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SOUTHWESTERN BELL TELEPHONE, L.P. d/b/a SBC MISSOURI

CASE NO. TO-2005-0035

SURREBUTTAL TESTIMONY

OF

HARRY M. SHOOSHAN

St. Louis, MO

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Second Investigation into the State of
Competition in the Exchanges of Southwestern Bell) Case No. TO-2005-0035
Telephone, L.P., d/b/a/ SBC Missouri.

AFFIDAVIT OF HARRY M. SHOOSHAN

STATE OF NEW HAMPSHIRE)
) SS
TOWN OF BEDFORD)

I, Harry M. Shooshan, of lawful age, being duly sworn, depose and state:

1. My name is Harry M. Shooshan. I am presently President, Strategic Policy Research, Inc.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.



Harry M. Shooshan

Subscribed and sworn to before this 11th day of January, 2005



Notary Public

My Commission Expires: 2 June 2009.

MELANIE CYNTHIA STRINGER
Notary Public, State of New Hampshire
My Commission Expires 2 June 2009.

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2 **CASE NO. TO-2005-0035**
3 **SOUTHWESTERN BELL TELEPHONE, L.P.**
4 **D/B/A SBC MISSOURI**
5 **SURREBUTTAL TESTIMONY OF HARRY M. SHOOSHAN**
6
7

8 **1. INTRODUCTION.**

9 **Q. ARE YOU THE SAME HARRY M. SHOOSHAN WHO PROVIDED**
10 **REBUTTAL TESTIMONY IN THIS PROCEEDING?**

11 A. Yes.

12 **2. PURPOSE OF SURREBUTTAL TESTIMONY.**

13 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

14 A. The purpose of my surrebuttal testimony is to respond to arguments made by
15 Adam McKinnie and Bill Peters on behalf of Staff, by Barbara Meisenheimer on
16 behalf of Office of the Public Counsel, by Matthew Kohly of Socket
17 Communications, and by Ed Cadieux of NuVox. In general, I am responding to
18 their contentions that the surveys I oversaw of Missouri consumers are biased,
19 that I have reported the results of those surveys in a misleading way, that wireless
20 service is not a substitute for wireline service, and that only competition from
21 facilities-based CLECs should be considered in determining whether SBC
22 Missouri's basic telephone service should be classified as competitive.

1 **3. CONTRARY TO THE POSITION TAKEN BY STAFF AND**
2 **SOME INTERVENORS, THE SURVEYS OF MISSOURI**
3 **CONSUMERS DEMONSTRATE THAT WIRELESS SERVICE**
4 **CAN BE CONSIDERED A SUBSTITUTE FOR SBC**
5 **MISSOURI'S BASIC TELEPHONE SERVICE.**

6 **Q. MR. MCKINNIE SUGGESTS THAT BECAUSE THE SURVEYS WERE**
7 **OF CONSUMERS IN THE ST. LOUIS, KANSAS CITY AND**
8 **SPRINGFIELD MCAS, THIS EVIDENCE SHOULD NOT BE RELIED**
9 **UPON TO MAKE A FINDING OF EFFECTIVE COMPETITION**
10 **THROUGHOUT SBC MISSOURI'S SERVICE TERRITORY. DO YOU**
11 **AGREE?**

12 A. I agree with Mr. McKinnie as far as the survey evidence itself is concerned. For
13 reasons of time and budget, the survey was intended to focus on the three major
14 metropolitan areas in Missouri. I do not agree with him that wireless competition
15 should not be considered in other portions of SBC Missouri's service territory.
16 Other witnesses for SBC Missouri have introduced evidence of the presence of
17 wireless carriers and the availability of wireless service throughout SBC
18 Missouri's service territory. There is no reason to believe that the opinions of
19 consumers in less-populated areas would differ substantially from those in the
20 three MCAs since they are served by many of the same wireless carriers. In some
21 respects, wireless service may be even more attractive to consumers in rural areas
22 to the extent that wireless plans typically have wider calling areas allowing

1 consumers to avoid extra charges for intraLATA toll calls that come with wireline
2 service.

3 **Q. HOW DO YOU RESPOND TO CLAIMS BY MR. KOHLY THAT THE**
4 **SURVEYS ARE BIASED?**

5 A. Mr. Kohly's criticisms of the survey instruments are groundless and demonstrate
6 a lack of understanding of survey research generally. He also apparently
7 misunderstands the purpose that the survey research is meant to serve in this case.
8 It is not to establish market share, but rather to support SBC Missouri's position
9 that wireless service is a substitute for basic telephone service. Thus, it is not
10 misleading or irrelevant to present some results based on percentages of just
11 wireless users as opposed to stating them as a percentage of total households.¹

12 **Q. PLEASE ELABORATE.**

13 A. Mr. Kohly first claims that the Commission should only rely on a survey "taken
14 across all households" and that the fact that 18 percent of wireless subscribers do
15 not have a wireline connection is "interesting" but somehow not relevant. Kohly
16 at 20. He seems to ignore that there were two surveys. One was a sample of
17 wireless subscribers. It is important to survey wireless subscribers precisely
18 because we want to pick up those who no longer subscribe to wireline service.
19 The other survey was of a sample of SBC Missouri's wireline customers. We

¹ To extrapolate the survey results in order to make inferences about total households in Missouri or SBC Missouri's service area would involve reliance on data outside the survey and making judgments about the appropriate measures to use in such calculations.

1 surveyed these customers to determine whether and how they use wireless and
2 how they compare it to SBC Missouri's wireline service. The point is that in
3 today's competitive environment one must survey both wireline and wireless
4 subscribers (using both wireline and wireless numbers to generate the samples) if
5 one is to get an accurate view since, as we determined, some households
6 subscribe to only one of the services.

7 Mr. Kohly asserts that the survey of wireless customers is biased because the
8 respondents were only those who had their phones turned on and were willing to
9 accept (and pay for) an incoming call. Although he does not use the term, he is
10 alleging a self-selection bias that could have been avoided.²

11 In fact, the survey was intended to maximize the availability of, and willingness
12 to participate by, all types of residential wireless users. Under my direction,
13 KS&R made three attempts to reach each randomly generated wireless
14 number/subscriber. Calls to both groups were made from 5 p.m. to 9 p.m.,
15 Monday through Friday and Sundays. They were also made from 11 a.m. to 5
16 p.m. on Saturdays. These times were chosen to include typical off-peak calling
17 periods when subscribers would most likely have their wireless phones on and
18 have unlimited free calling (and thus be most willing to accept an in-coming call).

² Self-selection bias always occurs in market research. For whatever reasons, some persons choose not to participate in some or all surveys. While some wireless users may have their phones off, similarly some wireline subscribers may not have been at home at the time or were not willing to take the call (some with Caller ID presumably would not). In the case where the sponsor and purpose of a survey are revealed to potential respondents, an inappropriate bias is introduced which could affect a person's decision to participate, as well as his responses, and skew survey results. We did not identify either the sponsor or purpose of the surveys. Such a bias is not present in this survey.

1 The point is that a willing participant with SBC Missouri wireline service or a
2 wireless phone in the markets of interest had an equal chance of being selected to
3 be surveyed. Random selection is a critical foundation of any good market
4 research project. Thus, Mr. Kohly is incorrect to claim that the rate of
5 substitution is overstated in the survey.

6 **Q. MR. KOHLY AND MR. MCKINNIE BOTH ASSERT THAT THE**
7 **FINDINGS IN THE SURVEYS ABOUT WIRELESS SUBSTITUTION**
8 **CANNOT BE “EXTRAPOLATED” TO SBC MISSOURI’S ENTIRE**
9 **SERVICE AREA BECAUSE RURAL AREAS HAVE DIFFERENT**
10 **ATTRIBUTES? PLEASE RESPOND.**

11 A. Mr. Kohly claims that the surveys are biased because participants were drawn
12 from “urban” as opposed to “rural” areas. He asserts—again without any
13 substantiation—that wireless use is “more ubiquitous” in urban areas. As I
14 indicated above, the survey was limited to the three metropolitan areas due to
15 considerations of time and expense. It does not purport to encompass rural areas.
16 I make no claims about substitution rates in other areas of Missouri or SBC
17 Missouri’s service area outside of the three metropolitan areas based on this
18 survey.

19 Nonetheless, other market research sheds light on the use of wireless service in
20 Midwestern rural areas. A 2003 survey conducted for Western Wireless (which
21 provides cellular service in Missouri and 13 other Midwestern and Western

1 states) indicated that rural customers have become increasingly reliant on wireless
2 phones for both business and personal communications.³ In that survey, 23
3 percent regarded their cell phone as their primary phone and 15 percent said they
4 would eventually replace their wireline service with wireless service.⁴

5 Mr. McKinnie states that because metropolitan areas have greater population
6 density they can be more economically served by wireless providers. This is true,
7 but does not suggest that individual consumers would be less likely to view
8 wireless as a substitute because they happen to live in a rural area. Wireless
9 providers typically offer the same plans at the same prices on a statewide basis.
10 As the Western Wireless survey I noted above makes clear, consumers in rural
11 areas are substituting wireless service for wireline service. While the survey
12 results that I have presented are drawn from the three metropolitan areas, SBC
13 Missouri has presented ample evidence that wireless providers offer service
14 throughout its service territory.

15 **Q. MR. MCKINNIE ALSO TAKES ISSUE WITH THE WAY IN WHICH**
16 **YOU HAVE INTERPRETED THE RESULTS OF THE SURVEYS. HOW**
17 **DO YOU RESPOND?**

18 A. I am frankly puzzled by Mr. McKinnie's suggestion that the Commission should
19 disregard the finding that 18 percent of the wireless subscribers surveyed do not

³ "Rural areas embrace cellular technology," *Billings Gazette* ([\)](http://www.billingsgazette.com/index.php?display=rednews/2003/04/06/build/business/34-cell-phones.inc.)

⁴ *Ibid.*

1 have wireline phone service. The fact that nearly one-in-five wireless customers
2 in the survey area studied have chosen to rely exclusively on their wireless
3 phones is extremely relevant for determining whether wireless should be
4 considered a substitute for SBC Missouri's basic telephone offerings. Mr.
5 McKinnie prefers that the Commission rely on a national estimate cited by the
6 FCC of the total households (5 to 6 percent) that have substituted wireless service
7 for wireline service which he calls "the more typical percentage." As he notes, I
8 cited that estimate as well. Although they measure different things (and one is a
9 national *estimate* while the other is *an actual survey of Missouri consumers*), both
10 statistics are relevant.

11 Mr. McKinnie also takes issue with me on the significance of the fact that in
12 households which use wireless (70 percent of total households), 26 percent have
13 considered discontinuing traditional telephone service and relying entirely on
14 their cell phones. He says that "it would be fair to say that the majority of
15 customers do not see this alternative as a substitute." McKinnie at 28.

16 Mr. McKinnie is wrong to focus on just one data point in the surveys and to base
17 his opinion on the obverse. As I make clear in my Direct Testimony, my opinion
18 about wireless substitution in Missouri is based on the results of the surveys *as a*
19 *whole* and on *all the observations* that derive from the surveys. It is very
20 significant—and indeed goes to the core of substitutability—that, in addition to
21 the 18 percent of wireless subscribers who have elected not to subscribe to or
22 have disconnected basic telephone service, 26 percent of households that have

1 retained wireline service have considered disconnecting it. Moreover, as I point
2 out, 61 percent of households that have both wireless and wireline service believe
3 that cellular service would be a satisfactory replacement for *all the calls* they
4 make or receive in their homes. Shooshan Direct at 5. Taken together, these
5 results of the surveys provide ample evidence of substitutability.

6 **Q. WHY IS IT IMPORTANT THAT THE COMMISSION CONSIDER THE**
7 **SURVEY RESULTS AS A WHOLE BEFORE REACHING A**
8 **CONCLUSION ABOUT SUBSTITUTABILITY?**

9 A. It is not necessary that a majority of respondents have considered dropping
10 wireline service or have actually disconnected wireline service. The point is that,
11 viewed from any number of perspectives, a significant portion of respondents in
12 both surveys consider wireless service to be a substitute for their home wireline
13 service.

14 **Q. BOTH MR. MCKINNIE AND MR. KOHLY ASSERT THAT WHAT YOU**
15 **REFER TO AS “USAGE SUBSTITUTION” SHOULD BE DISREGARDED.**
16 **PLEASE RESPOND.**

17 A. Both Mr. McKinnie and Mr. Kohly are missing a very important point. As more
18 and more usage migrates to wireless networks, wireless service becomes more
19 and more competitive for carrying the remaining usage.⁵ As the surveys

⁵ Today it is estimated that 23 percent of all voice minutes are carried by wireless networks, up from 7 percent three years ago. See FCC, “Ninth Annual CMRS Competition Report,” Report to Congress, September 9, 2004, ¶ 213.

1 demonstrate, the quality of cellular service is generally fully adequate (although
2 there are some exceptions). In most cases, the only advantage basic telephone
3 service has is that it is cheaper for high-volume callers. Given the increasing rate
4 of substitution that has been occurring, it is likely that there are current wireline
5 subscribers who are marginal in the sense that the value they derive from wireline
6 service may only slightly exceed the price they pay. For other users, the value
7 may be less than the price, but they have not yet taken the initiative to cut the
8 cord. In either case, SBC Missouri is already disciplined by market forces. It
9 would lose customers if it raised its price or degraded its quality significantly.

10 **Q. MR. KOHLY ALSO SUGGESTS THAT THE USAGE THAT HAS**
11 **SHIFTED TO WIRELESS IS ALL RELATED TO LONG-DISTANCE**
12 **CALLS. MS. MEISENHEIMER SAYS SHE "BELIEVES" THAT**
13 **CONSUMERS USE CELL PHONES PRIMARILY FOR LONG-**
14 **DISTANCE CALLS. ARE THEY CORRECT?**

15 A. No. While wireless calling has displaced a substantial amount of wireline long-
16 distance calling, wireless phones are increasingly being used for local calling.
17 For some years now, the FCC has noted that "an increasing number of mobile
18 carriers offer service plans designed to compete directly with wireline local
19 telephone service."⁶ A recent study of wireless substitution found that, based on
20 FCC data, since 1998, there are 11 percent fewer local wireline calls per access

1 line and that overall there are 23 percent fewer local wireline calls reported to the
2 FCC.⁷ J.D. Power and Associates recently reported that a substantial amount of
3 local wireline calling was being displaced by other forms of communications,
4 including wireless service. For example, for those between the ages of 25-34, 34
5 percent of local wireline calls have been replaced by a combination of wireless
6 (21 percent), email (11 percent) and instant messaging (2 percent).⁸ These
7 national quantitative data are supported by the survey results of the three
8 metropolitan areas in Missouri where, in households with both wireline and
9 wireless service, consumers used their cell phone to make and receive *both* long-
10 distance and local calls, with about 25 percent of those using their cell phones
11 primarily to make and receive *local* calls. Shooshan Direct at 5.

12 **Q. MR. MCKINNIE ALSO CLAIMS THAT WIRELESS IS A**
13 **COMPLEMENT TO BASIC TELEPHONE SERVICE AND NOT A**
14 **SUBSTITUTE FOR IT. HOW DO YOU RESPOND?**

15 A. Not surprisingly, I disagree. Mr. McKinnie's discussion of the economic
16 attributes of substitutes and complements is revealing. He correctly states that
17 "[a]s the price of a good goes up, people are more likely to purchase fewer

⁶ FCC, "Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services," *Seventh Report*, released July 3, 2002, at Section II.A.1.e.ii. See also "Ninth Annual CMRS Competition Report," ¶ 215.

⁷ Stephen B. Pociask, "Wireless Substitution and Competition: Different Technology but Similar Service—Redefining the Role of Telecommunications Regulation" (Competitive Enterprise Institute, *Issue Analysis 2004 No. 5* (December 15, 2004) ("Pociask").

⁸ J.D. Power and Associates, 2004 Residential Wireline & ISP Study [no date?].

1 complements of that good.” McKinnie at 24. He cites the example of peanut
2 butter and jelly, coffee and cream, and hamburgers and buns.

3 If the price of one good changes, the demand for the complementary good will be
4 affected. Thus, if wireless service and wireline service were complementary in
5 economic terms, as wireless prices have fallen, one would observe the demand for
6 wireline going up. In fact, the opposite is true. On a revenue-per-minute basis,
7 wireless prices have fallen to an average of 10 cents a minute from 44 cents a
8 minute at the end of 1997.⁹ During this same period, the rate of growth for
9 wireline telephony has trended down. Similarly, it is illogical to expect that if the
10 price for wireline service were to increase, the demand for wireless service would
11 go down. Yet, this is precisely what one would predict if the two services were
12 truly complements.

13 What seems to confound Mr. McKinnie is the fact that a majority of consumers
14 today who have cell phones also continue subscribe to basic telephone service.
15 Despite the fact that the relationship cannot be explained by the economic theory
16 he advances (as I have shown), he nevertheless asserts that wireless service and
17 wireline service are complements. He makes a fundamental mistake.
18 Consumption of wireless and wireline services does not have to be mutually
19 exclusive; that is, goods may be substitutes even if the average consumer
20 continues to use both. For example—again using one of Mr. McKinnie’s
21 analogies—the fact that I may prefer to eat hot dogs on occasion (say, while at a

1 baseball game) does not mean that I do not see hot dogs and hamburgers as
2 substitute goods. An apple and an orange each may satisfy part of my minimum
3 daily requirement for fruits, but I may choose to keep both on hand because I
4 sometimes like to make apple pie. It is precisely for this reason that one has to
5 look at evidence other than simply the number of households that have do not
6 have wireline service to determine substitutability.

7 **Q. MR. MCKINNIE AND MR. CADIEUX CLAIM THAT WIRELESS IS NOT**
8 **A SUBSTITUTE FOR SMALL AND MEDIUM BUSINESS USERS? ARE**
9 **THEY CORRECT?**

10 A. No. In the first place, wireless users typically use their cell phones to make and
11 receive both business and personal calls. Second, a number of studies and
12 surveys of medium and small businesses attest to the growing importance of
13 wireless. For example a recent survey by the Yankee Group found that:

14 Mobile phone service is a necessary business tool for MBs
15 [Medium Businesses], since employees keep in close contact with
16 each other and their customers. As VSBs [Very Small Businesses]
17 and SBs [Small Businesses] become more reliant on a mobile
18 workforce, we anticipate an increase in the importance of the
19 wireless component of the services bundle.¹⁰

20

21 Another Yankee Group study found that: “As U.S. enterprises increasingly adopt
22 wireless voice and data environments, their wireless spending is taking an

⁹ Pociask at 5.

¹⁰ “SMBs Love Verizon Wireless in the Bundle,” Yankee Group Survey (Press Release dated September 29, 2004), http://www.yankeegroup.com/public/news_releases/news_release_detail.jsp?ID=PressReleases/news_09292004_smb.htm.

1 increasingly large bite of their total telecom budget” to the point where “wireless
2 voice and data services now represent 25 percent of U.S. enterprises’ total
3 telecom spending.”¹¹

4 Over the years, I have had occasion to conduct focus groups with small business
5 men and women in which they have told me how they are increasingly using
6 wireless as a substitute for wireline, ordering fewer PBX trunks and encouraging
7 employees to use their cellphones both on and off their business premises. I have
8 also overseen surveys of small businesses which found that wireless substitution
9 was occurring. Although I have not done research on business usage of wireless
10 service in Missouri, I have no reason to believe that the evidence and trends I
11 have encountered elsewhere would not apply here.

12 **4. SUBSTITUTES DO NOT HAVE TO BE PRECISELY THE**
13 **SAME AND MAY HAVE DIFFERENT ATTRIBUTES.**

14 **Q. BOTH MS. MEISENHEIMER AND MR. KOHLY ARGUE THAT**
15 **SERVICES MUST BE FUNCTIONALLY EQUIVALENT BEFORE THEY**
16 **CAN BE SUBSTITUTES. HOW DO YOU RESPOND?**

17 A. While I leave it to SBC Missouri to argue the law, I am compelled to point out as
18 I did in my Direct Testimony (at 9) that the statute in question provides that
19 effective competition exists for a particular service when, among other factors, the
20 services offered by other providers are functionally equivalent *or substitutable* at

¹¹ “Wireless Services Now Represent 25 Percent of U.S. Corporate Telecom Spend, Says Yankee Group,”
Yankee Group Survey (Press Release dated April 12, 2004), <http://www.yankeegroup.com/public/>

1 comparable prices, terms and conditions. Section 386.020(13). As someone with
2 extensive legislative drafting experience, I can only assume that the Legislature
3 wrote this standard in the alternative for a purpose. Indeed, two products are
4 completely functionally equivalent (“the Meisenheimer/Kohly standard”) *only if*
5 *they are the same product.*

6 I also noted in my Direct Testimony that the Commission has held that services
7 may be substitutes without being the “same” or “equivalent.” *See* Case No. TO-
8 93-116, Public Service Commission of the State of Missouri, 1992 Mo. PSC
9 LEXIS 23 (“Case No. TO-93-116”). This case involved the competitive
10 classification of then-Southwestern Bell’s MTS and other services. Opponents
11 argued that because the MTS service offered by interexchange carriers had
12 different dialing requirements they were not equivalent and could not be
13 substitutes. The Commission rejected this argument. It held that “[t]o rely on this
14 criterion as determinative would, in the Commission’s opinion, render the
15 ‘substitutable’ standard indistinguishable from the ‘equivalent’ standard.” *Id.* at
16 6. The Commission also pointed out that it believed “that ‘substitutability’ is a
17 noticeably lesser standard than ‘equivalent,’ just as ‘equivalent’ is a noticeably
18 lesser standard from ‘same.’” *Id.* at 5.

19 In addition to ignoring the language of the statute and Commission precedent, Ms.
20 Meisenheimer’s and Mr. Kohly’s reasoning defies common sense when it comes
21 to understanding substitutability. From their perspective, the only substitute for a

1 dark blue Honda Accord would be a different color Honda Accord. In the current
2 context, the only substitute for SBC Missouri's basic telephone service would be
3 that same service repackaged under another label.¹²

4 The fact that wireless and wireline services may be provisioned differently and
5 may have some different attributes does not mean they cannot be considered to be
6 substitutes. Cable television service and satellite television service use very
7 different delivery systems, require different customer premises equipment and
8 offer some different features, but there is no dispute that they are competing in the
9 same market and are viewed by consumers as substitutes.

10 Substitutes need not have precisely the same prices or levels of quality.¹³ For
11 example, installation prices are typically higher for wireline service than the costs
12 of wireless activation. The sound quality of cell phones may be perceived by
13 some to be inferior to that of corded wireline phones. These differences do not go
14 to the essential nature of the two services, but rather allow for consumers to make

¹² Ms. Meisenheimer cites the fact that wireless and wireline service have different standards for 911 access as grounds for finding that the two are not substitutes. As I explained previously, the fact that there may be some differences between products does not preclude them from being substitutes. In addition, Ms. Meisenheimer ignores the fact that consumers can access 911 from their cell phones and made 72.5 million emergency calls in 2003. See www.ctia.org/public_policy/statistics/index.cfm/AID/216 (downloaded January 6, 2005). Recently, a senior FCC official also noted that "[t]he issue of [E911] deployment challenges is not so much on the industry side but rather with PSAPs [Public Service Answering Points], perhaps, and on the issue of funding and readiness by public safety." *Communications Daily* (1/17/05) at 7. In other words, there is nothing inherent in wireless service that is holding back progress with fully implementing E911, but rather with the public safety community.

¹³ Ms. Meisenheimer may simply not be up-to-date in her knowledge of wireless offerings. She suggests that the fact that wireless carriers "require long-term contract in excess of a year to obtain a reasonable price and service package." Meisenheimer at 17. She may not be aware that wireless providers now offer "pay-as-you-go options" which, for low-volume callers, may actually work out to be a more economical alternative than buying basic telephone service from SBC Missouri. The point is that wireless companies today offer a wide range of plans and prices aimed at various segments of the market. The pricing freedom

1 choices based on their personal preferences. I may be willing to trade off sound
2 quality for ease of acquiring service (or portability, etc.) while you may not be.
3 These differences in attributes do not mean that the products are in different
4 markets and do not provide similar consumer benefits.

5 Finally, as I pointed out in my Direct Testimony, while there are consumers
6 whose personal preferences or particular needs may cause them not to consider
7 wireless service as a substitute for basic telephone service, they are “protected”
8 by the fact that there are a substantial number of consumers who *do* see wireless
9 as a substitute and would switch in the event that SBC Missouri decides to raise
10 its basic telephone prices. A firm has market power only if it can *profitably* raise
11 prices and sustain those prices increases. Shooshan Direct at 20. In my opinion,
12 the survey evidence I have presented in this case and the evidence of wireless
13 competition presented by other SBC Missouri witnesses demonstrates that SBC
14 Missouri would risk losing a substantial number of its remaining customers to
15 wireless providers (and other competitors) if it attempts to raise its basic
16 telephone prices significantly.

17 **5. IN DETERMINING WHETHER EFFECTIVE COMPETITION**
18 **EXISTS, THE COMMISSION SHOULD CONSIDER**
19 **COMPETITION FROM ALL COMPETITORS AND NOT JUST**
20 **FACILITIES-BASED CLECS. IT SHOULD ALSO CONSIDER**

that SBC Missouri is seeking in this case would facilitate its ability to respond to such alternatives in the marketplace.

1 **THE ABILITY OF EXISTING COMPETITORS TO EXPAND**
2 **SUPPLY.**

3 **Q. STAFF SUGGESTS THAT THE COMMISSION SHOULD ONLY**
4 **CONSIDER COMPETITION FROM FACILITIES-BASED CLECS IN**
5 **DETERMINING WHETHER TO CLASSIFY SBC MISSOURI'S BASIC**
6 **TELEPHONE SERVICE AS COMPETITIVE. DO YOU AGREE WITH**
7 **THIS APPROACH?**

8 A. No. In my opinion this approach is not supported by the statute or by common
9 sense. As I read it, the statute does not distinguish among various modes of
10 competition. This means that the Commission is required to consider both
11 competition from other "platforms" such as wireless, cable telephony and VoIP as
12 well as competition from providers that lease facilities from, or resell services
13 provided by, SBC Missouri. In each case, competitors are competing for the end-
14 user customer and are providing services that are the equivalent of or substitutable
15 for SBC Missouri's basic telephone service. While each of these providers may
16 not be an option for every customer of SBC Missouri, collectively they appear to
17 be providing effective competition.

18 Staff would not count UNE-P competition because "[t]he mere repackaging of
19 SBC service is not representative evidence of effective competition." Peters at
20 13. Mr. Peters goes on to say that that UNE-P competition is "thinly veiled
21 resale" and that it is "likely doomed to extinction." *Id.* at 14.

22 In the first place, Staff cannot have it both ways. They object to considering
23 wireless as a substitute because it has different characteristics than basic

1 telephone service. Indeed, as I have discussed, if the Commission were to apply
2 the Staff's and Intervenor's tests for functional equivalence and substitutability,
3 services would have to be *exactly the same* in order to count. Yet, in the case of
4 UNE-P, they would exclude its consideration because it *is* exactly the same.

5 **Q. STAFF ALSO ASSERTS THAT THE NUMBER OF COMPETITORS**
6 **PRESENT IN A GIVEN EXCHANGE IS NOT INDICATIVE OF**
7 **EFFECTIVE COMPETITION. HOW DO YOU RESPOND?**

8 A. In discussing wireless competition, Mr. McKinnie states: "The number of
9 wireless providers in an exchange is not, in of itself, indicative of any particular
10 level of competition." McKinnie at 31. Actually, the presence of competitors in a
11 market is very relevant to assessing competitive effectiveness. The fact that there
12 are many firms in a market poised to deploy facilities or use existing facilities to
13 satisfy growing demand means that there is a high elasticity of supply. And a
14 high elasticity of supply implies a high elasticity of demand and the absence of
15 any genuine market power. In a market characterized by high supply elasticity,
16 many firms, and not just the largest or most-established firm, have a reasonable
17 opportunity to obtain new customers regardless of their current share of the
18 market.

19 With the effective removal of legal barriers to competition in local
20 telecommunications, implementation of the market-opening provisions of the
21 1996 Telecommunications Act, the ready availability of SBC Missouri's retail

1 services and network elements for resale and repackaging and the rapid growth of
2 other means of expanding call-handling capacity (e.g., wireless providers,
3 facilities-based CLECs, cable systems and VoIP), the elasticity of supply in
4 telecommunications services is high, implying the absence of market power in the
5 economically relevant sense.

6 However, even more to the point, SBC Missouri is not resting its case on the mere
7 presence of what Mr. McKinnie characterizes as “potential competitors.”
8 McKinnie at 31. SBC Missouri has presented evidence that competitors are
9 present, are actively serving customers, are marketing their products and are
10 providing services that are substitutable for basic telephone service. It is on the
11 basis of all of this evidence that SBC Missouri is asking for the competitive
12 classification of traditional telephone service.

13 **6. CONCLUSION.**

14 **Q. WHAT CONCLUSION DO YOU REACH AFTER REVIEWING THE**
15 **REBUTTAL TESTIMONIES YOU HAVE CITED?**

16 A. There are multiple wireless providers throughout SBC Missouri’s service territory
17 providing service that Missouri consumers see as a substitute for basic telephone
18 offerings of SBC Missouri. The rebuttal testimonies of Staff and the intervenors
19 stirs up some dust in their criticisms of the survey research I have presented and,
20 indeed, in their challenges of the other evidence that SBC Missouri has

1 introduced. But when the dust settles, the evidence shows that there is effective
2 competition for the basic telephone offerings of SBC Missouri.

3 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

4 **A. Yes.**