliment to the existing toll-free number, would  
7 that be something consistent with the mission statement of  
8 Missouri One Call?

9 A. I believe so, yes.

10 Q. Commissioner Gaw also asked you questions  
11 about the relationship between the dialing of the toll-free  
12 number and responses to locate requests. And I want to ask  
13 this question of you. Would having 811 available to  
14 excavators encourage facilities operators to respond more  
15 quickly or diligently to the locate requests processed through  
16 your notification center?

17 A. No, they would not. Because they don't have  
18 -- they would never know how the request was presented to  
19 Missouri One Call.

20 Q. And why is that?

21 A. Because the 811 or even our toll-free number  
22 has nothing to do with how we notify the members.

23 Q. Commissioner Gaw also asked about mandatory  
24 membership in the Missouri One Call. When mandatory  
25 membership was called for, was the transition to mandatory

1 membership an easy one?

2 A. No.

3 Q. Can you explain why it was not easy?

4 A. Simply because it took a lot of time. There  
5 was several members -- current members that did not understand  
6 what the process was, how it was done and it took a lot of  
7 education.

8 Q. Are there underground facility owners out  
9 there that have still not joined Missouri One Call System to  
10 the best of your knowledge?

11 A. We believe there is, yes.

12 Q. Those that have joined, has the relationship  
13 been one that you would consider cordial all the time?

14 A. Through the vast majority, yes.

15 Q. During the course of a question by  
16 Mr. Gryzmala you mentioned that a survey had been conducted  
17 about recognition of a toll-free number. Do you recall a  
18 question like that by Mr. Gryzmala?

19 A. In a roundabout way, yes.

20 Q. I think you had a response about that  
21 survey -- what survey were you referring to?

22 A. There was a survey that we were shown that was  
23 commissioned by the Common Ground Alliance as to the  
24 recognition factor of the different calling numbers across the  
25 United States from the various states.

1           Q.       Was that for a period of time? Was that for a  
2 particular year?

3           A.       Just currently.

4           Q.       So we're talking about 2006?

5           A.       That's when it was done, yes.

6           Q.       All right. Do you remember what percentage  
7 of -- what recognition factors percentage applied to the  
8 telephone number in Missouri?

9           A.       If I've got it right, it was in excess of  
10 90 percent.

11                   MR. COMLEY: I have no other questions.

12                   JUDGE STEARLEY: All right. Thank you,  
13 Mr. Comley.

14                   Mr. Lansford, you may step down at this time.  
15 You will not be finally excused in case the Commissioners were  
16 to want to ask you additional questions.

17                   THE WITNESS: Yes, sir.

18                   JUDGE STEARLEY: Thank you for your testimony.

19                   THE WITNESS: Thank you.

20                   JUDGE STEARLEY: At this time Staff may call  
21 its witness.

22                   MR. MEYER: We call Natelle Dietrich.

23                   JUDGE STEARLEY: Ms. Dietrich, would you  
24 please state and spell your name for our court reporter?

25                   THE WITNESS: Natelle, N-a-t-e-l-l-e,

1 D-i-e-t-r-i-c-h.

2 JUDGE STEARLEY: All right. I will now swear  
3 you in.

4 (Witness sworn.)

5 JUDGE STEARLEY: All right. You may proceed.

6 MR. MEYER: Thank you.

7 NATELLE DIETRICH testified as follows:

8 DIRECT EXAMINATION BY MR. MEYER:

9 Q. Good afternoon, Ms. Dietrich.

10 A. Good afternoon.

11 Q. Could you tell us what your occupation is?

12 A. I am an economist and supervisor with the  
13 telecommunications department of the Public Service  
14 Commission.

15 Q. And very briefly, what your education is?

16 A. I have a -- my undergraduate degree is in  
17 English with University of Missouri-St. Louis and masters  
18 degree in business administration.

19 Q. And I would draw the Commission's attention to  
20 what has previously been marked as Staff Exhibit 14, which is  
21 a summary of -- well, I'll let Ms. Dietrich explain that.  
22 Have you a copy of what has been previously been marked as  
23 Exhibit 14?

24 A. Yes, I do.

25 Q. Could you tell us what that is?

1           A.       It's a summary of my experience and expertise,  
2 including education, which we just did, and also how long I've  
3 been with the Commission, my duties at the Commission and also  
4 my duties with the National Association of Regulatory Utility  
5 Commissioners or NARUC.

6           MR. MEYER: I would offer Exhibit 14 as a  
7 summary of Ms. Dietrich's experience.

8           JUDGE STEARLEY: All right. Any objections to  
9 the admission of Exhibit 14?

10          MR. COMLEY: No objection.

11          MR. GRYZMALA: No objection, your Honor.

12          JUDGE STEARLEY: Hearing none, it shall be  
13 received and admitted into evidence.

14                 (Staff's Exhibit No. 14 was received into  
15 evidence.)

16          MR. MEYER: Thank you.

17 BY MR. MEYER:

18          Q.       And could you tell us what you've done to  
19 prepare for this proceeding today?

20          A.       I've reviewed the Commission -- the FCC's 811  
21 order as well as reviewing the FCC's 511 and 311 and 211  
22 orders. I've also reviewed the tariff. I've compared it to  
23 tariffs of similar services such as 211, 311. I've contacted  
24 other states to see what's going on in those states. And I've  
25 also reviewed the cost that the -- AT&T and some other

1 companies in Missouri are -- either have already proposed or  
2 plan on proposing in other states.

3 Q. And all these activities were done in the  
4 scope of your job with the Commission?

5 A. That's correct.

6 Q. Okay. In reviewing all of that material, did  
7 you develop an opinion regarding how costs are to be recovered  
8 based on what the FCC has said, given your familiarity with  
9 such pronouncements?

10 A. In the FCC's 811 order, it doesn't  
11 specifically address how costs are to be recovered. It does  
12 say that states have the authority to address technical and  
13 operational issues.

14 Then in the regulatory flexibility analysis  
15 that it attached to the order, which is comparable to what  
16 this Commission does when we do a rulemaking in small business  
17 analysis, it addressed some cost issues. It says that it,  
18 meaning the FCC, has done all it could to reduce the costs on  
19 carriers and any additional cost issues are best addressed at  
20 the state level.

21 Q. And so you would interpret that as the  
22 decisions have been delegated to the State Commissions?

23 A. Since it's not actually in the ordered  
24 section, I'm not sure if -- if it means it's delegated or not.  
25 I mean, they've delegated technical and operational issues.

1           Q.       Do you have an opinion on how the Commission  
2 should exercise what authority it has in this case?

3           A.       Can you clarify that?

4           Q.       Do you have an opinion on how the Commission  
5 should act regarding the tariffs that were provided by AT&T in  
6 this case?

7           A.       I think the Commission should approve the  
8 tariffs.

9           Q.       Did the FCC, to your knowledge, say that One  
10 Call entities must take the service that local exchange  
11 carriers offer?

12          A.       No. In my opinion, they did not.

13          Q.       You have familiarity with other N11 offerings,  
14 I think you've just stated; is that correct?

15          A.       That's correct.

16          Q.       How does Staff's position in this case relate  
17 to how the Commission and Staff, for that matter, have treated  
18 other N11 offerings in the past?

19          A.       Well, for the other N11 offerings, there are  
20 tariffs in place. AT&T has I believe just 311 and 211. Some  
21 other carriers also have 511 and of course we have 911 and  
22 things like that.

23                    But to say how it compares to what the  
24 Commission or Staff have done in those other cases is kind of  
25 misleading because the -- the FCC has delegated different

1 levels of authority in each one of the N11 cases.

2                   For instance, in the 211 instance, they  
3 basically delegated all authority to State Commissions. So  
4 this Commission had a rulemaking in which the entity that was  
5 interested in being the 211 provider in Missouri participated  
6 in the rulemaking as well as the other carriers and Staff and  
7 we developed a rule outlining all the procedures, who pays and  
8 things like that.

9                   For 311, the FCC basically said that it's a  
10 local decision as far as cost recovery and they said something  
11 to the effect of that state and -- or excuse me, county and  
12 city governments may be competing for the same number and if  
13 that happens, then State Commissions could get involved and  
14 more or less kind of resolve issues or mediate issues related  
15 to that.

16                   For 511, the FCC specifically said that State  
17 Departments of Transportation would be responsible for  
18 implementing and taking care of all the issues related to it  
19 and that State Commissions would only get involved in 511 to  
20 the extent that a Department of Transportation had issues with  
21 a telecommunications carrier they weren't able to work out.

22               Q.       Are there any other N11 services that this  
23 Commission has taken an active role in, to your knowledge?

24               A.       Well, we have 711, 911, but as far as active  
25 role, I'm not sure.

1           Q.       Do you have some familiarity with how other  
2 states have been implementing the 811 calling process?

3           A.       Yes. I sent a query to the NARUC List Serve  
4 and received 21 responses.

5           Q.       Is there any general conclusion that you can  
6 draw from the responses that you've received?

7           A.       It's kind of all over the board. One of the  
8 problems is that different states have different levels of  
9 authorities over the state One Call Centers. There are some  
10 states where the One Call Center has been established under  
11 the auspices of the Public Service Commission. Other states  
12 they have multiple One Call Centers and so they've had to  
13 coordinate them all into one 811 number.

14                   But from the respect of cost recovery, there  
15 are, out of those that responded, five that we know of that  
16 have tariffs or some sort of plan in place. And then one  
17 state that said the One Call Center had to pay, but that  
18 was -- if you read the order, it appears that the One Call  
19 Center more or less volunteered.

20                   And then one state that said the One Call  
21 Center did not have to pay. And then one state that said they  
22 haven't addressed 811 specifically but just in general they've  
23 determined that N11 calls are a teleco's cost --  
24 telecommunications company's cost of business.

25           Q.       There have been -- there's some discussion --

1 Mr. Gryzmala I believe provided us a copy of the NANC or  
2 N-A-N-C analysis that was provided to the FCC. Were you at  
3 all familiar with that document?

4 A. Yes, I also reviewed it.

5 Q. Did anyone from this Commission participate  
6 or -- to your knowledge, in the NANC process leading into that  
7 document?

8 A. Not that I'm aware of.

9 Q. Did that document influence your opinions and  
10 how your perspective is developed on the FCC order at all?

11 A. The -- the FCC references it and implies that  
12 they considered them as guidelines or considered it when they  
13 were making their decision. But as far as my opinion, no.

14 MR. MEYER: Okay. Thank you. That's all I  
15 have at this time. Thank you.

16 JUDGE STEARLEY: All right. Thank you,  
17 Mr. Meyer.

18 We'll have cross-examination starting with  
19 Missouri One Call, Mr. Comley.

20 MR. COMLEY: Thank you, Judge.

21 CROSS-EXAMINATION BY MR. COMLEY:

22 Q. Ms. Dietrich, to confirm some facts that we  
23 developed with Mr. Lansford, there was a meeting conducted  
24 under your -- I'll call supervision -- about the implement of  
25 811 in October of 2005; isn't that correct?

1           A.       That's correct.

2           Q.       And were all the representatives of the  
3 telecommunications carriers invited to that meeting?

4           A.       Yes, they were.

5           Q.       Do you know whether an AT&T representative was  
6 present at that meeting?

7           A.       Yes, they were.

8           Q.       As a consequence of that meeting, were there  
9 any recommendations or conclusions from the body that was  
10 assembled there about implementation of 811?

11          A.       From the meeting itself we took away several  
12 action items or identified issues that various entities  
13 thought may be of concern. And depending on what the issue  
14 was, different people addressed it. And all of them have been  
15 resolved except for the cost recovery issue which we're  
16 addressing today.

17          Q.       The things you just described, were they done  
18 within the Staff or within the workshop group?

19          A.       It -- the actual workgroup, it was just the  
20 one workshop. We did have some e-mails and Staff made some  
21 phone calls contacting different people. But as far as  
22 calling it a body decision, no, there was not.

23          Q.       Were these network items or -- you say  
24 everything but cost recovery had been settled by that group.  
25 What other subjects were there to be settled?

1           A.       Things like, for instance, for wireless  
2 carriers since their towers and their calling range covers  
3 different areas and overlaps states and things like that, how  
4 to address those types of issues to make sure that -- say, for  
5 instance, if it was a Missouri/Illinois overlap, whether it  
6 was an 811 call coming from Missouri or an 811 call coming  
7 from Illinois. That's -- as far as I understand, has been  
8 resolved. How this would affect VoIP carriers. And Staff  
9 contacted Vonage to see if there were any issue and no issues  
10 were identified.

11                   How to address the 911 issue that Mr. Lansford  
12 mentioned and we talked about that quite a bit. We -- we  
13 talked about issues -- or resolutions such as programming a  
14 switch to say, you know, this should have been a 911 call and  
15 then they would transfer it to the 911 number. But that was  
16 determined to be too cost prohibitive and so we informally  
17 came up with the idea of just having the recording that  
18 Mr. Lansford talked about and I think evidently -- or  
19 obviously implemented.

20           Q.       Then I take it then the meeting did not come  
21 up with any recommendations to the telecommunications carriers  
22 on a form of tariff?

23           A.       No, huh-uh.

24           Q.       Or whether or not wireless carriers and  
25 land-based carriers would be expected to recover the costs

1 through a tariff?

2 A. No. As a result of the workshop, we -- it --  
3 we ended it with that I would send out an e-mail or they would  
4 respond to just the request at the workshop asking what  
5 carriers anticipated submitting costs just to give everybody  
6 an idea of what we were talking about.

7 We did that and that was all done informally,  
8 all the information was submitted as HC information just to  
9 give us an idea of what we were talking about. But there was  
10 no, you know, discussion about how to put it in a tariff or  
11 anything.

12 And the farthest that we went was later with  
13 discussions with Commissioners that I had had, it was  
14 determined that unless they -- a company was actually seeking  
15 cost recovery, there wasn't even a need for a tariff.

16 Q. I'd earlier marked Exhibits 15 and 16.  
17 Exhibit 15 was a letter addressed to you and I think  
18 Exhibit 16 was an e-mail that was from your office. I just  
19 wanted to check with you. It's true, isn't it, that Missouri  
20 One Call System did send information to your office concerning  
21 the availability of a new 1-800 number for purposes of 811  
22 implementation; is that correct?

23 A. That's correct.

24 Q. And is it also true that you did send an  
25 e-mail to various members of the telecommunications industry,

1 the regulated industry as far as I could tell, advising them  
2 of that number?

3 A. That's correct. There may even be some  
4 unregulated entities on there of people that participated in  
5 the workshop.

6 Q. Can you tell me what the origin was of your  
7 distribution e-mail list?

8 A. We -- we started out with a list -- or I  
9 started out with a list just of people that I thought might be  
10 interested. And I think, you know, I also sent it to  
11 attorneys that represent various entities that we maybe  
12 wouldn't have e-mail contacts and things like that. And then  
13 as people showed up at the workshop and heard about the  
14 workshop, then we expanded the list to include, for instance,  
15 wireless carriers like Vonage and that type of thing.

16 Q. And the workshop occurred after -- the  
17 workshop occurred before you got the information on the One  
18 Call number; is that correct?

19 A. The 800 number?

20 Q. Yes.

21 A. Yes. Uh-huh.

22 Q. Okay. You mentioned to Mr. Meyer that you had  
23 reviewed the FCC's Sixth Report and Order in this case about  
24 811 implementation. Is that a correct understanding of your  
25 testimony?

1           A.       Yes, it is.

2           Q.       Would it be fair to say that the FCC  
3       contemplates that 811 would be available on rather a universal  
4       basis?

5           A.       Yes.

6                   MR. GRYZMALA: Your Honor, I'll -- if you  
7       don't mind, I'll object to the question. The order speaks for  
8       itself in that regard unless she has some personal knowledge.

9                   JUDGE STEARLEY: It's already been asked and  
10       answered, counsel.

11       BY MR. COMLEY:

12           Q.       The other question would be, is your  
13       understanding of the order that 811 should be available on a  
14       statewide basis?

15                   MR. GRYZMALA: Your Honor, I'll re-raise my  
16       objection, now timely I hope.

17                   JUDGE STEARLEY: Mr. Comley?

18                   MR. COMLEY: Mr. Meyer was permitted to  
19       discuss the understanding this witness has of the order  
20       without objection and I am following up on her understanding.  
21       Mr. Meyer did raise the question in his questioning and I  
22       think I'm entitled to go further.

23                   JUDGE STEARLEY: Mr. Gryzmala?

24                   MR. GRYZMALA: We re-raise our objection, your  
25       Honor, asking for information which -- for which she's laid no

1 foundation.

2 JUDGE STEARLEY: Could you lay a little  
3 additional foundation for us, please, Mr. Comley?

4 BY MR. COMLEY:

5 Q. Ms. Dietrich, is it also in your duties and  
6 responsibilities to review FCC orders and advise the  
7 Commission on what the Commission's duties might be under  
8 those orders?

9 A. Yes, it is.

10 Q. And in connection with those duties, did you  
11 review the FCC order in this case to determine what kind of  
12 duties and responsibilities the Commission may have in  
13 response to that order?

14 A. Yes, I did.

15 Q. I would renew my question about whether or not  
16 you would believe, under the FCC order, the FCC contemplates  
17 that this service would be available on a statewide basis?

18 A. Yes, I do.

19 Q. In the event the Missouri One Call System  
20 elects not to purchase the system -- or purchase the service  
21 under the proposed tariffs, what will be the effect of that?

22 A. As long as -- assuming that the carriers do  
23 the switch programming, have it set up in their switches, the  
24 effect would be that -- in my opinion, the order would be  
25 complied with because it talks about service being deployed or

1 being available, implemented, those types of things.  
2 Customers would not be able to use it at least in AT&T  
3 Missouri's territory.

4 Q. All right. You mentioned a survey you had  
5 done of other jurisdictions and as -- I took the count while  
6 you were talking. Is it fair to say that you had responses  
7 from -- or at least a survey of eight states? I may have  
8 miscounted.

9 A. We received responses from 21 states. I think  
10 I listed eight states that had specifics related to this  
11 issue. Several of the states responded that it either has not  
12 been an issue yet or they're not going to address it.

13 Q. And I understand that five have permitted  
14 tariffed service offerings; is that correct?

15 A. Tariffs are in effect.

16 Q. In effect. One responder said that the One  
17 Call pays but that was under a voluntary order?

18 A. That would be my reading of it, that the One  
19 Call Center volunteered to work with and agreed to pay and the  
20 order was just reiterating that.

21 Q. Would that happen to have been the order that  
22 was introduced into evidence today?

23 A. Mississippi.

24 Q. Mississippi?

25 A. Yes.

1           Q.       You said that one responder was that they did  
2 not require the One Call Center to pay for the service?

3           A.       That's correct.

4           Q.       And that that one indicated that all  
5 abbreviated dialing code offerings were a cost of business for  
6 the telecommunications carrier?

7           A.       It lists the ones that they have addressed.

8           Q.       They haven't -- okay. So we don't know how  
9 many abbreviated dialing codes have been addressed, in other  
10 words, by that?

11          A.       They -- they said 811 had not specifically  
12 been addressed but the ones in whatever those are that had  
13 been addressed, it was determined it was a cost of doing  
14 business.

15                   MR. COMLEY: I think that's all. Thank you.

16                   JUDGE STEARLEY: All right. Thank you,  
17 Mr. Comley.

18                   QUESTIONS BY JUDGE STEARLEY:

19           Q.       And I just had one question for you,  
20 Ms. Dietrich, just for clarity. And I'm sure you've answered  
21 this before, but when was that workshop meeting held?

22           A.       It was October 2005.

23                   JUDGE STEARLEY: All right. That's all I had  
24 for you at this time. I don't assume there will be any  
25 recross based on that one question.

1                   MR. COMLEY: I think Mr. Gryzmala has yet to  
2 do his own cross.

3                   JUDGE STEARLEY: You're absolutely right. I  
4 don't want to leave Mr. Gryzmala out.

5                   MR. COMLEY: I would have let you do that  
6 though.

7                   MR. GRYZMALA: I would be so disappointed.

8                   JUDGE STEARLEY: I'm trying to move too  
9 rapidly after this morning's slow pace.

10 CROSS-EXAMINATION BY MR. GRYZMALA:

11                Q.       Hi, Ms. Dietrich. I just have a couple  
12 questions. And I want to lock in on some of these state  
13 orders because I still had a little trouble following.

14                A.       Okay.

15                Q.       The way I wrote it, five states that responded  
16 either had tariffs or I believe you mentioned a plan in place.  
17 Can you tell me apart from Kansas -- well, why don't you tell  
18 us what those five states are?

19                A.       Okay. Florida, staff recommended the tariffs  
20 be filed and the Florida Commission agreed. I think with  
21 Mr. Comley I said they were in effect. They aren't  
22 necessarily in effect but they've somehow addressed tariffs.

23                        Let's see. Minnesota.

24                Q.       Florida, Minnesota.

25                A.       Nebraska.

1 Q. Nebraska.

2 A. Tennessee and Washington.

3 Q. Washington state?

4 A. Washington state, yes.

5 Q. Okay. Florida, Minnesota, Nebraska, Tennessee

6 and Washington. Do I take it the upshot of these five states,

7 the common element among these five states is that there are

8 either tariffs or plans in place to allow cost recovery to the

9 telephone companies deploying 811 service relative to the One

10 Call providers?

11 A. Either in place or the Commission has said if

12 you're going to do it, you have to submit a tariff and put a

13 plan in place or submit a plan for us to review.

14 Q. So I take it to be your testimony that in

15 these five jurisdictions, there has not been any Commission

16 resistance to that approach, rather it's been the reverse?

17 A. Not necessarily. Some of them said the

18 tariffs were filed and there was no intervention so no issues

19 were raised, they just went into effect but the Commissions

20 have not.

21 Q. Okay. So it would be true that in these five

22 states, there was no decision to deny cost recovery?

23 A. Correct.

24 Q. That's the upshot of your testimony?

25 A. Correct.

1           Q.       Okay. And in one state you indicated that  
2 there was a voluntary order. That's Mississippi?

3           A.       Correct.

4           Q.       Agreed upon we saw that this morning. You  
5 said that in another state, the state did not require that the  
6 One Call System pay. What state was that?

7           A.       Texas.

8           Q.       Okay. And you mentioned -- we'll return to  
9 Texas in a moment. You mentioned another state suggested it  
10 may be a teleco cost of doing business?

11          A.       Correct.

12          Q.       What state was that?

13          A.       Iowa.

14          Q.       Was there a definitive order issued by either  
15 of those State Commissions?

16          A.       In Iowa there was not.

17          Q.       Okay. Before you move to the other -- well,  
18 go ahead and on Texas.

19          A.       Just one second.

20          Q.       Well, before I make you go through Texas,  
21 let's talk about Iowa. How did you identify that it might  
22 be -- that the theory there would be it would be a cost of  
23 doing business for the telephone companies?

24          A.       The Iowa staff responded to our query that the  
25 Iowa Commission had not specifically addressed 811, but the

1 N11 numbers that they had addressed previously, the Iowa  
2 Commission determined that it was a cost of doing business.

3 Q. So with all due respect, the intelligence you  
4 got from Iowa was from their staff, but did not reflect an  
5 affirmative position stated by the Commission?

6 A. It was their relaying the position -- or  
7 relaying what the Commission had done.

8 Q. With regard to other N11 abbreviated matters?

9 A. Correct.

10 Q. But not with regard to an 811 matter?

11 A. Right. They specifically said they had not  
12 addressed 811.

13 Q. Okay. And in Texas, that order that you're  
14 referring to did not require that the telephone companies  
15 deploy the service without cost recovery, did it?

16 A. No. It just said that One Call did not have  
17 to pay it.

18 Q. Do you have a copy of that order?

19 A. Uh-huh.

20 Q. No. Never mind.

21 A. Okay.

22 Q. You were referred to a workshop in October of  
23 last year, 2005.

24 A. That's correct.

25 Q. And you said that mostly all the issues were

1 resolved in this workshop except the issue of cost recovery  
2 which was left unresolved; is that correct?

3 A. No.

4 Q. No conclusion? You said that was an open  
5 item?

6 A. No. I said all the issues over time had been  
7 addressed except for the cost recovery issue.

8 Q. I'm sorry. That's the way -- I'm sorry.  
9 Since October 2005, have you conducted another workshop with  
10 respect to cost recovery?

11 A. No, we have not.

12 Q. Okay. So that remains an open issue as of  
13 today?

14 A. Correct.

15 Q. You were asked some questions about Exhibit 15  
16 or 14. Which of the two has to do with an e-mail having been  
17 provided to you? That would be Exhibit 15. An August 2  
18 e-mail or letter, excuse me -- strike that.

19 I want to refer your attention to Exhibit 15,  
20 a letter from the One Call folks to you on August 2nd, 2006.  
21 And then you referred to an e-mail you sent to various  
22 carriers and what have you on August 9; is that correct?

23 A. Yes.

24 Q. Let me just ask you, are you aware of any  
25 instance in which an entity has placed an order for telephone

1 service with a telephone company through the Staff?

2 A. No.

3 Q. Thank you. You were asked a few questions  
4 about Exhibit 3, the FCC's 811 order of March '05. Is there  
5 any language in the order that you can point to which requires  
6 the telecommunications companies to deploy the service -- 811  
7 service irrespective of how a state resolves the issue of cost  
8 recovery?

9 A. Just one second.

10 No.

11 Q. Is there anything in the order you can point  
12 which states an affirmative obligation placed by the FCC upon  
13 telecommunications companies?

14 A. Just a second.

15 Could you repeat your question, please?

16 Q. Is there anything in the order to which you  
17 can point which states an affirmative obligation placed by the  
18 FCC upon telecommunications companies?

19 A. Well, there's statements that talk about what  
20 telecommunications companies are required to do or should do.  
21 As far as whether it's an affirmative statement placing an  
22 obligation on you, since I'm not an attorney, I can't say how  
23 binding these statements are.

24 Q. What portions of the order discuss what  
25 telephone companies would be required to do?

1           A.       Well, for instance, paragraph 26 says --

2           Q.       Hold on just a second. Let me catch up with  
3 you. Paragraph 26 you say?

4           A.       Yes.

5           Q.       Okay. Thank you.

6           A.       About the middle of the paragraph, The FCC in  
7 its order states, Thus, when a caller dials 811, the carriers  
8 will translate 811 into the appropriate number to reach the  
9 One Call Center.

10                   Now, so that -- that's one example of  
11 statements where the FCC has made affirmative statements about  
12 the carriers.

13           Q.       Okay. The statement does not say carriers  
14 shall translate, does it?

15           A.       No.

16           Q.       And does it not follow a sentence which  
17 envisions that the One Call Centers will -- shall, in fact --  
18 shall provide to carriers -- not others but to carriers its  
19 toll-free number?

20           A.       That's correct.

21           Q.       Okay. And is there any other portion of the  
22 order to which you can point that states what might be  
23 regarded as a requirement?

24           A.       Paragraph 28, again, it talks about allow  
25 carriers to use either the MPA NXX or the originating switch

1 to determine the appropriate One Call Center to which a call  
2 should be routed. It uses the word "should."

3 Q. And, of course, the point of the sentence is  
4 that the FCC is acknowledging comments being filed regarding  
5 the NANC recommendation which was earlier admitted into  
6 evidence?

7 A. Correct. And then in paragraph 29 it  
8 addresses those comments and says, This approach allows all  
9 carriers the flexibility. So, again, they're talking about  
10 ways that carriers can do this using words like "allows."

11 Q. But isn't it a fair statement to say that the  
12 points you've mentioned in the order, and I thank you for  
13 looking at them, paragraphs 26, 28 and 29, are of a nature  
14 describing how a process would work, how they understand a  
15 process would work?

16 A. Correct.

17 Q. Okay. Isn't it typical -- isn't it typically  
18 the case that orders of direction and orders of affirmative  
19 obligation are stated in this Commission's orders by way of  
20 ordering clauses or wherefore clauses or conclusions of law or  
21 the like?

22 A. If I understand your -- your question, when  
23 this Commission directs somebody to do something, it is in  
24 a -- an ordered paragraph.

25 Q. Thank you. Do you regard it as being what's

1 known in the trade an ordering clause?

2 A. Yes.

3 Q. Okay. Thank you. Let me ask you to turn to  
4 the ordering clauses of this order. Mine show as starting at  
5 paragraph 40.

6 A. I'm there.

7 Q. And is it fair to state that 41 paraphrased  
8 orders that 811 is assigned as the national abbreviated  
9 dialing code. Correct?

10 A. That's what it states, yes.

11 Q. To be used exclusively for access to One Call  
12 Centers. Correct?

13 A. Well, actually it says Once Call Centers, but  
14 yes.

15 Q. Oh, yes. It is misspelled. Once Call  
16 Centers. Okay. Thank you.

17 There's no ordering clause directed to the  
18 telephone companies, is there?

19 A. No, there's not.

20 Q. Do you have any information to the effect that  
21 the 811 code has not been assigned?

22 A. No, I do not.

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

24 JUDGE STEARLEY: Thank you, Mr. Gryzmala.

25 And as you can see, none of the Commissioners

1 are joining me now so we will move to redirect by Mr. Meyer.

2 REDIRECT EXAMINATION BY MR. MEYER:

3 Q. I'll be extremely brief.

4 Ms. Dietrich, in the course of your position  
5 at the Missouri Public Service Commission, have you had  
6 occasion to review FCC orders?

7 A. Yes. Quite often.

8 Q. And have you reviewed many orders?

9 A. Yes.

10 Q. Do you have a sense of a magnitude maybe?  
11 Hundreds? Thousands?

12 A. I wouldn't say hundreds or thousands, but --

13 Q. Not hundreds of thousands, but hundreds at  
14 least?

15 A. No. I wouldn't say hundreds or thousands, but  
16 many.

17 Q. Okay. And have you, in the course of your  
18 review, noticed that sometimes the FCC will make statements in  
19 the text of its order that are not picked up in the ordering  
20 clause?

21 A. That -- yes. Usually what they do is they  
22 outline the comments and then they have a discussion on those  
23 comments. And in their discussion they'll say, We, therefore,  
24 agree such and such or we order such and such or we find such  
25 and such and they do it within the body of the order. And

1     their ordering clauses are typically very brief and don't  
2     provide much direction at all.

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

5                     JUDGE STEARLEY:   Ms. Dietrich, you may step  
6     down at this time, although you're not finally excused in case  
7     the Commissioners would have additional questions for you.

8                     Mr. Meyer, were you going to offer an  
9     additional witness?

10                    MR. MEYER:   Mr. Leonberger is available, but  
11     only if Commissioners had questions for him.   He was not part  
12     of our primary case.

13                    JUDGE STEARLEY:   I had e-mailed Commissioners  
14     regarding his availability and have not received a response so  
15     I'm going to assume we are concluded with all of our witnesses  
16     at this point and they may all be finally excused.

17                    At this time we need to do some housekeeping  
18     in terms of briefing schedules.   And we can go off the record  
19     for a few minutes to give the attorneys a chance to confer on  
20     that if they need to.   We will be off the record.

21                    (Off the record.)

22                    JUDGE STEARLEY:   All right.   We are back on  
23     the record.   After some discussion with the parties, first  
24     off, I believe that we have -- all exhibits that were offered  
25     today have been admitted into evidence and there's no

1 outstanding exhibits.

2 MR. COMLEY: Would you check on Nos. 15 and  
3 16? The Staff has raised an issue whether or not I made a  
4 proper offer and those were received, but my documents  
5 indicate that I did offer them and they were received.

6 JUDGE STEARLEY: That's what I have marked as  
7 well.

8 Tracy, will you check back and see if we have  
9 admitted Exhibits No. 15 and 16 into the record, please?

10

11 I will address the soon-to-be filed exhibits, one from AT&T  
12 which will concern the pending order from the Illinois Public  
13 Service Commission regarding the tariff on their 811 service  
14 in that state and the late-filed exhibit for the Annual Report  
15 for Missouri One Call System and we shall set a due date of  
16 next Thursday, December 28th, for those to be filed. The  
17 transcripts are to be expedited and should be filed on that  
18 same date, December 28th.

19 We have agreed to one round of briefing --  
20 post-hearing briefing with briefs due January 17th, 2007. And  
21 I will take an unopposed order for an additional 30-day  
22 suspension on the tariff to the Commissioners next week at an  
23 agenda meeting.

24 Are there any other matters we need to address  
25 before we adjourn? That new suspension date we'd be looking

1 at would be February 14th.

2 MR. GRYZMALA: That's fine, your Honor.

3 MR. COMLEY: Sounds good. Thank you.

4 JUDGE STEARLEY: All right. If there's  
5 nothing further then, the hearing in Case No. IT-2007-0187 in  
6 the matter of Southwestern Bell Telephone, LP doing business  
7 as AT&T Missouri's revision to its general exchange tariff,  
8 PSC Missouri No. 35 regarding provision of 811 service is  
9 hereby adjourned.

10 WHEREUPON, the hearing was adjourned.

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