

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Hearing
8 July 21, 2004
9 Jefferson City, Missouri
10 Volume 3
11
12 In the Matter of the Petition of)
KLM Telephone Company for)
13 Suspension of the Federal) Case No. TO-2004-0401
Communications Commission)
14 Requirement to Implement Number)
Portability)
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17 KENNARD L. JONES, Presiding,
REGULATORY LAW JUDGE.
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20 JEFF DAVIS,
LINWARD "LIN" APPLING,
COMMISSIONERS.
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23 REPORTED BY:
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1 P R O C E E D I N G S

2 JUDGE JONES: This is Case

3 No. TO-2004-0401, in the matter of the petition of KLM
4 Telephone Company for suspension of the Federal
5 Communications Commission requirement to implement number
6 portability. My name is Kennard Jones. I'm the presiding
7 judge over this matter.

8 At this time I will take entries of
9 appearance, beginning with KLM Telephone Company.

10 MR. ENGLAND: Thank you, your Honor. Let
11 the record reflect the appearance of W.R. England and
12 Brian T. McCartney on behalf of KLM Telephone Company.
13 Our address is Brydon, Swearngen & England, P.C., Post
14 Office Box 456, Jefferson City, Missouri 65102.

15 JUDGE JONES: And for the Staff of the
16 Commission?

17 MR. MEYER: Good morning. David Meyer for
18 the Staff of the Missouri Public Service Commission. Our
19 address is P.O. Box 360, Jefferson City, Missouri 65102.

20 JUDGE JONES: And for Western Wireless?

21 MR. STEINMEIER: Thank you, your Honor.
22 William D. Steinmeier and Mary Ann Young, William P.
23 Steinmeier, P.C., P.O. Box 104595 in Jefferson City,
24 Missouri 65110-4595, on behalf of Western Wireless.

25 JUDGE JONES: Thank you, Mr. Steinmeier.

1 And I'll note for the record that the Office of the Public
2 Counsel has filed a notice of non-participation in this
3 case, so that will shorten the day, I suppose, a bit.

4 We will this morning have premarking of
5 exhibits. Have you-all already gone through your
6 exhibits?

7 MR. ENGLAND: I have the exhibits, but I
8 have not given them any marks.

9 JUDGE JONES: What we'll do then is -- how
10 many exhibits do you have, Mr. England?

11 MR. ENGLAND: Well, just kind of talking
12 out loud, I've got the verified petition of proprietary
13 cost data that was submitted subsequent to the filing of
14 the petition, the direct testimony of Bruce Copsey, the
15 direct testimony of William J. Warinner, surrebuttal
16 testimony of William J. Warinner, and then there was a
17 proprietary page or number of his surrebuttal testimony.
18 Looks like maybe I've got about six.

19 JUDGE JONES: Mr. Meyer, how many exhibits?
20 And Mr. Steinmeier?

21 MR. STEINMEIER: Did Mr. Meyer answer
22 already?

23 MR. MEYER: I did physically. It's two.

24 MR. STEINMEIER: Okay. Your Honor, what
25 I have is rebuttal testimony of Mr. Williams and

1 nonrebuttal -- not nonrebuttal -- and surrebuttal. The
2 rebuttal is in two forms, one proprietary, one
3 nonproprietary, and has five attachments to it. So it
4 depends in part on if you want each of the attachments to
5 his rebuttal testimony, which were marked exhibits RW --
6 for our purposes of keeping them straight with the
7 testimony, RW-1 through RW-5. The surrebuttal also has
8 four attachments which are RW-6, 7, 8 and 9. So do you
9 want each of those pieces marked separately?

10 JUDGE JONES: What I'll do is ask your
11 opposing counsel, how do you-all feel about that, because
12 you can object to the whole or to a part? If you would
13 object to part, then I'll have them marked separately. If
14 not, then they can be marked as a whole attachment.

15 MR. ENGLAND: I have no preference. My
16 experience is that we simply mark the whole thing,
17 testimony plus schedules, as one exhibit.

18 JUDGE JONES: Okay. Mr. Meyer?

19 MR. MEYER: I would agree with that.

20 JUDGE JONES: All right. Then what we'll
21 do is we'll premark and, Mr. England, you'll take numbers
22 1 through 10. Mr. Meyer you'll take numbers 11 through
23 20. And Mr. Steinmeier, you'll take numbers 21 through
24 30.

25 Let's see. And as you all -- I hope

1 you-all are prepared to make closing arguments at the end
2 of the day, as opposed to a briefing schedule. As you all
3 know, the date by which the Commission must act on this
4 application is August 15. There isn't time for a briefing
5 schedule and for me to be able to write a Report and
6 Order. So we'll skip the Briefs and have closing
7 arguments at the close of the day today. I assume you-all
8 are prepared to do that or will be by the end of the day,
9 I should say.

10 Are there any other prehearing matters that
11 need to be discussed before going into opening statements?

12 (No response.)

13 JUDGE JONES: Okay. With that, then, we'll
14 go off the record and I'll give you-all an opportunity to
15 premark exhibits and submit.

16 Yes, Mr. England?

17 MR. ENGLAND: I'm sorry. We do have -- I
18 don't think it's an exhibit necessarily, but we would like
19 for the Commission to take official notice of the
20 interconnection agreement between Western Wireless and
21 Southwestern Bell Telephone Company. It's my
22 understanding that is already filed with the Commission,
23 and I believe I can give you the case number. TO-98-12.

24 JUDGE JONES: TO-98 --

25 MR. ENGLAND: Correct.

1 JUDGE JONES: -- 12?
2 MR. ENGLAND: Correct.
3 JUDGE JONES: Is that a Commission case
4 number?
5 MR. ENGLAND: It is. It's before the --
6 before the --
7 MR. MCCARTNEY: 98-12.
8 JUDGE JONES: It's before the Commissioners
9 now?
10 MR. ENGLAND: No. It's before the
11 Commission went to the full year. When the millennium
12 occurred, the Commission numbering system went to a full
13 2000. Prior to that it was 98 to represent 1998, 99 to
14 represent 1999 fiscal year, et cetera, et cetera.
15 JUDGE JONES: Right.
16 MR. ENGLAND: So it's TO-98-12.
17 JUDGE JONES: I guess what confuses me is
18 that this is an interconnection agreement from six years
19 ago?
20 MR. ENGLAND: And currently it's still in
21 effect, your Honor.
22 JUDGE JONES: Oh, there isn't an
23 application pending; there's actually an agreement that's
24 in place?
25 MR. ENGLAND: That was the case that was

1 filed and the Commission issued an Order approving it. My
2 understanding is that's the currently approved agreement
3 under which the parties are operating.

4 JUDGE JONES: I take it that that
5 interconnection agreement is relevant in some point during
6 the case?

7 MR. ENGLAND: Yes.

8 JUDGE JONES: At that time if you'll bring
9 it back up, then it will be in the record in the right
10 place.

11 MR. ENGLAND: Well, it's referenced in the
12 surrebuttal testimony of Mr. Warinner, and I may have some
13 questions for Mr. Williams on cross-examination. And I
14 have a couple of extra copies if you would like.

15 JUDGE JONES: Okay. Thank you. Does
16 anyone else have anything they'd like to discuss?

17 (No response.)

18 JUDGE JONES: Hearing nothing, then we will
19 go off the record and have the premarking of exhibits
20 while I gather the Commissioners.

21 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

22 (EXHIBIT NOS 1 - 6, 11, 12 AND 21 - 24 WERE
23 MARKED FOR IDENTIFICATION BY THE REPORTER.)

24 JUDGE JONES: All right. We are back on
25 the record with Case No. TO-2004-0401 in the matter of the

1 petition of KLM Telephone Company for suspension of the
2 Federal Communications requirement to implement number
3 portability. We will begin opening statements now with
4 KLM.

5 Mr. England?

6 MR. ENGLAND: Thank you, your Honor. Good
7 morning, and may it please the Commission? My name is
8 Trip England. I represent KLM Telephone Company, the
9 Petitioner in this case this morning. KLM is a small
10 rural telephone company serving four exchanges in the
11 western part of the state, due south of Kansas City. KLM
12 serves approximately 1,600 lines total in those four
13 exchanges.

14 The case you're going to hear today is a
15 little bit different than the case you're going to hear
16 tomorrow involving Cass County Telephone Company and
17 Craw-Kan Telephone Company in that KLM has asked for both
18 suspension and modification, if you will, of the
19 Telecommunication Act obligations and the FCC rules
20 implementing those rules for the implementation of
21 wireline to wireless or intermodal porting of numbers.

22 I say it's a little bit different in that
23 KLM, unlike Cass County and Craw-Kan, is seeking a
24 two-year suspension of the obligation to implement
25 intermodal porting. The facts specific to KLM indicate

1 that its exchanges are served by Mitel -- that's
2 M-I-T-E-L -- switches. These switches were installed in
3 the late '90s, I believe 1998, and they have been subject
4 to a notice from their manufacturer that they will no
5 longer be receiving support from the manufacturer as of
6 December 31st, 2007.

7 Essentially that means that after
8 December 31st, 2007, if there's a problem with the switch,
9 if it's hit by lightning, if something malfunctions and it
10 needs work, the manufacturer who built that switch will no
11 longer support it. As a practical matter what it really
12 means is that KLM is going to have to replace these
13 switches no later than December 31st, 2007.

14 KLM switches are currently not LNP capable.
15 Now, these existing switches can be modified to implement
16 LNP, but the nonrecurring costs to do so are approximately
17 \$12,000, and then there are, of course, recurring costs
18 associated with accessing databases to properly route
19 ported numbers. The total cost of both nonrecurring and
20 recurring costs for KLM, if it were to implement LNP
21 immediately, would be approximately \$1.23 per subscriber
22 per month.

23 KLM is asking for a two-year suspension; in
24 other words, a two-year hiatus from when it has to
25 implement LNP. It would thereby avoid having to spend the

1 money now to upgrade a switch that it's ultimately going
2 to have to replace. It would avoid having to levy a
3 surcharge on its customers of \$1.23 for 60 months to
4 recover those costs that will be duplicated, if you will,
5 or wasteful by having to replace the switch with new
6 equipment that will be LNP capable, plus provide other
7 features and services and functions to the customers.

8 In essence, it makes no sense now to
9 upgrade a switch what is going to come out of service in
10 the very near future. Both Public Counsel and Staff have
11 reviewed the information involving KLM, and both of them
12 agree that the request for a two-year suspension is
13 appropriate.

14 Now, there's been a great deal of concern
15 about the impact of, if you will, the lack of LNP on
16 competition in small company exchanges, and in the KLM
17 exchanges specifically. What the evidence in this case
18 will show you is that wireless competition today is robust
19 and the lack of LNP will have little, if any, effect on
20 that competition, certainly for the next two years.

21 So when you look at the costs of
22 implementing LNP now, the upgrade of an existing switch
23 that will have to come out of service in the next two to
24 three years versus the benefits of LNP which are little,
25 if any, and by the way, there is no customer demand as of

1 today for LNP at KLM switches, I think clearly the balance
2 of the teeter-totter of the scale cuts in favor of not
3 implementing LNP. The costs simply outweigh any perceived
4 benefits.

5 KLM like Cass and CrawKan is also asking
6 for modification of the FCC rules regarding the porting of
7 numbers to wireless carriers. KLM, like many, if not all,
8 small companies in the state, is authorized to provide
9 local exchange service within its local exchange
10 boundaries. It has facilities and equipment to do so.
11 What it doesn't have is facilities and equipment to
12 complete local calls outside its local exchange area.

13 The porting of numbers to wireless carriers
14 who have not established a local presence of KLM's
15 exchanges will require the transporting or transiting of
16 numbers and the associated calls beyond KLM's boundaries,
17 perhaps significant distances to connect with the wireless
18 companies, in this case Western Wireless, at their point
19 of interconnection with the landline network.

20 KLM, by the way, is located in what I call
21 the Springfield LATA, the 417 area code, so for KLM to
22 transport ported numbers and calls to Western Wireless,
23 it's going to have to find a way to get those calls to
24 either Springfield or Branson where tandems are located
25 and where Western Wireless interconnected with the

1 landline network.

2 What KLM seeks is a modification from the

3 FCC rules that apparently require it to transport those

4 calls at KLM's expense. KLM's request, as I said, is

5 similar to Cass County's and Craw-Kan's in this regard.

6 They are seeking to avoid the cost associated with

7 transporting these local calls outside their exchange

8 boundaries. This modification, by the way, is no

9 different than what other small companies have requested

10 and, in fact, what this Commission has granted in a number

11 of cases in the last couple of weeks.

12 What makes this case a little bit unusual

13 on this modification issue, if you will, this transporting

14 issue is that Western Wireless has offered to reimburse

15 KLM Telephone Company for its costs in transporting these

16 calls to Western Wireless until such time as the FCC

17 addresses this issue and resolves it.

18 The problem with Western Wireless' offer is

19 twofold. One, it's insufficient, and two, it's

20 unnecessary. It's insufficient in that Western Wireless

21 has limited its ability or its willingness to reimburse

22 KLM for transit costs up to what Western pays for a

23 similar service through its interconnection agreement with

24 Southwestern Bell.

25 Today Western has an interconnection

1 agreement with Southwestern Bell, and pursuant to that
2 interconnection agreement, Western Wireless can transit
3 traffic to third-party exchanges and receive transit
4 traffic from third-party exchanges through Southwestern
5 Bell facilities at 4/10 of a cent per minute. KLM has no
6 agreement with Southwestern Bell to transit local traffic.
7 In fact, no incumbent local exchange carrier that I'm
8 aware of in the state of Missouri has a transiting
9 arrangement with Bell to transit local traffic at 4/10 of
10 a cent or anything close to that.

11 The other problem or the other cost here,
12 unknown cost, is the cost that KLM will have to incur in
13 negotiating an agreement with Southwestern Bell. That
14 could be very time consuming and, therefore, very
15 expensive, particularly if it has to be brought back to
16 you for arbitration which, given our history with
17 Southwestern Bell, is a very likely occurrence.

18 As I said, Western Wireless's offer is
19 unnecessary, and that's because they have an
20 interconnection with Southwestern Bell, or an
21 interconnection agreement. They could simply arrange with
22 Southwestern Bell under the existing interconnection
23 agreement to transit that traffic from KLM back to their
24 points of presence or their interconnection with
25 Southwestern Bell and avoid the necessity for this

1 reimbursement, avoid the necessity for KLM to have to go
2 out and negotiate with Southwestern Bell, and avoid the
3 very real likelihood that KLM can't get the same deal that
4 Western Wireless can from Southwestern Bell Telephone
5 Company.

6 In conclusion, as I said, I think the
7 suspension of two years is appropriate under these
8 circumstances. And I think the modification is certainly
9 appropriate in light of the circumstances of KLM and that
10 of other small companies similarly situated and for which
11 you have previously granted those modifications. Thank
12 you very much.

13 JUDGE JONES: Thank you, Mr. England.
14 Western Wireless?

15 MR. STEINMEIER: Thank you, your Honor,
16 members of the Commission. KLM Telephone Company in this
17 case is asking you to suspend for two whole years its
18 legal obligation to provide local number portability or
19 LNP of numbers to wireless carriers.

20 You have heard much and will hear more
21 about the legal obligation created by the Congress and the
22 Telecommunications Act of 1996, and brought to final
23 fruition as to wireline to wireless LNP in orders of the
24 FCC in 2002 and 2003. You will hear the statutory
25 requirements for suspension or modification of LNP

1 requirements that the Congress included in the 1996 Act,
2 statutory requirements, not gentle, grandmotherly
3 suggestions, that a suspension should only be granted if
4 it is necessary to avoid certain bad things.

5 Is it necessary to avoid a significant
6 adverse economic impact on telecommunications users
7 generally? Is it necessary to avoid undue economic
8 detriment, or is it necessary to avoid imposing a
9 requirement that is technically infeasible, just can't be
10 done engineering-wise? Then and only then, if one or more
11 of those necessities is present, the Commission must also
12 consider whether a suspension or modification of the LNP
13 requirements is consistent with the public interest,
14 convenience and necessity.

15 Further, the FCC stated in its LNP First
16 Report and Order that to meet the standard, the ILEC, the
17 incumbent local exchange company, must show undue economic
18 burden beyond the economic burden typically associated
19 with competitive entry. Adjustments to making competitive
20 entry will cost some money. The FCC knows that. It is a
21 fact of life. And the fact that adjusting to a new
22 competitive requirement costs a local exchange company
23 some money or has some economic impact on its customers is
24 irrelevant. Only an undue burden beyond that typically
25 associated with efficient competitive entry is worthy to

1 be even considered for a suspension or modification of the
2 FCC rules under the Act.

3 I urge you to listen carefully to the
4 testimony in this case today and to read the prefiled
5 testimony carefully with a mind to applying that statutory
6 standard. I submit to you that this statutory burden of
7 proof is not met by the evidence of KLM in this case, nor
8 particularly even applied by the Staff or Public Counsel.

9 Listen and watch for the evidence of
10 significant adverse economic impact on customers
11 generally. 61 cents a month does not rise to that
12 standard. Listen and watch for the evidence of undue
13 economic impact on the company. Listen and watch for the
14 evidence of technical infeasibility. KLM can have its
15 switch providing LNP within 90 days, if you tell them they
16 must, as the FCC already has. It is not infeasible.

17 They just want to put it off because of
18 unrelated problems with their switch manufacturer that
19 won't come to head until the end of 2007. Only then
20 should you be concerned about the public interest
21 standard, and you won't need to try to apply it, because
22 none of the other three standards have even been met. And
23 the public interest, as expressed by the Missouri General
24 Assembly in 1996, as well as by the Congress in the same
25 year, is in promoting a competitive telecommunications

1 industry in the state of Missouri.

2 The evidence will also show that the FCC
3 has steadfastly held that the ILEC has a responsibility to
4 deliver local calls as local calls. Quote, rural LECs
5 always have been required to deliver traffic to other
6 carriers through direct or indirect interconnection, even
7 when a wireless carrier's switch is not located in the
8 rural LEC's rate center, close quote. This is a direct
9 quote from the FCC's brief before the DC Circuit Court of
10 Appeals just filed on July 9th.

11 But KLM doesn't want to do that here. They
12 want to put off porting calls to wireless carriers as long
13 as the Commission will allow it to do so, and then start
14 misrouting them to a call intercept that misdefines the
15 responsibility for correctly porting that call. Please
16 read and listen carefully and watch for application of the
17 statutory standard.

18 You will hear much today about rating and
19 routing of ported calls. The routing method used by
20 wireless carriers like Western Wireless today is the most
21 efficient means of exchanging relatively low volumes of
22 traffic. That was why the parties in Minnesota were able
23 to agree to it, in a stipulated settlement of LNP cases
24 approved not quite two weeks ago by the Minnesota PUC.
25 That method is really quite simple.

1 Can you see that (indicating)? It's
2 probably off camera. You have it six ways, either on
3 paper or EFIS, but I've got a copy, if anyone would like
4 it.

5 Today a call from Western Wireless
6 customers to a KLM wireline customer goes from the
7 cellphone to a cellular tower to a switch, CMRS switch,
8 commercial mobile radio -- that's Western Wireless -- to
9 the LATA tandem switch operated by SBC. From the LATA
10 tandem switch the call is directed to KLM's end office,
11 their central office or its rate center.

12 All that Western Wireless asks here is that
13 KLM fulfill a symmetrical obligation, just do this in
14 reverse. The magic of doing transport this way is that it
15 is the mirror image of how transport occurs today, and it
16 is far more economical for everybody than for the wireless
17 carrier to invest in permanent interconnection facilities
18 inside KLM's rate center.

19 As I said, this is the plan that the
20 Minnesota Commission just approved for its rural LECs to
21 provide LNP. Where there's a will, there's a way. Just
22 two months ago, on May 13, the FCC denied a request for a
23 leader for LNP requirements to a rural LEC in Pennsylvania
24 saying, quote, all carriers have been on notice since July
25 2002 that wireless and intermodal LNP would become

1 available beginning in November 2003. Thus, MEP has had
2 sufficient time to follow through with these mandates and
3 prepare for LNP, close quote.

4 At the end of the hearing today, and based
5 on the evidence in this case, we will ask the Missouri
6 Public Service Commission to say the same thing to KLM.
7 Thank you very much.

8 JUDGE JONES: Thank you, Mr. Steinmeier.
9 Mr. Meyer?

10 MR. MEYER: Good morning. I won't repeat
11 the discussions that have gone before, as I believe
12 they've adequately illuminated the issues before the
13 Commission in this case.

14 I will express that the telecommunications
15 department of the Commission believes that it's in the
16 public interest to allow KLM the opportunity to replace
17 its switch in a one-time expenditure, rather than creating
18 a situation where KLM and its customers incur initial LNP
19 costs by paying for upgrades now, and then incur costs
20 again to replace the very switch that was upgraded.

21 As you know, the FCC permits the pass
22 through of LNP upgrade charges, so there's no need for a
23 rate case for the customers to feel the impact of the cost
24 expenditures. By granting KLM a suspension to allow for
25 switch replacement, which is clearly within your

1 jurisdiction under Section 251(f) of the Federal
2 Telecommunications Act, all of KLM's subscribers will
3 receive the benefit associated with the costs incurred for
4 that switch replacement, as opposed to the minimal benefit
5 that the customers will receive if the upgrades are
6 installed to allow the LNP ports to take place now.

7 Natelle Dietrich, supervisor of the
8 economic and competitive analysis group in the
9 telecommunications department, is here to discuss how the
10 department arrived at its conclusions and can put this
11 case in perspective relative to the other 30-odd cases
12 that have come before.

13 The relief requested by KLM with respect to
14 the modification also discussed previously has actually
15 been requested by all the other companies we've seen
16 before the Commission in this series of cases as well as
17 the rating and routing problems are common to all do not
18 have a wireless points of presence.

19 Staff has provided a consistent
20 recommendation for all these requests that the Commission
21 authorize blocking of calls to ported numbers where no
22 facilities or arrangements have been established and
23 direct local exchange companies to establish intercept
24 messages so customers placing calls can be aware of any
25 rating and routing issues when they arise.

1 Regardless of when the FCC resolves the
2 rating and routing issues, and regardless of when a
3 petitioner such as KLM implements intermodal porting, it
4 is, was and has been the Staff's position that neither the
5 petitioner nor its wireline customers shall be responsible
6 for any transport or long distance charges associated with
7 porting numbers and any associated calls outside
8 petitioner's local service area, absent further collection
9 and clarification from the FCC.

10 The cost result from a KLM customer's
11 decision to port their number to a different carrier,
12 calls would be routed differently after the port than they
13 were before the port, and the new routing methods would
14 cause additional costs. The former service provider
15 should not bear the cost generated as a result of actions
16 by its former customer, and Staff's recommendations in
17 this case are a result of that analysis.

18 Thank you.

19 JUDGE JONES: Thank you, Mr. Meyer.

20 At this time we'll move right into the
21 witness. I'll ask KLM to call their first witness.

22 MR. ENGLAND: Thank you, your Honor. My
23 first witness is Bruce Copsey.

24 JUDGE JONES: Good morning, Mr. Copsey.

25 (Witness sworn.)

1 JUDGE JONES: Thank you. You may be
2 seated.

3 THE WITNESS: Thank you.

4 JUDGE JONES: You may proceed.

5 MR. ENGLAND: Thank you, your Honor.

6 BRUCE COPSEY testified as follows:

7 DIRECT EXAMINATION BY MR. ENGLAND:

8 Q. Would you please state your full name for
9 the record, please?

10 A. Bruce Eugene Copsey.

11 Q. And, Mr. Copsey, what is your business
12 address?

13 A. 208 Ash Street in Maitland, Missouri,
14 M-A-I-T-L-A-N-D, and the zip is 64466.

15 Q. And what is your position with KLM
16 Telephone Company?

17 A. I'm the secretary/treasurer of KLM.

18 Q. Mr. Copsey, turning your attention to an
19 exhibit that has been marked for purposes of
20 identification as Exhibit No. 1, entitled petition for
21 suspension and modification of local number portability
22 obligations and motion for expedited treatment, do you
23 have that in front of you?

24 A. Yes, I do.

25 Q. And is this the petition and suspension you

1 caused to be filed on your behalf with the Missouri Public
2 Service Commission for KLM Telephone Company?

3 A. Yes, it is.

4 Q. And is the information in that verified
5 petition true and correct to the best of your knowledge,
6 information and belief?

7 A. Yes, it is.

8 Q. Let me turn your attention to Exhibit
9 No. 2, which I believe is proprietary cost data that was
10 also submitted to the Commission in support of your
11 petition; is that correct?

12 A. That is correct.

13 Q. And was that prepared by you or under your
14 direct supervision?

15 A. Yes, it was.

16 Q. And is the information contained on that
17 true and correct to the best of your knowledge,
18 information and belief?

19 A. Yes, it is.

20 Q. Finally let me turn your attention to the
21 Exhibit No. 3, which I believe has been marked and is your
22 prepared direct testimony that's been filed in this case.
23 Do you have that in front of you?

24 A. Yes, I do.

25 Q. And was that prepared by you or under your

1 direct supervision?

2 A. Yes, it was.

3 Q. And are there any corrections that need to
4 be made to that exhibit at this time?

5 A. Yes, there are.

6 Q. Would you indicate what those are?

7 A. The second page, which is the affidavit,
8 the first line of it has got the wrong name. It says
9 William Warinner, and it should be Bruce Copsey at that
10 stage.

11 Q. More importantly, if I were to ask you the
12 questions that appear in this prepared written testimony,
13 would your answers here today under oath be the same as
14 those contained in the prepared direct testimony?

15 A. Yes.

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

18 A. Yes, they are.

19 MR. ENGLAND: Thank you. Your Honor, I'd
20 ask then that Exhibits 1, 2 and 3 be admitted into
21 evidence.

22 JUDGE JONES: Are there any objections to
23 Exhibits 1, 2 or 3?

24 MR. MEYER: Not from Staff.

25 JUDGE JONES: Hearing none, Exhibits 1, 2

1 and 3 are admitted into the record.

2 (EXHIBIT NOS. 1, 2 AND 3 WERE RECEIVED INTO
3 EVIDENCE.)

4 MR. ENGLAND: Thank you, your Honor. And I
5 tender the witness for cross-examination.

6 JUDGE JONES: Thank you. Mr. Meyer?

7 CROSS-EXAMINATION BY MR. MEYER:

8 Q. Good morning.

9 A. Good morning.

10 Q. Just to bring things up to date,
11 Mr. Copsey, have you, to your knowledge, or your client or
12 company had any customer inquiries about porting
13 arrangements?

14 A. As of yesterday, no, we've had none.

15 Q. On page 6, line 18 through 20, you have
16 some references to the potential -- I guess I should bring
17 myself to that page. You have a reference to filing for
18 rates with the Missouri Public Service Commission to
19 recover costs associated with local number portability.
20 Is this something that would be over and above the FCC
21 surcharge?

22 A. I believe that would be correct.

23 Q. Could you perhaps elaborate on what exactly
24 KLM would seek from the Missouri Public Service
25 Commission?

1 A. I don't remember right at the moment. I'm
2 trying to think what it was that we put in that statement.
3 Right at the moment I don't -- I can find that out for
4 you.

5 Q. Okay. With respect to the switches that
6 are at issue in this case, they're currently not LNP
7 capable. I think that's been discussed; is that correct?

8 A. That's correct.

9 Q. Is there anything else that the switches
10 can't do that they theoretically should be able to do or
11 would need to be able to do?

12 A. CALEA. They're not CALEA compliant at the
13 moment.

14 Q. That was my next question. Okay. What
15 time frame do they need to become CALEA compliant within?

16 A. We've been applying for waivers and been
17 granted waivers on the CALEA requirements, and we just got
18 done asking for another, I believe it was, one-year
19 extension.

20 JUDGE JONES: Can I interrupt you for a
21 second? Is that a --

22 MR. MEYER: CALEA is an acronym.

23 JUDGE JONES: For what?

24 THE WITNESS: It's the law enforcement --
25 it's to do with wiretaps for the FBI.

1 JUDGE JONES: Is it C-L-E-A?

2 MR. MEYER: It's C-A-L-E-A. And I know

3 it's law enforcement is the L-E, and the last A is act.

4 THE WITNESS: It allows the -- it allows

5 the -- I believe the FBI to do wiretaps from a distance,

6 basically is what it is. When they need to wiretap

7 somebody, they could come in at a far-reaching point.

8 JUDGE JONES: That's good enough. You can

9 proceed.

10 BY MR. MEYER:

11 Q. So as far as you've gotten a one-year

12 extension, and approximately when would that extension

13 cease?

14 A. I believe it's -- I believe it's in July of

15 next year or first of August. Would be the summer of next

16 year.

17 Q. Now, with the LNP extension that you've

18 sought, you've asked for that -- for a two-year extension.

19 Would that be then to May 2006?

20 A. I believe that would be correct, yes.

21 Q. And as I understand the previous

22 discussion, the switches will become unsupported in 2007?

23 A. That's correct.

24 Q. Exactly what kind of time frame, then, do

25 you propose to actually replace the switches in? Would

1 you expect 2005, '06, '07?

2 A. Probably in the 2006 range. I want to do
3 it somewhere ahead of the final deadline.

4 Q. And that would be assuming you get another
5 extension for CALEA?

6 A. That would be correct.

7 Q. Right now if a KLM customer calls a
8 wireless customer, what must they do?

9 A. Dial a 1+, and it's a long distance call.

10 Q. Does it matter where the wireless
11 customer's number is located?

12 A. No.

13 Q. You've discussed the concept that without a
14 direct connection KLM cannot transport calls from its
15 direct customers to wireless customers. I think that was
16 about page 9 of your testimony. Could you explain exactly
17 what would happen if KLM does not have an intermediary and
18 these calls are placed?

19 A. The way our -- the way our networks works
20 today is all calls to any wireless carrier go out as a 1+
21 or a long distance call. So unless something changes out
22 there -- and right now we don't have the authority to send
23 local calls past our exchange boundary. That's the only
24 way we have is to send calls out as a 1+ call.

25 Q. What kind of choices do you believe that

1 KLM has to use as intermediaries to handle these kinds of
2 calls?

3 A. I would assume that we could use some kind
4 of an IXC or long distance carrier or Southwestern Bell.

5 Q. Do you have any kind of experience with
6 entering into arrangements with those kind of carriers
7 under any other circumstances? And when I say you, I mean
8 KLM.

9 A. I don't believe so at the moment, no.

10 Q. Do you have any knowledge of what kind of
11 per minute or per call charge those kinds of carriers
12 might charge?

13 A. No, I think the interexchange carriers
14 calls could be -- it would vary considerably, and I really
15 don't have an idea of what it would be through
16 Southwestern Bell.

17 Q. There's been some discussion with respect
18 to the rating and routing issues that if the FCC addressed
19 those issues that that would create some resolution for
20 companies such as KLM. Did you have any particular FCC
21 action in mind that you believe that the result of which
22 would lead to some resolution for KLM?

23 A. From the modification standpoint, I believe
24 both Mr. England and Mr. Warinner talked about some
25 discussions that would be beneficial or that would follow

1 through and help us out, I guess.

2 Q. Would you be willing to agree that an entry
3 in a specific FCC docket that had been designed to address
4 some of these issues would possibly resolve that?

5 A. I believe it could.

6 Q. If the Commission, in other words, the
7 Public Service Commission of Missouri, denies your request
8 for modification, what would KLM do?

9 A. Is that assuming they would also deny the
10 petition for the suspension?

11 Q. Correct. Assuming that everything that KLM
12 filed is denied, how would KLM proceed?

13 A. At that point, I guess if we've been denied
14 in both our petitions, then -- we just received a BFR the
15 other day. We would proceed on to probably purchase the
16 software and the hardware to make it compliant.

17 Q. And then would KLM proceed to pass those
18 costs on to its customers?

19 A. I would assume that would be correct, yes.

20 MR. MEYER: I have no further questions,
21 except to note that CALEA is the Communications Assistance
22 to Law Enforcement Act.

23 JUDGE JONES: Thank you, Mr. Meyer. Now
24 we'll have cross-examination from Western Wireless.

25 MR. STEINMEIER: Thank you, your Honor.

1 CROSS-EXAMINATION BY MR. STEINMEIER:

2 Q. Good morning, Mr. Copsey.

3 A. Good morning.

4 Q. You're off camera, McCartney's between us,
5 but we can hear each other.

6 JUDGE JONES: Mr. Steinmeier, why don't you
7 approach the podium, and then you can eliminate at least
8 one of those problems?

9 MR. STEINMEIER: If it's all right, your
10 Honor, I'll scoot over and try to eliminate it.

11 BY MR. STEINMEIER:

12 Q. Mr. Copsey, looking at your testimony on
13 page 2, you went to work for Fidelity Telephone Company in
14 Sullivan, Missouri in 1983; is that correct?

15 A. That is correct.

16 Q. And that was pretty much just in time for
17 the provision of equal access to competitive IXC's, was it
18 not?

19 A. I believe that's correct.

20 Q. So the ILECs had to reconfigure or upgrade
21 their networks in order to permit customers to choose any
22 long distance company they wanted to carry their 1+ calls,
23 correct?

24 A. That is correct.

25 Q. And when Fidelity had to provide equal

1 access to competitive interexchange carriers in the 1980s,
2 what kinds of costs did it incur?

3 A. I believe there was some switching and
4 other associated costs. Probably training and -- I --
5 it's been a long time. I don't remember all of them.

6 Q. It has. I'll concede that. Probably some
7 software upgrades, too, wouldn't you say?

8 A. I would assume.

9 Q. On page 4, at lines 19 to 21, you say KLM
10 is not currently LNP capable. Actually line 20 at 21.
11 However, KLM could be LNP capable in about 90 days by
12 upgrading its switch; is that correct?

13 A. That is correct.

14 Q. So the fact that KLM is not currently LNP
15 capable does not mean it is technically infeasible for KLM
16 to provide LNP, does it?

17 A. The technical part was -- that is correct
18 from that standpoint, but the technical part was from the
19 switching of transported calls on out to the outside
20 world, past the exchange boundaries.

21 Q. Now, the switch that you currently use, you
22 say were bought, either switch or switches?

23 A. Switches. There's a host and three
24 remotes.

25 Q. You purchased those switches in 1999?

1 A. That is correct.

2 Q. Why did you place Mitel switches in 1999?

3 A. Before we had AlphaTel switches and they

4 were not -- it was an equal access problem, and they --

5 they were not capable of doing intraLATA equal access.

6 And so at that time we were -- we were under the guns to

7 get it replaced to implement intraLATA equal access, and

8 we had to -- the switch to that also was a discontinued

9 manufactured switch, and they could not provide that

10 service.

11 Q. Did you seek a suspension in that

12 requirement?

13 A. I don't remember.

14 Q. What was your criteria for selecting Mitel?

15 A. We had several criteria, but I believe the

16 one it came down to was the initial price of the switch

17 and the ongoing -- the maintenance and technical support

18 they offered at the time were by far cheaper than anybody

19 else's, and it offered all the services we thought we

20 needed at the time.

21 Q. What's the normal expected life of a switch

22 investment?

23 A. I believe the Commission currently offers

24 a -- or they implement a 15-year depreciation cycle.

25 Q. PSC uses 15 years.

1 A. For depreciation purposes.

2 Q. Do you know if different manufacturers have
3 different expected lives of a switch? Like would a Nortel
4 DMS-10 be comparable to a Siemens in terms of --

5 A. I don't know. I don't know what their life
6 expectancy is for the switches.

7 Q. And when did Mitel inform you that they
8 would stop providing manufacturer support for the GX 5000
9 switches as of December 31, 2007?

10 A. Shortly or right at the turn of -- right at
11 the beginning of the year 2000. They had changed
12 ownership is what happened, and the new owner decided he
13 wanted to get out of the switching business, so he
14 basically discontinued all software upgrades. And so
15 that's when we were informed by a letter.

16 Q. When in 1999 did you get your switches
17 running?

18 A. I believe it was May or June of 1999. We'd
19 ordered them the past year.

20 Q. And early the next year, the manufacturer
21 from whom you bought them advises you that you've got at
22 that point less than seven years of manufacturer support?

23 A. That's correct. Well, the seven years, I
24 believe, is an RUS requirement that once they become RUS
25 certified, that's part of their -- part of their

1 certification is if they decide to go out of business,
2 they're going to have to guarantee they're going to
3 provide technical support for a seven-year period.

4 Q. And would you replace these switches if LNP
5 was not a KLM obligation?

6 A. Probably not. They seem to be running just
7 fine, operating just fine. Well, I would when you get --
8 somewhere close to the 2007 deadline, I'm going to have to
9 do something, because I don't have the technical support
10 to take care of a switch that we can't even get into.
11 There's parts of it we're not allowed into to fix.

12 Q. Have you explored the possibility of legal
13 action against Mitel?

14 A. We met as a users group back right after
15 this letter came in and we discussed a lot of things, but
16 at the time we decided it was not appropriate.

17 Q. We've talked about manufacturer support.
18 Mitel's own manufacturer support's going away December 31,
19 2007. Is it possible to maintain a switch without
20 manufacturer support?

21 A. I don't believe it's possible for my
22 company to provide it right now, because we just -- and I
23 don't know of any other manufacturers or companies that
24 plan on offering that support to us, so unless -- no, I
25 don't know of anything today that would allow me to

1 continue past that date.

2 Q. You don't know of any after market
3 technical support resources that are available?

4 A. No, I don't.

5 Q. Do you know anybody still using Windows
6 '95?

7 A. Yep.

8 Q. But they don't get support from Microsoft
9 anymore, right?

10 A. No, but there's a lot of people that can
11 work on it.

12 Q. And aren't there a lot of people who could
13 work on your Mitel switches?

14 A. No, I don't believe there are, because the
15 parts -- the way the Mitel switch works is there's parts
16 of it that Mitel has kept -- they won't let our service
17 technicians get into piece parts of the software and tell
18 you how to change things. They're the only ones that are
19 allowed to go into certain parts of it and change and fix.
20 So there's -- nobody that I know of out there is capable
21 of taking care of it.

22 Q. They won't fix it and won't let you fix it
23 after December 31, 2007; is that your testimony?

24 A. It's our understanding that right now there
25 is, like, three technicians that are left working on the

1 switches, and at that time they will be reassigned to
2 different parts of Mitel, different portions of the
3 company.

4 Q. Now, you've continued to make financial
5 investments in these Mitel switches since 2000; isn't that
6 correct?

7 A. That is correct.

8 Q. I guess the numbers are part of a
9 proprietary exhibit, so we'll have to decide if we want to
10 take them up in-camera, but in each of 2001, 2002 and
11 2003, isn't it true that you made financial investments in
12 those switches that you had known since early 2000 were
13 going away?

14 A. That is true. Most of those investments in
15 the additional single-party line cards to where we had to
16 be able to offer service to our customers. We were
17 running low on the number of actual telephone lines we
18 could provide, so we purchased through some other people
19 that had already taken mitel switches out of service, and
20 so we bought what you'd call gray market line cards and
21 put them in.

22 Q. Would it be fair to say, and would it be
23 accurate and yet sufficiently vague to say that what it
24 would cost you to invest in upgrades to provide LNP would
25 be substantially less than what you have invested over

1 2001 to 2003 in those switches already?

2 A. From what I remember on my upgrade -- the
3 amounts we spent, it is a lesser amount, yes. But like I
4 said, they were done for specific -- to add customers that
5 were requesting service in our service territory out
6 there.

7 Q. Now, you say that by waiting until May 24,
8 2006, which is the suspension request that is currently
9 pending in this case -- isn't that correct? Let me make
10 sure we agree on what you're asking for.

11 A. Yeah, we agreed to go from the May 24th
12 date to two years from the end of this hearing. We agreed
13 early on that we would use that number to go forward.

14 Q. And you state that by waiting until May 24,
15 2006 to provide LNP, KLM will reduce its, quote,
16 extraordinary retirement, closed quote, of the Mitel
17 switches by at least \$108,000; is that correct?

18 A. I believe that's correct. That's assuming
19 that --

20 Q. I'm referring to page 8 of your testimony.

21 A. Yes. That was assuming that we didn't
22 replace the switch. That was comparing if you replaced
23 them today, as opposed to two years from now or two years
24 from May, I believe.

25 Q. So if you waited until December 31, 2007,

1 that extraordinary retirement amount that you're concerned
2 about would be reduced even more, would it not?

3 A. I believe that's correct.

4 Q. About \$85,000 less extraordinary retirement
5 by then?

6 A. That figure sounds correct.

7 Q. Which would cover the cost of implementing
8 LNP today a number of times over, would it not?

9 A. I believe it would cover that amount.

10 Q. So instead of waiting two years and taking
11 the extraordinary retirement that you would be facing at
12 that point, why not wait until the switch is fully
13 depreciated?

14 A. I guess I don't want to wait 'til -- No. 1,
15 one thing, I don't want to wait until the very end of the
16 deadline to try to implement a new switch. I think
17 there's some technical reasons you don't want to wait to
18 the final deadline to turn something else on.

19 Q. But the fact is, is it not, Mr. Copsey,
20 that KLM will be changing its switch by sometime in 2006,
21 you suggest, regardless of LNP?

22 A. That's our expectation, is to get it done
23 during the year 2006.

24 Q. For reasons totally unrelated to LNP?

25 A. Well, that's one of the reasons obviously,

1 that and CALEA, and the fact that the technical support's
2 going away.

3 Q. But you could upgrade the existing switches
4 to provide LNP and have that done in 90 days?

5 A. Somewhere close to that, yes.

6 Q. What are KLM's basic local telephone rates
7 currently, please?

8 A. I believe the residence is 7.25, and
9 business is 12.75, I believe.

10 Q. 12.75 for business?

11 A. Or is that backwards? It's either 12.75 or
12 12.25. Yes.

13 Q. That's ballpark. Do you know what your
14 average customer's total telecommunications bill is?

15 A. Today I do not, no.

16 Q. You've never done a study which would
17 indicate to you what an average customer in your service
18 territory might be selling on a combination of your basic
19 service, custom calling feature, toll, wireless?

20 A. We did, but the data was about two or three
21 years ago, and it was before we had a lot of IXC long
22 distance carriers come in, and I don't receive any of that
23 data from them. So I don't know what they spend on a long
24 distance call anymore.

25 Q. Now, Mr. Copsey, it is true, is it not,

1 that special circuits exist that carry data between KLM
2 and the SBC tandem in Springfield, Missouri?

3 A. That is correct.

4 Q. And KLM has a direct connection with MCI
5 that carries only MCI's originating and terminating
6 traffic?

7 A. That is correct.

8 Q. And it is also true, is it not, that all of
9 the other voice circuits ride on the common trunk groups
10 between SBC's tandem in Springfield and KLM's Rich Hill
11 central office?

12 A. I believe that is correct.

13 Q. And is it true that all terminating traffic
14 not originated by KLM local customers or carried by MCI
15 over dedicated trunks is received by KLM over the common
16 trunk groups, whether it is wireless or wireline?

17 A. Yes, I believe that's true.

18 Q. You may have picked up that I'm quoting
19 from your responses to Data Requests --

20 A. Yes.

21 Q. -- in the case.

22 On page 10 -- by the way, does KLM have an
23 interexchange affiliate?

24 A. It has a sister corporation. It's a long
25 distance company, but it's not a subsidiary of KLM.

1 Q. But KLM and that IXC are under common
2 ownership?
3 A. That would be correct, yes.
4 Q. Is that what the MCI dedicated trunk is
5 used for?
6 A. No, it's not. MCI chose -- they thought
7 they had enough traffic that they came to us and ordered a
8 direct trunk to haul their traffic in and out.
9 Q. Could you arrange -- could you not arrange
10 transport via your affiliated IXC?
11 A. I'm assuming I could through some kind of
12 agreement, but our IXC sends everything out on a 1+ basis
13 today and goes through a reseller and pays per-minute
14 charges, just like any other IXC.
15 Q. I understand that, but the same equipment
16 can be used different ways under different business
17 arrangements in this industry. Is that not true as a
18 generalization?
19 A. I guess I don't understand your question.
20 Q. The fact that that's how it's usually done
21 doesn't necessarily mean that somebody couldn't strike a
22 deal to do it differently?
23 A. I assume you could always change anything,
24 or a lot of things out there.
25 Q. On page 10, you say that the fees for

1 obtaining agreements -- let's see. I apologize. Top of
2 the page, lines 3 through 6, you say the fees for
3 obtaining agreements to secure a transport over a third
4 party could be very costly. What is the basis for that
5 statement, please?

6 A. I think the statement was intended to mean
7 that if we had to go through Southwestern Bell -- and
8 that's who we connect through and that's where the
9 circuits go -- that if we had to do an interconnection
10 agreement, they can be very costly to implement an
11 interconnection agreement through Southwestern Bell.

12 Q. What studies did you do before formulating
13 that conclusion, please?

14 A. I guess we just reviewed the information we
15 had available and the agreements we'd known of and what
16 it's cost other people to do interconnection agreements.

17 Q. In fact, you testified a short while ago
18 that you have no experience dealing with Southwestern
19 Bell; is that correct?

20 A. I believe I made that statement earlier,
21 yes.

22 Q. So you haven't talked to SBC or to Sprint
23 since learning of your LNP obligations at any time since
24 1996 or certainly since 2002 or since November of 2003,
25 you estimate you haven't talked to SBC or Sprint to

1 explore what options you might have for transporting calls
2 using their facilities?

3 A. Since November of last year, no, I have not
4 talked to those folks, because we applied for a waiver at
5 that time.

6 Q. Had you pursued those discussions before
7 November 2003?

8 A. I don't believe we had, no.

9 Q. You didn't perform any engineering or cost
10 studies before formulating your conclusion that such
11 agreements could be very costly?

12 A. No, I did not ask Bell for a quote for
13 services or for an interconnection agreement.

14 Q. Have you considered and explored working
15 together on this issue with -- with in conjunction other
16 Missouri rural ILECs?

17 A. I guess no, the answer is, but the way the
18 traffic all routes today, I don't know how, since we don't
19 have any kind of a common network amongst the independents
20 that we could benefit by working with the other ones,
21 since they all are spread all over the state.

22 Q. But you haven't explored that either with
23 SBC or other telecoms?

24 A. No.

25 Q. If you were able to work together with

1 other ILECs, it could save some of these costs that you
2 think might be there, although you have not explored to
3 ascertain; isn't that correct?

4 A. I would guess that's a possibility.

5 Q. Now, you also say the process would benefit
6 only a few. What market studies did you perform, please,
7 before formulating that opinion?

8 A. I went to the FCC website and downloaded
9 specific numbers that they had posted on the number of
10 ports that have happened since November and up through a
11 month or so ago, and I used those numbers to kind of do a
12 rough calculation of what estimate I believe might be
13 applicable to our area.

14 Q. Did you apply a certain rate of growth or
15 did you assume -- what did you -- how did you --

16 A. No, I didn't. I didn't apply any growth,
17 but I just used the current figures.

18 Q. So it's your understanding that porting
19 numbers and signing up for local number portability was a
20 one-time opportunity and customers had to do it on
21 May 24th or they would not have that opportunity again;
22 therefore, it's a static number?

23 A. No, I don't believe that's what I meant by
24 it. I just -- like I said, I used the amount that they
25 showed was happening out there in the FCC, their number,

1 how many ported numbers there had been.

2 Q. At that snapshot in time?

3 A. I had several articles by them at different

4 times, and I guess, yes, it would be a snapshot at one

5 point.

6 Q. Okay. Have you ever bought a product you

7 didn't know about, by the way? I'll withdraw it

8 So it's just your general sense that only a

9 few customers would ever be interested in porting their

10 numbers. You didn't actually perform market studies in

11 your service area to evaluate that sense?

12 A. No, I did not. I just looked -- like I

13 said, I looked at the FCC numbers and I've been reviewing,

14 and we've been asking our customer service representatives

15 to keep track of anybody even inquiring about it. And so

16 far we've still not had anybody ask about porting their

17 number to a wireless carrier.

18 Q. Mr. Copsey, what modification of the FCC's

19 LNP requirements is KLM proposing in this case, please?

20 A. I believe they're asking for -- to remove

21 the expectation that KLM is responsible for the costs of

22 hauling it to anywhere the wireless carrier expects to

23 haul it to within the LATA, those costs to transport.

24 Q. To make the wireless carrier pay?

25 A. At least remove KLM from being responsible

1 for paying for it.

2 Q. If your petition for suspension is granted,
3 you don't also need a modification of those requirements,
4 do you?

5 A. At the current time, I would say that is
6 correct.

7 MR. STEINMEIER: A moment, your Honor.

8 BY MR. STEINMEIER:

9 Q. Mr. Copsey, is it your understanding that a
10 local exchange telephone company such as KLM may choose
11 whether or not to deliver an originating call, that is one
12 that originates on your network, to the number it has
13 dialed as a local call?

14 A. Can you restate that, please?

15 Q. I don't know, but I can't possibly state it
16 worse. So let me try.

17 If somebody in your rate center, one of
18 your wireline local customers dials a number that is also
19 in your rate center, do you have an option as to where to
20 route that call?

21 A. If it's a local call, it's routed as a --
22 today, if it's a local call, and that's the only ones I
23 have, they stay right within the exchange, then it's
24 routed as a local call.

25 Q. But if that number has been ported to

1 Western Wireless, you think you should be able to route it
2 somewhere else?

3 A. Currently -- I guess currently the calls,
4 all calls to a wireless carrier today are dialed on a 1+
5 basis and are long distance calls. If the number's ported
6 to Western Wireless, and we're told that that is a local
7 call, then I assume it needs to be routed as a local
8 number. Like I said, today the only place I have the
9 ability to route local calls to is within my exchange
10 boundaries.

11 (EXHIBIT NO. 25 WAS MARKED FOR
12 IDENTIFICATION BY THE REPORTER.)

13 BY MR. STEINMEIER:

14 Q. Mr. Copsey, I've handed you what's been
15 marked Exhibit 25. Can you -- would you agree with me
16 that this is a public notice from the Federal
17 Communications Commission dated May 13, 2004?

18 A. Yes.

19 Q. Turning to page 3, would you please read
20 the last paragraph into the record which begins "we also
21 remind carriers"?

22 A. We also --

23 MR. ENGLAND: Excuse me, Mr. Copsey. Has
24 this been marked as an exhibit?

25 JUDGE JONES: It has, as Exhibit 25.

1 MR. ENGLAND: I have no objection to the
2 offering of the exhibit. I'm a little concerned with
3 reading just portions of it, if it's not -- the entirety's
4 not going to be put in the record.

5 JUDGE JONES: Mr. Steinmeier, is it your
6 intent to submit the exhibit?

7 MR. STEINMEIER: I'm offering the exhibit
8 itself, which will be part of the record, and the context
9 will certainly be available in the record.

10 JUDGE JONES: Is there any objection from
11 Staff?

12 MR. MEYER: No.

13 JUDGE JONES: Seeing no objections,
14 Exhibit 25 is admitted into the record.

15 (EXHIBIT NO. 25 WAS RECEIVED INTO
16 EVIDENCE.)

17 JUDGE JONES: You may continue,
18 Mr. Steinmeier.

19 BY MR. STEINMEIER:

20 Q. Would you please read that paragraph?

21 A. We also remind carriers that, regardless of
22 the status of their obligations to provide number
23 portability, all carriers have the duty to route calls to
24 ported numbers. In other words, carriers must ensure that
25 their call routing procedures do not result in dropped

1 calls to ported numbers. Furthermore, the Commission
2 clearly imposed requirements on the carrier immediately
3 preceding the terminating carrier designated the M-1
4 carrier to ensure number portability databases are
5 queried, and thus that calls are property routed.

6 Q. So in spite of the way things have operated
7 in the past and you've been accustomed to, has the FCC not
8 made it clear that when it comes to number portability,
9 you are to port calls where they're dialed?

10 MR. ENGLAND: Objection, argumentative.
11 The document speaks for itself.

12 JUDGE JONES: Objection sustained.

13 BY MR. STEINMEIER:

14 Q. Mr. Copsey, let me refer you to the second
15 paragraph of the same exhibit, Exhibit 25, Federal
16 Communications Commission public notice, which says that
17 as the May 24th deadline approaches, it is critical that
18 affected carriers understand their porting obligations and
19 take the necessary steps to ensure the smooth deployment
20 of LNP. We urge carriers to make every effort prior to
21 the deadline to test their own systems and to exchange
22 contact information and conduct testing with other
23 carriers in their area, close quote.

24 I take it that KLM came to the Commission
25 seeking a suspension instead?

1 A. We filed our application back in February
2 of this year, February 2000.

3 Q. How long an intercept message does your
4 equipment allow you to play on a call intercept?

5 A. We were talking about -- ours is a time
6 sensitive -- it only allows -- it's by time what you can
7 get into the message. I'm not sure on exactly the amount
8 of time, but the Commission had recommended a certain
9 intercept message, and our equipment would only allow
10 about half the time it took to read that one.

11 Q. When you place calls yourself, do you ever
12 get intercept messages?

13 A. Once in a while.

14 Q. How do they make you feel?

15 A. I don't know. I guess they make me feel --
16 explain to me something I've done wrong, made a mistake on
17 a call. If I've dialed it wrong, they tell me the proper
18 way, and if the circuits are busy, they explain that
19 situation to me.

20 Q. Now, you've testified that calls today to
21 wireless are dialed 1+. Is that because the wireless
22 carriers don't have numbers rated to a KLM rate center?

23 A. I believe that's correct, yes.

24 Q. So is that different than if wireless
25 customers had a number assigned to a KLM rate center?

1 A. I don't know. Sounded like we just said
2 the same thing. I'm not sure what you said there in your
3 question, the last two evidently.

4 Q. Now, Mr. Copsey, it's my understanding that
5 KLM could either have applied to the Federal
6 Communications Commission for a waiver of these LNP
7 requirements or applied to this Commission for suspension
8 or modification. The FCC standard for a waiver is simply
9 good cause shown standard, as distinguished from the
10 Section 251(f)(2) standards that apply in this case. Why
11 did KLM choose to come to the Missouri PSC instead of
12 seeking a waiver from the FCC?

13 A. Actually, I believe we did apply for a
14 waiver back in November of last year at the FCC, and
15 before it was granted, we were granted a temporary one
16 here in the state. There was something to do with a
17 temporary waiver back there. They had originally done it,
18 and then they were granted out until the May 24th
19 deadline, I believe is what happened.

20 MR. STEINMEIER: Your Honor, we have no
21 other questions at this time for Mr. Copsey, except I
22 would like to reserve the right to ask for an in-camera
23 session to discuss some of the numbers that are part of
24 the proprietary documents. I know that's a cumbersome
25 process. We may decide not to ask for it. I don't want

1 to do it right this minute.

2 JUDGE JONES: Are you suggesting that he
3 not be excused?

4 MR. STEINMEIER: I assume he's going to be
5 here anyway. If it pleases the Bench and is acceptable to
6 counsel, I just want to reserve a right to ask for an
7 in-camera session to ask just a few questions about some
8 numbers that are part of a proprietary exhibit.

9 JUDGE JONES: Mr. England?

10 MR. ENGLAND: I have no problem with going
11 in-camera and discussing information that we consider
12 confidential or proprietary. I'm a little troubled by the
13 request that we sort of hold Mr. Copsey hostage for the
14 rest of the day to do that. Well, may or may not do
15 that -- excuse me. My preference would be if we're going
16 to do it, let's do it now and get it over with so we can
17 excuse him once and for all.

18 JUDGE JONES: Mr. Steinmeier, there's that
19 option, and you'll also -- I have a couple of questions
20 here. So I don't know -- in fact, I'm certain my
21 questions won't go into proprietary information; however,
22 you will have an opportunity to recross as a result of
23 that, and you can take that opportunity to talk about
24 numbers now.

25 MR. STEINMEIER: Why don't we just proceed

1 for the moment, your Honor, and perhaps during the next
2 couple of rounds of questions for Mr. Copsey, we'll decide
3 whether -- I mean, I'm perfectly willing to ask those
4 questions now. I just thought if we turn out needing to
5 go in-camera for anything else or any other witness during
6 the course of the day, it might be more efficient to do
7 it.

8 JUDGE JONES: Going in-camera is not a
9 problem. It's just a matter of pushing a couple of
10 buttons and asking people to leave the room. My intention
11 was to break at 10:30. What I'm going to do is, I have a
12 couple of questions. We'll break at 10:30. We'll come
13 back to you, and if you have questions you want to go
14 in-camera, we'll do that then. Is that agreeable to
15 everyone?

16 (No response.)

17 JUDGE JONES: Very well.

18 QUESTIONS BY JUDGE JONES:

19 Q. Mr. Copsey, I believe you mentioned earlier
20 you have a bona fide request?

21 A. Yes.

22 Q. When was that request made?

23 A. We received the bona fide request on
24 July 6th of 2004 from Western Wireless.

25 Q. Also earlier you spoke about the

1 wiretapping act. What does that have to do with local
2 number portability obligations?

3 A. Nothing, other than it was a service that
4 the Mitel switch had problems providing, and it was -- it
5 was one of the -- it was a service that Mitel switch had
6 trouble providing and they did some software. And it
7 didn't provide all the services, so there were some
8 waivers that we applied for because of that reason.

9 Q. Is that technology that you are required to
10 provide or is it optional?

11 A. No, it was required by the FBI, the FCC.

12 Q. And generally you've asked for a two-year
13 suspension, and my understanding is that that request is
14 made to use your current equipment a little bit more
15 before you have to replace it?

16 A. Yes.

17 Q. Now, making the equipment LNP capable is
18 separate and distinct from upgrading your equipment in
19 light of your contractual relationship with the technical
20 support; is that correct?

21 A. Yes.

22 Q. Well, if you're trying to push everything
23 back towards 2007, why not ask for a three-year
24 suspension?

25 A. I guess we felt that we're probably --

1 three years might be pushing the envelope a little bit too
2 long, and so we just -- we thought two years might be more
3 realistic and would possibly get the waiver on it at that
4 time for that length of time.

5 Q. Okay. Have you gotten any feedback -- I
6 mean, I don't know where you reside or anything, but I
7 know that in rural communities word gets around pretty
8 quick on what's going on. Have you gotten any feedback
9 from your customers about their take on having to pay
10 extra money to port numbers to wireless carriers?

11 A. I do live in a very rural area. I live in
12 very northwest Missouri. I live north of a town of about
13 200 people. I have not heard any discussion on this
14 particular surcharge, but in past times, yes, I've heard
15 quite a bit when the surcharges were implemented on
16 customers' bills.

17 JUDGE JONES: I don't have any other
18 questions. At this time, we will take a five-minute
19 break. And I realize that recross is normally limited to
20 the scope of questions that has come from the Bench. I
21 don't believe those questions, however, reached on
22 information that we will be in camera to discuss. In
23 light of that, I will allow recross to include
24 confidential information and to reach on subjects that
25 were asked from the Bench. Is that agreeable to everyone?

1 (No response.)

2 JUDGE JONES: Okay. Seeing a nod of heads,

3 then we'll go off the record for about five minutes.

4 (A BREAK WAS TAKEN.)

5 JUDGE JONES: We are back on the record

6 with Case No. TO-2004-0401. At this time we will have

7 recross examination from Western Wireless, and it is my

8 understanding that Western Wireless intends to ask

9 questions that concern confidential information. With

10 that in mind, then, we will now go in-camera. I should

11 say off camera actually.

12 (REPORTER'S NOTE: At this point, an

13 in-camera session was held, which is contained in Volume

14 4, pages 268 through 273 of the transcript.)

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1 JUDGE JONES: We're back on camera with the
2 recross-examination from Western Wireless.

3 Mr. Steinmeier, you may proceed.

4 MR. STEINMEIER: Thank you, your Honor.

5 RECROSS-EXAMINATION BY MR. STEINMEIER:

6 Q. Mr. Copsey, you were just speaking about a
7 lack of customer demand as part of your last answer in the
8 in-camera session, and that answer is not proprietary or
9 confidential in any manner, so I'm not violating any
10 proprietary by repeating it in order to set the context of
11 my next question to you.

12 Are you aware of any marketing that has
13 gone on in KLM's service area to date of local number
14 portability of one's wireline telephone number to one's
15 cellular telephone number?

16 A. I'm not aware of any specific marketing
17 that's went directly to the KLM telephone customers. I
18 am -- I would assume that the Kansas City market, which is
19 where the people get their television, has had some that
20 they might see at that point.

21 Q. But no specific marketing of LNP in KLM's
22 service territory?

23 A. I'm not aware of any.

24 Q. And as a businessman yourself, have you
25 ever offered a product for sale to your customers or

1 advertised a product for sale to your customers that you
2 were not, in fact, able yet to provide?

3 A. Yeah, we actually do some pre-selling on
4 items when we're getting ready to sell them. So yeah, we
5 advertise it's coming as of this date and if you want it,
6 sign up for it and we'll deliver it when it's available at
7 such and such a date.

8 Q. And when that product is going to become
9 available is dependent upon a regulatory agency somewhere?

10 A. It might be that. It might be a
11 manufacturer's product being completed or other numerous
12 items.

13 Q. Can you give me any specific examples of a
14 time when you've advertised a new service to customers
15 that was pending regulatory approval while you were
16 advertising it?

17 A. No, I can't right at the moment.

18 MR. STEINMEIER: No further questions.

19 JUDGE JONES: Thank you, Mr. Steinmeier.

20 Now we will have redirect from KLM.

21 MR. ENGLAND: Your Honor, was there any
22 further questions?

23 JUDGE JONES: I don't have any.

24 MR. ENGLAND: No, I'm sorry. From the
25 other parties in light of your --

1 JUDGE JONES: I'm sorry. Is there any
2 recross from Staff?

3 MR. MEYER: No, your Honor.

4 JUDGE JONES: All right. Then we'll have
5 redirect.

6 MR. ENGLAND: Thank you, your Honor.

7 REDIRECT EXAMINATION BY MR. ENGLAND:

8 Q. Mr. Copsey, I'm going to try to go through
9 kind of chronologically, based on questions that were
10 asked of you during cross-examination, and first I believe
11 you had some questions by Staff counsel regarding your
12 prepared testimony where you indicated there may be
13 additional costs that you would incur but may not be
14 recoverable through the FCC LNP surcharge. Do you recall
15 those questions?

16 A. Yes, I do.

17 Q. And since the -- you were asked that
18 question, are you aware of any costs now that you weren't
19 aware of earlier this morning?

20 A. I believe the reason for putting that
21 statement in there was in case we experienced any
22 unexpected -- maybe a transport cost that we weren't
23 expecting or even if the switch replacement was required,
24 then those costs would be something that would fall
25 outside those FCC NECA guidelines, is the intent of it.

1 Q. And there were some questions regarding
2 CALEA, and I believe you indicated that that technically
3 is not related to LNP; is that right?

4 A. Yes.

5 Q. But it is a another federal mandate that
6 you're required to provide absent a waiver from the FCC;
7 is that right?

8 A. That's correct.

9 Q. You were asked some questions by
10 Mr. Steinmeier early on about implementing equal access at
11 the Fidelity Telephone Company. Do you recall those
12 questions and answers?

13 A. I believe I do.

14 Q. When did Fidelity, and for that matter
15 other rural local exchange companies in Missouri,
16 implement intraLATA equal access presubscription?

17 A. I don't believe it was until -- I want to
18 say it was up in the mid '90s.

19 Q. Would 1999 sound about right to you?

20 A. That's real close, yes.

21 Q. And I believe that was the trigger for your
22 switching from the AlphaTel switch to the Mitel switch at
23 that time; is that right?

24 A. Yes.

25 Q. Is that your testimony?

1 A. Yes.

2 Q. When Fidelity implemented equal access
3 first for interLATA traffic, were IXCs required to connect
4 to its tandem in order to avail itself of equal access?

5 A. That is correct. The IXCs were required to
6 make the necessary arrangements, and they were required to
7 pay for the transport cost to get it. And Fidelity had
8 its own tandem at the time, so they were required to pay
9 to get all the way to Fidelity.

10 Q. Was Fidelity required in any way to
11 transport calls or traffic outside of its exchange or
12 beyond its tandem to meet IXCs for purpose of equal
13 access?

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

15 Q. You were asked some questions regarding a
16 direct connection that MCI has with the KLM exchanges. Do
17 you recall that?

18 A. Yes.

19 Q. Who pays for that connection?

20 A. MCI. They paid for the whole entire -- I
21 believe it's a T1 circuit to get to us.

22 Q. So KLM has no cost in that circuit; is that
23 right?

24 A. That's correct.

25 Q. The common trunk groups that exist between

1 KLM and the Southwestern Bell tandem in Springfield, where
2 is the meet point?

3 A. The meet point is about three miles outside
4 of our central office, and then it's approximately -- the
5 total distance between Rich Hill and Springfield's
6 approximately 100 miles.

7 Q. What is the significance of a meet point?

8 A. A lot of your billing is done and depends
9 on who pays the transport costs is based on your meet
10 point, so ours is extremely small. It's probably less
11 than 2 percent. The reason it's not the 3 percent is
12 because it goes the opposite direction, and a meet point's
13 an airline mile so it doesn't go exactly toward the
14 switch. So it's a very -- our meet point is very small.

15 Q. Does the meet point typically represent the
16 end, if you will, of your ownership of the facilities and
17 the beginning of Southwestern Bell's ownership of the
18 facilities?

19 A. Yes.

20 Q. And percentage-wise, is it your testimony
21 that Bell owns approximately 98 percent --

22 A. That is correct.

23 Q. -- of that common trunk facility?

24 A. Yes.

25 Q. You were asked some questions about your

1 IXC affiliate. I think you indicated that it is a resale
2 provider of toll service only; is that right?

3 A. Yes.

4 Q. And what does that mean?

5 A. We buy -- we don't own any facilities, is
6 what it means basically. We are basically leasing. We're
7 buying minutes from an underlying carrier. When it leaves
8 our office, we use another carrier's CIC code, and so it
9 arrives at their trunks and we pay the carrier basically a
10 per-minute charge to resell their service.

11 Q. Why does your IXC affiliate -- excuse me --
12 why does it not own any of its own facilities?

13 A. I believe it would not be economically
14 feasible to do it that way.

15 Q. I think you were asked a question if the
16 suspension for two years was granted, whether or not your
17 requested modification would be necessary, and you
18 indicated probably not; is that right?

19 A. If the suspension --

20 Q. Is granted for two years?

21 A. That would be correct.

22 Q. Okay. But if the suspension is not
23 granted, would you need the modification that you have
24 requested?

25 A. Yes, I believe we would.

1 Q. I want to ask you some questions about the
2 routing of calls today from KLM to a wireless carrier. If
3 I can, I'm going to use Mr. Williams' schedule, which I
4 believe is attached to his surrebuttal testimony to be put
5 into evidence later.

6 MR. ENGLAND: Your Honor, for the purpose
7 of the record and the Bench, I'm using a schedule from
8 Mr. Williams' surrebuttal testimony, and that depicts what
9 he has described as pre-port routing, and he was kind
10 enough to have this blown up, so hopefully everybody can
11 see it.

12 BY MR. ENGLAND:

13 Q. Mr. Copsey, can you see it, more
14 importantly?

15 A. I'm looking. Yeah, I believe I can.

16 Q. In the right-hand part of the diagram,
17 there is a square box that says telco rate center, end
18 office or local tandem. Do you see that?

19 A. Yes.

20 Q. For purpose of our discussion, would that
21 be KLM?

22 A. That would work, yes.

23 Q. And KLM has no tandem; is that right?

24 A. That is correct.

25 Q. So it's an end office?

1 A. Uh-huh.

2 Q. Okay. And then there is a line connecting
3 that telco end office to the LATA tandem. Do you see
4 that?

5 A. Yes.

6 Q. Specifically with reference to KLM, who
7 would own that LATA tandem that you connect to and where
8 is it located?

9 A. The LATA tandem we connect to is in
10 Springfield, Missouri, and it's owned by SBC.

11 Q. Okay. And then connected to the LATA
12 tandem is CMRS switch or wireless company, I believe. Do
13 you see that?

14 A. Yes.

15 Q. And for purposes of my question, you assume
16 the CMRS provider is connected at the Southwestern Bell
17 tandem in Springfield?

18 A. I would assume that.

19 Q. Okay. Now, if the customer in KLM calls a
20 wireless customer connected to the Southwestern Bell
21 tandem in Springfield, how is that call routed today?

22 A. It has to go over the trunk group to the
23 LATA tandem, and then on to the CMRS switch or tandem, and
24 then I assume it goes and finds the customer wherever it's
25 at.

1 Q. And I believe you've said this, but as a
2 practical matter how does the customer, your customer in
3 KLM, that is, reach that wireless carrier? What does he
4 have to dial to get there?

5 A. Our customers have to dial a 1+, and it's a
6 long distance call to get to any wireless carrier today.

7 Q. And that call, is that carried by the
8 customer's presubscribed interexchange carrier?

9 A. That is correct.

10 Q. Okay. And that call is routed today? It's
11 not dropped or blocked or anything of that nature?

12 A. That is correct.

13 Q. Now, in a post-port routing scenario, which
14 I believe is another exhibit attached to Mr. Williams'
15 surrebuttal testimony, it appears that the diagram is
16 identical, would you agree?

17 A. From what I see, I don't see any
18 differences at the moment.

19 Q. And in a post-port tandem routing
20 environment, what would you recommend or what is your
21 proposal for routing that call again from your end user to
22 the CMRS or wireless company provider connected at the
23 Springfield tandem?

24 A. I think it's going to have to go over the
25 same trunk group.

1 Q. And is it going to be routed on a 1+
2 fashion, as it is today, at least to your recommendation
3 or proposal?

4 A. I guess my proposal would be yes, that
5 would make sense in today's environment.

6 Q. And under that circumstances or that
7 scenario, that call would still be routed the same way as
8 it has in the past, correct?

9 A. Correct.

10 Q. And it would not be dropped or blocked?

11 A. That is correct.

12 Q. Is another alternative that the CMRS
13 provider pay Southwestern Bell to transit that call from
14 KLM to Springfield?

15 A. That's another possibility.

16 Q. And is a third possibility that the CMRS
17 provider lease dedicated facilities to your office?

18 A. Yes.

19 Q. Is another possibility that the CMRS
20 provider establish direct connection with your offices?

21 A. Yes.

22 Q. Can you think of any other alternative?

23 A. Not right off, no.

24 Q. You were also asked some questions as to
25 whether or not if a wireless carrier had wireless --

1 excuse me -- wireless NPA/NXX numbers rated to your rate
2 center, is that the case today?

3 A. Today there are -- none of the wireless
4 carriers have any numbers rated at my switch.

5 Q. If they did and they still did not have a
6 direct connection, could you route that as a local call?

7 A. I believe I could. I don't --

8 Q. Would you be able to route it over your own
9 facilities or would you have to use somebody else's
10 facilities, if there is no connection?

11 A. I don't know. I'm wondering if that number
12 has to go back and for some reason hit their switch or
13 not. I don't know whether it's required to do that or
14 whether it could internally stay, if they've got numbers
15 in mine, and just stay in my switch and go right back out
16 to -- I guess they'd have to somehow route over, because
17 they'd still have to be routed through the CMRS providers.

18 Q. I guess what I'm getting at is, in order
19 for you to be able to route locally, you not only have to
20 have number -- excuse me -- the wireless carrier not only
21 has to have numbering resources located in your rate
22 center, it has to have facilities pick up that call,
23 doesn't it?

24 A. Yes, it would, because it still would have
25 to hit their wireless switch, I believe.

1 Q. All right. Thank you.

2 You were asked some questions regarding an

3 FCC public notice. Do you have that in front of you? I

4 think it's Exhibit 25.

5 A. Yes, I do.

6 Q. And I think you indicated that KLM first

7 filed a suspension or a request for suspension or

8 modification with the state commission, at least, in

9 November of 2003?

10 A. That is correct.

11 Q. And then again in February of 2004?

12 A. Yes.

13 Q. I think you've also indicated that you have

14 not received until July of this year a bona fide request

15 from any wireless carrier for intermodal porting?

16 A. That is correct.

17 Q. Mr. Steinmeier had you read the last

18 paragraph of the public notice where the FCC reminds

19 carriers that they have the duty to route calls to ported

20 numbers?

21 A. Yes.

22 Q. Today, if a -- if a number in the

23 Springfield tandem -- rated in the Springfield tandem

24 routed from Southwestern Bell was ported to a CMRS

25 provider, do you understand that question or that

1 assumption?

2 A. A Southwestern Bell customer is ported to a
3 wireless carrier.

4 Q. He drops his service with Southwestern Bell
5 and takes service from the CMRS provider but wants to keep
6 the Southwestern Bell number.

7 A. Okay.

8 Q. If your customer calls them, that call will
9 be routed, won't it, to that CMRS provider?

10 A. Yes.

11 Q. So you route ported numbers today?

12 A. I -- without -- yes. I'm sorry. If
13 there's been any in that area and customers call them,
14 then we will.

15 Q. Maybe more accurately you at least route
16 them to that customer's presubscribed interexchange
17 carrier, who sees that they get to the right person,
18 right?

19 A. Yes.

20 Q. In your mind, then, would you believe
21 you're in compliance with this FCC admonition?

22 A. Yes, I would, because we don't purposely
23 drop any calls, we send them on out as we have in the
24 past.

25 Q. Judge Jones -- I'm going to switch gears on

1 you. Judge Jones asked a question of you regarding your
2 request for a two-year suspension, and I think indicated
3 the possibility of a three-year suspension. Would you
4 object to a three-year suspension?

5 A. No, I would not.

6 Q. Mr. Steinmeier asked why you filed with the
7 Missouri Public Service Commission as opposed to the FCC.
8 Do you recall that?

9 A. Yes, I do.

10 Q. And why was that, at least for purposes of
11 the February petition?

12 A. We believe that the Missouri Commission
13 knew the customer base and related to them better than
14 what the FCC understood our geographics and the customers.

15 Q. With respect to some in-camera information,
16 but keeping it at a very general or generic level, I
17 believe you have indicated that you have spent money on
18 your switch in the years 2000 through 2003 which exceeds
19 what you would have to spend to upgrade that switch to LNP
20 capability?

21 A. Yes.

22 Q. In your mind, was there customer benefits
23 associated with the investments you made in 2001, 2002 and
24 2003?

25 A. Yes, there was, because as I've stated

1 before, we were running low on available numbers to give
2 to customers when they requested service, and the reason
3 the one year was higher than the other three was the way
4 the switch -- our particular switch works is it's the
5 shape of a -- basically each one of them is a shape of a
6 big refrigerator, for a better term. And at the time
7 before that we had two of those that were basically
8 completely full.

9 We had to add a whole another cabinet, is
10 what it amounts to, and that's why the cost in the year
11 2003 was higher.

12 Q. And in your opinion, does the \$12,000 you'd
13 have to spend to upgrade to LNP immediately have any
14 customer benefits associated with it?

15 A. I don't believe.

16 Q. And finally, why did you spend money to
17 upgrade a switch in 2001, 2002 and 2003 when you knew you
18 were going to have to take it out of service by the end of
19 2007?

20 A. At the time we were still so early on in
21 the depreciation life and the life of the switch that we
22 just -- we didn't figure it was worth spending \$600,000 --
23 \$600,000 or \$700,000, and it was cheaper to add new line
24 cards than replace the whole switch.

25 MR. ENGLAND: Thank you, Mr. Copsey. I

1 have no other questions.

2 JUDGE JONES: Thank you, Mr. Copsey. You
3 may be seated. KLM call its next witness, please.

4 MR. ENGLAND: Thank you, your Honor.
5 Mr. Warinner.

6 JUDGE JONES: Mr. Warinner, will you please
7 raise your right hand?

8 (Witness sworn.)

9 JUDGE JONES: Thank you. You may be
10 seated.

11 WILLIAM J. WARINNER testified as follows:

12 DIRECT EXAMINATION BY MR. ENGLAND:

13 Q. Would you please state your full name for
14 the record.

15 A. William J. Warinner, W-A-R-I-N-N-E-R.

16 Q. What is your business address,
17 Mr. Warinner?

18 A. My business is 10561 Barkley Street,
19 Suite 550, Overland Park, Kansas 66212.

20 Q. By whom are you employed and in what
21 capacity?

22 A. I'm managing principal or member of the CPA
23 firm Warinner, Gesinger & Associates.

24 Q. And on whose behalf are you testifying here
25 today?

1 A. I'm here testifying on behalf of KLM
2 Telephone Company.

3 Q. In that capacity, did you cause to be
4 prepared and filed in this docket rebuttal testimony of
5 William J. Warinner that I believe has been marked as
6 Exhibit No. 4?

7 A. Yes.

8 Q. And additionally, did you cause to be
9 prepared and filed in this case surrebuttal testimony, I
10 believe it's been marked for purposes of identification as
11 Exhibit No. 5?

12 A. I believe your first question you asked
13 about surrebuttal testimony, so maybe that was supposed to
14 be direct.

15 Q. You're absolutely right. So let me back
16 up. Exhibit No. 4 is your direct testimony that you
17 prepared and submitted in this docket?

18 A. Yes.

19 Q. Okay. Sorry. And Exhibit No. 5 is your
20 surrebuttal testimony?

21 A. Yes.

22 Q. And I believe Exhibit No. 6 is a
23 proprietary page or proprietary information on page No. 26
24 to your surrebuttal tandem; is that right?

25 A. That's correct.

1 Q. Try to deal with these all at once. Do you
2 have any corrections that need to be made to either of
3 those testimonies or the proprietary page?

4 A. Nothing that I'm aware of at this point.

5 Q. Okay. And if I were to ask you those
6 questions that appear in that prepared direct and
7 surrebuttal testimony, would your answers here under oath
8 be essentially the same as contained in those prepared
9 testimonies?

10 A. Yes, they would.

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

13 A. Yes, they are.

14 MR. ENGLAND: Thank you, sir. I have no
15 other questions of Mr. Warinner. Would offer Exhibits 4,
16 5 and 6, and tender him for cross-examination.

17 JUDGE JONES: Exhibits 4, 5 and 6 are
18 admitted into the record.

19 (EXHIBIT NOS. 4, 5 AND 6 WERE RECEIVED INTO
20 EVIDENCE.)

21 JUDGE JONES: Mr. Meyer?

22 MR. MEYER: I was just going to say I had
23 no objection.

24 JUDGE JONES: Okay. With that, then, we'll
25 move to cross-examination, beginning with Staff of the

1 Commission.

2 CROSS-EXAMINATION BY MR. MEYER:

3 Q. Good morning.

4 A. Good morning.

5 Q. Mr. Warinner, in your testimony you had

6 noted that the FCC did not contemplate porting outside of

7 LATA boundaries, and you had also noted that KLM's

8 coverage areas was all within the Springfield LATA, but

9 that it was right against the border of the Kansas City

10 one and, in fact, one area is in the Kansas City's MSA,

11 metropolitan statistical area, even though it's in the

12 Springfield LATA. Is that a pretty accurate description

13 of the boundaries that we're dealing with here?

14 A. Yes, that's correct. But did you say that

15 the FCC didn't contemplate?

16 Q. As I understand it, that was the case.

17 A. Okay. I think the LECs didn't contemplate

18 the FCC requiring us to take traffic outside our exchange

19 boundaries.

20 Q. Okay. I guess my question stemming from

21 that is, does the proximity of KLM's exchanges and

22 switches to the various LATA and MSA boundaries pose any

23 problems?

24 A. Yes, it does from the standpoint that since

25 one of the exchanges is in a Kansas City MSA but in a

1 Springfield LATA, any request to port, I guess, calls,
2 say, from KLM, from Springfield to, say, a point of
3 interconnection with a wireless carrier in Kansas City
4 would be porting outside the LATA, which I believe is not
5 in compliance with current FCC requirements.

6 Q. You've noted that KLM is not technically
7 capable or legally authorized to transport calls outside
8 its current exchange boundaries, and that Western Wireless
9 wants numbers to be ported to its points of
10 interconnection at Springfield and Branson; is that
11 correct?

12 A. That's correct.

13 Q. And I think that was in your surrebuttal at
14 page 12. Would you agree that there are ways to overcome
15 the problem, but that they would have involved
16 intermediaries or the building of facilities to overcome
17 that?

18 A. Yes, that's correct.

19 Q. And would you agree that those
20 intermediaries or building of facilities would also have
21 costs associated with them?

22 A. Say that again.

23 Q. Intermediaries or building facilities would
24 also come with costs?

25 A. Yes, that's correct.

1 Q. Right now if the KLM customer calls a
2 wireless customer, what do they need to do?

3 A. Today, since no wireless customer has a
4 physical presence in any of the exchanges of KLM, KLM must
5 dial that call using -- a toll call using 1+.

6 Q. Does it matter where the wireless customer
7 to whom they're calling is located, their number is
8 located?

9 A. No.

10 Q. There's been some discussion that perhaps
11 the FCC has already addressed the obligations of routing
12 traffic. Do you agree with the idea that the FCC may have
13 addressed the idea of routing traffic or obligation to
14 route traffic?

15 A. I believe the FCC has addressed it.
16 However, I guess that's the reason that we -- basically
17 the LEC industry has requested reconsideration from the
18 FCC, and I guess we had a -- somewhat of an ex parte
19 meeting with the Commission last November. I believe it
20 was November.

21 Q. That would be the Federal Commission?

22 A. Federal Commission, yes, and pretty much
23 warned them at the time that they -- that it was
24 technically infeasible for LECs to transport local calls
25 outside their exchange area. And I believe the response

1 of Commissioner Abernathy was, well, that's what the
2 waiver process is for.

3 Q. Do you believe that the modification --
4 essentially waiver that the parties or at least the Staff
5 and KLM and OPC have suggested in this and in other cases
6 would address the rating and routing problems?

7 A. Well, I guess the request for modification
8 is basically giving us an extension in order for the FCC
9 to address the request for reconsideration by the LEC
10 industry as to their responsibility or the financial
11 responsibility to transport calls outside their areas.

12 Q. Do you believe that that would address the
13 concern in the interim until the FCC makes some final
14 determination?

15 A. Yes.

16 Q. You've noted that SBC sends transit traffic
17 to KLM. Does KLM have a relationship with SBC relative to
18 that traffic?

19 A. No.

20 Q. How does KLM receive payment for
21 terminating the calls that it receives?

22 A. Transit traffic?

23 Q. Yes.

24 A. KLM has one of two options; they can either
25 get compensation through interconnection agreements with

1 originating parties or through -- another area that they
2 implemented was a wireless terminating traffic.

3 Q. All the calls coming from SBC presumably
4 originate outside of KLM's area; is that correct?

5 A. Say it again.

6 Q. All the calls coming through SBC originate
7 outside KLM?

8 A. That's correct.

9 Q. And as you said, some are interexchange,
10 IXC, some are wireless; is that correct?

11 A. That's correct.

12 Q. And the wireless calls are paid for
13 differently than the IXC calls; is that correct?

14 A. Well, the IXCs basically are obligated to
15 pay the local exchange carrier for access charges for the
16 use of their facilities. Wireless carriers are normally
17 obligated to pay KLM for use of facilities, but unless we
18 have an interconnection agreement, we cannot get paid --
19 or I guess now within the last year or so, we got --
20 implemented a wireless terminating tariff which gives us
21 the opportunity now to bill wireless carriers for
22 terminating traffic to our exchanges.

23 Q. I think there was some discussion of these
24 arrangements in your surrebuttal testimony at page 16 with
25 respect to the IXCs and page 20 with respect to the

1 wireless charges. There was never actually any concrete
2 number discussed in those, and I don't believe that that
3 would be a proprietary number. If you know, do you have
4 any kind of sense of what kind of dollars we would be
5 talking about?

6 A. Cost to KLM to transport beyond our
7 exchange boundaries?

8 Q. Correct.

9 A. At this point, I think I've seen
10 interconnection agreements between Southwestern Bell and
11 other carriers, but I don't know -- I mean, there is no
12 LEC-to-LEC agreement with Southwestern Bell for transit
13 traffic that we could use as a model. So at this point I
14 really wouldn't know.

15 Q. And again, I think you've noted this. KLM
16 does not send any calls out of its area itself; is that
17 correct?

18 A. No local calls, no.

19 Q. If customers port their numbers, would KLM
20 be required to send the calls out of its service area?

21 A. If required to do so, yes.

22 Q. At page 14 of your surrebuttal at line 21,
23 you have reference to network modifications being needed
24 to route calls through third-party transiting carriers.
25 Could you elaborate what kind of network modifications you

1 were envisioning and maybe if there was some cost
2 associated with those network modifications?

3 A. There may be additional trunk groups that
4 might be necessary. It depends on whether the common
5 trunks are sufficient enough to carry the additional
6 traffic that may be warranted by the porting of numbers.

7 Q. When you say common trunks, who would be
8 the owner of those common trunks?

9 A. Right now, KLM establishes interconnection
10 with Southwestern Bell's tandem in Springfield using
11 common trunks.

12 Q. So if there was an expense associated with
13 those common trunks needing to be modified, how would that
14 cost be borne?

15 A. Well, at this point we don't really know,
16 because I believe the F-- my interpretation of the FCC
17 order, I think we were allowed to -- or LECs are allowed
18 to recover the cost of switch upgrades, and for -- in the
19 LNP surcharge, but nothing was mentioned about additional
20 cost relating to transport. So depending on if the FCC
21 modifies their rules and lets us recover that through the
22 LNP surcharge, we can get it there. Otherwise, it would
23 have to be covered through some sort of a local rate
24 adjustment.

25 Q. You also mentioned, I think, probably

1 around that same area of your testimony that an agreement
2 would be needed between KLM, the transiting provider and
3 the carrier on, I guess it's the receiving end of the
4 call. Presumably that would also have costs associated
5 with it?

6 A. Yes, that's correct.

7 Q. Do you have any sense of what kind of costs
8 or how those costs could be derived?

9 A. No, I just know the process of trying to
10 negotiate interconnection agreements with other parties
11 is -- it's an arduous process. It's taken us years to try
12 to get interconnection agreements with wireless carriers,
13 and we still don't even have all of them signed up.

14 Q. Do you through your professional -- in your
15 professional capacity have any experience with those types
16 of negotiations?

17 A. I guess the carrier industry as a group in
18 Missouri, they've gone away from trying to negotiate
19 interconnection agreements and are now looking at trying
20 to negotiate agreements as a group. So I suppose if you
21 look at the costs of the group as a whole over the last
22 couple of years, it's in the hundreds of thousands of
23 dollars.

24 Q. At page 17, line 7 and 8 of your
25 surrebuttal testimony, you make note of the concept that

1 sound business decisions do not usually include duplicate
2 spending. Is it possible that with technological
3 increases and developments and the idea that technology
4 can get cheaper over time, that the alternatives available
5 in two years would be more cost effective than if LNP is
6 implemented today and then a switch is replaced in a few
7 more years?

8 A. Well, it's possible that the LNP upgrade
9 could be cheaper two or three years down the road. I just
10 don't know what the carrier pricing is going to be.

11 Q. Western Wireless, I think, has suggested
12 that there might be the possibility of extending
13 arrangements with SBC to cover calls to ported numbers
14 from KLM. To your knowledge, does anything prohibit that?

15 A. No, nothing would prohibit that.

16 Q. I think there was a reference to that
17 around page 22 of your testimony, surrebuttal. Do you
18 think that that would be something that KLM and SBC and
19 Western Wireless could potentially work out or do you
20 believe that it would be essentially impossible to do
21 that?

22 A. Well, I suppose before we try to work
23 anything out, we'd first like the FCC to, you know, issue
24 an Order on Reconsideration of the responsibility for the
25 cost of transport. Assuming that KLM is still required to

1 pay for the cost of transport, I guess my recommendation
2 as a consultant to the company would be to start a
3 negotiation process. I don't know what kind of time frame
4 it would take to implement that process and what kind of
5 costs we would end up with.

6 Q. Do you have an opinion about the necessity
7 of the switch being replaced by 2007 that we've been
8 discussing earlier?

9 A. Whether I believe it should be?

10 Q. Do you believe it needs -- make that a
11 little bit more concrete. Do you believe that the switch
12 needs to be replaced by 2007 or at an earlier date?

13 A. Well --

14 MR. STEINMEIER: Your Honor, I'm going to
15 object at this point. The friendly cross-examination is
16 certainly serving no purpose except to bolster the
17 rebuttal testimony, the direct testimony filed by the
18 witness in this case. This friendly cross is certainly
19 not challenging or eliminating the record, which is the
20 purpose of cross-examination, and I object.

21 JUDGE JONES: Are you saying,
22 Mr. Steinmeier, that the questions are redundant with the
23 examination that's already been filed?

24 MR. STEINMEIER: With the testimony as
25 prefilled, yes, sir.

1 JUDGE JONES: I'll sustain the objection.
2 I'll allow further questioning; however, the Commission
3 can read the testimony that's been filed. So keep that in
4 mind with your questions.
5 MR. MEYER: I'll make a note of it.
6 BY MR. MEYER:
7 Q. Have you had the opportunity to review the
8 Minnesota case that was attached to Mr. Williams'
9 surrebuttal testimony?
10 A. Yes, briefly.
11 Q. Do you think the scenario that played out
12 there could play out the same way in Missouri?
13 A. I think one of the differences, I
14 believe, in Minnesota was that the LECs up there have a
15 statewide -- already have what they call a statewide equal
16 access network or an affiliation with a statewide equal
17 access network. So they have a statewide network in place
18 that they can use for this traffic. We do not have that
19 network in place in Missouri. We rely on interconnections
20 with Southwestern Bell.
21 Q. If the petition by KLM is denied, what
22 would you expect KLM to do regarding the modification
23 components that KLM sought?
24 A. I suppose KLM would be required to
25 implement LNP. I -- actually, I'm not sure I can speak

1 for the board of KLM. That's an investment decision that
2 they have to make as to when, you know, if they just
3 upgrade their existing switch now and then duplicate that
4 investment in a couple of years, if and when they retired
5 their existing switches.

6 Q. Do you have any knowledge of KLM's customer
7 growth in recent years?

8 A. It's been relatively flat, I believe.

9 MR. MEYER: No further questions.

10 JUDGE JONES: Thank you. Now we'll have
11 cross-examination from Western Wireless.

12 CROSS-EXAMINATION BY MR. STEINMEIER:

13 Q. Mr. Warinner, you just testified that
14 customer growth in KLM service territory has been fairly
15 flat in recent years. You've been around this industry
16 even longer than I have. It's your expectation that the
17 limitation of technological and service options to
18 customers in rural areas is more likely to increase
19 population in rural areas rather than encouraging them to
20 remain flat or continue to fall?

21 A. In terms of customer growth in rural areas,
22 I guess it's probably more tied to economic capabilities
23 in these areas than whether or not they have access to
24 number portability.

25 Q. So whatever economic opportunities are in

1 KLM's service territory today are the only ones that could
2 possibly or will ever be there?

3 A. I wouldn't know how to answer that
4 question.

5 Q. Mr. Warinner, can you identify -- well, let
6 me refer you, please, to your surrebuttal testimony at
7 page 5 that I believe has been marked as Exhibit 5, at
8 lines 15 to 18. Can you identify any FCC order in the
9 last three months that grants a waiver of LNP obligations?

10 A. An Order within the last three months?

11 Q. An FCC -- any order of the FCC within the
12 last three months that has granted a waiver of LNP
13 obligations?

14 A. No, not a waiver. Just a letter from
15 Commissioner Powell that, in essence, encourages state
16 commissions to look at waiver requests carefully.

17 Q. Now, Mr. Warinner, you're not an attorney;
18 is that correct?

19 A. That's correct.

20 Q. Is it your understanding that a letter from
21 Chairman Powell has the same legal effect as orders of the
22 Federal Communications Commission?

23 A. From a legal standpoint, no, but from
24 practical standpoint, I would suggest it carries some
25 weight.

1 Q. Carries some weight?

2 A. Yes.

3 Q. Okay. But the fact is that the FCC has not
4 found reason to grant waivers and, therefore, we can
5 conclude it expects LNP implementation; is that correct?

6 A. I believe the FCC, in essence, has allowed
7 the states -- given leeway to the states to grant waivers
8 for LNP.

9 Q. Now, on page 12, please, again, of your
10 surrebuttal, Exhibit 25, let me refer you to lines 8 to
11 11. Are you testifying that LNP is technically
12 infeasible?

13 A. In the case of KLM, that statement applies
14 to the fact that KLM -- under the rule requirements of the
15 FCC today, that whereby KLM would be required to transport
16 that call outside of its local exchange area, it's
17 technically infeasible because KLM does not have a
18 facility to transport that call today outside its local
19 exchange area.

20 Q. Does not have the facility?

21 A. That's correct.

22 Q. There is a moat there. Okay. So technical
23 infeasibility means that if it hasn't been done before,
24 and we haven't yet taken the time to explore whether it
25 could be done, it's technically infeasible?

1 A. Yes. Until there are facilities to handle
2 those calls, it would be technically infeasible.

3 Q. Now, if a switch doesn't have voicemail
4 access installed, you would say that it's technically
5 infeasible to provide voicemail?

6 A. To that company at that time, that would be
7 correct.

8 Q. Again on page 12, lines 10 and 11, you say
9 that KLM is not technically capable or legally authorized
10 to transport local calls outside its exchange boundaries?

11 A. That's correct.

12 Q. Now again, I assume you're not offering a
13 legal opinion, because you're not an attorney. Do you
14 have a case citation that you could provide us with? Are
15 you aware of any state or federal enforcement actions
16 against rural LECs for porting numbers beyond their state
17 certificated service area?

18 A. No. I'm just referencing that through
19 state certification, KLM is only authorized to provide
20 local service within its exchange boundaries.

21 Q. And it's also obligated to follow orders of
22 the Federal Communications Commission; is that not
23 correct?

24 A. That's correct. That's what's currently
25 under reconsideration.

1 Q. At lines 16 to 21, and carrying over to the
2 next page, you talk about the economic burden of routing a
3 call, what is the basis of your claim that routing calls
4 to ported numbers is an undue economic burden?

5 A. I'm trying to find the specific testimony
6 you referred to.

7 Q. I'm sorry. Still on page 12, if we all
8 have the same pagination, which remains to be seen.
9 Page 12 of surrebuttal, beginning at line 16.

10 A. Okay. The undue economic burden would be
11 the cost, the additional cost to KLM and its customers of
12 routing calls outside its local exchange boundaries.

13 Q. Have you explored with Southwestern Bell or
14 Sprint on behalf of KLM the possibilities of establishing
15 arrangements for porting numbers from KLM to Western
16 Wireless or any other wireless carrier?

17 A. No, not at this time.

18 Q. Did you do a cost study of what it would
19 cost KLM to port numbers throughout numbers to a wireless
20 carrier?

21 A. No. A cost study would imply that we know
22 what the interconnection rates -- or what a transit rate
23 would be if we had to go through Southwestern Bell in a
24 transiting arrangement, or to actually build facilities to
25 a wireless carrier that has ported numbers and we have not

1 tried to cost any of those yet.

2 Q. So you can't do a cost study because we
3 don't have information from Southwestern Bell or Sprint,
4 but we haven't called Southwestern Bell or Sprint either?

5 A. That's correct. We weren't even aware that
6 we were going to be held responsible for transport of
7 these calls until the FCC issued its Order in, I believe,
8 November 2003. So at this point, and upon reconsideration
9 by the industry of those requirements, I suppose our
10 feeling is to wait and see until the FCC orders -- issues
11 an Order on Reconsideration before we go through that time
12 and expense.

13 Q. But on page 14 of your surrebuttal, at
14 lines 14 and 15, do you concede that using SBC may be a
15 cheaper alternative than building facilities?

16 A. It's very possible, yes.

17 Q. To page 15, please, of your surrebuttal,
18 beginning at line 2, 2 through 4, you say that before
19 proceeding with this option, the underlying question of
20 who benefits and who pays must be addressed. This case,
21 which addresses the issues of public interest and undue
22 economic burden, may provide the basis for an intermediate
23 resolution to these issues.

24 First of all, where in 251(f)(2) did you
25 derive that language, the who benefits and who pays

1 standard that you use?

2 A. It's not in Section 251. It's just a
3 question that the industry has posed to the regulators
4 concerning these regulations that we've brought forth.

5 Q. And the question by the industry has equal
6 status to the statute in your mind, even as the letter
7 from the Chairman has equal status as an Order of the
8 Commission?

9 A. I suppose if you ask the right questions,
10 maybe you can get statutes changed.

11 Q. And when you say this case addresses the
12 issues of public interest and undue economic burden, as I
13 recall, you set out Section 251 and its actual language.
14 Is that in your rebuttal testimony?

15 A. I think it's in both.

16 Q. Okay. Let's find it for a minute. Page 4
17 surrebuttal.

18 A. Yeah, starts on page 3, continues to
19 page 4.

20 Q. And you would agree with me that at the top
21 of page 4, that the statutory standard is the state
22 commission shall grant a petition for a suspension if it
23 finds that it's necessary to avoid a significant adverse
24 economic impact, small Roman numeral ii, to avoid imposing
25 a requirement that is unduly economically burdensome or,

1 small Roman numeral iii, to avoid imposing a requirement
2 that is technically infeasible.

3 I left out a couple of words, but is that
4 essentially a correct reading of that statute?

5 A. Of paragraph A. And then there's a
6 paragraph B that says, and is consistent with public
7 interest, convenience and necessity.

8 Q. And the last word before the capital letter
9 B again is?

10 A. And.

11 Q. So does that not suggest to you,
12 Mr. Warinner, that the Commission must find one of the
13 first three items to be necessary before it goes on to
14 addressing the, quote, public interest, closed quote?

15 A. Yeah. I think they would have to be taken
16 together.

17 Q. And in the absence of an order of
18 reconsideration, are the LNP rules considered to be in
19 effect today?

20 A. I believe so.

21 Q. It is true, is it not, that more than one
22 court and the Commission itself has denied motions to stay
23 the LNP orders?

24 A. That's correct, probably in a number of
25 states that have also approved waivers of the rules.

1 Q. And a number of states have also seen LNP
2 implemented by rural LECs; is that not correct?

3 A. I don't know the statistics on the actual
4 number of rural LECs who have implemented LNP at this
5 time.

6 Q. You know there are some?

7 A. I know there's probably some.

8 Q. Probably some. Okay. We'll address that
9 later. Well, actually, do you keep up -- do you try to
10 keep up as a matter of professional responsibility with
11 what is developing in other states on these issues?

12 A. Yes, we try.

13 Q. But you can't tell me with certainty that
14 any other state has LNP being provided by rural ILECs
15 today?

16 A. I can't tell you specific companies, no.

17 Q. Can you tell me specific states?

18 A. Well, I believe there's one -- and we're
19 talking about time frames. I know states who have refused
20 waivers for LNP, but I don't know what the time frames are
21 for the companies who actually have implemented it,
22 whether they have actually implemented them or are in
23 process. But I believe, as you said, Minnesota's in the
24 process of implementing. I think Michigan, maybe Arizona
25 had a couple that was denied a waiver. Some of those

1 companies, I believe, were listed in the testimony of
2 Mr. Williams.

3 Q. Yes, they were. Glad to know you read it.
4 Do you agree, Mr. Warinner, that KLM has
5 the responsibility to route calls to a ported number?

6 A. Under the current FCC requirement, as
7 they're written, that would be true, but I guess it's,
8 again, subject to the request for reconsideration before
9 the FCC.

10 MR. STEINMEIER: I apologize, your Honor.
11 I thought for a moment that this had been prefiled, and I
12 didn't want to have something marked twice as an exhibit.

13 (EXHIBIT NO. 26 WAS MARKED FOR
14 IDENTIFICATION BY THE REPORTER.)
15 BY MR. STEINMEIER:

16 Q. Mr. Warinner, I've handed you what's been
17 marked Exhibit 26. It is a Notice of Apparent Liability
18 for Forfeiture out of the Federal Communications
19 Commission; is that correct?

20 A. I believe so.

21 Q. Please X out the 207 for -- with my
22 apologies for not getting it out before the copies were
23 made yesterday.

24 A. Okay.

25 Q. That's from a different proceeding. Would

1 you please just read for us the first sentence that begins
2 in paragraph 4.

3 A. Regardless of the status of a carrier's
4 obligation to provide number portability, all carriers
5 have the duty to route calls to ported numbers.

6 Q. And are you aware of what the first porting
7 order, the intermodal porting order on November 10th, 2003
8 said on this subject?

9 A. I believe generally it required LECs
10 originating carriers to port numbers to, I guess, wireless
11 carriers or other requesting carriers who request numbers
12 to be ported.

13 Q. And then it goes on to say at paragraph 40
14 that the concerns raised about rating are outside the
15 scope of this order, that they have clearly given the
16 director you just recited?

17 A. That was at paragraph 40?

18 Q. I'm referring to the November --

19 A. Okay. I was looking for paragraph 40 in
20 this document (indicating).

21 Q. I'm sorry. That November order is attached
22 to Mr. Williams' rebuttal testimony. I'll leave it there
23 for a moment.

24 Now, on page 17 of your surrebuttal,
25 please, at lines 7 and 8, sound business decisions

1 normally do not include duplicate spending. In your
2 opinion, was it a sound business decision for KLM to have
3 purchased a Mitel switch?

4 A. At the time, yes.

5 Q. Were you consulted at the time? Were you
6 involved in the decision-making process?

7 A. I was not involved in the decision-making
8 process. I was consulted at the time.

9 Q. Isn't the early retirement of equipment
10 akin to duplicate spending?

11 A. It's certainly not desirable, but I don't
12 believe at the time that the switches were placed into
13 service that they knew that they were going to be retired
14 early.

15 Q. Please turn to page 18 of the surrebuttal
16 at line 20. You cite the Staff's adverse impact bar of
17 \$1.68?

18 A. That's correct.

19 Q. Now, you know that KLM's cost to implement
20 LNP would be well below \$1.68, don't you?

21 A. The cost of actually establishing LNP would
22 be below \$1.68.

23 Q. So that could be accomplished within
24 90 days, according to Mr. Copsey's testimony, at a cost
25 well below that \$1.68 bar?

1 A. I believe that's correct.

2 Q. And yet you're proposing to replace some
3 Mitel switch two years from now that will result in a
4 higher economic impact than the implementation of LNP; is
5 that right?

6 A. Well, I guess the timing of the replacement
7 of the Mitel switch is certainly up to the company. I
8 guess the issue that I was trying to address is, we can
9 spend the money to update the switch now, and then we can
10 spend the money again to provide LNP in a new switch
11 that's acquired.

12 Q. Let's talk about that. The replacement
13 switch, is it your testimony that when the Mitel switch is
14 replaced, assuming it is replaced at some point in the
15 foreseeable future, it's your testimony that when the
16 Mitel switch is replaced, KLM will have to pay more for
17 that switch in order for it to be LNP capable than it
18 would have to have paid for that switch were it not LNP
19 capable?

20 A. You're saying the new switch?

21 Q. The new switch. Will the new switch cost
22 KLM more because it is LNP capable than if it were not?

23 A. Well, I don't know for sure, because I
24 don't know what kind of switch they would have to replace
25 it with, but I guess the answer would just be dependent on

1 software upgrades that the LNP capability was included in.

2 Q. And as you have observed these things over

3 the years, do you think anybody is selling a new switch

4 after this year that is not LNP capable?

5 A. Well, I believe in the future all switches

6 will have to have software that makes them LNP capable; by

7 the same notion, that probably that switch is going to

8 cost more than it would have cost otherwise.

9 Q. The new switch in 2006, you believe, will

10 cost more because it is LNP capable than it would have

11 otherwise?

12 A. Well, I'm sure the LNP upgrade will be in

13 the switch. There's going to be a cost associated with

14 that, that will be in the switch.

15 Q. A hidden cost?

16 A. Yes.

17 Q. It's going to be there one way or the

18 other. They're not going to have an option of buying a

19 switch without the LNP capacity?

20 A. That's correct, but assuming that carriers

21 weren't obligated to implement LNP, that switch might be

22 cheaper.

23 Q. But the reasons for early retirement of the

24 Mitel switch have nothing to do with LNP; isn't that true?

25 A. That's correct. It's just a timing issue.

1 MR. STEINMEIER: If you'll excuse me, your
2 Honor, I'm actually saving some time here, although that's
3 not yet apparent.

4 BY MR. STEINMEIER:

5 Q. Let's turn to page 24 of your surrebuttal,
6 please, sir, and look at lines 5 and 6. Page 24, lines 5
7 and 6. And back to your application of the who benefits
8 who pays standard, in lieu of the Section 251 standard,
9 you make a point of saying that only the customers that
10 don't port will pay for LNP. Is that any different than
11 what happens when Western Wireless ports a customer to
12 another carrier?

13 A. I don't know the answer to that question.
14 I don't know how Western Wireless gets -- recovers their
15 costs.

16 Q. Isn't it true that that's the way the FCC
17 established LNP cost recovery?

18 A. I guess the carriers have the option of
19 assessing a surcharge to their customers to recover that
20 cost over a five-year period, if they choose to do that.

21 Q. And wasn't it the FCC's assumption that it
22 would be every carrier's obligation to provide LNP, having
23 given them the opportunity to recover their costs?

24 A. Repeat that question again.

25 Q. Wasn't it the FCC's assumption that it

1 would be every carrier's obligation to implement LNP and
2 to absorb or recover their own costs?

3 A. I guess that's the interpretation that you
4 can make -- that one can make from the rule that the FCC
5 put forth. However, again, like I said, part of the
6 mandates in that rule established by the FCC are under
7 reconsideration, the part about responsibility for cost of
8 transporting outside the exchange boundaries.

9 Q. But have not been stayed?

10 A. No. That's true.

11 Q. Page 24, lines 12 to 14. So if I read this
12 correctly, you're saying it's a good idea to have a
13 customer make a toll call to a number?

14 A. What I'm saying is that there's an added
15 cost to making a call to a customer or to -- that's
16 handled by a carrier that's outside of the local exchange
17 area. There's an additional cost involved, and under the
18 normal regulatory mandate, typically a cost causer is a
19 cost payer.

20 Q. So the cost causer should be the cost
21 payer, under the who benefits who pays standard, in lieu
22 of 251. For a local call today, is it not true that
23 somebody calls and somebody gets called?

24 A. Well, it's a little bit more than that.
25 Typically, for example, in the case of KLM, they own

1 facilities that connect to customers. If one customer
2 calls another customer and the call stays within those
3 facilities, the company currently gets recovery of those
4 costs through local service charges. So they handle the
5 call from point to point, termination to termination.

6 Q. Within their local exchange?

7 A. That's correct.

8 Q. And when that customer calls and the other
9 customer picks up, who caused the cost?

10 A. The originating customer.

11 Q. The originating customer. And isn't that
12 true for long distance, too, other than 800 calls?

13 A. Well, yeah, the originating customer causes
14 the cost. However, in terms of a toll call, the
15 customer's interexchange carrier, not the local exchange
16 carrier. The local exchange carrier gets paid by the
17 interexchange carrier for using their facilities to
18 originate and terminate calls.

19 Q. The local exchange carrier who places the
20 toll call doesn't cause the cost of that call?

21 A. No. They receive compensation. They
22 provide the facilities and receive compensation. The
23 customer pays the interexchange carrier.

24 Q. Let's look at page 27 at line 4, please.
25 Have you done any analysis of KLM customers or other rural

1 telco customers concerning their interest in porting
2 numbers? Have you performed a market study?

3 A. No, I have not.

4 Q. Last question, please, Mr. Warinner. Would
5 you refer to page 26. At the bottom of the page, you
6 include a quote in your testimony from the Omaha World
7 Herald; is that correct?

8 A. That's correct.

9 Q. I had never realized -- I get the New York
10 Times online every morning. I had never realized until
11 this case that consultants across the country actually
12 keep up with the news in Omaha. You and Mr. Schoonmaker
13 both subscribe to the Omaha World Herald. I'm apparently
14 going to have to start doing that to keep up.

15 Do you have the entire quote with you from
16 which this is excerpted?

17 A. Well, I have additional quote from this
18 case, but whether it is the entire article, I'm not sure
19 of that.

20 Q. Well, you conclude your quoted portion at
21 the top of page 27 with, people just don't see the need,
22 Mr. Hertz said, of portability. Do you have the next
23 sentence after that?

24 A. Yes. If you haven't given it, and in
25 parenthesis, your wireless number, out to a lot of people,

1 then you don't really care.

2 Q. So Mr. Hertz was actually speaking about
3 wireless to wireless number portability here, not wireline
4 to wireless portability; isn't that correct?

5 A. Well, I think it's any kind of portability.
6 I think the inference is people just don't give their
7 wireless numbers out to anybody.

8 Q. But if you're talking about wireline to
9 wireless portability, if you have -- let me just ask you,
10 how long have you lived where you live today?

11 No. Never mind that. How long have you
12 had the phone number that you have today, your local home
13 phone number?

14 A. Since I've lived there.

15 Q. Okay. Which begs the question, how long
16 have you lived there?

17 A. Somewhere in the range of seven years.

18 Q. And how long have you had the business
19 phone number that you have currently?

20 A. Actually, I've got two numbers there. One
21 of them I've had for a number of years. I don't remember
22 exactly how many. Maybe 10. And another one actually is
23 within the last two.

24 Q. And wouldn't you agree with me that a lot
25 more people have your home phone number or your business

1 phone number on their Rolodexes or in their address books
2 than have your cellular phone number?

3 A. That's probably correct.

4 Q. So if you were, in fact, going to change
5 your wireline phone number to your cellular or if you were
6 going to have to give up your wireline telephone number, a
7 lot more people would be affected by trying to reach you
8 than if you gave up your cellular number?

9 A. Well, I guess the easy answer would
10 probably be yes, but when our people change numbers today,
11 they get recordings that give the new number, so it
12 probably -- I don't know really what kind of impact it
13 would be. Would I -- you're saying would I prefer to have
14 my number ported? It depends on whether or not I want to
15 continue to be called.

16 MR. STEINMEIER: No further questions, your
17 Honor.

18 JUDGE JONES: Thank you. At this time
19 there aren't any questions from the Bench. There may be
20 after lunch. In light of that, we'll break for lunch, and
21 return with either questions from the Bench or redirect.
22 We'll be back here at, let's say, 1:30. It's 10 after 12
23 now. So give you a couple extra minutes.

24 With that. We'll go off the record.

25 (A BREAK WAS TAKEN.)

1 JUDGE JONES: We are back on the record in
2 Case No. TO-2004-0401, and we are continuing with redirect
3 examination of Mr. Warinner, KLM's witness. Mr. England,
4 you may proceed.

5 MR. ENGLAND: Thank you, your Honor.

6 REDIRECT EXAMINATION BY MR. ENGLAND:

7 Q. Mr. Warinner, I believe you were asked some
8 questions regarding testimony you presented addressing an
9 analysis. I believe it was referred to as who benefits
10 and who pays. Do you recall that line of questioning?

11 A. Yes.

12 Q. Would you believe that that type of
13 assessment would be consistent with the determination of
14 public interest, convenience and necessity?

15 A. Yes.

16 Q. Would you then say that that type of an
17 analysis, who benefits, who pays --

18 MR. STEINMEIER: Objection, your Honor.
19 Counsel is leading the witness.

20 JUDGE JONES: I do agree that the question
21 perhaps has the answer in it. However, it's probably
22 necessary on redirect in order to frame the scope of the
23 question, in light of the questions that were asked on
24 cross.

25 MR. ENGLAND: I think I can rephrase it,

1 your Honor.

2 JUDGE JONES: That will be fine.

3 MR. ENGLAND: Believe it or not, I was

4 actually trying to phrase it so it wasn't leading, but I

5 think I can redo it.

6 BY MR. ENGLAND:

7 Q. In your opinion, Mr. Warinner, is the

8 analysis that you refer to as who benefits, who pays

9 inconsistent with the analysis that this Commission must

10 undertake in reviewing requests for suspension and

11 modification pursuant to the procedures of the act?

12 A. I understood the last question better than

13 that one, but I mean, who benefits and who pays is

14 consistent with determining public interest matters.

15 Q. And I guess my question was the converse

16 then. It's not inconsistent; is that right?

17 A. Right. That's correct.

18 Q. Thank you.

19 You were asked some questions about a

20 decision from the Minnesota Public Utilities Commission,

21 and I believe that order is attached as an exhibit or a

22 schedule to the surrebuttal testimony of Western Wireless

23 witness Williams. Do you have that in front of you?

24 A. Yes.

25 Q. First of all, I think in one of your

1 responses you indicated that in Minnesota, the small rural
2 LECs up there have an affiliation with a statewide
3 network. Is that your testimony?

4 A. That is correct.

5 Q. And is that the case in Missouri?

6 A. No.

7 Q. So are rural carriers in Minnesota
8 similarly situated to those in Missouri?

9 A. No, they're not situated the same as those
10 in Missouri.

11 Q. Let me turn your attention to page 3 of
12 that order, the Minnesota order attached to Mr. Williams'
13 surrebuttal testimony. First -- or excuse me. Second
14 full paragraph, would you read that for the record,
15 please?

16 A. Yes. The MIC, which is, I believe, the
17 Minnesota Independent Coalition, indicated that Qwest was
18 receptive to developing routing for CMRS provider-bound
19 traffic as requested by the company, but that Qwest would
20 not make any operational changes until the companies and
21 Qwest had signed agreements identifying the terms of the
22 service.

23 Q. And would you read the next paragraph,
24 please?

25 A. MIC and Qwest have been unable to reach

1 agreement on the rates and the scope of the agreement.
2 MIC argued that the scope of Qwest's proposed agreement
3 was too broad. Further, MIC objected to the rate Qwest
4 proposed.

5 Q. And I'm not asking for a legal conclusion,
6 Mr. Warinner, but what do you glean from those two
7 paragraphs, as a layperson?

8 A. Well, it sounds like they were trying to
9 reach some kind of a proposal on a transit arrangement,
10 but that they couldn't come to terms on an agreement or
11 the rate.

12 Q. Would you also read the last sentence of
13 the first full paragraph under section Roman Numeral
14 III(A), as in Allen, on that same page?

15 A. It says, however, Qwest disagreed with the
16 MIC companies' position that Qwest must provide the MIC
17 companies with transit service and must do so at TELRIC
18 rates.

19 Q. And again, sir, what does that mean to you
20 as a consultant in this area?

21 A. Well, in my opinion, Qwest didn't feel like
22 they were required to be a transit provider, and certainly
23 didn't agree to provide it at TELRIC.

24 Q. And what are TELRIC rates, Mr. Warinner?

25 A. Interconnection rates.

1 Q. Are those the rates that wireless carriers
2 may avail themselves of in interconnection agreements with
3 incumbent local exchange carriers?

4 A. Yes.

5 Q. Does this tell you, then, that landline
6 carriers -- or excuse me -- incumbent LECs in Minnesota
7 may not get the same rates as wireless carriers for
8 transit services if they get transit services?

9 A. That's correct.

10 Q. And then I'm not sure it's necessary for
11 you to read out loud into the record, but take a look at
12 ordered paragraph 3, please, on page 5. Let me know when
13 you've read that, please.

14 A. Okay.

15 Q. And what do you glean from that, sir?

16 A. It indicates that they have 90 days to
17 indicate to the Commission whether or not they could agree
18 on some kind of an agreement between the parties, a
19 transit agreement as such. If not, then it would go to a
20 contested case proceeding.

21 Q. Can you tell whether or not the Minnesota
22 Independent Companies have a finalized agreement with
23 Qwest for purposes of this transit service?

24 A. No, they do not.

25 Q. I believe you were also asked some

1 questions about a Notice of Apparent Liability for
2 Forfeiture issued by the FCC involving CenturyTel and a
3 copy of which was marked for purposes of identification as
4 Exhibit 26. Do you remember that?

5 A. Yes, I do.

6 Q. Turning your attention again to an
7 attachment to Mr. Williams' testimony, I believe it's the
8 last attachment to his surrebuttal testimony, there is a
9 further order in that case. Do you see that, or do you
10 have that in front of you?

11 A. I have an Order adopted July 9th and
12 released July 12th, 2004.

13 Q. And does it appear to be in the same case
14 number that Exhibit 26, the order that's evidenced by
15 Exhibit 26 was issued?

16 A. I don't know. I don't have Exhibit 26
17 anymore.

18 MR. ENGLAND: May I approach, your Honor?

19 JUDGE JONES: Yes, you may.

20 THE WITNESS: Yes, it's the same file
21 number.

22 BY MR. ENGLAND:

23 Q. Okay. Let me turn your attention first to
24 page 3, paragraph 5. Would you read that first full
25 sentence into the record, please.

1 A. On May 13th, 2004, the Bureau asked a
2 Notice of Apparent -- issued a Notice of Apparent
3 Liability for Forfeiture proposing a 100,000 forfeiture
4 against CenturyTel and finding that in circumstances where
5 CenturyTel did not have an LNP capable switch and had a
6 direct trunk with a porting wireless carrier, CenturyTel
7 default routed local and extended service calls to the
8 wireless carrier that originally serviced the telephone
9 number.

10 Q. Focusing on that sentence, sir, and
11 particularly the phrase had a direct trunk with a porting
12 wireless carrier, are you aware of KLM having a direct
13 trunk with any porting wireless carrier?

14 A. No, they do not.

15 Q. Would you believe -- or is it your opinion
16 that the KLM situation, then, is different from what
17 CenturyTel was experiencing?

18 A. Yes, it is.

19 Q. Now, read paragraph 7, first full sentence
20 into the record, please.

21 A. The parties agree that this consent decree
22 does not constitute either adjudication on the merits or a
23 factual or legal finding or determination regarding any
24 compliance or noncompliance by CenturyTel with the
25 requirements of the act or the Commission as rules or

1 orders.

2 Q. And finally, would you read paragraph -- or
3 excuse me -- ordered paragraph No. 6, page 2 of the
4 Commission order in that case and attached to
5 Mr. Williams' surrebuttal testimony?

6 A. Yes. It is further ordered that the above
7 captioned investigation is terminated and the notice of
8 proposed liability in this proceeding is rescinded.

9 Q. Again, as a layperson, does that indicate
10 to you that the notice of apparent liability, which I
11 believe is Exhibit 26 in this case, has now been
12 rescinded?

13 A. Yes, it does.

14 MR. ENGLAND: Thank you, sir. I have no
15 other questions of the witness.

16 JUDGE JONES: Thank you. Mr. Warinner, you
17 may step down.

18 And we'll move on to Western Wireless.
19 Will you please call your first witness?

20 MR. STEINMEIER: Yes, your Honor. Western
21 Wireless calls Ron Williams to the stand.

22 (Witness sworn.)

23 JUDGE JONES: Thank you. you may be
24 seated.

25 RON WILLIAMS testified as follows:

1 DIRECT EXAMINATION BY MR. STEINMEIER:

2 Q. Will you please state your full name for
3 the record?

4 A. Ron Williams.

5 Q. And your business address, please, sir?

6 A. 36501 1st Avenue Southeast, that's in
7 Belleville, Washington, 98006.

8 Q. And your professional position, please?

9 A. I'm the director of intercarrier relations
10 for Western Wireless.

11 Q. And would you turn, please -- or let me
12 turn your attention to an exhibit premarked as Exhibit --
13 let me do it this way -- to exhibits premarked as Exhibit
14 21 and 22.

15 A. Yes.

16 Q. And are those both a nonproprietary, 21,
17 and a proprietary, Exhibit 22, version of your rebuttal
18 testimony prefiled in this case?

19 A. Yes, they are.

20 Q. And may I call your attention to
21 Exhibit 23. Is that a proprietary exhibit, your
22 Exhibit RW-4, which was attached to the proprietary
23 version of your rebuttal testimony, which is Exhibit 22?

24 A. Yes, it is.

25 Q. And turning your attention finally to

1 Exhibit 24, is that your entirely nonproprietary and,
2 therefore, comparatively simple surrebuttal testimony
3 filed on July 16th in this case?

4 A. Yes, it is.

5 Q. Do you have any changes or corrections to
6 make to these exhibits?

7 A. No, I do not.

8 Q. And if I were to ask you today the same
9 questions, would each of your answers be the same?

10 A. Yes, they would.

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

13 A. Correct.

14 MR. STEINMEIER: Thank you very much.

15 Your Honor, I proffer the witness for
16 cross-examination.

17 JUDGE JONES: Would you like to offer these
18 exhibits into the record?

19 MR. STEINMEIER: You know, your Honor, I
20 would very much like to do that, and I appreciate the
21 reminder. I offer Exhibits 21, 22, 23 and 24 into
22 evidence at this time.

23 JUDGE JONES: Okay. Any objections?

24 MR. ENGLAND: No objection.

25 JUDGE JONES: Exhibits 21, 22, 23 and 24

1 are admitted into the record.

2 (EXHIBIT NOS. 21, 22, 23 AND 24 WERE
3 RECEIVED INTO EVIDENCE.)

4 JUDGE JONES: And we will move to
5 cross-examination by the Staff of the Commission.

6 CROSS-EXAMINATION BY MR. MEYER:

7 Q. Good afternoon.

8 A. Good afternoon.

9 Q. I'll try and ask this question sort of
10 vaguely to avoid any potential problems with proprietary
11 information. So if you have trouble answering it, just
12 say so, but I'll try and speak generally.

13 You've suggested that the investment in the
14 switch software that would be required to implement LNP is
15 modest. Do you have a framework or a kind of an analysis
16 you went through to determine what modest is, if there's a
17 way to do that without expressing what those numbers are?

18 A. Sure. Well, modest can be interpreted in
19 several different ways. In this case, I was thinking of
20 it's a modest investment relative to the investments
21 they've made over the last few years in this same switch.
22 It's a modest investment to the cost of this switch. It's
23 a modest investment relative to an annual depreciable
24 value of this switch, and it's a modest investment in
25 comparison to other similarly sized telephone companies

1 whose costs I have reviewed.

2 Q. Okay. Thank you.

3 Do you disagree that a local exchange

4 carrier would have six months after the receipt of a BFR

5 to implement local number portability at this time with no

6 action from the Commission, either federal or state?

7 A. I would agree that upon receipt of a bona

8 fide request, a company has six months to implement number

9 portability.

10 Q. So on a specific level, when do you believe

11 that KLM would be required to implement LNP if the

12 Commission, state commission does not grant any suspension

13 or modification?

14 A. Six months from the date they received the

15 bona fide request, the initial bona fide request, and I

16 assume that was from Western Wireless. I assume that was

17 approximately the first week of July.

18 Q. Thank you. Could you explain your basis

19 for expecting approximately 300 ports from KLM customers

20 over a five-year period? And that was something that was

21 in your testimony, I believe the rebuttal testimony,

22 page 19. No, it might have been surrebuttal, page 19.

23 No, it must have been rebuttal at page 19.

24 Page 19, line 19.

25 A. The estimate of 300 ports for KLM was

1 derived first by forecasting what Western Wireless
2 believes to be a reasonable estimate of ports from KLM to
3 Western Wireless, and then estimating that Western
4 Wireless's market share in the KLM service area was about
5 25 percent. So -- or one quarter of the potential
6 intermodal port opportunities. So it was Western's
7 estimate of porting activity divided by 25 percent to get
8 to a total intermodal port estimate.

9 Q. When you say 25 percent, is that specific
10 to KLM or was that some sort of extrapolated number
11 applied to KLM?

12 A. Estimated for our Missouri service area,
13 which is a relatively small area. Western Wireless just
14 has a small piece of coverage in the western part of the
15 state.

16 Q. Actually that kind of gets to my next
17 question. When you say relatively small area, do you have
18 a sense of how many counties, for example, it covers?

19 A. It's called the Missouri 9 RSA, and I think
20 that -- I want to believe that's four counties, but that
21 could be subject to check.

22 Q. And generally in the western part of the
23 state?

24 A. Yes.

25 Q. The percentage that you derived and the

1 analysis that you derived, would that have been based on
2 information from the top 100 MSAs and porting that was
3 taking place in those or in rural areas or some
4 combination thereof?

5 A. It was derived from a couple different
6 sources. First of all, it was derived from some internal
7 assessments we had done, based upon the impact of
8 competition in a market area where we have seen and the
9 industry has seen line losses in the range 3 to 4 percent
10 per year to competition. That was the genesis of our
11 original estimates.

12 Those estimates were further validated by a
13 rural market consumer survey that we did that was
14 completed in June that identified a number of
15 16 percent of rural customers that would be interested in
16 converting their landline service to wireless service.

17 Q. When you say rural market survey, was that
18 a national survey or --

19 A. It was only in Western Wireless's licensed
20 area, so it would be just in the western United States,
21 and generally only the rural areas in the western United
22 States. Western Wireless's service area is approximately
23 98 percent outside of the MSA.

24 Q. And the data that you sampled, was there a
25 time period pre the May 24 implementation date and then

1 post the May 24 implementation date, or was there -- how
2 was the time frame taken into account?

3 A. The survey was conducted in, I believe,
4 early June, so it would have been after the May 24th date,
5 but it was like any survey, conducted based on consumer
6 opinion as of that point in time.

7 Q. So it wasn't what have you done, it would
8 be more what would you intend to do in the future?

9 A. Correct.

10 Q. Would you agree that although an intermodal
11 call that originates from a rate center where a number was
12 ported to a wireless carrier is within a local calling
13 area, it's possible the call itself may have to leave that
14 local calling area and come back into it to be completed
15 again in a wireless?

16 A. Try and rephrase that.

17 Q. Right. This is what I get for writing it
18 myself. Would you agree although an intermodal call
19 originating from a rate center where a number was ported
20 to a wireless carrier, it would be within a local calling
21 area, it's possible the call itself might have to leave
22 that local calling area and then come back into that local
23 calling area to reach its completion?

24 A. Yes. I would say that if a number is
25 ported out of a rate center -- and by definition to be

1 ported the number has to be ported within the same rate
2 center -- it is possible a condition could exist where the
3 actual routing of that traffic might involve routing
4 outside of that rate center for proper delivery.

5 Q. And would the concept of how that call is
6 transported or routed once it leaves until it comes back
7 in, that would be what you've demonstrated in your charts
8 that were attached to your testimony?

9 A. That's correct.

10 Q. Is that correct? Okay. And this would be
11 the source of the discussion over routing problems that
12 we've been having?

13 A. Well, clarify that discussion. The
14 discussion has been one around routing problems. There is
15 no routing issue at dispute. The routing is not a
16 dispute, nor is rating at issue. The only issue that is
17 at dispute before the FCC is the compensation for the
18 routing of calls, not the actual routing. The routing
19 order is very clear.

20 Q. You would agree that KLM does not have
21 jurisdiction to route a call from its customers to a
22 ported former customer in the same local calling area if
23 the only way to route that call would be to send it to
24 Branson or Springfield? And when I say KLM does not have
25 jurisdiction to route the call unto itself with its own

1 facilities.

2 A. That would be KLM's choice. There are no
3 regulatory limitations that I know of that would prevent
4 them from accomplishing that.

5 Q. And you would suggest that accomplishing
6 that would be done by building facilities or entering into
7 arrangements with other interconnecting entities?

8 A. There are a number of ways a carrier can
9 undertake to deliver traffic. Western's recommendation
10 just consistently is, the carrier should choose the most
11 economically efficient means to do that.

12 Q. Would you agree that there are costs
13 associated with any of those means, though, that would be
14 required to complete the call, such as facilities
15 interconnection agreements, et cetera?

16 A. Well, yeah, there's always cost in
17 transporting traffic.

18 Q. And those costs would be over a minimal
19 number of dollars, say, more than \$10 for example?

20 A. Well, more than \$10 per what?

21 Q. For example, per carrier per month. And
22 where I'm going is I think there -- and why don't I go
23 there now -- the Minnesota decision that was attached to
24 your testimony appeared to imply that Qwest was willing to
25 carry traffic for \$10 a month?

1 A. You're exactly right. On an interim
2 basis, Qwest has agreed to transit route land to mobile
3 traffic for ported numbers for rural carriers for \$10 a
4 month.

5 Q. Do you believe that that would be a
6 situation that could potentially apply to Missouri?

7 A. The difference between Minnesota and
8 Missouri is really one of the initiatives of the LECs. In
9 Minnesota the LECs saw their routing obligations, put
10 together a plan to address it in an efficient means, and
11 approached a transit provider that is available to them,
12 which is Qwest, to resolve it.

13 In Missouri, that just hasn't happened.
14 The decision was made to seek a suspension or a
15 modification rather than pursue a solution.

16 Q. Does Western Wireless charge its end users
17 a charge to recover costs associated with local number
18 portability?

19 A. Yes, we do.

20 Q. Do you know what that charge would be? And
21 I imagine that might be different per area.

22 A. Actually it's a single charge for all of
23 our customers in all areas. It's \$1.70 a month, and that
24 includes all regulatory mandated costs recovery, so it
25 includes cost recovery for things other than LNP.

1 Q. Is it possible that that charge could be
2 increased to include additional costs associated with
3 intermodal porting?

4 A. I'm sorry. LNP is included within that
5 cost.

6 Q. So is that a flexible number that could be
7 increased?

8 A. We -- in 2003, at the end of 2003, we did
9 increase the number from what it was really prior to LNP
10 to what it is today. And that increase, I believe it went
11 from \$.91 to \$1.70.

12 Q. Do you believe that KLM could increase its
13 LNP surcharge to include any additional cost it might
14 incur if a modification is not granted by the Commission,
15 the Missouri Commission?

16 A. Whether transport -- and I think you're
17 speaking specifically to the modification that would
18 affect transport.

19 Q. Exactly.

20 A. That would be a discussion, I think, that
21 would be best had with NECA regarding the recoverability
22 of those transport costs through an end user surcharge for
23 LNP.

24 Q. There's been some discussion of the
25 CenturyTel consent degree, and there's some discussion of

1 N1 carriers. Could you elaborate a little bit on what an
2 N1 carrier is?

3 A. It's also actually N minus 1 carrier, is
4 the appropriate phrasing, and all that is, is that's the
5 carrier that handles the call just prior to the
6 terminating carrier. And it's the terminology that really
7 relates to who would be responsible for doing a database
8 query, and then who would be responsible based on that
9 query for proper routing of that call to the terminating
10 carrier.

11 And N minus 1 responsibility is different
12 depending upon the type of call. For example, a toll call
13 would have a different N minus 1 responsibility chain than
14 a local call would.

15 Q. In the Notice of Apparent Liability for
16 Forfeiture that's Exhibit 26, in paragraph 5 of that,
17 there's a reference to an N1 carrier as the carrier
18 immediately preceding the terminating carrier, as you
19 said. In Missouri, would you say then that would be
20 Southwestern Bell or Sprint or the carrier who would make
21 the arrangements to carry the traffic, with whom the
22 arrangements would be made, I should say?

23 A. For local calls, typically the N minus 1
24 carrier is the carrier that originates the call. It is
25 possible for that carrier to make arrangements with

1 another carrier, for example, a transit provider, to
2 perform the N minus 1 function on their behalf.

3 Q. Is there any circumstances where KLM could
4 be the N minus 1 carrier?

5 A. There -- well, circumstances are KLM's
6 obligation as an N minus 1 carrier is fulfilled or needs
7 to be fulfilled, and how they would choose to do that
8 would be up to them. So, for example, they could choose
9 to do the database query and then run that traffic to
10 another carrier or they could hire another carrier to do
11 the query for them and then have that carrier route based
12 on that query. Different implementations are available.

13 Q. So you're saying it is possible that KLM
14 could fulfill that role of N minus 1?

15 A. Yep. It's their obligation.

16 Q. As far as the outlay of costs goes, you've
17 recommended KLM should pay to upgrade the switch now and
18 either replace the upgraded switch when it becomes
19 obsolete in three and a half years or so, or not, as the
20 case may be; is that correct?

21 A. I think the switch also lessens the issue
22 for KLM, and I don't mean to diminish that problem for
23 them, but that is an entirely separate issue from the
24 implementation of LNP. The implementation of LNP in this
25 case, roughly a 12 to \$13,000 switch investment, is it's a

1 tangible, quantifiable number that gives immediate impact
2 in terms of their obligations to implement. The rest of
3 the costs associated with LNP, which have to do with
4 process preparation and actual process operations for
5 number portability, will need to be incurred whether KLM
6 gets a waiver in two years or implements today.

7 So what we're talking about here is a
8 \$12,000 investment to meet LNP obligations that, when you
9 take that investment and recover it over a 5-year period,
10 really does not create either an economic burden on the
11 company or significant adverse impact on its users.

12 Q. The numbers that have been provided by KLM
13 regarding cost of upgrade and replacement, is there a
14 number -- or let me ask this: On a broader level, do you
15 have any dispute with the numbers that KLM has provided in
16 absolute numbers? Do you accept the idea that they are,
17 in fact, the correct costs that would be associated with
18 that?

19 A. Specific to the Mitel switch, those I
20 assume to be the correct costs.

21 MR. MEYER: Thank you. No further
22 questions.

23 JUDGE JONES: Thank you. We'll now have
24 cross-examination from KLM.

25 CROSS-EXAMINATION BY MR. ENGLAND:

1 Q. Good afternoon, Mr. Williams. Some of
2 these questions may get into some proprietary data,
3 because I'm going to be talking about some of the answers
4 you provided in response to our Data Requests.

5 A. I won't go there unless you do.

6 Q. Well, I may make a mistake and ask a
7 question that you know the answer to be proprietary.
8 Please let me know and I'll back off, and we can do an off
9 or in-camera proceeding, whatever the case may be.

10 I believe Mr. Meyer asked you a question
11 about the bona fide request that you sent to KLM, which
12 was received on or about, I think, July 6th of this year.
13 And I think you indicated that in your mind KLM would not
14 be obligated then to implement LNP if that's its only bona
15 fide request or its first until six months from that date;
16 is that right?

17 A. That's correct.

18 Q. And if that's the case, we're looking at
19 roughly January 5th, 6th, somewhere in that neighborhood,
20 is that right, of 2005? KLM wants a two-year suspension
21 to May 24th, 2006, right?

22 A. Correct.

23 Q. Okay. So what we're really talking about
24 is a little less than a year and a half difference between
25 what you want and what KLM wants? And when I say you, I'm

1 sorry, I mean Western Wireless.

2 A. That appears to be the case.

3 Q. By the way, is that what you want as well?

4 A. I would have them implement tomorrow.

5 Q. Sorry I asked that question.

6 I believe you'd agree with me that

7 currently Western Wireless has no direct connection today

8 with KLM?

9 A. Correct.

10 Q. And would you agree with me that the reason

11 you don't is because the volumes of traffic just don't

12 make economic sense for you to do so?

13 A. That's correct.

14 Q. I want to talk to you a little bit about

15 your pre-porting scenario. I'm going to get your diagram

16 back up on the easel. Can you see it from there?

17 A. I should be able to see it just fine.

18 Q. I'm hoping you're not going to disagree

19 with the scenario today if the telco end office over here

20 is KLM and the LATA tandem is the Southwestern Bell

21 Springfield tandem and CMRS, whoever that may be, is

22 connected at the tandem, that calls today to that CMRS

23 provider are dialed 1+ and carried by interexchange

24 carriers?

25 A. I'm not familiar with all of what the other

1 CMRS provider is doing, but if the CMRS does not have
2 numbers assigned to the KLM rate center, I would assume
3 that to be the case.

4 MR. STEINMEIER: Okay. Your Honor, with
5 apologies to Mr. England, I just wanted to point out for
6 the record that the chart to which he is pointing is
7 elsewhere in the record as an attachment to Mr. Williams'
8 surrebuttal testimony, which is Exhibit 24, and it's
9 attached as Exhibit RW-8.

10 JUDGE JONES: Thank you, Mr. Steinmeier.

11 BY MR. ENGLAND:

12 Q. And then, Mr. Williams, that would also be
13 true if this telco rate center end office were a small
14 exchange or end office, if you will, subtending
15 Southwestern Bell's tandem, right? It'd be a toll call if
16 the CMRS provider's NPA/NXX is associated with the tandem
17 switch, not at the end office switch?

18 A. Let me clarify that just a little bit.
19 CMRS NPA/NXXs wouldn't be associated with tandem. They
20 would be associated with the rate center in which the
21 tandem is located.

22 Q. Okay.

23 A. And to the extent that there is not local
24 calling between SBC's originating rate center and the
25 NPA/NXX in which the CMRS rate -- CMRS NPA/NXX is rate

1 centered, then that would be a toll call.

2 Q. Your answer is much more precise, and I

3 accept that, and I apologize for not --

4 A. Just trying to be accurate.

5 Q. And I agree with that. I agree with

6 everything you said. Now, in that case, the SBC end user

7 would make that call through his presubscribed IXC,

8 correct?

9 A. That would be the presumption.

10 Q. Okay. And that IXC, if it's not SBC or an

11 affiliate of SBC, would likely pay SBC originating access

12 to originate that call?

13 A. It would be handled as a typical toll call.

14 Q. And that's the same way it would be handled

15 in KLM, as far as you know, correct?

16 A. Again, if it is a toll call, that's the way

17 it would be handled.

18 Q. So the situation that KLM faces or its

19 customers face in making toll calls to access wireless

20 carrier customers whose NPA/NXX are in remote rate centers

21 isn't any different than what any other end user customers

22 of SBC, CenturyTel or any other carrier faced where that

23 call would normally be a toll call?

24 A. That's correct, except that I don't see

25 that it's relevant to the situation we're talking about

1 here. We're talking about the ported calls -- local calls
2 to ported numbers, as opposed to toll calls.

3 Q. I just wanted to make sure KLM -- or the
4 record didn't reflect that KLM was doing something unique
5 or different than what everybody else did, given the same
6 situation.

7 A. I would agree.

8 Q. I want to use the current MTIA exchange
9 boundary map. I may have to move that closer to you.
10 More importantly, I'm going to get into a situation of
11 routing, and this is one of the areas that I don't know if
12 I'm going to be getting into proprietary information or
13 not, so you need to let me know.

14 A. All right. Just to clarify, are you
15 concerned about information that Western Wireless would
16 consider proprietary --

17 Q. Yes.

18 A. -- or that telephone companies would
19 consider proprietary?

20 Q. That Western Wireless would consider
21 proprietary. That will help guide me.

22 A. Oh, okay.

23 MR. ENGLAND: Your Honor, I'm going to try
24 to put this closer to the witness, as well as so everybody
25 else can see. And, your Honor, I may for purpose of my

1 question, have to stand over here with the witness. I
2 hope that's okay.

3 JUDGE JONES: That will be fine. Try not
4 to get too physical with him.

5 BY MR. ENGLAND:

6 Q. Mr. Williams, turning your attention to the
7 MTIA exchange boundary map, I think you've seen this
8 before and know what it's supposed to be showing, and that
9 is the boundaries of all the local exchange companies in
10 the state of Missouri?

11 A. Correct.

12 Q. And for purposes of this discussion, I want
13 to focus on the KLM exchanges, of which there are four, in
14 the western part of the state on the LATA boundary between
15 the Kansas City, if you will, LATA and the Springfield
16 LATA. Do you understand that to be the case?

17 A. I understand the Springfield LATA, but on
18 the border of LATA.

19 Q. Okay. And you don't have any dispute with
20 the company when they say they've got approximately
21 1,600 lines?

22 A. No.

23 Q. Nor do you have any dispute with them when
24 they tell you their tandem is at Springfield, Missouri and
25 that's operated by Southwestern Bell?

1 A. No.

2 Q. Now, where in relation to these

3 exchanges -- and this kind of gets to a question Mr. Meyer

4 asked -- is Western Wireless's service area or license

5 area?

6 A. Well, approximately in this section of the

7 state (indicating).

8 Q. So what you've depicted for purposes of the

9 record is a square, we'll say, that is contiguous with

10 the -- at least on the western boundary with the state

11 line. On the northern edge, how far north would you go,

12 either by county or by --

13 A. Just to the southern edge of the Kansas

14 City MSA.

15 Q. On the eastern side, then, do you have any

16 frame of reference? Would Warsaw be outside?

17 A. Warsaw would be just outside.

18 Q. And on the southern end?

19 A. We -- Branson would be too far south.

20 Q. I was thinking more like --

21 A. We don't cover north of Joplin.

22 Q. Nevada, would that probably be in your

23 service area?

24 A. Nevada is in our service area.

25 Q. Great. Thank you. So your service area

1 actually spans at least two LATAs, the Kansas City LATA
2 and the Springfield LATA?

3 A. It does.

4 Q. Okay. And here's where we may be getting
5 proprietary, so you tell me. Where are -- either are or
6 is Western Wireless's mobile switching office for this
7 license area?

8 A. Actually our mobile switching office is in
9 Kansas for this area.

10 Q. Can you give me a city or --

11 A. It's in Salina.

12 Q. Where is Western Wireless interconnected
13 with the landline network, first in the Kansas City LATA?

14 A. Well, we have several actual
15 interconnections in Kansas City. One would be at the
16 Kansas City tandem. We have a connection at Warrenton.
17 We have a connection, I believe, in -- I have to get the
18 list out.

19 Q. Before you go any further, when you say
20 Warrenton, you mean Warrensburg?

21 A. Warrensburg, the Sprint tandem.

22 Q. Okay.

23 A. And then we do have a couple other
24 connection -- what's called Type 1 interconnection at
25 different exchanges in that LATA, and then in the

1 Springfield LATA, we have connections in Branson and El
2 Dorado Springs and Nevada, and we are in the process of
3 establishing a connection in Springfield.

4 Q. Let's go back to Kansas City then. As far
5 as tandem connections are concerned, is it fair to say
6 you're connected at the SBC tandem in Kansas City and the
7 Sprint tandem in Warrensburg?

8 A. Yes.

9 Q. And then when you mention Type 1, my
10 understanding of a Type 1 interconnection is that's an end
11 office, not a tandem correction?

12 A. That's correct.

13 Q. So the only two tandems that you're
14 connected to in the Kansas City LATA would be the City of
15 Kansas City or that area of the vicinity and Warrensburg?

16 A. Correct.

17 Q. Let's take Springfield. You don't
18 currently have a connection with Southwestern Bell in
19 Springfield, but you're in the process of establishing
20 one?

21 A. Correct.

22 Q. You have a connection in Branson, which is
23 a tandem owned by CenturyTel?

24 A. Yes.

25 Q. El Dorado Springs, Missouri, are they

1 tandems?

2 A. I believe that's just a host switch from
3 Spectra Communications.

4 Q. Any other tandem connections that you know
5 of presently in the Springfield tandem?

6 A. No.

7 Q. This may be too broad a question. You tell
8 me. It may require too many answers. Do you know
9 generally how Western Wireless terminates traffic today?
10 Western Wireless originated traffic is terminated to
11 customers in KLM exchanges?

12 A. That's correct, and the way that is done
13 is -- well, it can be done in a couple of ways; through
14 delivery to the switch, which then SBC will route to the
15 Springfield tandem and delivered to KLM, or I believe it
16 can be done by terminating traffic to the Branson tandem
17 of CenturyTel, who will then route it to Springfield and
18 then to KLM.

19 Q. Okay. Can it also come via interexchange
20 carrier?

21 A. Yes. In fact, for example, if one of our
22 customers in Kansas were to dial a KLM number, that would
23 be delivered to KLM via an interexchange carrier.

24 Q. What about a customer in the Kansas City
25 LATA -- well, excuse me. I guess I'm confused. We're

1 talking MTA boundaries for purposes of wireless not LATAs,
2 right? For purposes of --
3 A. Well, we --
4 Q. -- interexchange versus --
5 A. We could talk about either one. It's not
6 good to mix them up.
7 Q. I agree. I agree. Okay. Just to clarify,
8 so your end office connection in Nevada is a Southwestern
9 Bell office?
10 A. Correct.
11 Q. Your tandem connection at Branson would be
12 CenturyTel?
13 A. (Witness nodded.)
14 Q. I apologize if I'm being redundant, but
15 Western Wireless is not licensed to provide services in
16 the Kansas City metropolitan area, right?
17 A. That's right.
18 Q. Or the greater, the downtown area, if you
19 will, where the tandem is located?
20 A. That's right.
21 Q. Is it licensed to provide service in
22 Warrensburg where Sprint's is located?
23 A. I believe so.
24 Q. Then how about Springfield, where you're
25 going to establish a tandem?

1 A. We are not licensed in Springfield.

2 Q. Too far south?

3 And that would also include -- then Branson

4 would not be within your certificated or licensed area?

5 A. Correct.

6 Q. In Data Request No. 27 that KLM sent to

7 you -- do you have your Data Request responses with you?

8 A. I do not.

9 Q. Okay. Generally, you indicated -- we asked

10 and you indicated where you wanted us to deliver ported

11 numbers.

12 MR. STEINMEIER: May I show the witness a

13 copy?

14 MR. ENGLAND: Certainly. Yeah, actually

15 that would be helpful. Otherwise we'll have to share

16 mine, and he may not want me looking over his shoulder. I

17 think 27 was in the second set.

18 BY MR. ENGLAND:

19 Q. Although there's a P-HC at the bottom of

20 that, I don't believe the answer to 27 is proprietary or

21 highly confidential, is it?

22 A. No, this is actually published public

23 information.

24 Q. Okay. In that question, essentially we

25 asked you -- I say we -- KLM asked you, where do you want

1 us to deliver ported numbers, and the first -- you
2 identify the Kansas City LATA, and the homing tandem, I
3 believe, would be Warrensburg based on those initials; is
4 that correct?

5 A. That's correct.

6 Q. Would you agree with me that KLM is not
7 obligated to port numbers to Warrensburg because it's in
8 another LATA?

9 A. Yeah. And let me spend a minute to clarify
10 this. We would -- if we were to port a number from KLM,
11 we would port that number to an LRN that was assigned
12 within the Springfield LATA, so that would either be
13 Branson or Springfield. And in the case of KLM
14 recognizing from, I believe, testimony that was provided,
15 that it would make sense for us to assign a Springfield
16 LRN to a number that was ported in from a KLM rate center.

17 Q. Okay. So for purposes of your further
18 discussion on how to port a number to you guys, we don't
19 have to worry about Kansas City or tandems in the Kansas
20 City LATA, right?

21 A. That's correct. If we ported a number from
22 KLM, we would designate the LRN associated with the
23 Springfield tandem, since that seems like it would be
24 easier for KLM to get to.

25 Q. Okay. And for purposes of the record, LRN

1 is local routing number?

2 A. Local routing number. It's -- yes. It

3 basically replaces the dialed number so that number

4 routing to ported traffic can happen.

5 Q. Okay. Well, let's assume that a number's

6 been ported from KLM to Western Wireless. You would want

7 us to route that number to the Springfield tandem; is that

8 right?

9 A. We would assume that would be easiest for

10 you. If there were -- if there was another routing

11 proposition that KLM would like to make, we would

12 entertain that.

13 Q. Well, here's my question. If you don't

14 currently have facilities at the Springfield tandem, how

15 do you get that call from Springfield to wherever you

16 really are?

17 A. Well, actually, apparently I misspoke. We

18 do have -- according to this, effective in early June, we

19 do have a point of interconnection in Springfield, and

20 it's designated -- associated with this LRN there. So

21 that -- what I thought was going to be put in place is

22 already in place.

23 Q. Okay. So now you think you do have?

24 A. For us to assign an LRN, we would have had

25 to have a point of interconnection there.

1 Q. Now, do you take the call at that point,
2 the ported call?

3 A. Well, yes.

4 Q. We're not really just talking about ported
5 numbers. There's a call that goes with that number,
6 right?

7 A. Well, that's right. It's a call to a
8 ported number. We would -- SBC would, in essence, hand us
9 that call, and we would pick it up there and route it back
10 to our switching point.

11 Q. In Salina, Kansas?

12 A. Yes.

13 Q. And then how would it get to the end user,
14 your end user?

15 A. We would then send it to our cell site that
16 is tending to that particular customer at that particular
17 point in time.

18 Q. Okay. So once it gets to Springfield, from
19 there on it's on your network?

20 A. Absolutely.

21 Q. Okay. What if you direct us to port it to
22 Branson, since we don't have -- I say we -- since KLM does
23 not have a direct connect or subtend the Branson tandem,
24 the CenturyTel Branson tandem, how do we get that to
25 Branson?

1 A. Well, if we were to force you to send the
2 traffic to Branson, you know, it would be basically a
3 double tandeming arrangement. It would tandem, I assume,
4 through SBC and then through CenturyTel's Branson tandem.
5 But as I said before, we would assign an LRN for any
6 numbers ported in from KLM that would be out of the
7 Springfield tandem, so KLM wouldn't have to worry about
8 how to get it to Branson.

9 Q. Well, we can't tell you what LRN to assign,
10 can we?

11 A. No, we can certainly have -- this is a
12 normal part of a discussion when you get into
13 implementation of LNP, you talk through these kind of
14 specific routing assignments and you work them out with
15 individual carriers. Unfortunately, KLM and Western
16 Wireless aren't at that point yet.

17 Q. If KLM is required, for whatever reason, to
18 port that number through the Springfield tandem to the
19 Branson tandem, is it your understanding or opinion that
20 KLM is responsible not only for transporting it to the
21 Southwestern Bell tandem, but also making arrangements to
22 get from the Southwestern Bell tandem in Springfield to
23 the CenturyTel tandem in Branson?

24 A. If that were the case, I believe it is the
25 originating carrier's responsibility to make arrangements

1 to terminate a local call anywhere within the LATA.

2 Q. So you would agree with me, then, that KLM,
3 under that circumstance or scenario, would not only have
4 to make arrangement with Southwestern Bell to carry the
5 call from KLM's exchange boundary to Springfield, but also
6 with CenturyTel to get the call from Springfield to
7 Branson?

8 A. I'm not sure what kind of arrangements
9 would need to be made beyond SBC. It's possible that SBC
10 and CenturyTel have an arrangement in place to deal with
11 that already. But for Western Wireless that condition
12 doesn't exist.

13 Q. But if it's KLM's obligation to get it all
14 the way to Branson, isn't it, therefore, their obligation
15 to establish the necessary arrangements with CenturyTel to
16 use their tandem?

17 A. It's the originating carrier's
18 responsibility to establish whatever arrangements are
19 necessary to make sure that call got delivered.

20 Q. And in this case the original carrier's
21 KLM?

22 A. Correct.

23 Q. And the two transiting carriers and tandems
24 would be SBC and CenturyTel?

25 A. Correct.

1 Q. A minute ago you talked about making
2 arrangements with the local exchange carrier to port a
3 number, and I want to follow up on that, because I believe
4 you keep saying us and you. Western Wireless recently
5 made arrangement with Cass County Telephone Company to
6 test a port. Are you aware of that?

7 A. I was aware that some testing plans were
8 afoot.

9 Q. And that they were successful, are you
10 aware of that?

11 A. I am now.

12 Q. My understanding is that call from Cass
13 County -- which by the way is in the Kansas City, it's
14 on the other side of the LATA boundary from the KLM
15 exchange -- routed through SBC's tandem in Kansas City,
16 then through Sprint's tandem in Warrensburg and wasn't
17 delivered to Western Wireless until it got to Butler,
18 Missouri, which is also in the Kansas City tandem, does
19 that make sense to you or sound right?

20 A. Yes. Butler is an end office that subtends
21 the Springfield tandem in Warrensburg, and where we happen
22 to have our point of interconnection.

23 Q. In that scenario, which appears to have
24 some basis in fact, if you will, is it your opinion that
25 Cass County Telephone Company is obligated and responsible

1 for transporting that call not only to the Bell tandem in
2 Kansas City but through the Sprint tandem in Warrensburg
3 to Western's facilities in Butler?

4 A. Yeah. That would be the same condition I
5 suggested for the Springfield LATA, that the termination
6 point -- Cass County's originating carrier, they're
7 responsible for getting it to the LATA, and I think what
8 you just said is that proved technically feasible to do
9 that.

10 Q. And I'm now focusing on the financial
11 responsibility, so now it's your belief that Cass County
12 would be responsible for establishing the necessary
13 connections or business relationships with Southwestern
14 Bell and Sprint in order to complete that call or that
15 ported call to Western Wireless?

16 A. I'm not sure what arrangement Cass County
17 made to complete that call.

18 Q. I'm going to switch gears on you a little
19 bit and ask you a hypothetical. In this case, we're
20 talking about the Craw-Kan Telephone Company.

21 A. Okay.

22 Q. And assume for purposes of my question that
23 they received a request from an individual who lives in
24 Dallas, Texas but whose family lives in the Craw-Kan
25 serving area. Okay? And their inquiry was they wanted to

1 or they want to establish a second line to the home in the
2 Craw-Kan exchange serving area, but then they want to port
3 that number, drop that line after it's been established
4 and port that number to a wireless carrier that serves the
5 family member living in Dallas, Texas.

6 Is that, in your opinion, a legitimate
7 porting request?

8 A. Well, let me -- the way you described it,
9 it's not really clear to me what's going on. The -- we
10 have a new number assigned out of our Craw-Kan rate
11 center.

12 Q. Second line and a new number.

13 A. New number, second line. And that new
14 subscriber wants to port that number to a wireless
15 provider.

16 Q. Correct.

17 A. Okay. And let's assume that wireless
18 provider has coverage in that same area. In other words,
19 you get a signal there.

20 Q. Right.

21 A. Okay. That would be a legitimate port, and
22 the way it would be legitimate was that that wireless
23 carrier would maintain that rate center for calls to that
24 rate center for the ported number. And so people from
25 Dallas, for example, would have to dial in to reach that

1 ported number as they do today, and people from whatever
2 that rate center is would be able to dial locally to that
3 number, but it would be on a wireless phone instead of on
4 a wire phone.

5 Q. And the -- I guess the fact of the matter
6 is the family that lives in Craw-Kan, as you pointed out,
7 can call a local number to reach someone who actually
8 lives in Dallas, Texas?

9 A. That is hypothetically possible. We
10 suspect that it's not -- there aren't going to be many
11 people in the world that want to live so that the people
12 that, you know, people that live in their neighborhood can
13 call them locally. In other words, that person when they
14 moved to Dallas, everybody in Dallas would have to make
15 toll calls to reach them. For a lot of people, that
16 doesn't make any sense. Maybe there are a few that it
17 does make sense for.

18 Q. But you think that would be legitimate,
19 that they could port that as long as the wireless carrier
20 serving the customer who is physically located in Dallas,
21 lives in Dallas, also has coverage in Craw-Kan's area?

22 A. I believe it would be allowed under the
23 rules. We would never recommend it for one of our
24 customers.

25 Q. It constituted geographic issues that the

1 FCC didn't contemplate?

2 A. Geographic or location portability, that
3 has to do really with changing the nature of the rate
4 center where the number is assigned. And in this case,
5 you'd have that dilemma where the rate center stays the
6 same, so people in their hometown did call that number,
7 but if the user is somewhere else, that means that the
8 people somewhere else will have to call toll to reach
9 them.

10 The fact of the matter is, it's not really
11 local calling. It's Craw-Kan. It's calling within the
12 definition of how -- how rate center is defined, local
13 number portability has been determined.

14 Q. I want to talk about the converse of
15 landline to wireless or wireline to wireless porting, and
16 that's the wireless to wireline. And I believe you
17 indicated in the on-the-record discussion that we had
18 before the Commission back in May of this year that
19 carriers are not required to port numbers to wireline
20 customers not in the same rate.

21 A. Any carrier can only port if they provide
22 service in the rate center where the number is located.
23 So if I have numbers in Nevada and doesn't operate in
24 Missouri, then KLM wouldn't be allowed to port that number
25 in. I mean, I don't know this.

1 Q. If a resident in KLM's serving area works
2 in Nevada today, has a Western Wireless phone with a
3 Nevada MPX but wants to drop the service but keep the
4 number so his friends and family in Nevada can call him,
5 you don't have to port or are not required to port that
6 call in from Nevada to a KLM wireline in the area?

7 A. That's under the rate center rules,
8 correct.

9 Q. And the fact that Western Wireless today
10 has no numbers rated to any KLM exchanges would say that
11 Western Wireless doesn't have any obligation today to port
12 numbers to KLM?

13 A. Well, we have obligations to port to any
14 carrier that requests to port in any rate center.

15 Q. But not KLM?

16 A. Well, I don't know if KLM has operations
17 that extend beyond its telco service area.

18 Q. Assume it's limited to those four exchanges
19 on that map. KLM wouldn't be providing service in Nevada,
20 would they?

21 A. No.

22 Q. Or any other area outside that, whatever
23 color it is?

24 A. So, therefore, they wouldn't be eligible.

25 Q. In other words, porting with Western

1 Wireless is one way to approach the situation for the
2 foreseeable future?

3 A. Well, that will depend on KLM's business
4 plans, and it is always possible if KLM were to lose a
5 customer to wireless or that that customer would port --
6 could port back to KLM because that's an instance where
7 both instances both carriers provide service in the same
8 rate zone.

9 Q. So it's only part to get a port in from
10 Western Wireless under today's situation, recapture a line
11 that they've already lost to Western Wireless?

12 A. Or establish service.

13 Q. Or for Western Wireless to establish
14 numbers in KLM's certificated area, correct?

15 A. That would be another option.

16 Q. Getting back to my original question, at
17 least the way things stand today, porting is one option
18 between KLM and Western Wireless?

19 A. Between KLM and Western Wireless, that's
20 correct.

21 Q. In your testimony, at page 9 and 10 of your
22 rebuttal and I believe 2 and 3 of your surrebuttal you
23 cite various state PUC decisions where they have denied
24 requests for suspension and modification. And I'm not
25 going to go into that. This sort of sets up my next

1 question. You do, right?

2 A. Correct.

3 Q. My question is, are you aware of any states
4 that have granted suspension and modification?

5 A. Yes.

6 Q. And is there any reason why you didn't put
7 those in your testimony as well, other than wanting to be
8 one-sided and an advocate for your position?

9 A. Well, some of those decisions weren't taken
10 at the time this testimony was written, and --

11 Q. Let's take a look at -- some of them were,
12 though?

13 A. Some of them were, and I think they were
14 promptly cited by your witnesses.

15 Q. But you started it, right?

16 A. KLM's the one that filed the petition, not
17 Western Wireless.

18 Q. I'm sorry. I'll withdraw the question.

19 In your surrebuttal testimony, you cite an
20 Arizona telephone company order and, in fact, attach that
21 order, I believe, as an exhibit or schedule RW-6 to your
22 surrebuttal testimony?

23 A. Yes.

24 Q. Would you take a look at page 7 of that
25 Order.

1 A. Okay.

2 Q. Would you read for the record, please,
3 paragraphs numbered 26 and 27?

4 A. As of June 3rd, 2004, 36 states have
5 received 250 requests for suspensions and/or waivers of
6 LNP. Of the 250 suspension requests, 40 have been granted
7 and 8 have been denied. The remaining 202 have been
8 closed, settled or are still pending.

9 Of the 40 suspensions that have been
10 granted, 11 have implementation suspension periods that
11 end on November 24th, 2004, and 14 suspension periods end
12 between November 25th, 2004 and May 24th, 2005. The
13 remaining 15 suspension periods end after May 25th, 2005.
14 No suspensions requesting indefinite waivers have been
15 granted.

16 Q. Thank you. You don't have any reason to
17 dispute these figures? I believe they were reciting --
18 the Arizona Commission was reciting testimony that their
19 staff put in the case. You don't have any reason to
20 dispute the accuracy of that?

21 A. The only adjustment I would make would be
22 relative to Utah where an initial PSC decision was that
23 the carriers would be granted a year. Western asked for
24 reconsideration of that. The Commission granted that
25 reconsideration and ordered the parties to reach a

1 settlement on an accelerated implementation LNP and that's
2 not reflected.

3 Q. So instead of 40 being granted, maybe
4 39 have been granted?

5 A. I think there were 8 or 9 in Utah. So I
6 don't know exactly where they got their statistics.

7 Q. At the very least it demonstrates that
8 KLM's request is not unique, this is happening all across
9 the country?

10 A. Unfortunately, correct.

11 Q. In your testimony, I believe it's rebuttal,
12 page 17, Western Wireless has offered to reimburse KLM for
13 indirect transit costs associated with routing of calls
14 ported from KLM to Western Wireless at a rate equivalent
15 to what Western Wireless pays SBC for similar transit
16 routing, correct?

17 A. Please let me clarify. We had extended an
18 offer. We did not and do not presently have an agreement
19 to do that.

20 Q. I understand. I'm just -- I'm just
21 paraphrasing your testimony. But at some point in time
22 you made that offer?

23 A. Correct.

24 Q. Whether it's still on the table or not, I'm
25 not -- I'm not getting it. I'm just --

1 A. All right.

2 Q. -- reciting what I thought your testimony
3 was.

4 A. We did make that offer.

5 Q. Okay.

6 A. The words there speak for themselves.

7 Q. What is your transit rate with Southwestern
8 Bell?

9 A. I should have that number handy. It's --

10 Q. I've got a copy of the agreement, if that
11 would help.

12 A. Actually, it's -- the agreement was done
13 several years ago, and the rate is lower than the
14 agreement. The rate is somewhere between 2/10 and 3.3/10
15 of a cent.

16 MR. ENGLAND: Your Honor, may I approach
17 the witness?

18 JUDGE JONES: Yes, you may.

19 BY MR. ENGLAND:

20 Q. And you're going to have to take your time,
21 but this is the copy of the interconnection agreement that
22 you-all provided to me in hard copy. And the transit rate
23 there I believe, back in the pricing appendix, was 4/10 of
24 a cent.

25 A. Actually, this is a Sprint agreement. This

1 has a different transit area.

2 Q. Brought the wrong one, but hang on to that
3 that one.

4 A. Maybe I can save you some trouble. In the
5 original agreement the transit was indeed 4/10 of a cent.
6 SBC has moved its rate down subsequent to that --
7 execution of that agreement.

8 Q. So the agreement that you-all gave me is
9 not the current agreement?

10 A. That is the current agreement. SBC has the
11 rights under that agreement to adjust prices, and that
12 would be one that we would consent to.

13 Q. Well, has it been filed with -- here's what
14 I'm getting at: I've asked the Commission to take
15 official notice of it and, one, I'm confused about the
16 rate, but two, more importantly, is the new rate reflected
17 anywhere in the records of the Commission?

18 A. I don't know that. I assume the only
19 reason SBC would be motivated to reduce this rate was
20 because the Commission told them to, but I don't know the
21 history of why they did. I just know that we are paying
22 at a rate that's less than this.

23 Q. And you don't know if that new rate is
24 reflected in any filing, amended filing, if you will, or
25 amended agreement with the Commission?

1 A. I only know that it's reflected on the
2 invoices we get from SBC for the last two-plus years. I
3 think I also provided that rate in response to a discovery
4 request. I can't point to which one.

5 Q. Well, you're right. I've seen something
6 where you had 3/10 of a cent. I can't recall where that
7 was. That's why I'm asking these questions.

8 A. That would have been the correct rate.

9 Q. And then I'm going to go to your testimony
10 where you assume 5/10 of a cent, so I'm having a little
11 problem getting focused on what's the real rate here,
12 because it ties your offer, or at least the offer that was
13 in your testimony.

14 A. The offer that was in our testimony was
15 based on what we currently pay to SBC.

16 Q. And the best of your knowledge and
17 understanding, that's something like 3/10 of a cent or
18 thereabouts?

19 A. Very close to 3/10 of a cent.

20 Q. What's the transit rate with Sprint, do you
21 know?

22 A. It's more. And I believe that they are
23 billing us consistent with what is in the interconnection
24 agreement, which shows a tandem switching rate of .003009.

25 Q. So that would be 3/10 of a cent as well?

1 A. That's correct.

2 Q. How about CenturyTel?

3 A. It is also more than the SBC rate, but I'm

4 not sure.

5 Q. So to the extent that KLM is required to

6 make arrangements with CenturyTel to complete the port to

7 you-all, say, at Branson, your offer of reimbursement at

8 the Southwestern Bell rate wouldn't even be sufficient to

9 recover your transit rate with CenturyTel; is that right?

10 A. That's correct, but we wouldn't ask you to

11 have to transit the CenturyTel tandem.

12 Q. Getting back to that Sprint agreement,

13 doesn't it also have a common transport end office switch?

14 A. Has a common transport which would likely

15 be a component of a transit rate. It depends on where --

16 where the call is terminated to past the tandem. The end

17 office switching would not pertain at all to any transit

18 transaction.

19 Q. What's the range of transport?

20 A. Common transport in this is cited as

21 .005285.

22 Q. Roughly a little more than 5/10 of a cent?

23 A. That's correct.

24 Q. So total transit including tandem switching

25 may be more like 8/10 to 9/10 of a cent?

1 A. If the transit included both transit beyond
2 the tandem to Western Wireless.

3 Q. In your testimony -- I believe it's
4 pages 17, beginning at line 19, through page 18, line 2,
5 and again, I'm paraphrasing, but you indicate there
6 shouldn't be any costs for small companies such as KLM
7 with negotiating an agreement between it and SBC, because
8 KLM could adopt an existing agreement. Do you see that?

9 A. Yes.

10 Q. Tell me one agreement that KLM could adopt.

11 A. Well, there are many interconnection
12 agreements on file with the Missouri Commission, and all
13 of them are subject to adopt.

14 Q. Let's take them one at a time. An
15 interconnection agreement between a wireless carrier and
16 SBC would be an example of an interconnection agreement on
17 file with the Commission, for example yours, right?

18 A. Right.

19 Q. And it's your opinion that KLM, as an ILEC,
20 could opt into that agreement that was negotiated and
21 obtained by a wireless carrier?

22 A. Well, the opinion's based on the fact that
23 Western Wireless has opted into CLEC agreements. So
24 whether -- interconnection agreements aren't necessarily
25 designed for the mode of interconnection. They have

1 fundamental traffic exchange relationships spelled out
2 that would or could be used whether it was a wireless or
3 wireline interconnection.

4 Q. Are you aware of the recent FCC decision
5 that there's going to be no more picking and choosing for
6 the purpose of adopting interconnection agreements?

7 A. That's right. You have to adopt the entire
8 agreement.

9 Q. So what you're saying or your opinion,
10 then, to this Commission is that an ILEC could adopt into
11 the entire agreement that a wireless carrier has with
12 Southwestern Bell or a CLEC has with Southwestern Bell?

13 A. I don't know of a reason why not.

14 Q. Can you cite to me any state where that has
15 happened?

16 A. I cannot cite that.

17 Q. Can you cite me to any ILEC-to-ILEC
18 interconnection agreements from the state of Missouri that
19 we could possibly opt into?

20 A. I'm not aware of any.

21 Q. Will you agree with me that opting into an
22 existing interconnection agreement is not a lead pipe
23 cinch?

24 A. Until you try, you don't know.

25 Q. Assuming KLM initiated negotiations with

1 Southwestern Bell or Sprint, is it your opinion that they
2 can get the same transit rate, KLM that is, that you
3 obtained from SBC or Sprint?

4 A. I would expect that they should be eligible
5 to receive that same transit rate. I don't necessarily
6 believe that SBC would offer it as a matter of course.

7 Q. And, in fact, we saw in the Minnesota order
8 that it appears that Qwest is not willing, at least
9 initially, to offer transit services to the Minnesota
10 Independent Companies at a TELRIC or local resip comp
11 rate, right?

12 A. Actually what happened in Minnesota is that
13 the local carriers asked for -- there's two TELRIC rates
14 in Minnesota. There's the one that the wireless carriers
15 pay, and there's another TELRIC rate which CLECs pay. And
16 the local telephone companies wanted the lower of the two
17 rates, which is about half of what wireless carriers pay
18 for transit there.

19 Qwest had a higher number. They haven't
20 come to an agreement yet, but again, I think the issue of
21 what that ultimate rate will be is still a question.
22 Regardless of the rate, even the highest offered Qwest
23 rate still makes this a, in my opinion, the most cost
24 efficient way to exchange traffic.

25 Q. Are you aware of the fact that SBC in

1 Missouri has taken the position that they are not going to
2 offer transit services at TELRIC rates?

3 A. I'm not aware of that.

4 Q. Assuming we can't get the same rate that
5 you get, assuming KLM can't get the same rate that Western
6 Wireless gets from SBC, is Western Wireless willing to
7 reimburse us for the rate we do end up with?

8 A. At this point, no, Western Wireless is not
9 willing to reimburse KLM to fulfill its routing
10 obligation.

11 Q. Are you willing to reimburse KLM for any
12 costs it may incur in negotiating and possibly arbitrating
13 such an agreement?

14 A. We are not.

15 Q. At page 4 of your surrebuttal, lines 18
16 through 25, you do an estimate or a calculation of the
17 cost of transporting calls to the tandem.

18 A. I'm sorry. What page was that?

19 Q. I believe it's page 4, but that doesn't
20 sound right. It is, bottom of the page.

21 A. Yes.

22 Q. And you assume 100 ported numbers, if I
23 understand this correctly, with a daily volume of 6 calls
24 to those 100 numbers and an average call duration of
25 3 minutes, and then a transit rate of 5/10 of a cent a

1 minute, correct?

2 A. Correct.

3 Q. And so essentially what you do is you

4 multiply 100 times 6 times 3 times .005?

5 A. Times 30 to get 30 days in a month.

6 Q. Yes. Thank you. And that arrives at the

7 \$270 cost that you've talked about here?

8 A. Correct.

9 Q. Now, if we assume that KLM has

10 approximately 1,625 customers, which I believe is on one

11 of those exhibits, and divide that into that, that's 17

12 cents a customer; would you agree with me?

13 A. I assume your math is correct.

14 Q. Okay. Let's assume we can't get a TELRIC

15 or a transit rate of 5/10 of a cent, but have to pay Bell

16 something close to access rates, which are, for purposes

17 of my assumption, 3 1/2 cents a minute.

18 A. You wouldn't have negotiated very well to

19 accomplish that.

20 Q. Or conversely SBC may have negotiated very

21 well, correct?

22 A. I would suspect that that would be a bad

23 outcome, well beyond reason, but if you ended up there,

24 then I would suggest that KLM route traffic on the interim

25 over its wholesale -- at its wholesale IXC rates.

1 Q. Do you know what they pay on a wholesale
2 rate to terminate toll calls?

3 A. I'm guessing it's less than SBC's access
4 rates.

5 Q. Bad guess. Do you know what their retail
6 rates are?

7 A. Probably very high.

8 Q. Reflecting their wholesale costs?

9 A. Which reflects their access rates.

10 Q. So let's assume for purposes of my question
11 that it is 3 1/2 cents.

12 A. Okay.

13 Q. And we got a bad result. That would
14 increase that cost of \$270 sixfold, or approximately
15 \$1,890, correct?

16 A. You said 3 1/2 cents?

17 Q. Yes.

18 A. Increase it sevenfold.

19 Q. Sevenfold. Thank you. Approximately
20 \$1,890?

21 A. Sounds close, yes.

22 Q. Now we're talking \$1.16 a customer if you
23 divide that by 1,625 customers, correct?

24 A. At that rate, it would be smart for KLM to
25 install a direct connection.

1 Q. Assuming it had 100 ports?

2 A. Assuming it had 100 ports. Otherwise you
3 wouldn't be worrying about that kind of cost then, would
4 you?

5 Q. Fact of the matter is, we don't know what
6 that cost is going to be sitting here today, do we,
7 Mr. Williams?

8 A. No. We can just give it our best estimate.

9 Q. In Data Request No. 9, KLM asked if you had
10 received -- Western Wireless had received any request for
11 wireline to wireless porting from KLM customers, and I
12 believe the answer was not proprietary, and the answer
13 was, in fact, that you were not able to answer that
14 because you don't track requests by wireline company or by
15 exchange?

16 A. We don't track the individual requests that
17 aren't actionable. In other words, if KLM were a carrier
18 that was capable of porting, that request would be
19 tracked. Otherwise, the request pretty much stays within
20 the context of the sales office from which it was made.

21 Q. So you can't tell this Commission if there
22 are any KLM customers, to your knowledge, who today are
23 wanting to drop their landline service and port to Western
24 Wireless; is that right?

25 A. I cannot.

1 Q. In Data Request No. 33, KLM asked how you
2 calculated or estimated your 300 ports over a 5-year
3 period, and I believe Mr. Meyer also got into that a
4 little bit earlier this afternoon. And I believe you
5 estimated that first by projecting how many ports you
6 thought KLM would receive or --

7 A. Western Wireless would receive over a
8 5-year period.

9 Q. Right. And can I get into the specifics or
10 would that be proprietary?

11 A. Let's go ahead and get into them.

12 Q. Okay. My understanding is you assumed
13 15 customers each year for 5 years?

14 A. Well, approximately, yes. Approximately
15 15 customers per year.

16 Q. Or 75 customers over a 5-year period?

17 A. For Western Wireless.

18 Q. And did you -- I can't recall. Did you
19 tell Mr. Meyer what you were assuming you were --

20 A. We assume.

21 Q. Penetration rate?

22 A. We assumed we had about a 25 percent market
23 share among the wireless carriers.

24 Q. So factoring up that 75 for all wireless
25 carriers in the market, basically multiplied your number

1 times 4?

2 A. Correct.

3 Q. And got to the 300 that you used for
4 purposes of your testimony or your projections?

5 A. That's correct.

6 Q. To your knowledge, do you know if any of
7 the other wireless carriers you compete with in the KLM
8 area have issued a bona fide request?

9 A. No, but I do know they are all pursuing
10 intermodal portability.

11 Q. You just don't know whether they're
12 pursuing it with KLM, correct?

13 A. Apparently not yet.

14 Q. Now, I think I am going to get into some
15 proprietary information. This is in response to Data
16 Request No. 11, and we asked how many customers you
17 currently serve in the KLM area, and you gave us a number
18 of customers who had billing addresses in KLM, and I
19 assume you assume that that was probably a pretty good
20 bell weather of the number?

21 A. Yeah. With mobility service there's not a
22 fixed line to locations, so the best surrogate we have for
23 that is billing address.

24 Q. May I say that record -- number for the
25 record, or should we go in-camera to do that? Because I

1 have a couple of questions on that number.

2 A. Go ahead.

3 MR. STEINMEIER: May I? May I consult the
4 witness?

5 MR. ENGLAND: Certainly.

6 JUDGE JONES: I think while you-all do
7 that, why don't we go ahead and take a 10-minute break.
8 We've been going for about an hour and a half now. We'll
9 get started at 10 after 3. We'll go off the record now.

10 (A BREAK WAS TAKEN.)

11 JUDGE JONES: We can go back on the record,
12 and I believe we're moving into proprietary information.
13 Will you let me know when you're not doing that so I can
14 start streaming again?

15 MR. ENGLAND: Actually, I think we've
16 decided the number we're going to use is not proprietary.
17 That's the only one I need, so I think we can be -- we can
18 continue to be public for the time being, until
19 Mr. Williams tells me otherwise.

20 JUDGE JONES: We're back on the record with
21 Case No. TO-2004-0401. You may proceed, Mr. England.

22 BY MR. ENGLAND:

23 Q. I may have had the Data Request number
24 wrong, but I believe in response to one of our Data
25 Requests, you-all indicated that you have approximately

1 400 customers with billing addresses in the KLM serving
2 area?

3 A. Correct.

4 Q. Which would probably roughly approximate the
5 number of customers you serve there?

6 A. It's the best representation we have.

7 Q. Okay. Fair enough. Now, if your market
8 share is 25 percent, that tells me that the other wireless
9 carriers serve approximately 1,200 customers in that same
10 area or a total of 1,600, correct?

11 A. That would be correct.

12 Q. And given the fact that Western -- or
13 excuse me -- KLM's serving area is only 1,625 access
14 lines, give or take, it would -- would occur or it leads
15 me to conclude that wireless service is pretty saturated
16 in the KLM service area today without LNP, wouldn't it?

17 A. Well, it's a number taken against access
18 lines and not -- wireless views its penetration relative
19 to population, not to access lines.

20 Q. Is it possible that a billing customer
21 could have more than one wireless phone for Western?

22 A. Yes.

23 MR. ENGLAND: Thank you, sir. That's all
24 the questions I have.

25 JUDGE JONES: Okay. I don't have any

1 questions. So we can move on to redirect.

2 MR. STEINMEIER: Thank you, your Honor.

3 REDIRECT EXAMINATION BY MR. STEINMEIER:

4 Q. Mr. Williams, you've been asked several
5 questions about the recent decision of the Minnesota
6 Commission. The structure that was agreed to in the
7 stipulation that the Minnesota Commission approved two
8 weeks ago, whose idea was that?

9 A. In Minnesota, the independent telephone
10 companies identified that the tandem routing calling
11 approach would be the most efficient solution for them,
12 and then offered -- and then are moving forward on that
13 basis. And what they asked the Commission for was a
14 2-month extension so that they could put their proposal
15 into place.

16 Q. And it's been mentioned several times that
17 the Minnesota plan is dissimilar to Missouri's because --
18 the Missouri situation, because that plan uses the LEC
19 association there.

20 A. Well, the -- the actual scenario is that
21 the Minnesota companies do have a centralized equal access
22 platform, but they are not using it to route numbers -- to
23 route calls to ported numbers. They've decided that
24 Qwest, for whatever reason, is a better and more efficient
25 solution. In fact, in their petition, the Minnesota

1 companies said this, they said the companies believe this
2 can be accomplished efficiently and cost effectively if
3 such calls are routed via the same facilities used by the
4 CMRS providers to deliver their traffic to the companies
5 and at rates comparable to rates charged by Qwest to CMRS
6 providers for the same service.

7 Q. And you've described two TELRIC rates that
8 are in effect, and the fact that one was the one that was
9 being sought by the rural LECs is lower than the one the
10 wireless pays now. So is that the range of options that's
11 under discussion in the current negotiations?

12 A. Yeah. The range from top to bottom is
13 about 6/10 of a cent. The Minnesota companies want a rate
14 of about 1.6/10 of a cent. Wireless pays about 3/10 of a
15 cent. And Qwest has offered, so far at least in the
16 public information on negotiations, about 7/10 of a cent.

17 Q. So the agreed rate will be less than
18 wireless pays today?

19 A. Well, there's an interim agreement that
20 handles this differently there, and that's the -- that's
21 the \$10 per month rate for rural telcos.

22 Q. Flat rate service. Do you know when those
23 negotiations began?

24 A. Yeah. The Minnesota telephone companies,
25 even though they were issued bona fide requests in the

1 October/November time frame, waited until March to contact
2 Qwest regarding that transit option. So those
3 negotiations have really been going on since March. They
4 culminated -- or they haven't culminated yet, but they
5 resulted in the requested extension of a couple months.
6 So from March 'til the end of July that's, what, a 4-month
7 time frame.

8 Q. Earlier under cross-examination you
9 mentioned that Western Wireless had performed a customer
10 survey; is that correct?

11 A. Actually, it wasn't a survey of our
12 customers. It was a survey of consumers in the areas in
13 which we are licensed to operate, and that survey was --
14 it's a semi-annual survey we do that covers a lot of
15 topics, including competition and including interest in
16 substitution of wireless services for wireline services.

17 (EXHIBIT NO. 27 WAS MARKED FOR
18 IDENTIFICATION BY THE REPORTER.)
19 BY MR. STEINMEIER:

20 Q. Mr. Williams, I hand you what has been
21 marked Exhibit 27 in this case. Would you please describe
22 it?

23 A. Actually, the first page on mine is --
24 really should be the second page. There's a chart that
25 has four quadrants to it, representing excerpts from a

1 survey that was completed through an independent survey
2 firm that was hired by Western Wireless. There was 1,000
3 online surveys that were completed.

4 Again, these were not necessarily customers
5 of Western Wireless; they are consumers in rural service
6 areas, which represents almost all of Western's service
7 areas. And they were asked a number of questions, and the
8 survey is a statistically sound survey in terms of the
9 dimensions on which it was built, plus or minus 3 percent
10 error, and these represent responses to certain questions
11 that were asked as part of the survey.

12 Q. And what are the major findings of this
13 study?

14 MR. ENGLAND: Your Honor, I'm going to
15 object. I think this is well outside the scope of
16 redirect. This is information apparently that was
17 available perhaps for inclusion in either rebuttal or
18 surrebuttal testimony. I think it works prejudice on at
19 least KLM in that we have no way at this late date of
20 inquiring about it, understanding it and perhaps making
21 any effective cross-examination. I just think the timing
22 is inappropriate.

23 JUDGE JONES: I heard you say you believe
24 it's outside the scope of redirect. Do you mean cross?

25 MR. ENGLAND: I'm sorry. You're right.

1 JUDGE JONES: And I know in your
2 cross-examination you spoke at length about what people
3 wanted and surveys that were taken and whatnot. So the
4 objection is overruled.

5 You may move forward, Mr. Steinmeier.

6 BY MR. STEINMEIER:

7 Q. Mr. Williams, what are the major findings
8 of the study, very briefly?

9 A. Well, I think significantly in relationship
10 to the estimated 300 ports for KLM, which represent
11 approximately 15 to 17 percent of their customers, we find
12 that rural consumers as a whole believe that -- 16 percent
13 of them believe they'll replace their wireline phone with
14 a wireless. That's -- we believe that's significant and
15 directly relevant to intermodal porting.

16 We see other changes that confirm
17 increasing comfort with the use of wireless service as a
18 primary or a sole means of voice communications, and those
19 are represented in a couple of the other charts. And then
20 finally, the chart that is by itself on -- on the page
21 indicates an interest in rural consumers in having
22 competitive choice in their -- in service provision in
23 their service area.

24 Q. Mr. Williams, there's been discussion about
25 how any customer of KLM today who calls a cellphone number

1 has to place a toll call. Can you help me understand more
2 clearly what is different about calling to a wireless
3 number today from calling a wireless number that has been
4 ported?

5 A. Well, there is a substantial difference.
6 Today, as Mr. England stated, there are no wireless
7 numbers assigned to KLM rate centers. There are only KLM
8 numbers assigned to KLM rate centers. What we're talking
9 about in a porting environment is for those local KLM
10 numbers that are assigned in a KLM rate center to be
11 ported to a competing carrier who maintains that number as
12 a local number in the KLM rate center. Calls to that
13 number would be local. Calls to that number should be
14 routed as local and should not be dialed as toll, and
15 under no circumstances should there be any attempt to
16 define those calls as toll calls.

17 It's the difference between one day your
18 name has a wireline service from the same company you
19 have; on the next day they have wireless service from a
20 different company that -- the dialing to that number
21 should not change. The dialing should still be local
22 after the number's ported, just like it was before the
23 number was ported. And that's a distinctive difference
24 between the routing that's done today to numbers that are
25 in a foreign rate center versus the number that needs to

1 be done with respect to a ported number.

2 (EXHIBIT NO. 28 WAS MARKED FOR
3 IDENTIFICATION BY THE REPORTER.)

4 BY MR. STEINMEIER:

5 Q. And, Mr. Williams, I've just handed you
6 what has been marked Exhibit 28. Would you describe it
7 for the record, please?

8 A. Yes. This exhibit is a recent tariff
9 filing related to the LNP customer surcharge recovery
10 mechanism that we've been talking to. This is -- these
11 are -- this is a filing of the actual tariffs that will
12 decide what customers of these telephone companies pay on
13 a monthly basis for the implementation of number
14 portability for these companies. NECA is the agency that
15 handles these filings on behalf of rural telephone
16 companies, and this is one of those filings.

17 Now, the way this is structured, there's a
18 lot of registration and preamble information. About
19 midway through the deck that you have, there's a page that
20 lists a number of telephone companies, and in the upper
21 right-hand corner below tariff FCC No. 5, it says fifth
22 revised page 17-37.4.1, and that page lists the telephone
23 companies that have -- are part of this tariff filing, and
24 it lists under the column end user rate per line the
25 proposed LNP cost recovery surcharge for -- that would be

1 applied to their customers. Those rates range from
2 6 cents to 62 cents for the 12 or 15 different companies
3 here.

4 MR. ENGLAND: Your Honor, I didn't realize
5 the witness was going to ramble on like this and give out
6 information that's in an exhibit that hasn't been offered,
7 but I have an objection to this line of questioning. And
8 I don't have any -- I don't recall any cross-examination
9 that got into this line of questioning, and I believe this
10 is clearly outside the scope of cross-examination, and ask
11 that his reference to range of rates charged by other
12 companies for purposes of LNP surcharge be struck.

13 JUDGE JONES: Mr. Steinmeier, do you
14 disagree?

15 MR. STEINMEIER: Your Honor, I do indeed
16 disagree. With all due respect to co-counsel, there has
17 been considerable testimony offered here today that
18 touches on the matters that are reflected in this filing,
19 particularly testimony from Mr. Warinner as to--
20 suggesting that Missouri companies are not similarly
21 situated to other companies around the country who have
22 implemented LNP instead of protesting it as KLM has.

23 He also presented testimony as to how KLM's
24 cost calculations compared to or differed from the NECA
25 formula for calculating those costs.

1 JUDGE JONES: You're talking about
2 Mr. Warinner?

3 MR. STEINMEIER: Yes, sir.

4 JUDGE JONES: I'm going to have to sustain
5 the objection, because questions to Mr. Williams should be
6 limited in scope to cross. As far as if Mr. Williams were
7 to have introduced this evidence, it seems as though it
8 should have been part of his direct testimony, as opposed
9 to redirect.

10 MR. STEINMEIER: Your Honor, if -- very
11 briefly, if I might simply suggest that this is the first
12 opportunity to respond to those matters that I've just
13 outlined and Mr. Warinner has raised, some of which were
14 raised in surrebuttal on Friday and some live in the
15 hearing room today.

16 JUDGE JONES: Well, I'm going to have to
17 stand by my ruling. Questions on redirect should be
18 limited in scope to questions on cross. And quite
19 frankly, I would not have known what went on on cross, it
20 went on for so long, but when you say in your arguments on
21 this objection that this is in response to questions
22 having to do with Mr. Warinner, then that lets me know it
23 doesn't have to do with the cross-examination of
24 Mr. Williams. So the objection is sustained.

25 MR. STEINMEIER: We have nothing further,

1 your Honor.

2 JUDGE JONES: We will move on to Staff's

3 witness. Call your first witness, Mr. Meyer.

4 MR. MEYER: Our first and only witness is

5 Natelle Dietrich.

6 JUDGE JONES: Ms. Dietrich, will you raise

7 your right hand.

8 (Witness sworn.)

9 JUDGE JONES: Thank you. You may be

10 seated.

11 NATELLE DIETRICH testified as follows:

12 DIRECT EXAMINATION BY MR. MEYER:

13 Q. Good afternoon. Could you state and spell

14 your name for the record, please.

15 A. My name is Natelle, N-A-T-E-L-L-E,

16 Dietrich, D-I-E-T-R-I-C-H.

17 Q. And by whom are you employed and in what

18 capacity?

19 A. I'm employed by the Missouri Public Service

20 Commission as an economist for the telecommunications

21 department.

22 Q. Did you prepare the prefilled testimony in

23 this case which has previously been marked as Exhibit 11

24 for identification, the rebuttal testimony of Natelle

25 Dietrich?

1 A. Yes, I did.

2 Q. And do you have any corrections or
3 additions to make to that prefiled testimony at this time?

4 A. No, I do not.

5 Q. And did you prepare what has been
6 previously marked for identification as Exhibit 12, the
7 surrebuttal testimony of Natelle Dietrich?

8 A. Yes, I did.

9 Q. And do you have any corrections or
10 additions to make to that prefiled testimony at this time?

11 A. Yes, just one typographical error.

12 Q. And what is that?

13 A. On page 4, line 11, the line begins, again,
14 however, Mr. Williams does not explain the assertion.
15 Then it goes on with a new sentence. That new sentence
16 should start a question and should move down to the next
17 line. So on page 15, beginning at line 15, Mr. Williams
18 presents a modified recurring rate that KLM could assess
19 its subscribers should be the start of -- should have a Q
20 in front of it to show new question.

21 Q. Aside from that change, are the answers
22 that you provided in those -- I guess that doesn't account
23 that change. Are the answers provided in that prefiled
24 testimony true and accurate to the best of your knowledge
25 and belief?

1 A. Yes, it is.

2 Q. If I were to ask you the same questions
3 today contained in your prefiled testimony, would your
4 answers be the same?

5 A. Yes, it would.

6 MR. MEYER: With that modification, I'd
7 offer Exhibits 11 and 12 into the record.

8 JUDGE JONES: Exhibits 11 and 12 are
9 admitted into the record.

10 (EXHIBIT NOS. 11 AND 12 WERE RECEIVED INTO
11 EVIDENCE.)

12 MR. MEYER: And I, therefore, tender the
13 witness for cross-examination.

14 JUDGE JONES: Okay. First we'll have
15 cross-examination by KLM.

16 MR. ENGLAND: No questions, your Honor.

17 JUDGE JONES: Then we'll move on to
18 cross-examination from Western Wireless.

19 MR. STEINMEIER: Thank you, your Honor.

20 CROSS-EXAMINATION BY MR. STEINMEIER:

21 Q. Ms. Dietrich, referring to your surrebuttal
22 testimony, please, page 3, beginning at line 15, you
23 suggest that your testimony that it is in the public
24 interest to delay the new switch two years in order not to
25 duplicate costs; is that a fair summary?

1 A. I suggested it's appropriate to delay
2 implementation of LNP for two years to allow switch
3 replacement.

4 Q. You don't say anything about duplicating
5 costs?

6 A. Oh, yes. I was just pointing out -- you
7 said, did I say it was okay to allow switch replacement to
8 be delayed for two years, so I was just clarifying.

9 Q. I misspoke. Thank you. Okay. And is it
10 your understanding that KLM would incur additional LNP
11 costs when it replaces its current switch?

12 A. It would be my understanding that the new
13 switch would be LNP capable when they purchased it. There
14 could be costs included in that total cost that covered
15 LNP, but it would be purchased as one package deal, so to
16 speak.

17 Q. And so the current situation, as you
18 understand it, is that the Mitel switch ceases to have
19 manufacturer support after the end of 2007, correct?

20 A. Correct.

21 Q. And that as a result KLM plans to replace
22 it prior to that date, correct?

23 A. Correct.

24 Q. And that under any circumstances, and
25 regardless of the current case, this one here today --

1 A. Okay.

2 Q. -- the new switch with which they replace
3 that Mitel switch will be LNP capable without ordering it
4 special and paying extra?

5 A. Well, I can't say that there would never be
6 a case that there would be a switch built that would not
7 be LNP capable. I would presume that going forward,
8 knowing that this is a requirement, the switches would
9 include LNP capability or would be ordered to include LNP
10 capability.

11 Q. What if it didn't, what if KLM bought a new
12 switch in two years and still couldn't provide LNP?

13 A. Well, I think that would be --

14 Q. Would Staff be concerned about that?

15 A. Yes. It would be expected that the switch
16 they purchased would be LNP capable.

17 Q. Okay. What assurances have you received --
18 has Staff received -- well, I don't know that I'll always
19 mean Staff when I say you, so I won't say that. I'll try
20 to use the word carefully.

21 A. Okay.

22 Q. What assurances has Staff received that KLM
23 will, in fact, replace its switch in two years?

24 A. We have had conversations with Mr. Copey
25 and received assurances that they were looking at and felt

1 that switch replacement was the best alternative. I think
2 that's also in the record.

3 Q. On lines 21 and 22 on page 3, you claim
4 that there would be little benefit from the costs incurred
5 from LNP implementation. How exactly have you calculated
6 and evaluated the benefit that KLM customers will receive
7 from LNP?

8 A. I have not completed any number
9 calculations.

10 Q. Have you calculated what the cost of LNP
11 will be for KLM customers if it waits two years to
12 implement? We know what implementation costs would be
13 today. We know that they can do it in 90 days if they
14 decided to or the Commission told them to, and we have an
15 exhibit with confidential financial information in it.

16 A. Correct.

17 Q. Isn't it likely that it would cost more two
18 years from now to do that?

19 A. Well, I don't know that we have that in the
20 record. What we have in the record is that within the
21 next two years they would be replacing their switch, and
22 we don't have information on what type of switch they
23 would be purchasing. That would be one of the things they
24 would be doing over the next two years is, I'm presuming,
25 the RFP process. I know other carriers had to go through

1 an RFP process to obtain their switches, so it would
2 depend on what type switch they ultimately elected to
3 purchase and what those costs would be.

4 And again, the LNP costs presumably would
5 be included in the total package, so I don't know that we
6 can say the LNP piece of it would be X dollar amount. It
7 would be the amount for the total switch which could be
8 passed on to consumers perhaps through a rate case.

9 Q. On page 4 at line 18, staying in your
10 surrebuttal, you say that recurring costs is not the basis
11 of your recommendation. Would you explain to us, please,
12 what standard for LNP suspension your recommendation is
13 based on?

14 A. If you look at page 5, line 15 of my
15 surrebuttal testimony, I state that the recommendation is
16 consistent with the FCC's standards in Section 251(f)(2)a,
17 Roman Numeral I and B of the Telecommunications Act.

18 Q. Uh-huh. Now, earlier on page 4, in the
19 answer that begins on line 4, your answer includes these
20 phrases: Mr. Williams does not provide justification for
21 this estimate; Mr. Williams does not explain the
22 statement; Mr. Williams does not explain the assertion.

23 Did you ask these questions of KLM? Has
24 Staff asked these questions of KLM? What analysis and
25 review did Staff do of the cost justification that KLM

1 presented in this case of its alleged LNP implementation
2 costs?

3 A. For the costs that were provided to Staff,
4 we looked at several things. For instance, we looked at
5 the cost of base local service that the company already
6 charges its customers to determine the percentage of
7 increase. We looked at the costs that they were
8 estimating, compared them to the costs that other
9 companies were estimating. Since these were estimates, we
10 made sure they were in the ballpark of each other.

11 We looked at the implementation -- or the
12 LNP surcharges that other carriers, such as SBC, Sprint
13 and CenturyTel, have passed on to their customers, since
14 they have been doing this for the past five years. We
15 looked at several different things like that.

16 Q. But not at whether they -- their estimates
17 included duplicative costs as discussed by Mr. Williams in
18 his rebuttal testimony?

19 A. Duplicative in the recurring costs,
20 recurring charges?

21 Q. I'm referring, again, to page 4, line 4.
22 Yes, recurring costs.

23 A. I --

24 Q. Their assigned functionality being
25 redundant to new start costs?

1 A. Right. No, I did not have any information
2 to say whether that was duplicative or not.

3 Q. Okay. But from the tone of your answer, I
4 rather sensed that at least at the point of writing this
5 testimony, Staff had moved out of the objective "let's
6 evaluate KLM" mode to "let's protect KLM's proposal and
7 our original recommendation" before there was a "contested
8 case" mode. Is that a fair analysis?

9 A. If I'm understanding what you're asking,
10 are you saying, did I only write this because I was trying
11 to defend what I already said, as opposed to addressing
12 Mr. Williams' testimony?

13 JUDGE JONES: Yes, that's the question

14 BY MR. STEINMEIER:

15 Q. Well, that's not how I would put it, but
16 this does not -- but your answer in repeating your
17 suggestion that -- your criticism of Mr. Williams'
18 criticism of a cost estimate and the issues that Staff had
19 not actually personally investigated. I'm asking if Staff
20 is intending -- is more interested at that point in
21 defending the proposal in this case and its original
22 recommendation before there was a contested case than in
23 objectively evaluating what Mr. Williams had to say about
24 the cost.

25 I withdraw the question.

1 It is clear that the -- that KLM has the
2 burden of proving under 251, which you cite and recite,
3 the necessity of a suspension or modification; isn't that
4 correct?

5 A. I'm not an attorney, but that's my
6 understanding.

7 Q. If KLM was not contemplating a switch
8 replacement in two to three years, what would your
9 recommendation be?

10 A. If the switch replacement was not an issue,
11 then my recommendation would have been to deny the
12 suspension based on the analysis that we put together on
13 the cost, and consistent with our recommendation on other
14 cases.

15 Q. Okay. Why only a two-year suspension? Why
16 not three?

17 A. Well, KLM requested a two-year suspension.
18 It's my understanding that we have to base the
19 recommendation on what they ask for, not on anything else.
20 But at the time, that's what they asked for and that's
21 what we based our recommendation on.

22 Q. And if they replace their switch before May
23 of 2006, within the suspension period requested, will
24 Staff be performing a prudence review at some point of
25 KLM's decisions as to when to replace that switch? In

1 other words, by delaying the replacement of the switch,
2 they would be reducing their extraordinary loss as a
3 result of an early retirement; isn't that correct?

4 A. That's correct.

5 Q. So would we expect in the ordinary course
6 of business that Staff would want to carefully review the
7 management decisions that were made concerning that switch
8 and its replacement and its late implications?

9 A. We have other departments that look at
10 depreciation and that do earnings investigations and
11 things like that. So it could come up from those
12 departments. I don't know that anything is scheduled or
13 that it would be planned to look at the prudence of the
14 purchase, if that's a word.

15 Q. Let's move to transport charges. In your
16 opinion, is KLM responsible for routing traffic to ported
17 numbers?

18 A. Yes.

19 Q. You believe that's consistent with FCC
20 rules?

21 You're familiar, for example, with the
22 intermodal order that we've talked about several times
23 today and the CenturyTel order which we've talked about
24 and both of which have been attached to Mr. Williams'
25 testimony?

1 A. Yes, I'm familiar with both of those
2 documents.

3 Q. And you agree that KLM has a responsibility
4 to route traffic to ported numbers?

5 A. Yes.

6 Q. Would you agree that the FCC separated the
7 issues of routed to ported numbers from the issue of
8 compensation associated with routing, with that routing
9 obligation?

10 A. I don't know that that's-- it's that
11 specific. They recognize that there are issues with
12 rating and routing and that they have other dockets that
13 are open that they intend to address the issues that the
14 carriers had raised related to it.

15 MR. STEINMEIER: Your Honor, if I could
16 just point out for the record that the Order we're
17 discussing is in the case that's been referred to
18 previously today. It was attached to Mr. Williams'
19 rebuttal testimony as RW-1, and the language referred to
20 is in Footnote 75.

21 BY MR. STEINMEIER:

22 Q. Your rebuttal testimony at page 4, line 17,
23 please, is a two-year suspension necessary to avoid a
24 significant adverse economic impact on users of
25 telecommunications generally and also in the public

1 interest? And you answered, yes, it is. Is that correct?

2 A. That's the beginning of my answer.

3 Q. What metric did you use to determine the

4 LNP implementation would cause a significant impact on

5 users?

6 A. It's largely a subjective metric, if you

7 want to call it a metric. We have numbers. We know that

8 KLM needs to replace their switch. We know the dollar

9 amount that it will cost to implement LNP just for the

10 nonrecurring charge, and then in addition to that amount

11 has been discussed, there's also the potential for

12 database recurring monthly charges. And so it's a

13 subjective decision as to does it make sense for customers

14 to be, and incur the additional cost.

15 It's not a matter of saying, you know,

16 taking these -- having spreadsheets or cost analysis. As

17 we've indicated earlier through various testimonies,

18 majority of this if not all of it are estimates because

19 nothing has happened yet, at least for these companies,

20 and so it's estimates of what the costs will be.

21 Q. And you just mentioned and then incur

22 additional costs. You're talking about what additional

23 costs?

24 A. I'm not sure what he just said, but what I

25 was talking about was that they would incur the costs for

1 implementing LNP and potentially additional costs for
2 database dips once the number is ported, as opposed to
3 waiting, replacing the switch and doing it all at that
4 time instead of paying for the LNP implementation now and
5 then paying for a switch later that would include LNP
6 implementation.

7 Q. Now, you know what it would cost to do LNP.
8 How did you determine what amount would be significant?
9 What makes an impact on users adverse and what makes it
10 significantly adverse?

11 A. I think it's largely like what Mr. Williams
12 said earlier, there are different ways to look at those
13 types of terms; what is something, what is adverse?
14 Adverse would be anything that was negative. What we have
15 here are costs assuming that LNP implementation went
16 forward and then switch replacement was done at some point
17 down the future. For the LNP implementation, all you have
18 are costs that the customers of KLM would incur in order
19 to allow customers to port the number to a wireless.

20 The customers that remain with KLM are the
21 ones that continue to incur the costs, and while I realize
22 the FCC is the one that mandated that methodology, by
23 postponing it and waiting for switch replacement, then you
24 have those same customers paying for the switch
25 replacement, but they are also receiving some sort of

1 benefit from it by having the upgraded switch, having the
2 CALEA capability, having whatever capabilities that might
3 come with a switch replacement a couple years from now.

4 Q. Okay. I'm trying to skip some things. I
5 know everybody else is fully invigorated, but I'm starting
6 to wear out.

7 It is Staff's view that KLM is not
8 responsible for transporting these ported calls to
9 wireless, it's not financially responsible, is not
10 responsible for making the arrangements; is that true?

11 A. I think there were three different
12 questions.

13 MR. MEYER: I was going to suggest, that
14 might be compound.

15 THE WITNESS: It's Staff's position and
16 recommendation that a modification -- the Commission grant
17 a modification to say that KLM and its customers are not
18 responsible for the cost until such time as the FCC
19 provides further direction and clarification. We are not
20 talking the position that KLM should not pay or its
21 customers should not pay. We're just saying it should not
22 have to incur those costs until the FCC provides further
23 direction.

24 BY MR. STEINMEIER:

25 Q. Now, in your rebuttal on page 6, I believe

1 you suggest that the wireless carrier is not responsible
2 either; is that correct?

3 A. I'm -- I'm saying that I'm not suggesting
4 the wireless carrier should be responsible. In the same
5 manner we're not saying who should be responsible because
6 we think the FCC needs to provide further direction. So I
7 was trying to clarify that by saying KLM should not be
8 responsible, we were not implying that the wireless
9 carrier should be responsible.

10 Q. Therefore, we cannot implement LNP because
11 nobody's responsible?

12 A. We're not saying that either. We're
13 saying, leave it up to the wireless carrier, which the
14 Commission doesn't have jurisdiction over, to determine
15 how to handle it. If they choose not to handle it, then
16 there would not be LNP.

17 If numbers are ported, but the wireless
18 carrier has not set up the means for that transport, then
19 we have the recommendation that there would be the
20 intercept message to at least allow the customers to know
21 that they could incur long distance charges to complete
22 the call.

23 Q. Why should it be the wireless company's
24 responsibility? I don't understand exactly.

25 A. We're not -- we're not trying to put the

1 responsibility on anybody, but we think there is an issue
2 that the FCC needs to address. The FCC has said number
3 portability has to go forward. The only companies that
4 the Commission has jurisdiction over are the small LECs,
5 in this particular case KLM. So our recommendation is
6 that the Commission say that KLM and its customers not
7 have to pay.

8 Q. And why shouldn't they have to pay? They
9 do have a responsibility to port the numbers, we
10 established that a few minutes ago, correct?

11 A. They have the responsibility to port the
12 numbers. I think it's still an issue that the FCC needs
13 to address as to how those calls would be transported or
14 who should pay for that, and since the small LEC's
15 customers that would be incurring the charges are the ones
16 that did not port, it did not make sense for them to have
17 to incur the charges without further clarification from
18 the FCC that it was their responsibility.

19 Q. But I'm clear in understanding you as
20 saying that Staff is not saying the wireless carrier is
21 responsible?

22 A. Right. We're not saying they're ultimately
23 responsible. We're not saying they should be responsible.
24 We're just saying that the small LEC at this time and
25 their customers should not be responsible.

1 (EXHIBIT NO. 29 WAS MARKED FOR
2 IDENTIFICATION BY THE REPORTER.)
3 BY MR. STEINMEIER:
4 Q. Ms. Dietrich, I've just handed you what has
5 been marked Exhibit 29. Could you describe it for the
6 record, please?
7 A. It's a spreadsheet or graph of local number
8 portability intercept information that was provided by the
9 small LECs in the various cases before the Commission for
10 local number portability suspensions and modifications.
11 Q. And at the bottom of the first page is KLM,
12 the last company listed on that page under list of
13 companies?
14 A. Yes, it is.
15 Q. And this case number is set out in the next
16 column to the right?
17 A. That's correct.
18 Q. And would you please read the intercept
19 information that is in the rest of that row?
20 A. The document says that KLM's intercept
21 information, KLM can implement the following message:
22 Your call cannot be completed as dialed. The local number
23 has been ported to a wireless carrier. You must dial the
24 call as a 1+ toll call and will be charged toll until the
25 wireless carrier establishes a local connection.

1 Q. But you've been telling me the wireless
2 carrier is not responsible, and yet any customer trying to
3 call a ported number and the wireless customer is not
4 responsible and KLM has an obligation to port numbers, but
5 if he does and I try to call him, I'm going to get an
6 intercept that says I can't call them without a toll call
7 unless the wireless carrier cleans up its act. Is that
8 what's intended here?

9 A. I'm not sure what's intended by the
10 message. What I said was Staff was not saying the
11 wireless carrier should have to pay to transport the call,
12 just that Staff is saying that KLM and its customers
13 should not, as the only company that's under the
14 Commission's jurisdiction.

15 Q. I know you've been involved in a lot more
16 of these cases than we have. Can you tell me who wrote
17 that message, where that text originated?

18 A. This spreadsheet was provided by the small
19 LECs. I don't know who wrote the message.

20 MR. STEINMEIER: It's actually a very
21 curious subprocess, your Honor, I would observe for the
22 record, because there is no request in the application in
23 this case for the employment of an intercept. There's
24 been no discussion in the testimony of this case about the
25 appropriate text of a voice intercept. There's been no

1 request for approval of the text of a voice intercept.

2 JUDGE JONES: Is this your closing
3 argument, Mr. Steinmeier?

4 MR. STEINMEIER: No, your Honor, it's not.
5 I'm just pointing out an anomaly in this case.

6 JUDGE JONES: Okay. Your observation is
7 noted.

8 MR. ENGLAND: Your Honor, I feel compelled
9 to respond. First of all, this wouldn't be in the case if
10 Mr. Steinmeier hadn't, at least for purposes of the
11 record, made an exhibit or at least put an exhibit number
12 with it.

13 Secondly, it was supplied to the Commission
14 in a number of other cases at the request of the
15 Commission regarding small company capabilities to
16 implement an intercept of this nature. So this
17 information was provided at the request of the Commission.

18 My understanding was this may have
19 inadvertently been filed in the case papers in the KLM
20 case, which is a contested case and separate from the
21 other cases where this information was requested. But I
22 believe the Commission has issued an Order correcting that
23 misfiling, if you will. So I don't believe it's part of
24 the record, and unless Mr. Steinmeier offers it, it will
25 remain not part of the record.

1 JUDGE JONES: Mr. Steinmeier?

2 MR. STEINMEIER: One moment, your Honor. I

3 intend and do offer the exhibit, your Honor, because

4 somewhere in this overall process, language is being

5 talked about outside of the -- of this hearing room, but

6 that affects this company and case. I offer it into

7 evidence.

8 JUDGE JONES: What's the exhibit number

9 again?

10 MR. STEINMEIER: 29, your Honor.

11 JUDGE JONES: Okay. Any objection to

12 Exhibit 29?

13 MR. ENGLAND: No objection.

14 JUDGE JONES: Hearing none, Exhibit 29 is

15 admitted into the record.

16 (EXHIBIT NO. 29 WAS RECEIVED INTO

17 EVIDENCE.)

18 BY MR. STEINMEIER:

19 Q. Ms. Dietrich, your \$1.68 threshold, is that

20 regardless of what the company's -- well, would you

21 explain to us what that threshold is, please?

22 A. First of all, I think it's been

23 characterized as a bar and now you're characterizing it as

24 a threshold. I would not call it that. That's just where

25 the line happened to be drawn with some of the cases,

1 where we were looking at cost recovery. What we looked
2 at, as I mentioned earlier, was several different things,
3 and one of the things we looked at was the cost increase
4 based on the current basic local rate to what a new basic
5 rate would be, including LNP implementation costs and
6 monthly recurring costs, and also just the dollar amount
7 of those.

8 And it happened that the line fell at a
9 \$1.68, but that doesn't mean that if somebody came in with
10 \$1.69, we wouldn't support it or if somebody came in with
11 something less than that. It's a combination of looking
12 at several things.

13 Q. But this \$1.68, understanding there's some
14 flexibility in it, but that was a standard, if you don't
15 like my other word, that you applied to these companies,
16 these 37 companies that all asked to be excused from their
17 FCC obligation to provide LNP, regardless of their current
18 level of rates, regardless of individual analysis of their
19 local economies, it was the standard?

20 MR. ENGLAND: Objection, your Honor,
21 mischaracterization of the question. There may have been
22 37 requests, but not all of them were asking for
23 suspension. A number of them, I think maybe 15, were
24 simply asking for modification of the -- they had
25 implemented LNP in their switches and they were asking for

1 modification of the requirement to port numbers outside
2 their local exchange.

3 JUDGE JONES: Mr. Steinmeier, is that your
4 understanding?

5 MR. STEINMEIER: It is indeed, your Honor.
6 I apologize for suggesting otherwise. I intended to say
7 suspension or modification.

8 JUDGE JONES: You may proceed. The
9 objection is sustained.

10 THE WITNESS: Could you repeat your
11 question, please?

12 BY MR. STEINMEIER:

13 Q. Sure could. But the gist of it, I believe,
14 was the \$1.68 was a number that you used, Staff used to
15 look at LNP implementation costs and it did that looking
16 at all 37 companies, true? That was the standard?

17 A. No. That's what I was trying to explain,
18 is that it appeared that the line was drawn at \$1.68, but
19 we -- that's just the way it fell out in a spreadsheet
20 when we put it all together. We looked at several
21 different things. For instance, there was one company
22 that had a different issue, and if its issue had been cost
23 recovery, it would have been above the \$1.68, and our
24 recommendation could have been deny the suspension because
25 of some of the other issues.

1 So it appeared that \$1.68 was the cutoff
2 when you laid it all out on a spreadsheet, but that wasn't
3 the case. We didn't just pick that number or come to that
4 number and say, okay, everything above that, we support
5 everything below that or we don't or vice versa.

6 MR. STEINMEIER: I know what you mean. The
7 record will too. No further questions, your Honor.

8 JUDGE JONES: Thank you. Will there be
9 redirect from Staff?

10 MR. MEYER: Very briefly.

11 JUDGE JONES: Okay. Go ahead with your
12 redirect.

13 REDIRECT EXAMINATION BY MR. MEYER:

14 Q. Picking up on that last line of
15 questioning, and perhaps at the risk of beating it to
16 death, Mr. Steinmeier noted and discussed the concept of
17 the \$1.68 number as a figure that things sort of revolved
18 around. In this case, in fact, as you noted, the \$1.68
19 number is a number that is higher than KLM's
20 implementation costs; is that correct?

21 A. That's correct.

22 Q. Is the -- in fact, KLM's totality of
23 circumstances were considered, were they not?

24 A. In making the recommendation, we considered
25 our --

1 Q. Let me step back. Just that number, the
2 equivalent of that \$1.68 number, that implementation cost
3 number was not the only thing Staff considered; is that
4 right?

5 A. That's correct.

6 Q. And what other things did Staff consider?

7 A. Largely for KLM the fact that they would
8 need to replace their switch in the next couple years, but
9 then looking at the dollar amount compared to what the
10 current rate was, how it would affect the rate increase.
11 And as I indicated earlier, if we had just been looking at
12 cost alone, Staff's recommendation would have been
13 different because of taking all factors into account for
14 the various companies.

15 Q. There were some questions regarding KLM's
16 assurances to Staff. To your knowledge, were those
17 assurances made part of the record or at least
18 communications with KLM, did they get incorporated into
19 the record, to your knowledge?

20 A. Yes, either through testimony prefiled or
21 today.

22 Q. And would they also have been included
23 elsewhere? You said in testimony. In your testimony or
24 others' testimony?

25 A. I believe in the company's testimony they

1 made the commitment that they would be replacing the
2 switch in the next two years.

3 Q. Mr. Steinmeier asked you some questions
4 about significant adverse economic impacts. Is there an
5 amount that you would deem not to have a significant
6 adverse economic impact in the LNP context in the case of
7 a dollar figure, for example?

8 A. Well, again, you have to look at more than
9 just a dollar amount. What the impact is on the customer,
10 what the benefit is to the customer, and in this
11 particular case we have the benefit -- the largest benefit
12 going to the customer that ports. I think that's one
13 place that we disagree with the companies. We see that
14 there is some benefit to the customers that remain. For
15 example, thousand block pooling may be possible. So there
16 are some benefits, so we considered all those types of
17 benefits.

18 Q. Would you like to explain the impact of
19 thousand block pooling a little bit, very briefly.

20 A. If the company participates in thousand
21 block polling as a result of local number portability,
22 then you avoid the potential of area code exhaust in the
23 future. I don't know if that would even be a possibility
24 in this area, but just generally speaking, you would avoid
25 that. That can mean avoiding businesses having to redo

1 letterhead, having to redo business cards, things like
2 that. It keeps things more status quo, so we do see
3 benefits.

4 Q. And was it a consideration given across the
5 board as incorporated in all the petitions that it had to
6 review and all of the cases that it's had before it?

7 A. Yes.

8 Q. There was some discussion and questions
9 regarding responsibility of bearing the costs related to
10 ports. Why did the Staff limit its recommendation to
11 address only the role of the ILEC; in other words, in this
12 case, KLM?

13 A. Because the ILEC is the only one under the
14 Commission's jurisdiction, if you're referring to the ILEC
15 versus the wireless company.

16 MR. MEYER: I think that's all I have.
17 Thank you.

18 JUDGE JONES: Okay. As you-all are aware
19 we're not going to have a briefing schedule in this case
20 because of the tight turnaround time, so there will be
21 closing arguments. Judging from the opening statements
22 that were made, I suppose closing arguments shouldn't be
23 any more than 10 minutes apiece. Is that acceptable to
24 you-all or do you need more time?

25 MR. STEINMEIER: Your Honor, we definitely

1 need more time than that.

2 JUDGE JONES: Okay. 15 minutes apiece.

3 MR. STEINMEIER: I'm actually at about 40

4 right now.

5 JUDGE JONES: For your closing arguments?

6 MR. STEINMEIER: Yes.

7 MR. ENGLAND: Can we go off the record for

8 a second?

9 JUDGE JONES: For what purpose?

10 MR. ENGLAND: I wanted to discuss an

11 alternative to oral argument or closing argument that

12 might help.

13 JUDGE JONES: We can discuss that on the

14 record.

15 MR. ENGLAND: Okay. As I think the record

16 demonstrates, the earliest that KLM would be required to

17 implement LNP portability, in light of the only bona fide

18 request it has dated roughly the first of July, is the end

19 of the year. Now, I know you feel like you have some

20 deadline, August 15th or whatever, when you have to have a

21 decision out of the Commission.

22 JUDGE JONES: Well, actually, it will

23 probably have to be out of the Commission by August 5th.

24 MR. ENGLAND: Effective dates, I guess,

25 August 15th.

1 JUDGE JONES: Exactly.

2 MR. ENGLAND: My suggestion would be to
3 extend the interim suspension or whatever until
4 August 31st.

5 JUDGE JONES: I don't think we have the
6 power to do that.

7 MR. ENGLAND: You certainly have the power
8 to issue a suspension. Since we've asked for it, what I'm
9 saying is, issue an interim one of approximately two
10 weeks, set a deadline of August 31st to have an Order out
11 of the Commission and allow the parties 10 days to file a
12 brief.

13 JUDGE JONES: Well, my understanding of the
14 FCC's order is that state commissions have to rule on
15 these suspensions or modifications within 120 days from
16 the -- 180 days of the request. The 180th day is
17 August 15. I don't see our power to extend that date.

18 MR. ENGLAND: Well, if we're successful,
19 you'd be issuing an Order before August 15th suspending it
20 for two years. Why not issue an Order before August 15th
21 suspending it for 15 more days, and then issue -- as an
22 interim suspension, and then issue your final Order at the
23 end of the month, either granting us our suspension or
24 denying, and tell us to implement by the end of the year.

25 MR. STEINMEIER: Your Honor, another

1 alternative, if I might, is to proceed with orally arguing
2 the case, which I know we've all been trying to prepare to
3 do. We've been well aware of the Commission's procedural
4 order on that point. Perhaps an option would be to allow
5 us to file -- to submit in paper in the case a longer
6 version of the oral argument than we orally deliver.

7 JUDGE JONES: If you-all want to file
8 something that's in writing, then it'll have to be filed
9 tomorrow. That'll give you overnight to work on it. The
10 situation I'm in is that at this point I'm going to need
11 to present something to the Commission in a week and a
12 half. I don't know how familiar you-all are with how
13 orders move around here, but I've never heard of anything
14 happening that quick before. I'm not going to put myself
15 up against the wall when we've had all day to think about
16 closing arguments.

17 The second problem I have with that is --
18 and I realize we've been in hearing all day, which would
19 implicate that these issues are very complicated, and I
20 may seem to oversimplify things, but the rules in the
21 federal law seem very simple to me. There are three
22 things that has to be shown and if one of those is shown,
23 a fourth has to be shown in order for a suspension to be
24 granted.
25 That doesn't seem like a complicated thing to me to argue.

1 So if you-all want to write something --
2 well, I'll put it this way. The transcript should be out
3 tomorrow. It's being expedited. In all fairness, if I
4 were to allow you-all to write something, then Friday
5 would have to be the deadline. Today's Wednesday. You
6 have Friday and Thursday night to work on that. Otherwise
7 you have the option of making oral arguments today or not.

8 MR. ENGLAND: We're prepared to do either
9 one, your Honor. We can do oral arguments now or we can
10 file something on Friday.

11 JUDGE JONES: Mr. Steinmeier, Mr. Meyer?

12 MR. STEINMEIER: We're ready.

13 JUDGE JONES: For?

14 MR. STEINMEIER: We're ready for anything.

15 JUDGE JONES: Mr. Meyer?

16 MR. MEYER: I think I'm equally
17 indifferent.

18 JUDGE JONES: Okay. Well --

19 MR. MEYER: Perhaps in the interest of
20 economy for today, since we do have another hearing
21 tomorrow, written might be preferable.

22 JUDGE JONES: That's what we'll do then.
23 We'll say by 5 o'clock Friday. And when I say something
24 in writing, a memorandum of law would be best. I think it
25 would force you-all to be a little more specific than a

1 brief on the issues. Also, you want to have the
2 opportunity to respond to one another, so -- and given the
3 short turnaround time.

4 Mr. England?

5 MR. ENGLAND: Your Honor, I think under the
6 circumstances and given your constraints, we can't afford
7 the luxury of reply. We're just going to have to
8 anticipate what the other side's going to say and I think
9 we'll have a pretty good idea of what they'll say.

10 JUDGE JONES: You'll say yea, they'll say
11 nay.

12 MR. ENGLAND: We will try to address not
13 only our case but respond to some of the points that
14 they've raised and believe are important. So we'll tend
15 to agree with David under the circumstances and the hour
16 of the day, we'll file something in writing on Friday, and
17 that will be the last word on it.

18 JUDGE JONES: Okay. We're all in agreement
19 on that, right?

20 MR. STEINMEIER: I was actually looking
21 forward to the oral argument. You don't get to do that
22 here very much.

23 JUDGE JONES: Okay. Well, with that, then,
24 Ms. Dietrich, you may step down, and the hearing is
25 concluded. We're off the record now.

1 (DISCUSSION OFF THE RECORD.)

2 JUDGE JONES: Mr. Steinmeier has offered

3 exhibits -- was it, well I know I --

4 MR. STEINMEIER: Go ahead.

5 JUDGE JONES: I know I've admitted 21

6 through --

7 MR. STEINMEIER: 24, the prefiled?

8 JUDGE JONES: Correct. Now the Exhibits 25

9 through 29.

10 MR. STEINMEIER: With the -- yes. Except

11 that you've already ruled on 28 to the negative.

12 JUDGE JONES: And for the record, can you

13 briefly describe what Exhibit 25 is?

14 MR. STEINMEIER: That was an FCC public

15 notice of May 23rd, '04.

16 JUDGE JONES: Are these exhibits attached

17 to testimony?

18 MR. STEINMEIER: No. These are all

19 exhibits that were handed out in the hearing room today.

20 MR. ENGLAND: I can maybe shorten this for

21 you, your Honor. My record reflects that 25 has been

22 offered and received. If it hasn't, we have no objection

23 to its receipt. 26 has been offered and received, but if

24 not, we have no objection to it. I'm going to skip 27,

25 because I do have an objection. 28, my understanding I

1 objected and that objection was sustained, so it wasn't
2 offered. And 29 was the LNP intercept information and
3 that was offered and received. If not, we have no
4 objection to it.

5 Getting back to 27, that was the survey,
6 and I objected to the oral testimony regarding the survey,
7 but the survey itself was not offered. I understand it's
8 being offered at this time and we have an objection, an
9 additional objection to the one we made earlier.

10 JUDGE JONES: And that exhibit was made
11 during the redirect of Mr. Williams after you had
12 questions of him on cross concerning information similar
13 to what's exhibited in Exhibit 27.

14 MR. ENGLAND: He had some oral testimony
15 that summarized or excerpted some of the information
16 that's in this written exhibit. I had an objection to
17 that that you overruled.

18 JUDGE JONES: Correct.

19 MR. ENGLAND: I do have an objection to the
20 offer of the hard copy, written, whatever you want to call
21 it, exhibit in addition to the objection I raised earlier,
22 and that objection is based on lack of foundation, hearsay
23 and relevance.

24 JUDGE JONES: Mr. Steinmeier, do you have
25 any response to those three objections?

1 MR. STEINMEIER: Mr. Williams described the
2 exhibit, your Honor. I think there's ample foundation.
3 And to suggest that it's irrelevant is truly
4 extraordinary, given the lengths that KLM is going to in
5 this proceeding to suggest to the Commission, convince the
6 Commission that there is no consumer demand for local
7 number portability and couldn't possibly ever be.

8 JUDGE JONES: I will overrule the objection
9 on the grounds of relevance; however -- and this is a
10 survey that was taken by Western Wireless, is that
11 correct, conducted by Western Wireless, if I remember
12 correctly?

13 MR. STEINMEIER: That's correct.

14 MR. ENGLAND: I would beg to differ.
15 That's my point about foundation, your Honor. There was
16 no evidence solicited as to who performed this survey,
17 when it was performed, whether Mr. Williams was personally
18 involved or performed by a third party. That gets to the
19 hearsay objection and the relevance, if I can reargue
20 that, even though you've overruled it --

21 JUDGE JONES: Don't reargue it. On
22 foundation, Mr. Steinmeier, I'll have to sustain the
23 objection. I realize he discussed the information that is
24 in this exhibit and perhaps that will serve the same
25 purpose.

1 MR. STEINMEIER: It's not nearly as
2 colorful as the exhibit itself, your Honor.

3 JUDGE JONES: That's certainly true. Like
4 I said, I will sustain the objection on the grounds of --

5 MR. STEINMEIER: Could you take it with the
6 case?

7 JUDGE JONES: What do you mean, take it
8 with the case?

9 MR. STEINMEIER: Rule on it in your Order?

10 JUDGE JONES: Why would I do that when I'm
11 ruling on it now?

12 MR. STEINMEIER: Because I believe the
13 record will reflect that adequate foundation is there.

14 JUDGE JONES: Oh, I see.

15 MR. ENGLAND: We have no objection if you
16 want to take it with the case.

17 JUDGE JONES: I will do that,
18 Mr. Steinmeier.

19 MR. STEINMEIER: Thank you, your Honor.

20 JUDGE JONES: So we have admitted
21 Exhibit 25, 26. 27 will be ruled on later. 28 is not
22 admitted, and 29 is. Is that what everyone else
23 understands?

24 MR. ENGLAND: Yes, your Honor.

25 JUDGE JONES: Okay.

1 MR. MEYER: If I could just seek some
2 clarification on 27. There's a note at the bottom of the
3 second page that says confidential. Was that supposed to
4 be proprietary or is that actually public?

5 JUDGE JONES: Mr. Steinmeier, it's Western
6 Wireless's information, correct?

7 MR. STEINMEIER: That is correct. It is
8 supposed to be a proprietary exhibit.

9 JUDGE JONES: Well, I don't believe I'll
10 need to discuss the substance of the information in order
11 to rule on the objection, but thank you for pointing that
12 out, Mr. Meyer.

13 Okay. is there anything else?

14 (No response.)

15 JUDGE JONES: For purpose of clarification,
16 then, a memorandum of law or a brief brief will be due by
17 the end of the day Friday, and there will be no oral
18 argument at this time.

19 With that, then, we will go off the record.
20 Thank you all for hanging in there today.

21 WHEREUPON, the hearing of this case was
22 concluded.

23

24

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