

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

3 _____
4 TRANSCRIPT OF PROCEEDINGS

5 HEARING

6 January 25, 2007

7 Jefferson City, Missouri

8 Volume 2
9 _____

10 In the Matter of the Application for)
11 Waiver of MCC Telephony of Missouri,)Case No.
12 Inc., of Compliance with the)TE-2006-0415
 Requirement of 4 CSR 240-32)

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16 CHERLYN D. VOSS,
 REGULATORY LAW JUDGE.
17 CONNIE MURRAY,
 STEVE GAW
18 LINWARD "LIN" APPLING,
 COMMISSIONERS.
19 _____

20 REPORTED BY:
21 TRACY L. THORPE TAYLOR, CCR
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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 (Exhibit Nos. 1 through 8 were marked for
3 identification.)

4 JUDGE VOSS: We're on the record in Commission
5 Case No. TE-2006-0415 in the matter of the application for
6 waiver of MCC Telephony of Missouri, Inc. of compliance with
7 the requirement of 4 CSR 240-32.

8 I'm Cherlyn Voss. I will be the Judge
9 presiding over the hearing today. We'll begin with oral
10 entries of appearance beginning with MCC Telephony.

11 MR. COMLEY: Good morning, Judge Voss. Let
12 the record reflect the entry of appearance of Mark W. Comley,
13 Newman, Comley and Ruth, 601 Monroe Street, suite 301,
14 Jefferson City, Missouri on behalf of MCC Telephony of
15 Missouri, Inc.

16 While I'm at it, let me introduce two people
17 who are sitting with me today. On my immediate left is Anna
18 Sokolin-Maimon, who is internal counsel for MCC in their
19 office in New York. Also, to her immediate left is Mr. Ken
20 Schiffman, who is an attorney for Sprint Communications --
21 excuse me, I have it wrong.

22 MR. SCHIFMAN: Sprint Communications Company.

23 MR. COMLEY: Sprint Communications Company,
24 LP.

25 JUDGE VOSS: Thank you.

1 Okay. Staff.

2 MR. HAAS: Good morning. William K. Haas
3 appearing on behalf of the Staff of the Public Service
4 Commission. My address is Post Office Box 300, Jefferson
5 City, Missouri 65102.

6 JUDGE VOSS: Office of the Public Counsel.

7 MR. DANDINO: Thank you, your Honor. Michael
8 Dandino, Deputy Public Counsel, Post Office Box 2230,
9 Jefferson City, Missouri 65102 representing the Office of
10 Public Counsel and the public.

11 JUDGE VOSS: MITG.

12 MR. JOHNSON: Thank you, your Honor. Craig
13 Johnson, Law Office of Craig Johnson, 1648-A East Elm,
14 Jefferson City, Missouri 65101 appearing today on behalf of
15 the Missouri Independent Telephone Group Companies. Thank
16 you.

17 JUDGE VOSS: And officially are there any
18 preliminary motions that we need to address before I summon
19 the Commissioners for opening statement?

20 MR. COMLEY: I know of none, Judge.

21 JUDGE VOSS: Hearing none, we will briefly
22 break while I get the Commissioners.

23 (A recess was taken.)

24 JUDGE VOSS: All right. We're going to go
25 ahead. Back on the record, by the way.

1 MR. COMLEY: May it please the Commission,
2 Judge Voss. My name is Mark Comley and I represent MCC
3 Telephony of Missouri in this proceeding. On April 25th,
4 2006, MCC Telephony of Missouri Inc. filed an application with
5 the Commission requesting a waiver of compliance with the
6 requirements of 4 CSR 240-32.080(5)(A)(1).

7 This rule relates to time standards for
8 installation of basic local service. The rule establishes a
9 service objective that 90 percent or more of orders for basic
10 local service shall be installed within five working days
11 after the customer orders service or on or by the date
12 requested, if it is at least five working days after the date
13 the customer requested service. There are exceptions to the
14 standard and I will not repeat them here.

15 Before I discuss why MCC is justified for its
16 requested waiver or exemption from the rule, I want to mention
17 what MCC offers its customer in Missouri and elsewhere.
18 MCC offers a packaged V-o-I-P service or VoIP service, which
19 includes local, national long distance and features using the
20 cable facilities of an affiliated company, which we know as
21 Mediacom.

22 MCC has been operating in Missouri since
23 May of 2005. In general, Mediacom's cable facilities tend to
24 be located in some lesser-served areas of the country. And,
25 therefore, in offering voice services to customers in

1 Mediacom's cable footprint, MCC Telephony is extending the
2 reach of competitive carriers and providing competitive
3 options to consumers in some traditionally under-served areas.

4 How MCC offers its services is tied to a
5 contractual relationship with Sprint Communications
6 Company, LP. As part of our presentation already, MCC
7 supplied the Staff and the other parties with a highly
8 confidential copy of the agreement with Sprint. That highly
9 confidential copy was -- I referred to is attached to the
10 Direct Testimony of Mr. Calvin Craib, president of MCC
11 Telephony of Missouri.

12 Under this agreement, Sprint provides
13 switching, public switched telephone network,
14 interconnectivity, including all inter-carrier compensation,
15 numbering resources, administration and porting -- which will
16 be a subject I'll take up at length in a few minutes --
17 domestic and international toll service, operator and
18 directory assistance, 911 connectivity and database
19 administration and numerous back office functions.

20 MCC, on the other hand, provides last mile
21 facilities to the customer premises, commonly referred to as
22 the loop. It provides sales, billing, customer service and
23 installation. Customer service orders are processed within
24 the parameters of that agreement.

25 Typically a customer of Mediacom will call to

1 place an order for VoIP service that will substitute for the
2 telephone service provided either by an existing ILEC or CLEC.
3 MCC's service representatives will speak to the customer
4 placing the order and discuss with the customer the options
5 the customer has for an installation date of the new service.

6 The date of installation can be based on
7 several factors, including the customer's availability for an
8 appointment, whether it is a new install or a number port.
9 That issue comes up again. And if it is a port, the date of
10 installation can be affected by which method the losing
11 carrier will transmit the customer service record, or CSR, and
12 other ordering information.

13 Based on the information given to MCC by the
14 customer, the service representative and the customer agree on
15 the date for the installation of the service.

16 I've mentioned the factor of whether a number
17 is to be ported as part of meeting the customer service
18 request. Processing a new installation rather than a ported
19 number takes less time, but processing for a porter number --
20 ported number is a much longer interval.

21 For a ported number situation I want to give
22 you a taste of the many steps Sprint must take after it
23 receives a request for service from MCC. After MCC relays
24 that request for service to Sprint, Sprint receives the order
25 from MCC through an E-bonded interface between MCC and Sprint.

1 Sprint spends the first day after receiving the order
2 validating the order information such as the serviceable
3 address, rate center and appropriate customer want date.

4 Sprint also sends a customer service request,
5 the CSR, to the carrier from which the customer is switching
6 service to MCC. That is done to get additional information
7 for order validation such as a local carrier freeze.

8 The CSR is not usually received back from the
9 other carrier for 24 to 48 hours unless that carrier is
10 E-bonded with Sprint. If the carrier is E-bonded with Sprint,
11 the response is usually within a few minutes. The only one
12 carrier in Missouri that's E-bonded with Sprint is AT&T of
13 Missouri. No other carrier in Missouri is E-bonded with
14 Sprint.

15 On the second or third day after receiving the
16 order from MCC, the CSR is received back from the porting
17 carrier and the order validation is completed.

18 Then Sprint sends a local service request, or
19 LSR, to the carrier. The local service request is a request
20 to port a customer's number on a specified day. The carrier
21 will confirm receipt and accuracy of that local service
22 request with a firm order confirmation within two to three
23 business days. That's to establish and confirm the porting
24 request.

25 The due date for the port to occur that Sprint

1 receives from the porting carrier is typically three to seven
2 business days from the date of the local service request
3 submission. This interval depends on each porting carrier's
4 minimum required interval. If the E -- if the porting carrier
5 is E-bonded with Sprint, the firm order confirmation response
6 is usually within a few minutes and the due date for the port
7 to occur is three business days from the date when the local
8 service request was submitted.

9 Once the firm order confirmation is received
10 from the losing carrier, usually somewhere in days four
11 through eleven of this process, Sprint will continue the
12 process to set up phone service.

13 The first step is to validate the address
14 against the master street address guide. If Sprint is not
15 able to validate the address, Sprint will contact MCC and MCC
16 will perform additional address validation with the customer.

17 Once this is complete, Sprint has now
18 completed the validation of all the ordering information and
19 sends an order confirmation to MCC that indicates that the
20 order information and due date have both been validated.

21 Sprint then provisions the switch with the
22 customer's telephone number, establishes number administration
23 information in the Central Office Dial Administration
24 Reporting System and then sends the porting subscription to
25 the Number Portability Administration Center.

1 The industry porting process -- let me repeat
2 that. The industry porting process requires that the new
3 service provider wait for either a subscription concurrence
4 from the old service provider or 18 business hours, whichever
5 occurs first. If 18 business hours elapses, then the industry
6 assumes concurrence from the old service provider for the port
7 and everything can then proceed.

8 At that point, Sprint provisions voicemail for
9 the customer. Once the concurrence is received from the
10 national -- excuse me, Number Portability Administration
11 Center, everything is ready from Sprint's perspective to
12 establish service for the customer and Sprint waits for the
13 due date to arrive.

14 Once the due date of the order arrives, Sprint
15 will wait for MCC to indicate that the customer has been
16 installed and that the port should be activated. Sprint
17 activates the port by sending an activation message to the
18 National Portability Administration Center, which is then
19 broadcast to the industry.

20 Sprint then updates the line information
21 database and activates the 911 record in the automatic
22 location information database. Sprint also submits a
23 directory service request as appropriate and completes the
24 order in our systems -- in MCC's systems. It's a long
25 example, I know.

1 If the customer in this example is currently
2 with a CLEC or AT&T Missouri, the earliest installation date
3 proposed to the ordering customer is 10 business days, not
4 calendar days, 10 business days from the current day.

5 I'm not going to go through the procedures
6 needed for a new installation or a native number rather than a
7 ported number, but again, the time interval is less. The
8 earliest date that is proposed by MCC Telephony to such a
9 customer is five business days from the current date.

10 Another characteristic that sets MCC's
11 procedures apart from other CLECs is this. While other
12 competitive companies or, for that matter, incumbent local
13 exchange companies, even though they may have to make a visit
14 to the customer's premises in order to complete installation
15 of service, MCC must make that visit in all instances whether
16 that customer is porting a number or is obtaining a new
17 number. As a result, MCC must set certain system-wide
18 procedures for handling customer service orders.

19 Another point to emphasize, and it's an
20 important point, MCC's prospective customers are informed from
21 the very beginning of the length of time it will take to
22 process their orders and install their requested service. If
23 that length of time is unacceptable, they are free to hang up
24 the phone and they can find another option and there are
25 options. Yet even so, MCC reports increases in its customer

1 base and that must mean a growing popularity for the service
2 whether it is installed in 6 days or 16.

3 MCC is offering the testimony of three
4 witnesses today. Mr. Calvin Craib, who I have mentioned
5 already, will provide an overview of the company's operations
6 and, in general, the operational restraints that affect
7 customer service orders. Mr. Mark Trefry, the corporate
8 officer involved in the operations of MCC Telephony, will
9 describe the procedures MCC follows to process a customer
10 request for service.

11 MCC will also offer the testimony of Mr. Darin
12 Liston, marketing and technical support manager for Sprint
13 Nextel, and he will describe the steps Sprint takes for
14 filling a customer service request for a ported number and for
15 a non-porting or native number. Their collective testimony
16 illustrates the operational restraints that currently affect
17 this form of telephone service.

18 Throughout this case, Staff Intervenors have
19 appeared to be under a misconception that MCC and Sprint
20 arbitrarily entered into the agreement that I referred to and
21 that it's just coincidence that it does not conform to
22 Commission guidelines and that MCC is simply seeking to
23 justify it rather than alter it.

24 Of course, this is not the case. The
25 intervals involved in the agreement between Sprint and MCC

1 represent the operational needs and current limitations of
2 both companies. At the outset, MCC wants to dispel that
3 mischaracterization of the relationship.

4 Let me draw on a comparison. It would be
5 wise, I think, to draw on a comparison between Sprint's
6 relationship with MCC and the relationships which exist
7 between some ILEC providers of wholesale services to CLECs.

8 Under the Telecom Act, ILECs were required to
9 provide certain wholesale services to CLECs. Understanding
10 that ILECs would be providing these services less than
11 willingly to competitors, some jurisdictions established
12 carrier-to-carrier service guidelines, which ILECs were
13 required to meet.

14 Since ILECs were competing with CLECs at the
15 retail level, it was not in the ILECs' best interest to
16 provide CLECs with the best, most efficient service.
17 Therefore, some of the carrier-to-carrier guidelines came with
18 penalties or other motivational tools I'll call them.

19 Contrast this with the business relationship
20 that's before you now between Sprint and MCC. If Sprint -- as
21 Sprint and MCC have explained in their testimony in this case,
22 their relationship can be best characterized as a business
23 enterprise where the voice product is a joint offering.

24 It is, therefore, wholly within MCC's and
25 Sprint's interest to offer the best, most efficient service

1 that they are able, in particular, while they are struggling
2 to win market share from the more established companies. To
3 claim otherwise, we submit, is nonsense. Therefore, it should
4 be apparent to the Commission that any service standards
5 between the two companies would not be arbitrarily set but
6 rather reflect their current capabilities.

7 MCC is seeking a waiver because it is unable
8 to meet a particular benchmark while providing a service which
9 customers want. The service offers greater value and access
10 to advanced technology. Having MCC's service available in the
11 state of Missouri as an alternative to the traditional voice
12 offering is clearly in the public interest.

13 I will add that short of a complete waiver of
14 this rule, which MCC contends is fully justified, the company
15 is still ready to commit to the objective of installing
16 90 percent of its orders within three working days following
17 the completion of Sprint's provisioning intervals, which I've
18 just described. That would apply except in those instances
19 where a customer requests a later installation. This was part
20 and parcel of our application for waiver and it continues to
21 be part of our application and our position.

22 Also, MCC wholeheartedly supports the idea of
23 a rulemaking proceeding by this Commission to address the
24 issue of quality of service rules in light of a changing
25 competitive and technological landscape, particularly with

1 respect to the ported number situation I've just described.
2 MCC has established good cause for the waiver of exemption or
3 exemption of this rule and prays for this Commission's order
4 to that effect.

5 JUDGE VOSS: Commission Staff.

6 MR. HAAS: Good morning, Commissioners. MCC
7 Telephony is certified by this Commission to provide basic
8 local telecommunications service. Commission Rule 4 CSR
9 32.080(5)(A)(1) sets a service objective that 90 percent of
10 orders for basic local telecommunications service shall be
11 installed within five working days unless an exception
12 applies.

13 MCC filed an application requesting the
14 Commission to grant MCC a waiver of compliance from the
15 provisions of that rule. In its application, MCC proposes
16 that it be required to complete 90 percent of installations
17 within three working days after its contractor, Sprint
18 Communications, completes its part of the installation
19 process. In its application, MCC also seeks an exemption from
20 including installations for ported numbers in MCC's results.

21 In the Direct Testimony of MCC Witness Craib,
22 MCC appears to be requesting a complete waiver of this rule.
23 Pursuant to Commission Rule 4 CSR 240-32.010, the Commission
24 may grant, for good cause, a temporary or permanent exemption
25 from the installation objective.

1 MCC suggests that because it has contracted
2 with Sprint to perform the first step of the installation
3 process, that MCC cannot control that step in the process.
4 But as Staff Witness Mr. Henderson testifies, it is not unique
5 for a telecommunications company to rely on other parties in
6 handling service orders.

7 MCC's application and testimony also suggest
8 that delays by incumbent LECs in porting numbers where the
9 incumbent LEC is losing the customer to MCC is a problem.
10 This case is not about porting delays. As noted by
11 Mr. Henderson, even if the installation of ported numbers were
12 excluded from MCC's results, MCC still does not meet the
13 installation objective.

14 However, because the Staff sees how delays in
15 porting numbers might be a problem in a different situation,
16 the Staff recommends that the Commission begin a process to
17 explore whether the quality of service rules need to be
18 updated.

19 MCC also suggests that because it offers
20 telecommunications service in competition with other carriers,
21 if the installation interval is unacceptable, the customer
22 need only hang up the phone and have no other dealings with
23 MCC's voice offering.

24 In 1999, when the Commission revised its
25 quality of service rules, the Commission stated that it was

1 establishing minimum acceptable standards of quality which
2 should apply to all providers.

3 In summary, MCC's execution of a contract with
4 Sprint to perform part of the process for installing service
5 to MCC's customers does not establish good cause to waive the
6 Commission's installation interval objective as to MCC. Thank
7 you.

8 JUDGE VOSS: Thank you.

9 Public Counsel?

10 COMMISSIONER GAW: Just if I could -- I'm
11 sorry, Judge, to interrupt. Mr. Haas, this case started as a
12 motion to waive the rule. Correct? Is that basically
13 correct?

14 MR. HAAS: Correct.

15 COMMISSIONER GAW: Has Staff done any
16 investigation as to whether or not the movant is in compliance
17 with the rules? In other words, they're asking to waive the
18 rule. I would assume that that infers that they are unable to
19 comply. What I'm trying to gather from you is whether Staff
20 is pursuing an enforcement of the rule in this or another
21 case.

22 MR. HAAS: MCC is not meeting the rule
23 requirement today.

24 COMMISSIONER GAW: All right.

25 MR. HAAS: We are not currently pursuing an

1 enforcement action against them because of the possibility
2 that the waiver might be granted.

3 COMMISSIONER GAW: Okay. So if the waiver
4 were not granted, what would -- what could occur? Is there --
5 I'm really interested in the enforcement piece of this and
6 what happens if a carrier isn't in compliance.

7 MR. HAAS: When a carrier isn't in compliance,
8 the telecommunications department staff, meaning Mr. Henderson
9 and other folks, contact the company and say, You are not in
10 compliance, please work with us to submit a plan that will
11 bring you into compliance.

12 COMMISSIONER GAW: Okay.

13 MR. HAAS: And that's what we would expect
14 that MCC would do here.

15 COMMISSIONER GAW: All right. Is the
16 information that a carrier is not in compliance given to the
17 public?

18 MR. HAAS: No. I believe that is considered
19 confidential information.

20 COMMISSIONER GAW: So at the -- if we're
21 relying on information for customers to make an evaluation on
22 choice here, they don't have the information that a carrier
23 takes an extended period of time to perform a certain function
24 or that it's not -- it is not in line with the requirements of
25 a certain rule of the Public Service Commission, at least in

1 this case?

2 MR. HAAS: I don't know the answer to that
3 question, but I do have a question for one of MCC's witnesses
4 where I'm going to be asking the witness that question.

5 COMMISSIONER GAW: Okay. Well, it just -- I'm
6 trying to understand here as far as policy is concerned a
7 little bit about what we're dealing with. And maybe I could
8 ask Public Counsel in a moment if they have some opinion about
9 that as well. But at this point there is no other action
10 pending. Is it possible under the rules and statutes, that if
11 a carrier violates this particular rule, that they could be
12 subject to penalties?

13 MR. HAAS: Yes. It would need to go through
14 the process of a complaint first at the Commission and then a
15 penalty action at the corporate, but yes, that's a
16 possibility.

17 COMMISSIONER GAW: All right. I think that's
18 all I have. Thank you, Mr. Haas.

19 Sorry, Judge. Thanks.

20 JUDGE VOSS: Public Counsel?

21 MR. DANDINO: Your Honor, may I address the
22 Commission from here?

23 JUDGE VOSS: That's fine.

24 MR. DANDINO: Thank you, your Honor. May it
25 please the Commission. The rule that the applicant seeks to

1 waive is a rule that is designed to benefit the customer. It
2 is a matter of public policy long determined by this
3 Commission that there is a public policy, there is a benefit,
4 there is a public good for there to be an established standard
5 of conduct, quality of service that installation of telephone
6 service should be within that five-day period.

7 It also, as a corollary to that, which has not
8 really been brought up into this waiver situation is that the
9 applicant or the company also has to make a commitment to the
10 customer to install it during that time period. But it's more
11 important we're talking about the actual installation.

12 And the Commission has made this determination
13 for this rule whether or not it's a monopoly situation or a
14 price cap situation or a competitive environment. They
15 intended, as Mr. Haas pointed out, for it to apply to all
16 carriers of local service.

17 Big question that Public Counsel asked at the
18 very beginning in this case when we first looked at the
19 application was why should the customer accept a lower
20 standard of quality from this applicant? And I could not come
21 up with any reason. And the applicant did not provide any
22 real reason. It was just a matter of convenience for the
23 applicant.

24 Now, the Commission -- the standard that the
25 Commission looks at this is -- looks at any waiver is good

1 cause. Good cause isn't necessarily defined by the rule and I
2 think it's -- good cause is one of the those matters which the
3 Commission has considerable discretion in making these
4 administrative determinations.

5 But I would suggest that -- the Public Counsel
6 suggests that in determining good cause you should look for
7 some substantial, some competent evidence that this waiver or
8 a variance, if you want to use that word, from the strict
9 application of this rule is just and reasonable and not
10 contrary to the public interest.

11 Just and reasonable and not contrary to the
12 public interest. These are the hallmarks, these are the
13 building blocks of everything this Commission does in terms of
14 regulation, especially in terms of telephone regulation.

15 We'd also suggest that the Commission look at
16 Section 392.185, which sets out the elements of the major
17 public purposes that the legislature wants the Commission to
18 apply in its decisions. These are the intent and purposes and
19 goals that the legislature has set out.

20 Looking over this list, I don't see where --
21 Public Counsel does not see where any of the -- that any of --
22 that the application advances any of these interests.

23 Would also suggest that the Commission, if
24 you're looking for a body of law which to look at for some
25 type of a guidance on it, I would suggest that you look at

1 the -- maybe zoning variances, where if you're looking at
2 what -- if an applicant is requesting a variance or some
3 relief from the strict application of the zoning ordinance or
4 zoning statute or regulations, that in order to, you know,
5 prevent an unnecessary hardship or practical difficulties,
6 that they have to present evidence to the Zoning Board or City
7 Council to get a variance to show that they're -- that the
8 strict application would be too harsh.

9 But also in looking at that, the person that's
10 applying for this relief from a hardship can't create their
11 own hardship. In this instance, it's Sprint and the applicant
12 entered into an agreement that they would provide a process,
13 agree upon a process to process the installations and the
14 ordering between themselves.

15 They had an opportunity to -- you know, to
16 come up with some type of a system. Obviously they didn't and
17 they're bringing the hardship on themselves and now asking
18 this Commission to relieve them from that hardship.

19 I think it's -- also, when you're looking at
20 any type of a variance or a deviation or a waiver from the
21 strict application of a rule or regulation, you should still
22 make that waiver or that modification, that variance should
23 still incorporate the spirit -- observe the spirit of that
24 rule and still secure the public safety and welfare.

25 I believe that in this case, that MCC has not

1 presented evidence of the customer's benefit and especially
2 has not presented any evidence that the customer would not be
3 harmed or inconvenienced by the granting of this waiver.

4 In particular, that the applicant has not
5 shown that they've taken on any alternative measure, that
6 they've tried a different procedure and that it was considered
7 and tested and found that it didn't work. Instead, they want
8 to put the burden on the customer. And they want to put the
9 burden on the customer rather than having that burden --
10 taking on the burden to test and modify and streamline their
11 own procedure.

12 In particular, if you look at the very
13 application that the applicants submitted, their request is
14 open-ended. You know, they don't necessarily -- they ask for
15 a temporary waiver. They do not say how long is temporary.
16 They don't say where they're asking for it.

17 Is it in every exchange? Is it only in some
18 exchanges? Is it only in rural exchanges? Is it only in
19 exchanges where they're having problems? They do not identify
20 the number of times they haven't been able to comply with the
21 rule and, therefore, it poses a hardship. Perhaps it's just a
22 handful.

23 This information is not only lacking in their
24 application, but lacking in their evidence. Do they want
25 this waiver only in terms of when numbers have to be ported?

1 That's unclear. Are they looking for a complete waiver or do
2 they want just to -- just to modify the time? I don't think
3 it's very -- it's clear.

4 I think the ultimate problem that Public
5 Counsel has with this application, with the evidence presented
6 is the justification that MCC states for how it doesn't harm
7 the customer, that it's really a benefit to the customer. If
8 they make the -- if the customer doesn't want to wait that
9 long to make the call, then the customer can walk away.

10 I don't think that MCC has -- I don't think
11 that's within the spirit of what this Commission wants. You
12 want to maintain a level of quality of service and not have
13 it -- and not have a customer -- and not have a customer
14 choose between taking the service or walking away when they
15 may not know all the problems involved.

16 Based on the application and the evidence
17 presented and Mr. Henderson's testimony, I would ask the
18 Commission to deny the waiver. Thank you.

19 JUDGE VOSS: Missouri Independent Telephone
20 Company? Can you hear me okay? I'm so used to calling the
21 company by the acronym.

22 MR. JOHNSON: Thank you. Pleased to be here
23 on behalf of the Independent Telephone Company. May it please
24 the Commission.

25 My clients are incumbent local exchange

1 companies and our main interest is to make sure that the rules
2 that we have to live by are applied to other carriers or if
3 there's good cause for them not to be, that the rules are
4 modified for them.

5 In this case, we concur in the opening
6 statement and the position of Staff. And I think the evidence
7 will show and the inference that the Commission may well
8 derive from the evidence in this case is that Sprint and
9 Mediacom entered into their agreement prior to Mediacom coming
10 to Missouri and asking for a certificate. And if they had
11 done a good job of looking at what the Missouri rules required
12 when they came and asked for their certificate, they would
13 have also asked for a waiver of that rule.

14 They did not do that. They got their
15 certificate, the Commission ordered them to comply with the
16 rule in question. Then apparently after they and Staff worked
17 together on surveillance reports, Staff made -- let them know
18 that they maybe weren't meeting the requirements and so they
19 have requested this waiver.

20 So it appears to me that there's never been an
21 attempt between Mediacom and Sprint to see if they could meet
22 the rule or, if they can't, to negotiate a tighter agreement.

23 And I do believe that it's correct that this
24 is an agreement that's national in scope. Mediacom is a big
25 company, a national company and I assume this agreement

1 between Sprint and Mediacom applies in many states besides
2 Missouri.

3 On the other hand, in order to be fair, I
4 think it's obvious that when you port a number, it takes
5 longer to complete the porting process and so it makes it more
6 difficult to meet this five-day guideline.

7 My concern is that I wonder if it would be
8 more efficient for the Commission to address an applicability
9 of the rules that apply to ILECs to the different kinds of
10 CLECs in a generic rulemaking proceeding rather than entertain
11 case-by-case requests such as this one.

12 There are other certificated cable TV VoIP
13 affiliates in Missouri who have not made such a request. I
14 don't know if they're in the same boat or they're not. There
15 are what I call regular, plain old vanilla CLECs that also
16 port numbers and none of them have made such a request. And
17 I'm not very confident about myself here, but I think maybe
18 even wireless ETC carriers make some commitments to meet
19 quality of service rules that apply in Missouri.

20 And when I look at the Commission's rules, and
21 I'm just looking at Chapter 32, there are many categories of
22 rules where the engineering and the operations can be
23 different given these different types of carriers, ILECs,
24 vanilla CLECs, cable TV VoIP affiliate CLECs and wireless
25 ETCs. There's metering and inspection, there's customer

1 service, there's engineering and maintenance, there's quality
2 of service, there's service objectives and surveillance
3 levels, there's connection of equipment, inside wiring,
4 there's the CPM.

5 Without going into details, I think you know
6 enough about these different industries to know that the
7 different technologies are going to require different
8 applications of those rules, different waivers of those rules.
9 And I think what the Commission needs to do is to establish in
10 the docket, put these kind of questions out for industry
11 comment and see which rules the industry think need to be
12 modified so that you can do this in one fell swoop that the
13 industry can live with rather than going through case-by-case
14 waiver requests.

15 The standard waiver of the statutes and rules
16 I think were probably developed by Staff shortly after the
17 1996 act was enacted and it served reasonably well until now.
18 But this is another step that I think the Commission can take
19 now that we've had seven, eight, nine years of experience with
20 different local exchange companies being authorized to provide
21 local service in Missouri.

22 And so that's my suggestion as to what the
23 Commission should do with this case. Thank you.

24 COMMISSIONER MURRAY: I have a question.
25 Mr. Johnson, excuse me. I have a question. Regarding the

1 generic rulemaking, would there be any harm in granting a
2 temporary waiver during the process of that rulemaking?

3 MR. JOHNSON: From my client's standpoint, no,
4 because Mediacom is not in our areas. I would want -- I would
5 not want to answer that for the rest of the industry even
6 though I think that it appears from the positions of the
7 parties, except possibly Public Counsel, that they have
8 contemplated taking this case to a generic rulemaking type
9 proceeding or a preliminary -- a docket preliminary to
10 rulemaking. But I hesitate to speak on behalf of everyone.

11 COMMISSIONER MURRAY: Okay. Thank you.

12 JUDGE VOSS: Are there any additional
13 procedural matters that we need to address before we begin
14 taking testimony?

15 Hearing none, MCC Telephony, call your first
16 witness.

17 MR. COMLEY: Your Honor, we'll call Calvin
18 Craib.

19 (Witness sworn.)

20 JUDGE VOSS: Your witness.

21 CALVIN CRAIB testified as follows:

22 DIRECT EXAMINATION BY MR. COMLEY:

23 Q. Mr. Craib, would you state your full name for
24 the record, please?

25 A. It's Calvin Craib.

1 Q. And are you the same Calvin Craib that caused
2 to be filed in this case two pieces of testimony, your written
3 Direct and written Surrebuttal, which have been previously
4 marked for identification by the reporter as Exhibits 1-HC and
5 Exhibit 2?

6 A. I am.

7 Q. With respect to the questions and answers that
8 you gave in that written testimony, which we've talked about
9 already, are there any changes or corrections to your
10 testimony that you would like to make at this time?

11 A. There are. In the -- what I think is referred
12 to as the Surrebuttal Testimony --

13 Q. That would be Exhibit 2.

14 A. -- on page 2, there's a reference to the
15 length of time between CSR and -- I don't have it in front of
16 me, but the reference should be from LSR and is information
17 out of the table that is part of that testimony.

18 Q. Do you have a copy of your testimony in front
19 of you? If not, I'll get you one.

20 JUDGE VOSS: Is that page 2, line 23?

21 BY MR. COMLEY:

22 Q. Page 2, line 23 is what I have.

23 A. At the very bottom it should say, LSR to port
24 intervals.

25 Q. Are there any other changes or corrections to

1 your testimony?

2 A. There are not.

3 Q. If I were to ask you the questions that are
4 propounded in your Direct and Surrebuttal Testimony today,
5 would your answers be the same as you have corrected them?

6 A. They would.

7 MR. COMLEY: Your Honor, on the basis of his
8 answers, I would move for the introduction of Exhibits 1-HC
9 and Exhibit 2.

10 JUDGE VOSS: Are there any objections to these
11 exhibits?

12 Hearing none, they're admitted.

13 (MCC Exhibit Nos. 1-HC and 2 were received
14 into evidence.)

15 MR. COMLEY: And tender the witness for
16 cross-examination.

17 JUDGE VOSS: Staff?

18 CROSS-EXAMINATION BY MR. HAAS:

19 Q. Hello, Mr. Craib.

20 A. Good morning.

21 Q. What is your position with MCC Telephony?

22 A. I am president of several of Mediacom's
23 telephony subsidiaries, including MCC Telephony of Missouri,
24 and I'm an officer of the parent company, Mediacom
25 Communications Corporation.

1 Q. Your Direct Testimony states that you have
2 24 years experience in cable television and related
3 industries. How many years of experience do you have in the
4 regulated telecommunications industry?

5 A. When you say "experience," could you be a
6 little more specific?

7 Q. How long have you been an officer of a company
8 that is regulated by a state commission to provide
9 telecommunications service?

10 A. Well, I believe the -- whether the company's
11 regulated or not is still open for question at both the state
12 and the federal level. I've been an officer of the telephone
13 companies of Mediacom for three years.

14 Q. And had you worked for the telephone
15 operations of Mediacom or another carrier before three years
16 ago?

17 A. Mediacom has been actually offering service to
18 customers for only about a year and a half. We have been in
19 the process of getting into the business, including our
20 conversations with what turned out to be our partner, Sprint,
21 for three and a half years. So four years would be the length
22 of time I've had experience in the telephone product business.

23 Q. You testified that MCC offers a packaged
24 V-o-I-P, VoIP, service which includes local, national long
25 distance and features using the cable facilities of an

1 affiliate company; is that correct?

2 A. That is what I testified.

3 Q. What percent of customers, when first ordering
4 MCC Telephony service, are already taking Mediacom's cable
5 television service? And I'm asking about customers in
6 Missouri.

7 A. I don't have a precise answer. I could give
8 you an educated guess if you'd like.

9 Q. Yes, please.

10 A. Certainly more than 50 percent. The majority
11 of people who take our service are existing customers.

12 Q. What percent of customers ordering MCC
13 Telephony service order Mediacom's cable television service at
14 that same time?

15 A. Your question seems to refer to new customers
16 to the company as opposed to people who already take our
17 video, our high-speed data service and just upgrade to
18 telephone.

19 Q. Yes.

20 A. So a brand-new customer. And the question is
21 how many of them take telephony as part of their package?

22 Q. Yes.

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

24 Q. What percent of brand-new customers to the
25 company order MCC's telephony service but do not take the

1 cable television service?

2 A. Very low portion. Again, I don't have a
3 specific number, but certainly a low percentage.

4 Q. Where in Missouri does Mediacom provide cable
5 television service?

6 A. In the Springfield DMA and the
7 Columbia/Jefferson City DMA. DMA is a marketing term, but,
8 you know, in those geographies, plus numerous smaller
9 communities in and around those areas.

10 Q. Does Mediacom face competition from other
11 cable television companies in those areas where it operates in
12 Missouri?

13 A. When you say cable television company --

14 Q. For cable television service.

15 A. -- are you excluding DBS providers of video
16 services? Would they be cable television or not?

17 Q. What is a DBS provider?

18 A. Direct TV, Echo Star, Direct Broadcast
19 Satellite.

20 Q. Well, yes, let's include them in the first
21 question.

22 A. In that case, then virtually everywhere we
23 face competition.

24 Q. Does Mediacom face competition from other
25 facilities land-based cable television companies in the areas

1 where it provides cable television service?

2 A. In very minor areas.

3 Q. Do Mediacom and MCC offer a package that
4 includes cable television, telephone service and broadband
5 Internet?

6 A. I'm sorry. Video, cable television,
7 broadband, high-speed data and voice.

8 Q. And voice?

9 A. Yes, we do.

10 Q. Does MCC face competition for that package in
11 its Missouri areas?

12 A. I'm not aware of anyone that provides the same
13 service. I believe there are combinations of other companies
14 who offer all three products as a bundled package.

15 Q. Where in Missouri does MCC offer telephony
16 service?

17 A. In the -- again, the Springfield area and the
18 Columbia and Jefferson City area and other areas. We offer
19 telephony service everywhere where we, in conjunction with our
20 partner, Sprint, have been able to do the appropriate rate
21 center build out to have the facilities to do that.

22 The areas where we do not offer telephony
23 service are those areas where either Sprint does not have an
24 interconnect agreement and, therefore, cannot get local
25 connectivity and, therefore, we don't offer our service there.

1 Our -- our objective in providing telephone
2 service is to be able to offer local phone numbers and local
3 service so that it is, in fact, what we would refer to as a
4 replacement service for the ILEC product.

5 Q. Are there areas within MCC's certificated area
6 where it is not providing telephone service?

7 A. I don't want to get hung up on a technicality.
8 Frankly, I'm not sure I could answer that. I don't believe
9 so.

10 Q. In your testimony you mention that MCC
11 Telephony is reaching out and providing competitive options to
12 consumers in some traditionally under-served areas. What do
13 you mean by "traditionally under-served areas"?

14 A. We have found for all of our products, that
15 smaller communities further from metropolitan areas in all
16 states, not just Missouri, are -- have less products available
17 to them. And our company's business model said that we will
18 build facilities to all of our service territory to offer the
19 same suite of product services.

20 And, therefore, you know, a smaller town that
21 isn't very close to Springfield or Jefferson City or one of
22 the larger areas or Kansas City or St. Louis is probably less
23 well served in terms of the high-speed data, the video and the
24 telephone products.

25 Q. Can you identify by name those towns or

1 communities in Missouri that you consider to be traditionally
2 under-served areas where MCC Telephony is providing service?

3 A. Not at this time, but I certainly could
4 provide you with a list.

5 Q. In your testimony you state that one
6 constraint on MCC is, in the case of a ported number, the time
7 that it takes the losing carrier to respond. What percentage
8 of MCC's installations are for ported numbers?

9 A. I don't -- as a public company, I don't
10 believe we release that specific number for individual areas
11 for competitive reasons. Nationally over 60 percent of our
12 telephone installations are ports.

13 Q. And if I wanted to know the number for
14 Missouri, I should ask that during the in-camera session?

15 A. My attorney will have to explain to me what
16 I'm allowed to do as a officer of a public company and what
17 I'm not, but I don't have the number with me in any case, but
18 we certainly can provide it if we're required to.

19 MR. COMLEY: I think there may be a data
20 request that responded to a question similar to that and I
21 think it was submitted under a confidential seal.

22 BY MR. HAAS:

23 Q. You go on to testify that, Due to the
24 multilayered process involving several carriers, it is not
25 realistic to expect the process to match the standards

1 originally put into place to measure ILEC performance.

2 Does MCC meet the Commission's installation
3 time frame if ported numbers are excluded?

4 A. No. But we're much closer.

5 Q. In your Direct Testimony, you testify that, It
6 is important to have a small cushion in your scheduling
7 intervals in order to minimize the need for rescheduling
8 appointments.

9 Doesn't the service subjective rule except out
10 customer-caused delays?

11 A. I think what I was referring to in my
12 testimony was we -- when we set -- the key to the installation
13 is when we set the appointment -- I mean, when we take the
14 order, we need to make a commitment to that customer when we
15 will complete that order for them. And what we're trying to
16 point out in my testimony is that we err on the side of being
17 highly confident we can make that commitment because that's
18 what inconveniences the customer less.

19 It is our view, and it's been affirmed by
20 customers, that they would rather have an appointment that has
21 a high degree of happening a little longer than a shorter one
22 that is likely to have to be rescheduled. Because they make
23 their plans, we make a commitment to be there and it fulfills
24 their expectations.

25 Q. You state that it seems to you that, The rule

1 was designed to protect consumers from poor quality in the
2 delivery of an essential service in an environment with
3 limited options.

4 When a customer is applying to MCC for
5 telephone service and that customer does not have telephone
6 service with another carrier, is telephone service essential
7 to that customer?

8 A. Well, there are no service territories where
9 we are the only option for telephone service. So if everybody
10 in the state except us is meeting these requirements, there
11 probably is another carrier they can call.

12 And our point there is that most of our
13 customers, as we just talked about, are porting their phone
14 numbers. If they're porting their phone numbers, by
15 definition they already have service.

16 Q. But my question said if the customer does not
17 have service with another carrier --

18 A. Uh-huh.

19 Q. -- is telephone service essential to that
20 customer?

21 A. I believe it is. I mean, presumably that's
22 why they're ordering it.

23 Q. In your Surrebuttal Testimony beginning on
24 page 1, you state that, MCC's service is unique and that
25 certain aspects of the installation process are indeed outside

1 of its control.

2 What, if anything, is unique about MCC's
3 service for a new customer who is not porting a telephone
4 number?

5 A. Well, it still requires two companies,
6 Mediacom and Sprint, to coordinate their processes, to get the
7 data transfer done correctly and get an order facilitated and
8 processed and installed.

9 Q. What aspect, if any, in the installation
10 process is outside MCC's control for a new customer who is not
11 porting a telephone number?

12 A. The portion that is within Sprint's control.
13 While I suppose you might argue that we have a contractual
14 relationship with them, we have certain number of control over
15 Sprint, I think that for this purpose on an individual order
16 basis, it isn't practical for us to micromanage what happens
17 within Sprint. That's why we have a relationship with them.

18 Q. But Sprint does provide its part of the
19 installation process pursuant to a written agreement with MCC?

20 A. Correct.

21 Q. In Surrebuttal Testimony on page 2, you state
22 that, Staff Witness Mr. Henderson has commented selectively on
23 MCC's response to Staff Data Request No. 6.

24 First off, is that what your testimony says?

25 A. Yes.

1 Q. MCC's application at paragraph 6 in this case
2 states, Due to the wide variance in ILEC porting intervals,
3 MCC seeks an exemption from including installations for ported
4 numbers in the company's results.

5 First off, is that what the application
6 states?

7 A. If it says that's what it states, I think
8 that's correct. I do not have it in front of me. If you'd
9 like to pause, I can go look at it.

10 Q. Well, I guess we'll move on because it is in
11 the record in this case.

12 A. Okay.

13 Q. And Staff Data Request No. 6 asks for porting
14 intervals for ILECs; is that correct?

15 A. Yes.

16 Q. And Mr. Henderson's Rebuttal Testimony uses
17 that part of the MCC response to Data Request No. 6 that was
18 responsive to the question asked. Correct?

19 MR. COMLEY: I'll object to the form of the
20 question. He's arguing with the witness.

21 THE WITNESS: I don't understand the question.

22 JUDGE VOSS: I was going to ask him to restate
23 the question, but it looks like he already is.

24 BY MR. HAAS:

25 Q. Is the part of Mr. Henderson's Rebuttal

1 Testimony that you were referring to addressing the ILEC
2 porting intervals?

3 A. I think it is, yes.

4 Q. What is MCC's porting interval when it loses a
5 customer?

6 A. Well, I think that's a good question. We,
7 through our partner, Sprint -- and actually the way a port
8 out, which is the term that I think is used for when we lose a
9 customer, the customer calls the company that they want to go
10 to. They do not call Mediacom. Actually, some of them do
11 call Mediacom, but we have to tell them so that the port goes
12 through properly.

13 That company then contacts Sprint and Sprint
14 processes the change and makes that number available. Sprint
15 lets us know. So we comply with the industry guidelines.
16 Sprint would have to tell you more about how that works and
17 Darin Liston can talk about that.

18 Q. In Surrebuttal Testimony on page 3, you state
19 that, It is still the position -- it is still the position of
20 MCC that it is able to commit to the objective of installing
21 90 percent of its orders within three working days following
22 the completion of Sprint's provisioning interval excepting
23 certain instances.

24 What is MCC's basis for selecting three
25 additional days after Sprint's completes its provisioning

1 versus zero or one or two additional days?

2 A. We think three is -- is reasonable, it's
3 responsive, it gives us all, you know, a little bit of cushion
4 in the time to make things happen. Again, so that there is
5 less inconvenience to the customer.

6 Q. Is there a technical reason why MCC would need
7 three extra days after Sprint had finished its process?

8 A. There is. Mark Trefry, who will testify
9 later, can get into more detail, but because of the nature of
10 MCC's operations, operating in many smaller communities miles
11 apart and a fairly large geographical area and the dispatch
12 function of getting the right qualified installer to the home,
13 because all of our installations do require a visit to the
14 home, getting those logistics done sometimes takes more than
15 one day.

16 Q. You go on to state that, Staff's resistance to
17 the idea of waiving the rule under consideration has the odd
18 and presumably unintended effect of penalizing MCC for its
19 attempts to cooperate with this Commission.

20 What attempts has MCC made to cooperate with
21 this Commission?

22 A. Well, it's interesting you ask that because
23 before we applied for our CLEC certificate and, in fact,
24 before we signed our agreement with Sprint, I came and several
25 other members of Mediacom came and spoke to members of the

1 Commission and Staff about our plans to offer telephony
2 service in the state of Missouri.

3 And we were very clear at the time that this
4 was a new business, that we thought we were being responsive
5 to what, in our opinion, the Federal Communications
6 Commission, the Congress of the United States and many states
7 have said they want more competition for telecom products.
8 And we said, fine, it's a good business model, we like it, we
9 want to offer more products.

10 And the question is since this is a brand-new
11 business and we have no experience in the telephone business,
12 how should we go about doing that? And we spent the time and
13 went and talked not to every state, but Missouri was one of
14 the ones we did and said, Here's how we want to go about doing
15 this. And we're not sure exactly how it's going to work, we
16 haven't finalized all of our agreements and everything, but we
17 are anxious to do what we think is being asked, we think
18 there's market demand for.

19 Q. When you came to Missouri and had those
20 discussions, did you suggest that you would not be able to
21 meet the Commission's installation standard?

22 A. No, I didn't. Quite honestly, I had not read
23 the rules in detail at that point. The idea was more from a
24 larger strategic business perspective. You know, we wanted to
25 take what we considered to be the right approach.

1 You may be aware, cable companies are not
2 always viewed in the highest esteem and we thought that
3 perhaps this would be a good opportunity for us to come and
4 present our case and our -- and our business plan to the
5 Commission.

6 Q. How is MCC penalized if it is held to the
7 standard that applies to all LECs?

8 A. All LECs don't have the same business model we
9 have. And I think that the Commission, hopefully, will take
10 that into account. There's been a lot of discussion here
11 about maybe the rules need to be looked at to see whether
12 there is really any harm to the public. And think it will be
13 good to take a look at that.

14 Q. On page 4 of your Surrebuttal, you state that,
15 The relationship between MCC and Sprint uses a model that uses
16 the combined real network facilities of two carriers to
17 deliver service.

18 And this may be going back to the question --
19 or answer you just gave me. Is MCC's business model the
20 basis, at least in part, for its request for a waiver of the
21 installation standard?

22 A. Is the --

23 Q. Is --

24 A. Could you maybe rephrase the question or help
25 me understand what you're asking?

1 Q. Are you asking for this waiver because of
2 MCC's business model?

3 A. Our business model with Sprint and the
4 realities of the porting requirements of the business cause us
5 not to be able to meet this objective. And that's why we're
6 asking for a waiver.

7 Q. Is MCC Telephony the only CLEC using this type
8 of business model in Missouri?

9 A. I don't know the answer to that.

10 Q. Would you please turn to Mr. Liston's Direct
11 Testimony?

12 A. Okay.

13 Q. Beginning at the bottom of page 1 and
14 continuing onto page 2, Mr. Liston describes the Sprint/MCC
15 business model. Do you agree with his description?

16 A. I may be in the wrong place. This is Direct
17 Testimony of Darin Liston?

18 Q. I'm sorry. It's beginning at the bottom of
19 page 2.

20 A. Okay. And the question is, do I agree with
21 this?

22 Q. Yes.

23 A. Yes, I do.

24 Q. Is there some aspect of the Sprint/MCC
25 business plan that prevents MCC from completing 90 percent of

1 installations for ported numbers within five working days?

2 A. I would say -- well, I don't know if it's --
3 should be characterized as the Sprint/Med-- MCC relationship.
4 It's the requirements between Sprint and the other carriers to
5 get the number ported. And that responsibility, Med-- or MCC
6 and Sprint have agreed is a Sprint responsibility.

7 Q. At page 5 of his testimony, Mr. Liston begins
8 a description of Sprint's process for ported numbers. I'm
9 going to ask you a series of questions comparing the Sprint
10 process to other LECs processes. When installing new customer
11 service, do other LECs validate the serviceable address?

12 A. I don't know.

13 Q. When installing new service, do other LECs
14 validate the rate center?

15 A. I have no specific knowledge of what any other
16 LEC does or doesn't do. I would say it is reasonable to think
17 they probably do because it makes sense to do it, but I have
18 no specific knowledge of anyone other than Sprint.

19 Q. Turning back to your Surrebuttal Testimony at
20 page 5, beginning on line 17, you refer to, The obvious truth
21 that were MCC and Sprint able to provision customers at
22 shorter intervals without adding to costs so significantly as
23 to make the service unaffordable and, therefore, undesirable
24 to the customers, they would -- so -- pardon me, they would
25 gladly do so.

1 What is the additional costs to MCC to comply
2 with the Commission's installation objective?

3 A. I don't have a specific number.

4 Q. Do you have a ballpark number?

5 A. Well, frankly, since some of it would require
6 the cooperation and change of the processes followed by the
7 LEC who is losing the phone number for porting, I have no way
8 of determining that.

9 Q. What would be the additional cost to MCC to
10 install 90 percent of new customers who are not porting a
11 number and to get that done within five business days?

12 A. I don't have an answer for that.

13 Q. You state that, An issue with Staff over MCC's
14 redaction of its letter of intent with Sprint has been
15 rectified.

16 Please explain how that issue has been
17 rectified.

18 A. I don't know.

19 Q. Would you please turn to CC Schedule 1
20 attached to your testimony -- your Direct Testimony? Would
21 you please turn to --

22 A. Excuse me. I'm not quite there yet.

23 JUDGE VOSS: Since it's not noted what's
24 confidential in here, Mr. Comley, if you think anything that's
25 confidential is asked, we need to go in-camera.

1 MR. COMLEY: Thank you for the warning, Judge.

2 Thank you.

3 THE WITNESS: Someone is going to need to help
4 me find --

5 MR. COMLEY: Mr. Craib, are you finding a copy
6 of the agreement behind your testimony that you have?

7 THE WITNESS: No.

8 MR. COMLEY: Your Honor, I have a copy to give
9 to the witness.

10 JUDGE VOSS: You may approach.

11 BY MR. HAAS:

12 Q. Do you have that document now?

13 A. This is the MCC Telephony Inc. Sprint
14 Communications Company, LP letter of intent, August 20, 2004.

15 Q. Would you please turn to the pages CC
16 Schedule 1, page 29, page 30 and page 31? And to make sure
17 that we're looking at the same pages, the CC schedule number
18 appears on the bottom left-hand corner of the page.

19 A. Thank you. Okay. Page --

20 Q. 29.

21 A. CC Schedule 1, page 29 --

22 Q. 30 and 31.

23 A. Yes.

24 Q. Are those three pages blank when it comes to
25 text?

1 A. They are.

2 Q. Were those three pages blank in the original
3 unredacted version of the agreement?

4 A. No, they were not.

5 Q. Continuing onto page 8 of your Surrebuttal,
6 you state that, Mr. Henderson is, again, exhibiting his
7 mistaken view that MCC's installation intervals are the result
8 of an arbitrarily negotiated agreement with Sprint.

9 What, if any, other time intervals were
10 discussed in negotiations with Sprint?

11 A. I don't understand the question.

12 Q. Are there installation intervals in the Sprint
13 agreement with MCC?

14 A. Yes.

15 Q. Were other intervals than those that are in
16 the contract discussed during the negotiation of the contract?

17 A. Yes.

18 Q. And what, from MCC's perspective, was the
19 basis for the installation intervals that are in the
20 agreement?

21 A. We were convinced it was a reasonable amount
22 of time that both parties could accomplish and would satisfy
23 our business needs.

24 Q. Were state utility commission regulations
25 regarding time frames for installation considered in the

1 negotiation of the agreement?

2 A. Well, there were a great many people involved
3 in the negotiation of that agreement. I think it is fair to
4 say that they were thought about. Whether they had any direct
5 impact on the outcome, I don't know.

6 Q. At page 9 of your Surrebuttal you testify
7 that, MCC's customers are provided accurate information
8 regarding installation times up front at the time they place
9 an order for services.

10 When a customer is placing an order for
11 service, are they informed of the PSC's installation standard?

12 A. No.

13 MR. HAAS: I'm going to have several more
14 questions about the Sprint and MCC agreement which has been
15 marked as a highly confidential exhibit and I would like to
16 move into an in-camera session.

17 JUDGE VOSS: Will any of the other attorneys
18 have questions about the particular agreement that would need
19 to be taken in-camera? Because if so, we might do all of that
20 at one time.

21 So we'll go ahead and go in-camera. Attorneys
22 check the room and see if there's anyone here who should not
23 be.

24 (REPORTER'S NOTE: At this time, an in-camera
25 session was held, which is contained in Volume No. 3, pages 59

1 through 72 of the transcript.)

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1 JUDGE VOSS: Please proceed with your
2 cross-examination, Mr. Haas.

3 MR. HAAS: Are we back in public portion?

4 JUDGE VOSS: We are back in public portion.

5 CROSS-EXAMINATION (CONT'D) BY MR. HAAS:

6 Q. Mr. Craib, would you please now turn your
7 attention to Case No. LA-2005-0150, where MCC applied for
8 certification from this Commission? Did you sign --

9 A. Could you be a little more specific about
10 where I'm supposed to be looking at? This is our application?

11 Q. It was your application for a certificate from
12 the Commission.

13 JUDGE VOSS: Mr. Haas, is that the same
14 application that has been premarked as Exhibit 7? Just
15 checking.

16 MR. HAAS: Yes. That is the document that's
17 been marked as Exhibit 7.

18 JUDGE VOSS: Thanks. Just wanted to make
19 sure.

20 BY MR. HAAS:

21 Q. And, Mr. Craib, did you sign a verification
22 under oath stating that the statements contained in that
23 application were true to your best knowledge, information and
24 belief?

25 A. I did.

1 Q. And does paragraph 24 of that application
2 state that, MCC, pursuant to Section 386.570 RSMo, will comply
3 with all applicable Commission rules except those specifically
4 waived by the Commission pursuant to MCC's request?

5 A. It does say that.

6 Q. Did MCC request in the certificate case a
7 waiver from the Commission's rule for installation time
8 frames?

9 A. No. I believe we applied for our waiver
10 subsequently.

11 Q. When did you sign the verification to this
12 application?

13 A. On November 24th, 2004.

14 Q. When did MCC enter into its contract with
15 Sprint?

16 A. I believe it was August of 2004. Yes.

17 Q. So when you verified the application, you had
18 already signed the letter of intent with Sprint?

19 A. Yes.

20 MR. HAAS: That's all the questions I have.

21 JUDGE VOSS: Mr. Dandino?

22 MR. DANDINO: Thank you, your Honor.

23 CROSS-EXAMINATION BY MR. DANDINO:

24 Q. Mr. Caib?

25 A. Craib.

1 Q. Craib. I'm sorry, Craib. When did MCC
2 determine that it could not comply with the PSC's five-day
3 time standard for the installation of service?

4 A. I don't have a specific date. Sometime
5 between the time -- sometime before the time we filed for the
6 waiver.

7 Q. Would it be prior to August 20th, 2004, the
8 date of the agreement?

9 A. I would say no.

10 Q. What about the date that's -- let's see. Let
11 me check the date. What about on or about November 30th,
12 2004, when you applied for a certificate with the Commission?

13 A. I think we were at that point in time still
14 working out with Sprint the details of how this would work in
15 each state and what we would and wouldn't be able to comply
16 with. So, no, not before that time either.

17 Q. Okay. So subsequent to November 30th, 2004,
18 you learned that you could not comply with the Commission's
19 installation rule?

20 A. I'm sorry. Subsequent to which day did you
21 say?

22 Q. November 30th, 2004.

23 A. Yes.

24 Q. Did you find -- did you make that
25 determination before May 5th, 2005, the date the Commission

1 approved your certificate?

2 A. I don't know.

3 Q. Do you know if it was after May 5th, 2005 that
4 you made that determination?

5 A. No, I don't. I think that it was as we worked
6 out the methods and procedures for doing installations in the
7 state of Missouri in the various marketplaces for ports, for
8 non-ports. And I don't recall the exact time frame of when we
9 would have come to that realization.

10 Q. Okay. So at the time you received your -- you
11 applied for your certificate, you did not know how you were
12 going to make the installations and whether you could meet the
13 time frames established by the Commission?

14 A. I -- you know, again, not being involved in
15 all of the intimate details, I think that we probably had a
16 reasonable good idea, whether we sat down and discussed it and
17 said, okay, there is no way around this, we can't do this. We
18 were inventing a business, quite frankly. And we worked under
19 the presumption that we would be able to make some things work
20 that ultimately turned out not to be true.

21 Q. As you invented this business, did you happen
22 to look at whether you could comply with the law when you
23 received the certificate?

24 A. Well, I believe that we, both in conversation
25 and in our application, notified the Commission that we

1 weren't sure and that we might seek waivers. And, in fact,
2 did seek a waiver.

3 Q. Was that the meeting that you discussed with
4 Mr. Haas when you met with the Staff and the Commission before
5 you made an application for certificate?

6 A. Yes.

7 Q. Okay. Do you consider that meeting a request
8 for a waiver?

9 A. No.

10 Q. Do you think that there was any misleading or
11 misrepresentation by the Commission or the Staff on what they
12 would do with their installation rules or any of their rules?

13 A. Not at all, no.

14 Q. In fact, the five-day installation rule didn't
15 even come up that meeting, did it?

16 A. Well, I think we talked in general about -- I
17 do not recall it specifically coming up, no.

18 Q. Okay. So by November 30th, 2004, you applied
19 for the certificate, you had not established the -- what did
20 you call them, M and Ps with Sprint?

21 A. Correct.

22 Q. They had not been established at that time?

23 A. They had not been completely fleshed out for
24 each operating business, no.

25 Q. Okay. Could you, once again, for the record,

1 describe what the M and P means?

2 A. Well, it's a -- you know, it's a term we use
3 for the documentation of how we're going to conduct business
4 with each other. It is not a contract. It's a set of
5 guidelines that we're each going to follow. It details what
6 our people are going to do, what their people are going to do,
7 what the coordination among the companies is going to be.

8 Q. The M and P stands for method and --

9 A. Method and --

10 Q. -- practices?

11 A. -- procedures.

12 Q. Procedures, I'm sorry.

13 A. Practices probably works as well.

14 Q. So but you didn't even have those at the time
15 you made the application?

16 A. No.

17 Q. At the time you received the certificate on
18 May 5th, 2005, did you have the M and Ps established?

19 A. They were probably closer. I don't believe
20 they were finalized. In fact, they change regularly. This is
21 an evolving process. We continually try to improve them. We
22 probably had sort of staked out a framework of how things were
23 going to work. Sprint did not have all their resources in
24 place, we did not have all our resources in place.

25 Q. So on that date you didn't know or MCC did not

1 know whether or not they could comply with the five-day
2 installation standard?

3 A. I think that we probably knew that it was in
4 jeopardy and that we needed to figure out what to do about it,
5 either fix it or apply for a waiver, which we subsequently
6 did.

7 Q. And you knew that prior to May 5th, 2005 --

8 A. Sir, I --

9 Q. -- the date you received a certificate?

10 A. I'm speaking in general. I do not have a
11 specific recollection -- recollection of what I knew on
12 May 3rd --

13 Q. Okay.

14 A. -- versus May 7th.

15 Q. Okay. Let's put it in broader terms. From
16 the time you applied for certificate to Missouri Public
17 Service Commission until you were granted a certificate,
18 sometime during that time you learned that the ability of MCC
19 to comply with the Commission's five-day installation
20 requirement was in jeopardy?

21 A. Yes.

22 Q. Okay. Did you advise the Commission or the
23 Commission Staff of this potential jeopardy?

24 A. I don't believe so, no.

25 Q. And about what time period did you make the

1 request for a waiver? I don't have that offhand. The record
2 will indicate, but I was just trying to get an idea, I guess.

3 A. I believe our application is dated April 25th,
4 2006.

5 Q. Okay.

6 A. Or file stamped.

7 Q. 2006?

8 A. Uh-huh.

9 Q. Okay. So approximately a year later you made
10 the application for the waiver; is that right?

11 A. Yes.

12 Q. And during this time, the M and Ps were in a
13 constant flux; is that correct?

14 A. That's fair.

15 Q. And would the constant flux and revisions
16 include the ability to comply with the five-day installation
17 requirement?

18 A. Well, again, for certain -- for the portions
19 of the process that were within our control, absolutely. We
20 are continually trying to find ways to improve that. For the
21 portions that are out of our control, our process is speaking
22 with Sprint, who contractually holds that relationship with
23 the other parties, asking them whether they think that can be
24 improved or not.

25 Q. About your relationship with Sprint, you had

1 said -- and I don't know if you used it in shorthand or not.
2 You referred to Sprint as your partner. Is it a partnership?

3 A. It is not a partnership. It is a con--
4 service provider contractual relationship. Partner is a term
5 that we use internally because our interests are very closely
6 aligned with their interests. But our contractual
7 relationship is not a partnership. It is a service provider
8 relationship.

9 Q. Okay. So for the provisioning of and
10 installation of service -- provisioning of service, I guess
11 and porting the numbers, they would be considered MCC's agent?

12 A. I don't know if "agent" is a defined term or
13 not.

14 Q. Or contractor?

15 A. Yes.

16 Q. An independent contractor. Correct?

17 A. Yeah. A service provider.

18 Q. Okay. And it's governed by whatever the
19 agreement -- the letter of intent calls for?

20 A. The relationship is governed by -- this is the
21 contract that exists between us.

22 Q. In the event that -- well, never mind.

23 The procedure that -- make sure I -- is it
24 Trefry?

25 A. Trefry.

1 Q. Trefry. I'm sorry. Mr. Trefry described in
2 his testimony and you briefly discussed about how the order
3 was processed until it was -- the line was installed, when was
4 that specific process finalized or, you know, is there a
5 certain month or time that that represents?

6 A. Well, it varies by market. And as you're
7 probably aware, we offer this service currently in I think
8 11 states in 24, 25 different markets. And we've launched
9 them sequentially since June of 2005. And Missouri was
10 somewhere in the middle of that process.

11 And, you know, those processes develop market
12 by market. You know, the same blueprint is followed in each
13 one, but they are fine-tuned to adapt to the local conditions.

14 Q. Okay. So is your agreement or the process set
15 up where -- you said you could fine-tune it for local
16 conditions. Could you modify it so it could comply with the
17 Missouri five-day installation requirement?

18 A. As I've said on numerous occasions since I've
19 been here, I think there are things that I simply don't have
20 the opportunity to control that would not allow me to do that.

21 Q. What does the term -- you used the term
22 "business model" in that I guess you adjust -- what does the
23 term "business model" mean as you were using it?

24 A. Well, in my opinion, I would -- I don't think
25 it's a defined term anywhere. I don't think it's a legal

1 term. But it refers to the entire strategic relationship that
2 includes our relationship with our service provider, Sprint,
3 and our -- where the telephone product fits in Mediacom's
4 product offering, the technology we use based on the
5 technology we already have invested in to provide other
6 services.

7 It takes all that into account and says, okay,
8 you know, does this make business sense? Is there a demand
9 for this product? Can we offer it at a price that we think is
10 going to be successful in the market place? Are we going to
11 be complying with the appropriate rules and regulations?
12 That's all what I consider to be the business model.

13 Q. Should the business model control over the
14 state's minimal standards for service quality?

15 A. Well, I -- in my opinion, I don't think it
16 should. I think the state's standards should take into
17 account evolution of business models and technology and
18 changing marketplaces and everything else. But absolutely
19 not.

20 Q. Did you raise those issues with the Commission
21 at the time you received your certificate?

22 A. At the time we received our certificate, no,
23 we did not.

24 Q. Do you believe that the five-day minimum
25 installation standard is an unreasonable requirement?

1 A. Do you mean unreasonable in general or to us
2 or how -- could you be a little clearer on what the question
3 is?

4 Q. Unreasonable as a general standard.

5 A. I think to apply it to each and every
6 circumstance without regard to other factors may be
7 unreasonable, which is why we have a waiver in front of the
8 Commission.

9 Q. Would you say that MCC operates mostly in
10 rural areas in Missouri?

11 A. Define "rural."

12 Q. Nonurban.

13 A. Define "urban."

14 Q. Nonrural.

15 A. Sort of.

16 Q. Whatever the typical -- standard idea of what
17 a rural versus urban in the common dictionary definition.

18 A. I have certainly no wish to offend anyone in
19 any way. Mediacom serves many smaller markets. We also serve
20 Springfield, we serve Columbia, we serve Jefferson City.
21 Those are not smaller markets. So I think we serve both.
22 Company-wide, we serve more what would normally be considered
23 if not rural, at least non-urban.

24 Q. I don't think you would offend anyone by
25 saying it's rural or nonrural.

1 A. I live in rural New Jersey.

2 Q. Well, in terms of smaller markets, do you
3 provide service in any of the small ILEC exchanges in
4 Missouri?

5 A. We do. I'm sorry. Video and high-speed data
6 services.

7 Q. Do you provide telephone service in those ILEC
8 territories?

9 A. Honestly, I'm not certain. I know there was
10 some that we do not. I'm not sure if there's some that we do
11 or don't. There are mid-sized carriers that we do serve and
12 there are obviously the RBOCs that I don't know about. And
13 I'm not sure what you consider to be a, quote, rural
14 independent.

15 Q. Do you have trouble meeting the five-day
16 installation time standard when dealing with the RBOCs --

17 A. Yes.

18 Q. -- in Missouri?

19 A. Yes.

20 Q. Okay. And I take it if MCC received
21 everything that they wanted, you'd want a blanket waiver for
22 all exchanges of the five days?

23 A. MCC would like to provide the public with a
24 quality phone service. If there's opportunity to provide it
25 sooner on a high degree of confidence we could meet their

1 needs, we would like to do that. We're willing to work with
2 the Commission in whatever makes sense.

3 I think there is clearly more latitude if we
4 separate ports from non-ports. There appear to be
5 differences, their representative for the independent phone
6 companies appear to acknowledge that. I think that, you know,
7 we would like to work with the Commission to be in compliance
8 with something and we'll do what we can do to improve our
9 processes.

10 Q. What are the number of times or what
11 percentage of your installations fail to meet the five-day
12 installation requirement?

13 A. Most, if not all, of them.

14 Q. Approximately how many would that be, just a
15 rough --

16 A. I don't know. Large number.

17 Q. And when your sales staff take the order,
18 what do they say to them in terms of making a commitment for
19 installation?

20 A. We explain that the nature of our product is
21 such that it requires a period of time before it can be
22 installed. And there are certain processes they have to go
23 through in order for us to be able to ensure that we will be
24 able to meet the commitment to provide the services we've
25 promised to them, you know, including making their 911 service

1 work and everything else. And we tell them that they're --
2 the next available schedule date in their area is whatever it
3 is and ask them if that's acceptable to them.

4 Q. Is that date virtually always more than five
5 days?

6 A. Yes.

7 Q. So you make a commitment for over five days?

8 A. Yes.

9 MR. DANDINO: That's all I have, your Honor.
10 Thank you. Thank you, sir.

11 JUDGE VOSS: Mr. Johnson, do you have
12 significant cross-exam for this witness?

13 MR. JOHNSON: Not significant, no.

14 JUDGE VOSS: Because we might take a short
15 break and come back.

16 MR. JOHNSON: That would be good.

17 JUDGE VOSS: I think everyone's kind of
18 fidgeting. Let's take a -- let's come back at 25 after, give
19 everyone just over 10 minutes to get to the restroom, stretch
20 your legs.

21 (A recess was taken.)

22 JUDGE VOSS: Mr. Craib, I'll remind you you
23 are still under oath and we'll begin cross-examination by
24 Mr. Johnson.

25 MR. JOHNSON: Thank you, your Honor. Before I

1 ask Mr. Craib a few questions, can I offer Exhibits 7 and 8?
2 These were the two documents I had marked and requested
3 official notice of.

4 MR. COMLEY: No objection.

5 JUDGE VOSS: Are there any objections to the
6 two exhibits?

7 Hearing none, they will be admitted.

8 (MITG Exhibit Nos. 7 and 8 were received into
9 evidence.)

10 MR. JOHNSON: Thank you, your Honor.

11 CROSS-EXAMINATION BY MR. JOHNSON:

12 Q. Mr. Craib, are you having any fun yet?

13 A. I'm -- in fact, I am, but I'm thinking it
14 could get better.

15 Q. Well, I think it's going to get better. I
16 like to have some fun.

17 Would it be fair to say that in your personal
18 experience, you are more familiar with cable TV before you did
19 the dance with Sprint?

20 A. Yes.

21 Q. And I like to talk in terms of dance and dance
22 floors. And would you agree with me that the dance floor for
23 cable TV is a lot different than the regulatory dance floor
24 for telecommunications?

25 A. Yes.

1 Q. And by that I mean you were used to dealing
2 with local communities with respect to your franchises and
3 franchise obligations; is that right?

4 A. That's correct.

5 Q. And would it be fair to say that when your
6 company, Mediacom, was starting to consider getting into the
7 telephone business, you had very little experience with what
8 that might require?

9 A. Me personally?

10 Q. Yes.

11 A. That would be fair.

12 Q. It would be fair to say that, generally,
13 Mediacom didn't have all that much experience in the telephone
14 arena?

15 A. Also true.

16 Q. Okay. And so in order to get that experience,
17 if I'm putting this picture together correctly, you started
18 looking at potential dance partners and you selected Sprint?

19 A. We thought it would be good to work with
20 somebody who had some experience in the telephone business.

21 Q. And they did?

22 A. They appeared to have.

23 Q. Okay. And so when you describe the dancing
24 style of your partner, Sprint, would it for more like an
25 Emmitt Smith or more like a Larry Rice?

1 A. Jerry Rice?

2 Q. Jerry Rice, there we go. I'll withdraw --

3 A. I can see he's not paying attention.

4 Q. I'll withdraw that question. Would it be fair
5 to say, sir, that at the time you requested certification from
6 Missouri for MCC, that you may not have even been aware that
7 there was a requirement to have people install within five
8 days of them contacting you for service?

9 A. Yes.

10 Q. And would it be fair to say that in your
11 negotiations with Sprint, you did not become aware of that
12 fact either?

13 A. No. We did not discuss any particular state
14 when we did negotiations with Sprint.

15 Q. Would it be fair to say that the first time
16 you personally became aware -- and when I say "personally," I
17 guess I'm referring to MCC of Missouri -- was when Staff
18 contacted you about missing quality of service type reports or
19 late-filed reports?

20 A. No. I think we understood that we were in
21 jeopardy with this requirement and would need to consider
22 filing a waiver at some point.

23 Q. Okay.

24 A. I mean, I think we addressed that in our
25 application that we weren't sure we were going to meet

1 everything and if we couldn't, we'd ask for waivers.

2 Q. I only have one other line of questioning.
3 I'm trying to pick up on some things I've heard earlier this
4 morning. I guess maybe the best way to ask it, let's suppose
5 that Mediacom has a phone customer in Springfield and that
6 customer's going to call across the street to someone that's
7 still served by AT&T. Does Mediacom give that call to Sprint
8 for delivery?

9 A. We do right now, yes.

10 Q. The reason I ask is I hadn't seen that
11 Mediacom had any approved interconnection agreements in
12 Missouri; is that correct?

13 A. Mediacom does not.

14 Q. So you require on -- you rely upon Sprint as
15 your partner to even get those -- what I would consider a
16 local call because it's within the same wire center exchange,
17 to get that local call to the incumbent?

18 A. Well, to get to the incumbent's customer --

19 Q. Well, that's what I mean.

20 A. -- who may be across the street.

21 Q. Yes, sir.

22 A. Yes.

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

24 JUDGE VOSS: Are there questions from the

25 Bench? Commissioner Murray?

1 COMMISSIONER MURRAY: Yes. Thank you.

2 QUESTIONS BY COMMISSIONER MURRAY:

3 Q. Good morning.

4 A. Good morning.

5 Q. I'm really struggling to understand the
6 intense opposition to what would at least on the surface
7 appear to be a relatively reasonable waiver request. Can you
8 tell me if the requirements in Missouri are more strenuous
9 than the requirements in other states in terms of these
10 quality of service requirements?

11 A. They are.

12 Q. Do you have any other states that require the
13 same degree?

14 A. There are other states with various
15 requirements, some of which are harder for us to meet than
16 others. I'm not sure, does that answer your question?

17 Q. Well, are you seeking waivers for every area
18 in which a state requires more stringent times or more
19 stringent customer service requirements in any manner than you
20 typically have to provide?

21 A. We are working with several other states on
22 the same issue for the same reasons. And I don't believe we
23 have filed for waivers, but we are asking for their assistance
24 in understanding whether this is acceptable or not.

25 Q. And when you say "the same issue," are you

1 speaking about exactly the cus-- the requirements that are in
2 this rule that you're seeking a waiver for or are you just --

3 A. Among others, but that one in particular, yes.

4 Q. Okay. Do you favor a rulemaking in which the
5 Commission would relax the requirements for all CLECs?

6 A. I do. I think that the nature of encouraging
7 competition, which I think in general people have agreed is
8 good because it gives a consumer options and may give them
9 better values, means to me that we need to at least consider
10 different standards and let the consumer decide with their
11 pocketbook and their decisions if it's acceptable or not.

12 Q. Okay. Now, do you think a waiver granted for
13 your company only would provide any competitive advantage?

14 A. For me?

15 Q. Yes.

16 A. Are you asking would --

17 Q. Yes. Would the company --

18 A. No. I do not think it would give me a
19 competitive advantage.

20 Q. And indeed that's not what you're seeking; is
21 that correct?

22 A. That is correct.

23 COMMISSIONER MURRAY: Okay. I think that's
24 all I have. Thank you.

25 JUDGE VOSS: Commissioner Gaw, do you have any

1 questions for this witness?

2 COMMISSIONER GAW: Yes. And I apologize if
3 I'm being repetitive. I walked upstairs a minute.

4 QUESTIONS BY COMMISSIONER GAW:

5 Q. Is it your company's position that there is
6 some special circumstance involving your case that makes your
7 company different from everyone else that is doing business as
8 a telephone provider in this state to allow us to -- or to
9 encourage us to waive these rules that you're asking to waive?

10 A. I don't -- it is not our position that we are
11 different than every other company. We are different in our
12 ability to comply with these rules than the existing LECs and
13 at least some of the CLECs. And the difference is the fact of
14 the way we deliver the product, the combined use of both
15 Mediacom facilities and Sprint facilities, as well as the
16 interaction and the facilities-based nature of our service.

17 I think the -- it's clear to me that the
18 circumstances for a LEC are entirely different. And the
19 circumstances for many other CLECs are different in that they
20 use the LEC's facilities. So the comparable model would be
21 another facilities-based CLEC.

22 Q. When you advertise your service, your
23 telephone service, do you advertise it as something other than
24 a telephone service?

25 A. No.

1 Q. Is there something that a consumer looking at
2 your advertisements would be able to recognize as having some
3 different set of standards that govern it in regard to
4 consumer protection?

5 A. No. We have, you know, appropriate
6 disclaimers regarding what happens with 911 and E-911.

7 Q. What are those disclaimers?

8 A. Well, primarily there it's -- under certain
9 circumstances you may or may not have a backup power facility
10 that will make our telephone service work when the electricity
11 is out.

12 Q. Okay. So it's the issue of needing to have a
13 power source for the hardware to operate, needing to have that
14 in the home or somewhere where it can be operational during a
15 blackout?

16 A. Yeah. And the reason we disclaim it is that
17 our network is not 100 percent backed up. Many components
18 are, including in the home. We do provide battery backup to
19 what's known as the EMTA or mode in the home.

20 Q. Okay.

21 A. But since not 100 percent of our network is
22 not -- and unlike the LEC service, you know, the service
23 itself does not include electricity to self power. We feel we
24 need to disclose that and we do.

25 Q. Yeah. Is that a violation of any rules that

1 you -- the way you handle E-911?

2 A. No.

3 Q. Okay. Now, is there any disclosure of that
4 kind to consumers saying, we are not complying and we are not
5 in compliance with certain set of rules that are issued by the
6 Missouri Public Service Commission for the protection of
7 consumers or something like that?

8 A. There is no disclosure. And, frankly, I think
9 it goes back to sort of our original read of the rule, which I
10 believe uses the phrase, you know, unless the customer
11 requests.

12 And in this case, I think it's -- could be
13 argued that it isn't a customer request, but it's certainly a
14 customer agreement. It is clearly disclosed to the customer
15 when they make the order and the appointment, they have the
16 opportunity to accept that. They go through third-party
17 verification, all the usual -- if it's a ported number. All
18 the usual things.

19 And, you know, we decided to file the waiver
20 and it says in our original waiver request, if we've read the
21 rule wrong, if you, the Commission, think that, in fact, what
22 we do is the -- one of the exceptions listed in the rule, then
23 maybe we don't need a waiver. We just would like to get some
24 clarification.

25 Q. How many waivers are you asking for in this

1 proceeding, do you know?

2 A. One.

3 Q. And it's for the rule pertaining to -- just to
4 porting? No. No?

5 A. No. All installations.

6 Q. All installations. So how many subcategories
7 are there to that?

8 COMMISSIONER GAW: I'll ask Staff attorney.
9 How many different provisions are we actually talking about
10 waiving?

11 MR. HAAS: The company is asking for a waiver
12 of one provision, that provision that says that 90 percent of
13 installations will be conducted within five business days.

14 COMMISSIONER GAW: Okay.

15 MR. HAAS: And I guess where the breakdown is
16 that some new installations are with ported numbers and some
17 new installations are new numbers.

18 COMMISSIONER GAW: Thanks for that
19 clarification.

20 BY COMMISSIONER GAW:

21 Q. Okay. So there may be various reasons why you
22 may not feel you can comply with this rule that vary according
23 to what the circumstance are, whether it's -- whether it's
24 porting or whether it's a new installation with a new number.
25 There are different reasons why you don't believe you can

1 comply that you are providing in this case?

2 A. Well, Commissioner, if I might, I think
3 it's -- what is lost in all the discussion we've had so far
4 this morning is that the decision on when it will be installed
5 has to be made while the consumer's on the phone. It's before
6 any of these processes start.

7 And because of that, the business decision we
8 have to make is should we be optimistic and hope it's the best
9 case scenario and risk having to reschedule it and further
10 inconvenience ourselves and the customer or should we be more
11 pessimistic and schedule to perhaps the worst case to give us
12 a higher percent completion ratio. We chose the latter.

13 We thought it was more consumer friendly and
14 we didn't think -- as long as we disclosed everything, which
15 we do, with the exception of the fact that we may or may not
16 be in violation of the rules, we do not disclose that. But
17 other than that, the customer says, okay.

18 Q. Okay. And I think you've just answered what I
19 was going to ask and that is, in that conversation there is
20 never a statement that we are not complying with the time
21 standards set by the Missouri Public Service Commission in
22 this installation process?

23 A. Correct.

24 Q. And does the company -- would it have any
25 problem with the data on over-- overall installation times,

1 average times, ranges of times being made public so that
2 consumers would be aware of how long it would take for an
3 installation generally by a particular company? Would your
4 company object to that?

5 A. I don't think so. I mean, I think I'd ask to
6 be sure it was a fair process. I mean, one of the things
7 that's lost a little bit here is that, quite frankly, all of
8 the LECs who because they're just now beginning to face some
9 real competition are just now getting into the porting out
10 process and -- and getting customers back, I mean, it might be
11 a good question to ask some of the LECs is, when you get one
12 of Mediacom's phone customers back, how long does it take you?

13 It's no different. They're not able to
14 accomplish this any faster than we are. But right now it's
15 their denominator, their customer base so they're going to
16 meet their 90 percent numbers.

17 Q. So you think -- you believe that over time,
18 this rule will be difficult for the LECs to comply with as
19 well. Is that what you're telling me?

20 A. Absolutely. Unless we all get together and do
21 a better job on all sides of E-bonding and doing the things
22 that really can make this work better for all of us. But
23 those agreed-upon intervals among the carriers, they say five
24 and seven days. They don't say two days.

25 Q. And -- okay. Expand on that. Those

1 agreed-upon -- say that again to me.

2 A. Well, Darin Liston will testify later, but,
3 you know, there are the processes. I don't think they are --
4 I mean, they're not dictated by law, they're agreed upon by
5 various companies as to what is the period of time between the
6 actual request to take the number and the confirmation that
7 number has been given.

8 Q. Yes.

9 A. And they -- three days is the best case, five
10 and seven days are the common occurrences.

11 Q. And he'll have examples of some of those --

12 A. Uh-huh.

13 Q. -- is that what you're saying?

14 When a consumer has an issue about an
15 installation not being completed within a certain time frame
16 with your company, who would they generally call, do you know?

17 A. Could you be -- I mean, because someone didn't
18 show up when they said they would show up or because it wasn't
19 done properly or --

20 Q. Let's say it's a timing issue, that they
21 didn't get it installed within a certain period of time. They
22 expected it, they had an arrangement and it wasn't -- it
23 wasn't done then, it was delayed for some period of time
24 afterwards. But mainly on the timing.

25 If they -- if they were not -- if they called

1 the company and they weren't satisfied with the response they
2 got there, who would they go to then?

3 A. Well, we have an escalation process within
4 Mediacom that you go through customer service and then there's
5 a -- what we call tier-two or a TAG, Technical Assistance
6 Group area that deals specifically with problems like that.
7 And, you know, those are of utmost importance to us.

8 And, you know, if any customer who calls who
9 says, you know, I ordered this 10 days ago, we agreed on an
10 appointment today and either you didn't show up or you did
11 show up but you couldn't complete the installation, you know,
12 we take that very seriously and have a process to correct
13 this. I mean, we certainly don't get it perfect every time,
14 but --

15 Q. Now, under your -- if you're supposed to
16 comply with our rules on installation times, could a consumer
17 not call the Public Service Commission in Missouri if there
18 were a Missouri case and register a complaint?

19 A. They can and they would and do.

20 Q. Now, if we grant a waiver to this rule on the
21 installation time, then what would they be able to do?

22 A. Well, the -- the waiver doesn't say anything
23 about whether we show up for appointments we make. And I
24 think the waiver says that we're -- the window -- the
25 installation window acceptable is not five days, it's some

1 other number of days. But if we make an appointment and don't
2 keep it, we're breaking that, you know, agreement with the
3 customer and they can complain about that.

4 Q. And this is not really a question I need to be
5 asking you about so I'm -- it's okay if you -- if you just
6 don't know the answer. But if we grant a waiver on a specific
7 time frame in the rule to your company, then it comes back to
8 whether or not you've done something that was agreed to on a
9 contractual basis of some sort.

10 And my question is whether or not they would
11 then have a complaint that would be viable before the Public
12 Service Commission for the not showing up. And I'll just ask
13 that question in a little bit of someone else unless you know
14 the answer.

15 A. Your thought that I might not know the answer
16 turned out to be pretty accurate.

17 COMMISSIONER GAW: Okay. Well, I think that's
18 all I need to ask right now. Thank you, sir.

19 THE WITNESS: You're welcome.

20 JUDGE VOSS: Commissioner Murray, do you have
21 any additional questions?

22 COMMISSIONER MURRAY: No, thank you.

23 JUDGE VOSS: I have a few and then I also have
24 a few from Commissioner Appling.

25 QUESTIONS BY JUDGE VOSS:

1 Q. First, the agreement that's attached to
2 Schedule 1-HC to your Direct Testimony, I think I understood
3 this from earlier, but that is a nationwide agreement as
4 opposed to just a Missouri agreement; is that correct?

5 A. This would be CC Schedule 1?

6 Q. Yes.

7 A. That is correct.

8 Q. Okay. And when you negoti-- well, when the
9 company negotiated that agreement, are you aware of any
10 attempt that was made to get less than five days from Sprint's
11 end?

12 A. Yes.

13 Q. It was an issue that was attempted or --

14 A. Every number in the contract was negotiated to
15 one degree or another.

16 Q. Okay. But you don't have any idea -- any
17 details of it?

18 A. No.

19 Q. Okay. One other question that was asked
20 earlier but I never heard a direct answer to it, because I
21 think you implied that it was not just your number when they
22 asked basically what is MCC's LSR to port time. And you said
23 because it's a component of Sprint and MCC, that you couldn't
24 give us that number. Was that my understanding of what you
25 said earlier?

1 A. Can you rephrase -- make sure I understand the
2 question?

3 Q. When you're requ-- when you're asked to port a
4 number back basically --

5 A. Yes.

6 Q. -- it's a combination of the two times. Do
7 you know what time frame MCC takes in that component? You
8 know, what's their component of that time? Two days, one day?

9 A. Actually, MCC has very little to do with that
10 process. The customer calls the going-to carrier. That
11 carrier notifies Sprint. I mean, our responsibility is
12 basically to stop billing the customer, which we do as soon as
13 Sprint tells us we just lost that customer. And then we
14 scratch ourselves and beat ourselves up and say how come we
15 lost another customer, but --

16 Q. So your portion of that time is virtually
17 nothing?

18 A. Yeah.

19 Q. And in that contract you entered with Sprint
20 that has a time frame for connecting service, do you have any
21 time frame in there for porting number issues?

22 A. I don't believe so. I mean, it's -- you know,
23 you need to comply with whatever the rules are. I mean,
24 whatever the rules are between Sprint and the other carriers
25 for how long it takes for them to give the number back.

1 Q. Okay. Thank you. That answers my question.

2 Let's see. And in Schedule 2, your
3 Surrebuttal Testimony, where do the porting intervals that you
4 list there come from and basically are they published
5 anywhere; and if so, where? That may be a question that
6 Mister --

7 A. Our response says, According to Sprint. So I
8 think you would be better addressing that with Sprint, yes.

9 Q. Okay. And are you aware of any state or
10 federal rule which limits the length of time that a customer
11 losing a number has to complete their half of the number
12 provisioning process?

13 A. Customer losing a -- I'm not sure I
14 understand.

15 Q. Again, it's if you lose a number and you have
16 to port it. Is there any rule that you're aware of that sets
17 a limit on that time? Because one of your complaints is that
18 when you have to port a number, you have no control over how
19 quickly the company gives it to you.

20 A. I understand. No, I'm not aware of any rules
21 or laws related to that.

22 Q. Okay. And make sure -- and this one more for
23 me and then I've got another one from Commissioner Appling.
24 Let me make sure. Okay. In response to your questions from
25 Mr. Haas, you said that the request for three days to complete

1 installation was for customer convenience after you get it
2 from Sprint, after Sprint does their part. And is it your
3 understanding that three days is to complete 90 percent of all
4 installations or just the non-porting installations?

5 A. Well, I think we could do -- if -- if the --
6 the standard and the time began when Sprint and any other
7 party, the LEC, completed their work and it was totally within
8 Mediacom's control, I think three days would be a reasonable
9 standard.

10 Q. That was my -- I thought that once you got
11 the --

12 A. Uh-huh.

13 Q. -- once you were to your part, that the
14 porting was completed.

15 Okay. All right. Then Commissioner Appling
16 also wanted to know, the Commission rule issue here was
17 adopted in 1999. And has competition in the telecom business
18 changed since that time; and if so, how?

19 A. Well, it's changed significantly in that what
20 were traditionally cable television companies are now offering
21 telephone service. That was not happening in 1999. There may
22 have been a few, Cox Communications, you know, but in those
23 days that was a cable company offering telephone service via a
24 telephone technology.

25 It's the technology that has changed that has

1 allowed we, the traditional cable company, to now offer this
2 product through our existing facilities. And, frankly, those
3 of us that, you know, designed our systems to accommodate what
4 we call high-speed data, high-speed Internet access, you know,
5 put ourselves in a position to offer telephony relatively
6 easily.

7 Q. Another question, does any other company offer
8 a package similar to what MCC offers in the same area?

9 A. In Missouri?

10 Q. In Missouri and in the areas where you provide
11 the service specifically. Because I know there are other
12 cable companies that offer similar packages potentially in
13 other parts of the state, but are there entities that directly
14 compete with you in your marketplace?

15 A. As I said, I don't know for sure. The other
16 telecom providers, primarily the LEC, certainly offer
17 high-speed data and offer telephone service although slightly
18 different. And either on their own or in conjunction with
19 somebody else will offer a video component. So they will
20 offer what's referred to as a triple-play package. It is not
21 the same as ours.

22 Q. Okay. And you may not know the answer to
23 this, but Commissioner Appling had the question, do LECs port
24 numbers more quickly to affiliated service providers?

25 A. I do not know the answer to that.

1 JUDGE VOSS: And that's all the questions I
2 have for this witness.

3 Commissioner Gaw, did you have any other
4 questions?

5 I have one question for the attorneys before I
6 turn you over for redirect. Do we have a new issue that was
7 raised? Is it an issue that the company wants to pursue to
8 ask whether the company's current actions fit into one of the
9 exceptions? Because if so, is that something that we should
10 have briefed as well?

11 MR. COMLEY: I think we're going to brief that
12 issue. If the evidence supports that, we're going to
13 probably -- we will put that in the brief.

14 JUDGE VOSS: Okay. Because I just want to
15 make it a -- because there were only two issues actually
16 presented as issues. I want to make sure that that's an issue
17 that's going to be briefed, that all parties are aware of it.

18 And is it also a separate issue to consider
19 whether it's a violation of the rule in question not to advise
20 a customer that the company isn't complying with that rule? I
21 don't know if that's a sub-issue. It seems like it's been
22 raised and I'm just not sure if it's something that needs to
23 be addressed in a brief.

24 MR. COMLEY: If the Commission asks us to
25 brief that, we'll do whatever the Commission asks.

1 JUDGE VOSS: Because I think that's something
2 I would be interested in because I wouldn't -- I'm not going
3 to prejudge, but whether -- because I think it could fit into
4 whether they fit into one of the exceptions is the content of
5 what they're offering their customers and giving them a set
6 date, and in giving them that date if they're obligated to let
7 the customer know that that date is outside the standards from
8 the Commission.

9 All right. I guess the witness is ready for
10 redirect.

11 MR. COMLEY: I'll be happy -- I would defer if
12 anyone had recross based on questions from the Bench.

13 JUDGE VOSS: I'm sorry. I forgot that.

14 MR. DANDINO: I have no questions.

15 MR. JOHNSON: No questions.

16 JUDGE VOSS: Does Staff have any more
17 questions?

18 MR. HAAS: No questions.

19 JUDGE VOSS: Redirect.

20 MR. COMLEY: I shouldn't have asked.

21 JUDGE VOSS: Well, I'm glad you did.

22 MR. COMLEY: What I propose to do is ask
23 questions that would not require us to go into camera until
24 the last part of my examination.

25 REDIRECT EXAMINATION BY MR. COMLEY:

1 Q. Mr. Craib, you were asked questions from a
2 variety of parties about the date the -- the date the
3 application was verified and about certain dates that were
4 involving a letter of intent signature and when you, for the
5 company, determined that there was a need to come to the
6 Commission.

7 Let me ask you this. At the time you verified
8 the application for authority, did you then have any customers
9 signed up for service in Missouri?

10 A. We did not.

11 Q. At that time had you even beta tested the
12 model for Missouri with Sprint?

13 A. No, we hadn't.

14 Q. Can you tell me when the application was
15 signed, with respect to the rules and regulations of this
16 Commission, what was MCC's policies and intention?

17 A. Our policies were that we were going to
18 attempt to comply with them, do whatever we needed to to see
19 how close we could come to that.

20 Q. Had MCC discussed whether or not it would be
21 filing a certificate with the Commission because of its VoIP
22 provision?

23 A. I'm not sure I understand the question.

24 Q. Had MCC in any way determined one way or the
25 other -- well, strike that.

1 Had MCC given consideration not to file a
2 certificate request with the Commission?

3 A. We had.

4 Q. And how was that question resolved?

5 A. I guess I think the phrase may be an abundance
6 of caution, a desire to do the right thing. I mean, we
7 thought that this was the right way to enter into a new
8 business relationship. And clearly, you know, the telephone
9 business is of interest to the Commission and we thought we
10 would come to them.

11 Q. In connection with that request, did MCC pose
12 any kind of obstacle to the request of the Staff or the other
13 parties in connection with the acquisition of the certificate?

14 A. I don't think so.

15 Q. Can you tell the Commission when MCC had its
16 first customer?

17 A. Actually, I don't know the exact date. It's
18 slipping my mind at the moment.

19 Q. Was it within a few months after the
20 application or was it within a year?

21 A. It was -- it was within -- the application was
22 approved in April of --

23 Q. I think it was May of 2005.

24 A. May of '05. And I believe we had our first
25 customer in Missouri in the fall of '05, so months.

1 Q. So from the fall of '05 to '06, we're
2 approximately now within, what, 14, 15 months. During that
3 period of time, have you and Sprint analyzed the processes
4 involved in service order requests?

5 A. We -- we do it regularly.

6 Q. And in connection with that analysis, was that
7 when you determined that there was a problem in meeting the
8 five-day service order request?

9 A. Yes.

10 Q. Did the Staff contact you about whether or not
11 MCC was meeting that five-day service order request?

12 A. I don't believe so.

13 Q. Who initiated the idea of obtaining the waiver
14 for this rule?

15 A. Well, we did. And we did for -- I mean, we
16 have been discussing for a while, you know, A, have we
17 interpreted the rule correctly; and, B, you know, are we in
18 violation; and, C, if the answer to those is we think we are,
19 what do we do about it?

20 Q. Did you, at your meeting with the Commission
21 in advance of the filing of the application or at any time
22 during the course of the application process, represent that
23 MCC would never seek a waiver before this Commission?

24 A. No, we did not.

25 Q. I think in response to one of Mr. Dandino's

1 questions you said that you were inventing a business. Is MCC
2 content that that business is now fully invented?

3 A. Absolutely not.

4 Q. Commissioner Murray asked you a question about
5 whether or not you were aware of other jurisdictions in which
6 this kind of requirement was part of its rules and regulations
7 and ask other questions. Do you know of any other
8 jurisdiction that has the specific five-day requirement that
9 we're dealing with here?

10 A. I'm not sure.

11 Q. How many jurisdictions is the telephone
12 company operational in with the agreement with Sprint?

13 A. How many states?

14 Q. Yes. How many states?

15 A. I believe we are in -- operating in 12 states
16 today.

17 Q. Have you filed a request for waiver in any
18 other state?

19 A. No.

20 Q. Mr. Dandino asked you a question about
21 different intervals that might apply in different exchanges
22 that you're operational in. Is there a cost consideration for
23 the company if that would be implemented?

24 A. Well, there is. Obviously standardization is
25 what gives you cost efficiencies and being able to do the same

1 thing in all areas. We operate in I believe over 500 separate
2 rate centers today. Not just in Missouri, but across the
3 country.

4 And if we were to attempt to modify our
5 procedures to deal with each one of those individually,
6 obviously, it would be very cumbersome. And, therefore, we
7 need to make those hard decisions about where is it
8 appropriate to do things individually and some things we do do
9 differently by state. But, in general, the more we can
10 standardize things, the better off we are.

11 Q. In general, if you do have to make exceptions
12 to that, does that in any way affect your competitive
13 advantage in certain exchanges?

14 A. Well, anything that adds cost does. I mean,
15 the reason our product is as successful as it has been so far
16 and has been, in my opinion, successful, is that, you know,
17 the -- the bundled cost of our product is, in most cases,
18 significantly less than other products out there. Most people
19 try our product because of the price.

20 Q. Commissioner Gaw asked some questions about
21 whether or not the company advises the customer when it
22 requests service that the company cannot install the service
23 within a five-day period or without regard to the rule. Do
24 you know of any competitor of yours that advertises that your
25 company is not capable of that, of installing those service

1 orders pursuant to Commission rule?

2 A. I'm not aware of any.

3 Q. Mr. Haas asked you about a portion of your
4 Surrebuttal Testimony concerning the redactions to the
5 exhibit.

6 MR. COMLEY: And I think maybe this is the
7 appropriate time to go in-camera.

8 JUDGE VOSS: All right.

9 (Reporter's Note: At this time, an in-camera
10 session was held, which is contained in Volume No. 3, pages
11 116 through 119 of the transcript.)

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1 JUDGE VOSS: Okay. We're back on public
2 record.

3 MR. COMLEY: Thank you very much.

4 REDIRECT EXAMINATION (CONT'D) BY MR. COMLEY:

5 Q. Mr. Dandino asked you questions about whether
6 or not MCC had conducted any studies as to how much it might
7 cost to increase the speed with which I think it was
8 non-ported numbers might be done. I was unclear about your
9 answer and I wanted to make it clear.

10 Why would -- I think you said a study would
11 not be -- I've forgotten the word. Would a study of the kind
12 that Mr. Dandino described be practical?

13 A. In my opinion, no.

14 Q. And why is that?

15 A. Because this -- the study would be asked to
16 determine what it would cost to get a third-party that nobody
17 has any control over to make changes to their business
18 procedures. And I think that's not something a study is
19 likely to be able to find out.

20 Q. One more question. Commissioner Gaw and
21 others have talked about the nature of the customer service
22 representative visiting with the customer. And basically,
23 do MCC and the customer come to some agreement about when
24 installation is going to take place?

25 A. Yes. The -- the fundamental job of the person

1 taking the phone order is, one, to get as much accurate
2 information as possible; and two, to agree on a date that
3 works for the customer and works for us.

4 Q. And is MCC asking for any alteration or waiver
5 of any Commission rule on installation commitments?

6 A. Meaning how often we get to the customer's
7 home when we say we will?

8 Q. I think that would be the text of the rule.

9 A. No.

10 Q. Let me ask you this. With respect to the
11 relationship that the customer's having with the company, what
12 is the extent of satisfaction or dissatisfaction?

13 A. Specifically related to the telephone service
14 or the installation or --

15 Q. In the installation, anything else, any other
16 element of the service.

17 A. Well, we -- we have a growing business. And
18 as a new product, there's a lot of excitement in the
19 marketplace, you know. We are gaining customers every day and
20 every week. I think that says, in general, we're reasonably
21 successful, there's something about what we're doing that
22 customers like.

23 Q. Do you know, yourself, whether or not you have
24 received any kind of complaint from the customers that you're
25 serving for MCC in connection with the way in which their

1 service was installed or the quality of their service
2 received?

3 A. If you mean do we have people call Mediacom?
4 The answer would be yes and we attempt to rectify their
5 problems.

6 Q. And have those complaints surfaced at the
7 Commission?

8 A. I do not believe so.

9 MR. COMLEY: I have no other questions.

10 JUDGE VOSS: Is there any redirect -- I mean
11 recross based on redirect? Give one round.

12 MR. COMLEY: Your Honor, I would object.

13 JUDGE VOSS: It was such a long series. It
14 was such a long -- okay. Then this witness may be excused and
15 I say we take a break and come back at 1:15.

16 MR. COMLEY: Your Honor, may I ask whether
17 Mr. Craib is excused absolutely or is he going to be on call?

18 COMMISSIONER GAW: You might have to check
19 with the Commissioners to see if any of them have any
20 questions first.

21 JUDGE VOSS: How about I'll tell you at 1:15
22 if you're excused for the day. I can't promise. I know
23 Commission Appling doesn't because I had his questions, but I
24 can't speak for the Chairman and Commissioner Clayton.

25 (A recess was taken.)

1 JUDGE VOSS: And since I have not received any
2 additional questions, Mr. Craib, you may be excused for the
3 remainder of the hearing.

4 MR. COMLEY: Thank you very much.

5 JUDGE VOSS: And, Mr. Comley, you may call
6 your next witness.

7 MR. COMLEY: We would call Mr. Mark Trefry.

8 (Witness sworn.)

9 JUDGE VOSS: Mr. Comley, you may proceed.

10 MR. COMLEY: Thank you very much.

11 MARK TREFRY testified as follows:

12 DIRECT EXAMINATION BY MR. COMLEY:

13 Q. Mr. Trefry, would you mind telling your full
14 name to the reporter, please?

15 A. Mark Trefry.

16 Q. And, Mr. Trefry, during the course of this
17 proceeding, did you cause to be filed in this case a set of
18 prepared Direct Testimony and a set of prepared Surrebuttal
19 Testimony?

20 A. Yes.

21 Q. Have those also been marked as Exhibits 3
22 and 4 for identification purposes?

23 A. Yes.

24 Q. Mr. Trefry, if I were to ask you the questions
25 contained in your Direct Testimony as pre-filed and your

1 Surrebuttal Testimony as pre-filed, would your answers to
2 those questions be the same today?

3 A. They would.

4 MR. COMLEY: Your Honor, I'd move for the
5 admission of Exhibits 3 and 4.

6 JUDGE VOSS: Are there any objections to the
7 Exhibits 3 or 4?

8 Hearing none, they'll be admitted.

9 (MCC Exhibit Nos. 3 and 4 were received into
10 evidence.)

11 MR. COMLEY: And tender the witness for
12 cross-examination.

13 JUDGE VOSS: Mr. Haas?

14 MR. HAAS: Your Honor, I do at this time have
15 an additional document that I would like to have marked as an
16 exhibit.

17 JUDGE VOSS: It will be Exhibit 9.

18 MR. HAAS: Yes. And it is a data request
19 response from MCC and I believe it should be marked as an
20 HC --

21 JUDGE VOSS: HC.

22 MR. HAAS: -- exhibit.

23 JUDGE VOSS: I had a feeling this was coming.

24 (Staff Exhibit No. 9-HC was marked for
25 identification.)

1 CROSS-EXAMINATION BY MR. HAAS:

2 Q. Mr. Trefry, what is your position with MCC?

3 A. I'm the vice president of telephony.

4 Q. How many years experience do you have in the
5 regulated telephony industry?

6 A. I've actually been in this position since
7 August of 2006. I was also the senior director of technical
8 operations during the time frame that Calvin had mentioned we
9 were looking at M and Ps and getting into the telephone
10 business. I performed some committee functions as we went
11 through that process probably starting 2005 and into 2006.

12 Q. Can you identify specific communities or towns
13 where MCC Telephony offers telephone service in Missouri?

14 A. We are operating in communities in and around
15 Springfield, Columbia, also Jefferson City. There's a number
16 of small communities as well throughout the state.

17 Q. Could you name some of those small
18 communities?

19 A. I don't have a list, but we certainly could
20 provide you with that.

21 Q. Do you know -- would you please take a look at
22 the exhibit that's been marked 9-HC that I handed to you?

23 A. Yes.

24 Q. And that is a data request from Staff that
25 asks what percent or number of MCC's new customers are ported

1 versus non-ported.

2 A. Right.

3 Q. And would you read the response to yourself?

4 A. MCC --

5 Q. No, to yourself, just silently. Is that
6 response correct?

7 A. I'm going to make the assumption it's correct.
8 It was provided by probably people within our data warehouse
9 team.

10 MR. HAAS: Your Honor, I would move for the
11 admission of Exhibit 9-HC.

12 MR. COMLEY: No objection.

13 JUDGE VOSS: Are there any other parties that
14 might object?

15 Hearing none, 9-HC is admitted.

16 (Staff Exhibit No. 9-HC was received into
17 evidence.)

18 BY MR. HAAS:

19 Q. Please turn to your Direct Testimony. At
20 page 3 of your Direct Testimony in the middle of line 5, you
21 begin the sentence, This -- and I believe you're -- you are
22 referring to the word "interval." So, This interval allows
23 time for MCC to correct order errors without having to
24 reschedule the order.

25 What do you mean by order errors?

1 A. There are times -- our CSRs, customer service
2 representatives, have to go through a list of questions and
3 gather information from the customer. There's certain things
4 that during that process that could possibly be omitted or
5 provided some incorrect information.

6 Q. Do you know what percent of MCC's telephone
7 orders have order errors?

8 A. I do not.

9 Q. Further down in that same paragraph at line 8
10 you say, Additionally, it ensures that orders are not affected
11 by the 3:00 p.m. CST daily order cutoff time that is required
12 by Sprint.

13 What do you mean that Sprint requires a
14 3:00 p.m. cutoff time?

15 A. First of all, I do believe that Mr. Liston can
16 speak to that, but believe it is pointing out the fact that
17 with only two hours left in the day, that there is limited
18 activity that we can be assured will take place to really
19 account for a full day in our process and procedures.

20 Q. Do you know whether the 3:00 p.m. cutoff time
21 is a negotiated item?

22 A. I do not.

23 Q. On page 4 of your testimony where you are
24 discussing the final steps in MCC's process, you state that,
25 The customer agent will check the dispatch system for

1 available installation technician time slots.

2 Is it a frequent occurrence that -- or how
3 frequent is it that an installation will be delayed because a
4 technician will not be available to complete the installation?

5 A. Certainly when we made the reference to
6 "dispatch system," it is referring to technician availability.
7 There's only a certain number of technicians with our
8 organization that make telephone installs.

9 That can be a component of it, especially when
10 we're working in smaller communities that we've referred to as
11 one of the hallmarks of our company, that we're bringing
12 telephone service to the smallest of communities we operate
13 in, we are attempting to. Those routes sometimes require
14 technicians to cover a number of towns over a week's period of
15 time. So that can have an effect.

16 Q. But do you know how often it is that the order
17 service taker says -- well, or at least thinks to himself or
18 herself, well, this order should be completed on day 10, but
19 we won't have a technician available until maybe day 12?

20 A. I don't know the exact percentage of orders
21 that that could occur. I think that they're typically
22 providing, first of all, the earliest time available and
23 assuring that the customer is satisfied with that time. If it
24 doesn't work for the customer, then they would offer an
25 alternative.

1 Q. What is the -- or is there a maximum length of
2 time that an installation may be delayed after the order has
3 been returned to MCC to continue its part of the provisioning?
4 Is there a maximum length of time that service may be delayed
5 in being installed because there's not a technician available?

6 A. One of the things I think Calvin pointed out
7 in his testimony is that, first of all, we have to establish
8 with the customer an install time before we know or begin any
9 of the processes. So that needs to be in place and agreed
10 upon with the customer. As to how many of those are pushed
11 out and do we have a maximum, we don't have a ceiling. What
12 the CSR's working off of is the earliest time available.

13 Q. Do Mediacom's cable television business and
14 MCC's telephone business use the same technicians to install
15 service?

16 A. In some cases, yes. We do have technicians,
17 however, that do not do telephone installs. So it's not the
18 same in all areas.

19 Q. Why would the same technicians provide the
20 work in some areas but not others?

21 A. One example would be in a scenario where a
22 technician was new to the company. The telephone installation
23 is considered a more advanced install and probably is not
24 typically what they would begin to do installations upon.
25 That would be one example.

1 Another example is that in our smaller areas
2 and where we have technicians working in what I'll use the
3 term "more rural communities," they tend to have to be trained
4 to do all types of service calls and installs. Where we do
5 have some specialization at times in areas that we have larger
6 concentrations of technicians.

7 Q. Whose work orders get worked first, Mediacom's
8 cable television work orders or MCC's telephone work orders?

9 A. Scheduling system has what we call available
10 quota, which is essentially time allotted to do various job
11 types. And within those buckets or job types, telephone would
12 be one of them, it would be the earliest time available for
13 telephone. To say whether there's a priority over one or the
14 other, there -- there probably is in some cases, but that's
15 individual operations that may do that.

16 Q. How long does installation take for a customer
17 ordering only Mediacom cable television service, but not the
18 telephone service?

19 A. Installation times vary depending on what our
20 technicians, you know -- first of all, there's many different
21 types of installs. And the times vary -- you can have an
22 identical install and the work that needs to be done in one
23 home versus another can be completely different due to many
24 different reasons, in-house wiring issues, specific requests
25 by the customer. It's -- I would say that's difficult to

1 answer.

2 Q. Do you have a policy or a standard that would
3 say where a new customer -- and by "new" I mean one that does
4 not have Mediacom's facilities at their home -- is applying
5 just for cable television service that it would be Mediacom's
6 goal to get that service installed within 10 days of the
7 request or within 5 days of the request?

8 A. Did you say for non-telephone?

9 Q. Yes. Just for cable television.

10 A. I think my answer would be similar to what I
11 said earlier. There's a scheduling system set up and that
12 scheduling system includes quota for various types of jobs
13 based on what technicians we have in the area and the time
14 available.

15 Q. Please turn to your Surrebuttal Testimony now.
16 At page 1, lines 17 through 22, you discuss that MCC has
17 provisioned a small number of orders within five days and that
18 it is likely that those orders were reactivations of service
19 following a suspension.

20 For what reason or reasons would a customer's
21 service be suspended?

22 A. One example I would give is non-pay.

23 Q. Have you read the instructions for filling out
24 the quarterly quality of service reports?

25 A. I have not.

1 Q. In your Surrebuttal Testimony at page 2,
2 line 10, you state that, MCC installs service on the day
3 agreed to with its customers in 97.5 percent of instances.

4 Does MCC offer an installation date five days
5 after the order date?

6 A. Not to my knowledge.

7 Q. What installation dates does MCC make
8 available to its customers?

9 A. First of all, as I said earlier, it's based
10 upon earliest time available that's built into our schedule.
11 I think my other testimony spoke to we have an attempt to
12 start at five days for TNs or non-ports, eight days for a port
13 and that's with an RBOC, and ten days for a non-RBOC.

14 And as Calvin mentioned earlier, it's really
15 based upon assuming that we're going to need the full length
16 of time to address issues that come up and to really provide
17 an assurance to our customer that we're going to be able to
18 meet their needs the first time. That's one of our goals
19 within the company is to satisfy a customer's need the first
20 time they call or the first time we set up an appointment.

21 Q. What percent of the eight-day commitment dates
22 does MCC meet?

23 A. I don't know.

24 Q. What percent of the ten-day commitment dates
25 does MCC meet?

1 A. I don't know.

2 Q. How many new installations has MCC Telephony
3 completed in Missouri?

4 A. I'm going to give -- it's -- it's somewhere
5 over 10,000.

6 Q. And how many of those new installations were
7 completed in 10 days or less?

8 A. I don't know the number.

9 Q. I'm going to return to an earlier line of
10 questions.

11 A. Okay.

12 Q. If there is an order error, does MCC honor the
13 original commitment date for that customer?

14 A. There are procedures -- and Darin can speak to
15 those as well -- that when errors are found through the
16 process, we try to correct them. It's one of the reasons why
17 the time frames are in place. In some cases they can be
18 corrected. In some cases we may run into an issue that won't
19 allow us to proceed and, unfortunately, may have to call back
20 the customer. And if we can't get more information from them,
21 we may have to reschedule.

22 Q. And if you have to call back the customer and
23 reschedule, did you include the first commitment date or the
24 second commitment date in your calculation that MCC installs
25 service on the day agreed to with its customers in

1 97.5 percent of instances?

2 A. I don't know that answer.

3 MR. HAAS: Thank you. That's all my
4 questions.

5 JUDGE VOSS: Public Counsel?

6 MR. DANDINO: Thank you, your Honor.

7 CROSS-EXAMINATION BY MR. DANDINO:

8 Q. Good afternoon, sir.

9 A. Good afternoon.

10 Q. I just have a few. I have a question I'm
11 trying to understand. That apparently, you're saying that
12 there should not be a ceiling on the number of days you have
13 to make an installation. Is that your -- is that your
14 testimony?

15 A. The CSR will provide to the customer the
16 earliest date that's available. I think one of the things I
17 should add is that our management group monitors those days.
18 They may run into situations where they begin to see, for
19 whatever various reasons, that we may need in one given area
20 some additional support to make sure that windows come into a
21 certain time frame.

22 Q. So --

23 A. But at the point the CSR is scheduling that
24 order, she's offering the nearest available date. What we do
25 as a management team is to try to make sure those dates are

1 within what we feel is a reasonable operating and customer
2 service mechanism.

3 Q. So internally you set your own performance
4 standards for when things should -- when service should be
5 installed in a given area?

6 A. I would say that we monitor those and -- and
7 your goal is obviously to provide service as quickly as
8 possible.

9 Q. But you have no target you're shooting for?
10 It's whatever the customer decides?

11 A. We don't have a -- I would say that we don't
12 have a specific target. We might have a goal to be as close
13 to the time frames that we'd like to provide and what we've
14 pointed out here is possible.

15 Q. Okay. So that's gen-- isn't that generally a
16 performance standard, a goal that you're trying to achieve?

17 A. I -- I suppose you could equate the two.

18 Q. Okay. And the reason I'm getting that -- and
19 I don't want to quibble over words -- is that if we're sitting
20 here and if we're talking in terms of your company feels that
21 90 percent connected in five days is too much, I'm trying to
22 get at is -- I also want to know what you consider to be --
23 you know, what percentage would be reasonable to you and how
24 many days would be sufficient.

25 Because right now I don't -- I don't

1 understand -- I don't see that you're suggesting a specific
2 number or something that the Commission could get a handle on.
3 Is there -- maybe I should ask a question.

4 MR. COMLEY: Yes, is that a question?

5 MR. DANDINO: Yes, I'll --

6 THE WITNESS: I was going to ask, what's the
7 specific question?

8 BY MR. DANDINO:

9 Q. The specific question is let's look at the
10 formula. It that 90 percent -- you consider that too high,
11 90 percent of the orders installed in five days. You consider
12 that too high; is that correct?

13 A. That's essentially why we're asking for a
14 waiver.

15 Q. Okay. Is there a number other than zero which
16 would be -- fall within the parameters of reasonableness by
17 the company, fall within your goals?

18 A. I think based upon the guidelines that we've
19 talked about today and the reality of the LECs that are
20 involved in our process, that we're not making any installs,
21 other than the few we mentioned here, within five days. So
22 for us now, zero probably is that number.

23 Q. Well, I'm getting to a point, if it's other
24 than five -- okay. If five days is too high, what's the
25 number that you could agree to?

1 A. I don't have that answer.

2 Q. Okay. And so if you can't agree to a number
3 of the five days you couldn't, I guess -- could you agree to a
4 number of what percentage of the installs should be done
5 within that unknown day?

6 A. I, myself, couldn't today, no.

7 Q. That's right. So right now basically all the
8 company -- is it all or nothing waiver? Is that what it comes
9 down to, sir?

10 A. Our waiver's essentially requesting a waiver
11 of the five-day rule on all telephone installs.

12 Q. Okay. And you don't see that there's any --
13 that this Commission has any reason to impose any performance
14 standard, any ceiling, any guidance, any protection for the
15 Commission -- for the public?

16 A. I would disagree with that. I -- I believe
17 that the Commission has a responsibility to be concerned with
18 the quality of service and that's why I think we, as a
19 company, probably came to the Commission and chose to go down
20 the path of certification. So I guess I wouldn't agree
21 that -- with your statement.

22 Q. So the qual-- this is obviously a quality of
23 service issue. Right?

24 MR. COMLEY: I think that's argumentative and
25 I -- it's also asking him to make a legal conclusion about

1 whether this is a quality of service issue.

2 MR. DANDINO: Your Honor, the witness had
3 mentioned it talks about quality of service. I just wanted to
4 confirm that.

5 JUDGE VOSS: Could I have you restate your
6 question? I was --

7 MR. DANDINO: I'll withdraw it.

8 JUDGE VOSS: -- I was a little bit confused
9 what you were asking myself.

10 MR. DANDINO: I'll withdraw it, your Honor.

11 BY MR. DANDINO:

12 Q. Do you feel that your company has sufficient
13 staff to take orders and schedule installations within a
14 reasonable time?

15 A. I do.

16 Q. Do you think that Sprint has sufficient staff
17 or resources to perform its provisioning function within a
18 reasonable time?

19 A. I really can't answer that.

20 Q. Is that the basis that they're not under your
21 control?

22 A. Well, they aren't under our control.

23 Q. And you don't have any -- never mind.

24 Do you think you have sufficient staff and
25 resources to make the physical visits, to make the final

1 installations within a reasonable time?

2 A. I do.

3 Q. But you can't tell this Commission what's a
4 reasonable time?

5 A. I think the time frames that we're operating
6 under is something that our customers are agreeing to. And
7 based on the number of installs that we're doing and the
8 customer satisfaction, I -- I think that we're operating
9 within a reasonable time frame.

10 Q. When the customer service representative is
11 making the arrangements for the installation, do they say, you
12 know, well, the dates -- the following dates we have available
13 are Tuesday, the 29th; Wednesday, the 30th?

14 A. I believe they actually offer them the first
15 time available.

16 Q. Okay.

17 A. And then proceed from there.

18 Q. Well, okay. So they'd say, well, Tuesday, the
19 29th is the first day available. And then it's up to the
20 customer to say yes or no on that?

21 A. Correct.

22 Q. Okay. And then they can -- then they go to
23 the next date available?

24 A. They probably at that point would go to the
25 next date available. At some point they might have to engage

1 the customer and ask when they might be available. And I know
2 there's give and take between the customer and us.

3 MR. DANDINO: That's all I have, sir. Thank
4 you.

5 THE WITNESS: Thank you.

6 JUDGE VOSS: Mr. Johnson?

7 MR. JOHNSON: Thank you, your Honor.

8 CROSS-EXAMINATION BY MR. JOHNSON:

9 Q. Mr. Trefry, I want to go in a little different
10 issue other than the five-day installation requirement. In
11 order to do that, I was going to ask you some questions that
12 maybe compare the facilities necessary for Mediacom's service
13 to a traditional telephone company facility --

14 A. Uh-huh.

15 Q. -- if I might. Are you familiar with the
16 facility that -- the facilities that Mediacom uses to hook up
17 the customer and take their traffic to Sprint?

18 A. Somewhat.

19 Q. Okay. Well, if I get too far afield --

20 A. I'll let you know.

21 Q. -- just let me know. I figured that you
22 would.

23 When the Mediacom technician actually goes to
24 the customer's premises to hook up the telephone product that
25 you offer, could you tell me what kind of devices are

1 necessary to be installed inside the customer's premises for
2 your service to work?

3 A. There is a modem.

4 Q. Is it the same modem that they might use for
5 high-speed Internet or does it have to be a separate modem?

6 A. Actually, we have a modem now that can be used
7 for both.

8 Q. Could --

9 A. Many home -- we might be going to an HSD home
10 today that has a current modem that is not capable of offering
11 both. So at that point we would switch out the modem. But
12 modem is installed, our cable plant is attached into the
13 modem.

14 The modem has an outlet that is attached to
15 some location in the home where a telephone jack is. What the
16 modem specifically does is it takes Voiceover IP, transfers it
17 into regular telephone and in the opposite direction takes
18 regular telephone signals, transfers it to Voiceover IP and
19 back on into our plant.

20 Q. So there is a modem required inside the
21 customer's house for your service to work?

22 A. Yes.

23 Q. And that modem has to be connected to the
24 customer's -- what I will call his inside wiring, his inside
25 telephone wiring?

1 A. Correct.

2 Q. And that place where you connect is not at
3 the -- what I call the network interface device or the NID?

4 A. No.

5 Q. So is it correct then that it's actually
6 necessary for your technician to get inside the customer's
7 premises for this service to be turned on?

8 A. Most definitely.

9 Q. I live here in Jefferson City and I have
10 Mediacom cable TV service and I was trying to use my house as
11 a mental picture to ask these questions from.

12 A. Sure.

13 Q. Whereas, Embarras, the local telephone company
14 here -- the incumbent local telephone company here, can turn
15 my house on and off without the necessity of a technician
16 going to the premise. You're not in that same situation?

17 A. No. We have to send a technician on all
18 cases.

19 Q. The cable TV plant that you connect your modem
20 to, is that all metallic plant?

21 A. I'm going to say I don't know.

22 Q. Okay. Can you describe for me your network
23 that takes the traffic -- the outgoing traffic from your
24 customers to I imagine some sort of interconnection facility
25 with Sprint?

1 A. I'm going to say that I'm not familiar enough
2 with our plant beyond the customer's home to really speak to
3 that.

4 Q. So you don't know whether or not, for example,
5 in Jefferson City at your head end you have some sort of
6 facility that takes that traffic into Embarq's switch where
7 you meet Sprint?

8 A. I'm not familiar enough with the architecture
9 here in Jefferson City to speak to that.

10 Q. Okay. Is it necessary for me, in Jefferson
11 City, to buy a modem from Mediacom to make your service work?

12 A. We typically rent -- the modem's part of the
13 package price.

14 Q. Maybe "buy" was the wrong word, but I have to
15 rent it from you. I can't go to Radio Shack and rent a piece
16 of equipment that will work with your software?

17 A. I'm going to say I'm not sure. I think there
18 is a possibility that you -- you could purchase a modem, but
19 it might have been for HSD and not for phone. I'd have to --
20 I'd have to -- we could get that answer.

21 Q. Okay. I wanted to go to some of the other
22 quality of service rules and see if I could pick a few
23 questions out and see whether or not they could be applied or
24 whether or not you are applying those rules today, if I could.
25 Do your technicians have test equipment whereby they test the

1 viability of your outside cable TV plant?

2 A. Some of our technicians are equipped with
3 various types of test equipment to test our outside plant and
4 also in-house wiring.

5 Q. Okay. Does Mediacom have any switching
6 equipment?

7 A. I don't know.

8 Q. Do you know whether or not the equipment that
9 your technicians use to test the viability of your coaxial
10 cable -- I guess I'll call it that for lack of a better term
11 in describing your outside plant -- is that equipment the same
12 or is it different from what telephone company employees will
13 use to test their outside plant?

14 A. I don't know.

15 Q. Okay. Do you have -- do you know whether or
16 not your coaxial cable, is that a -- as I remember looking at
17 co-ax, there are two different -- at least two different
18 pieces of metal in that sheath conductor; is that right?

19 A. You're talking to the wrong individual to
20 break down our --

21 Q. Is there anybody here that's going to be
22 better than you?

23 A. I'm not sure of that.

24 Q. That's what I was thinking. Do you know
25 whether or not those metal -- those metals inside that

1 conductor use circuitry in order to make the communications
2 flow --

3 A. I don't know.

4 Q. -- the voice communications?

5 A. Based on what -- the way you worded the
6 question, I don't know.

7 Q. Do you know whether or not that outside
8 coaxial cable is grounded equipment?

9 A. We ground at every location.

10 Q. Do you interconnect with the power company's
11 bonded neutral on their poles?

12 A. I don't know.

13 Q. Is some of your cable hung on the same poles
14 that an electric conductor might be on?

15 A. I'm going to say I would think so.

16 Q. But you don't know whether your equipment is
17 grounded to the power company's neutral?

18 A. I --

19 Q. Okay.

20 A. I don't know.

21 Q. All right.

22 A. I would assume that we are operating probably
23 within standards and guidelines in that, but I can't
24 specifically speak to it.

25 Q. I was going to ask, do you know whether or not

1 your company's required to adhere to the terms of the National
2 Electric Safety Code, which is outside utility type
3 facilities?

4 A. I do not.

5 Q. Do you know whether or not your company's
6 required to adhere to the provisions of the National Electric
7 Code or what I might call the inside wiring code?

8 A. I do not.

9 Q. Okay. In Jefferson City does Mediacom have
10 battery backup systems for their facilities?

11 A. When -- as mentioned earlier, we do have
12 battery backup in the modem, first of all, that is for four
13 hours. As far as the plant, we do have backup in a number of
14 locations. As to where we do and don't in Jefferson City, I
15 can't speak to that.

16 Q. Okay. And do you know how much time or how
17 much -- what period of time that those batteries can provide
18 backup power for your outside plant?

19 A. I do not.

20 Q. Okay. Do you know whether or not your coaxial
21 cable is tested for resistance or -- resistance?

22 A. I do not.

23 Q. Do you know whether it's tested for decibel
24 loss over distance?

25 MR. COMLEY: Your Honor, I'm going to --

1 THE WITNESS: I do not.

2 MR. COMLEY: -- object to the line of
3 questioning. I think we've gone along far enough on this
4 subject. Mr. Trefry has been patient, but I think we're well
5 beyond the scope of knowledge of this witness about those
6 matters.

7 MR. JOHNSON: Your Honor, one of the things
8 that's come out in the hearing today both -- in opening
9 statement, maybe not so much through the witnesses, is whether
10 it would be more appropriate for the Commission to look at all
11 the quality of service rules rather than entertain individual
12 variance requests. I was trying to go through some of those
13 and get a feel for which of them may or may not be applicable
14 to MCC.

15 MR. COMLEY: Unfortunately, we didn't bring a
16 witness to address that and didn't have foreknowledge that
17 this may come up. So without a witness with knowledge of
18 these things, I fear that the questions Mr. Johnson is asking
19 will be always faced with, I don't know.

20 JUDGE VOSS: I think we do need to limit the
21 scope of this hearing to the rule in question. But if there
22 is ultimately a decision made to look at the rules, I'm sure
23 the Commission will look at the whole package and not just a
24 single portion of the customer service rules, which might be a
25 better time to get deeply into those issues with all parties.

1 MR. JOHNSON: May I ask just a couple more
2 questions not about the technical side of your facilities, but
3 about what kind of service that you make available to your
4 customers? Would that be permissible, your Honor?

5 JUDGE VOSS: It's fine with me.

6 BY MR. JOHNSON:

7 Q. Do you know whether or not you offer your MCC
8 Telephony customers equal access to interexchange carriers?

9 A. I do not.

10 Q. I know -- I would imagine -- I don't know
11 this, but I imagine that in the menu of services that you
12 offer them, you allow them to make unlimited local or
13 long-distance calls using your service.

14 A. That's true.

15 Q. And so if they buy your service, they may not
16 be expecting to pay an interexchange tariff or toll?

17 A. Just -- I should make one exception.

18 Q. Okay.

19 A. Long distance international is not part of
20 the --

21 Q. Okay.

22 A. -- package. You have to pay those separately
23 and they have different fees.

24 MR. JOHNSON: Your Honor, that's all the
25 questions I have then. Thank you.

1 JUDGE VOSS: I have a few questions from
2 Commissioner Murray as well as a couple of my own.

3 QUESTIONS BY JUDGE VOSS:

4 Q. One question I had from Commissioner Appling,
5 are you aware of any time standards, federal, state statute or
6 rule for the company that loses a number, number porting, to
7 complete its portion of the number provisioning process?

8 A. I'm not.

9 Q. Okay. And also it had come up earlier that
10 there might be a technical reason why MCC thinks it would
11 require three days to complete its part after everything was
12 done --

13 A. Right.

14 Q. -- on the other end. Do you have a reason why
15 that technical need for three days might exist?

16 A. I think the three-day basis probably tries to
17 take a look at what we tend to operate at in terms of a
18 schedule and where our technicians are on a routine basis.

19 And to be more specific, in our rural
20 communities, we offer telephone in very small towns. A
21 technician might work an area that would consist of four to
22 five communities, and to provide service, will not be in each
23 community each day.

24 And the basis of three days I think is built
25 around that concept that, as a whole, where we operate, we're

1 pretty comfortable that we can develop a schedule that allows
2 us to meet the three-day criteria.

3 Q. So the three days has to do with the fact that
4 a technician has to physically go to the location to do the
5 installation?

6 A. Exactly.

7 Q. Okay. All right. And from Commissioner
8 Murray, is it in your company's interest to provide service
9 for a requesting customer as quickly as possible?

10 A. Most definitely.

11 Q. If you -- do you have -- I'm sorry.

12 A. It -- I would say this, that our number one
13 goal in developing this timeline was to ensure that we were
14 going to take care of the customers' needs and our commitments
15 the first time. That doesn't always equate with offering it
16 as quickly as possible.

17 So I would say that, yeah, on one hand we want
18 to get there as quickly as possible, but more importantly, we
19 want to make sure when we are going to be there, we're going
20 to provide them the service that we've committed to them.

21 Q. And if you unreasonably delay provision of
22 service, would you expect the customer to cancel their request
23 for service?

24 A. I would assume that it's possible that in that
25 scenario, the customer may make that choice. Certainly as a

1 person offering -- or as a company offering telephone in a
2 competitive environment, that's a possibility.

3 Q. I see. Do you encounter customers who express
4 dissatisfaction with the length of time before service
5 connection?

6 A. I'm not personally aware of any complaints to
7 us on that particular matter.

8 Q. Would you normally be in a position to find
9 out about such complaints?

10 A. Possibly. But those types of complaints might
11 be fielded within our operating units.

12 Q. Okay. Let's see. If such complaints came in,
13 would there be an attempt made to work with the customer to
14 speed the process along?

15 A. I think that in most cases, we have escalation
16 procedures to try to assist, in any scenario, a customer
17 that's making a request, especially in a scenario where they
18 might have a complaint or an issue.

19 Q. Is it your opinion that these specific
20 requirements are arbitrary and not necessary? I'm assuming by
21 this question she means the requirement that the company's
22 seeking the waiver of.

23 A. I wouldn't use the term "arbitrary" and I
24 wouldn't use the term "unnecessary." I think what I would say
25 is -- is that they might not be in keeping and in line with

1 the competitive marketplace that's developing.

2 Q. Very politically correct answer.

3 Does any provider, in your opinion, have an
4 incentive to delay connecting its customers?

5 A. Can you ask that again?

6 Q. Does any provider, in your opinion, have an
7 incentive to delay connecting its customers?

8 A. I would hope not.

9 Q. Would you expect each provider would, in fact,
10 have a business incentive to get the customers up and running
11 as soon as possible?

12 A. Seems like a reasonable statement.

13 JUDGE VOSS: Okay. That's all the questions
14 Commissioner Murray has so I will ask, are there any recross
15 based on questions from the Bench?

16 MR. DANDINO: No questions.

17 JUDGE VOSS: Then, Mr. Comley, the witness is
18 yours for redirect.

19 REDIRECT EXAMINATION BY MR. COMLEY:

20 Q. Very briefly. In questions from Mr. Haas, you
21 mentioned I think it was the cal-- it was called the available
22 quota system?

23 A. Right.

24 Q. Clarify for me, the customer service
25 representative would check to see on that quota system any

1 available technician that would meet that particular project?

2 A. Definitely.

3 Q. In other words, is it fair to say that that is
4 blind to the service that is being installed?

5 A. It is somewhat. I think that's a -- probably
6 a good term. What the system does is once the CSR has
7 determined the services that a customer is requesting, the
8 system then will provide them with a date. The CSR in
9 particular doesn't know which technician's going or who's
10 going to perform that. What it does do is it gives them what
11 is the earliest time available.

12 Q. There were questions about the time frames for
13 installing a service request regarding a ported number. Can
14 you tell the Commission, after the service request is made,
15 what is the earliest date MCC establishes installation date
16 for a ported number?

17 A. I believe in my testimony and what we've
18 provided is it's 8 days for an RBOC and 10 days for a
19 non-RBOC, which I believe -- and Darin can speak to that, is
20 because of the RBOC's E-bonding mechanism that's used with
21 Sprint.

22 Q. And with respect to the non-ported number,
23 what is the first date given for installation of the
24 non-ported number?

25 A. Five days beyond would be the earliest.

1 Q. In one of the questions Mr. Johnson asked you,
2 you referred to an HSD home. Can you clarify what HSD stands
3 for?

4 A. High-speed data.

5 MR. COMLEY: Thank you. That's all the
6 questions I had.

7 JUDGE VOSS: Then the witness is excused I'm
8 afraid has to be subject to recall because Commissioner Gaw I
9 think is going to come down after agenda, which hopefully will
10 be short.

11 Mr. Comley, would you like to call your next
12 witness?

13 MR. COMLEY: We'd call Darin Liston.

14 (Witness sworn.)

15 JUDGE VOSS: Mr. Comley, your witness.

16 DARIN LISTON testified as follows:

17 DIRECT EXAMINATION BY MR. COMLEY:

18 Q. Mr. Liston, would you state your full name for
19 the reporter, please?

20 A. Darin Liston.

21 Q. And in the course of this proceeding,
22 Mr. Liston, did you cause to be pre-filed a set of written
23 Direct Testimony, which has been pre-marked by the reporter
24 for identification purposes as Exhibit 5?

25 A. I did.

1 Q. Mr. Liston, if I were to ask you the questions
2 contained in your Direct Testimony, Exhibit 5, today, would
3 your answers still be the same?

4 A. Yes, they would.

5 MR. COMLEY: Your Honor, I'd offer Exhibit 5
6 into the record.

7 JUDGE VOSS: Are there any objections to the
8 admission of this exhibit? Hearing none, it is admitted.

9 (MCC Exhibit No. 5 was received into
10 evidence.)

11 MR. COMLEY: And tender the witness for
12 cross-examination.

13 JUDGE VOSS: Mr. Haas?

14 CROSS-EXAMINATION BY MR. HAAS:

15 Q. Good afternoon, Mr. Liston.

16 A. Good afternoon.

17 Q. What is your position or employment?

18 A. I work for Sprint Nextel as a manager for
19 marketing technical support.

20 Q. What is the relation between Sprint Nextel
21 Corporation, your employer, and Sprint Communications
22 Company, LLC, the contracting party we've been discussing?

23 A. It's one and the same.

24 Q. Is Sprint Communications Company, LP a CLEC in
25 Missouri?

1 A. I believe so.

2 Q. Are you familiar with Sprint's process for
3 installing service to its own customers?

4 A. To its own customers? Are you referring to
5 our -- I'm not sure I --

6 Q. When a customer -- when a potential customer
7 calls up Sprint and says, I would like to have Sprint, the
8 CLEC, as my basic local service provider, are you familiar
9 with the process that follows after that call?

10 A. No, I am not. I don't believe -- I do not.

11 Q. Please turn to page 5 of your testimony. And
12 on that page you are discussing the process for ported
13 numbers. And at page 5, line 5, you state that, Sprint spends
14 the first day after receiving the order validating the order
15 information such as the serviceable address, the rate center
16 and appropriate want date.

17 What does it mean to validate the serviceable
18 address?

19 A. We make sure that the address that we have is
20 appropriate for the particular rate center. So we are looking
21 at the number that's been assigned, the address and the
22 location of that address within the appropriate rate center to
23 make sure that we are following the industry guidelines on
24 keeping phone numbers within the particular rate center that
25 they're supposed to be.

1 Q. And then what does it mean to validate the
2 rate center?

3 A. Here again, it's making sure that the
4 telephone number and rate center matches so that we are not
5 inadvertently moving a phone number outside of a particular
6 rate center.

7 Q. And what does it mean that Sprint validates
8 the appropriate customer want date?

9 A. We are making sure that we are not getting a
10 request that's beyond the limits of our guidelines and our
11 contract-- contractual commitments with our cable partners.

12 For example, if we get a request for service
13 that is too quick that would not enable us to actually provide
14 that service to allow Mediacom to meet that customer
15 commitment, we're going to have to reject that order to let
16 them know that we don't have enough time to complete that to
17 allow them to meet their commitment.

18 Q. And what happens if Sprint discovers there is
19 a problem with the serviceable address, the rate center or the
20 appropriate customer want date?

21 A. We will reject that order and send it back to
22 Mediacom to address the -- address the situation.

23 Q. Still on page 5, beginning on line 17, you
24 state that, After the customer service request is received
25 back, Sprint then sends a local service request to the

1 carrier.

2 How long does this step, sending the local
3 service request, take to perform?

4 A. Are you talking about how long it actually
5 takes to -- to send it or how long does it take to get the
6 response back from the LSR?

7 Q. Explain how the LSR is sent.

8 A. That varies depending upon the company that
9 we're dealing with. In some cases, such as AT&T or the RBOC,
10 sometimes it's electronically bonded, we can actually send
11 them a request and get a response back fairly quick. In some
12 cases, it's a fax; in some cases, it's an e-mail. It just
13 depends on how that particular carrier -- carrier wants to
14 receive that information.

15 Q. I will give you warning this may be considered
16 a confidential question, but we'll get there if we get there.

17 A. Okay.

18 Q. How long does the contract allow Sprint to
19 send the local service request after it has received the
20 customer service request back?

21 MR. COMLEY: Your Honor, that does bring up
22 confidential terms and it would be an in-camera type of
23 inquiry.

24 JUDGE VOSS: Is the question important enough
25 to go in-camera?

1 MR. HAAS: I will have additional questions
2 later on that would be in-camera so I will save it.

3 JUDGE VOSS: Save it. Okay.

4 BY MR. HAAS:

5 Q. At page 6, beginning at line 10, you state
6 that, After the firm order confirmation is received, Sprint
7 then validates the address against the Master Street Address
8 Guide.

9 What happens if Sprint is unable to validate
10 the address against the MSAG?

11 A. If we're unable to do -- to validate it at
12 all, we will actually have to send that order back to Mediacom
13 to get some additional information so that we can validate
14 that address. There are certain instances where we go to the
15 address -- the MSAG, to validate the address and we find
16 differences. For example, the MSAG may require "street" be
17 spelled out, s-t-r-e-e-t, but in the order it came across as
18 S-t period.

19 So there are things that we look at when we
20 are doing the validation process that we will correct on our
21 own. But if we're unable to correct it and determine what
22 that correction is, we will send it back to Mediacom for
23 additional information.

24 Q. If you have to send that order back to
25 Mediacom for additional information, will that change the

1 customer want date?

2 A. Yes.

3 Q. What, if anything, prevents Sprint from
4 checking the MSAG earlier in the process, say, perhaps on the
5 first day it gets the customer service order?

6 A. We will actually go through our processes the
7 way our process flow is set up to send that order through.
8 The MSAG address, we take that step after we receive the
9 confirmations back from the carrier to ensure that we've got
10 the correct information to start with, that we're not trying
11 to validate something that's in error.

12 So we will go through the CSR, LSR portion to
13 ensure that we know the appropriate carrier, that we've got
14 the correct information. Because we will get corrections back
15 from the LSR and CSR from the carrier at times that says, Your
16 address is wrong for that particular customer or there's
17 something wrong with that address. So we go through and do it
18 at that point to prevent having to re-do it again after we
19 receive that confirmation back.

20 Q. Do you know how frequently errors in the
21 customer's information are discovered through the CSR and LSR
22 process and up to that point where you check the MSAG?

23 A. No, I do not.

24 Q. Turning to page 8 of your testimony, you state
25 that, For non-ported numbers, Sprint will validate the address

1 against the Master Street Address Guide on day two.

2 What would prevent Sprint from checking the
3 MSAG on day one for non-ported numbers?

4 A. As we go through this and we get through the
5 initial receipt of an order from Mediacom for a non-ported
6 number, these are general guidelines of where we -- where
7 we're at. If we get orders earlier in the day, there are
8 opportunities that sometimes we're able to get to that portion
9 ahead of time.

10 Generally when we're receiving orders, we have
11 to go through the first step of validating the serviceable
12 address, rate center, post- pre-customer want date, then we
13 get to the point of doing the MSAG validation. It's how the
14 process is -- is -- is laid out to go through those steps.
15 Sometimes we can get to that steps earlier, sometimes it's not
16 until day two. Sometimes if we're having problems with the
17 first parts, it will happen a little bit later.

18 But generally it happens on day two, but that
19 depends on when we get the order within the day and how
20 quickly we're able to get through the first portion.

21 Q. How long does it take the person who checks
22 the MSAG to do that function?

23 A. Depends. If they get a correct match first
24 try, it doesn't take real long. If they have to make a series
25 of corrections, be it formatting, some of those kind of

1 things, it takes a little bit longer. If it's hard questions
2 on things that we may not have, an east or west designation,
3 there are sometimes attempts made to contact Mediacom to find
4 out, is this something we can answer quick and keep -- keep
5 the order going or do I end up having to reject this order.
6 So it really depends on what they find when they're trying to
7 do that validation.

8 Q. If we assume that the person who's checking
9 the MSAG finds no problems, how long is that process going to
10 take?

11 A. It's kind of a hard question to answer. If --
12 if you're talking about from the time that they actually have
13 the order in place and then they're validating the MSAG, it's
14 a matter of probably minutes by the time they actually can go
15 out there, validate, come back and move the order on its way.

16 Q. Do you know what percent of the orders that
17 Sprint -- pardon me, that MCC sends you have --

18 A. That are perfect?

19 Q. -- that have -- that are perfect?

20 A. No, I do not.

21 Q. At the middle of page 8 of your testimony, you
22 describe Sprint's process for non-ported numbers on days three
23 through five. How long does it take Sprint to provision the
24 switch with the customer's telephone number?

25 A. Here again, it -- it -- it will vary. There

1 are times where if everything's set up right, the order comes
2 through right, we have the appropriate features, it passes
3 through our interfaces correctly, it can be a fairly short
4 amount of time. Trying to remember if we've got -- some of
5 these they -- they -- they batch them to the various switches
6 so these batches run continuously, so I can't really put a
7 minutes or hours on it, but it happens usually fairly quick.

8 Q. How long does it take Sprint to provision
9 voicemail for the customer?

10 A. That also is a batch process that -- that we
11 use. That occurs after the switch is provisioned and it is --
12 happens multiple times a day. I believe it's either two or
13 three times a day we batch process to our voicemail platforms
14 to get that voicemail provision.

15 Q. How long does it take Sprint to establish
16 number administration information in the Central Office Dial
17 Administration Reporting System?

18 A. It's a fairly quick process as well. Here
19 again, if we're talking about a -- a perfect order, that can
20 flow through pieces of these systems fairly quickly, probably
21 within a day. If -- but this process that we've set up is not
22 built on the perfect order.

23 Q. Still on page 8 of your testimony, at line 12,
24 you mention, Sprint provisions voicemail for the customer.
25 And then at line 14, you mention, Sprint provisions voicemail

1 for the customer.

2 Is this a two-step process or was that a
3 typographical error?

4 A. That was a typographical error. Sorry about
5 that. I missed that one.

6 Q. If MCC's customer does not order voicemail,
7 will the process move faster?

8 A. Yeah, a little bit.

9 Q. I believe one of the other witnesses referred
10 this question to you and it was, how long does Sprint take to
11 port a number where MCC is losing the customer?

12 A. We follow the industry guidelines. We will
13 receive a request from the other carrier to port out that
14 number. It will start with an LSR. We will respond in the
15 industry standard between -- within 48 hours to respond back
16 with a firm order commitment. And the port will take place
17 three days later.

18 Q. I had asked Mr. Craib some questions about the
19 difference between the MCC/Sprint process and what other LECs
20 might do. And I think he suggested that you might be a better
21 person to answer those questions.

22 And so what I'm really doing is I'm kind of
23 walking through your testimony on page 5, of the process for
24 ported numbers, and then I'm going to walk through that and
25 say do other LECs do that step. So do other LECs, when

1 installing service for ported number, validate the rate
2 center?

3 A. I can't for sure tell you what all the other
4 companies are doing. It is fairly standard within the
5 incumbent LEC's realm that they will validate and make sure
6 that that phone number is not leaving the rate center that it
7 is being ported -- when it ports from company to company.

8 Q. Do other LECs validate the customer want date?

9 A. I'm sure they probably do, yes.

10 Q. Do other LECs send a customer service request
11 to the carrier from which the customer is switching service?

12 A. That they may or may not. I do not -- do not
13 know for sure what they do. And it would depend, I would
14 think, upon the carrier that they're porting from on whether
15 they support customer service requests or not. Some companies
16 do not support that activity, so if you send them a request
17 they won't respond.

18 Q. Would that be different from anybody that MCC
19 and Sprint are contacting if the other party doesn't support
20 the system?

21 A. No, it would not be different.

22 Q. Would other LECs validate the address against
23 the Master Street Address Guide?

24 A. Yes, they would. However, in some cases if
25 we're talking about incumbent LECs, in a lot of cases they are

1 the administrator of the MSAGs and so validation for them is a
2 lot different because they've been administering the MSAG for
3 quite a while. Their internal databases might already be in
4 sync with the MSAG, which would allow them to skip that step
5 or really not have to handle that step much at all.

6 Q. Would other LECs provision the switch with the
7 customer's telephone number?

8 A. Absolutely.

9 Q. And would other LECs establish number
10 administration in the Central Office Dial Administration
11 Reporting System?

12 A. If you're talking about most of the RBOCs and
13 incumbents, I'm sure they do. I can't speak for every company
14 though so I'm not sure.

15 Q. Would other LECs send the porting subscription
16 to the Number Porting Administration Center?

17 A. Yes, they would.

18 Q. Would other LECs wait for either a
19 subscription concurrence from the old service provider or
20 18 business hours, whichever occurs first?

21 A. That is the industry process, yes.

22 Q. Now, we can go back to your questions.

23 A. Okay.

24 Q. Does Sprint have agreements with other CLECs
25 that are similar to its agreement with MCC?

1 A. Yes.

2 Q. Do the time frames for the individual steps of
3 the installation process in those other agreements match the
4 time frames for the individual steps of the installation
5 process in the MCC agreement?

6 A. I can't address the specific agreements with
7 the other companies. I can tell you for those that are
8 following a similar business model that we have with Mediacom,
9 there is nobody that has a quicker time frame than what we
10 have with Mediacom.

11 Q. Please explain by what you mean by "a similar
12 business model." I think that was your term.

13 A. We actually have two different models for
14 supporting the cable partners in the telephony business. The
15 difference between the models revolves around whether or not
16 the cable partner has their own switch or not. In the case of
17 Mediacom, they do not have their own telephony switch, we
18 provide all that functionality for them.

19 We do have other models where the cable
20 partner has their telephony switch so they do portions of that
21 provisioning themselves because they're providing dial tone,
22 certain features and functionality and we are providing a lot
23 of the back office and connectivity to the public switched
24 telephone network.

25 So we have two different models that are out

1 there that are different in how they're set up and how they're
2 run. So when I'm talking about the time frames for the model
3 that Mediacom's at, it's those that have -- do not have their
4 own switch that we have agreements with.

5 Q. Will Sprint negotiate with another party the
6 time frames for those steps in the installation process?

7 A. I'm not entirely sure I understand your
8 question. In every agreement that we've -- that we have
9 entered into, we have pretty much standards set of processes
10 that we are using to support this particular product. And
11 generally when we start talking about the time frames for
12 installations, you're not going to get significant changes to
13 the contracts between contracts.

14 MR. HAAS: Your Honor, I'm ready to move to my
15 in-camera questions.

16 JUDGE VOSS: All right. Attorneys, please
17 make sure that anyone that should not be in the room --

18 (Reporter's Note: At this time, an in-camera
19 session was held, which is contained in Volume No. 3,
20 pages 169 through 172 of the transcript.)

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JUDGE VOSS: And, Mr. Dandino, your witness.

7

MR. DANDINO: I have no questions. Thank you,

8

sir.

9

THE WITNESS: Thank you.

10

JUDGE VOSS: Mr. Johnson?

11

MR. JOHNSON: I just a couple, your Honor.

12

CROSS-EXAMINATION BY MR. JOHNSON:

13

Q. Mr. Liston, on page 6 of your testimony, down

14

on lines 18 through 20, you reference the Central Office Dial

15

Administration Reporting System or CODARS?

16

A. Yes.

17

Q. Can you tell me who established CODARS?

18

A. Who established CODARS?

19

Q. Whose auspices -- is this a reporting system

20

that's internal to Sprint?

21

A. Yes.

22

Q. Okay. The Number Portability Administration

23

Center, is that also something that's internal to Sprint?

24

A. No, it is not.

25

Q. What is that?

1 A. That is the industry portability
2 administration center run by New Star. I believe they're out
3 of Sterling, Virginia.

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

5 JUDGE VOSS: And I just have a couple of
6 questions from Commissioner Appling. Let's see.

7 QUESTIONS BY JUDGE VOSS:

8 Q. Primarily referring to the Schedule 2 of
9 Mr. Craib's Surrebuttal Testimony, and I don't need any
10 numbers, but basically Sprint's ability to provide that
11 information to MCC, are you familiar with the frames listed in
12 this document?

13 A. Schedule 2? You gave me Schedule 1 here. I
14 do not have the Schedule 2 in front of me.

15 MR. COMLEY: Your Honor, would you tell me the
16 schedule again?

17 JUDGE VOSS: It's Schedule 2 to the
18 Surrebuttal Testimony.

19 MR. COMLEY: Of Mr. Craib?

20 JUDGE VOSS: Yes. Of his Surrebuttal
21 Testimony. And I don't think it's confidential.

22 THE WITNESS: Oh, I think I found it actually.
23 It's this one right here? I have it, your Honor.

24 BY JUDGE VOSS:

25 Q. Do you know where these frames are published?

1 A. For the -- where we have the carrier and the
2 CSR time frame and LSR to FOC?

3 Q. Yes.

4 A. Those we've received actually in
5 communications with those carriers. And we fill out trading
6 partner profiles of which I believe we have submitted as well
7 the trading partner profiles we have with each one of these
8 companies. And that is where they lay out their time frames
9 for responding to CSRs and LSRs.

10 Q. Okay. Do you know if they're published in the
11 LEC's tariffs?

12 A. That I am not sure.

13 Q. And do you know to what C -- or ICO back slash
14 tier-two refers? It's under the class.

15 A. Tier-two I believe refers to the level of --
16 the categorization of that telephone company. Tier-ones are
17 usually the RBOCs, tier-twos are kind of the next level down.
18 I'm not exactly sure what ICO stands for.

19 Q. Okay. Good. I'm not the only one.

20 And does 48 hours for CSR begin when the
21 customer agrees with MCC for service? If not, when does it
22 begin?

23 A. The CSR request we will send out when we
24 receive the order from Mediacom. So depending on how quickly
25 we get the order from Mediacom would determine how quick we're

1 able to get the CSR out to that -- that company.

2 Q. Okay. Who performs the tasks for which
3 48 hours are provided?

4 A. Well, the CSR is a customer service request.
5 We will send that request to the current carrier of that
6 telephone -- or of that customer. So they will actually
7 provide then the information back to us. So that actually is
8 the -- the third-party telephone company, so to speak.

9 Q. Okay. So the third-party -- okay. Please
10 look at the column labeled LSR to Port. When does this time
11 period begin?

12 A. Begins the time we submit the LSR to the
13 company to request porting of that phone number.

14 Q. To the third-party?

15 A. It would -- it's actually to the losing
16 carrier, the losing LEC.

17 Q. Okay. Do the times in this column mean, for
18 example, Spector Communications commits to porting the
19 customer's numbers not less than five business days after it
20 receives the LSR?

21 A. Yes.

22 Q. Okay. How long does Sprint take from LSR to
23 port when it receives an LSR?

24 A. Five days.

25 Q. Why can Socket complete its tasks two business

1 days faster than any other LEC listed?

2 A. I do not know.

3 Q. Should three business days be standard? This
4 is not my question so -- I'm assuming three business days
5 standard for --

6 A. For the LSR to port?

7 Q. Yeah.

8 A. Right now the industry is agreed basically
9 on -- on five days. Whether that should be the standard, in
10 my opinion, it would be very difficult for a number of the
11 incumbents to meet that time frame.

12 Q. This may be something that you don't know the
13 answer to, but in the negotiation of the contract with
14 Mediacom and MCC, would anything less than five days have been
15 a deal breaker, in your opinion?

16 A. I wasn't a party to the negotiations. I'm not
17 sure --

18 Q. That's fine.

19 A. -- where that was going so I really can't
20 answer.

21 Q. Just a question I had to ask.

22 JUDGE VOSS: Okay. I think that's all that I
23 have for this witness. Are there any redirect or recross
24 questions based on questions from the Bench?

25 MR. DANDINO: No, your Honor.

1 MR. JOHNSON: No.

2 JUDGE VOSS: Any redirect, Mr. Comley?

3 MR. COMLEY: No.

4 JUDGE VOSS: Then you may step down subject to
5 recall. Someone is on lookout to tell me when agenda ends so
6 I can send that immediate message up and let them know. They
7 can't be two places at once.

8 Yes, we're definitely going to take a break
9 before the next witness so let's come back at 3:00, give a
10 good 15 minutes to stretch legs.

11 (A recess was taken.)

12 JUDGE VOSS: I think we are ready for Staff's
13 first witness -- or only witness.

14 MR. HAAS: The Staff calls Wes Henderson --
15 Larry Henderson.

16 THE WITNESS: We are not related.

17 (Witness sworn.)

18 JUDGE VOSS: Your witness.

19 LARRY R. HENDERSON testified as follows:

20 DIRECT EXAMINATION BY MR. HAAS:

21 Q. Mr. Henderson, would you please state your
22 full name?

23 A. My name is Larry R. Henderson.

24 Q. Where are you employed?

25 A. I'm employed with the Missouri Public Service

1 Commission.

2 Q. And what is your position?

3 A. I'm a technical specialist.

4 Q. Are you the Larry Henderson who prepared the
5 Rebuttal Testimony that's been marked as Exhibit No. 6 in this
6 case?

7 A. Yes.

8 Q. Do you have any additions or corrections to
9 that testimony?

10 A. Yes, I do.

11 Q. What are those?

12 A. On page 3, beginning with line 19 through 21,
13 and it would begin on 19 with, The surveillance level requires
14 the company to take appropriate corrective action to achieve
15 and maintain the Commission's service objective in each
16 category.

17 That is a repeated sentence, want it deleted.

18 Q. What's next?

19 A. On page 4, line No. 5, if you printed the
20 testimony in a colored printer, where it says, Attachment 1,
21 the font may appear in red. It should be in black.

22 On -- on page 6 of the testimony, line 5,
23 change "Craig" to "Craib." On page 8, line 13, after the word
24 "provide" add the word "and." On page 12, line 12, remove the
25 comma after "standard." On page 12, line 22 --

1 JUDGE VOSS: One second. You said on page 12,
2 line -- okay. I see it now. I'm sorry.

3 THE WITNESS: Line 22.

4 JUDGE VOSS: Thanks. Go ahead.

5 THE WITNESS: Change the word "Craig" to
6 "Craib." On page 15, line 15, after "MCC," the word "the"
7 remove it. On page 16, line 6, add the word "approximately"
8 before "equal." And on page 17, line 3, where it says, I
9 recommend the Commission direct MCC to submit A, add the word
10 "acceptable." That concludes the changes.

11 BY MR. HAAS:

12 Q. With the changes that you have made, is this
13 testimony and the Rebuttal Testimony true to the best of your
14 knowledge, information and belief?

15 A. Yes, it is.

16 MR. HAAS: Your Honor, I move for the
17 admission of Exhibit numbers -- No. 6-NP and HC,
18 Mr. Henderson's Rebuttal Testimony.

19 MR. COMLEY: Your Honor, on December 13th, MCC
20 filed objections to Mr. Henderson's testimony. We did so in
21 writing. For brevity of the record, I would like to have
22 those objections renewed and I will leave it up to the court
23 if you want me to read those objections into the record now, I
24 will do so; otherwise, I'm satisfied that they've been
25 adequately expressed in the record and preserved.

1 JUDGE VOSS: There's no need to read them
2 aloud. I think they're preserved for the record. Are there
3 any other objections to Exhibit 6-NP and 6-HC?

4 Hearing none, they're admitted.

5 (Staff Exhibit Nos. 6-NP and 6-HC were
6 received into evidence.)

7 MR. HAAS: Your Honor, I tender the witness
8 for cross-examination.

9 MR. COMLEY: And just for the sake of the
10 record, my understanding is that the objections have been
11 overruled once more?

12 JUDGE VOSS: Yes.

13 Mr. Dandino, I believe you're first up.

14 MR. DANDINO: I have no questions for
15 Mr. Henderson. Thank you.

16 JUDGE VOSS: Mr. Johnson?

17 MR. JOHNSON: No questions, your Honor.
18 Thanks.

19 JUDGE VOSS: Mr. Comley?

20 MR. COMLEY: Thank you.

21 CROSS-EXAMINATION BY MR. COMLEY:

22 Q. Mr. Henderson, I think we met once before. My
23 name is Mark Comley and I'm the attorney for MCC, which I
24 think is probably pretty evident already, but I wanted to let
25 you know that for sure.

1 As Mr. Haas has gone through qualifications of
2 some of my witnesses, I felt obliged to do the same with you.
3 And I notice in your resume that you have 38 years of
4 experience in telecommunications; is that correct?

5 A. That is correct.

6 Q. And some 33 years with the Southwestern Bell
7 Telephone Company; is that --

8 A. That is correct.

9 Q. And I am related by marriage to a man who has
10 a similar tenure with Southwestern Bell and I'll tell you he's
11 very proud of it and I'm sure you are too.

12 My understanding, you started work with Bell
13 in 1969; is that correct?

14 A. 1968.

15 Q. And you progressed through a variety of
16 departments at Southwestern Bell; is that correct?

17 A. That is correct.

18 Q. I take it then that primarily your background
19 would not include any experience in connection with the work
20 with competitive local exchange companies?

21 A. Only -- not during that tenure with Bell, but
22 only with the amount of time I've spent here with the
23 Commission dealing with it.

24 Q. Your employment background I think is limited
25 to working with a rate of return regulated company; is that

1 correct?

2 A. That is correct.

3 Q. And it would be obvious you have never been
4 involved in the management of a competitive local exchange
5 company; is that correct?

6 A. That is correct.

7 Q. And looking through your material, would it be
8 fair to say that you have not worked with networking
9 facilities for cable television providers?

10 A. That is correct.

11 Q. And with respect to Darin Liston, he is a
12 manager of marketing and technical support. Have you ever
13 held a position like that?

14 A. No, I have not.

15 Q. Mr. Craib had testified in his Direct
16 Testimony that MCC customers are informed directly during the
17 initial ordering process of the time it will take to have the
18 order installed. Do you have any reason to doubt that
19 statement?

20 A. Could you point to Mr. Craib's testimony for
21 me, please?

22 Q. One place would be page 9 of Mr. Craib's
23 Surrebuttal, lines 7 through 8. He says that, MCC's customers
24 are provided accurate information regarding installation time
25 up front at the time they place an order for service.

1 Do you have any reason to doubt that
2 statement?

3 A. I think the statement that they are giving a
4 time when they can expect to have service installed is
5 correct. Whether the time they're giving -- given is the time
6 that it is actually installed, I probably would question that.

7 Q. Would you agree with me that the customer is
8 advised of an installation date at the time they are given
9 information about their request for service?

10 A. If the question is does the customer service
11 rep provide the customer a date when they talk to them
12 initially --

13 Q. That's the question.

14 A. -- yes.

15 Q. On page 7 of your Rebuttal, there's a question
16 there on line 20 to 21 regarding comments about whether MCC's
17 service is unique whereby parts of the ordering process are
18 beyond MCC's control. I have a few questions that I want to
19 direct you to Mr. Liston's testimony a moment. Do you have
20 Mr. Liston's testimony in front of you?

21 A. Yes, I do.

22 Q. Well, let me get that out myself. Let's turn
23 to page 5, lines 7 through 10 of Mr. Liston's testimony. In
24 lines 7 through 10, Mr. Liston is talking about Sprint sending
25 a customer service request to the carrier from which the

1 carrier is switching service to MCC. And we're talking about
2 the ported number situation here. Would you agree with me?

3 A. Yes.

4 Q. Now, when Sprint sends that CSR to what I'll
5 call the losing carrier, would you agree with me then that
6 that process is outside of MCC's control?

7 A. Yes.

8 Q. Let's go to line 18 through 20 of page 5. I'm
9 looking at the lines where Mr. Liston is talking about the
10 local service request to port a customer's number on a
11 specified day. The carrier will confirm receipt and accuracy
12 of the LSR with a firm order conversation -- confirmation,
13 excuse me. When that LSR request is in process, would you
14 agree with me that that is an occasion when the process is
15 outside of MCC's control?

16 A. Yes. Mr. Comley, I would. And I'd also say
17 that if the porting was going in the other direction, the
18 other receiving LEC would have the same scenario.

19 Q. Well, I think -- and that leads me up to
20 another couple of questions I wanted to ask you about. Let's
21 do take the example where MCC is losing one of its customers.
22 And maybe we'll add a few more facts of the hypothetical.

23 Let's say it's a brand-new CLEC company, brand
24 new. And they are winning customers from MCC and, let's say,
25 for instance, in the first quarter they have ten customers,

1 five of which -- five of which were ported. What would be
2 their first quarter report on whether or not they're meeting
3 these basic local service standards and installation standards
4 particularly is what I mean?

5 A. If you were asking me that they worked -- in
6 the first quarter they was in business, that they worked
7 10 service orders, the rule requires th that 90 percent of the
8 time, those orders to be worked within five days. If, for
9 some reason, they worked zero of those days in five days, then
10 a report would show zero. If they showed five, then they
11 would meet 50 percent of that requirement.

12 Q. Let me ask you this. Is that still a very
13 fair question to you and to the Staff, whether a ported number
14 situation is really best -- let me rephrase that.

15 Is it still a good question to you that the
16 five-day standard for ported numbers is still valid?

17 A. I think that we need to take a look at that
18 with the industry. I think that in some cases it may be we
19 need to fix another problem instead of lowering the standard.
20 I think maybe there should be a requirement established that
21 companies that's going to port numbers will do so in a manner
22 to -- that all companies will have the availability to install
23 the service within five days instead of lowering the standard
24 of quality in the state of Missouri.

25 Q. Well, I understand that's an achievable goal,

1 but under the circumstances as they are right now -- under the
2 circumstances as they are right now, is it still a reasonable
3 question that orders involving porting should even be held to
4 the same standard as non-ported numbers?

5 A. In today -- with today's rule, yes.

6 Q. While we're on Mr. Liston's testimony, let's
7 go to lines 11 through 23 of page 5. I may have skipped
8 around a little bit. Excuse me. Excuse me. That's wrong.
9 That's wrong. That's wrong. I withdraw that question. Thank
10 you very much.

11 On page 7 of your testimony, you were talking
12 about the jurisdiction of the Commission. And would you be
13 able to tell us offhand how many VoIP providers have been
14 certificated by the Commission?

15 A. No, I cannot.

16 Q. Is it more than one?

17 A. I would say yes, it probably is more than one.

18 Q. On page 8 of your testimony, you talk about
19 the crux -- you talk about the crux of the issue in your
20 opinion. That would be lines 11 through 16. Let me ask you
21 this. Do you know of any other agreements that are like the
22 business model described today between MCC and Sprint that
23 have any intervals that are quicker than the ones in the MCC
24 agreement?

25 A. No, I do not.

1 Q. Has the Staff been able to do any study or
2 conduct any evaluation of how much it might cost MCC to
3 decrease the amount of interval for processing these orders?

4 A. No, we have not.

5 Q. On page 10 of your testimony, you talked about
6 the Commission's revisions to the quality of service rules.
7 That's on page 10, line 4. Now, my understanding was that you
8 were not here at that time; is that correct?

9 A. I was not here in August 2nd, 1999, that is
10 correct.

11 Q. Do you know when the rule that we're seeking
12 to waive was first promulgated by the Commission?

13 A. May I look at something I have for --

14 Q. Oh, absolutely.

15 A. It appears at Chapter 32. And this segment
16 was some time in the early to mid '70s. I think December 3rd,
17 '75, if I'm reading this correctly, somewhere in that time
18 frame, mid '70s.

19 Q. When was the last time it was last modified?

20 A. June 30th, 2004.

21 Q. What portions were modified?

22 A. Some of the definitions, some of the
23 requirements in Section 080 to -- to clarify some points on
24 what should be tracked and what should not be tracked. Parts
25 of --

1 Q. Excuse me. Let me get more direct to you.
2 Was any portion of 32.080, the one that we're dealing with
3 today, was any of that modified?

4 A. Yes, it was.

5 Q. Was it also modified in 1984?

6 A. Yes.

7 Q. But as far as the modifications you were
8 referring to in 2004, those modifications did not change the
9 portion that said all basic local service orders must be -- or
10 90 percent need to be installed within five working days?

11 A. It did not lower the standard, that is
12 correct.

13 Q. And that standard has been in place since
14 1975?

15 A. If I am reading the information in the chapter
16 correctly, that would be a correct answer.

17 MR. COMLEY: I think I'm finished, but I want
18 to check real quick.

19 I have no other questions.

20 JUDGE VOSS: Commissioner Gaw, do you have
21 questions for this witness?

22 COMMISSIONER GAW: Yes, I do. Is it time?
23 Just a second.

24 QUESTIONS BY COMMISSIONER GAW:

25 Q. Good afternoon.

1 A. Good afternoon, Commissioner.

2 Q. When were the last revisions of these rules?

3 A. 2004. I think those revisions went in effect
4 June 30th, if my memory is correct.

5 Q. Was the rule in issue in this case one of the
6 rules that was reviewed during that time frame?

7 A. We reviewed that section, but the section
8 specifically that -- the five days, no, it was not. We put
9 some clarifications in that segment of the rule to make sure
10 that all companies understood what they -- had to be tracked,
11 what orders would -- could be excluded and for what reasons
12 and things of that nature.

13 Q. Well, what was done in that rulemaking? What
14 was the -- what was covered in that rulemaking? Was there a
15 revision of the entire chapter, of certain sections?

16 A. We started and went through -- all up through
17 .080 of Chapter 32 from the definitions on through.

18 Q. And you say -- sorry. I didn't mean to talk
19 over you. When you say "we," who is we?

20 A. Commission Staff.

21 Q. And who was in that? Who was involved with
22 that?

23 A. Mick Johnson, John Meneshin (ph.) and myself.

24 Q. Okay. And that process of revising those
25 rules, how long did that take from the time you started

1 working on it, approximately?

2 A. Eighteen months.

3 Q. And did you visit with industry about it --
4 about the rules when you were working on the initial drafts?

5 A. Yes. Numerous times.

6 Q. Okay. And did it -- so did industry have an
7 opportunity for input?

8 A. Yes, they did.

9 Q. All right. And did the rules that came about
10 as a result of that included the review of this particular
11 section that we're looking at in this request for a waiver?

12 A. Yes.

13 Q. Now, so the Commission in as late as 2004 has
14 at least had the opportunity in a rulemaking to relook at
15 what's actually set in the rule on the time limits in this
16 case?

17 A. That is correct.

18 Q. All right. Now, do you recall any comments,
19 do you know if there were any comments that were asking for
20 this portion of the rule to be changed from what it is? Only
21 if you recall.

22 A. Commissioner, I know there was comments on
23 most all sections of the rule. The specific comments I cannot
24 tell you about today.

25 Q. That's all right. There would be something in

1 the record of that, I'm assuming, from the rulemaking, would
2 there not?

3 A. Yes, there would.

4 Q. Okay. Now, just very basically again, explain
5 what this rule that's asked to be waived is supposed to be
6 doing. What's its purpose?

7 A. If a customer provide -- requests service, the
8 Commission has stated that 90 percent of the time after the
9 customer requests service, he will have service in his home
10 within five days.

11 Q. Okay. And this is in a section of rules which
12 has what else? What else is in this -- in this area --

13 A. Okay.

14 Q. -- of the rules?

15 A. In that same category, they also rate a -- a
16 company on -- if I tell you that I'm going to be at your home
17 and install that service next Wednesday by five o'clock, we
18 also rate a company on what percentage of those commitments
19 that you make to that customer you keep.

20 Q. Okay. Was that actually changed in that last
21 rulemaking in 2004, that portion that you just described?

22 A. No, it was not.

23 Q. So that was the -- that's the same --

24 A. Okay.

25 Q. -- as it was prior to that rulemaking?

1 A. That is correct.

2 Q. Okay. Now, and when you say you rate the
3 company, what does that mean?

4 A. The Commission has established quality of
5 service indices that says, We have set minimum acceptable
6 standards of quality. The 90 percent is a minimum acceptable
7 standard that we -- that the Commission said that if a company
8 meets that objective, they are meeting a quality standard.
9 Okay? It also says in there that if a company is only
10 providing 85 percent -- meeting only 85 percent, that they are
11 basically providing a sub-standard service.

12 Q. Okay.

13 A. Okay. When that comes about, we monitor that
14 to see if it was one quarter incidence or whether it was two.
15 If it is -- they fall in that category for three consecutive
16 quarters, then Commission Staff will contact the company and
17 set up a meeting to discuss how they're going to take care of
18 fixing the problem.

19 Q. Okay.

20 A. And they will -- they should submit to the
21 Staff an acceptable plan on how to do that. And the Staff
22 will review that plan and we'll see if that action corrects
23 the problem.

24 Q. Okay. And if it does not correct the problem,
25 what could happen?

1 A. A formal complaint would be filed against the
2 company and action would take from that point on.

3 Q. Okay. Now, in this case, is there something
4 different about the certificate granted to the company that's
5 requesting the waiver from the other certificates that are
6 given for providers of local exchange service?

7 Well, let me ask you this first. Let me ask
8 you this question. What is the certificate that this company
9 holds in the state of Missouri? What's it allow it to do?

10 A. Commissioner, I don't know that I can ask--
11 answer the question in a legal perspective.

12 Q. Okay.

13 A. My understanding is I think that they have a
14 certificate to provide basic local service.

15 Q. Okay. All right. You're familiar with that
16 generally, aren't you?

17 A. Yes.

18 Q. Okay. And are there a lot of companies that
19 hold a certificate to do that in the state of Missouri?

20 A. Yes, there is.

21 Q. All right. And are they all generally subject
22 to the same requirements under our rules --

23 A. Yes. And I think --

24 Q. -- in regard to service?

25 A. Yes.

1 Q. Okay. Are there any provisions for a
2 different treatment in our rules for basic local service
3 providers?

4 A. If I understand your question correctly, it's
5 by -- does the company, because they have a different LEC
6 definition, whether it's CLEC or ILEC, have a different
7 quality standard?

8 Q. That is my question. Thank you.

9 A. No, they do not.

10 Q. Okay. Now, what I want to know is, if we
11 grant this waiver in this case, as the company has requested
12 it, how do I differentiate the treatment of this company from
13 every other company that's out there offering -- under the
14 same kind of a certificate? What is the distinction that I
15 would -- I would be drawing?

16 I'll ask you this first. Is there anything in
17 their certificate that makes them different from other
18 companies with the same certificate?

19 A. Not to my knowledge.

20 Q. Okay. Is there anything that you can point to
21 that would make it, in your view, appropriate for us to treat
22 them differently than other providers of basic local exchange
23 service?

24 A. No, there is not.

25 Q. Okay. So if we do grant this waiver, how do I

1 differentiate granting a waiver for this company -- how do I
2 justify granting a waiver for this company and not waiving
3 this same service standard for every other service company in
4 the state?

5 A. I don't know how you could do that.

6 COMMISSIONER GAW: I don't think I have any
7 further questions. Thanks.

8 JUDGE VOSS: Let's see. I have a couple
9 questions from Commissioner Appling and a couple of my own.

10 QUESTIONS BY JUDGE VOSS:

11 Q. In referring to Schedule 2, highly
12 confidential Schedule -- I guess it's not highly confidential,
13 I'm sorry -- to Mr. Craib's testimony, do you have that
14 document?

15 A. Do I have his testimony?

16 Q. Yes.

17 A. Yes, I do.

18 Q. That Schedule 2. Do you know where the time
19 frames are published in that schedule?

20 A. Judge, I'm not sure I understand your
21 question.

22 Q. It's not my question so I'm trying to make
23 sure I understand it as well and that I'm asking it.

24 In Schedule 2 to Mr. Craib's testimony, his
25 Surrebuttal Testimony, it has the -- I cannot figure out where

1 I stashed it. It has the chart that gives the porting
2 interval times for the other providers. Do you know which
3 schedule I'm referring to? Here it is. Where it gives the
4 carrier, the class, the CSR, LSR to SSC and LSR to port.

5 MR. HAAS: Your Honor, may I provide that to
6 the witness?

7 JUDGE VOSS: Yes. Sorry. I thought he had
8 it.

9 THE WITNESS: I thought I did too. It's
10 Surrebuttal. Okay. Thank you. Okay.

11 BY JUDGE VOSS:

12 Q. Are you familiar with the frames listed on
13 this document?

14 A. Am I familiar with what?

15 Q. With the time frames listed on this document.

16 A. When they were presented to us in testimony,
17 yes.

18 Q. Do you know where these time frames might be
19 published? I think basically, would they be published in the
20 LEC's Commission-approved tariffs?

21 A. I can't answer that.

22 Q. Okay. Do you know what the ICO back slash
23 tier-two refers to?

24 A. I would think that would be interconnect
25 agreement.

1 Q. Oh, in The Class. Where it says The Class, it
2 says, ICO back slash tier-two.

3 A. No.

4 Q. And where it has -- does the 48 hours for CSR
5 begin when the customer -- you know what? These questions are
6 listed for you, but I don't think that's something you can --
7 sorry. Just a second.

8 Do you have any idea why Socket can complete
9 the tasks in this list two days faster than any other LEC
10 listed?

11 A. Than any other CLEC listed?

12 Q. Yes.

13 A. No, I don't. But some of the questions you
14 were asking --

15 Q. Yes.

16 A. -- that -- probably that we would ask at a
17 roundtable with the industry.

18 Q. Okay. I have to read this. Would you
19 consider the fact that customers are signing up for MCC's
20 bundled service knowing the length of time it will take for
21 installation and understanding that they can't get the service
22 from them without that time delay, would that customer's
23 desire constitute any type of good cause, in your opinion?
24 That's worded -- the fact that the customers are signing up
25 for the service knowing how long it's going to take to get the

1 service connected and they're willing to do it anyway and
2 apparently MCC is stating that it cannot offer this service
3 that these customers want without that delay.

4 A. I think it's back to the comment that -- that
5 I stated to Mr. Comley was. I understand that the CSR is
6 giving a date to a customer when they initially call in.
7 What -- with so many variables that I've heard through the
8 testimony that there's some things that could change that
9 date, I'm not sure that the initial date given is the actual
10 date the service is installed.

11 Q. Okay. Do you believe it's appropriate for the
12 Commission to enter a rulemaking to address this issue on an
13 industry-wide basis?

14 A. I have a little trouble hearing. Would you --

15 Q. I'm sorry. Do you think it would be
16 appropriate for the Commission to entertain a rulemaking or
17 initiate a rulemaking to address this issue on an
18 industry-wide basis?

19 A. I think it is an option the Commission has.

20 Q. Do you think it would be appropriate for the
21 Commission to grant an interim waiver for a set period of time
22 to the company to allow such a rulemaking to be conducted?

23 A. No, I do not.

24 Q. Do you have any reasons for believing that,
25 not -- I mean --

1 A. We've heard a lot today about porting of
2 numbers and those causing delays. Through testimony and from
3 DRs they've told us that there's a very high percentage that
4 are not ported numbers that they install service to.

5 If the rulemaking was to take place and for
6 some reason there -- we -- adjustment to that standard was to
7 change that parameter of rating quality of service, it still
8 does not eliminate the fact that they would not meet the
9 objectives for those that was non-porting.

10 Q. Presuming the Commission only looked at
11 altering the ported portion?

12 A. If they only looked at the ported portion and
13 it was made adjustment for some reason with the porting, then
14 MCC would still not meet the objective of quality of standard
15 for this area.

16 Q. And do you consider it to be a valid issue
17 that some companies such as MCC that actually have to have a
18 physical contact at a set time with the homeowner --

19 A. Are you asking me if I think that is unique
20 that they do that?

21 Q. No. I'm sure there are other companies that
22 do that. Do you think -- do these other companies -- are you
23 aware of other companies that do have --

24 A. I think you have to take a look at the aspect.
25 If I'm a facility-based provider and I am installing service

1 into a home for the very first time, I am going to make a
2 premise visit.

3 Q. A new construction?

4 A. That's possibly correct. Most cases it may
5 be -- and it may have to extend cable to that, they may have
6 to place buried service wire, they may have to put a network
7 interface in, all those things of that nature. It would
8 require a premise visit.

9 Q. Do those services require an inside premise
10 visit or are those services generally connected, assuming it's
11 not new construction, from the outside of the home?

12 A. I think it would depend on the order that was
13 issued by the company and what service they accepted from the
14 company. If they wanted a company to maintain the inside
15 wire, I'm sure that those companies will try that. I'm sure
16 that if a company wanted -- a customer wanted a company to
17 install the inside wiring, they would do that for a fee and
18 take total responsibility, yes.

19 Q. My question is, do you think -- is it the
20 standard -- you may not know, do telephone companies normally
21 have to go inside a residence to hook up service in an
22 existing building or home?

23 A. I think it would depend on the order with the
24 individual customer. Ordinarily, they will place the network
25 interface on the side of the home and advise the customer

1 that -- where he can, if he so chooses to terminate his inside
2 wire, then he is available -- when he does that, he will have
3 service. The same token, if he wants to hire the company to
4 do that, I'm sure that they will.

5 Q. Okay.

6 A. In most cases.

7 Q. Do you know whether most cable hook-ups are on
8 the outside or inside of a home? You may not -- it may not be
9 something you're aware of. Like to hook up a cable service or
10 telephone service through a cable line, are those connections
11 usually outside or inside the home? And you may not know.

12 A. I think you will find that most net-- network
13 interfaces are located on the outside of a home.

14 Q. Okay.

15 A. Most -- the National Electric Code requires
16 both companies, whether their service is provided by copper
17 drop or a coaxial cable, be bonded at the entrance with the
18 power. And what we usually find is that companies find that
19 the best location to put that connection.

20 JUDGE VOSS: Okay. That's all the questions I
21 have.

22 Commissioner Gaw, did you have any additional
23 questions?

24 COMMISSIONER GAW: No.

25 JUDGE VOSS: Is there any recross based on

1 questions from the Bench?

2 MR. COMLEY: I have just a few.

3 RECROSS-EXAMINATION BY MR. COMLEY:

4 Q. Mr. Henderson, when you were talking with
5 Commissioner Gaw about classifications -- I say
6 classifications, I think that was where Commissioner Gaw was
7 going. You would agree with me there are such things as
8 facilities-based basic local carriers; is that correct?

9 A. Please repeat your question to me again.

10 Q. Would you agree with me that there are a breed
11 of basic local carrier known as facilities-based carriers?

12 A. Correct.

13 Q. And there are some carriers, some competitive
14 local exchange companies that don't have facilities; is that
15 correct?

16 A. That is correct.

17 Q. They're resellers in many respects when they
18 don't have facilities; is that correct?

19 A. Correct.

20 Q. Isn't it conceivable that -- let's say this.
21 You could call, say, for instance, MCC, a facilities-based
22 cable telephone provider. Would that be correct?

23 A. Are you saying that MCC is a tele-- a basic
24 local service provider and they provide service via coaxial
25 cable?

1 Q. Right.

2 A. Correct.

3 Q. Well, not coaxial cable but whatever cable
4 they provide. It wouldn't necessarily be that, but a cable
5 telephone provider. Do you have another classification in
6 your mind?

7 A. No.

8 Q. Maybe a better term would be, would you agree
9 with me there are basic local service provider that's in cable
10 telephony? Does that classification make sense to you?

11 A. Are you saying that a basic -- are you saying
12 that we should reclassify? Repeat your question to me.

13 Q. Can you make a distinction for MCC and refer
14 to it as a basic local service company in cable telephony as
15 opposed to other CLECs that don't use cable technology for
16 telephone service?

17 A. Yes.

18 Q. In one of your responses to Judge Voss, you
19 mentioned there was a high percentage of MCC CSRs that are
20 non-ported. Isn't it also true that there is an even higher
21 percentage of MCC's CSRs that are ported?

22 A. If you were asking me that in the DRs that
23 you've provided us that you show more ported numbers than
24 orders that you installed that was less than ported -- or
25 would be less than that; is that correct? You're saying you

1 handle more ported numbers --

2 Q. That's correct.

3 A. -- per service.

4 Well, you know, I find it interesting that you
5 ask that question.

6 Q. I didn't ask you whether it was interesting,
7 sir. Would you agree with me that the percentage of ported
8 numbers that MCC has shown to you is higher?

9 A. Sir, if you'd let me answer the question, I
10 will.

11 Q. The question I've already asked you and that
12 was not --

13 A. No --

14 Q. Your answer was not --

15 A. No --

16 THE COURT REPORTER: I can only get one at a
17 time.

18 BY MR. COMLEY:

19 Q. Please just answer the question.

20 A. No. And I can explain to you why.

21 MR. COMLEY: Your Honor, may I approach
22 Mr. Henderson?

23 JUDGE VOSS: Yes.

24 BY MR. COMLEY:

25 Q. Mr. Henderson, I handed you Exhibit 9-HC. And

1 without telling the numbers on that exhibit, would you tell me
2 which percentage is higher on that exhibit, ported or
3 non-ported?

4 A. The exhibit you provided to me to look at, at
5 this, it is higher.

6 MR. COMLEY: Okay. That's all I wanted to
7 know. Thank you very much. I have no other questions.

8 JUDGE VOSS: Mr. Johnson?

9 MR. JOHNSON: Thank you, your Honor.

10 RE-CROSS-EXAMINATION BY MR. JOHNSON:

11 Q. Mr. Henderson, I want to ask you some
12 questions from the ILEC's perspective about some of the
13 questions you've been asked by Mr. Gaw and Mr. Comley. Is
14 that all right?

15 A. Yes.

16 Q. First of all, would you agree with me that
17 between 1975 and 1996, during the first 20 years or so that
18 this rule was in existence, there was no such thing as a port?

19 A. Yes, I would.

20 Q. We didn't even have to contend with porting
21 until the 1996 act made provisions for there to be local
22 competition; is that correct?

23 A. That is correct to my knowledge.

24 Q. In 2004 when Staff last looked at this piece
25 of the rule -- I understand you looked at other pieces, but

1 just confining our question to this particular piece, if my
2 memory serves me, we had TCG, we had Gabriel, we had NuVox, we
3 had several CLECs that were facility-based CLECs. Did any of
4 them file requests for the five-day period to be extended
5 because of their porting requirements?

6 A. Not to my knowledge.

7 Q. And would you agree with me that in that
8 period of time that culminated in the fall of 2004, there were
9 no VoIP providers providing service over a cable TV system?

10 A. I think there was providers at that period of
11 time that was providing hybrid fiber coaxial telephone
12 service, but to say that VoIP at that time, I'm not -- no.

13 Q. Maybe a better question would have been did
14 you receive any requests from the cable TV affiliates to
15 extend the five-day hook-up requirement?

16 A. No, we have not, to my knowledge.

17 Q. And would you also agree with me that now that
18 we do have porting and local competition, that maybe the rule
19 could be opened up and looked at from the standpoint of
20 whether the porting time frames that we've heard so much
21 about, which could apply to both CLECs as well as ILECs, it
22 might be a valid subject of Commission inquiry whether the
23 rule needs to be changed to accommodate that?

24 A. Yes.

25 Q. And in my view, would you agree with me that

1 another aspect of this particular case is the amount of time
2 that it takes for Mediacom to actually go out to the
3 customer's premise to perform the installation of service?

4 A. Repeat the question, please.

5 Q. That's another factor that's involved in this
6 case besides the porting interval. It's the fact that MCC has
7 to physically go to the customer's premises to hook up
8 service; whereas, today the ILECs and CLECs don't necessarily
9 have to do that.

10 A. Okay.

11 Q. I think Commissioner Gaw was asking you some
12 questions that got to the parity of regulation between CLECs
13 and ILECs from the standpoint of these quality of service
14 rules, and I'd like to follow up on that for a couple of
15 questions, if I might.

16 First of all, would you agree with me it's the
17 ILEC that has the carrier of last resort obligation and if the
18 CLEC stops doing business, the ILEC has to take back the
19 CLEC's customers?

20 A. That is my understanding.

21 Q. They call that the snapback rule, I believe.

22 A. That is my understanding.

23 Q. And as I understand it, when the CLEC gets the
24 standard set of competitive waivers, which includes both
25 statutory waivers as well as waivers of the Commission's

1 rules, when they get that, the ILEC doesn't necessarily get
2 those rules waived, does it?

3 A. That is my understanding.

4 Q. Would you agree with me that there is a
5 cost -- or a higher cost of being able to turn customers on in
6 a shorter time period than there is in turning them on in a
7 longer time period?

8 A. If you are asking me if quality of service
9 costs a company money, yes, it does.

10 Q. Okay. Well, that's where I was going with
11 this. And I could go slice and dice the quality of service
12 rules all up and down because we've talked about bonding,
13 testing your equipment, service intervals, service turn-on
14 intervals, all those sorts of things. They do have a cost to
15 the incumbent to keep having to adhere to those rules. Would
16 you agree with me?

17 A. Yes, I would.

18 Q. And is one of your concerns as a Staffer that
19 if you let one segment of industry not have to abide by those
20 rules -- well, I guess you have two concerns. One, is quality
21 of service to the customer would deteriorate; and second, you
22 might create an uneven or unlevel playing field in terms of
23 cost?

24 A. That's possible.

25 MR. JOHNSON: That's all I have.

1 JUDGE VOSS: Commissioner Gaw -- cough drop,
2 sorry. Commissioner Gaw brought up a point. What schedule
3 did you show the witness that he read the number from? We
4 missed --

5 MR. COMLEY: It was a response to Data
6 Request No. 8 from the Staff. It was Exhibit 9-HC. Correct?

7 JUDGE VOSS: Okay. Are there any other
8 questions from the Bench for this witness?

9 Commissioner Murray?

10 COMMISSIONER MURRAY: I'm sorry. Are we
11 beyond this?

12 JUDGE VOSS: We can come back.

13 COMMISSIONER MURRAY: Sorry.

14 QUESTIONS BY COMMISSIONER MURRAY:

15 Q. I have a couple of questions and I have not
16 been listening so I may repeat something that has been gone
17 over thoroughly and I apologize if that's the case.

18 A. That's quite all right, Commissioner.

19 Q. What is it specifically that Staff is
20 concerned about in being reluctant to grant this waiver, even
21 as a temporary waiver while a rulemaking is considered?

22 A. Commissioner, we talked about that just a
23 minute ago and one concern that Staff has is that the
24 rulemaking may take a look at the porting interval times and
25 may try to adjust those, we don't have to lower the threshold

1 of quality that we want the consumer to -- to have in the
2 state of Missouri --

3 Q. I'm sorry. Let me stop you there because
4 you're saying that the rulemaking might be able to look at the
5 issue without lowering the quality. Now, how would granting
6 this waiver lower quality of service?

7 A. Because the consumer could not expect to get
8 90 percent of the requests installed in 90 -- within five
9 days.

10 Q. But if we're looking at a rulemaking to see if
11 that no longer makes sense, wouldn't that affect all customers
12 then?

13 A. Well, I think the rulemaking -- what we're
14 saying is that our quality standard's a good standard. It
15 provides a guarantees -- or basically provides good service to
16 the consumers of the state of Missouri.

17 Q. So you don't think that we should look at a
18 rulemaking then?

19 A. Well, I think we should, but we should look at
20 it in the aspect that maybe the problem is the porting
21 intervals.

22 Q. Maybe the problem is the porting intervals.
23 All right. Be specific, if you would, because I'm not clear
24 what you mean there.

25 A. We would -- I think we'd like to take a look

1 at it with the industry and get some input in there that maybe
2 if we would change the porting interval time element, it may
3 be able to get it in line where all companies could still have
4 the ability to install service in less than five days.

5 Q. And I realize that porting intervals is only
6 one portion of what is being -- what is the supposed problem
7 here; is that correct? That's only one portion of what the
8 waiver involves?

9 A. That is an issue they brought up, yes.

10 Q. And how could you correct the porting
11 intervals without -- are you saying technologically do
12 something different? Are you saying make something possible
13 to be done more quickly than it is now or make a requirement
14 that the port -- one portion be done more quickly than it is
15 done currently?

16 A. I think all those areas that you touched on
17 would be something we'd have to take a look at.

18 Q. So technologically is that possible?

19 A. Well, we know that if you issue, I think it's
20 a CSR to an E-bonded company, they said they can have it in--
21 information back, if the information match, in a matter of
22 minutes. Of course, not all companies are E-bonded today.

23 Q. I want to ask you a practical question. If a
24 customer calls for service and doesn't like the fact that they
25 might have to wait seven days, for example, what would the

1 customer do?

2 A. I would probably request -- if I was the
3 customer, would probably request a shorter interval from the
4 company.

5 Q. And if the company said no, would you decline
6 service from that company?

7 A. I think there would be other factors that
8 would probably come into play depending on possibility that I
9 wanted some of the service they had, they may be the only
10 provider of those additional services.

11 Q. And do you think there's -- do you think
12 there's a real customer service issue here if the customer is
13 told, you know, I know you'd like it in five, but we really
14 can't do it until seven? I mean, do you think that's a real
15 problem that the government needs to be involved in
16 regulating?

17 A. I feel that a customer that requests service,
18 an essential service that he does not have service, I think
19 the rule is very good that it requires the companies to
20 provide service within -- 90 percent of the time within five
21 days.

22 Q. If the customer is requesting essential
23 service and he does not have essential service now, is that
24 what you said?

25 A. That's exactly right.

1 Q. Okay. So really that's limited to the
2 situation where -- I'm just trying to think out loud here. If
3 the customer needs essential service and doesn't have it, the
4 customer has several places to go. Is that not true?

5 A. That is correct.

6 Q. So it's not really a question of not being
7 able to get essential service if we grant this company a
8 waiver, is it?

9 A. No.

10 Q. And is it true that you wouldn't even consider
11 these telephone service provided by this carrier as being
12 essential service?

13 A. Repeat that question.

14 Q. Well, in that there is a disclosure that 911,
15 for example, may not always work, is this the kind of
16 essential service that you're saying that the customer must
17 have access to?

18 A. If it's the only phone service that I have in
19 my home, I would think it would be essential.

20 Q. But is there an instance -- is there any area
21 in which this would be the only service available to you in
22 Missouri that you can think of?

23 A. No.

24 Q. So granting the waiver, if it's
25 technologically if not impossible at least very difficult for

1 this carrier to meet these five-day requirements, how does
2 that really harm anyone? I'm just trying to understand why
3 this intense opposition. I just --

4 A. I guess if we look back in the comments of
5 1999 when the -- this rule changed, it said -- the question
6 was that -- come before the Commission, they asked, does these
7 rules apply to incumbent local exchange carriers and
8 competitive local exchange carriers. The Commission said,
9 yes, they do. And the rules that we have before us today
10 require that.

11 Q. But you don't think we ought to change those
12 rules; is that correct?

13 A. I think that -- I think we should review some
14 areas of Chapter 32 with the industry and take a look at some
15 of that.

16 Q. If this company were granted a waiver, is
17 there any kind of a competitive argument here?

18 A. I think my phone would -- I think that some
19 people would say that you're -- we are still under the
20 obligation to provide quality of service to meet that
21 objective. That objective costs us money to meet.

22 Q. So is your answer to my question yes?

23 A. Yes.

24 Q. And does it make any sense to cost people
25 money -- cost carriers money to meet that objective? I mean,

1 is it really a good objective? Does it really make any
2 difference whether -- okay.

3 Let me phrase it this way. Doesn't every
4 carrier have the incentive to provide service as quickly as
5 possible in order to capture the customer? Why would a
6 carrier voluntarily drag his feet to provide service to a
7 customer?

8 A. To keep the operating expense lower.

9 Q. Even if it costs him the customer?

10 A. I think that would be a management decision
11 they would have to make.

12 Q. And if it did cost him the customer -- let's
13 say if it did not cost him the customer, then wouldn't that be
14 the customer making that decision? I'd prefer to wait --

15 A. I would think.

16 Q. -- to make this --

17 A. Yes, I'll agree with that.

18 Q. So really what -- mainly what we get down to
19 here is a policy argument of how much we still need to be
20 involved as regulators, I'm assuming?

21 A. I agree.

22 COMMISSIONER MURRAY: All right. Thank you.

23 JUDGE VOSS: Commissioner Gaw, did you have
24 any additional questions for this witness?

25 Commissioner Appling, do you have some

1 questions?

2 QUESTIONS BY COMMISSIONER APPLING:

3 Q. Mr. Henderson, how are you doing? I apologize
4 for not being here today but across the road at the Capitol
5 called today so when they call, they kind of outshadow
6 everything else going on.

7 You know, I read this document with your name
8 on it saying it's your Rebuttal Testimony. What's
9 confidential in this? I read through here, but is it some
10 numbers? I don't need to get into it, but I'm just saying for
11 my own edification, can you answer that without --

12 A. What is high con-- HC in it?

13 Q. HC in this.

14 A. Most of the items in the testimony that has
15 numeric values behind them are HC because they came out of
16 reports that they sent to us that we classified as HC.

17 Q. So you just stamped HC on that?

18 A. Correct.

19 Q. So Staff just stamped HC on that. Okay. I
20 can buy that.

21 Does the 48 hours for CSR begins when the
22 customer agree with MCC for service; if not, when does it
23 begin? We're talking about the 48-hour period here. And then
24 when you're finished there, I want you to tell me in the
25 shortest term that you can why we're here today and this case

1 has been laying around for a long time.

2 Go ahead. Does 48 hours for CSR begins when
3 the customer agree with the MCC for service?

4 A. No.

5 Q. When do it begin?

6 A. I think if we would look at the testimonies, I
7 think that begins when actually Sprint receives and issues the
8 LLC to the losing company.

9 Q. Okay.

10 A. Or the CSR, I guess you asked me. Yes.

11 Q. CSR to MCC?

12 A. So, no, the customer's not on the phone with
13 the customer service rep of MCC. The customer service rep,
14 it's my understanding, takes the information from the customer
15 on a -- in an electronic format and that is transferred onto
16 Sprint.

17 If it -- they do not touch it if it comes in
18 after three o'clock in the afternoon is my understanding. If
19 it comes through sometime during that day, actual time that
20 Sprint starts possibly the next day. Then the first option is
21 to get the information to CSR and from that point in time they
22 got 48 hours.

23 Q. Okay. How long does Sprint take from LSR to
24 port when it receive an LSR? How long does Sprint take? How
25 long does it take? Do you have any idea? I'm just taking

1 this from the testimony here.

2 A. No.

3 Q. Okay. Why can Socket complete the task two
4 business days faster than any other LEC listed? Should three
5 days --

6 A. For the -- faster than the other CLECs?

7 Q. Yes.

8 A. Commissioner, I can't answer that question.

9 Q. Okay. What are we arguing here? Are we
10 arguing five days versus extended time as far as port is
11 concerned? Is that why we're here?

12 A. I think what the real question is -- that we
13 have to weigh, is do we want to lower the bar of quality of
14 service in the state of Missouri.

15 Q. And changing it from five days to seven days
16 would be lowering the bar?

17 A. That is correct.

18 COMMISSIONER APPLING: Okay. Can I just step
19 aside here, Judge, and ask OPC, where do you stand on this,
20 OPC?

21 MR. DANDINO: Commissioner, OPC -- I think we
22 would in a way echo what Mr. Henderson was saying in that we
23 don't want to see an erosion of the quality of service.

24 And there's a question in the application of
25 whether -- not necessarily whether it's five days or seven

1 days, but the request for waiver is completely open-ended.
2 There's no suggestion of what it -- what it should be or, you
3 know, where it applies, how long it applies. It's just
4 overbroad and vague.

5 I think if the Commission wants to look at --
6 look at a temporary waiver or something, perhaps it should be
7 an interim rulemaking where you can extend -- you can extend
8 the time to a specific time, whether it's seven days or eight
9 days.

10 You know, right now five days is what this
11 Commission has decided and I think that has the force and
12 effect of law. Unless there's a compelling reason to waive
13 it, I don't think it should be. And that's what OPC's
14 position is.

15 COMMISSIONER APPLING: Don't get me wrong.
16 I'm not trying to squeeze you or pinch you or push you here
17 this afternoon. I'm just trying to get to the point where
18 when I have to make the decision here in the next few days, a
19 thumb's up or a thumb's down on this, that I have some
20 knowledge enough here to back up my decision. That's why I'm
21 asking these questions here today. And I'm sure you
22 understand that.

23 MR. DANDINO: Oh, certainly, Commissioner.
24 And that's one reason why that even though we're opposed to a
25 waiver and that, we understand that perhaps if the Commission

1 wants to re-evaluate the rule or look at it a -- look at any
2 variations to it or relax it in some way, we're not in favor
3 of relaxing it, but make it based on technology, let's not
4 just make an open-ended waiver.

5 COMMISSIONER APPLING: I'm not at a point
6 where I'm making a decision either way. I'm trying to
7 understand where we're at. And once I understand, I have no
8 problems with making a decision on which way we should go on
9 this. Okay? But I'm trying to get to that point of where I
10 can make a decision on it. Thank you very much for your time,
11 Mr. Henderson. Appreciate it.

12 THE WITNESS: Thank you, Commissioner.

13 JUDGE VOSS: Commissioner Gaw, did you have
14 additional questions?

15 COMMISSIONER GAW: No.

16 JUDGE VOSS: I actually have a question for
17 Mr. Dandino after -- because Public Counsel doesn't have a
18 witness here and I think you heard me asking Mr. Henderson
19 some questions about differences in installation potentially
20 between onsite with the cable company. Would Public Counsel
21 be opposed to a temporary waiver pending a rulemaking?

22 MR. DANDINO: I would like to more see interim
23 rule which would apply to all companies rather than just a
24 waiver -- a temporary waiver for this company in terms of if
25 that's a direction the Commission wants to go to re-examine

1 it, once again, still, you know, like that there should be a
2 ceiling, a basic -- a baseline of protection for the consumer
3 though.

4 JUDGE VOSS: Thank you. Are there any more
5 recross based on questions from the Bench?

6 Redirect, Mr. Haas?

7 REDIRECT EXAMINATION BY MR. HAAS:

8 Q. Mr. Henderson, if the Commission decides to
9 grant a temporary waiver to MCC, would you expect other LECs
10 to also request that temporary waiver?

11 A. Yes, I do.

12 Q. If the Commission grants a permanent waiver to
13 MCC, would you expect other CLEC -- pardon me, other LECs to
14 also seek that permanent waiver?

15 A. Yes, I do.

16 MR. HAAS: Those are all my questions. Thank
17 you.

18 JUDGE VOSS: Are there any other questions
19 from the Commission? Then the witness is excused.

20 We will take a five-minute break to discuss
21 briefing and then I'll come on the record and go over briefing
22 schedule.

23 (Off the record.)

24 JUDGE VOSS: Okay. We'll go back on the
25 record to address briefing scheduling. The transcript is

1 anticipated to be in within two weeks. Thirty days from the
2 date the transcript is filed, whatever that date may be, will
3 be the due date for the initial briefs with reply briefs due
4 two weeks following.

5 MR. SCHIFMAN: Judge, is that 14 days or is
6 that -- is that how you want to do it, 14 days after the
7 initial brief?

8 JUDGE VOSS: Fourteen days.

9 MR. JOHNSON: Working days?

10 JUDGE VOSS: Two weeks. If the transcript is
11 filed on a Friday, the briefs will be due -- or if the initial
12 briefs are due on a Friday, two Fridays from then will be the
13 reply briefs due.

14 Are there any other issues we need to address
15 before we go off the record?

16 Hearing none, this concludes the hearing.

17 WHEREUPON, the hearing was concluded.

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