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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

September 4, 1998
Jefferson City, Missouri
Volume 2

In the matter of AT&T)
Communications of the Southwest,)
Inc.'s Petition for Second)
Compulsory Arbitration Pursuant)
to Section 252(b) of the) Case No. TO-98-115
Telecommunications Act of 1996)
to Establish an Interconnection)
Agreement with Southwestern Bell)
Telephone Company.)

AMY E. RANDLES, Presiding,
REGULATORY LAW JUDGE.
SHEILA LUMPE, Chair
ROBERT G. SCHEMENAUER,
COMMISSIONERS.

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR
ASSOCIATED COURT REPORTERS, INC.

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11 FOR: Southwestern Bell Telephone Company.

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15 FOR: Office of the Public Counsel
16 and the Public.

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

2 JUDGE RANGLES: Let's go on the record now
3 and take entries of appearance. First AT&T.

4 MR. DeFORD: Thank you, your Honor. Paul S.
5 DeFord with the law firm of Lathrop & Gage, 2345 Grand
6 Boulevard, Kansas City, Missouri 64108, appearing on
7 behalf of AT&T Communications of the Southwest,
8 Incorporated.

9 JUDGE RANGLES: Thank you. Southwestern
10 Bell?

11 MS. SWALLER: Katherine Swaller and Mr. Paul
12 Lane here on behalf of Southwestern Bell Telephone,
13 One Bell Center, Suite 3500, St. Louis, Missouri
14 63101.

15 JUDGE RANGLES: And Office of the Public
16 Counsel?

17 MR. DANDINO: Michael Dandino, Office of the
18 Public Counsel, Post Office Box 7800, Jefferson City,
19 Missouri 65102, representing the Office of the Public
20 Counsel and the Public.

21 JUDGE RANGLES: Thank you. We're here in
22 the matter of AT&T Communications of the Southwest,
23 Inc.'s Petition for Second Compulsory Arbitration
24 Pursuant to Section 252(b) of the Telecommunications
25 Act of 1996 to Establish an Interconnection Agreement

1 with Southwestern Bell Telephone Company.

2 This is Case No. TO-98-115. AT&T,
3 Southwestern Bell and the Office of the Public Counsel
4 are all present. I don't believe anybody else is
5 expected today, any more witnesses or anything like
6 that. Okay. So that should be it.

7 This is how we're going to proceed. First
8 I'll take up the preliminary matters that you would
9 like to take up and then go get the Commissioners, and
10 then each of the parties will have an opportunity to
11 make an opening statement. We'll start with AT&T,
12 then Bell and the Office of the Public Counsel.

13 At the conclusion of your opening statement,
14 please identify each witness that you have here today
15 who is to be sworn. The witnesses will be sworn as a
16 group. And when you're introducing them, spell each
17 of their names, or the witness can do so themselves if
18 you're unsure of spellings. And so after that we will
19 swear all of the witnesses for the panel, and then
20 we'll have questions from the Bench.

21 For each question, first AT&T, your witness
22 or witnesses will have an opportunity to answer. Then
23 Southwestern Bell, your witness or witnesses will have
24 an opportunity to answer, and then, if necessary, we
25 can go back and forth a little bit.

1 I would like to limit that to one additional
2 statement from AT&T's witness or witnesses and one
3 additional statement from Bell's witness or witnesses.
4 I'll consider further responses if it appears that
5 it's going to be truthful. If I hear repetition, I'll
6 cut it off.

7 And Office of the Public Counsel, since you
8 don't have a witness present, you aren't going to have
9 any witnesses there to answer questions. So I guess
10 if we get into some legal issues and you would like to
11 stand up and make a legal comment on that, I'll let
12 you do that.

13 MR. DANDINO: I don't anticipate making any
14 comments or participating even in an opening
15 statement. I'm more as an observer and monitor the
16 process.

17 JUDGE RANGLES: You're here to keep everyone
18 honest.

19 MR. DANDINO: You said it.

20 JUDGE RANGLES: Well, I'm not going to put
21 words in your mouth.

22 Let's see here. Witnesses have really
23 identified their areas of expertise, so I don't think
24 we need to have you go through and do that initially
25 again. But since there are so many witnesses here for

1 Bell, I mean, I assume the attorneys can kind of
2 assist in designating what witnesses you want to
3 answer each question.

4 MS. SWALLER: Yes, we can do that.

5 JUDGE RANGLES: Okay. Are there any
6 questions about this procedure that we're going to
7 follow?

8 Okay. At this time we will take up the
9 preliminary matters. Let's see. For AT&T I have down
10 that Ms. Crombie is going to be appearing, and this
11 was in lieu of Mr. Rhinehart?

12 MR. DeFORD: That's correct.

13 JUDGE RANGLES: Okay. And you wanted her, I
14 presume, to give some direct testimony about her
15 background?

16 MR. DeFORD: Yes. We have prepared direct
17 testimony, which is nothing more than a statement of
18 what her qualifications are.

19 JUDGE RANGLES: Okay. Are there going to be
20 any objections to that, do you anticipate?

21 MS. SWALLER: I haven't seen it, but
22 generally on qualifications, you know, they are what
23 they are. I don't expect that there would be. I
24 would like to take a quick look at it.

25 JUDGE RANGLES: Why don't we do this. After

1 the opening statements are over, you'll have an
2 opportunity to look at that before the opening
3 statements. Then after the opening statements are
4 over, before we start with questions from the Bench
5 we'll handle her direct.

6 MR. DeFORD: That will be fine.

7 JUDGE RANGLES: And we can do the same with
8 any corrections to the testimony for both sides at
9 that point in time, which will sort of be the normal
10 order.

11 Okay. Bell, on your Motion to Strike, why
12 don't you just stand up and restate that? I've got it
13 in writing, but since Mr. DeFord didn't have a copy of
14 it --

15 MS. SWALLER: It's fairly detailed, so I'll
16 give you the general scope of it. I understand
17 Mr. DeFord didn't receive a copy. I apologize for
18 that, and would request that it be taken under
19 submission and kind of kept in the back of our minds
20 as we go through the proceeding today because I am
21 sensitive to his inability to respond effectively if
22 he hasn't had a chance to read it yet.

23 But the substance of our Motion to Strike
24 with regard to Mr. Rhinehart's testimony goes to
25 issues related to the scope of the case. We read the

1 Commission's Order of December 23rd, 1997 to
2 specifically say Staff's second report will take all
3 of the same global modifications that were used in the
4 first report, and those issues are on appeal now.

5 We did not seek to retry those issues in the
6 affidavits that were filed in this case. AT&T has
7 raised some of those issues again. Part of that goes
8 to frankly the procedure we have here where everybody
9 files at the same time and it's kind of hard to figure
10 out exactly what the scope is. We think AT&T has
11 misinterpreted it, has put us at a disadvantage
12 because we haven't been able to respond to those
13 issues. So that's one aspect of the Motion to Strike.

14 Another aspect of the Motion to Strike goes
15 to Mr. Flappan's testimony, two parts of it. The
16 first part that concerns us is that Mr. Flappan for
17 the first time in Missouri is testifying on OSS
18 issues.

19 There's nothing in his qualifications to
20 suggest that he has ever been involved in any of the
21 steps, business office, billing, provisioning, those
22 sort of things that make up the OSSs, and we don't
23 believe he has the qualifications to support that
24 aspect of his testimony.

25 We're also concerned about the attachments

1 to his testimony, the schedules. Attached to his
2 testimony he has schedules that show testimony of
3 Southwestern Bell witnesses in other jurisdictions, in
4 other cases. We think they're clearly irrelevant to
5 the case that is before this Commission.

6 We also think that he flat-out doesn't have
7 the qualifications to sponsor that. He hasn't laid a
8 foundation. They should not be brought into evidence
9 through that witness. It could be possible that that
10 sort of issue can be raised in Briefs. That's the
11 normal way you would do something like that. We don't
12 think it's evidence. We don't think it should go into
13 those pieces of testimony.

14 There's also Orders attached to his
15 testimony. Those Orders are records in other
16 jurisdictions. They should not be sponsored by a
17 witness. We think that those should be struck as
18 well.

19 So that is the substance of our Motion to
20 Strike. Again, we would ask that the Commission keep
21 that in their mind as we go through the record today,
22 but also that it be taken under submission and be
23 ruled upon at the time of the case.

24 JUDGE RANGLES: Okay. But while I have you
25 here, I'd like to clarify. I understood your motion

1 to have an alternative request for an opportunity to
2 respond.

3 MS. SWALLER: Yes, your Honor.

4 JUDGE RANGLES: What form of response did
5 you want? Were you wanting testimony today? Were you
6 wanting late-filed testimony? Just to address it in
7 the Briefs, what did you want as any alternative?

8 MS. SWALLER: In our view the only fair way
9 to respond would be in a written format so that we
10 could respond in detail and it be given the same
11 weight and consideration as the prefiled document that
12 AT&T prepared.

13 If the -- if, your Honor, you've thought
14 about that process or the Commissioners have some
15 opinion on it and want to simply ask, we still think
16 we need to file something in writing, but we've got
17 people here that can answer those questions, a couple
18 of people who if we'd known those were issues would
19 have filed testimony.

20 We have Beth Lawson here who deals with some
21 of the OSS issues that are addressed in Mr. Flappan's
22 testimony with regard to flow through. We have
23 Barbara Lammert here today. She is an expert in
24 factors in cost studies. And if the Commission or
25 your Honor, you have questions about that, we have the

1 right people here, and they are the people that we
2 would use if we had the opportunity to supplement the
3 record.

4 JUDGE RANGLES: I caught Barbara Lammert's
5 name, but what was the first witness' name?

6 MS. SWALLER: Beth Lawson. Also we would
7 anticipate that Mr. Bailey would be filing -- or
8 Joanne Lammert, I'm sorry, not Barbara. We do have a
9 couple of Barbaras here.

10 JUDGE RANGLES: I was going to say, that
11 makes three.

12 MS. SWALLER: Mr. Bailey would also be
13 addressing the testimony attached to Mr. Flappan's
14 testimony of Dr. Lehman that we used in Kansas. It's
15 an economics discussion. Mr. Bailey has a master's in
16 economics, and he would be the one that would address
17 those issues if we had the opportunity to supplement
18 the record.

19 JUDGE RANGLES: Thank you. Do you have a
20 response, AT&T, at this time?

21 MR. DeFORD: Yeah, briefly, your Honor.
22 First, I'd like to thank Southwestern Bell, and I
23 appreciate the offer or the suggestion that this
24 motion be taken under advisement, and I would request
25 that we be given an opportunity to respond to the

1 motion in writing.

2 Just very briefly, I think, touching on the
3 three major points, I think we believe that we have
4 correctly interpreted the Commission's Orders and that
5 we have properly stayed within the scope of what the
6 Commission contemplated at least in this phase of the
7 proceeding.

8 I guess secondly, we believe that our
9 witnesses, in particular Mr. Flappan, are well
10 qualified to address the issues. I don't believe we
11 would have selected Mr. Flappan to address this had he
12 not had sufficient experience to address OSS issues,
13 and I believe he has, in fact, examined those issues
14 and addressed them in other jurisdictions.

15 And I think finally, the last objection I
16 believe was to the relevance of certain of the
17 schedules attached to Mr. Flappan's testimony, and I
18 think we would much prefer to address that actually in
19 our written response.

20 JUDGE RANGLES: Let me ask this question.
21 If the Commission does take the Motion to Strike with
22 the case and gives AT&T an opportunity to file a
23 written response, I guess, you know, when the
24 Commission rules on that motion, if the motion were
25 granted, then presumably at that point there would be

1 some opportunity for response in the form of
2 testimony, written testimony being filed.

3 AT&T, what are your -- what's your view on
4 allowing some of the Bell witnesses who are here today
5 to respond to the Commission's questions in addition
6 to those who filed the affidavits?

7 MR. DeFORD: Your Honor, obviously I would
8 think that, you know, the Commission is perfectly free
9 to ask whatever questions they want, and I believe
10 that if Southwestern Bell has the appropriate
11 witnesses here and it is the proper subject of the
12 testimony that they have on file, we have no objection
13 to them making a response.

14 However, if it turns into a supplemental
15 direct case where it's obviously something that is
16 well beyond the scope of what at least we had
17 contemplated and what was filed in the Southwestern
18 Bell affidavits, we then, I guess, would be in a
19 position of asking for an opportunity to respond in
20 writing as well.

21 JUDGE RANGLES: Okay. I'll let you respond
22 to that, but I also want to ask you the question of
23 what your thoughts are on allowing Mr. Flappan to
24 state some of his expertise on the record today?

25 MS. SWALLER: Your Honor, I mean, it's okay.

1 The problem has more to do with procedure than
2 anything else. I can't cross-examine him, and it will
3 be the first time that I've ever heard it. I can't
4 test it to see whether those qualifications seem
5 appropriate. Okay, you say you've done this. Well,
6 what about that? I don't get an opportunity to do
7 that.

8 So that can be put in the record. It still
9 will not satisfy our concerns about the
10 qualifications.

11 I'd also like to -- we've talked about, you
12 know, submit the motion with the case. That's going
13 to require both parties to brief issues that at least
14 we believe are not part of the case.

15 It might be that sort of an interim or
16 compromised solution would be for that motion to be
17 ruled upon within a week or two after the hearing
18 before the parties have gotten in earnest in their
19 Brief preparation so that we'll be briefing the same
20 case. I think that will be most helpful to reaching a
21 decision.

22 JUDGE RANGLES: Okay. Thank you. Office of
23 the Public Counsel, I didn't ask you if you have any
24 response on this motion you'd like to share with us?

25 MR. DANDINO: No, your Honor, I don't.

1 Thank you.

2 JUDGE RANGLES: All right. Then on the
3 Motion to Strike, I will not rule on that today. That
4 will be taken up after today's hearing. And AT&T will
5 have an opportunity to respond in writing to the
6 Motion to Strike.

7 If you're wanting to include any testimony
8 about Mr. Flappan's qualifications that weren't
9 included in his original testimony, I think that is a
10 good time to do that before the motion is actually
11 ruled on.

12 And we'll just use the usual time frame of
13 ten days from the date it was filed, and if you're
14 going to have further responses, you'll have time
15 after that. So I think that procedure will work best.
16 And then after the responses are in, the Commission
17 will rule on the motion.

18 The other matter that I had for Bell was you
19 wanted to discuss handling of affidavits. Have you
20 brought a sufficient number of copies to make those
21 exhibits?

22 MS. SWALLER: Yes, we have, if that's your
23 preference of how to handle this. We've brought the
24 14 and all that.

25 JUDGE RANGLES: And AT&T?

1 MR. DeFORD: Yes, we have.

2 JUDGE RANGLES: Why don't we go off the
3 record now and premark those exhibits?

4 (Discussion off the record.)

5 (EXHIBIT NOS. 1 THROUGH 14 WERE MARKED FOR
6 IDENTIFICATION.)

7 JUDGE RANGLES: We're back on the record,
8 and at this time we'll take opening statements. AT&T?

9 MR. DeFORD: Thank you, your Honor. We'd
10 actually taken the Commission quite literally in its
11 Order when it said the purpose of this proceeding
12 would be solely to have questions from the Bench for
13 the witnesses. So we didn't do anything very
14 elaborate for an opening statement.

15 I guess we'd just like to say that we
16 believe the arbitration advisory staff did a
17 commendable job with a rather huge task it was faced
18 with, and would suggest that with only the minor but
19 very important exceptions that we've pointed out in
20 the prepared testimony of Mr. Rhinehart, which will be
21 adopted by Ms. Crombie, and Mr. Flappan, we urge the
22 Commission to accept the recommendation of the
23 advisory staff.

24 I think at this point I would introduce --
25 this is Ms. Denise Crombie, who as I said will be

1 adopting the testimony that was filed by Dan
2 Rhinehart, and Bob Flappan, who I think most of you
3 already know from earlier phases of this proceeding.

4 JUDGE RANGLES: Okay. And I guess the court
5 reporter needs to have their names spelled.

6 MS. CROMBIE: Denise Crombie, C-r-o-m-b-i-e.

7 MR. FLAPPAN: Flappan, F-l-a-p-p-a-n.

8 JUDGE RANGLES: Thank you. Southwestern
9 Bell?

10 MS. SWALLER: Yes. My name is Kathy
11 Swaller. It's been almost three years since I've
12 presented a case before this Commission, and there
13 isn't anybody here that was there when I was. So it's
14 nice to meet some new people.

15 I was anticipating that Paul would not use a
16 lot of time, so I'm probably going to use a little
17 more time. No. Southwestern Bell does have a number
18 of remarks that we think will put the case in context.
19 We have quite a number of people here today that we'll
20 introduce to you at the end of this opening statement.

21 It is a bit of a crew. Southwestern Bell
22 does move in big groups, but we brought these people,
23 we felt like it was very important to have just the
24 right person for each issue in the case so that you
25 could have the expert when you're asking your

1 questions. So each of those people are here for that
2 purpose.

3 The purpose of this case is to set permanent
4 nonrecurring rates and in a few cases recurring rates
5 for certain interconnection services and unbundled
6 network elements. The rates at issue are deferred by
7 this Commission on your December 23rd, 1997 Order in
8 the AT&T/Southwestern Bell second round of
9 arbitrations.

10 In order words, your Commission directed its
11 arbitration advisory staff to work with Southwestern
12 Bell and separately with AT&T to develop a
13 recommendation on how to handle the rates for those
14 services. Through that process the AAS produced a
15 Volume 2 Report, and that is the focus of this case
16 and this hearing here today.

17 Before we get into the substance of that
18 report and our concerns with the report, our position
19 on our cost studies, we would like to address
20 procedural issues with regard to this proceeding
21 briefly.

22 The Commission is aware from the pleadings
23 that we filed in this case and from the appeal that we
24 have on file with the Federal Court in Kansas City
25 that we're concerned about a hearing where there is no

1 opportunity for direct and rebuttal testimony, there
2 is no opportunity for cross-examination of the parties
3 and also of the staff who has played a key role in
4 this case.

5 We're concerned because we believe that
6 violates our due process rights under the United
7 States and Missouri constitutions. But we're also
8 concerned that it just doesn't give this Commission
9 the quantity and the quality of information that they
10 need in order to make the proper decision.

11 It also impacts the scope of the case. If
12 each party files a round and then we all get to file
13 another round, we can kind of get in and see, they say
14 the case is about this, we say it's about this, and
15 then in rebuttal we all bring it back together.

16 In this case, we only had one round, and
17 it's created a dilemma. Southwestern Bell in our
18 affidavits, as directed by the Commission, addressed
19 Staff's report. We didn't seek to retry any issues
20 from the second arbitration.

21 AT&T in our view did. They brought up the
22 global modifications that Staff was directed to apply
23 to this second report. We didn't talk about those
24 things. They're already on appeal right now in the
25 Federal Court.

1 And so we would like the opportunity, we
2 requested of Judge Randles to supplement the record.
3 But at a minimum, if you have any concerns about
4 AT&T's discussion of those issues and you have
5 questions for our witnesses on them, we have the right
6 people here today who can talk about those issues.

7 We would also urge the Commission to
8 consider the Motion to Strike that we have that has
9 been submitted.

10 Now, looking at the substantive issues in
11 this case, the primary rates at issue are Southwestern
12 Bell's nonrecurring rates for the provision of
13 unbundled network elements. Staff has recommended
14 that the rates proposed by Southwestern Bell be
15 significantly reduced because Staff felt like it had
16 insufficient information.

17 We have a lot of people here today, and we
18 think we can give whatever additional information is
19 necessary to understand why Southwestern Bell needs to
20 recover all of the costs that are identified in our
21 cost study.

22 The rates were derived from cost studies
23 that were prepared by Barbara Smith and Barry Moore,
24 and they're right here behind me, and they're here to
25 answer any questions you may have about those cost

1 studies.

2 Now, a review of Staff's report and of the
3 affidavit shows that there's dozens of issues, but
4 there's really, in our view, three big issues that
5 impact all of those cost studies and all of the rates
6 here, and they're issues that we're going to focus on
7 in this statement and that we think are the key ones
8 to decide in this case and they're all related.

9 And the first issue is the nature and design
10 of Southwestern Bell's ordering and provisioning
11 processes. The key part of that is our OSS and our
12 computer part of it, but there's people that make
13 those computers work, and there's some things that
14 just aren't done by computers. So that's the first
15 issue.

16 The second issue is the costs that are
17 necessary to perform the ordering and provisioning
18 activities when there isn't mechanization.

19 And the third issue is that when there is
20 mechanization, sometimes computers what they are, it
21 doesn't go through the computer and a manual
22 activity's involved there.

23 So those are the three issues, and that one
24 is what the parties have called fall-out, although I
25 think we all use that term a little bit differently.

1 The Telecommunications Act of 1996 requires
2 Southwestern Bell to provide nondiscriminatory access
3 to our operational support systems as they exist
4 today, not some utopian yet-created system.

5 We think that our OSSs, when you think OSSs,
6 it's easy to assume that you're just talking about a
7 bunch of computers. As I mentioned before, there's a
8 lot of people involved making those computers work,
9 and there's some tasks that just don't flow through
10 that. It isn't an end-to-end mechanized system.

11 As Mr. Vest explained in his affidavit and
12 can illustrate for you today, our OSSs are the best of
13 any regional Bell operating company. They are used by
14 both the company to provision our retail services and
15 by our wholesale competitors to provision services to
16 their customers.

17 That every function necessary to do that
18 ordering and provisioning is not mechanized doesn't
19 mean the OSSs are not good enough. They're good
20 enough for Southwestern Bell and our customers and
21 they're good enough for our competitors. They work
22 very well.

23 What that reflects, the fact that we have
24 some manual and some mechanization, is a balancing.
25 The wise network and financial management, you only

1 mechanize and improve your network when it makes good
2 sense to do so, it's a benefit to your customers and
3 the benefits outweigh the costs, and that's what our
4 network represents.

5 AT&T's witness on OSSs is Robert Flappan.
6 You-all have heard him before on cost issues. You've
7 never seen him before on OSS issues. He's only
8 testified once before on OSS that we're aware of. It
9 was in Kansas in another situation where there was not
10 cross-examination. We don't believe that he has the
11 qualifications to discuss Southwestern Bell's OSSs.
12 That's part of our Motion to Strike.

13 We have Randy Vest here today, 25 years of
14 experience in our OSSs. If you've got any questions
15 about how they work, he is the expert on that issue.

16 Now, our OSSs are not a single computer.
17 It's kind of like an assembly line in a factory.
18 There's lots of different stations that an order has
19 to go through in order to provide a product in the end
20 to the customer. Each of those steps it has to go
21 through could be different for different services. An
22 unbundled loop will look different than a feature on a
23 switch.

24 So there's all kinds of lines on the
25 assembly line, and each order may take a little bit

1 different route. A retail order may take a little bit
2 different route than an unbundled network element. We
3 have each of the people here today that talks about
4 the steps in that assembly line. They are the
5 witnesses that are here behind the bar.

6 As the Act requires that Southwestern Bell
7 provide nondiscriminatory access to operational
8 support system, the issue is not about those systems.
9 The issue is whether or not we're providing AT&T with
10 the same access we have, and we are.

11 Each order that flows through the POP, the
12 ordering and provisioning factory is going to stop at
13 different substations based on the nature of the
14 order. The substations that are involved are the same
15 for AT&T as they are for Southwestern Bell.

16 When a particular step cannot be done on a
17 mechanized basis, that will be true for the
18 Southwestern Bell order in the same way it's true for
19 AT&T. That's parity. That's nondiscriminatory.
20 That's compliance with the Act.

21 Now, you may be thinking here, I thought
22 this case was about rates. What's all this talk about
23 operational support systems? But one of the most
24 significant issues in this case involves the costs
25 associated with the labor to perform a task when it

1 isn't mechanized or the labor required to perform a
2 task in order for it be mechanized somebody has to sit
3 at a computer and type the information in.

4 The time estimates used by Barbara Smith and
5 Barry Moore to prepare their cost studies in this case
6 are accurate. They were prepared by the people that
7 I'm going to introduce to you at the end of this
8 opening statement. Their affidavits describe in
9 meticulous detail the way that they prepared those
10 time evaluations.

11 Southwestern Bell did not invent a new way
12 of doing cost studies and estimating time in order to
13 disadvantage AT&T. We use these exact same time
14 estimates in the cost studies that we prepare for our
15 retail product offerings. Doesn't take any longer
16 time to do those substation steps for AT&T than it
17 does for Southwestern Bell.

18 There's simply no bias in those studies.
19 They are the same time estimates that are in our
20 retail hearings that we've had before the Commission
21 in recent years we've had AT&T and others come in and
22 say, Southwestern Bell, those costs are too low. I
23 can't compete against that on the retail side. They
24 can -- those estimates are good in our retail cases.
25 They're good in this case.

1 A final cross check when you're thinking
2 about those time estimates is AT&T's own estimates for
3 the same substation type activities. Barbara Smith,
4 our cost witness, had the opportunity to review AT&T's
5 what's called talk studies where they have looked at
6 some of the exact tasks that our people performed and
7 prepared time estimates on.

8 AT&T's time estimates validate our time
9 estimates, and in many cases indicate that our
10 employees are able to perform those same tasks even
11 faster.

12 Okay. There's one last third issue, and I'm
13 sorry to be taking so long, but, dadgum, this cost
14 stuff is really complicated. The term fall-out is
15 used by both parties in this case and it's used by
16 Staff, and that word has a different meaning for
17 almost everybody that uses it. But it becomes very,
18 very key because staff has used it sort of as a
19 discount off of our total time estimate. So it's very
20 important to understand the term.

21 It's important to us to explain how we've
22 used the word fall-out because AT&T has provided
23 copies of testimony that Southwestern Bell has used in
24 other jurisdictions where fall-out is used. It's used
25 in a different way than AT&T uses it. So you need to

1 know how Southwestern Bell uses it.

2 Fall-out as used by Southwestern Bell means
3 the functions or the tasks in the ordering and
4 provisioning factory or that, you know, assembly line
5 that are intended to be mechanized but that don't
6 complete on a mechanized basis. That's fall-out. If
7 it was intended to be manual from the beginning,
8 that's not fall-out. It's just that that task is
9 better performed by a person than a computer.

10 For example, you have switched translations
11 or AIN or private line ordering of those services.
12 Those are not done on a mechanized basis. So there's
13 no concept of fall-out there. There's a manual
14 activity involved. There's real time. It means real
15 costs that Southwestern Bell needs to recover.

16 It's also important to know that there is no
17 global fall-out number. You can't take every
18 different substation and simply average all of those
19 numbers and get a valid number. It's like trying to
20 add fractions by adding the numerator and the
21 denominator. You get the wrong answer.

22 There may be a fall-out number associated
23 with each station, but there isn't a global number.
24 There's lots of different services and unbundled
25 elements that flow through that factory.

1 To wrap it up, to bring it to a conclusion,
2 AT&T, the essence of their case is a complaint that
3 it's too expensive to compete in the local market.
4 Southwestern Bell knows how much it costs to provide
5 good local service because we do it every day.

6 ACSI and Brooks Fiber know what it is to
7 compete in the local market for business customers.
8 They do it every day. They've been doing it for a
9 year. And the unbundled network prices that are in
10 their contract are higher than the prices determined
11 by this Commission in the arbitration because those
12 contracts were negotiated before that arbitration was
13 complete.

14 If AT&T wants to get into the local market,
15 they can use the networks that they purchased from TCI
16 and TCG for billions of dollars. They can use our
17 system. It's a good system.

18 But to ignore Southwestern Bell's real costs
19 to help AT&T get into the local market is wrong, and
20 it will not guarantee that they will come. They will
21 come to the local market when we get into their market
22 because then it won't be too expensive to be here in
23 their judgment.

24 Now, I want to introduce the people that we
25 have here today who will be happy to answer any

1 questions that you have. I'm going to say their name,
2 tell you their general area of expertise, and I'm
3 going to let them spell their name so we get it right
4 on the record.

5 We have Bill Bailey here. Bill Bailey is
6 sort of a general policy witness. He's our local
7 regulatory person in Missouri. You guys know Bill
8 real well.

9 MR. BAILEY: B-a-i-l-e-y. It's William by
10 the way.

11 MS. SWALLER: We have Barbara Smith here.
12 Barbara Smith prepared a number of the cost studies in
13 this case. I can spell Smith. And then we have Barry
14 Moore here today. He's also prepared cost studies.

15 MR. MOORE: B-a-r-r-y M-o-o-r-e.

16 MS. SWALLER: We have James Hearst. He is a
17 network expert. He talks very specifically about the
18 cross connect study that Mr. Moore prepared.

19 MR. HEARST: Hearst, H-e-a-r-s-t.

20 MS. SWALLER: And sitting next to him we
21 have Leonard Ellis, and Mr. Ellis is knowledgeable
22 about our TIRKS system. And would you spell your
23 name.

24 MR. ELLIS: E-l-l-i-s.

25 MS. SWALLER: Okay. Next to Mr. Ellis we

1 have Sharon Sadlon. Sharon Sadlon is an expert in our
2 Nortel switches and the time estimates that are
3 involved in the activities surrounding that.

4 MS. SADLON: S-a-d-l-o-n.

5 MS. SWALLER: Michael Michalczyk. I
6 couldn't spell his name for you if I had to, but he is
7 an expert in our installation and maintenance inputs
8 into those cost studies.

9 MR. MICHALCZYK: Michalczyk is spelled
10 M-i-c-h-a-l-c-z-y-k.

11 MS. SWALLER: Next to Mr. Michalczyk is
12 Randall Vest, and Randall Vest is an OSS expert. He
13 is involved in the design and operation of all of our
14 OSS systems.

15 MR. VEST: That's Vest, V-e-s-t.

16 MS. SWALLER: And then starting on this end
17 we have Barbara Lammert.

18 MS. LAMMERT: JoAnne Lammert.

19 MS. SWALLER: I'm sorry. JoAnne. Second
20 time today. That's JoAnne Lammert. JoAnne Lammert is
21 knowledgeable about the factors which were an issue in
22 the second arbitration that are addressed in the
23 testimony of AT&T. She has not filed an affidavit.
24 It is one of those issues addressed in our Motion to
25 Strike.

1 MS. LAMMERT: JoAnne, J-o capital A-n-n-e,
2 Lammert, L-a-m-m-e-r-t.

3 MS. SWALLER: We have James White. James
4 White does design services for installation and
5 maintenance. He prepared some of the time estimates
6 involved in this case.

7 MR. WHITE: White, W-h-i-t-e.

8 MS. SWALLER: We've got Barbara McCrary
9 Bazzle.

10 MS. MCCRARY-BAZZLE: Bazzle. The last name
11 is spelled M-c-C-r-a-r-y hyphen B-a-z-z-l-e, first
12 name Barbara.

13 MS. SWALLER: I knew there was another
14 Barbara. And then we have Merri Lynn Owens. She is
15 our RCMAC person and did time estimates for the
16 DMS-100 and 5ESS switches.

17 MS. OWENS: It's M-e-r-r-i Owens, O-w-e-n-s.

18 MS. SWALLER: And then we have Beth Lawson
19 here. She did not file an affidavit. Again, it's one
20 of the issues addressed in our Motion to Strike. It
21 has also to do with OSSs, and she's been involved in
22 our flow through and OSS issues primarily related to
23 271 in all of our jurisdictions. She's here if any
24 questions along those lines should come up.

25 MS. LAWSON: It's Lawson, L-a-w-s-o-n.

1 MS. SWALLER: And none of these other people
2 are ours.

3 JUDGE RANGLES: Thank you, Ms. Swaller. I
4 realize you stated earlier you didn't want to make a
5 statement. I'll just ask again so that you're free to
6 change your mind. Did you want to add anything?

7 MR. DANDINO: I have no comments, your
8 Honor. Thank you.

9 JUDGE RANGLES: Thank you, Mr. Dandino.
10 At this point we will swear all of the
11 witnesses. Please all stand and raise your right
12 hands.

13 (Witnesses sworn.)

14 JUDGE RANGLES: Before we start the
15 questions from the Bench, let's handle the exhibits
16 very quickly. I'll group these together. Exhibits 1
17 and 2, I don't know. Why don't you -- I'll let you
18 offer yours, AT&T, and let's take 1 and 2 together and
19 then 3.

20 MR. DeFORD: Sure. Your Honor, I believe
21 the direct testimony of Robert Flappan has been marked
22 for identification as Exhibit 1, and the direct
23 testimony of Daniel Rhinehart which will be adopted by
24 Ms. Crombie has been marked for identification as
25 Exhibit 2.

1 Exhibit 3 is the direct testimony of
2 Ms. Crombie which sets forth her qualifications and I
3 believe indicates that she's adopting the testimony of
4 Mr. Rhinehart. We have a number of typographical
5 errors in Mr. Rhinehart's testimony, I think, that
6 Ms. Crombie can correct.

7 I believe there's at least one and maybe two
8 typographical errors or actually corrections to Mr.
9 Flappan's testimony that he can set forth on the
10 record.

11 JUDGE RANGLES: Well, this is kind of an
12 unusual proceeding. So why don't we just have you
13 each stand up and state what your corrections would be
14 so that the exhibits can be offered, and then we'll do
15 the same with the exhibits, and then we can move
16 forward with questions.

17 MS. CROMBIE: I'm Denise Crombie. I have
18 three changes to Mr. Rhinehart's filed testimony.
19 Starting on page 21, line 19, the word changes should
20 be charges. The second is on page --

21 MR. LANE: I'm sorry. What was that first
22 one again?

23 MS. CROMBIE: It's page 21, line 19, the
24 word changes should be charges. The next is on page
25 30, line 11. It reads "made is a." The word "is"

1 should be struck out.

2 The next is on page 46, line 3. It reads
3 "double counts of costs." The word "of" should be
4 crossed out. Those are my only changes.

5 JUDGE RANGLES: Thank you.

6 MR. FLAPPAN: Bob Flappan with AT&T. I have
7 two changes on page 7 of my direct testimony. On line
8 12, I want to complete the thought there, and that
9 sentence says -- make that sentence read adopt the
10 rates proposed by AT&T or the changes to Southwestern
11 Bell's study proposed by AT&T, period.

12 MS. SWALLER: Could you say that one more
13 time?

14 MR. FLAPPAN: Yes. Add following AT&T or
15 the changes to Southwestern Bell's studies proposed by
16 AT&T. AT&T is really indifferent as to whether you
17 adopt our prices or just the few changes that we
18 propose to Southwestern Bell's studies or the
19 recommendations made by the advisory staff.

20 And the other goes to that same point on the
21 last sentence on line 19, the Commission should adopt
22 the prices, instead of provided by AT&T, suggested by
23 AT&T, since what we're really interested in is the
24 changes that we have proposed as opposed to taking a
25 position that AT&T's rates themselves must be adopted.

1 That's the essence of our position.

2 MR. DeFORD: With that I would move the
3 admission of Exhibits 1, 2 and 3.

4 JUDGE RANGLES: I'll take those as a group.
5 So objections can be made to any one of the three.
6 Are there any objections to Exhibits 1, 2 and 3?

7 MS. SWALLER: Yes, your Honor. We object to
8 those exhibits on two grounds. One, those identified
9 in our Motion to Strike, which affects all of those
10 exhibits. Additionally, we object to the admission of
11 those exhibits without the benefit of
12 cross-examination. That goes to the procedural issue
13 that we're preserving.

14 JUDGE RANGLES: Are there any other
15 objections? Would you like to respond to those
16 objections?

17 MR. DeFORD: Yes, your Honor, briefly. I
18 think we have already established on the record that
19 we'll respond to the Motion to Strike in writing in
20 the normal course of events.

21 With respect to the admission of the
22 evidence or the exhibits without the benefit of
23 cross-examination, I think that the Commission's
24 property recognized before that this proceeding isn't
25 the normal contested case.

1 This is an arbitration, and that we have
2 accepted the type of procedure that the Commission has
3 followed rather consistently throughout the second
4 phase of the arbitration and don't necessarily believe
5 that we need to deviate from that procedure at this
6 stage of the game.

7 So with that, I would again ask that I be
8 permitted to respond to the Motion to Strike in
9 writing.

10 JUDGE RANGLES: Okay. I guess what we'll do
11 on that is the decision of whether to accept those
12 three exhibits into the record will be made in
13 connection with the ruling on the Motion to Strike,
14 then.

15 But, of course, the witnesses are here
16 today, and we're going to have questions on that, but
17 all of that would be subject to the Motion to Strike.
18 If ultimately the direct testimony is stricken, the
19 responses that are related to the same issues would
20 have to be also.

21 MR. DeFORD: Certainly.

22 JUDGE RANGLES: And Bell, do you want to
23 offer your exhibits now?

24 MS. SWALLER: Yes, your Honor. We have
25 Exhibits 4 through 14. They've been previously

1 marked; Bailey Affidavit as Exhibit 4, Ellis Affidavit
2 as Exhibit 5, Hearst Affidavit as 6, McCrary-Bazzle
3 Affidavit as 7, Michalczyk Affidavit as 8, Moore
4 Affidavit as 9, Owens Affidavit as Exhibit 10, Sadlon
5 Affidavit as Exhibit 11, Smith Affidavit as Exhibit
6 12, and there's also a 12HC version, Vest Affidavit as
7 Exhibit 13 and White Affidavit as Exhibit 14.

8 We would move for the admission of those ten
9 exhibits.

10 JUDGE RANGLES: Are there any objections to
11 Exhibits 4, 5, 6, 7, 8, 9, 10, 11, 12, 12HC, 13 or 14?

12 MR. DeFORD: None, your Honor.

13 JUDGE RANGLES: If there are no objections,
14 Exhibits 4 through 14 are received.

15 (EXHIBIT NOS. 4 THROUGH 14 WERE RECEIVED
16 INTO EVIDENCE.)

17 JUDGE RANGLES: Okay. I believe now we're
18 ready for questions from the Bench, and I stated this
19 earlier, but for the benefit of the Commissioners
20 again, following each question, AT&T's witnesses will
21 have an opportunity to answer the question, then
22 Southwestern Bell, and then if AT&T's witnesses wish
23 to respond again they may and then Bell's again one
24 more time.

25 We're going to try to limit it to just two

1 responses from each side for each question. So we'll
2 start with questions from Chair Lumpe.

3 CHAIR LUMPE: If the question is more
4 specific to one or the other, I can direct it to that
5 one. If the other wishes to respond to it, they may.

6 JUDGE RANGLES: Sure. We can do this so
7 that if you specifically want Southwestern Bell, for
8 example, to answer a question, why don't we just
9 reverse the order on that particular question. Bell
10 will answer first and AT&T next.

11 CHAIR LUMPE: That answers my question,
12 then. I want to ask, if I may, Ms. Swaller is it?

13 MS. SWALLER: Yes, your Honor. Swaller.

14 CHAIR LUMPE: Swaller. Okay. If I heard
15 you incorrectly, would you correct me? You mentioned
16 that on some of the items the advisory staff made
17 decisions because it did not have sufficient
18 information, and I think your comment was you have all
19 manner of people here today that can or could have
20 given that information.

21 And my question is, why then did we not have
22 that information prior to today?

23 MS. SWALLER: Your Honor, there really isn't
24 any new information. It's the people involved.
25 During the 14 or 15 weeks that we all spent together

1 with the advisory staff and Southwestern Bell, they
2 talked to our cost people and our cost people
3 explained things to them. Anyone that Staff asked to
4 talk to we were happy to provide.

5 We did not at that time bring into the room
6 each person that prepared a time estimate for each
7 piece of the input to the cost study. That level of
8 discussion was not had. Staff didn't ask for it. We
9 didn't volunteer it. I don't think we realized that
10 it would have helped explain things further.

11 We think at this hearing we've provided
12 these Affidavits. They did have the time estimates
13 themselves available to them. They just did not have
14 the people to say let me explain how I did it. Let me
15 explain why I did it this way.

16 So if we could have done a better job of
17 explaining it to Staff, we wish we had. We're happy
18 to have the opportunity to do that today.

19 CHAIR LUMPE: So what you're telling me is
20 that they don't have any new information today; they
21 have the same information they had before, and that
22 perhaps it still isn't sufficient information?

23 MS. SWALLER: Your Honor, or Commissioner
24 Lumpe, we had -- the same cost estimates are here
25 today as were there before.

1 Staff's specific objection had to do with
2 whether or not we had performed what is called a time
3 and motion study, which is one way of estimating the
4 time involved and, therefore, the cost to input.

5 Rather than perform what is considered to be
6 a technical time and motion study, we had the experts
7 that perform each of those tasks for which the time
8 needed to be measured measure it in looking at the
9 same sort of things that a time and motion study looks
10 at but not do what is technically called a time and
11 motion study by some people.

12 We think it actually is. And so it was kind
13 of a semantical debate on whether it was a time and
14 motion study or not.

15 Our understanding is that Staff's view was
16 I've got AT&T's estimate, I've got Southwestern Bell's
17 estimate. Who's right? The purpose of this hearing
18 is to figure that out, and we have those people here.

19 JUDGE RANGLES: AT&T, did you have a
20 response to that?

21 MR. DeFORD: Yes, briefly, your Honor.

22 I believe that the real spin that should be
23 taken from this is that Staff's recommendation that
24 they had insufficient information was based upon
25 Staff's belief in what they saw as not having been

1 sufficient.

2 I believe that Staff -- I know the Staff
3 gave AT&T an adequate opportunity to provide
4 additional material when the Staff indicated that they
5 found something to be deficient, that Southwestern
6 Bell has more than had the adequate opportunity to
7 present this information such as it is to the advisory
8 staff, and I think that the time for supplementing
9 that has long passed.

10 JUDGE RANGLES: Bell, did you have a
11 response to that?

12 MS. SWALLER: Your Honor, we're not
13 supplementing anything. We have the people present.
14 The purpose of this hearing is for the trier of facts,
15 which is this Commission, not its staff, to determine
16 whether the time estimates are accurate or not. Those
17 people are here. This hearing is for that purpose.

18 Staff could have talked to our people
19 directly had they asked to. We're not suggesting that
20 they should have. But to say I don't have sufficient
21 information and then reach that conclusion, if there
22 wasn't sufficient information we could ask it then or
23 we can ask it now, and we're now at the stage where we
24 need to ask it now.

25 And if the Commission has any concerns about

1 those time estimates, then we want to be able to
2 satisfy those concerns.

3 JUDGE RANGLES: Okay. I need to let AT&T
4 respond one more time.

5 MR. DeFORD: That's fine.

6 JUDGE RANGLES: Okay. Next question.

7 CHAIR LUMPE: It took so long, I forgot my
8 next question. Let me follow that up, I think,
9 somewhat. If both parties provide information and
10 that information is logical and it has information
11 behind it, et cetera, does it not make some sense then
12 in an arbitration proceeding to split the difference
13 or to give some weight instead of picking one or the
14 other?

15 MS. SWALLER: Your Honor, it's definitely
16 the prerogative of this Commission to determine the
17 facts, and in determining the facts I think that it's
18 logical for the Commission to say AT&T's here,
19 Southwestern Bell's here. Why isn't this place the
20 right place to be? And I think we can explain why
21 that is not accurate.

22 I think you're probably better off hearing
23 that answer from someone that actually did the time
24 estimates than me. They're the witnesses. And we've
25 got an array of them here, and I think I'll ask

1 Mr. Michalczyk, if that's okay with your Honor, to go
2 ahead and explain to you why the time estimates, why
3 it's not okay to pick the middle.

4 MR. MICHALCZYK: Your Honor my name is Mike
5 Michalczyk, and I do support installation and
6 maintenance activities. I have done time and motion
7 studies in the past, and I did provide time estimates
8 for the data that was provided to Staff and the
9 Commission in this particular case.

10 The time estimates we did, although they're
11 not organized in a traditional time and motion study,
12 say, that someone like Westinghouse might have done
13 with a stop watch, we went through significant detail
14 to identify the functions or subtasks involved with
15 the whole service or product that we're providing for
16 our customers.

17 Within each subtask we defined the items
18 that were completed within that subtask, ordering,
19 order collection, logging, posting, actually
20 performing the installation work. We clearly define
21 the subtask.

22 We verify that with people that have been on
23 the job for a significant number of years. I myself
24 have 23 years experience with installation and
25 maintenance, and called upon people with similar

1 experiences within installation and maintenance and
2 verified the activity.

3 We took the information, the segment
4 information, formatted it into spread sheets that were
5 again broken down into subtests and asked the people
6 that were actually performing the work, this is real
7 time at work that's being done today, with the people
8 that support the field technicians, the first line
9 managers in the field, to put down the times
10 associated with each one of these subtasks.

11 This time is not made up. This is time
12 that's done by the technicians in the field. It's
13 real and it's live. It's time that we estimated it
14 would take for the work involved with resale and UNEs.
15 It is also the exact same subtasks that are associated
16 with retail, our own retail operations.

17 Again, we -- I believe that the -- even
18 though it was not a traditional time and motion study,
19 it was, in fact, a study of time involved to do the
20 tasks. It's real, it's accurate, and I believe that
21 it definitely defines what the activities were that we
22 had.

23 In the accuracy part of it, I believe that,
24 like Mr. Swaller said, that AT&T actually performs
25 similar tasks in their retail services, and it's my

1 understanding that these tasks may have even taken
2 longer for their employees than ours. I believe that
3 Ms. Smith, Mrs. Smith can verify that information.

4 JUDGE RANGLES: AT&T?

5 MR. DeFORD: I believe Mr. Flappan is the
6 appropriate person.

7 MR. FLAPPAN: Yes, your Honor. Bob Flappan.
8 The time estimates that Southwestern Bell has are not
9 scientifically valid. They're not unbiased. They are
10 not of the quality that the Commission could rely on.
11 And I believe that is the conclusion that the advisory
12 staff reached based on the information that
13 Southwestern Bell has.

14 The information that I've seen, for example,
15 shows for one particular function, order analysis, one
16 of their experts says this function takes three
17 minutes. Whereas, for the exact same function another
18 one of their experts says that function takes 75
19 minutes. That's a variation of 2,500 percent.

20 For install equipment, one of their experts
21 gives a time of 10 minutes. Another one gives a time
22 that it takes of 110 minutes for the exact same
23 function. That's an 1,100 percent difference.

24 For something called a CKL test, one of
25 their experts says, oh, that should take 25 minutes.

1 Another one says that takes 360 minutes, or a 1,440
2 percent difference.

3 The information that they have given, first
4 of all, when asked for what instructions were given to
5 your employees, were they told that these times should
6 represent a forward-looking efficient operation? Not
7 one of their employees said yes. No. All they were
8 asked -- all they asked their employees was something
9 about using the embedded processes that we have today,
10 no changes, how long would this particular function
11 take?

12 I've worked in network operations before.
13 I've been in network engineering. When those kinds of
14 questions come down from management, typically the
15 response is, oh, management's trying to see how much
16 of our time is actually being useful, being used in a
17 useful fashion. We need to respond to fill up the
18 day.

19 If we show them that these orders are only
20 taking us a very short period of time, they'll think
21 we are sitting around most of the day with not much to
22 do and, therefore, they will want to lay us off.

23 I've been in network engineering when that
24 exact situation has happened, and, therefore, the
25 response is expand the time in order to make sure that

1 management knows that we are being very productive for
2 throughout the entire eight-hour day or even overtime
3 if that's what we're working.

4 Southwestern Bell brings up the AT&T task-
5 oriented cost studies. These are studies done in July
6 1989. I think that it is preposterous for
7 Southwestern Bell to compare times that AT&T reported
8 in 1989 with times that should be achievable in an
9 efficient forward-looking environment in 1998 and
10 going forward in a long run.

11 The cost and the prices that should be
12 determined in this case are not what was embedded in
13 the past. They're not Southwestern Bell's historic
14 prices. They are prices, according to the act itself,
15 that are nondiscriminatory, not based on rate of
16 return regulation, and the courts have interpreted
17 that to mean that these should be forward-looking
18 costs.

19 The FCC came up with a terminology TELRIC.
20 This Commission determined in the original arbitration
21 that these should be forward-looking costs and not
22 historical costs.

23 So the time estimates based on how
24 Southwestern Bell did things in a monopoly environment
25 are irrelevant, which is another reason why the times

1 that they provided cannot be relied upon.

2 But I point out this 1989 package because in
3 here are instructions that Bell Labs came up with on
4 the appropriate way to gather time estimates from your
5 employees.

6 None of these instructions were followed by
7 Southwestern Bell in asking their employees how long
8 the studies took. There's nothing scientific about it
9 at all. In fact, in my view, it's so biased that it
10 totally discounts any of the information that
11 Southwestern Bell has provided.

12 So when they compare our times with their
13 times, if you look at what was available in terms of a
14 computer in 1989, and I point this out in my
15 testimony, at that time computers cost about \$3,000.
16 You could get a computer that had four megabytes of
17 RAM, random access memory. You could get a new
18 processor that worked at about 33 megahertz. Today's
19 computers, for about one-third the price you get about
20 100, maybe 200 times the power.

21 That's all these OSS are are hardware and
22 software. Southwestern Bell on a forward-looking
23 efficient basis should have gone miles from what AT&T
24 was able to achieve in 1989.

25 So to that extent, when they bring up what

1 AT&T's times were in 1989 and say that, you know,
2 their times are the same, that shows me that
3 Southwestern Bell has not been implementing new
4 technologies as they should have been. They've been
5 taking their investment and doing other things with it
6 instead of investing in their upgrading the OSS.
7 They've been investing in other markets, other
8 business ventures, that sort of thing.

9 And so the same information was provided in
10 Kansas. The Kansas staff made a determination that
11 they had serious misgivings about Southwestern Bell's
12 cost studies, about Southwestern Bell's times.

13 We just do not believe that that additional
14 information or any clarification that they could
15 provide would answer the right question, which is how
16 much time should it take in a forward-looking
17 efficient environment. And those are the times that
18 AT&T gave to the Staff, the bottoms-up time based on a
19 forward-looking efficient OSS system.

20 Now, having said that, it's AT&T's position
21 in this case that we are not really quibbling with the
22 times that Southwestern Bell has in its studies. What
23 we are saying is that the fall-out factors are the
24 main drivers as well as the labor rates. We think
25 they've miscalculated the labor rates. And

1 Mr. Rhinehart and Ms. Crombie have that information in
2 their testimony.

3 In their fall-out factors they don't
4 represent forward-looking efficient operational
5 support systems that would be in place in a
6 competitive environment.

7 What they are basing their studies on is
8 what they have put in place in a monopoly environment
9 where there's no competition, where they don't have
10 any risk of losing a customer, and that's not what the
11 Act requires. It requires forward-looking costs.

12 The Austin Federal District Court came out
13 with a ruling on August 31st that said that
14 Southwestern Bell's contention where they had appealed
15 the Texas arbitration agreement, said Southwestern
16 Bell's appeals were totally off base and that
17 Southwestern Bell simply must recognize their embedded
18 costs. Otherwise it would be a taking. The
19 commission denied all those claims and said no, the
20 Act requires forward-looking costs. The FCC said it.
21 The other federal courts have said it as well.

22 So it's the fall-out factor and it's the
23 labor rates that need to be adjusted to represent
24 forward-looking costs, and if that happens, the rates
25 will come down to the level that the arbitration

1 advisory staff recommended, but they will come down
2 even more.

3 The arbitration advisory staff has
4 recommended a 5 percent fall-out factor. We think a
5 2 percent fall-out factor is achievable. Southwestern
6 Bell has stated in their 271 applications where they
7 need to establish that OSS on a nondiscriminatory and
8 working according to the requirements of the Act that
9 they achieve a 1 percent fall-out factor for all their
10 retail services. It's a different story when it comes
11 to setting the prices.

12 So AT&T believes that -- the other thing is
13 that Staff has recommended that the prices be cut in
14 half for the complex orders. So Southwestern Bell has
15 told us in their testimony that they have an objective
16 of 64 percent of those complex orders to flow through,
17 and we think a 50 percent -- Staff's recommendation
18 essentially would say 50 percent of the orders should
19 flow through.

20 Well, if their current objective is 64
21 percent, we think they can do much better than that in
22 a competitive environment. Furthermore --

23 JUDGE RANGLES: I'm going to just interrupt
24 for a few seconds to reemphasize that the question
25 was, if the Commission were to split the baby, so to

1 speak, or if the Commission finds logical reasons
2 supporting both, are there any objections to that?

3 And I don't mean to cut you off, but I want
4 to remind you of the topic because there will be many
5 other questions today, too. And we're not -- the goal
6 is not to restate everything that's in your direct but
7 to add to it and clarify.

8 MR. FLAPPAN: I apologize. I was responding
9 to Southwestern Bell's answer as opposed to directly
10 responding to the question. So I think I've probably
11 said enough.

12 JUDGE RANGLES: Okay. And Bell, do you have
13 a response?

14 MS. SWALLER: I'll try to be somewhat brief,
15 but it's hard to respond to the kitchen sink.

16 First, I can say that I'm a little outraged
17 to suggest that we have people doing time estimates
18 that are trying to fill the day. We don't have
19 anybody sitting around at Southwestern Bell. And when
20 they prepare time estimates and they provide cost
21 studies, those time estimates are the exact same time
22 estimates used in our retail cost studies.

23 JUDGE RANGLES: Would you like to have a
24 witness who has been sworn provide evidence on that?

25 MS. SWALLER: Yes, I would like to.

1 JUDGE RANGLES: Okay. Let's do that.

2 MS. SWALLER: And I think we'll spread the
3 opportunity around, and we'll let Mr. -- well, I think
4 I'm going to let Ms. Smith do it because she's the one
5 that takes the inputs on each of these.

6 MS. SMITH: Maybe I can refer back to all of
7 these people, too. There were a lot of points -- I'm
8 sorry. Barbara Smith. There were a lot of points in
9 what Mr. Flappan said. So I'm going to try to address
10 each point individually.

11 First of all, he brought up about our time
12 estimates, that we have one instance where we've got a
13 75 minute time estimate versus some of the other time
14 estimates. Just now looked at the study right here.
15 Out of the nine time estimates, one is 75. The rest
16 are are -- 7 of them are 15. One of them is 30. The
17 average is 15, which reflects what most of the inputs
18 would be in that study.

19 Second of all, I did introduce some AT&T TOC
20 studies which were part of my Affidavit, attached as
21 Attachment 2 and 3. It shows that the AT&T cost time
22 statements that they do for their own internal
23 services are the same as what we do. They validate
24 our study.

25 Now, Mr. Flappan said, oh, well, these time

1 estimates are from 1989. Well, I also had the
2 opportunity to look at another AT&T TOC study which is
3 entitled Birmingham Carrier Service Center,
4 Birmingham, Alabama, which was a 1997 TOC study.
5 That's for DS1 service. While some of the functions
6 have changed, the information what is provided for the
7 time estimates still validates our time estimates.

8 And I need to point out that AT&T considers
9 activities such as reviewing an order, resolving
10 problems, verifying certain installation processing
11 and testing critical functions in the provisioning of
12 services. These are all time estimates that were
13 included in that 1997 study that they say are not
14 needed in the UNE provisioning.

15 Another thing was brought up about the SMEs
16 that provided us our time estimates and whether or not
17 they were given sufficient instructions. All of these
18 people here are members of the product team, which is
19 the team of people that is put together to put
20 together cost studies and to put together filings for
21 UNE services. Cost studies is also a part of that
22 product team.

23 All of these people have a general
24 understanding of what the service is before they go
25 out and get us our information. Let me give you some

1 examples.

2 Mr. White, for example, not only does he
3 base his time estimates on time and motion studies,
4 he's got Bellcore technical documents which tell us
5 how much time we should spend doing a function. He
6 also has personal experience. He's been a field
7 manager before. He's done time and motion studies on
8 a stop watch on people doing cross connects.

9 Ms. Bazzle and Ms. Sadlon are here. They do
10 translations. They have ten years personal experience
11 doing switch translations. They also review vendor
12 documentation from Nortel and Lucent. And
13 furthermore, after they develop these time estimates,
14 they time themselves in a lab actually doing
15 translations before they give us the inputs.

16 Also, Mr. Michalczyk talked about his 23
17 years of personal experience, and he's further
18 validated his time estimates that he has provided to
19 us by doing time and motion studies. I think I'm
20 going to let -- do we want to respond to the fall-out
21 and the --

22 JUDGE RANGLES: There are going to be some
23 specific questions about fall-out. So if you want to
24 save your response on that.

25 MS. SWALLER: We will.

1 JUDGE RANGLES: AT&T, do you have any
2 response?

3 MR. DeFORD: I don't believe so, your Honor,
4 other than to just state that I think Mr. Flappan
5 indicated that we're accepting the time estimates, but
6 we believe that they need to be adjusted by removing
7 some additional expense items. I think we've kind of
8 spent a lot of time on something that maybe we need
9 not have.

10 JUDGE RANGLES: Okay. Next question.

11 MR. FLAPPAN: Can I just clarify that one?
12 We are accepting the time, to the extent that the
13 function needs to be done on fall-out, we accept those
14 times.

15 To the extent that that function such as
16 typing or interfacing with customers, which AT&T will
17 be doing in a forward-looking environment and
18 Southwestern Bell's been ordered to develop OSS that
19 will allow AT&T to handle those functions instead of
20 Southwestern Bell doing those, we say zero out those
21 times when that function should not be performed.

22 To the extent that that function is actually
23 performed, we have not changed anything in their
24 studies when we've actually gone in and reworked their
25 studies in other states that relate to those times,

1 and that has not been a major part of AT&T's
2 restatement of Southwestern Bell's studies.

3 JUDGE RANGLES: Okay. Next question?

4 CHAIR LUMPE: There's been some discussion
5 about TELRIC and using a forward-looking versus the
6 historic. What model did Bell use versus using
7 forward-looking? Did it use a historic model?

8 MS. SWALLER: No, your Honor, we did not.
9 We performed our cost studies in compliance with this
10 Commission's arbitration award in the AT&T case. They
11 were TELRIC studies.

12 Mr. Bailey is prepared to respond to the
13 forward-looking versus the embedded discussion that
14 we've had.

15 MR. BAILEY: If you're talking specifically
16 about Mr. Flappan's testimony where he quotes some
17 testimony given in Kansas of a Southwestern Bell
18 witness, I think this is an example where Mr. Flappan
19 has taken a statement out of context, changed the
20 statement for his purposes, and then tried to describe
21 it as a smoking gun which proves his point.

22 What Mr. Lehman said, or Dr. Lehman said in
23 Kansas was that our studies weren't designed to
24 represent a forward-looking competitive market,
25 perfectly competitive market.

1 And Mr. Flappan says, well, take out
2 perfectly and then because we aren't doing a
3 competitive market, therefore, it violates the federal
4 law, it's contrary to the circuit or federal court
5 decisions, and also contradicts this Commission's
6 order, and it's totally wrong.

7 What our studies are are studies that
8 conform with the FCC TELRIC methodology that was
9 issued in 1996. They conform with the TELRIC
10 methodology this Commission ordered in its first
11 arbitration case and we've been using ever since that
12 time. It is actually very similar to the technology
13 or the methodology that was used since 1978. With one
14 minor exception, it's exactly the same thing.

15 So we don't -- we do conform with the
16 federal act. The federal act doesn't require a
17 competitive circumstance. It says forward-looking.
18 The federal court decisions -- the federal court
19 decision that Mr. Flappan cited said that the
20 appropriate methodology was the TELRIC methodology
21 they used in Texas.

22 That's what we did here. We're not
23 proposing in this case an embedded methodology. I
24 think Mr. Flappan's confusing the circumstances.

25 JUDGE RANGLES: AT&T's response?

1 MR. FLAPPAN: Southwestern Bell put the
2 label TELRIC on their studies, but no commission has
3 found that Southwestern Bell's studies are TELRIC
4 studies.

5 The Texas Commission made very significant
6 reductions to what Southwestern Bell found. This
7 Commission in its recurring decision made very
8 significant changes to what Southwestern Bell's
9 studies represented because they do not represent what
10 would occur in a competitive environment.

11 I have correctly stated Mr. Lehman --
12 Dr. Lehman's and Southwestern Bell's position. They
13 do not agree that the study should represent what
14 occurs in a competitive environment. Mr. Bailey just
15 stated that himself. All he's saying is that what we
16 have on our books today, what we have in place as a
17 result of a hundred years of monopoly service, we will
18 have in our books and in place tomorrow.

19 Well, No. 1, we know that's not true. In
20 Texas the Commission told them you must have OSS that
21 are electronic, that provide electronic flow through
22 of orders, and it doesn't say just for simple orders.
23 It says of all orders. There's no -- there's no
24 exception for complex orders.

25 So we know Southwestern Bell is working

1 right now to implement these systems so that they can
2 get approval to get into the long distance market. So
3 to say that we've got the same systems and same
4 studies in place that we've had since 1978 just
5 illustrates my point because we shouldn't be looking
6 backwards. We should be looking forward to what we're
7 doing now.

8 I've attached articles in my testimony of --
9 from telephony where Southwestern Bell says we spent
10 millions of dollars upgrading our systems, saving
11 millions of dollars, reducing the amount of labor
12 that's required to go into the provision of these OSS.

13 These changes are happening. Southwestern
14 Bell is going to have to get there in order to get
15 what they really want, which is into the long distance
16 market. These changes need to be recognized in these
17 studies.

18 Southwestern Bell's studies do not recognize
19 the forward-looking competitive environment which the
20 courts and the act and the FCC say should be the basis
21 for TELRIC rates.

22 JUDGE RANDLES: Bell?

23 MR. BAILEY: I challenge you to look in the
24 Federal Act and say where -- see where it says
25 competitive market. I challenge you to look in the

1 FCC's Order and say where it says competitive market.

2 The FCC directed companies to do a cost
3 study on what they call a scorch node basis.
4 Basically assume that the locations of switches is the
5 same, build a new network based to serve existing
6 demand on that -- using that scorched node method.
7 Didn't tell us to consider competitive market.

8 What we have done is exactly what the
9 Commission ordered us to do in the first round of this
10 case, and that is, it complies with the FCC. The FCC,
11 the Eighth Circuit found that the FCC didn't have
12 jurisdiction to dictate what type of cost methodology
13 was used.

14 What we had done in the first round of
15 arbitration is exactly what the FCC ordered and what
16 this Commission later found to be appropriate, and it
17 does not consider the competitive environment that
18 Mr. Flappan's talking about.

19 Mr. Flappan said we're using old cost
20 studies, that we're using an old method. That's not
21 what I said. The cost study methodology we're using
22 in Missouri, the TELRIC methodology is very similar to
23 what our Commission, this Commission ordered in 1978
24 and called a LRIC methodology at that time.

25 It's the methodology that's the same. It

1 stood the test of time for all of our retail services
2 for a number of years, and essentially, with the one
3 change in terms of common cost allocator, it's
4 essentially the same cost study we've been doing for a
5 long time.

6 JUDGE RANDLES: Any further response from
7 AT&T?

8 MR. FLAPPAN: Yes. Probably the most
9 renowned economist on this issue of what should the
10 pricing be is Dr. William J. Bommell. An Affidavit
11 that he filed with the FCC stated that, whereas here
12 markets are ineffectively competitive, which is what
13 we have in the local service market, and regulatory
14 oversight is warranted, which is what we have,
15 regulators should set prices that replicate as close
16 as possible the prices that would prevail in
17 competitive markets.

18 I think it's obvious that Southwestern Bell
19 is saying we've had this monopoly environment. If you
20 don't set rates that would represent in the long run,
21 and TELRIC includes the letters LR, long run, and long
22 run means when all sunk costs are changeable. There's
23 nothing that's fixed.

24 In the long run a new company, as Mr. Bailey
25 correctly stated, these should be -- the FCC Order

1 says use the scorch node methodology, which means you
2 can rebuild your network based on the most efficient
3 technology that's out there today, that a competitive
4 new entrant -- and you will find these words in the
5 FCC's Order, that a new entrant would -- the cost of a
6 new entrant would occur.

7 A new entrant's not going to put in
8 inefficient processes. A new entrant, when you talk
9 about new entrants you're talking about a competitive
10 marketplace.

11 Mr. Bailey has stated that Southwestern Bell
12 does not believe that these rates should represent
13 what would take place in a competitive marketplace,
14 and that is the crux of the issue in this case.

15 AT&T's position is that the courts have
16 ruled if you read my testimony, that the FCC has ruled
17 -- it's all contained in there -- that you must
18 replicate rates that would occur in a competitive
19 environment.

20 JUDGE RANGLES: Okay. At this point we'll
21 take a five minute break.

22 (A recess was taken.)

23 JUDGE RANGLES: Did you have any further
24 questions, Chair Lumpe?

25 CHAIR LUMPE: No.

1 JUDGE RANGLES: Commissioner Schemenauer?

2 COMMISSIONER SCHEMENAUER: I'll defer the
3 rest of the questions to you.

4 JUDGE RANGLES: Okay. Thanks. First, has
5 the nonrecurring cost model been approved for use in
6 other jurisdictions and, if so, where? I'll let AT&T
7 start on that one.

8 MR. FLAPPAN: It's my understanding -- I'm
9 not aware of any jurisdictions where the nonrecurring
10 cost model has been adopted as the sole basis for
11 setting a rate, although I think the true value of the
12 nonrecurring cost model is in the principal from a
13 bottoms up standpoint that shows how a study should be
14 done that would comply with the Act and the court
15 decisions that have been made about forward-looking
16 courses.

17 JUDGE RANGLES: Okay. Bell?

18 MS. SMITH: Barb Smith. Our cost study
19 methodologies for the nonrecurring has been the basis
20 for all of our arbitrations in every state. And
21 really the issue here is the inputs to our
22 nonrecurring cost model, which Staff has suggested
23 some specific input changes for fall-out and for some
24 of the time estimates.

25 AT&T's cost model, to my knowledge, has not

1 been accepted in any state.

2 JUDGE RANGLES: Do you need to respond,
3 AT&T?

4 MS. CROMBIE: Denise Crombie. I'd like to
5 respond just briefly that the inputs are an issue in
6 the sense that we do have some concerns about double
7 counting of costs that appear both in recurring and
8 nonrecurring costs, and they end up getting carried
9 through in some of the nonrecurring charges that have
10 been put in the study.

11 So it's more than just a time issue. We
12 have concerns about double counting of costs that
13 would result in double recovery.

14 JUDGE RANGLES: Response, Southwestern Bell?

15 MS. SWALLER: None, your Honor.

16 JUDGE RANGLES: Okay. Why does AT&T believe
17 there's no difference between simple and complex
18 service orders for the treatment of those?

19 MR. FLAPPAN: Well, AT&T doesn't believe
20 there's no difference. We believe that
21 forward-looking efficient OSS could reduce the
22 fall-out in complex studies to the same level that
23 they could be reduced in the simple order.

24 Not that there would be more processes
25 involved, more iterations of the computers, but in

1 terms of having synchronized databases, having clean
2 databases, that would be no different for a complex
3 order than it would be for a simple order.

4 Southwestern Bell should have databases that
5 inventory all their systems, that inventory the
6 location and equipment identifiers of collocators's
7 equipment. So there would be more involved, but
8 there's no reason why these systems shouldn't talk to
9 each other if the work has been done to make sure that
10 the databases are clean and the interfaces in place.

11 JUDGE RANGLES: Okay. Bell?

12 MS. SWALLER: I think we're going to have a
13 two-part answer. We want to respond with Ms. Smith
14 for generally, and then we think it's probably
15 appropriate at this point to let Mr. Vest describe the
16 OSSs a little bit so that we can understand why simple
17 and complex orders do act differently.

18 JUDGE RANGLES: Okay.

19 MS. SMITH: The difference between simple
20 and complex service orders have to do with the type of
21 service that is being ordered. Simple services such
22 as a loop or a port have a very simple flow. When you
23 talk complex, you're talking things like DS1, you're
24 talking complex services like Centrex.

25 And I think Mr. Vest can get up and just

1 give the Commission a general basic overview of what
2 the flow is for OSS, because we're talking about
3 ordering here, but yet there are a lot of downstream
4 OSS systems that are involved, too.

5 And I think we don't want to get confused
6 between ordering and the other downstream assembly
7 line boxes when we start talking about fall-out. So
8 I'll give Mr. Vest the floor here.

9 MR. VEST: Is it okay to approach?

10 JUDGE RANGLES: Yeah. You can come forward.

11 MR. VEST: When you start talking about the
12 process flow and use terms such as simple and complex,
13 and we've already used the terms fall-out and flow
14 through and those type of terms, they can have
15 different meanings depending on in which context
16 they're used.

17 And some of the numbers that are covered in
18 the testimony, the 2 percent, 64 percent, those type
19 of numbers are process measurement, but they have to
20 be understood in terms of what the process is.

21 So I'm going to offer to you, this will just
22 take several minutes, is to quickly sketch out what
23 amounts to a diagram of the processes in a very simple
24 way so we can talk about them, what flow through and
25 simple and complex means in that diagram, I think very

1 simply.

2 As has been suggested earlier, when an order
3 is received, there's a number of functions that have
4 to be made to make that order complete and give
5 satisfactory service. I'm going to demonstrate those
6 functions in this manner.

7 And within each of those functional boxes,
8 we've already heard testimony such as installation
9 would be a typical function, design, translations, a
10 lot of words that are in the testimony respond to
11 those type of functions that are being described.

12 We sometimes can be rather confusing, I'm
13 afraid to say. When we talk about one of these
14 functions, we can sometimes describe the center, such
15 as an RCMAC, which is an organization, doing a
16 function, which is line translations, and using a
17 computer system called MARCH. And sometimes those
18 three things, the center, the organization, the
19 function itself and the computer are kind of inter-
20 mixed together in some of the documentation. It can
21 be very confusing.

22 But to provide an order, when it comes back
23 in from a customer, what happens is that a number of
24 the required functions are basically linked together.
25 The terms simple and complex have varying meanings in

1 different folks' minds. But certainly more
2 functionality, more boxes would be required to do a
3 complex service than a simple. It's almost that
4 degree.

5 I'll use the analogy -- you can think about
6 this if you're not familiar with a lot of these
7 processes -- just like an assembly line as will be in
8 an automobile factory, talking about going from
9 station to station and going through there.

10 However, which assembly line process you
11 require really is a function of what the order is. Is
12 it a simple residential order or is it a more complex
13 highly involved order? It's also somewhat dependent
14 on the action involved.

15 Okay. Let me -- if I can describe the terms
16 flow through and those, I think that may be helpful to
17 you, if you'll allow me to do that. There's at least
18 three or four different versions of numbers being
19 talked about.

20 For one of these functions, as has been
21 described, we have computer systems helping out
22 perform that function. But in a lot of cases we have
23 not found it to be the most cost-efficient manner.
24 The best service cannot be really obtained by trying
25 to force a computer system to do that complete job

1 itself.

2 So an analysis is performed for each one of
3 these functions when the order is received as to
4 whether it can be done totally computer, totally with
5 a computer, or whether there has to be an operator of
6 the computer actually sitting in front of it.

7 If it can be done totally by the computer,
8 we're talking about a link into the computer, value
9 added functions, design assignments, things are made,
10 and then it goes ahead and there has been no human
11 intervention whatsoever. That's not to say if the
12 operator -- almost every one of these functions has a
13 computer operator there.

14 If indeed something goes amiss during the
15 computer operations, it can invoke the operator to
16 come to the aid of the computer itself. This is
17 sometimes called fall-out. It's called a request for
18 assistance in some other documentation.

19 So the very first definition of flow through
20 that appears, and I'll give an example that's already
21 been mentioned of 64 percent objective, that's an
22 objective for this work station alone. How can I get
23 64 percent of the things in here to be processed
24 totally by the computer? So there's one definition.

25 Another easy definition that exists, some

1 people would like to talk about one of these types of
2 orders, very simple residential, new connects. If you
3 go back and add up the flow through rate of all the
4 functions, this is 99 and this is 99 and this is 99,
5 et cetera, then the overall rate, another measurement,
6 would be 94 percent. It is the effect of all of
7 these.

8 A third definition that appears in here is
9 sometimes people like to group a bunch of services
10 together. And a prime example of that -- and look at
11 the combined flow through rates for those. A very
12 prime example of that is the type of resale and
13 residential services that are being measured out there
14 currently.

15 If this first box, a customer contact, is
16 for residential and business retail services and there
17 is an interest in how these orders flow through,
18 because from AT&T and other CLECs they have been given
19 equal access to this computer system and the
20 functionality here, this is the resale equipment.
21 There is already a lot of interest in the fact that
22 how do these two fall-out rates through that group of
23 services that are being resold actually match up?

24 And in the AT&T, Mr. Flappan's testimony, he
25 quotes the Staff has been given numbers that compare

1 the overall flow-through rate end to end of these
2 services as compared to how the services that are sold
3 by AT&T through resale, those numbers are available to
4 the Staff also. So there's another definition of flow
5 through. It's a grouping of services end to end.

6 And finally there's yet a fourth definition
7 of flow-through floating around. There is a break
8 point recognized in the middle of the assembly line,
9 if you would. This is sometimes called ordering
10 versus provisioning. In Mr. Flappan's testimony he
11 talks about the back end of the assembly line as
12 execution.

13 Another set of terminology you may find
14 quite often in the industry, the systems that are used
15 up front here, which are the primary ones used for
16 interfacing with customers, are sometimes called front
17 office systems. The systems involved in actually
18 executing the order, doing provisioning quite often
19 are called back office systems.

20 And the reason that is of interest in flow
21 through is the FCC's definition of flow through for
22 end to end services being very much interested in the
23 front end access has been the focus of attention, that
24 will use what's the overall flow-through only up to
25 the stage of order issuance. And quite a bit of their

1 documentation talks about the flow-through for orders
2 really only picks up the ordering phase.

3 So some of the numbers that are floating
4 around, you have to ask, if we're talking about flow
5 through, is it just for this function or is it for
6 other functions or is it for end to end services?

7 We're talking about a flow for buying
8 components, UNE components in a wholesale mode. That
9 flow would use some similar components but maybe not
10 exactly the same ones. And a lot of the data that's
11 being quoted comes from the similar functions being
12 done here trying to match up. I do this assignment
13 for resale. I know what that assignment is. It's the
14 same thing that's going to be done.

15 Does that help, the analogy help in
16 answering?

17 JUDGE RANGLES: I guess since we're going to
18 have an opportunity for AT&T to respond, I'll take
19 this opportunity to focus on the question, which was
20 the difference between simple and complex. And maybe
21 the witnesses can address, are there certain of those
22 functions you've identified which cause an order to be
23 complex if they are included?

24 In other words, are there just certain
25 functions that whenever they're included then it's a

1 complex one and we know that it's complex, and if
2 they're not there, then we'll know it's simple? So
3 I'll go back to AT&T's witness, Mr. Flappan.

4 MR. FLAPPAN: Southwestern Bell has a
5 definition of what's a complex order versus what's a
6 simple order. And an order -- Southwestern Bell can
7 tell you this. Based on their tariff, an order that
8 involves more than 12 lines is automatically complex.
9 They'll have to give you the exact numbers, but there
10 are criteria that they have that draws this line
11 between what's simple and what's complex.

12 JUDGE RANGLES: Okay. Southwestern Bell?

13 MR. VEST: Yes, Mr. Flappan's right. The
14 numbers are generally five for residential type
15 services, 30 or more for business. And the complexity
16 in those volumes end up being when cut-overs are
17 involved. When the customer's ordering a large volume
18 of services, it generally takes -- they're very
19 interested in a specific cut-over date.

20 But our guidelines are the same. Whether
21 they're for resold, or resale, the definitions for
22 complex and simple, which may be volume oriented, may
23 be how complex they are, certain functions, they're
24 the same for AT&T as they are for internal services.

25 JUDGE RANGLES: Okay. Who will be doing

1 much of the work to complete an order, Southwestern
2 Bell or AT&T, and why? And AT&T can start.

3 MR. FLAPPAN: AT&T is guaranteed under the
4 Act nondiscriminatory access to Southwestern Bell's
5 operational support systems. AT&T will be inputting
6 all the information necessary to complete the order,
7 flow through all the way to the back end billing.
8 That will be input by AT&T's personnel.

9 Now, if the order falls out in the back end
10 of Southwestern Bell's systems, Southwestern Bell's
11 personnel, it's feasible that they will not be
12 providing AT&T the ability to rework orders that have
13 fallen out.

14 And there's a whole bunch of reasons why the
15 fall-out could occur, but primarily it's because
16 Southwestern Bell's databases would not match up,
17 which is not AT&T's fault. That's a decision that
18 Southwestern Bell has made, to not have those
19 databases synchronized.

20 JUDGE RANGLES: Bell?

21 MS. SMITH: If I can use this chart to
22 illustrate, your Honor. The question was, who will be
23 doing most of the work? We have the front end, which
24 is the ordering portion of the order.

25 If the order is mechanized, AT&T will send a

1 mechanized order through the ordering front office
2 portion of the OSS. Then that will flow through to
3 the back office. We would always be doing this,
4 whether or not it was a manual or mechanized order.

5 If that mechanized order falls out for some
6 reason, they input something incorrectly, typed
7 something incorrectly, we then would probably assist
8 with that order to try to get it through. So there
9 would be some manual intervention there.

10 Right now AT&T cannot submit a mechanized
11 order. All the orders that are coming in for UNEs are
12 annual. So in that case it's being faxed to us. All
13 the information is being typed to us by our service
14 reps. In that case, the total front end and the back
15 office is being done by Southwestern Bell.

16 JUDGE RANGLES: AT&T?

17 MR. FLAPPAN: Ms. Smith is correct. Well,
18 AT&T's not, to my knowledge, submitting UNE orders
19 because AT&T really can't enter the market until we
20 have the OSS that will provide us with electronic
21 ordering, so that we can tell a customer when he calls
22 in how long it's going to take before their order's
23 worked, what their phone number's going to be, all
24 these sorts of things.

25 Sending it back to Southwestern Bell would

1 not allow us to provide the level of service to the
2 customers that we needed in order to serve the
3 customers. So Southwestern Bell doesn't have the OSS
4 in place now, nor is AT&T ready at this point to
5 actually hook up with Southwestern Bell to do those
6 electronic orders, and that's one of the main reasons
7 you don't see entry at this point.

8 JUDGE RANGLES: Bell?

9 MS. SWALLER: I think we got to go first and
10 last, didn't we?

11 MS. LAWSON: With regard to UNE ordering,
12 he's talking about AT&T is passing its UNE orders
13 today using the LEC system. That capability is
14 available. We have a lot of CLECs that are utilizing
15 it.

16 The other electronic option that we have for
17 ordering UNES is EDI. This requires the CLEC on their
18 side to develop an interface that they will transmit
19 the orders to us electronically.

20 Part of the situation with UNES is that it's
21 being defined by the ordering and billing form as to
22 define what needs to be on the format to order it
23 electronically, and this is a process that has been
24 going through since UNES were new.

25 All of these have not been defined. Since

1 they have not been defined, there's no industry
2 guidelines on how you can even order them from an
3 industry perspective. So each release that is coming
4 out of OBF is getting more and more UNEs identified in
5 there that they can be electronically ordered.

6 For instance, we just put in the EDI version
7 No. 8, which included additional UNEs because
8 initially it was just a loop and port. So it gets
9 into adding hunting features, directory listings and a
10 little bit more complexity as we move forward. These
11 will continue. We EDI9, EDI10 where additional items
12 are being added.

13 So when you say who will be doing most of
14 the work, initially, if they have not been identified
15 as UNEs, the only option is to manually transmit them
16 to Southwestern Bell so that we can input the order
17 for them unless they want to go directly into the
18 system themselves and input them.

19 JUDGE RANGLES: AT&T, in responding to that,
20 please clarify. Your last response was confusing to
21 me because you brought up the fact that you're not
22 competing now. We all understand that. That's why
23 we're here having an arbitration to sort out the terms
24 under which you want to operate and the costs for
25 those services that Bell would be providing to you.

1 So if you could focus on that point in
2 answering the question. We're here to sort out what's
3 going to happen in the future. So however you see it
4 in the future.

5 MR. FLAPPAN: I see in the future that the
6 development is now taking place which AT&T will have
7 nondiscriminatory access to the OSS. The orders will
8 be placed by AT&T's personnel. AT&T will have the
9 entire interface with the customers. If an order is
10 input and there's something wrong, that will be
11 electronically rejected back to AT&T to fix that order
12 as opposed to going automatically to Southwestern
13 Bell.

14 My anticipation is that there will be a
15 Southwestern Bell help desk AT&T could call, if they
16 chose to, to ask Southwestern Bell some sorts of
17 questions, but that's not going to be something that
18 AT&T will want to do, unless AT&T wants to incur a
19 charge for accessing that help desk.

20 If they want to pay a separate charge for
21 calling Southwestern Bell and asking them for manual
22 intervention, then I think that's something that can
23 be justifiable.

24 But to automatically charge AT&T is not
25 appropriate since those orders should be kicked back

1 electronically and AT&T should be able to re-enter
2 those orders without any intervention by Southwestern
3 Bell.

4 JUDGE RANGLES: Okay. The next question is,
5 in OSS demonstrations, Bell claims that everything is
6 seamless and that once an order is completed service
7 is provided almost instantaneously, assuming there are
8 no facilities that need to be built. Is this the case
9 or not? AT&T?

10 MR. FLAPPAN: All I can tell you is that
11 that is what I've seen in Southwestern Bell's sworn
12 testimony.

13 JUDGE RANGLES: Bell?

14 MR. VEST: Well, I'd like to see the sworn
15 testimony reference perhaps to understand this, but
16 the -- the steps that we are talking about this flow
17 that goes through here, we are talking about
18 complexities of doing this on the back end.

19 There is more volume of work in the back
20 end, and I cannot think of hardly any instances where
21 this is almost totally mechanized with zero percent
22 manual input, with the exception perhaps of PIC code
23 orders which are very simple change of code orders.

24 In Mr. Flappan's testimony he refers to an
25 industry standard document which attempts to describe

1 this flow in GR-27-89. I was part of the team that
2 helped put that together, and I went back and looked
3 since he referenced that as a standard here.

4 If you look at this line here, that document
5 describes this process in terms of 44 steps, and 5 of
6 them appear on this side, 41 over here. So to say
7 that there's absolutely no work in those remaining 41
8 steps is just an almost impossible thing to say, that
9 the computer's going to do that totally.

10 MR. FLAPPAN: Do we get the chance to
11 respond?

12 JUDGE RANGLES: Yes. Go ahead.

13 MR. FLAPPAN: Mr. Vest brings up the
14 Bellcore team and architecture, forward-looking
15 intelligent network elements that have been designed
16 to flow through completely from the ordering side all
17 the way through the back end systems.

18 A new entrant would build these systems as
19 they came into the market. Southwestern Bell systems
20 are the legacy systems that they've had since forever,
21 and they don't represent forward-looking technology.

22 So what should be done in this case is to
23 build the studies based on what a new entrant would
24 design into their network, which is these flow-through
25 systems.

1 Having said that, Southwestern Bell's legacy
2 systems, even if they were made efficient databases
3 synchronized could achieve very similar types of
4 flow-through.

5 JUDGE RANGLES: Bell?

6 MS. SWALLER: First there's a legal answer
7 and then there's a factual answer. The legal answer
8 we need to point out is that the systems that we're
9 looking at under the 8th Circuit Order are exactly
10 what we have today. Yes, we're going to upgrade them
11 every time it makes sense to do it.

12 But to suggest that we have to find a
13 perfect flow-through because that's conceivable in the
14 future is not what the law requires. It requires we
15 look at what we've actually got.

16 Mr. Vest is going to explain what we've
17 actually got and the circumstances under which you
18 really do have that seamless OSS because it does occur
19 sometimes, but not a lot of times.

20 MR. VEST: In response to Mr. Flappan's
21 comments, first of all, let me clarify the statement
22 pertaining to Bellcore is not correct. TNN is a
23 national set of standards through the international
24 and the national standards bodies, the CCIT
25 internationally and ANSI in North America.

1 And those are the source of folks who
2 actually are trying to describe what really needs to
3 occur in telecommunications so that you can end up
4 improving operations to the degree possible to drive
5 some of the costs back out of the business.

6 Again, the discussion is going to be on what
7 percentage -- the debate here seems to be what
8 percentage of things can be processed up to this line?
9 What percent of items can be processed totally without
10 these labor costs that have been identified from this
11 point onwards?

12 Okay. We do not have for the UNEs and the
13 wholesales, even though we're in a trial mode, there
14 is no substantial data yet as to how. So we're trying
15 to estimate. The job would be to estimate what this
16 percentage flow-through can be.

17 But largely, by and large the same systems
18 as they exist today, as Kathy indicates, are what
19 would be used to process on the downstream side.

20 The numbers provided to the Commission in
21 the demonstration of OSS quoted back in Mr. Flappan's
22 testimony basically talk about the results that are
23 being realized in this top line, the resale flow, and
24 these are basically about 4 percent, 4.4 percent
25 fall-out. Better state the other way around. 95.6

1 percent success in this side, and the latest numbers
2 are about 10 percent fall-out post order issuance, an
3 overall rate of around 15 percent for the top line.

4 If indeed this testing, the process here
5 develops the same as normal, one would expect, I
6 think, that it ends up with the same type of flow-
7 through rates for certain services. If they match up
8 resale on the back end side, it's got to be the same
9 systems that we do business with today.

10 This is the same systems we do business with
11 today, and we do continual studies to bring these
12 systems up to date, to drive expense out of our
13 business and get proper service to the customer.

14 JUDGE RANGLES: On the next question, I'm
15 going to start with Bell. Are the articles provided
16 by Mr. Flappan true representations of what Bell is
17 doing in OSS and, if not, what is going to happen?
18 What's the plan there?

19 MS. SWALLER: Okay. The articles attached
20 to Mr. Flappan's testimony, is that what you're
21 talking about?

22 JUDGE RANGLES: Yes.

23 MS. SWALLER: That we're going to save a
24 million dollars and all that sort of stuff. Okay.
25 Randy, could you explain to them how it is that we

1 decide when we're going to upgrade the OSSs and how
2 that works?

3 MR. VEST: We have -- as I said a second
4 ago, this is a fairly simple diagram of a fairly
5 complex process. There are literally dozens and
6 dozens of these work stations that may be involved.

7 Every work station is an organization, and
8 their objectives are to try and process without as
9 much manual intervention as possible. Literally their
10 pay, their performance evaluations are based on how
11 well they get orders through the computers without
12 having to utilize people.

13 So there is tremendous emphasis on achieving
14 more and more efficiency in these areas. As projects
15 are proposedl to say if I bought another million
16 dollars' worth of computers and spent 200 people's
17 time, I could save 30 people, those are the type of
18 studies that go on continually.

19 They're received into a central process in
20 the company, prioritized in a sequence of the most
21 profitable ones, and then the very top projects each
22 and every year are funded and advances are made.

23 JUDGE RANGLES: I'm going to follow up with
24 a question to you, and then we'll do the response to
25 both.

1 When you're plugging in your numbers to do
2 your cost analysis on that, are you using the prices
3 that you're proposing in analyzing, doing the
4 cost/benefit analysis and whether it makes sense to
5 update?

6 In other words, are you -- presumably you're
7 making some money when competitors are coming in and
8 ordering services. You get -- you know, you charge
9 for that every time. I presume those profits are
10 going into your analysis of whether it makes sense
11 today to update your system?

12 MR. VEST: I would respond by saying most of
13 the studies are looking at this on a per-work-station
14 basis. If I upgraded my machinery at this work
15 station, I could get these volumes of orders through.
16 There are forecasts which would include competitive
17 situations that would go into a study. I'm going to
18 handle twice as much work next year or half as much
19 work. That has to be part of the analysis.

20 But there is no attributing back. To this
21 work station, work's work, making assignments is
22 making assignments, whether it came from some service
23 is not profitable, that's not their business. Their
24 business is to make this work station as efficient as
25 possible. They are doing a function.

1 JUDGE RANGLES: AT&T?

2 MR. FLAPPAN: Obviously the more efficient
3 and more -- less costly Southwestern Bell's OSS are
4 for its competitors, the more chance that the
5 competitors have to take business away from
6 Southwestern Bell. And, therefore, it's not in
7 Southwestern Bell's best interests to implement
8 forward-looking efficient OSS.

9 Southwestern Bell, what's in their best
10 interests is to make it as difficult as possible for
11 new entrants, for competitors to be able to take away
12 their customers and try to get 271 relief. Once
13 Southwestern Bell gets 271 relief and is allowed in
14 the interLATA market, there's absolutely no motivation
15 for Southwestern Bell to improve these systems.

16 The only way that Southwestern Bell is going
17 to improve these systems is through regulators telling
18 them they must improve these systems before they are
19 going to be allowed into 271. They will not do it
20 voluntarily.

21 JUDGE RANGLES: Thank you.

22 MS. SWALLER: Your Honor, did we get round
23 two?

24 JUDGE RANGLES: No. You're right. I'm not
25 used to this process. So thank you for reminding me.

1 MR. LANE: Nor are we.

2 JUDGE RANGLES: Go ahead.

3 MS. SMITH: Barb Smith. First of all, I'd
4 like to respond to the last statement that Mr. Flappan
5 made. ACSI and Brooks are inputting orders right now
6 into the system, and it is working for those CLECs.

7 Now, to the other question that you had
8 about whether or not we are considering those changes
9 being made to our OSS in our cost studies, to the
10 extent that they are none when we actually do the time
11 estimates, and I believe Ms. Bazzle and Ms. Sadlon
12 incorporated some mechanization of the translations
13 within the cost studies, we do include those as part
14 of our time estimates and part of our assumptions in
15 this study.

16 Now, in the future, we've got a three-year
17 contract with AT&T. If there are changes being made
18 to our OSS systems and things become mechanized when
19 we do the cost studies again and we reup for the
20 contract, we would include those as part of the new
21 cost studies and part of the new rates.

22 JUDGE RANGLES: Okay. AT&T?

23 MR. FLAPPAN: I think we can assume that
24 since Southwestern Bell did not say that the articles
25 in my testimony were inaccurate that they are accurate

1 and they do describe the changes that are being made
2 already to improve the flow-through in Southwestern
3 Bell's systems.

4 I think Ms. Smith did not answer the
5 question that was asked. Her response was whether
6 these are reflected in the cost studies. I believe
7 your Honor's question was, are they taken into account
8 in the cost/benefit analysis in determining whether
9 the systems will be implemented to flow through on an
10 electronic basis.

11 JUDGE RANGLES: What would be the impact to
12 the cost studies if an electronic process were
13 implemented, whether it be only the charge for CPU
14 time? I'll let Bell answer this one first.

15 MS. SMITH: Your Honor, as AT&T and we have
16 also stated, we do not have any mechanized orders.
17 Right now we have testing of UNE orders going through,
18 and there is some computer time involved, but we do
19 not have enough data on the process right now to come
20 up with a cost.

21 So even the Oklahoma Commission has ordered
22 us to do a mechanized cost study for a mechanized
23 process. We can't do it right now because we don't
24 have the data. We are in the process of gathering
25 that data, and when we do have the data we will

1 develop a cost study for the mechanized orders.

2 JUDGE RANDLES: AT&T?

3 MR. FLAPPAN: Your Honor, Southwestern
4 Bell's account for their OSS is general purpose
5 computer. Those general purpose computers accounts
6 develop into the development of their maintenance
7 factors. Those maintenance factors are then applied
8 to their investment in the recurring rates.

9 So if they were to charge for the OSS in the
10 nonrecurring rates, that would be a double recovery of
11 those computer costs. Those computers, those general
12 purpose computers are on 24 hours a day, and the power
13 that is used in driving those computers is also
14 included in the factors that are applied to their
15 recurring studies. So there's nothing that's been
16 missing there.

17 What is involved in the O -- in an
18 appropriate OSS study would be the amount of time that
19 it takes for a technician to work an order if a
20 technician's time is involved times the labor rate for
21 that technician.

22 And Ms. Crombie's testimony speaks to these
23 issues further about the recovery of the computers and
24 also about the corrections that are necessary to the
25 labor rates in order to bring those labor rates to

1 where they are accurately portrayed in the cost
2 studies.

3 MS. CROMBIE: One of the concerns we have
4 with Southwestern Bell's cost studies is there are
5 costs that are being recovered that are embedded in
6 some of the recurring studies they already have, and
7 there's some nonrecurring costs embedded in some of
8 those.

9 When they do their cost studies, when they
10 look at factors, when they look at assets, they've
11 taken into account various accounts off their books.
12 What we have found is that they've taken these
13 accounts and put them here and they've put them here.
14 So they end up recovering the dollars through
15 investment based applications and through labor rate
16 based applications.

17 One of our concerns is that if these double
18 counts aren't maybe taken out in the case of support
19 assets, for instance, out of labor rates, which are
20 then multiplied by the times to get the nonrecurring
21 costs, that you're going to have double recovery of
22 costs.

23 We also have a concern that computer assets
24 are already included in other places, that if you
25 start including them on some other cost studies,

1 they're already recovered over here. If they add them
2 over here, they get a double recovery of costs. So we
3 have a big concern with the double recovery of these
4 costs.

5 JUDGE RANGLES: Bell?

6 MS. SWALLER: There's kind of two parts to
7 the question again, and we thought the question had to
8 do with a total mechanized system that doesn't exist
9 right now and not the issues from the first round of
10 arbitrations.

11 But again, our first response is, our system
12 exists the way it does right now, and that system has
13 to be crossed out and prices have to be based on it.

14 But then also with regard to the question of
15 if you had a mechanized system how would it affect
16 costs, then Ms. Smith can respond to that in the
17 second round.

18 MS. SMITH: Well, if we did have a
19 mechanized system, that would drive down the cost of
20 the nonrecurring charge for the ordering from AT&T.
21 However, you've got to look at the capital costs that
22 are associated with putting in that system, and that
23 may make something on the recurring side go up.

24 So you can't say that it's made up of
25 computer costs and that's going to drive the cost down

1 to some level because, while that may be true, there
2 may be some costs that go up, too.

3 In response to the general purpose computer
4 question, too, which Ms. Crombie brought up the double
5 counting issue, I think there's only one study within
6 the second AT&T arbitration set of studies that
7 actually includes the cost of general purpose
8 computers, and that's the LIDB study.

9 Now, those computers are being put in for
10 the purpose of providing orders and loading LIDB
11 information into the LIDB database. When the factors
12 are developed, they're developed on historical data
13 and then trended forward. This historical data did
14 not include those general purpose computers that are
15 being used for a LIDB system. So there could be no
16 double counting.

17 JUDGE RANGLES: AT&T?

18 MS. CROMBIE: I'd like to respond to the
19 historical data factor. What the historical basis is
20 looking for is the relationship of these factors to
21 the investment, and that relationship will hold going
22 forward.

23 And, in fact, Southwestern Bell has had
24 their own witnesses say that looking at the embedded
25 costs you're looking at the relationship of these

1 factors to the investment.

2 And this relationship theoretically could
3 hold going forward. So it's not just us that have
4 made that assumption that you're looking at a
5 relationship, even though it's based on historical
6 cost.

7 If you're going to, for example, put
8 5 percent of a factor onto an investment because this
9 is what's shown historically, going forward you're
10 still going to get the 5 percent on the new computer
11 that you put in. The relationship would hold going
12 forward.

13 JUDGE RANGLES: I'll direct this question to
14 Southwestern Bell first also. The Oklahoma service
15 order cost study for an electronic service order
16 process, how long do you anticipate that that will
17 take to complete?

18 MS. SMITH: Well, since AT&T's not going to
19 have an EDI interface until I believe it's January of
20 1999, at that time we would start collecting data, and
21 the cost study due date that's been submitted to the
22 Commission is May of 1999.

23 JUDGE RANGLES: Let me add to that question
24 and let you answer it before we go to AT&T, is that
25 for all of Southwestern Bell's territories or is it

1 just for costs specific to Oklahoma?

2 MS. SMITH: No. Our local service center
3 which takes the orders, they are located in Alliance,
4 Texas, right out of Fort Worth. They are responsible
5 for taking orders in all five states.

6 MS. SWALLER: Can I add one tiny thing,
7 because I want to make sure we're all talking apples
8 and apples? That's ordering. That's one box in
9 Mr. Vest's 44 boxes ordering, and it will not -- it
10 won't end up with a complete electronic system. It
11 will be one little --

12 MS. SMITH: Just the service order.

13 JUDGE RANGLES: The front office?

14 MS. SMITH: Just the service order, yeah.

15 JUDGE RANGLES: AT&T, can you respond to
16 both those questions?

17 MR. FLAPPAN: I was not aware that
18 Southwestern Bell had been ordered to develop a cost
19 study for electronic ordering in Oklahoma.

20 I know that Southwestern Bell has offered a
21 rate for electronic orders in I believe Oklahoma and
22 Kansas of \$5, and as part of that I believe it's been
23 Ms. Smith's testimony that 30 percent of those costs
24 are labor costs that would be due to fall-out that
25 would require Southwestern Bell to fix the orders.

1 What should happen in a forward-looking
2 environment is if there's something wrong with the
3 order that was typed in by AT&T, Southwestern Bell's
4 system should electronically reject that back to AT&T,
5 and AT&T should be allowed to fix the order.

6 So my understanding of what Southwestern
7 Bell has testified to, you can immediately take
8 30 percent off \$5 and that would be their
9 representation of what their current costs are to
10 process an order electronically.

11 JUDGE RANGLES: Bell?

12 MS. SMITH: Your Honor, he's misquoting my
13 testimony. The 30 percent that I quoted was part of
14 my Kansas testimony where I was looking at the
15 components of a manual service order, not a mechanized
16 service order, which is made up of the validation time
17 it takes for the service rep to actually go through
18 AT&T's or the CLEC's fax order and validate all the
19 inputs and then there is typing time.

20 I think I made the statement in the
21 testimony that the typing time, which is needed in
22 every single order, is 30 percent of the total order.

23 JUDGE RANGLES: Does that complete your
24 response?

25 MS. SWALLER: A moment, your Honor.

1 MR. BAILEY: I just -- Bill Bailey. I'm
2 sorry. I think Mr. Flappan at the end said that we
3 propose \$5, so you can take 30 percent off the \$5.
4 I'm not familiar with the 30 percent, but we didn't
5 propose a \$5 rate in Missouri. We didn't propose that
6 to be our cost, as I recall. The Commission dictated
7 that, and we -- that's what we've been using in this
8 round. But I don't think that's the cost that we
9 represented in the first round.

10 Even if he's correct and we should adjust
11 our cost to reflect something, it shouldn't be
12 reflected off the \$5. It should be reflected off the
13 cost that we submitted.

14 JUDGE RANGLES: AT&T?

15 MR. FLAPPAN: I believe what I said was in
16 Kansas and Oklahoma Southwestern Bell had offered a \$5
17 electronic ordering charge.

18 JUDGE RANGLES: Next question, again I'll
19 start with Bell on this one. Assuming you start that
20 process in January of '99 in Oklahoma, how long do you
21 project it will take to complete your cost study?

22 MS. SMITH: Barb Smith. Your Honor, as I
23 stated before, the process for EDI with a total
24 interface from AT&T and also from Southwestern Bell's
25 side will start in January of 1999.

1 We are going to use those months, January,
2 February, March and April, to actually gather data on
3 the activities that are going to be performed, the
4 fall-out and the computer time for the study. The
5 study itself will not be completed until May of 1999.

6 JUDGE RANGLES: AT&T, do you have a
7 response?

8 MR. FLAPPAN: Our response would go to the
9 data that would be gathered in the fall-out. I would
10 offer that it's not valid to take in the initial
11 stages of the learning curve what the fall-out is and
12 then use that in a long-run study.

13 What you want to really represent is what
14 kind of fall-out will there be when the systems are up
15 and running, when there's expertise on both sides and
16 these things are working as they are designed.

17 To take their initial fall-out, as
18 Southwestern Bell has stated many times, the fall-out
19 on the orders to CLECs now just keeps getting better
20 and better as we move up the learning curve. We
21 expect that to until we get up to 2 percent fall-out
22 time or even better.

23 I mean, quality control says you should have
24 99.999 percent orders that flow through as they
25 should. We're talking about a 2 percent flow-through

1 which is not acceptable. Just imagine if every time
2 you went and bought a gallon of milk, 2 percent of the
3 time you got sour milk and you had to take it back.
4 That's not acceptable in any market.

5 We're talking about forward-looking
6 competitive markets using the most efficient
7 technology available. 2 percent is being generous to
8 allow that type of unquality to occur in a competitive
9 marketplace.

10 JUDGE RANGLES: Bell, do you have a
11 response?

12 MS. SMITH: Yes, your Honor. First of all,
13 when we do the study, we are sympathetic and we do
14 take a look at the learning curve of the CLECs. We
15 understand they're experiencing some high turnover in
16 service reps. We need to come up with an average
17 fall-out and possibly trend it.

18 However, Mr. Flappan's statement on the
19 99 percent flow-through and that that should apply, I
20 need to clarify that the 99 percent flow-through that
21 Mr. Flappan has been using in his testimony is from
22 Liz Hamm's presentation to the Texas Commission on
23 OSS.

24 That was for a residential service rep,
25 Southwestern Bell's service rep who had processed an

1 order, typing it in correctly and putting all the
2 information in correctly. I must point out, too, that
3 that was for the E system, consumer E system, which is
4 only used for resale. It is not used for UNEs.
5 So to use that 99 percent and apply it to UNEs, it's
6 not proper to do that.

7 Another problem that we're having, too, is
8 that the 99 percent flow-through and the 1 percent
9 flow-through, the 5 percent that's recommended by
10 Staff, is only for the ordering, the front office
11 part.

12 That 5 percent now has been attributed also
13 to the back office systems, and I think Randy Vest
14 pointed out that each little assembly line will have
15 its own fall-out. So it's not proper to do that.

16 JUDGE RANDLES: AT&T?

17 MR. FLAPPAN: Ms. Smith did not understand
18 my comment. What I was saying is that in a quality
19 environment, I've been to quality school, and I know
20 that the cost of reworking is much more expensive than
21 is the cost of getting it right the first time.

22 In a competitive market, companies strive to
23 get 99.99 percent quality, things work as they're
24 supposed to. That's the statement that I made in
25 answer to the question.

1 JUDGE RANGLES: Shouldn't the fall-out of
2 the back office system approach the fall-out of the
3 front office systems when mechanization is in place
4 and has been in place for a while? And that question,
5 I'll have AT&T address that.

6 MR. FLAPPAN: Absolutely. Looking at the
7 TNN architecture and the Bellcore requirements that
8 Mr. Vest addressed, those are designed to flow through
9 on an electronic basis all the way through the system,
10 and there is no reason that I'm aware of that with the
11 sophisticated computers that we have today and the
12 ability to synchronize databases, that there should be
13 less quality, poor level -- that a poor level of
14 quality would be acceptable in a competitive
15 marketplace even on the more complicated provisioning
16 side of the order.

17 I recognize that it is more complicated, but
18 with today's computers we should be able to achieve
19 very high levels of flow-through all the way through
20 the OSS.

21 JUDGE RANGLES: Okay. Bell?

22 MR. VEST: Toward your question, if I
23 understand Mr. Flappan's testimony and his response,
24 he's attributing 1 to 2 percent to the front office
25 systems and zero percent fall-out, zero percent to the

1 back end in total.

2 And I'm going to tell you, that's just
3 terribly unrealistic based on our history and years of
4 trying to go through these complex processes. No. 1,
5 there's more processing at the back end, and I perhaps
6 need to reemphasize what I said when I went through
7 this. We're using the term fall-out and flow-through
8 as if they are the contrarian number. That's not
9 true. Flow-through means non-human intervention.

10 Human intervention can include someone
11 addressing something that did fall out, but it also
12 can be that component where we have found it to be the
13 most cost efficient process, the best service to have
14 that human operator do the process.

15 If you gave me unlimited, if you went to
16 some of those processes and said throw reason out the
17 door, I will give you unlimited funds to try and save
18 these two operators, it is true we may be able to
19 derive some extremely costly computer to replace the
20 two or three people doing the function, but that is
21 just not practical. Humans still have a place in
22 actually operating these processes as they go through.

23 So the flow-through is a portion of
24 fall-out, but it's also in those -- in those cases
25 where it is the most appropriate business decision to

1 actually operate with a human the computer itself
2 rather than try and make the computer do the entire
3 process.

4 Zero percent for the back office is just
5 unbelievably out of line to even think that that's the
6 most efficient business, or I doubt we could even
7 achieve that given the funds.

8 CHAIR LUMPE: Could I follow up on that? I
9 think you said 2 percent was reasonable on the front
10 end. Is 2 percent reasonable on the back end?

11 MR. VEST: I'm quoting Mr. -- here's the
12 numbers as reported to the Commission, as dictated by
13 FCC. Our most recent month for these type of orders
14 from our data, the non-human process is running
15 4.4 percent here.

16 JUDGE RANGLES: Can you identify, since
17 that's not in the record, which portion you're talking
18 about?

19 MR. VEST: Oh, I'm sorry. On the front end
20 through order issuance --

21 MR. LANE: On a resale basis.

22 MR. VEST: On a resale basis, that number,
23 the most latest month reported back to the FCC as
24 they've requested so they can do comparison for
25 Southwestern Bell is 4.4 percent. The back office

1 ends up being 15.7. So the difference to that is 11.3
2 percent. And this is a nonprocess, if you want to use
3 that, non-operator-assisted node. It can be that
4 something fell out, but it also can reflect we have
5 chosen in some of these many steps out here to use a
6 computer to do that as was stated earlier by Barb.

7 Mr. Flappan has asked the question in
8 previous testimony about operating a system that is
9 just one of these boxes, not even the entire front
10 end, if you had a very -- a trained operator who
11 understood the system, what type of fall-out would you
12 express, and that number was given as 1 percent, and
13 in his testimony he's extrapolated that to whatever
14 will be here, the subject of the future study to
15 exactly nail that down.

16 He's extrapolated that to say maybe 1 to 2
17 percent in his testimony to say the appropriate number
18 over here would be -- it ought to be totally never
19 have a problem, never require human operator. That is
20 what's unrealistic.

21 JUDGE RANGLES: You're speaking about the
22 UNE side?

23 MR. VEST: Yes, the UNE side. And so this
24 is -- this is actual data, but it does involve -- the
25 pertinence of that is, it involves many of the back

1 office systems doing some of the same functions that
2 are required for the UNEs. So to say that that number
3 can automatically change is what's unrealistic.

4 CHAIR LUMPE: The question is, can that
5 11.3 percent become 4.4 percent, I think was -- can
6 you have the same level of fall-out on both sides and,
7 if so, why not?

8 MR. VEST: Well, I'll give you bias. I come
9 a lot more from this world than this world. I'm going
10 to tell you no, I don't think so. It's just much more
11 complexity to actually make. This is taking the
12 order, dealing with the customer and making sure you
13 have all the appropriate information, as many edits as
14 you can put in.

15 This is actually provisioning the service,
16 and it can involve combining a number of different
17 elements in the network, putting them together, coming
18 up with computations. Again, the documentation in the
19 industry standards easily describes this as by far the
20 most difficult half of this to actually mechanize.

21 I sketched something like this out last
22 night. If this helps you out any, we'll give you a
23 copy of that.

24 JUDGE RANGLES: I'll leave it to the parties
25 whether to offer the chart he's drawn now or whether

1 to copy it later.

2 MS. SWALLER: Can I throw in one legal
3 point, too? And that is the issue is parity, and by
4 that what the 8th Circuit Court said was that we have
5 to provide to AT&T exactly what we do for ourselves.
6 If it's not mechanized for us, it's not mechanized for
7 AT&T.

8 There is not an obligation for us to improve
9 our network, only to offer them what is good enough
10 for ourselves.

11 JUDGE RANGLES: Okay. AT&T, it's your turn
12 to respond, and please, if you can, specifically
13 address what's being said about your testimony and the
14 1 to 2 percent and the zero percent for UNEs and
15 clarify if that is what you're saying. I'd like for
16 you to respond to that specifically in the context of
17 your general answer.

18 MR. FLAPPAN: Okay. No, I never said 1 to 2
19 percent on one side and zero percent on the other
20 side. I said a 2 percent, 1 to 2 percent overall
21 flow-through. That could be 1 percent on one side,
22 1 percent on the other side.

23 I think what Southwestern Bell is showing us
24 here is that even today we're in the infancy of, each
25 in retail, to achieve a 15 percent flow-through

1 throughout the entire process. As we develop these
2 new systems, that there's nothing unreasonable about
3 assuming that could get down into the 1 to 2 percent
4 range.

5 Southwestern Bell told us in Texas that they
6 process about 55,000 orders on a given day, on a busy
7 day 103,000 orders with a 99 percent flow-through.
8 That would mean just on an average day 1,300 orders
9 would be rejected back to AT&T and not flowed through
10 as they were designed to, you know, if AT&T had those
11 same volumes.

12 That's a significant amount of rejects
13 coming back to AT&T of things that are not working as
14 they're supposed to be working. I don't know that we
15 can get competition going in Missouri where customers
16 really have vital choices between providers with
17 thousands of orders being rejected every day.

18 As far as Ms. Swaller's statement about all
19 we have to do is provide service as good as it is
20 today, the Texas Commission has ordered Southwestern
21 Bell to provide flow-through, electronic flow-through,
22 not just to provide what they do today. They said you
23 have to improve your system.

24 We saw articles in telephony that says
25 Southwestern Bell's already working to improve their

1 system, that if the Commission doesn't set prices that
2 require Southwestern Bell to become more efficient to
3 drive these costs out of their business it will never
4 get down.

5 They don't have any incentive to do it
6 unless the Commission sets the bar low enough to
7 require them to drive the costs out, to drive rejects
8 out, and then they'll get more efficient.

9 It's just like in my testimony I had that
10 example about Intel where their prices are going down
11 by 75 percent this year due to competition. You have
12 to get more efficient because there's competitors.

13 Southwestern Bell hasn't had those
14 competitors, and they don't have those competitors,
15 and they would like to get into the long distance
16 business without having those competitors.

17 The Commission -- it falls on the
18 Commission's shoulders in order to create the
19 incentive for Southwestern Bell to build that
20 efficiency into their network. It can't just be based
21 on what they've done in a monopoly environment over
22 the last hundred years.

23 JUDGE RANGLES: I believe we've had both
24 rounds in answering that question. Am I wrong?

25 MS. SWALLER: I think -- I lost track, too,

1 but I believe we had two rounds.

2 JUDGE RANGLES: Okay. Southwestern Bell,
3 why do you believe that a \$5 per service order -- or
4 \$5 per service order is necessary when costs for the
5 service order are recovered through the service order
6 charges already? And I'm talking about the examples,
7 I think, that were in Mr. Bailey's Affidavit.

8 MR. BAILEY: There are -- allow me to sit
9 because I've got this in my lap. We identified in the
10 first round of this case, I believe, a cost of about
11 \$25 to process a service order. The Commission
12 dictated that the charge for that portion of it should
13 be \$5.

14 The other nonrecurring costs had to do with
15 the installation of those other features aside from
16 just the service order piece. I'm not sure I
17 understood your question.

18 JUDGE RANGLES: We'll hold off on that
19 question and come back after a break. I can discuss
20 it with the advisory staff.

21 Okay. AT&T, can a competitive local
22 exchange carrier provide its own test equipment on
23 cross connects?

24 MR. FLAPPAN: Yes. And this goes to another
25 problem. I guess it depends on which cross connect

1 you're talking about.

2 JUDGE RANGLES: Well, why don't you go
3 through them?

4 MR. FLAPPAN: Well, one of the issues is
5 that this rate, that what Southwestern Bell would want
6 to include in the nonrecurring studies is to take on a
7 multiple loop order or combinations of loop and port
8 order and run that into the TIRKS database system, and
9 the costs that would be involved there to take what's
10 currently existing, disconnect it, run into TIRKS,
11 make manual cross connects and charge AT&T for that.

12 Mr. -- one of Southwestern Bell's witnesses,
13 I believe Mr. Vest, says that you don't need to use
14 TIRKS when you order the loop and port together. This
15 Commission, my understanding is, has not allowed
16 Southwestern Bell to disconnect what's already in
17 place. And Southwestern Bell would have us pay for
18 this cross connect when it's not necessary. It's
19 already there.

20 Furthermore, the most efficient way to
21 provision cross connects is to put them in place and
22 leave them there. A customer -- if I move out of my
23 house, there's a cross connect from the loop to the
24 port. There's no reason for Southwestern Bell to tear
25 that cross connect down and then when the next person

1 moves into my house, the day after I leave, go back
2 out and re-establish that cross connect. It's called
3 dedicated inside plant. You leave it in place.

4 There's another concept called dedicated
5 outside plant where when a person -- when you have a
6 cross connect from the feeder distribution, at the
7 feeder distribution interface that connects to the
8 feeder to the distribution that runs to the customer's
9 premises, when that customer vacates those premises,
10 you don't go out and tear down that connection if
11 someone's going to be moving in the next day.

12 You leave it there because it's going to be
13 useful again the next day. It's not efficient to go
14 out and tear the cross connect down and then
15 re-establish that cross connect.

16 So what happens is you establish these cross
17 connects and you leave them in place. Well, the cost
18 is not -- should not be charged to the person that
19 initially requires the cross connect to take place.
20 Since that cross connect is going to remain there for
21 the life of that location, that's an ongoing cost,
22 just like the loop itself.

23 That's a recurring cost, and that is -- that
24 should be recovered in the recurring studies, not in
25 the nonrecurring studies. And to do it otherwise is

1 inefficient and not in conformance with the TELRIC
2 study which requires efficient processing.

3 JUDGE RANGLES: Southwestern Bell?

4 MR. BAILEY: Well, I think we need a couple
5 part answer to this question. The first part is, I
6 think this Commission, while it did require us to
7 provide services to AT&T, as we believe contrary to
8 the decision of the 8th Circuit, and provide services
9 in essence on a platform basis, it did not -- it did
10 also require that AT&T and so forth had to order their
11 services on a specific basis.

12 They couldn't just order the same service
13 that they had provided or that we had provided. If
14 they were going to be a customer, they had to order
15 the loops, the ports and so forth.

16 That requires work on our part, and I think
17 Mr. Vest can talk a little bit more about how that
18 impacts us.

19 One really interesting thing about
20 Mr. Flappan's comment about how you can just leave the
21 connection up would have worked and does work in our
22 network because we're the only provider.

23 But if I've got a connection to a carrier
24 today that goes to my network and it converts to
25 AT&T's network, it's going to change. If it converts

1 next week to ASCI, next week to Brooks, each of those
2 circumstances is going to change. You cannot leave
3 the circuit up and just change it around.

4 I think Mr. Vest has something to add to
5 that also.

6 MR. VEST: I think the original question had
7 to do with cross connects, et cetera, and basically
8 UNEs are basically components. They are components,
9 not totally service providing elements. They are just
10 individual components of the facilities to be
11 purchased.

12 The vehicle by which we put individual
13 components in for the flexibility of making future
14 assignments to those in a competitive environment, the
15 loop may be purchased one day by one CLEC. The next
16 day they may release the loop to the other.

17 The box, the station that we have that does
18 that most effectively is TIRKS. And we put those
19 components back in TIRKS to make those type
20 assignments to the flexibility of cross connects that
21 we're talking about.

22 If I can add to the commentary on the
23 dedicated plant, there's a whole series of terms
24 called dedicated inside plant, dedicated outside plan,
25 soft dial tone, connect throughs. They all pertain to

1 the fact that there are many components go together to
2 provide a service.

3 There is a degree of discussion in the
4 industry about what's the most effective way to leave
5 some of those components together. To give you an
6 example of the problems you come in with, when we go
7 into a subdivision of maybe a hundred homes, we have
8 very scientific studies that say maybe 20 of the homes
9 in that subdivision will want a second line for a
10 computer.

11 So we can run 120 lines into those houses,
12 but we don't know which 20 percent of those homes want
13 those computers. And as people move in and out,
14 trying to leave things in place will be broken.

15 Dedicated plant would say let's run 200
16 pairs in there and run them when the houses are first
17 constructed and just leave it in place. And yes, that
18 would solve the problem. You would always have two
19 lines in every of the hundred houses, but think about
20 what that does to your capital cost in the field. Is
21 that the most efficient to do, to leave 80 pairs
22 vacant just to leave them in place all the time?

23 Trying to leave circuits fixed just ends up
24 driving up your capital costs tremendously, because
25 when you leave things fixed under the bet that

1 someone's going to move back in and reuse exactly the
2 way it's configured, you're just eating up extra cable
3 pairs, extra switch ports, et cetera, the utilization.

4 We have had study after study in
5 Southwestern Bell looking through the pros and cons,
6 field trials, et cetera, of all of these different
7 components. We've chosen the best and most efficient
8 way to operate in Southwestern Bell, which is to leave
9 the pedestal cross connect in place if it's possible.

10 That is not as Mr. Flappan would suggest
11 full DIP and DOP. That is not efficient in the
12 territory in which we operate.

13 JUDGE RANDLES: AT&T?

14 MR. FLAPPAN: I think Mr. Vest agreed with
15 me that they leave the cross connect in place where
16 possible.

17 Also, in terms of running these circuits
18 through TIRKS, that is not a nondiscriminatory
19 provisioning of service. Southwestern Bell in their
20 own provisioning of service to end users does not run
21 their service through TIRKS. That's an additional
22 step that they want to add.

23 And even if AT&T wants the entire platform
24 which the Commission has granted, Southwestern Bell
25 still wants to charge us these extra expenses to run

1 the system through their TIRKS system. They've
2 admitted in testimony that it's not necessary to run
3 it through TIRKS when you keep the platform together.

4 So I think AAS was right and recognized
5 this, at least in the simple studies, and removed
6 those costs and didn't allow for them. I still think
7 they set the rate too high.

8 I don't believe that they recognized that
9 added expense that Southwestern Bell wanted to include
10 for running circuits through TIRKS when that's not the
11 way they provision service to their end users.

12 JUDGE RANGLES: Bell?

13 MS. SWALLER: If you keep it altogether,
14 it's called resale, and when you do it doesn't go
15 through TIRKS. When you offer it in elements, then
16 you need to have a way to inventory it as Mr. Vest
17 will explain.

18 MR. VEST: And UNEs are components. Those
19 components have to be hooked together, and they are
20 going to be hooked together by AT&T to assemble a
21 complete service. If they bought a switch UNE, port
22 UNE, they brought a loop UNE, and they may wish to
23 assemble those in different manners. We have to
24 deliver the capabilities to them at their location to
25 assemble those elements.

1 Our vehicle doing that, the only vehicle
2 that we know of exists in Southwestern Bell to do that
3 and do it in an efficient manner is the TIRKS system.
4 It is the system by which we run cross connects back
5 to a third party to allow them these type of cross
6 connects.

7 I would refer back to, only to clarify,
8 there are lots of cross connects. There's inside
9 cross connects. There's several outside cross
10 connects. There's various components that have to be
11 put together to leave something together.

12 When I say Southwestern Bell has a policy on
13 not breaking what are called connections to the
14 pedestal, that is one of many to that full -- full --
15 achieve full DIP and DOP and that type of -- you'd be
16 leaving lots of cross connects together and just
17 stranding lots of plant. That's not exactly what I
18 said in the other.

19 MR. FLAPPAN: Do we get a response to that?

20 JUDGE RANGLES: I'll allow one more
21 response.

22 MR. FLAPPAN: I think Mr. Vest was confusing
23 the issue a little bit here by jumbling in together
24 where AT&T is buying a loop by itself because we want
25 a cross connect to go to your switch versus a general

1 case which will happen in most occurrences where we
2 want to serve the customer through the platform of
3 UNEs which this Commission has already ruled that we
4 can do.

5 I have stated in my testimony on one of
6 these issues on cross connect that the only time that
7 the manual cross connect would possibly be legitimate
8 in the studies is when it does go from Southwestern
9 Bell's equipment to AT&T's equipment. And that is a
10 separate case than what will normally occur when AT&T
11 buys the platform where these unbundled elements are
12 already hooked together. Southwestern Bell will hand
13 the entire length platform to AT&T to use to serve the
14 customers.

15 That's what's going to happen at least
16 initially in my guess 90 -- at least 90 percent of the
17 cases, and that's what we should be focused on because
18 that's what the majority of the -- the great majority
19 of the occurrences will do.

20 MS. SWALLER: Your Honor, can we have
21 parity? Can we have one more statement to make on
22 that?

23 JUDGE RANGLES: Yeah.

24 MS. SWALLER: Mr. Hearst, you haven't heard
25 from him yet. He's got a perspective on this cross

1 connect.

2 MR. HEARST: Good morning. My name is Jim
3 Hearst. And one of the issues that Mr. Flappan talked
4 about was nonrecurring charges, and it assumes that
5 the plant is frozen forever, once in place it never
6 changes.

7 Southwestern Bell requires replacing cables,
8 changing cables, reinforcing cables. And last year in
9 the 314 and 573 area codes we did that 160,000 times.

10 Now, if you add that to CLECs coming into
11 the picture and ordering service from Southwestern
12 Bell and then ordering service from AT&T and then
13 various other people, we'll be moving jumpers on the
14 central office side and, of course, in the field that
15 won't diminish the 160,000 times we did that last
16 year.

17 JUDGE RANGLES: I'll allow one more round of
18 response.

19 MR. FLAPPAN: We need to make sure that the
20 record is clear that Southwestern Bell has maintenance
21 costs in its recurring studies that recover the costs
22 of these rearrangements and things, the technician's
23 time that's out there making these changes to their
24 network.

25 Their time is reported and it goes into a

1 factor that is in the recurring studies. So to
2 recover those again in nonrecurring charges is a
3 double count.

4 JUDGE RANGLES: Bell?

5 MS. SWALLER: Is it our turn again? In
6 terms of the double count, let me refer that to
7 Ms. Smith. I think that's the only thing we'll
8 respond to in that round.

9 MS. SMITH: Well, if I can, I can refer that
10 to JoAnne because she's been our witness in the other
11 states on this double counting of M charges.

12 MS. LAMMERT: On the -- to the extent that
13 the CLECs -- JoAnne Lammert.

14 To the extent that the activity that
15 Mr. Hearst was referring to, that the CLECs are adding
16 to the activity that's going on out in the field, that
17 is not in any of our factors.

18 What we were doing was trying to estimate,
19 based on our past experience, as to how much
20 recurrent -- how much the activities would occur. So
21 that would be the only amount that would be in those
22 recurring cost factors. And I don't really think that
23 there's a whole lot of double counting occurring here.

24 JUDGE RANGLES: We're going to have to stop
25 on that question. There will be more questions after

1 lunch. It's noon right now. So let's come back at
2 1:10.

3 Off the record.

4 (Discussion off the record.)

5 MR. DANDINO: Could the Office of the Public
6 Counsel be excused from attendance at the remainder of
7 this hearing?

8 JUDGE RANGLES: Are there any objections?

9 (No response.)

10 JUDGE RANGLES: There are none. You are
11 excused. Off the record.

12 (The noon recess was taken.)

13 JUDGE RANGLES: We're back on the record.

14 Okay. The first question is, does AT&T plan
15 to use its own switches for providing service in
16 Missouri, and, if so, will AT&T need to worry about
17 nonrecurring costs for service orders other than for
18 service conversions?

19 MR. FLAPPAN: I think it's AT&T's long-term
20 hope that it would use all of its own facilities for
21 providing local facility service, but that is a
22 long-term goal.

23 In order to get there, we're going to have
24 to be able to use Southwestern Bell's unbundled
25 network elements as an interim measure until we can

1 establish a client base from which to expand into a
2 more extensive use of our own facilities.

3 JUDGE RANGLES: And I think the second part
4 of the question was about nonrecurring costs for
5 service orders.

6 MR. FLAPPAN: Well, until AT&T does have its
7 own facilities, its own switches, its own loops,
8 nonrecurring charges will be a very important cost to
9 us in trying to establish a client base.

10 As I state in my testimony, Southwestern
11 Bell's nonrecurring charges on a going-forward basis
12 are zero. Whatever AT&T charges, whatever
13 Southwestern Bell charges to AT&T, you know, when I
14 added up the unbundled network elements as I thought
15 they added up, multiply it times the number of lines
16 that Southwestern Bell has, it's like hundreds of
17 thousands of dollars. I forgot what the number was,
18 but a very sizable amount of nonrecurring disadvantage
19 that AT&T would be at just to get to where
20 Southwestern Bell is now.

21 That's why these nonrecurring charges are so
22 important, that AT&T will not be able to get into the
23 market without paying these nonrecurring charges, and
24 they will have -- they could potentially have a big
25 impact on whether AT&T will be able to enter and offer

1 choices to Missouri customers or not.

2 MS. CROMBIE: If I could just add briefly to
3 that, we currently have some charges now when we have
4 to input an order. So with or without the switch, we
5 will have nonrecurring charges to get the orders in.
6 So I think that answers what you said.

7 JUDGE RANGLES: Okay.

8 MR. FLAPPAN: And that was \$466 million was
9 what the figure I had in my testimony was.

10 JUDGE RANGLES: Does Bell have a response to
11 that?

12 MS. SWALLER: To the last part of the
13 answer, yes.

14 MS. SMITH: Yes. I'd like to respond to
15 Mr. Flappan's statement that our nonrecurring charges
16 are zero. They are not zero because we have
17 nonrecurring costs for all these activities where I
18 think we're entitled to recover the costs that it
19 takes us to provide these functions for AT&T.

20 And we've shown that -- we've got experts
21 here that have shown that these activities do take
22 place. They're the same activities that take place
23 for our retail customers. They're exactly the same.
24 We also charge our retail customers nonrecurring
25 charges to install and for service orders.

1 JUDGE RANGLES: Do you have a response,
2 AT&T?

3 MR. FLAPPAN: Yes. Southwestern Bell
4 currently has 2.25 million customers or lines in
5 Missouri, and there's no transition cost to
6 Southwestern Bell to get those customers up and
7 running. For AT&T to get 2.25 million customers,
8 there would be transition costs of \$466 million, is
9 what my statement was.

10 JUDGE RANGLES: Bell, do you have any
11 further response?

12 MR. BAILEY: The fact of the matter is that
13 many of our customers change service every year.
14 While we may have -- I think the number's a little bit
15 less than 2.5 million customers. We do have a sizable
16 number of customers in the state, but there's a lot of
17 churning. They're changing all the time.

18 To say that we have no cost ignores the fact
19 that we have those activities. Yes, AT&T probably
20 does have to incur that to take a customer away.

21 But the point is, what we're talking about
22 here is we have a right to recover our costs when
23 we're involved in it, and the Commission shouldn't be
24 in a position where it's trying to incent competition
25 by not allowing us to recover our costs. We have a

1 right to recover our costs when we do something for
2 AT&T.

3 JUDGE RANGLES: Thank you. I believe Chair
4 Lumpe has a question.

5 CHAIR LUMPE: Yes. Let me ask this of
6 Southwestern Bell. Let's reverse roles. Let's assume
7 you are the CLEC and AT&T is the ILEC. Would these --
8 would you consider these charges reasonable then and
9 charges you would be willing to pay?

10 MS. SWALLER: I'll let Mr. Bailey answer it,
11 but we agree with the legal principle of cost
12 recovery. If that's the real cost, then yes, we would
13 be willing to pay those charges.

14 MR. BAILEY: There is -- there is a
15 discussion that's beyond the scope of this proceeding
16 because we object to the use of TELRIC. We think we
17 have the right for embedded cost recovery. Now, we're
18 not arguing that at this point, but your question kind
19 of puts that on point.

20 So I think if we're assuming we're in the
21 same scope as this case, then yes, we would think
22 they're appropriate because -- well, we have the
23 advantage of knowing. That's what we experience
24 today. We're not asking AT&T to do anything
25 differently than what we're experiencing today.

1 JUDGE RANGLES: Do you have a response,
2 AT&T?

3 MS. CROMBIE: Yes. We don't have an
4 objection to Southwestern Bell recovering costs. We
5 just do not want them recovering it in two places for
6 the same costs. And there are different areas that
7 it's outlined in the testimony, so I won't give a blow
8 by blow, but there are areas where the things are
9 recovered twice.

10 And where they are recovered twice, we've
11 attempted to take it out in one spot so that it is not
12 in there twice. So I don't think we have an argument
13 with recovery of costs. Recovering it twice we do
14 have a concern with.

15 MR. FLAPPAN: And we do have -- we do have a
16 problem with recovery of inefficient costs. We think
17 the costs must be efficient in order to satisfy the
18 Act.

19 Now, if I were -- the question I think was,
20 if I was the ILEC, would I think that Southwestern
21 Bell's proposed rates were proper? And my answer
22 would be yes. I've been a monopolist in this state
23 for a hundred years. I've served the state well.
24 These are the same rates that I've charged as a
25 monopolist for all these years, and I should continue

1 to be able to do what I've done for the last hundred
2 years.

3 JUDGE RANGLES: Do you have a response,
4 Southwestern Bell?

5 MS. SWALLER: Yes, we do have a response.
6 The primary question had to do with whether or not
7 Southwestern Bell's willing to have the shoe on the
8 other foot, and that is a legal question because it
9 goes to the issue of what type of cost recovery we're
10 entitled to have.

11 We're not quibbling with the cost standard.
12 The Commission set that in the second round of
13 arbitration, and we've complied with that here.

14 The issue that we're really getting into
15 here, and Mr. Flappan illustrated it just now, and
16 that's this concept of efficiencies and whether or not
17 it's appropriate to look at our net exactly the way it
18 exists today in the OSS part of that network or
19 whether it's appropriate to put a carrot out there and
20 make us get to that point.

21 I don't think it is appropriate to put the
22 carrot out there because the Act does require that we
23 provide access to your network the way it exists
24 today. The carrot already exists. The carrot is that
25 we have retail customers that we have to serve and

1 serve well and serve efficiently.

2 And because we have an obligation under the
3 Act to provide parity, then that is the carrot, that
4 we treat ourselves good and we treat them good as
5 well.

6 JUDGE RANGLES: If Southwestern Bell were to
7 take over an NXX code from AT&T, what sort of charge
8 would AT&T impose on Southwestern Bell and does AT&T
9 still believe that everything would be recovered
10 internally so that no additional charge would apply?

11 MR. FLAPPAN: AT&T would assume that that's
12 a part of the cost of doing business. Southwestern
13 Bell has stated that there's hundreds of new NXXs that
14 are created every year, and changing an NXX from an
15 AT&T associated one to a Southwestern Bell one would
16 be very much in line with the creation of new NXXs.
17 Those costs are recovered in our factors as part of
18 our maintenance costs, costs of doing business.

19 So we are already recovering those, and by
20 adding the incremental cost of changing an NXX, it's
21 not going to affect my factor in any significant
22 digit. It might bump it up by so many hundred
23 thousandths of a percentage or millionths of a
24 percentage, but it's not going to change the factors.

25 So certainly AT&T's willing to live with the

1 same terms that it's advocating Southwestern Bell
2 should have. This is a reciprocal arrangement. They
3 won't charge us. We won't charge them.

4 JUDGE RANGLES: Southwestern Bell?

5 MS. SWALLER: Ms. Smith addresses NXX
6 migration in her Affidavit.

7 MS. SMITH: When we perform an NXX
8 migration, your Honor, what we're doing is we're
9 taking all of the numbers that are on our switch and
10 we are transferring those to AT&T's switch. There is
11 a great amount of cost for doing that, and we are
12 entitled to recover the cost of doing that.

13 If AT&T does the same work for us, then they
14 can develop a cost study and develop a rate and charge
15 us for that, but we have to recover the cost, and the
16 CLEC is causing the cost for that.

17 The opposite thing to do there would be
18 maybe to port all the numbers and do interim number
19 portability. If we do that, that incurs even more
20 costs because we have to provide remote call
21 forwarding to all those numbers.

22 So we've chosen the most efficient way to do
23 the NXX migration, which is migrate the numbers all
24 the way over to AT&T's switch and to charge them for
25 doing that work.

1 JUDGE RANGLES: AT&T?

2 MR. FLAPPAN: I agree with Ms. Smith to the
3 extent that she said that if they don't port the NXX
4 they'll have to provide number portability, and the
5 number portability would be more expensive for
6 Southwestern Bell than it would be to port the NXX.

7 So it actually saves them money by porting
8 the NXX as opposed to providing number portability for
9 every customer that's served out of that NXX. It's
10 more efficient.

11 And we're not asking for Southwestern Bell
12 to give us any money back because they're saving
13 money. We're just saying that they already recovered
14 the cost of porting the NXXs, and if we have to port
15 an NXX to them, then we're willing to consider that as
16 part of a cost of doing business as well.

17 JUDGE RANGLES: Bell, do you have any
18 further response?

19 MS. SWALLER: No. No, your Honor.

20 JUDGE RANGLES: I'm going to try to rephrase
21 my earlier question, which is why does Southwestern
22 Bell believe that a \$5 service order charge applies to
23 all service orders? And I guess in referring to your
24 Affidavit, Mr. Bailey, Example 2 in the schedules.

25 MR. BAILEY: Yes.

1 JUDGE RANGLES: Schedule 2, page 1. It's
2 not clear to me, for example, why that \$5 simple
3 mechanized new service order charge would go on top of
4 all the other initial nonrecurring charges which would
5 presumably cover each service that's going to be
6 provided.

7 MR. BAILEY: Well, and Ms. Smith may want to
8 also discuss this. But there is a cost of just
9 processing the service order through our system. The
10 nonrecurring charges that we have under Item 2 have to
11 do with the nonrecurring charges for the UNEs that are
12 reflected there.

13 For example, the two-hour analog loop,
14 there's a nonrecurring charge associated with
15 installing that loop. There's also a nonrecurring
16 charge associated with the analog line side port.

17 None of those attempt to recover the cost of
18 the service order itself. In our original filing with
19 this Commission, we identified a cost of just the
20 service order itself of, I recall, \$25, something in
21 that ballpark. And the Commission decided that in
22 this circumstance that the charge should be \$5.

23 But aside from that, there is a cost
24 associated with just the service order, and that's
25 what we're trying to recover in that service charge.

1 Can you add to that?

2 MS. SMITH: What you said is exactly right.
3 The service order recovers this portion of it, and
4 what Mr. Bailey talked about, the nonrecurring for the
5 loop is over here on provisioning, and then the port
6 nonrecurring recovers the translation costs that would
7 have to be done for that port. So you're talking
8 about ordering and provisions. That's why you have
9 three service order charges.

10 JUDGE RANGLES: Before you answer, AT&T --
11 you can go ahead and respond, AT&T.

12 MS. CROMBIE: Denise Crombie. Within the
13 maintenance factors that they've got right now, which
14 has got a certain account code, that includes some of
15 the very things they're talking about, the
16 installation and so forth. This is one of those
17 examples of double counting.

18 So you've got to have it one place or the
19 other potentially but not both. That's probably
20 enough said on that.

21 MR. FLAPPAN: And the Commission's Order
22 originally set out the \$5 service charge, and it
23 stated that this is probably too high. The Commission
24 made that determination in the, I believe it was the
25 December 31st Order.

1 It's AT&T's position that when you do a
2 cost-based electronic order, that we're just looking
3 at the left side of that dividing line that's up
4 there. The actual electronic costs, since the
5 computers and the power are already included in the
6 factors, should come out something like 21 cents.

7 Even when you use a 1 percent fall-out --
8 and Southwestern Bell keeps telling me that the 99
9 percent only applies to that side. So I think they're
10 saying that there's only a 1 percent fall-out there
11 I'm talking about a 2 percent fall-out. So that
12 should come out to about 21 cents, something like
13 that. So we've been charged \$5 if the \$5 holds for
14 something that only costs 21 cents.

15 By my calculations there's about 23 service
16 orders that would be paid for in that \$5 charge.
17 Therefore, that was the reason behind the Commission's
18 decision originally to not charge that service order
19 charge again when you have a feature activation, that
20 type of subsequent order.

21 You've already paid for more than your
22 share. That \$5 was not cost based. That \$5 was based
23 on the interexchange primary -- primary interexchange
24 carrier change charge, which no cost studies's ever
25 been filed for that that I'm aware of.

1 So AT&T would be perfectly willing if the
2 Commission would reset that \$5 rate to 21 cents or
3 something that's cost-based to go ahead and pay the
4 service order charge again when we had a feature
5 activation as long as it's cost-based and
6 forward-looking and efficient.

7 JUDGE RANGLES: Does Southwestern Bell have
8 a response?

9 MR. BAILEY: I think -- well, go ahead.

10 MS. SMITH: Well, first of all, I think I've
11 already stated that we have not done a mechanized
12 service order cost study. Mr. Flappan is basing his
13 21 cents on computer costs only and a 99 percent
14 flow-through, which we've already said is not
15 appropriate for UNE service orders.

16 Now, this other service order that he's
17 talking about for feature activation, when a service
18 rep takes the order for a particular feature, she's
19 got to place it on the order. She's also got to make
20 sure that that USOC is correct and that that feature
21 is available in the office, and that equates to about
22 \$5 in costs.

23 So we're basing that on what is actually
24 taking place by the service rep to research and see if
25 that feature does have a USOC associated with it and

1 it's correct and it's available in the office. So we
2 are developing the appropriate costs.

3 MR. BAILEY: And the only thing I would add
4 to that is that my understanding of the Commission's
5 Order in the first round was that they decided that we
6 should charge the \$5 charge for feature activation,
7 the \$5 service charge for feature activation.

8 JUDGE RANGLES: We still have a response
9 from AT&T.

10 MR. FLAPPAN: Could the court reporter read
11 back what Ms. Smith said? Oh, I've got it.

12 Ms. Smith said that the \$5 is there to cover
13 their service representatives's time to input the
14 information. Well, on a forward-looking OSS where
15 AT&T has access, that work, that input will be done by
16 AT&T's representative, not Southwestern Bell's
17 representative, and that's exactly why the \$5 charge
18 would be inappropriate.

19 JUDGE RANGLES: My next question again for
20 Southwestern Bell is on the same page, Example 1, the
21 initial nonrecurring charges in the right-hand column
22 that have been added onto the Staff's recommendation,
23 for example the \$53.20 for the two-hour analog loop.
24 Why are you adding those initial nonrecurring charges
25 in when this is supposed to be an as-is conversion and

1 there wouldn't be any physical work taking place?

2 I know I'm probably not using the correct
3 terms here, but what was the logic for adding that in?

4 MR. BAILEY: I don't see where this --

5 JUDGE RANGLES: On Schedule 2-1.

6 MR. BAILEY: Yes, but I don't see where this
7 is an as-is conversion.

8 JUDGE RANGLES: Well, on Schedule 1-1.
9 That's the Staff's recommendation says as-is UNE
10 conversion, loop and side line port combination only.

11 MR. BAILEY: Well, this Commission directed
12 Southwestern Bell, even though we didn't feel it was
13 appropriate, because we signed the contract to do
14 certain combinations for AT&T. That does not say that
15 it's an as-is conversion.

16 This Commission also said in that same Order
17 that we were required to provide services, UNE
18 services to AT&T as specified. Now, as I understand
19 what the Commission ordered us to do was we have to do
20 the combining for AT&T, but that does not mean that we
21 have an as-is conversion.

22 So we still have to do these functions, and
23 there is no as-is conversion as AT&T has suggested.

24 JUDGE RANGLES: When it's -- when they're
25 doing it via UNes?

1 MR. BAILEY: Oh, in the case of retail
2 there's no question. There is a \$5 charge. There is
3 no change. But this is a -- we're talking UNEs here,
4 and under UNEs there is no such thing as an as-is
5 conversion.

6 JUDGE RANGLES: Do you have a response to
7 this, AT&T?

8 MR. FLAPPAN: Yes. I think Southwestern
9 Bell continues to not accept the Commission's Order,
10 which does provide as-is conversions, and in order to
11 try to get around that, they want to hide these
12 charges in the -- in their cost studies and include
13 them in the prices when it's clear to me that -- and
14 AT&T that the Commission has granted as-is
15 conversions.

16 And the service order charge should not
17 include going to a collocation cage, cross connect
18 from the loop to the collocation cage, collocation
19 cage back to the port, provisioning the port itself.
20 Those are not appropriate in an as-is conversion
21 arrangement.

22 JUDGE RANGLES: Southwestern Bell?

23 MR. BAILEY: This Commission ordered us to
24 do the combining for AT&T, which means that we have to
25 combine the loop and the port as they specified and

1 take it to their cage and combine it.

2 An as-is conversion says we do nothing. We
3 don't use a cage. The connections that existed when
4 we had it stayed up and are not changed. That's not
5 what this Commission ordered.

6 The Commission ordered us to do what we
7 agreed to do in our agreement, and our agreement with
8 AT&T was not an as-is conversion. It was a connection
9 as I described where the loop is disconnected from the
10 connection it has with us, is connected to their cage,
11 the port is disconnected, and then the Commission
12 required us to make the connection in the cage.

13 But there is no as-is conversion in our
14 agreement with AT&T, and that -- and the 8th Circuit,
15 this was agreed to before the 8th Circuit made its
16 decision.

17 JUDGE RANGLES: It's your turn to respond.

18 MR. FLAPPAN: The 8th Circuit decision
19 expressly stated that nothing in that decision
20 required any new entrant to own facilities, own a
21 collocation cage in the incumbent LEC's office.

22 So Mr. Bailey has stated that his
23 interpretation -- I don't know where it comes from --
24 is that AT&T has to have a collocation cage in order
25 to be able to get into business in Missouri. That's

1 not what the Commission's ordered. That's not what
2 the 8th Circuit has said.

3 That's purely what Southwestern Bell would
4 like to believe that the 8th Circuit said and what
5 this Commission's ordered, but that is not what is, in
6 fact, in the record.

7 MR. BAILEY: Can I --

8 JUDGE RANGLES: There's going to be another
9 question along these lines, so you can add to that.

10 My next question is, I guess I want to know,
11 you know, if AT&T is taking a customer away from
12 Southwestern Bell, the exact same set of services is
13 going to be provided.

14 Obviously on resale we understand that if
15 AT&T specifies a set of UNEs, however, as opposed to
16 requesting a resale type situation for that customer,
17 what is the difference in the cost that Southwestern
18 Bell is experiencing between the resale and the UNE
19 situation for that conversion?

20 MR. BAILEY: Well, let me start off by
21 saying that what we are talking about is the cost to
22 implement a contract that we have between AT&T and
23 Southwestern Bell. When you're talking about UNE,
24 provision of services through UNEs, that contract
25 specifies that we'll take the UNE to AT&T's cage, the

1 port and the loop.

2 Now, we agreed to do combinations before the
3 8th Circuit decision and the AT&T -- or we're required
4 to do that by this Commission. Although we don't
5 think it's required, that's what we're doing.

6 The point is, it is not the same service.
7 It is a group of individual elements that we are
8 required to combine by this Commission into a service
9 that is the same service, but it is not the same
10 thing. And there are costs and effort that we have to
11 expend to make those combinations, and we should be
12 able to recover our costs in doing that.

13 JUDGE RANGLES: Okay. I'm just going to
14 follow up, and you will have a chance to respond,
15 AT&T. But if all the connections are in the same
16 place they're going to be after the combination --

17 MR. BAILEY: But they are not --

18 JUDGE RANGLES: Okay. That's what I wanted
19 to understand is what is the difference.

20 MR. BAILEY: Because what we'll be doing is
21 we'll be taking the combination -- right now on a
22 typical frame that's in the central office there is a
23 connection that goes from a loop which is on one side
24 of the frame to a connection that eventually connects
25 to a port connected to the switch. There's one wire

1 connection.

2 When we sell combination -- when we sell
3 loops and we sell ports to AT&T, we're going to
4 provide them access to those loops and ports probably
5 through a cage. So there'll be a connection run on
6 the frame between the cable and pair to a tie cable
7 which will go to their -- to their collocation space.

8 There'll be a similar tie cable that will
9 be -- or a similar connection that will go from their
10 port to a tie cable interconnection service. All of
11 these things are different than what we do when we
12 provide service just for our customers.

13 JUDGE RANGLES: Okay. Response, AT&T?

14 MR. FLAPPAN: You just heard Mr. Bailey
15 admit and describe how they plan to discriminate and
16 not provide parity of access to AT&T when AT&T tries
17 to enter the market.

18 I challenge Mr. Bailey to take us through
19 the contract and show us where AT&T has an agreement
20 with Southwestern Bell that says the only way we're
21 going to get access to the Missouri market is through
22 having a collocation cage in every central office. He
23 can't do it.

24 Furthermore, and I'll go back to this
25 Affidavit that was filed by Dr. William Bommell who

1 talks about economic costs are calculated from the
2 standpoint of building production service capability
3 today at current input prices and in the fashion that
4 is most cost effective --

5 MS. SWALLER: Your Honor, I object.

6 MR. FLAPPAN: -- in light of today's --

7 MS. SWALLER: I object. I know we do not
8 have cross-examination in this hearing, but we should
9 have the right to object to clearly irrelevant
10 testimony. He is reading the Affidavit of somebody
11 from some other jurisdiction.

12 MR. DeFORD: If we're going to start
13 objecting to irrelevance, I mean, we'll be here all
14 day.

15 JUDGE RANGLES: Can you clarify what you are
16 reading from?

17 MR. FLAPPAN: This is an Affidavit that was
18 filed by Professor William Bommell, Yanis Artover and
19 Robert Welig at the FCC that was --

20 JUDGE RANGLES: Is this attached to your
21 Affidavit that was prefiled?

22 MR. FLAPPAN: No, this was not.

23 JUDGE RANGLES: I'll sustain the objection.

24 MR. FLAPPAN: I'll just make the point
25 saying that the efficient cost is what we're talking

1 about here instead of the appropriate rates, not any
2 cost that Southwestern Bell would like to incur in
3 order to keep competition from entering into the
4 marketplace in Missouri.

5 The courts have ruled that Southwestern Bell
6 is not entitled to recover any cost that it would like
7 in setting up service for a new entrant, but it has to
8 operate in an efficient manner. That's what TELRIC
9 principles are all about.

10 JUDGE RANGLES: But I guess getting back to
11 my question, can you explain how that service would be
12 provided when you order, you know, service? Unbundled
13 network elements basically, if you're not going to
14 collocate, how would that work then?

15 MR. FLAPPAN: It would work through the
16 platform arrangement which this Commission has -- we
17 argued that in the arbitration. The Commission
18 provided us with that as a method of entering the
19 marketplace.

20 And I don't know where this idea that AT&T
21 had either argued or agreed that we would need to have
22 a collocation arrangement in every instance to convert
23 customers. That's never been our position.

24 If Southwestern Bell tries to resist our
25 orders when they start coming through and not

1 providing it to us, then we'll end up right back in
2 front of this Commission because as a monopolist they
3 have that type of power. We can't go to someone else
4 and ask them to provide the order since there is no
5 one else that has the monopoly power.

6 JUDGE RANGLES: We all hope that this is the
7 last arbitration for a while, but -- are you finished
8 with your response?

9 MR. FLAPPAN: Yes, ma'am.

10 JUDGE RANGLES: Okay. Southwestern Bell, do
11 you have a further response?

12 MR. BAILEY: Well, AT&T has said that in
13 other parts of the agreement that they object to the
14 fact that we have to have test points, and yet if what
15 Mr. Flappan is describing is we just do an as-is
16 conversion, then they don't have the ability to test
17 either.

18 So I mean, it's not a -- we have to -- all
19 of the systems we have up here in providing service,
20 what we've been talking about in large part today is
21 how we do this in a resale environment because we're
22 talking about our own network.

23 When we come to providing UNEs, then what
24 we've recommended is that there's test points along
25 there and there's points at which we can access the

1 network to see where trouble is on the network.

2 AT&T requires us in our contract to provide
3 a certain grade of service, and we have to have the
4 ability to do that testing. AT&T has objected and
5 they did during the negotiations and during the
6 arbitration to the test points. They said they could
7 do that.

8 But with an as-is conversion that
9 Mr. Flappan's describing, they have no contact with
10 the customer. There is no physical contact between
11 them and the customer. It is resale by another name.

12 And the other point is that while he talks
13 about an as-is conversion, this Commission specified
14 that they have to order the services as specified.
15 They have to order trunks. They have to order ports.
16 They have to tell us how to put things together. It
17 cannot be an as-is conversion like that.

18 We have to be able to keep the records of
19 what they ordered, which means we have to handle
20 things somewhat differently than what they did.

21 JUDGE RANGLES: Right. I understand. And
22 before you respond, let me clarify my question a
23 little bit so we hopefully make this the last round of
24 responses.

25 But if it is an as-is conversion and you

1 look at what they've ordered in the way of UNEs and
2 then you go look at the system and it's already there,
3 are you saying it's going to cost \$53 to compare their
4 order with the existing system for the two-wire analog
5 loop, it's going to cost \$71 to compare those two for
6 the two-wire analog loops collocation cross connect,
7 et cetera? Is that what Southwestern Bell's cost is?
8 I'm looking at your Example No. 1.

9 MR. BAILEY: I guess what I'm saying is that
10 we don't assume that we can just not touch the service
11 and it exists for AT&T.

12 JUDGE RANGLES: Why do you assume that?

13 MR. BAILEY: We have to have test points.
14 We have to have the ability to monitor the service.
15 We have to implement it through the TIRKS system.
16 Some of the other people here can maybe describe that
17 better than I.

18 But we do not assume, as AT&T is, that all
19 you do is change the providing carrier's name on the
20 bill and the service stays the same. That will not
21 happen, and the Commission didn't direct that to
22 happen. The Commission directed us to make
23 combinations.

24 JUDGE RANGLES: AT&T's response, is that --
25 is that what's required, or are they forcing a view on

1 something that the Commission isn't forcing on the
2 parties?

3 MR. FLAPPAN: They are in my view attacking
4 the Commission's Order, in legal terms a collateral
5 attack on the Commission's Order.

6 The Commission set a rate of \$5. Now, what
7 was the Commission contemplating when it came up with
8 this \$5 rate? Was it contemplating installing each
9 one of the UNEs separately? No. The Commission
10 clearly stated an as-is conversion is appropriate.

11 As far as testing goes, Southwestern Bell
12 has a testing system called MLT testing. They use it
13 every day for their own services. When Southwestern
14 provides a service to -- the platform of UNEs to AT&T,
15 they will use the same MLT testings they used for
16 their own network. There's nothing complex about
17 that. There's nothing that's hard to understand about
18 that.

19 What Mr. Bailey's talking about is they have
20 to install a test port like they do for their special
21 access services. They have to put those into TIRKS,
22 track those in TIRKS with the SARTS testing point.
23 That's not required for a normal POTS telephone
24 service loop.

25 Again, Southwestern Bell is trying to add

1 inefficiencies into the process that create barriers
2 to AT&T getting into the market to maintain their
3 market share, allow them to get into long distance
4 services. The Commission hasn't stood for that in the
5 past and doesn't stand for it in the present.

6 JUDGE RANGLES: Southwestern Bell, do you
7 have further response?

8 MR. BAILEY: Well, first of all, Mr. Flappan
9 said that the Commission ordered a \$5 charge. The
10 Commission ordered a \$5 charge for a resale conversion
11 in its previous Order. Now, and that was in the
12 circumstance where nothing changed, where all we were
13 doing was changing in essence the carrier in a resale
14 environment.

15 The Commission didn't make an Order as to
16 what would apply in a UNE environment. That's why
17 we're here. So they didn't order that.

18 Now, the \$5 charge was only for the service
19 order component. It wasn't for all of the things we
20 have to do. As we described earlier, the service
21 order component is the front office side of the piece.

22 And the assumption, I think, in your
23 original question to me was, well, why do you have to
24 do that? The answer is there's other activities that
25 occur in the back office, too.

1 JUDGE RANGLES: I think you've both
2 adequately answered my question, but I'll let AT&T
3 respond.

4 MR. FLAPPAN: I would just summarize by
5 saying that the AAS got this one right. They
6 interpreted the Order correctly. They -- the write-up
7 and the recommendation clearly states that a \$5 charge
8 for an as-is conversion, that it's not contemplated
9 that each individual UNE would be -- have to be a
10 disconnect and a reconnect for all the individual
11 UNEs.

12 There's no contemplation that AT&T would
13 have to collocate in order to provide service. In
14 fact, it's been Southwestern Bell's position in the
15 past that these cross connects between the loop and
16 the port and the -- excuse me -- between the loop and
17 the collocation and the port and the collocation are
18 not even regulated services, that they're beyond the
19 jurisdiction of the State Commission.

20 The Act doesn't require them to do any
21 combining, and the Commission in Missouri has ordered
22 that they do the combining for the new entrants.

23 And again, there's nothing in the
24 contract -- go back and look at it or look in the
25 record -- that AT&T has agreed or the Commission has

1 ordered what's already put together to be taken apart
2 and that Southwestern Bell could run these through the
3 TIRKS system and add those costs to AT&T's. Even
4 Mr. Vest in his testimony stated that when you have a
5 loop and port combination you don't need to use TIRKS.

6 JUDGE RANGLES: I don't have any further
7 questions at this time. Judge Ruth, do you have any
8 questions?

9 JUDGE RUTH: No.

10 JUDGE RANGLES: Chair Lumpe?

11 CHAIR LUMPE: No.

12 JUDGE RANGLES: Commissioner Schemenauer?

13 COMMISSIONER SCHEMENAUER: None.

14 JUDGE RANGLES: I think these are all of our
15 questions. Let's go off the record.

16 (Discussion off the record.)

17 JUDGE RANGLES: Back on the record.

18 Does anybody have any exhibits to offer?

19 MS. SWALLER: Here's the dilemma. Here's
20 what all the debate is that's going on. It's sort of
21 contingent on what happens with the Motion to Strike.
22 We do have the rest of the story, if you will, of
23 Dr. Lehman's testimony that was used in Mr. Flappan's
24 testimony, which we could put in the record here
25 subject to ruling on the Motion to Strike because we

1 have no desire to offer it except to -- if we're going
2 to rely on his testimony from other jurisdictions, we
3 might as well get the rest of it in so that we can
4 show what we believe is a more complete picture.

5 So we have kind of that dilemma. We have
6 sufficient copies here. We could go ahead and do that
7 so we'd be ready to go either direction.

8 JUDGE RANGLES: Before you make an official
9 offer, let me see what AT&T's view is on that. I have
10 some thoughts on it, too. I don't want to be in a
11 position of overruling until I've shared those
12 thoughts.

13 MR. DeFORD: I think at this point I'd
14 probably object to the admission of any new material
15 that we haven't had the opportunity to see, I guess,
16 ourselves until after maybe you've ruled on the Motion
17 to Strike, and then I think we can deal with all of it
18 then.

19 MR. LANE: What we're talking about is they
20 took a piece of a witness' testimony from another
21 jurisdiction, mischaracterized it. They've seen it.
22 We're talking about putting in the entire testimony.
23 They've seen it because they went and took a little
24 bitty piece out of it and mischaracterized it.

25 MR. DeFORD: I'd object to the

1 characterization of us having mischaracterized that.

2 I personally as counsel for AT&T have not seen the
3 entire piece of testimony.

4 JUDGE RANGLES: Is the particular piece of
5 testimony that you're talking about, Mr. Lane, part of
6 what you considered to be irrelevant?

7 MR. LANE: Yes.

8 MS. SWALLER: We do, but if it's in the
9 record --

10 JUDGE RANGLES: Right. Okay. Then I think
11 what we should do is you should -- you can make your
12 offer now, and I'll rule on it if you do, but I think
13 it might be better to let the Commission rule on the
14 Motion to Strike, decide whether that piece of
15 testimony is relevant or not, because if it's
16 irrelevant, then we don't need to clutter the record
17 with even more irrelevant testimony since that other
18 testimony would be on the same subject.

19 But it's up to you whether you want to offer
20 that or not.

21 MS. SWALLER: Since we don't know what's
22 going to happen after you leave, we would like to make
23 a conditional offer of proof. We agree a hundred
24 percent that it's irrelevant and shouldn't be in the
25 record, but if it is allowed into the record, then

1 there ought to be a complete picture of what that
2 piece of irrelevant testimony was.

3 So we would like to make an offer of proof
4 or offer it for admission so it'll be there, and then
5 if it's not admitted, at least the documents are here
6 in the file.

7 JUDGE RANGLES: So do I hear you making an
8 offer, then, on the exhibit? Let's mark it so you can
9 do that and then I'll rule on it.

10 MS. SWALLER: Would you like just three
11 or --

12 JUDGE RANGLES: The unusual number of --

13 MS. SWALLER: Well, normally when they get
14 prefiled, everybody gets a copy in advance and then
15 you give them for the record. I was just indicating
16 that since nobody has seen this before, sometimes we
17 end up passing ones out at the bench as well.

18 So this would be the direct testimony of
19 Dale Lehman on behalf of Southwestern Bell in Kansas
20 AT&T arbitration. It would the next number,
21 Exhibit 15.

22 JUDGE RANGLES: Right. Exhibit 15. You
23 said his name is Dale Lehman?

24 MS. SWALLER: Yes.

25 (EXHIBIT NO. 15 WAS MARKED FOR

1 IDENTIFICATION.)

2 MS. SWALLER: Your Honor, we're also trying
3 to figure out what to do with that (indicating).
4 There were a couple of Commissioners, three
5 Commissioners that weren't here today. We're trying
6 to figure out whether that would be some value to them
7 or not.

8 What we would like to do, just on the off
9 chance that it is, is to take it back with us, if it's
10 okay, and just have copies made and have it marked as
11 an exhibit so that it would sort of go along with the
12 discussion that Mr. Vest had in the record.

13 JUDGE RANGLES: Okay. First let's deal with
14 Exhibit 15. So you've offered that into evidence.
15 Are there objections?

16 MR. DeFORD: Since she made a conditional
17 offer, can I make a conditional objection?

18 JUDGE RANGLES: Okay. Go ahead.

19 MR. DeFORD: No. I would accept whatever
20 ruling you have. I think that it follows that if the
21 Motion to Strike is not granted, I wouldn't have an
22 objection to having that supplemental exhibit offered.

23 JUDGE RANGLES: If the Motion to Strike is
24 not granted, it's okay with you if the testimony comes
25 in?

1 MR. DeFORD: Correct.

2 JUDGE RANGLES: Okay. Right now, then, I
3 will -- this is unusual. I guess I will sustain the
4 conditional objection. In other words, Exhibit 15 is
5 not evidence at this point in time. However, if the
6 Motion to Strike is overruled, there will be no
7 objections and Exhibit 15 will be a part of the
8 record.

9 MS. SWALLER: Conditional admission.

10 JUDGE RANGLES: Conditional admission.
11 There we go.

12 And so on the map, I think that it would be
13 useful. That can be labeled as Exhibit 16 by the
14 court reporter.

15 Let's go off the record.

16 (Discussion off the record.)

17 JUDGE RANGLES: So you prefer to make it a
18 late-filed exhibit?

19 MS. SWALLER: Yes, your Honor.

20 JUDGE RANGLES: Okay.

21 MS. SWALLER: And we will --

22 JUDGE RANGLES: It will be Exhibit 16.

23 MS. SWALLER: We'll send a copy to AT&T
24 first, and then when they validate it, we will send it
25 for filing.

1 JUDGE RANGLES: So that's reserved for the
2 diagram that was drawn by Mr. Vest. That was
3 Exhibit 16. And we'll just follow the usual process.
4 Submit that to Judge Ruth, and then she'll distribute
5 it to the Commissioners and send out a notice if there
6 are any objections to it.

7 Are those all of the exhibits?

8 MR. LANE: Just a clarifying question.
9 Different Hearing Examiners have different choices on
10 late-filed exhibits. Not with the Commission, file it
11 with -- send it to Judge Ruth?

12 JUDGE RANGLES: Yeah. I believe that what
13 most of the Judges do and what I do is eight copies to
14 the Judge, and the Judge will make sure the
15 Commissioners get their copies, take the three copies,
16 make sure they're -- of course, you're supposed to
17 serve the copies on the other parties, too, when you
18 send that to the Judge.

19 MR. LANE: Right.

20 JUDGE RANGLES: On the briefing schedule,
21 I'd like to hear what each party would prefer in that
22 on that subject, how much time you want, you know. I
23 believe that, Ms. Swaller, you mentioned ruling on the
24 Motion to Strike first and then doing briefing.

25 If you can just each address what your

1 preferences would be on that, I'll leave it up to
2 Judge Ruth to issue an Order later on as to what the
3 schedule will be, but let's hear your preference.

4 MS. SWALLER: We were talking. I don't
5 think we're going to have a disagreement. We just
6 have to calculate the time. How much time do you
7 think the Commission and the Judge would like to have
8 to deal with the Motion to Strike? Ten days for Paul
9 to respond, and then the period of time after that,
10 because we do think it would be beneficial for it to
11 be ruled on before we do briefing.

12 MR. LANE: We filed it last Wednesday.

13 JUDGE RANGLES: You filed it on
14 September 2nd?

15 MR. LANE: Right.

16 MR. DeFORD: Well, since actually we're not
17 going to have any control over the Commission's
18 agendas and the like, I would suggest that we tie the
19 briefing schedule to the ruling on the Motion to
20 Strike.

21 JUDGE RANGLES: That may be the best option
22 here because I don't know what time frame the
23 Commission's going to be on. Unless you-all have
24 strong feelings about how soon you want a ruling from
25 the Commission, and you can certainly voice those

1 here, but I think your idea is a good one, Mr. DeFord.

2 Do you have any comment?

3 MS. SWALLER: No, I'm not opposed to that.

4 Thirty days from the date of the Commission's ruling
5 on the Motion to Strike, and then we'd like to have
6 simultaneous initial and simultaneous reply briefs,
7 and then in the reply briefs 15 days.

8 MR. DeFORD: 30 and 15.

9 MR. LANE: We probably need to have some
10 process in place in case the Commission for some
11 reason decides not to rule on the Motion to Strike and
12 wants to take it with the case in its entirety.

13 JUDGE RANGLES: Yeah. And I think what we
14 could do is a notice could simply be issued informing
15 you of that, that the Commission has decided to take
16 the motion with the case, and then, you know, that
17 will let you know the 30-day time window is triggered.

18 MR. DeFORD: That would make sense to us.

19 JUDGE RANGLES: Are there any other issues
20 we need to discuss related to briefing?

21 Okay. That is all I have. Does anyone have
22 anything else they want to bring up before we adjourn?
23 Okay. We're adjourned.

24 WHEREUPON, the hearing of this case was
25 concluded.

1	E X H I B I T S		
2		MARKED	REC'D
3	EXHIBIT NO. 1		
4	Testimony of Robert P. Flappan	172	193
5	EXHIBIT NO. 2		
6	Testimony of Daniel P. Rhinehart	172	193
7	EXHIBIT NO. 3		
8	Testimony of Denise Crombie	172	193
9	EXHIBIT NO. 4		
10	Affidavit of William C. Bailey	172	193
11	EXHIBIT NO. 5		
12	Affidavit of Leonard D. Ellis	172	193
13	EXHIBIT NO. 6		
14	Affidavit of James A. Hearst	172	193
15	EXHIBIT NO. 7		
16	Affidavit of Barbara McCrary-Bazzle	172	193
17	EXHIBIT NO. 8		
18	Affidavit of Mike Michalczyk	172	193
19	EXHIBIT NO. 9		
20	Affidavit of Barry A. Moore	172	193
21	EXHIBIT NO. 10		
22	Affidavit of Merri Lynn Owens	172	193
23	EXHIBIT NO. 11		
24	Affidavit of Sharon S. Sadlon	172	193
25	EXHIBIT NO. 12		
26	Affidavit of Barbara A. Smith	172	193
27	EXHIBIT NO. 12HC		
28	Affidavit of Barbara A. Smith		
29	Highly Confidential	172	193
30	EXHIBIT NO. 13		
31	Affidavit of Randall P. Vest	172	193
32	EXHIBIT NO. 14		
33	Affidavit of James C. White	172	193

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E X H I B I T S
(Continued)

MARKED REC'D

EXHIBIT NO. 15

Direct Testimony of Dale E. Lehman
Docket No. 97-SCCC-149-GIT

309

EXHIBIT NO. 16

Diagram drawn by Mr. Vest

*

*Late-filed exhibit.