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6 TRANSCRIPT OF PROCEEDINGS

7 Hearing

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

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VICKY RUTH, Presiding,
17 SENIOR REGULATORY LAW JUDGE.
CONNIE MURRAY,
18 STEVE GAW,
ROBERT M. CLAYTON,
19 LINWARD "LIN" APPLING,
COMMISSIONERS.

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

2 JUDGE RUTH: Good morning. We are back on
3 the record in TO-2005-0035. Today is Wednesday,
4 February 2nd. We are ready to start back up with
5 questioning of witness Elizabeth Stoia.

6 Ms. Stoia, I'll remind you that you are
7 still under oath from yesterday. And yesterday we
8 finished with all of the cross-examination questions, and
9 we're ready for questions from the Bench. Did I get that
10 correct or -- okay.

11 MR. DANDINO: Did we also do redirect
12 yesterday, too?

13 THE WITNESS: Yeah.

14 JUDGE RUTH: But we'll have -- that was
15 without questions from the Bench. I'm recalling the
16 witness for some Commission questions.

17 MR. BUB: Your Honor, I'd also like to note
18 at this point that I left up on the Bench the exhibit that
19 I needed to get copies of last night.

20 JUDGE RUTH: Yes, thank you. I got the
21 copies of Exhibit 38 and have passed them out to where the
22 Commissioners will be sitting.

23 MR. BUB: Thank you.

24 JUDGE RUTH: Any other preliminary matters?

25 (No response.)

1 JUDGE RUTH: Then we will go ahead and have
2 questions from the Bench. Commissioner Murray, would you
3 like to start?

4 COMMISSIONER MURRAY: Thank you.

5 ELIZABETH STOIA testified as follows:

6 QUESTIONS BY COMMISSIONER MURRAY:

7 Q. Good morning.

8 A. Good morning.

9 Q. My first question is related to the exhibit
10 that Mr. Bub submitted this morning on Big River
11 Telephone, and I wanted to ask you, which exchanges does
12 Big River serve, do you know?

13 A. You know, I don't know exactly which
14 exchanges. I do know that they do serve more of the rural
15 area. I do have an exhibit in my testimony that also
16 talks to some of their offers that they have in the
17 marketplace, other than the exhibit that Mr. Bub had.

18 Q. And do you recall which number exhibit that
19 is?

20 A. Yeah. If you can give me just a second, I
21 can tell you that. Actually, it's on page -- it's not an
22 exhibit. It's on page 11 of my testimony. It starts on
23 line 25.

24 Q. Okay.

25 A. Would you like me to read that?

1 Q. No, that's all right. I happen to have
2 been open to that page, as a matter of fact. Do you know
3 which MCA areas that Sage serves?

4 A. I don't know exactly. I don't know
5 exactly.

6 Q. Okay. On page 12 of your direct
7 testimony --

8 A. Uh-huh.

9 Q. -- you mention that Sage is an example of a
10 competitor that has used the approach of serving a --
11 serving optional MCA areas without an additional charge,
12 correct?

13 A. That's correct.

14 Q. Now, if SBC is granted competitive status,
15 will that change SBC's response to that type of
16 competition, and if so, can you tell me how?

17 A. You know, I'm not certain exactly what
18 we'll do in those MCA areas. I'm sure you're aware we've
19 already done a few things on the residential side to
20 address the MCA issues, especially with Sage and the
21 competitive pressure we felt there. We have a couple
22 offers in the marketplace where we tried to discount the
23 MCA plan based on the purchase of some other products to
24 have some parity with what MCA is offering in the market.

25 We're still not there as far as price

1 points for, you know, our package versus their package,
2 but I'm sure we'll look at that and see what kind of
3 changes we can make to our portfolio in those areas to
4 address those customers' concerns.

5 Q. Can you explain how price cap regulation
6 constrains your ability to respond to that type of offer?

7 A. Well, as you know, with price cap
8 regulation we're not allowed as the ILEC to think like our
9 competitors. And when I say we're not allowed to think
10 like them, there's regulatory considerations that we have
11 to make before we launch new products in the marketplace.
12 So rather than just doing customer focus groups and
13 financial analysis and things like that to determine what
14 the customers want, we have to also take into
15 consideration regulatory impact. So there's risk
16 associated with us doing that.

17 The first risk is the interval of the time
18 frame involved when we do introduce a new product. As you
19 know, we have to notify our CLECs, which I know has
20 nothing to do with the price cap statute, but it's a fact.
21 We have to notify our CLECs of the introduction of the new
22 product. We also have to file a tariff 30 days in advance
23 of when that effective date is.

24 And so the risk is, first of all, we're
25 telling our competitors here's what we're coming to market

1 with. Their time frames aren't near what ours are, and so
2 they have the opportunity or the ability to preempt us in
3 the marketplace. So there's some risk associated with
4 that. That would be my first point.

5 And the second point is, you know, there's
6 so many things involved in launching a new product that we
7 have to take into consideration. It's not just the
8 marketplace. It's not just the financial analys--
9 financial analysis involved. It's also the expense
10 associated with that.

11 And we have lots of different areas of
12 expense that we have to consider and, you know, if we make
13 a mistake and we come out in the marketplace and we price
14 that product not exactly where it should be, meaning we
15 priced it too low and we need to increase it, we're under
16 price cap. And so it puts us at disadvantage, and there's
17 a lot of risk associated with that.

18 Q. So one way that price cap constrains your
19 response is that you don't want to take the risk of coming
20 out with a new product that is -- or a bundle or whatever
21 that is priced below what would be profitable to the
22 company for fear that you would be stuck with that?

23 A. Exactly. I mean, the idea would be
24 obviously to, in a perfect world, get the price point
25 exactly where it should be. But we all know that things

1 change, and so once we get out in the marketplace, if we
2 discover that we made a mistake, that we didn't price it
3 correctly and that we need to increase that price, we
4 don't have the ability to go any higher than what the
5 price cap allows us.

6 Q. I keep wondering, and for some reason I
7 haven't been able to think this through, if price cap
8 regulation is removed, would it be more likely that SBC
9 would offer expanded calling scopes, more flat-rated
10 calling for wider areas, and if so, can you tell me how it
11 is that the removal of price cap would be of assistance
12 there?

13 A. You know, I'm not certain. That's the
14 honest answer. We've never operated, you know, in that
15 type environment. I can tell you from my perspective,
16 from a marketing perspective, if we get competitive
17 classification, the first thing we're going to do is we're
18 going to talk to our customers and we're going to do focus
19 groups and we're going to find out exactly what they want.

20 And if what they want is expanded calling
21 scopes and flat-rate pricing, then we're going to work
22 very hard to do that, because this is all about us being
23 competitive in the marketplace and us having opportunity
24 to have customers, provide them what they need and give
25 them the services that they want.

1 So to be honest with you, Commissioner, I
2 haven't -- I haven't made any plans as to what we'll do
3 exactly. I know that we want to make it simple and easy
4 to do business with us, and we want to do what the
5 customer -- what the customer wants and what the customer
6 is looking for. We want to provide those services to our
7 customers.

8 Q. And are you saying that competitive status
9 makes that possible for you to respond to what the
10 customers want, whereas remaining under price cap
11 regulation makes that more difficult?

12 A. Absolutely. And in today's environment,
13 you know, we have various different rate groups in the
14 state of Missouri, and their price points for basic access
15 line service varies based on that rate group. So for me
16 to introduce a new package, it's very difficult. I have
17 to get to a single price point across the state, and as
18 you can imagine, trying to advertise like our competitors
19 do, they don't advertise various price points by rate
20 group. They advertise one price point for the entire
21 state, and in most cases one price point with some
22 competitors for the entire nation.

23 So for us to compete at that level under
24 the price cap statute today is very difficult. So, you
25 know, that's -- that's something that we would look at.

1 How can we leverage the relief that we get with the price
2 cap statute to compete the same way that our competitors
3 do? And that's where I go back to what I said originally.
4 I'd love to think like a competitor. I haven't had that
5 opportunity in the ten years that I've been with SBC.

6 Q. Can you tell me what you're talking about
7 when you say different price points for different rate
8 groups?

9 A. Sure.

10 Q. Can you elaborate on that a bit?

11 A. Sure. Our access line rates vary from
12 \$7.29 to \$12.07, I believe. Yeah, \$7.29 and \$12.07 across
13 the various rate groups in the state of Missouri.

14 Q. Now, define access rates, please.

15 A. Basic access line rate, basic POTS line
16 residential.

17 Q. That's for customer rate?

18 A. Right. Right.

19 Q. You're speaking of customer retail rate?

20 A. Right. Exactly. So those vary by rate
21 group. So if I wanted to take an access line, your basic
22 pipe into the house, your dial tone into the house, and I
23 wanted to bundle with it vertical features and have a new
24 package I wanted to introduce, it's difficult to do that
25 because it varies by rate group. So then what I have to

1 do is vary those discounts by rate group.

2 And operationally for my service reps, it's
3 hard for them to manage that. So the service reps are the
4 people that you talk to if you called in and you wanted to
5 buy that service. It's hard for them to manage that
6 operationally.

7 Q. And what sets those access rates at those
8 price points for those different groups at different
9 levels? Where does that come from?

10 A. That comes from the regulators. It comes
11 from the price index that's set. So we're not allowed to
12 adjust that at all.

13 Q. Under price cap, you're limited to how much
14 you can adjust each rate?

15 A. Right. Basic and non-basic service, so
16 yeah. As a matter of fact, I don't believe we've been
17 able to adjust our access line rates anywhere but down in
18 the last few years.

19 Q. And if price cap regulation is removed,
20 then you can -- you will have flexibility to adjust your
21 rates within those various parameters in a way that fits
22 both customers' needs and your ability to serve; is that
23 right?

24 A. Absolutely, yeah.

25 Q. On page 17 of your direct, you talk about

1 Vonage or Vonage -- I'm not sure how it's pronounced --
2 being a VOIP provider in Missouri, and SBC is getting into
3 those other modes of providing voice service in Missouri;
4 is that correct?

5 A. I'm sorry?

6 Q. SBC is also getting into those other modes
7 of providing service?

8 A. Yes, we are.

9 Q. How does the company separate those
10 regulated -- the regulated aspects from those unregulated
11 aspects in trying to bundle services for customers, do you
12 know?

13 A. How do we separate it, you mean from a
14 regulatory standpoint, a marketing standpoint?

15 Q. Well, both.

16 A. Okay. Well, they're clearly two separate
17 products, two separate affiliates. Our voice over IP
18 product is not -- it's handled out of a different
19 affiliate and will be able to provide similar, almost
20 exactly the same service only on a higher bandwidth than
21 what you get today for basic local service.

22 Q. And are you able to bundle that in any way
23 with regulated services?

24 A. You know, I don't know the answer to that
25 question exactly. We haven't fully baked our plan for

1 voice over IP. We're in a trial today, and for major
2 markets, Los Angeles, Chicago, Dallas and San Antonio, and
3 I think we're going --

4 Q. What about Jeff City? I know you don't
5 even serve locally in Jeff City.

6 A. Yeah, exactly. And we have plans to launch
7 sometime in the first quarter of '05, but I don't think
8 that there would be a need to combine the two together
9 because you are able to provide basically the same service
10 without the regulation in the voice over IP market through
11 our IP network that we're building. So I wouldn't see the
12 need to combine the two.

13 Q. Okay. And you don't think that that's a
14 detriment in that the customers seem to want bundles, they
15 seem to want everything to be consolidated, get one bill
16 for everything?

17 A. Oh, we'll be able to bundle. If you're
18 talking about bundling voice over IP with wireless, with
19 high-speed Internet, with Dish Network TV, we'll be able
20 to do that. It's just going to be a different bundle,
21 rather than today we have the landline piece which is
22 regulated, and tomorrow's world with voice over IP, our
23 voice piece won't be regulated.

24 Q. Okay.

25 A. I don't know if that makes sense, but yeah,

1 we'll still offer bundles to our customers, just over a
2 different platform.

3 Q. Even if SBC receives competitive status,
4 the -- many of the competitors are non-regulated, correct?

5 A. That's correct.

6 Q. And SBC wouldn't be completely relieved of
7 regulation?

8 A. No.

9 Q. So would there continue to be some
10 advantage to those non-regulated competitors even if you
11 receive competitive status?

12 A. Absolutely. Absolutely. But it would
13 bring us a little bit closer. It will bring us closer
14 certainly to our CLEC competitors. It will bring us a
15 little closer to the wireless competitors and the voice
16 over IP competitors, but they still clearly will have an
17 advantage because they're not regulated.

18 Q. Certainly won't give you parity with --

19 A. No. Definitely won't have parity with the
20 non-regulated companies.

21 Q. On page 20 of your direct, you mention
22 the -- you were asked who are SBC's primary CLEC
23 competitors for residential voice service?

24 A. Uh-huh.

25 Q. And you listed AT&T, among others.

1 A. Uh-huh.

2 Q. And if the merger -- and I realize if it
3 occurs it's a long way off and has a lot of regulatory
4 hurdles to jump before it gets there, but if the merger is
5 approved, what percentage of that CLEC competition would
6 go away, do you know?

7 A. You know, I don't know. I'm not allowed to
8 see certain information, so some of this is estimation on
9 our part, because I'm on the resale side of the bus-- I
10 mean, retail side of the business, so I'm not able to see
11 some of it. So I have no idea what percentage AT&T holds
12 of the market.

13 Q. So when you observe your competitors, that
14 is from the standpoint of working with customers and
15 understanding who -- what other providers they may be
16 using?

17 A. Right. We do some focus groups of people
18 who have left us, some research to find out who they went
19 to and why. I also observe customer phone calls in our
20 call centers. I probably observed, you know, countless
21 hundreds of phone conversations with our customers hearing
22 not just, you know, why they want to leave us or -- but,
23 you know, just various different issues, different reasons
24 that they call in. We're constantly looking at what the
25 customer wants and trying to provide what the customer

1 wants. We do lots of focus groups and various different
2 things like that.

3 Q. Okay. And in the comparisons that you made
4 on Schedule 6 of your direct testimony --

5 A. Yes.

6 Q. Let me find it. I want to make sure I'm
7 understanding this chart here. In that price comparison
8 you compare Charter with SBC and Sage, Vartec and AT&T; is
9 that right?

10 A. That's correct.

11 Q. And you look at specific individual
12 services, not just bundles?

13 A. That's correct.

14 Q. And you're showing that for each one of
15 those, the retail prices that each one of those services
16 is offered in Missouri by the various customers?

17 A. That's correct.

18 Q. And at the bottom, those last two lines?

19 A. Uh-huh.

20 Q. What is f-e-a-t?

21 A. Feature.

22 Q. Feature?

23 A. Uh-huh.

24 Q. Five-feature package without MCA. That's a
25 bundle?

1 A. That's correct.

2 Q. And it appears that SBC's -- even SBC's
3 bundle is significantly higher than the comparable bundles
4 by the other competitors?

5 A. Yes.

6 Q. I see on AT&T you just show a three-feature
7 or an 11-feature bundle?

8 A. Right.

9 Q. So that with AT&T they could actually get
10 11 features for the same price they could get 5 from SBC,
11 right?

12 A. That's correct.

13 Q. And then the same would be true of the
14 five-feature bundles -- the five-feature packages with MCA
15 rather?

16 A. That's correct.

17 Q. And then your individual services like the
18 access line is your basic -- just your POTS line?

19 A. Basic POTS line, right.

20 Q. And SBC's exchanges, those are -- this is
21 not an HC schedule by any means, is it?

22 A. No, it's not.

23 Q. Those are between 7.49 and 12.40?

24 A. Yeah. And I think actually we've had a
25 price decrease since I published this back in, I think it

1 was July, because actual rates now are 7.29 to 12.07. I
2 don't know if we need to make that correction.

3 Q. 7.29 to 12.07?

4 A. Uh-huh.

5 Q. So that was a recent decrease in the access
6 line rates?

7 A. Right.

8 Q. That was based on the index?

9 A. Consumer Price Index, yeah.

10 Q. And you show Sage basic service as being
11 25. Now, is that everywhere -- is that an average of
12 where Sage provides service?

13 A. These were rates pulled out of their
14 tariffs. And I know it seems odd that their rate's so
15 much higher, but as you are probably aware, these folks
16 are competitors. They don't target customers to just sell
17 them a basic access line. They target them to sell them
18 an access line plus features, bundles. I don't think I've
19 ever seen any kind of advertisement by one of my
20 competitors where they're going after a customer who would
21 just want a basic access line and like caller ID.

22 Q. So if they price their basic service pretty
23 high, they're going to avoid those customers who only want
24 basic service?

25 A. Absolutely.

1 Q. And then if Sage's customers want a bundle
2 with three features, it would cost them \$30?

3 A. It would cost them -- three features, five
4 more dollars, yeah, \$30.

5 Q. And it could cost an SBC customer 31.95 for
6 the same bundle?

7 A. Similar bundle. Ours has five features in
8 it, but yeah.

9 Q. Oh, I see. There isn't a true comparable
10 with Sage, but you drew the closest bundle you could find?

11 A. Right.

12 Q. But for \$45 at Sage the customer could
13 receive 11 -- a bundle with 11 features?

14 A. That's correct.

15 Q. And then Vartec is similar except it has an
16 even higher basic service price; is that right?

17 A. That's correct.

18 Q. And do they not offer bundles or were you
19 just not able to come up with what they would be?

20 A. You know, I can't recall. I did this, you
21 know, quite a while ago, so I can't recall.

22 Q. Okay.

23 A. It must not have been obvious in the tariff
24 information I was looking at or I would have included it.

25 Q. And then AT&T's basic service again is

1 substantially above what SBC's basic is?

2 A. That's correct.

3 Q. And their features are -- well, for
4 example, you could get 11 features for the same price that
5 you could get 5 features from SBC?

6 A. That's correct.

7 Q. So in looking at this price comparison
8 chart, is it reasonable to draw the conclusion that
9 competitors in general or at least the competitors that
10 you outlined here charge significantly, sometimes
11 frequently more than twice as much for basic access line
12 than SBC charges?

13 A. Absolutely.

14 Q. And that in general they charge less for a
15 bundle than SBC charges?

16 A. Absolutely. And I think that goes to the
17 point I was trying to make earlier is SBC serves
18 everybody. These competitors come in the marketplace and
19 they're very choosy about who they go after and who they
20 target, who they try to provide service to. They're not
21 going after the customer -- they're not making offers
22 attractive to the customer who just wants a basic access
23 line and one feature.

24 They're offering a bundled service and
25 going after the customer who can provide them the highest

1 revenue opportunity, the people who spend the most money.
2 So they're very -- they're able to be very picky about who
3 they target and who they market to. We don't have that
4 ability.

5 Q. And in the marketplace if you want to
6 avoid a type of customer or providing a type of service,
7 if you -- if you're not constrained by regulation, it's
8 pretty easy to just price it so that it's not attractive;
9 is that correct?

10 A. That's correct.

11 Q. But SBC not only, under the price cap
12 regulation now as it exists, not only does not have the
13 ability to vary its prices for the basic service in a way
14 that would incent anyone to take a bundle-

15 A. Right.

16 Q. -- you don't even have the ability to
17 change your prices on the other things within the bundle
18 beyond a certain limit; is that right?

19 A. That's correct.

20 Q. I think it would be difficult to respond to
21 a competitive offer.

22 A. It is difficult. That's the kind of stuff
23 that I deal with, I look at on a daily basis, and it's
24 hard. It's a hard job, you know, to try and be creative
25 to launch new things out in the marketplace when you have

1 to take in consideration -- the very first thing I have to
2 think about is, what are the regulatory impacts of me
3 doing this? And in my opinion, if I didn't have that, I
4 would be able -- that pressure, that regulatory pressure,
5 I would better be able to serve my customer.

6 Q. Do you talk to the customers directly?

7 A. I have been in quite a few focus groups
8 over the years that I've been with SBC. Was in some focus
9 groups as recently as, I think it was June of '04. It's
10 either June or July of '04. So yeah, and I also observe
11 phone calls into our call centers from our customers, so
12 yeah, and I -- so yes, I do talk to customers, listen to
13 what they say.

14 Q. Do they care how you're regulated? I mean,
15 do they --

16 A. They have no idea.

17 Q. -- understand?

18 A. No. I don't think the general public has
19 any concept or understanding. They don't understand why
20 we can't do things the same way that other providers do.
21 They don't -- they don't see a difference between us and a
22 CLEC or us and a wireless provider or us and a voice over
23 IP provider.

24 Q. So I guess I can assume that if you're
25 talking to a customer who says, this other carrier has

1 offered X, Y and Z for \$5 less per month than I can get
2 the same thing from you, if you'll change -- if you will
3 give me that same price, I'll stay with you, I suppose
4 they're unsympathetic when you say, I'd love to give you
5 that same price but I'm not allowed to?

6 A. Oh, completely.

7 Q. And I assume that they wouldn't say, well,
8 that's okay, I'll pay you extra anyway and stay with you?

9 A. No. And you can imagine trying to explain
10 price cap regulation and regulation in general to just the
11 normal layperson who's not involved in the telecom
12 industry. You know, it's a foreign concept to them. So,
13 yeah, it's hard to have that kind of conversation.

14 COMMISSIONER MURRAY: Okay. Thank you.

15 JUDGE RUTH: Commissioner Appling?

16 QUESTIONS BY COMMISSIONER APPLING:

17 Q. Elizabeth, you and Connie almost have me
18 ready to go out and change my plan right away this
19 morning.

20 A. Let me know if you need some help with
21 that.

22 Q. Thank you. You mentioned a couple of
23 things that was -- that I'm just going to ask you a couple
24 questions about. I'm going to give you three minutes to
25 think like a competitor since you haven't had that in 10

1 or

2 12 years that you've been with SBC. What would that mean
3 to you as a marketer for SBC, if you could think like a
4 competitor?

5 A. What would it mean to me?

6 Q. Uh-huh, to SBC.

7 A. What would it mean to SBC?

8 Q. Using your words.

9 A. It would be absolutely amazing for me
10 personally to be able to respond to something in the
11 marketplace or be the first one to the marketplace without
12 everyone knowing what I was going to do ahead of time. It
13 would -- you know, and to be able to actually listen to
14 our customers as we try to today. We get their input, we
15 get their feedback, to actually listen to what they're
16 telling us and then going and doing it and executing and
17 not having to worry about what the regulatory impacts are.

18 You know, it's difficult for me to
19 verbalize it because, as I said, I've never operated in
20 that environment. I've always operated in the regulatory
21 environment, but I can't even imagine what it must -- what
22 it must be like to think of an idea and get it in the
23 marketplace rapidly without anybody else knowing what
24 you're doing and being the first to market with something.
25 It would be absolutely, as I said before, amazing to me.

1 Q. SBC is not afraid of the competition that's
2 coming up behind you-all?

3 A. No, we're not afraid.

4 Q. You're not afraid?

5 A. No, because we know that there's other
6 options available to us. And I think that's one of the
7 reasons why you've seen us go away from our traditional
8 business and why we've made the announcements that we've
9 made as far as voice over IP. Unfortunately or
10 fortunately -- I think it's fortunate for the customer --
11 but it's because of the regulation that we're under we've
12 been forced to look at other paths, other ways, other
13 options, other directions to go in. It's just not as easy
14 to do business when you're as regulated as we are, so we
15 have to look at our options, what are our other options,
16 other alternatives.

17 COMMISSIONER APPLING: Thank you very much.

18 THE WITNESS: Thank you.

19 JUDGE RUTH: Okay. At this time we're
20 going to move to recross based on the questions from the
21 Bench, but I cannot promise you that we won't need to
22 recall this witness again. At this time I don't expect
23 to, but it is a possibility.

24 We'll go ahead and do the recross and start
25 with Staff.

1 MR. HAAS: No questions.

2 JUDGE RUTH: Public Counsel?

3 MR. DANDINO: No questions, your Honor.

4 JUDGE RUTH: Intervenors?

5 MR. LUMLEY: No, your Honor.

6 JUDGE RUTH: Redirect?

7 MR. BUB: Just a few brief ones, your
8 Honor.

9 REDIRECT EXAMINATION BY MR. BUB:

10 Q. Good morning, Ms. Stoia.

11 A. Good morning.

12 Q. Commissioner Murray asked you a few
13 questions about Big River and Sage and where they operate.

14 A. Uh-huh.

15 Q. Would Mr. Unruh, SBC Missouri's local
16 regulatory witness, have a better idea of where they were?

17 A. Yes, he would. He would.

18 Q. Same with AT&T's market share?

19 A. Market share? Yeah. Mr. Unruh will have
20 that information.

21 Q. And the last question. Commissioner Murray
22 asked you about Vartec, and we didn't have in your
23 schedules the packages that they offer.

24 A. Right.

25 Q. Can I direct your attention to your

1 Schedule 7?

2 A. Sure.

3 Q. It's a list of -- actually, it's a whole
4 compilation of advertisements that we found in the
5 marketplace. Look at page 7 of 48.

6 A. Okay.

7 Q. Would that help you provide some
8 information to Commissioner Murray?

9 A. Yes. Do you want me to?

10 Q. Yes, please.

11 A. Commissioner, if you look on that
12 Schedule 7, page 7 of 48, it tells the --

13 COMMISSIONER MURRAY: I'm sorry. Wait just
14 a second.

15 THE WITNESS: Oh, I'm sorry. Schedule 7,
16 page 7 of 48. It's an advertisement.

17 COMMISSIONER MURRAY: I have Schedule 7 and
18 it stops at 3.

19 THE WITNESS: Can I --

20 COMMISSIONER MURRAY: And then I go to
21 Schedule 8. Is that not complete?

22 THE WITNESS: No. Do you want --

23 MR. BUB: It was a very thick set of --
24 it's in the direct.

25 COMMISSIONER MURRAY: Yeah. I think

1 perhaps my assistant just didn't print it. If you could
2 just hold it up.

3 THE WITNESS: It's the Vartec bundles
4 offer. It's 24.95.

5 BY MR. BUB:

6 Q. Ms. Stoia, just read what the packages --
7 maybe describe the package and the price.

8 A. It's 24.95 a month, and it's unlimited
9 local, caller ID, call waiting, three-way, 100 free
10 anytime domestic long distance minutes, one convenient
11 bill, easy to switch, no hassles, no fees, and your local
12 telephone number won't change.

13 MR. BUB: Thank you. That's all I have.
14 Your Honor, may the witness step down now?

15 JUDGE RUTH: Yeah. Now, you're not
16 excused, so please remain available, and we'll come back
17 to the issue later as to whether or not you're excused for
18 the day.

19 THE WITNESS: Okay. Thank you.

20 JUDGE RUTH: I believe now we should return
21 back to SBC witness Craig Unruh, and when he was on the
22 stand last, Staff had started cross-examination.

23 Staff, did you actually finish?

24 MR. HAAS: Yes.

25 JUDGE RUTH: Did we do Public Counsel?

1 MR. DANDINO: You haven't done it, and we
2 have no questions.

3 JUDGE RUTH: No questions. Intervenors?

4 MR. LUMLEY: Yes.

5 JUDGE RUTH: Mr. Unruh, I'll remind you
6 that you are still under oath and, Mr. Lumley, you may
7 proceed.

8 MR. LUMLEY: Thank you.

9 CRAIG UNRUH testified as follows:

10 CROSS-EXAMINATION BY MR. LUMLEY:

11 Q. Good morning.

12 A. Good morning.

13 Q. First I wanted to follow up on a question
14 that I asked another witness and see if -- they weren't
15 able to answer, so they thought you might be able to.

16 A. The question goes to how you feel price
17 caps -- how your company believes price caps apply to
18 business services, and specifically do you draw a
19 distinction between the mechanism for increasing or
20 changing the maximum price based on whether it's a single-
21 line business customer or a multi-line business customer.
22 And that's sort of the background, so I want to make sure
23 you understand my question.

24 Specifically what I'm asking is, does your
25 company believe that it's able to increase the maximum

1 price for multi-line business customers by the 8 percent
2 per year under the statute?

3 A. Yes.

4 Q. If you could turn to your surrebuttal, do
5 you have that available to you?

6 A. I do.

7 Q. And starting on page 2.

8 A. I'm there.

9 Q. And at the bottom of the page and carrying
10 over to the top, you make the statement that the
11 Commission cannot simply ignore UNE-P based on pure
12 speculation about what's going to happen with UNE-P. Is
13 that the gist of your statement?

14 A. Yes, it is.

15 Q. Now, we know for sure that the FCC has
16 announced that the UNE-P, the unbundled network element
17 platform is being eliminated, correct?

18 A. As I think you stated, the FCC has issued a
19 press release. We do not have the Order yet, so we don't
20 know all the particulars. But according to the press
21 release, the FCC has found that CLECs are not impaired as
22 it relates to unbundled switching, which is a key
23 component to UNE-P.

24 And they made that finding or will make
25 that finding pursuant to the Federal Telecom Act based on

1 the premise that CLECs aren't impaired, which means they
2 can provision that switching, they have alternatives for
3 that switching. They can either use it and either deploy
4 it themselves or purchase it from others in the
5 marketplace.

6 Q. And specifically, therefore, CLECs will not
7 be able to obtain either unbundled local switching or the
8 combination of elements that includes unbundled switching,
9 which has been called UNE-P, as an unbundled element under
10 the Telecom Act at TELRIC pricing, correct?

11 A. Yeah, that's correct. But as I mentioned,
12 we are willing to negotiate with CLECs who would be still
13 interested in purchasing our switching.

14 Q. And I have questions about that.

15 A. And additionally provide a UNE-P-like
16 product.

17 Q. And I'll have some questions about that, if
18 we can take it a step at a time.

19 And you mentioned this in your testimony,
20 that what the FCC has stated is it's going to go away
21 immediately for any new arrangements and we're going to
22 have a 12-month transition period for facilities that are
23 already placed, correct?

24 A. Based on the press release, that appears to
25 be the way it will work.

1 Q. And as you indicated -- well, to back up,
2 the press release also addresses other unbundled elements
3 besides switching and the platform combination, correct?

4 A. That's correct.

5 Q. And the FCC has given some indications in
6 the press release that at least under certain
7 circumstances DS1 level loops and transport may also go
8 away as an unbundled element, and have indicated some
9 criteria that would apply with regard to number of
10 collocators and things like that?

11 A. Yes. There were some details provided.
12 Obviously it could vary significantly depending on what
13 the specifics of the FCC's Order says.

14 Q. Right. And we actually have the press
15 release in the record, correct?

16 A. That's correct.

17 Q. And as you've said, no one can really be
18 certain what the FCC's going to say until that Order comes
19 out, correct?

20 A. That's correct.

21 Q. And likewise, none of us are really sure
22 what kind of court actions will follow. There may or may
23 not be some. We don't really know for sure whose ox is
24 being gored on each issue. That's all kind of up in the
25 air, too?

1 A. That's correct.

2 Q. And would you agree with me that none of us
3 can be absolutely sure how well CLECs will adapt to these
4 changes?

5 A. I think it's fair to say there are a large
6 number of CLECs in the marketplace, and it's probably safe
7 to assume that they will find various strategies for
8 dealing with the issue.

9 Q. But even though we can all have our own
10 opinions and projects, none of us can really be sure how
11 they'll adapt to these changes until it plays itself out;
12 is that fair?

13 A. I would characterize the general industry
14 as a dynamic industry that changes day to day, so I think
15 that's true for all of us, even independent of the FCC's
16 decision.

17 Q. And it's been touched on in the written
18 testimony and during the hearing, and I think you even
19 mentioned it in your response to questions from Staff
20 counsel, but the M2A agreement, which is the Missouri 271
21 agreement, is expiring in about a month, correct?

22 A. That is correct. Negotiations are underway
23 for a replacement agreement.

24 Q. And I think you indicated this, but just to
25 make sure, the vast majority of Missouri CLECs have moved

1 to use of the M2A agreement; is that correct?

2 A. That's correct.

3 Q. And this is an interconnection agreement
4 under the Telecommunications Act of 1996, correct, the M2A
5 is? When it's adopted by a CLEC so it's actually a
6 contract between the parties, that's an interconnection
7 agreement?

8 A. That's correct.

9 Q. Just for clarity. And it includes
10 provisions that SBC laid on the table itself. It includes
11 some provisions that were negotiated between SBC and CLECs
12 during the 271 process, and it includes arbitrated terms
13 and conditions and rates that basically were imported from
14 some prior proceedings and then also recently have been
15 put into place because of proceedings that spun out of
16 that docket; is that correct?

17 A. That's correct.

18 Q. And as we stand here today, none of us know
19 what the outcome will be in terms of the replacement for
20 the M2A; is that right?

21 A. That's correct. I mean, we will -- we will
22 be working through proceedings. As I mentioned today
23 we're negotiating with CLEC customers who are interested
24 in reaching a replacement agreement. To the extent we're
25 unable to reach agreements with all of the parties, we

1 will work our way through the normal arbitration process
2 and bring those issues before the Commission for their
3 decision.

4 Q. And to provide a little more background, is
5 it fair to say that essentially the same parties -- it
6 varies state to state a little bit, but essentially the
7 same parties, SBC and groups of CLECs have been working on
8 these issues in other states like Texas and Kansas a
9 little bit in advance of the Missouri process?

10 A. That's correct.

11 Q. In the course of those proceedings, as
12 you've moved down the road, some issues that at the
13 beginning were in dispute have been resolved, but there's
14 still issues that are presented to the state commissions
15 for resolution?

16 A. That's correct.

17 Q. And currently, as things stands, would it
18 be fair to say that while all the parties would hope to
19 resolve issues, that right now it's looking like there
20 would at least be some issues that will be presented to
21 this Commission for resolution on a more likely than not
22 basis?

23 A. That's fair.

24 Q. Is it fair to say that SBC worked pretty
25 hard to eliminate UNE-P and unbundled switching as an

1 obligation under the Act, that you advocated the
2 elimination of that element?

3 A. That's correct. Because we realized all
4 along that CLECs were in our view not impaired without
5 access to TELRIC-based pricing of our switches.

6 Q. And as I discussed with Dr. Aron earlier in
7 the hearing, and as she read into the record, SBC has
8 projected that the elimination of UNE-P has resulted in --
9 or the announcement of the elimination of UNE-P has
10 already resulted in a change in the trend of access line
11 loss, that instead of those losses growing, the amounts
12 have been going down and that they project that that will
13 continue directly related to the elimination of UNE-P?

14 A. I think what our results showed was that we
15 continue to lose lines, and that -- continue to lose our
16 retail lines and that there had been a decrease in UNE-P,
17 UNE-P based CLEC lines that CLECs were purchasing from us.
18 But that could simply reflect a shift from UNE-P to other
19 technologies, other ways of serving those customers, other
20 ways of the CLECs serving those customers.

21 Q. But it also shows that overall your losses
22 of access lines, instead of the amounts growing, the
23 amounts of losses were getting smaller? You were still
24 losing lines, but the rate of loss was decreasing instead
25 of increasing; it was a reverse in trends?

1 A. I believe the report might have ran -- or
2 showed a comparison of perhaps fourth quarter year over
3 year change, and that particular isolation of time did
4 show less retail line loss in the present fourth quarter
5 than in the previous fourth quarter. I don't know that
6 this necessarily translates into overall trend lines.

7 Q. And right now, again, while we all may have
8 our opinions and projections, we can only speculate as to
9 what will happen at the conclusion of the 12-month
10 transition period with regard to lines that were served by
11 UNE-P. Some may revert back to SBC. Some may go to other
12 arrangements you've discussed in your testimony. Nobody
13 can sit here today and say with absolute certainty, you
14 know, X percent's going to go this way and X percent's
15 going to go that way, can they?

16 A. I don't believe any of us has a crystal
17 ball, so no, we couldn't -- couldn't state precise numbers
18 of who goes where. But I think it's fair to say that the
19 CLECs have been very successful at winning customers.
20 Those customers have exercised their choice of picking a
21 different provider, and I don't see why that would
22 necessarily change the concept going forward.

23 Q. Now, getting back to something that you
24 touched on in our discussion this morning, but also it
25 appears on page 3 of your surrebuttal, you discuss the

1 opportunity for CLECs to use SBC switching not as an
2 unbundled element but on a market basis, correct?

3 A. That's correct.

4 Q. And can you tell us what the specific terms
5 and conditions of that offer are today?

6 A. Well, I don't believe there's a specific
7 offer that's on the table. We -- like typically happens
8 in wholesale supplier/provider/customer relationships, the
9 two parties get together and discuss each other's needs
10 and desires and goals, and the parties try to reach a
11 mutually beneficial solution.

12 I believe we've expressed a willingness to
13 work with individual CLECs to try to best meet their
14 needs, what's important to them, you know, are they
15 interested in serving rural markets, urban markets,
16 whatever in terms of their business plans and their goals
17 for serving their customers. Our wholesale marketing
18 folks are interested in talking with them and trying to
19 figure out if we can reach a mutually beneficial
20 agreement.

21 Sage is a good example. Sage came and
22 talked with us, and we were successful at reaching
23 agreement between Sage and SBC for a UNE-P like offering
24 that would provide them service so that they could serve
25 their -- serve their customers, and we've attempted to

1 implement that agreement in -- in our states that we
2 serve.

3 Q. And I have some questions about the Sage
4 arrangement that I'll get to in a minute, but following up
5 on this on page 8 of your testimony, you're also
6 discussing this subject.

7 A. Is that surrebuttal?

8 Q. Yes.

9 A. Okay.

10 Q. And you refer to this willingness that
11 you've just mentioned to offer switching at a commercially
12 reasonable price, is the phrase you use, correct?

13 A. Could you point me to that specific
14 reference?

15 Q. Line 4.

16 A. Yeah, I said at a commercially reasonable
17 price.

18 Q. Okay. Can you tell us what that price is?
19 And if it's confidential, that's -- let me know that. I'm
20 not trying to trick you into disclosing it or anything.

21 A. That's fine. I think the -- I don't think
22 there's one -- sort of one specific price. The price
23 might depend again on what -- what the terms and
24 conditions might be between SBC Missouri and that
25 particular CLEC customer. There might be something that's

1 more important to them than is important to somebody else,
2 and that might affect the pricing of what we're willing to
3 offer to the CLEC.

4 Q. All right. If at this --

5 A. I guess to be clear, there isn't a specific
6 price that --

7 Q. I mean, are you able to give me a range of
8 prices today or is it an unknown quantity?

9 A. I would say it's a generally unknown
10 quantity, because again it would depend on the particulars
11 of what the CLEC customer was interested in purchasing and
12 willing to agree to. All those -- all those terms are
13 going to affect the price.

14 I guess if we're kind of looking for
15 ballpark stuff, we can talk about the Sage agreement.
16 Now, the Sage agreement was particular to Sage's interests
17 and their desires for what they wanted to purchase from us
18 to serve their customers, but we've publicly stated, and I
19 believe we've now publicly filed that agreement in
20 multiple states, and the price will vary depending upon
21 exactly what they purchase over time. But we've estimated
22 that the price for a -- call it a UNE-P-like service was
23 under \$25.

24 Q. Okay. So that's -- I just want to make
25 sure I understood your answers. That price would not be

1 exclusively for the switching arrangements, but it would
2 be for the equivalent combination elements that we refer
3 to today as UNE-P?

4 A. That's correct.

5 Q. It would have the same functionality?

6 A. Yeah. I called it a, for lack of a better
7 term, a UNE-P-like product. It's more of a -- it's a
8 product offering. UNE-P was a -- is actually just a
9 euphemism, if you will, or an acronym for a bundling of
10 individual UNE elements with numerous different prices.
11 The way we structured the Sage agreement was more just a
12 fixed-price arrangement for a package, for a bundle of
13 those elements, if you will, a service in essence.

14 Q. Okay. And is there -- on a functionality
15 or a facility basis, is there any distinction between what
16 Sage gets for that less than \$25 price and what a CLEC is
17 getting when they buy UNE-P under the M2A?

18 A. Let me -- let me say just in terms of
19 trying to convey information, I think generally it covers
20 the general functionality that a CLEC received under
21 UNE-P. Does everything exactly match up? Does every
22 little detail match up exactly? That I don't know.

23 Q. All right. Now, if I'm CLEC X, or maybe
24 CLEC XO, and I'm negotiating with SBC to obtain equivalent
25 service that Sage is getting and we're negotiating the

1 price and SBC says, you know, 24.99, that's our final
2 offer, and XO says 24.50, that's our final offer, there's
3 really no way to resolve that impasse, is there?

4 I mean, you're just in the marketplace and
5 buyer and seller don't reach an agreement and they go
6 their separate ways, correct?

7 A. Perhaps XO might not have been the best
8 example, because they're probably out competing with us to
9 get CLEC X to buy their switching services since XO's
10 announced that that's what they -- they want to provide
11 that type of functionality to other CLECs.

12 Q. Well, you didn't see the disclaimer. The
13 characters in my story are not representative of any
14 actual party.

15 A. Okay. To talk about a hypothetical CLEC,
16 we'll go back to X. CLEC X again will function like I
17 think any typical wholesale supplier/customer
18 relationship. If the parties can mutually agree on a
19 price, then it's a win-win for them. If they can't, that
20 customer will likely go buy its business, either deploy
21 itself, its -- that CLEC is measuring, do I want to invest
22 in my own facilities, buy my own switch or expand the use
23 of my own switch that I already have in the marketplace?
24 You know, I may already have a switch in the marketplace
25 and may not be using it for serving certain customers.

1 So I may -- part of my decision is, well,
2 do I start using my own switch to serve those customers
3 that I was negotiating with SBC for or do I go to an X or
4 a McLeod or do I put in a new switch? All those things
5 are available -- all those options are available to that
6 -- to CLEC X.

7 Q. And that was a pretty long answer, but at
8 the bottom you do agree with me ultimately you can have a
9 situation where buyer and seller simply don't agree, and
10 in contrast to unbundled elements where you have the
11 opportunity then to go to a state commission to arbitrate
12 the difference, in the marketplace there is no one that
13 can tell either party, no, you're wrong, you must change
14 your position and go to a different one, correct?

15 A. I would characterize the latter as the more
16 normal situation in competitive markets where buyers and
17 sellers interact. The government arbitrated pricing of
18 unbundled, let's say, loops that -- DS0 loops that remain
19 in place, mass market loops that remain in place is more
20 the kind of oddball entity concept.

21 Q. But you agree that the contrast is
22 accurate?

23 A. That's correct.

24 Q. Turn specifically to Sage, and actually it
25 was a question I was going to ask and you kind of alluded

1 to it. Has the agreement been refiled in the state of
2 Missouri at this point?

3 A. It has not.

4 Q. And be careful as you listen to this
5 question, because I'm not asking you to disclose a number.
6 Right now I'm just trying to find out if you know the
7 answer or not, and then we can evaluate whether it's
8 public or not. Do you have an answer as to what Sage's
9 customer base in Missouri is today or, you know, some
10 period of time relatively recently?

11 A. I do not.

12 Q. Okay. You participated in the TRO
13 proceedings, which was Case TO-2004-207 in front of this
14 Commission; is that correct? You were involved in it for
15 your company?

16 A. Yes.

17 Q. Were you -- did you review testimony
18 submitted by Sage in that case? I'm not trying to trick
19 you. It was public testimony.

20 A. Yeah. I -- I don't recall specifically.

21 Q. If I showed it to you, might it refresh
22 your recollection?

23 A. Could be.

24 MR. LUMLEY: Go off the record to mark an
25 exhibit?

1 JUDGE RUTH: Yes.

2 (EXHIBIT NO. 40 WAS MARKED FOR
3 IDENTIFICATION BY THE REPORTER.)

4 MR. LUMLEY: Your Honor, this is a copy of
5 information in the Commission's files. It's an excerpt
6 from testimony filed in a Commission docket, and I would
7 move its admission and ask the Commission to take notice
8 of its contents.

9 JUDGE RUTH: Okay. We have Exhibit 40 that
10 has been offered. It is testimony from TO-2004-0207 of
11 Robert McCausland. Are there any objections to this being
12 received into the record?

13 Staff?

14 MR. HAAS: No objection.

15 JUDGE RUTH: Public Counsel?

16 MR. DANDINO: No objection.

17 JUDGE RUTH: SBC?

18 MR. LANE: Judge, I'm going to make it as
19 an objection for the record, but what I'm looking for is
20 the opportunity to submit the entire document, if that's
21 what we choose to do after we have an opportunity to look
22 at it. It looks like this is an excerpt from it. My
23 objection is only subject to our ability to offer the
24 whole exhibit, whole testimony, if after we look at it we
25 think there's some relevant parts.

1 MR. LUMLEY: And I certainly don't have a
2 problem with that.

3 JUDGE RUTH: I find that reasonable. If --
4 will you be able to look at that by the end of the hearing
5 or do you want that to be like the sam-- the five-day -- I
6 can give you the five business days that we had discussed
7 for the other late-filed exhibits.

8 MR. LANE: That would be great. Thanks.

9 JUDGE RUTH: I'm going to reserve just in
10 case as late-filed Exhibit 40, if we need it, the entire
11 testimony. Let me mark that just --

12 MR. LUMLEY: Would that be 41?

13 JUDGE RUTH: I'm sorry. Yes, 41.

14 Mr. Lane, I'll expect that you'll file a
15 notice if you do not need late-filed Exhibit 41.

16 MR. LANE: Yes, your Honor.

17 JUDGE RUTH: Then with that caveat,
18 Exhibit 40 is received into the record.

19 (EXHIBIT NO. 40 WAS RECEIVED INTO
20 EVIDENCE.)

21 JUDGE RUTH: You may proceed, Mr. Lumley.

22 MR. LUMLEY: Thank you.

23 BY MR. LUMLEY:

24 Q. Mr. Unruh, have you had a chance to take a
25 look at that?

1 A. I have.

2 Q. And the date of the testimony is
3 December 18th of 2003, correct, on the front page?

4 A. That's correct.

5 Q. And in this exhibit Mr. McCausland
6 indicates that, as of that time, Sage had 32,700
7 residential and small business customers in Missouri,
8 correct?

9 A. That is correct.

10 Q. 94 percent residential and 6 small
11 business -- 6 percent?

12 A. That is what his testimony says.

13 Q. And 9 percent rural?

14 A. Yeah. He identified it as approximately
15 9 percent.

16 Q. And he goes on to say that Sage provides
17 its basic service exclusively through the UNE platform or
18 UNE-P, correct? Page 4, lines 5 and 6.

19 A. Yes, that's correct.

20 Q. Turning again to page 3 of your
21 surrebuttal --

22 A. I'm there.

23 Q. -- you indicate that you believe that CLECs
24 are capable of using their own switches or the switching
25 capacity of others in lieu of UNE-P, correct?

1 A. Would you point me to a specific line,
2 please.

3 Q. Line 7 through 9.

4 A. Yes. I've indicated that the basis for the
5 FCC's lack of impairment finding would be that CLECs, I
6 believe the term is reasonably efficient CLECs would be
7 able to either use their own or other providers' switching
8 capacity.

9 Q. And do you have any specific projections as
10 to the extent to which that will occur in the next one
11 year or two years, in reference to the migration of lines
12 that are currently served under the UNE-P arrangement?

13 A. No, I do not. But I would point out that
14 there are a large number of switches in the state serving
15 customers today provided by alternative providers, non-SBC
16 switches. I think that I pointed out that there are
17 30 traditional-type switches and then about another 38 or
18 so of what we've kind of labeled other types of switches,
19 like soft switches and things like that, that are capable
20 of providing service.

21 Q. And how many switches does SBC have in the
22 state?

23 A. I'm not -- I'm not certain. I can give you
24 a guess. Historically when we deployed our switches,
25 obviously a long time ago, the technology was such that

1 you needed -- you wanted switches pretty close to your
2 customer base. So we have a rather large number of
3 switches. If we were, I think, deploying a new network
4 today, you wouldn't see nearly that many. But I believe
5 we have somewhere around 200 switches.

6 Q. And that's serving 166 exchanges; is that
7 correct?

8 A. 160.

9 Q. 160. Sorry. And in your estimated figure,
10 are you including tandem switches, basically all types of
11 switches?

12 A. The count I gave I believe would include
13 tandem switches, yes.

14 Q. And you have something on the order of a
15 dozen tandem switches in the state; is that right?

16 A. Probably in that ballpark.

17 Q. And roughly 75 percent of those also serve
18 as an end office switch; they have the dual functionality?

19 A. That I'm not certain of, but that wouldn't
20 surprise me.

21 Q. You certainly agree that some of your
22 tandems have that capacity?

23 A. Yes.

24 Q. And then if we look at Schedule 5 of your
25 direct --

1 A. I'm there.

2 Q. You beat me.

3 A. And you had a head start.

4 Q. You would think. And this is -- it's a

5 two-page exhibit, correct?

6 A. That's correct.

7 Q. And it's not confidential, correct?

8 A. That's correct.

9 Q. And on this -- well, let me go back just to

10 clarify, because when you talk about CLEC switches, you

11 talk about traditional and alternative types of switches.

12 And in the figure you gave me regarding SBC switches, were

13 you counting both types?

14 A. I should have clarified that. What -- what

15 I believe to be our count of approximately 200 switches

16 would be traditional circuit switch-type switches.

17 Q. Okay. Do you have any of the other type?

18 A. I would say that we have an affiliate, for

19 example, SBC ASI that would have deployed packet-type

20 switches now. Whether those are ultimately capable of

21 providing voice services, I'm not certain.

22 Q. Do you know how many roughly?

23 A. I don't know.

24 Q. But there are at least some in the state?

25 A. Yes.

1 Q. Does that give us a pretty good sense of,
2 you know, big SBC, not SBC Missouri, but the corporate
3 family, the switches in the state of Missouri?

4 A. In terms of would there be other entities
5 that might have some switches?

6 Q. Right.

7 A. I don't believe so.

8 Q. Okay. And does your organization use
9 switches located outside the state to serve within the
10 state of Missouri?

11 A. There -- there are a few cross-boundary
12 exchanges that I believe where customers would reside in
13 Missouri but might be part of a, let's say, Kansas
14 exchange, for example. I believe those customers might be
15 served by, say, a Kansas switch in that example.

16 Q. Okay. But it would only be a handful, so
17 would it --

18 A. Relatively small.

19 Q. It wouldn't affect the accuracy of the
20 number you've already given?

21 A. Right.

22 Q. Okay. Looking at your direct Schedule 5,
23 and you refer to in your testimony you accumulate the
24 information, but the map also lays it out in more specific
25 fashion, but you refer to the 30 traditional switches, and

1 you would agree with me, wouldn't you, that those are all
2 located in St. Louis, Kansas City, Springfield or outside
3 the state proximate to those cities?

4 A. That appears to be accurate.

5 Q. And of the 38 alternative switches that
6 you've identified, the majority of those are in the metro
7 areas, but 9 would be outside what we would consider to be
8 metropolitan areas of the state?

9 A. I believe I might have counted ten, but --
10 I might have miscounted.

11 Q. We can leave it at nine or ten.

12 A. Okay.

13 Q. Would you agree with me that switches can
14 have different functionalities?

15 A. Yes.

16 Q. For example, a switch could be devoted
17 entirely to operator services, 800 services. Switches can
18 have multiple roles as we've discussed, serve as a tandem
19 and an end office, things like that?

20 A. I believe that's correct.

21 Q. And would you agree with me that once a
22 switch is in place and devoted to a particular use, it's
23 not a simple task to suddenly change it to a whole
24 different use?

25 A. I suppose that maybe varies by the switch

1 type. To the extent switches have broad functionality but
2 you've only provisioned it for a particular function,
3 it's -- I would wouldn't say it's easy. This is a
4 difficult business, but the switch is there and the
5 functionality exists to make it do other types of
6 functions. So it's certainly the case that you could
7 change it to add that functionality that you want to add.

8 Q. Okay. And I'm not trying to get you in
9 trouble. Are you familiar with your company's testimony
10 in the Level 3 arbitration?

11 A. I've not reviewed that.

12 Q. Would it surprise you that you have
13 witnesses that are resisting proposals to change the
14 functionality of your switches?

15 A. That's certainly possible.

16 Q. Okay. Now, you would agree with me that a
17 switch standing out in a field somewhere doesn't do
18 anybody much good, correct?

19 You have to connect it to customers. It
20 may be out standing in its field, but -- got to keep it
21 moving?

22 A. The purpose of putting in a switch would be
23 to try to serve customers. You would hope you would hook
24 customers up to it.

25 Q. And in general terms you would agree with

1 me that it's easier and less expensive to connect the
2 customer if their location is proximate to the switch?
3 The closer you are in general, the easier and less
4 expensive it will be to connect the customer to the
5 switch?

6 A. In general, that's correct. I think in
7 terms of designing a network, you have a tradeoff between
8 the expense of a switch versus the expense of transporting
9 to that switch, and that's what leads to your deployment
10 decisions. Do I put one switch in St. Louis and then use
11 it to serve very broad areas, as what appears to be that
12 the CLECs have chosen to do with their networks?
13 Presumably that is as a result of it being cheaper to
14 transport those calls that are long distance versus
15 putting in multiple switches.

16 Q. Okay. And that's fair enough. But on an
17 incremental basis as I'm looking at a specific
18 Customer A and Customer B, the one that's closer to the
19 switch that's already in place, in general it's going to
20 be easier and less expensive to hook them up to that
21 switch?

22 A. I think that's generally correct.

23 Q. And to make that example more concrete, if
24 I can serve the customer, if I can connect them with a
25 loop, it's going to be less expensive than if I have to

1 connect them up with an EEL, which is extended loop or a
2 combination of loop and transport?

3 A. That's generally correct. It could vary
4 based on other factors, but as a general proposition.

5 Q. I'm going to page 7 of your surrebuttal.
6 And at this point in your testimony you're discussing the
7 announcement by McLeod and XO with the availability of
8 their switching, correct?

9 A. That's correct.

10 Q. Can you identify where the McLeod switches
11 are in Missouri or how many there are?

12 A. I believe the answer is yes. I just need
13 to find it.

14 Q. And make sure whether it's confidential or
15 not. I'm not trying to lead you in doing that. And don't
16 lose your place, because I may have another question that
17 will take you to the same spot.

18 A. Too late. That's okay. According to the
19 LERG, which is the industry database the industry uses for
20 routing calls, figuring out how to get calls from
21 throughout everybody's network, McLeod identifies three
22 switches in Missouri, one in Kansas City, one in
23 Springfield and one in St. Louis.

24 Q. Okay. And same question for XO.

25 A. Based on the same source, XO appears to

1 have two switches in Missouri, both located in Maryland
2 Heights, which is a suburb of St. Louis.

3 Q. Now, with regard to the announcement of the
4 agreement between McLeod and AT&T, you attach
5 documentation to your surrebuttal regarding that
6 announcement, correct?

7 A. That is correct.

8 Q. And in that announcement would you agree
9 with me that it's indicated that as part of the proposal
10 they're seeking regulatory action as a precursor; for
11 example, resolution of batch hot cut issues?

12 A. Were you referring to McLeod's offer? Is
13 that which one you stated?

14 Q. This is your Unruh Schedule 1, the
15 McLeod/AT&T news release.

16 A. Yes, the press release speaks to issues
17 like batch hot cuts.

18 Q. Okay. And do you have information as to
19 how many AT&T lines would be specifically affected by this
20 proposal in Missouri?

21 A. I do not.

22 Q. You also provide documentation regarding
23 the McLeod/MCI announcement, correct?

24 A. That's correct.

25 Q. And in that announcement it mentions a

1 minimum of 200,000 local lines nationally, correct, first
2 paragraph?

3 A. That's correct. Just a -- okay. Yes.

4 Q. On the second page it indicates that McLeod
5 operates in 25 states?

6 A. That's correct.

7 Q. Do you have any specific information as to
8 the number of Missouri lines that would be affected?

9 A. I do not.

10 Q. And next you attach materials regarding the
11 XO announcement that you discuss in your surrebuttal,
12 correct?

13 A. That's correct.

14 Q. And is it fair to say that this
15 announcement describes business level services only,
16 P1 and PRI services?

17 A. Yes, that's correct.

18 Q. And after those materials, then you attach
19 similar -- well, similar -- documentation regarding the
20 Covad announcement that you reference in your testimony,
21 correct?

22 A. That's correct.

23 Q. And this is describing what they refer to
24 as line-powered voice?

25 A. That's correct.

1 Q. And do you understand what that is?

2 A. Not entirely.

3 Q. Are you comfortable providing a general
4 description of your understanding of what line-powered
5 voice is, or is it -- I mean, if you just would have to
6 read from this, that's fine, but if you have independent
7 information.

8 A. I don't really have independent information
9 other than what it describes here.

10 Q. Okay. But it does appear to require a
11 telephone line, correct?

12 A. If your question is is it a wireline-type
13 service, yes, that's correct.

14 Q. And you have materials regarding ZTel's
15 announcement, correct?

16 A. That's correct.

17 Q. And the second paragraph of that
18 documentation reads, how quickly ZTel rolls VOIP out
19 nationally will depend on money, how this works and how we
20 deal with it, said Andrew Graham, corporate counsel for
21 ZTel, correct?

22 A. That's correct.

23 Q. Can always count on those corporate counsel
24 to be conservative, can't you?

25 Returning to page 36 your surrebuttal --

1 A. I'm there.

2 Q. -- you refer to the back-stop mechanism at
3 line 12?

4 A. That's correct.

5 Q. And you discussed this already with Staff
6 counsel, so I'm not going to go into it in great detail,
7 but you would agree with me it's reasonable to expect that
8 if someday down the road the Commission were to seek to
9 reimpose price caps on some aspect of SBC Missouri's
10 business, that SBC would likely resist that effort?

11 A. That's safe to assume.

12 Q. On page 5 of your direct, I think around
13 line 17 --

14 A. I'm sorry. Did you say direct?

15 Q. Yes.

16 A. I'm there.

17 Q. Again around line 17, you're testifying
18 that the relief you're seeking is to gain the same retail
19 pricing flexibility that CLEC competitors enjoy, correct?

20 A. That's correct.

21 Q. Does your company believe that there will
22 be any differences between the regulation of its retail
23 pricing and the regulation of CLEC retail pricing for
24 services that are released from price caps, or do you
25 believe that they would be identically regulated at that

1 point?

2 A. I believe the retail pricing requirement
3 would be the same. However, it's certainly plausible that
4 the application of that regulation could be applied more
5 strenuously at SBC than its competitors.

6 Q. You also discuss in your testimony -- and
7 it's page 20 in your surrebuttal. You can refer to that,
8 but just in case you want to know where it is. You
9 discuss the issue of the late charge change that was put
10 into effect, I think, in the Harvester and St. Charles
11 areas?

12 A. Yes.

13 Q. And is that accurate, that's where that
14 change occurred?

15 A. Harvester and St. Charles, yes.

16 Q. So that was for residential customers?

17 A. That's correct.

18 Q. Now, does your company believe that late
19 charges are subject to price caps?

20 A. Our late payment charge is in our tariff
21 and, therefore, we, yes, believe it falls under price
22 caps.

23 Q. All right. The issues that you were
24 dealing with in those exchanges in terms of the cost of
25 collection for customers that have fallen behind or

1 refused to pay, whatever the problems are, those were not
2 unique to those two exchanges, were they?

3 A. That's correct. I mean, we face the
4 problem statewide.

5 Q. And in particular there's no demographic
6 factor that would make those particularly high-risk areas
7 or anything like that?

8 A. I don't believe there's anything that would
9 lead Harvester and St. Charles to be the only places where
10 that occurs.

11 Q. Did your company make any effort to
12 convince this Commission that late charges, in fact, are
13 not a service charge subject to price caps but are simply
14 an interest rate?

15 A. No. I think we felt that would not be
16 successful.

17 Q. On the issue of access to 911 information,
18 are you familiar with the Commission's regulations
19 regarding 911, Chapter 34 of the Code of State
20 Regulations?

21 A. I have seen them. I won't profess to be an
22 expert on what all they say.

23 Q. Would you agree with me that there's a
24 provision that says that the E911 service provider is to
25 limit access to that information to local service

1 providers solely for the purpose of keeping it accurate
2 and updated?

3 If you have the regulations there, I can
4 give you a citation.

5 A. I have it.

6 Q. I'm referring to 34.030(1)(b).

7 A. The rule indicates that the 911 service
8 provider is supposed to create a password mechanism for --
9 to make sure -- that would be used by basic local exchange
10 providers for updating 911 orders.

11 Q. To restrict access, to limit access?

12 A. Well, it uses the term "protect access by
13 use of a password."

14 Q. Okay. Now -- I'm sorry.

15 A. That's fine.

16 Q. Is SBC participating in this case as the
17 E911 service provider seeking to have E911 service
18 released from price caps?

19 A. We've not requested to have 911 service
20 declared competitive.

21 Q. Okay. So SBC is participating in this case
22 as a provider of basic local services, vertical services
23 associated with those, the Plexar services and the
24 directory assistance services, correct?

25 A. I guess we are who we are and we've asked

1 for competitive classification on the services and groups
2 of services identified in my Schedule 2 under my direct
3 testimony.

4 Q. And would you agree I just listed those by
5 category, by the category in the issues list?

6 A. I think you probably characterized them
7 correctly.

8 Q. All right. And has your company obtained
9 any authorization from this Commission to use E911
10 information in its testimony in this case?

11 A. I don't believe we need to seek
12 authorization to use the information. We've used the
13 information in these and other similar cases for several
14 years and the Commission has not taken any action as it
15 relates to the use of those 911 -- that 911 listings.

16 It's a reasonable -- I think FCC and
17 Department of Justice and this state commission have found
18 it to be a reasonable way of estimating where CLECs use
19 their own switches to provide service to customers.

20 Q. And I understand we have a disagreement
21 about that, but I'm just trying to understand if you can
22 point me to any specific directive from this Commission
23 that would authorize the use of the information in your
24 testimony?

25 A. I don't believe -- again, I don't believe

1 we needed authorization to use the testimony.

2 Q. So you don't have --

3 A. Yeah. In fact, Staff used the evidence in
4 its testimony.

5 Q. So you don't have one? I understand you're
6 saying you don't need one, but --

7 A. I think there's probably inherent
8 authorization, but can I point to a specific document that
9 says use this? No.

10 Q. All right. And you would agree with me
11 that the Protective Order in this case does not allow any
12 SBC employees other than attorneys assigned, you know, as
13 counsel of record in the case to see highly confidential
14 information from other carriers?

15 A. Yeah. I believe the Protective Order
16 restricts the ability of certain personnel as you've
17 mentioned to review evidence produced by other parties
18 that might be -- that they would deem to be highly
19 confidential or proprietary.

20 Q. In your surrebuttal at page 30, lines 13
21 and 14, you testify that you believe the marketplace will
22 be characterized by uncertainty for the foreseeable
23 future, correct?

24 A. I point out it's a very dynamic marketplace
25 with a lot of technological innovation, and that that and

1 a number of other factors will characterize as -- I've
2 characterized it as being uncertain, yes.

3 Q. At page 36, line 13, you testify the
4 marketplace is dynamic, there is no foreseeable stable
5 period, correct?

6 A. And I went on to suggest that in response
7 to other parties' views that we should just not do
8 anything at this point in time as it relates to
9 competitive classifications because there's uncertainty in
10 the marketplace, I agree there's uncertainty in the
11 marketplace and that there -- there has been uncertainty
12 in the marketplace. I believe there will continue to be
13 uncertainty in the marketplace, and there really is no, I
14 don't believe, sort of a stable period in time which I
15 think I said we'll stand still so we can completely get a
16 grasp on exactly what's transpiring in the competitive
17 marketplace.

18 I think that's the beauty of having
19 competition that leads to this kind of dynamic environment
20 where things are changing and things are -- innovation,
21 investment and new products and new services. It's an
22 example of or a testament to competition.

23 Q. At page 41, line 6 and 7, you have similar
24 testimony. Given the dynamic marketplace that exists for
25 telecommunications, I do not think anyone can accurately

1 predict what might occur in the future, correct?

2 A. What was the line number? I'm sorry.

3 Q. 6 and 7.

4 A. That's correct.

5 Q. And are you able as you sit here today to
6 predict whether any rates will go up if price caps are
7 lifted?

8 A. I can't necessarily predict that. I think
9 as in most markets prices go up, prices go down. Depends
10 on the particulars of the individual marketplace. I think
11 generally over time most general market prices tend to
12 rise. That's why we have inflation.

13 Q. And you and others for your company have
14 testified that some of your basic local service rates
15 are -- you consider them to below cost, correct?

16 A. That's correct.

17 Q. And one reason for that -- you know,
18 whether one agrees with your analysis or not, one reason
19 that the rates are where they are is because they were set
20 residually on a historic basis, correct?

21 A. That's correct. The goal is to try to
22 maximize revenue from other sources, you know, other
23 services and other sources of revenue; for example, try to
24 set prices as high as you could to try to generate as much
25 revenue as possible so you could then in turn try to make

1 basic local prices, particularly residential basic local
2 prices as low as possible. That was the historic public
3 policy -- regulatory driven public policy goals.

4 Q. And one major service category that was
5 priced higher in order to achieve those goals was switched
6 access services, correct?

7 A. Yes, I believe that's correct.

8 Q. And would you agree with me that in a
9 variety of proceedings the Commission has identified
10 switched access services as a locational monopoly?

11 A. I -- I'm certainly aware that's been
12 discussed generally in probably different sorts of cases.
13 I'm not sure I can point to a particular -- I'm not saying
14 they haven't. I wouldn't be able to specify a particular
15 finding in a particular case.

16 Q. Okay. Would you agree with me that the
17 Commission has shown a unique concern about the pricing of
18 switched access services and, therefore, even though
19 classifying it as a competitive service when offered by a
20 CLEC has required stipulations that tie -- that preclude
21 the CLECs from charging more than SBC is allowed to
22 charge?

23 A. That's correct. Just to be clear, though,
24 we're not asking for competitive classification on
25 switched access in this case.

1 Q. No. I understand that. And you agree with
2 me that your -- that SBC Missouri's switched access rates
3 are subject to the price cap statute, correct?

4 A. That's correct.

5 Q. All right. If some of these residually
6 priced services were to be released from price caps while
7 switched access service remains subject to price caps, by
8 what authority would the Commission be able to force SBC
9 to reduce switched access rates now that the subsidy is no
10 longer necessary?

11 Or if I can ask it a different way perhaps,
12 given that switched access services are subject to price
13 caps, that means that the Commission does not have
14 authority under that regime to compel you to reduce those
15 rates, correct?

16 A. That's correct.

17 MR. LUMLEY: I don't have any further
18 questions.

19 JUDGE RUTH: Okay. Actually, this is a
20 good time for a break. We have been going for a while,
21 and I think our court reporter needs a break. So until
22 10:30, we're off the record.

23 (A BREAK WAS TAKEN.)

24 JUDGE RUTH: We're back on the record after
25 a short break. We had finished with cross-examination of

1 this witness and we are now ready for questions from the
2 Bench.

3 Commissioner Clayton, would you like to
4 start?

5 COMMISSIONER CLAYTON: Unless Commissioner
6 Appling wants a piece of this action.

7 COMMISSIONER APPLING: Let me warm him up
8 just for you, okay?

9 JUDGE RUTH: Got it.

10 COMMISSIONER APPLING: Thank you.

11 QUESTIONS BY COMMISSIONER APPLING:

12 Q. What do you want us to do for you? That's
13 about as simple as you can get it. I've been sitting here
14 too long. So help me get the brain power going again.
15 Tell me what you -- what you're here for.

16 A. Sure. No problem. Commissioner, we're
17 here asking for a competitive classification for kind of
18 the -- I guess the bulk of the typical services we think
19 about when we think about what we sell to customers. Our
20 evidence -- as you know, the statute provides a mechanism
21 for us seeking a competitive classification. The
22 Commission is to grant that competitive classification
23 unless they find that effective competition didn't exist.

24 Now, we've presented a lot of evidence that
25 shows that CLECs as one example of competition are very

1 active throughout our markets in Missouri. We've also
2 presented a lot of evidence talking about what we commonly
3 refer to as alternative technologies, things like wireless
4 service and voice over Internet protocol.

5 So there's just a lot of -- we've used the
6 term "dynamic" to kind of describe the industry. There's
7 just a lot of things happening today. The market's very
8 competitive, a number of providers offering a number of
9 services that compete with our service. And we believe
10 the time has come, as the Legislature intended, to
11 eliminate price cap regulation of SBC Missouri's services
12 and thereby promoting a more fully vibrant, competitive
13 marketplace that ultimately benefits consumers. I mean,
14 ultimately this is driving to the benefit of consumers.

15 Our general economy runs on the belief that
16 firms competing with each other without -- without
17 government intervention in terms of pricing and offers and
18 things like that is the best way to run our economy, and
19 it's proved to be quite successful. So there's no reason
20 to believe that we shouldn't be doing the same thing in
21 telecommunications.

22 In fact, that is what we're doing in
23 telecommunications. Policymakers have made the decisions
24 that that is what we want out of our telecommunications
25 marketplace to have that be a fully vibrant, competitive

1 marketplace. So we believe now is the time to eliminate
2 outdated regulation, and specifically the price cap
3 regulation we have here in Missouri.

4 Q. You think this Commission has the authority
5 to do that?

6 A. Yes, definitely. The statute's very clear
7 that the mechanism by which we do that is to come to you
8 and, as we have in this proceeding, and ask for you -- ask
9 that you find that there's effective competition for the
10 services we've identified in all of our exchanges. And
11 the result of that finding is that we are then what's
12 called competitively classified, which is the same
13 classification as CLECs.

14 That would eliminate the price cap pricing
15 constraints that we face in the retail marketplace. So it
16 would put us more on par with our CLEC competitors.
17 Obviously, as other witnesses have indicated, it would --
18 we would still face more regulations than our other types
19 of competitors like wireless and voice over IP, but at
20 least it would move us into kind of the same bucket, if
21 you will, as our CLEC competitors.

22 I should also point out that this is
23 specific to retail pricing issues and does not -- your
24 finding of effective competition and, therefore,
25 competitive classification would not impact your authority

1 and ability to regulate other aspects of our business,
2 including a lot of this wholesale stuff that we've talked
3 about where we sell services to and network element --
4 network functionality to our CLEC competitors. Things
5 like quality of service and other types of regulation
6 would still exist. This is really just about pricing to
7 retail customers.

8 Q. If this Commission gave you competitive
9 classification, have you-all given any thoughts or have
10 you talked about it within SBC how this is going to affect
11 your consumer? Is that going to raise the costs, I guess?

12 A. I don't believe it will. The marketplace
13 isn't going to allow any significant price increases on
14 consumers. If we were to mistakenly try to raise prices
15 to unreasonable levels, those customers are going to
16 exercise their right to choose another provider, so
17 obviously we would lose in that environment. So that's
18 not something -- that's not something we intend to do.

19 COMMISSIONER APPLING: Commissioner
20 Clayton, he's all yours.

21 COMMISSIONER CLAYTON: Go ahead.

22 QUESTIONS BY COMMISSIONER MURRAY:

23 Q. Good morning.

24 A. Good morning.

25 Q. I'm just going to start out with some kind

1 of disjointed questions here. First of all, can you help
2 me, I seem to recall, but I can't recall where, that there
3 have been some cost studies provided at the FCC for
4 purposes of evaluating Universal Service Funding issues,
5 and that there has been an average of basic local service
6 costs presented in some format at the FCC. Am I correct
7 about that or not?

8 A. That is -- that is -- that's probably
9 correct. A lot of activity around Universal Service. I
10 believe there's been a lot of different types of
11 information presented, speaking to different types of
12 costs for Universal Service. This Missouri Commission has
13 held a case looking at Universal Service Fund issues, and
14 throughout multiple phases of that case there was a
15 significant amount of evidence presented on -- on cost to
16 provide what we might deem as Universal Service.

17 Q. And was there evidence provided as to the
18 average cost of providing basic local service?

19 A. In the Missouri proceedings, yes, there was
20 from different parties. Yes.

21 Q. Was there a statewide average developed?

22 A. I don't -- the Commission I don't believe
23 made any findings as to a parti-- what the Commission
24 would believe to be a particular level of cost. There was
25 a variety of numbers produced by the parties in the case

1 as evidence. And maybe to complete that thought,
2 ultimately the Commission, I believe, decided not to --
3 the purpose of the case was to look at do we need a high
4 cost -- one of the purposes of the case was to look at
5 whether or not we needed a high cost fund to help support
6 universal service in Missouri.

7 And the Commission found that at least at
8 that point in time the Commission did not feel like it
9 wanted to implement a high-cost fund. It did implement a
10 low-income fund to help support low-income customers.

11 Q. But to your recollection, there was no
12 finding as to a -- an average range of cost of provision
13 for local basic service?

14 A. I don't believe there was a finding to that
15 effect. Again, parties presented a range of numbers as
16 evidence.

17 Q. In this particular proceeding before us,
18 we're examining only the retail competitive market; is
19 that correct?

20 A. That's correct.

21 Q. And we are to determine whether effective
22 competition exists in that market?

23 A. That's correct.

24 Q. And this isn't the forum for the Commission
25 to resolve any wholesale issues, is it?

1 A. That is definitely correct.

2 Q. Most wholesale issues, price issues between
3 SBC and its competitors would still be under the
4 jurisdiction of this Commission, would they not, even if
5 we declare competitive status for SBC in the retail
6 market?

7 A. Yes, that's correct. The Commission
8 retains independent of their findings here in this
9 case -- again, this is about SBC Missouri's retail pricing
10 flexibility, in other words, the prices we charge to our
11 end users. The Commission would still retain its
12 authority over -- we talked a little bit in this case
13 about resale and how it -- the price that SBC Missouri
14 charges to its CLEC customers is a discount that's been
15 established by this Commission off of retail prices.
16 Separate from that is unbundled network element pricing.

17 And this Commission retains the author-- to
18 the extent the parties are not able to agree on prices for
19 unbundled network elements under the Telecommunications
20 Act and this -- the parties bring those issues to this
21 Commission for arbitration and this Commission then,
22 assuming the pricing is an issue being arbitrated, this
23 Commission then makes that decision as to what price for
24 that particular UNE we will charge.

25 Q. Now, if there are other carriers -- for

1 example, you've mentioned XO -- providing wholesale
2 services to other carriers, a company like XO would not
3 have to come in for arbitration if they couldn't reach an
4 agreeable arrangement with someone they were trying to
5 sell to wholesale, would they?

6 A. That's correct.

7 Q. So your competitor -- your wholesale
8 competitors are even subject to, let's say, much less
9 regulatory oversight than you are on the wholesale level?

10 A. That's correct. They have no requirement
11 to unbundle their networks. They are doing it as a
12 business proposition. They recognize they have -- in XO's
13 particular case, they recognize they have switching
14 capacity and they are not using it all, so it's natural
15 for them to want to try to sell some of that excess
16 capacity to other carriers.

17 Q. I want to go back to something I believe
18 Mr. Lumley was raising with you earlier, make sure I
19 understand. The new FCC ruling regarding UNE-P, assuming
20 they actually come out with a final rule, for what is
21 currently provided under UNE-P, the parties will negotiate
22 commercially acceptable agreements between themselves; is
23 that correct?

24 A. I'll go into a little bit just to maybe
25 provide some additional detail and clarity, just to make

1 sure we draw a distinction.

2 Q. And I mean after the transition.

3 A. Exactly. What the FCC presumably has
4 found, again, we just have the press release and the
5 details will be in the Order, but what they've presumably
6 found is that CLECs are no longer impaired as it relates
7 to unbundled switching, which means they -- the
8 Commission's found that CLECs are free to use their own
9 switches as they do or buy from other people, other
10 carriers. So unbundled switching will not be available.

11 Now, unbundled switching is a component of
12 what we call UNE-P, but UNE-P also includes unbundled
13 loops, the connection between our central office and the
14 end user customers, and the FCC has not found -- let me
15 say it differently.

16 The FCC is retaining the unbundling of mass
17 market -- what we call mass market loops, what you
18 typically think of as a connection out to that residential
19 customer. That will remain as an unbundled element, and
20 we will still be required to provide that UNE loop at
21 TELRIC-based price. And so those are the kind of prices
22 that eventually probably get arbitrated before this
23 Commission.

24 So there are certain components of what we
25 would call UNE-P that will still exist as a UNE, UNE loop

1 being a good example. It's just the switching piece of it
2 is no longer required to be unbundled.

3 Q. Okay. And you're not required to sell it
4 at all at any price; is that correct?

5 A. For unbundled switching, actually we retain
6 a -- a separate requirement. I believe this is specific
7 to the RBOCs, under our 271 obligations to offer unbundled
8 switching. It's separate from what we typically think
9 of -- what we've historically talked about in terms of
10 UNEs has been under Section 251 of the Federal
11 Telecommunications Act. That's unbundled network elements
12 at TELRIC-based pricing.

13 Q. So under 271 you're required to provide it,
14 but just not at TELRIC prices. Is that what I'm hearing?

15 A. That is my understanding.

16 Q. And how long does that 271 requirement
17 remain?

18 A. I'm not aware of any provision for
19 sunseting it.

20 Q. And if you and a competitor do not agree on
21 pricing, that's -- that is one element that is not subject
22 to arbitration; is that correct?

23 A. That's correct.

24 Q. After the FCC's ruling, as a result of the
25 FCC's ruling?

1 A. Right. That's correct.

2 Q. And that finding that unbundled switching,
3 that CLECs are not impaired without access to unbundled
4 switching at TELRIC rates was found by -- by the FCC after
5 considering numerous arguments to the contrary by CLECs;
6 is that correct?

7 A. Yes, that's definitely correct. And I
8 would also point out that that was a finding over the past
9 eight or so years of arguing whether or not CLECs are
10 impaired as it relates to unbundled switching, and after
11 having the FCC attempt three times to retain unbundled
12 switching and the courts finding that that was an unlawful
13 action.

14 Q. Now, a finding of no impairment by the FCC
15 doesn't necessarily equate to a conclusion that every
16 potential competitor or even every current competitor will
17 be successful without UNE-P, does it?

18 A. Right. That's correct. What they look to
19 is a reasonably efficient CLEC. It wouldn't be good
20 policy to create an environment that ensures that every
21 single provider that ever wants to provide service would
22 be successful.

23 Q. In fact, doesn't the finding of no
24 impairment mean simply that if the CLEC has the capacity
25 to be a viable competitor through normal things that a

1 competitor would have to have, such as strong financials,
2 good business plan, good management, reliable employees,
3 good marketing skills and many other things, but assuming
4 that the CLEC has that capacity, the absence of an IP, the
5 absence of unbundled switching, the absence of switching
6 that you're required to provide now will not impair that
7 viable competitor from competing?

8 A. That's correct. That's the finding that
9 presumably the FCC has made.

10 Q. And the number of switches that are
11 currently owned by CLECs in the state is not necessarily
12 indicative of the number of switches that will be owned by
13 CLECs once this ruling, this transitional period
14 completes; is that correct?

15 A. Certainly not. It's certainly plausible
16 that additional CLECs will decide to -- rather than buy
17 switching from SBC Missouri or other providers, that it
18 makes more sense for them to put in their own switches.
19 So we could certainly see additional switches in Missouri.

20 Q. On page 30 of your direct testimony --

21 A. I'm there.

22 Q. -- I realize that you've got highly
23 confidential information on that page, and I won't reveal
24 any of it, but I would like to ask you if the FCC set at
25 some point -- and here again I'm calling on my memory,

1 which I wish were better than it is, and asking you to
2 recall, call on your memory.

3 Has the FCC set some sort of a benchmark
4 for determination of competition within an exchange in
5 some proceeding, in other words, a benchmark of how many
6 CLECs are providing service or how many perhaps wireless
7 carriers are providing service within the exchange?

8 A. I'm not -- I'm not aware of any particular
9 FCC proceeding that would have done that. I guess as part
10 of their 270 -- 271 cases, which were the cases that --
11 where the companies like SBC Missouri sought permission to
12 get into the long distance business, as part of those
13 proceedings the FCC reviewed the status of competition, if
14 you will, in each of the states as that state's request
15 came before it.

16 And so the FCC made determinations
17 that the market was open to competition and that
18 competition -- and that CLECs were competing in the state.
19 So, for example, in Missouri they found that Missouri's
20 market was open to competition and that CLECs were
21 competing in Missouri.

22 Q. Okay. Are there any -- and I don't -- if
23 this is highly confidential, we'll go into closed, but I'm
24 not sure that it will be. Are there any SBC exchanges in
25 Missouri where there are no CLECs serving?

1 A. We have CLECs operating in every -- in all
2 160 of SBC Missouri's exchanges.

3 Q. Are there any exchanges in Missouri in
4 which there is only one CLEC operating?

5 A. There are just --

6 Q. SBC exchange.

7 A. Yeah. This is probably getting closer to
8 highly confidential, but --

9 Q. Well, we can go into closed.

10 A. Okay.

11 COMMISSIONER MURRAY: Judge?

12 JUDGE RUTH: I'm going to have to ask
13 counsel to help me watch better when we're no longer
14 closed. Okay, Mr. Lane?

15 MR. LANE: Yes.

16 JUDGE RUTH: And you've checked, the
17 courtroom is cleared to your satisfaction?

18 MR. LANE: It will be in a second, yes.

19 JUDGE RUTH: Pardon?

20 MR. LANE: Yes, your Honor.

21 JUDGE RUTH: And would someone back there
22 make sure the door is closed?

23 (REPORTER'S NOTE: At this point an
24 in-camera session was held, which is contained in
25 Volume 6, pages 572 through 579 of the transcript.)

1 JUDGE RUTH: We are back on the record or
2 out of in-camera. Excuse me.

3 BY COMMISSIONER MURRAY:

4 Q. Okay. Referring to schedule -- your
5 Schedule 14, that map shows all of the SBC exchanges in
6 the state; is that correct?

7 A. That's correct.

8 Q. And there is one square colored yellow
9 labeled zero, and I see one exchange identified by yellow,
10 so is there one exchange in the state that is not served
11 by any wireless carrier at this time?

12 A. I would say that in our review of the major
13 wireless carriers, we had difficulty identifying whether
14 or not a particular carrier other than Cingular and AT&T
15 Wireless provided service to Stanbury. I believe it's
16 probably highly likely that somebody in addition to
17 Cingular and AT&T Wireless covers that area.

18 It's just I think Stanbury's a very small
19 town, and it was a little difficult in talking with the
20 wireless carriers to figure out whether or not they
21 actually served that particular community. So being
22 conservative, we went ahead and marked it as no wireless
23 carriers. I would be surprised if you don't have wireless
24 service in that area, though.

25 Q. And if I were to look at your other

1 schedule that we talked about in HC, I could determine
2 whether -- how many CLECs in that exchange?

3 A. That's correct.

4 Q. And that's -- is that the only exchange in
5 the state in which you could not determine that there was
6 at least one other nonaffiliated wireless provider?

7 A. That's correct. In SBC Missouri exchanges,
8 yes.

9 Q. And I wanted to go back to Schedule 5 and
10 ask you, oh, yes, about switches regarding the exchanges
11 that are clustered around the Argyle exchange, let's say,
12 the central -- geographically central-most exchange of
13 those SBC exchanges. Can you tell me about switching in
14 that area, who's providing it and where it's being
15 provided?

16 A. There is -- I can't speak to the specifics
17 of who might be providing -- necessarily who would be
18 providing switching in that area. What Schedule 5 shows
19 is that there are a number of switches in -- in and around
20 St. Louis, a very large number, in fact in, and around
21 St. Louis. And what we find is the carriers using those
22 switches use them to serve -- or they do use them to serve
23 broad areas, and they're certainly capable of using them
24 to serve broad areas.

25 I believe I included an example in my

1 testimony where again, according to LERG data that the
2 industry uses for telling each other how to route traffic,
3 there was an example of a switch in Kansas City that had
4 numbering resources, basically NPA NXX codes out of
5 St. Louis, so it appeared as if they were serving
6 customers in St. Louis with their Kansas City switch.

7 And there are other examples like that that
8 I didn't include in my testimony where, for example, a
9 CLEC using a switch in St. Louis would be free to
10 provision service in Argyle or any of those surrounding
11 communities we've been talking.

12 Q. A switch out of St. Louis would be able to
13 serve those communities?

14 A. That's correct.

15 Q. And do you have a -- this is probably the
16 next schedule back. Okay. Schedule 5, competitive switch
17 sites and numbering resources in SBC Missouri exchanges in
18 eastern Missouri, and there is -- there are, it looks like
19 I see at least three competitive switch sites in the St.
20 Louis area. Would that be accurate?

21 A. Just to clarify, there's actually a lot
22 more than that. There's at least 17 traditional -- what
23 we've referred to as traditional circuit switch-type
24 switches, which is the kind SBC Missouri typically
25 operates, a kind of historical switch. And then we've

1 identified nine other switch types that would be things
2 more like in today's environment people are buying --
3 companies are buying things like what's commonly referred
4 to as things like soft switches that provide IP
5 functionality along with -- the functionality that was
6 provided by the more historical circuit switches.

7 So just like in the St. Louis dot there, we
8 just -- instead of trying to show 24 different dots and
9 kind of clouding up the map there, we just pointed to
10 St. Louis in general, and throughout just that portion of
11 St. Louis there's those 24 switch locations scattered
12 throughout the city. Then in addition there's also two
13 other switches located in, looks like the Chesterfield and
14 Antonia area of the St. Louis metropolitan area.

15 Q. And those are competitive switch sites?

16 A. That's correct. This is not showing any of
17 our switches.

18 Q. So someone wanting to serve any one of
19 those exchanges, including Argyle, a competitor wanting to
20 serve any one of those, assuming that that competitor were
21 unable to reach a satisfactory agreement for -- a
22 commercially negotiated agreement with SBC for switching,
23 there would be other switches available that that
24 competitor could negotiate agreements to use or could
25 provide its own switching; is that correct?

1 A. Certainly. Certainly if you're the owner
2 of one of these switches, obviously you could use it then,
3 your own switch, to serve the customer. Or if you didn't
4 own a switch, you would still have the choice of either
5 trying to reach an agreement with these providers or again
6 with SBC Missouri or purchasing your own switch.

7 Q. I hope this isn't HC, but -- and if it is,
8 I may not go there rather than close again, but the
9 exchanges that we're talking about in that little
10 geographic area where Argyle is the center, do you know
11 how those competitors are serving those customers now?
12 Are they serving with UNE-P or are they --

13 A. I can.

14 Q. Do you know, or can you find out?

15 A. Yeah. Let me check and then maybe I can
16 probably answer generally. They are generally using
17 UNE-P.

18 COMMISSIONER MURRAY: I believe I'm
19 finished. Thank you.

20 JUDGE RUTH: Commissioner Gaw?

21 COMMISSIONER GAW: I'm deferring to
22 Commissioner Clayton for the time being.

23 COMMISSIONER CLAYTON: For 15 minutes.

24 QUESTIONS BY COMMISSIONER CLAYTON:

25 Q. Craig, how long have you been with

1 Southwestern Bell?

2 A. I believe I've been with Southwestern Bell
3 for 18 years.

4 Q. So soon after divestiture, a couple years
5 after divestiture?

6 A. I started in 1986.

7 Q. So two years after divestiture. And what
8 was your role with the company in 1986?

9 A. In 1986, I was essentially a computer
10 programmer working in doing computers issues.

11 Q. So you didn't start off being the
12 regulatory affairs person?

13 A. That's correct.

14 Q. Started in other parts. In 1986, do you
15 recall -- even though you were doing probably more
16 technical type of work, do you recall the nature of the
17 type of company that Southwestern Bell was in 1986? I
18 mean, are you familiar with what was going on in the
19 marketplace in 1986?

20 A. Generally.

21 Q. Okay. What was going on in the marketplace
22 in the local phone business in 1986?

23 A. In the local business, other than -- I
24 guess it depends on how broadly you want to define the
25 local market. In terms of the --

1 Q. Well, was there a market for local service?

2 A. That's probably what I'm saying. If you
3 want to just talk about basic local service, just to keep
4 it narrowly defined, there was really sort of no general
5 type competition like we see today.

6 Q. Okay. So there was no competition in 1986
7 for local service. Were there any other local providers
8 of local telephone service in 1986?

9 A. Not on a competitive basis. Obviously you
10 had a large number of incumbents.

11 Q. Right. I mean in a given market.

12 A. Within a given market, yeah.

13 Q. Defined by a given exchange?

14 A. One provider, right.

15 Q. Okay. And how would that company, SBC in
16 this example, or Southwestern Bell at that time, how would
17 rates have been set in 1986 for a telephone company?

18 A. It would have varied by state, but my
19 understanding --

20 Q. In Missouri.

21 A. In Missouri it would have -- we would have
22 been -- that would have been before price caps, and the
23 Commission was operating under a framework of -- in terms
24 of how it established prices, we were rate of return
25 regulated, which essentially meant you identified all your

1 costs, all your expenses, and then the Commission figured
2 out a target rate of return that you were allowed to try
3 to earn, and then you set your rates accordingly.

4 And then in terms of setting specific
5 prices to try to get to that revenue requirement that was
6 established under rate of return, the Commission was
7 guided by a policy framework where it sought to -- for
8 things other than basic local service, it tried to make
9 the price as high as possible, obviously taking into
10 account demand factors and things like that, but try to
11 set the price as high as possible to generate as much
12 revenue as possible so you didn't have to generate as much
13 revenue for basic local service, with the goal primarily
14 of residential basic local service of trying to get that
15 price to be as low as possible.

16 Q. So local service was under what's generally
17 known as rate of return regulation?

18 A. Along with all the other services, yes.

19 Q. Okay. Which would be more in line of what
20 a utility would be regulated under today, with some
21 exceptions. I mean, it's a different type of business,
22 but it's the same type of regulation we would typically do
23 in an electric or a gas company?

24 A. That's my understanding.

25 Q. You agree with that?

1 A. Yes.

2 Q. Okay. And you'd agree that that type of
3 regulation is normally used in -- in a market where
4 there's a monopoly in existence, and that's why regulation
5 is necessary? Would you agree with that statement?

6 A. I would agree with that. I would maybe
7 caveat it with the -- what was occurring over time was
8 moving away from rate of return regulation to various
9 forms of what were commonly called alternative regulation
10 came in different varieties, but it was a kind of a
11 recognition that rate of return regulation might not
12 incent carriers to try to function as efficiently as
13 possible, so other mechanisms were being adopted to try to
14 incent companies to try to operate as efficiently as
15 possible. So there was a movement away from rate of
16 return regulation, at least within the telecommunications
17 industry.

18 Q. Well, this movement that you make reference
19 to, when did that movement actually allow for different
20 types of regulation?

21 A. I can't answer specifically for Missouri,
22 but I generally recall being under various forms of
23 alternative regulation that I believe was ultimately
24 decided by the Commission in terms of how it would
25 function, and it typically involved the concept was more

1 of a -- maybe a --

2 Q. Craig, you're not answering my question.

3 A. Well, I was trying to.

4 Q. I'm going to stop you there, because we're
5 kind of going around and I've got a limited amount of
6 time.

7 A. Okay.

8 Q. Would you agree that -- would you agree
9 with the statement that it -- probably that the changes
10 actually occurred, the Telecom Act in 1996 was when the
11 different forms of regulation would occur?

12 A. That's certainly when the market was opened
13 up for CLECs to enter, and then coincident with that is
14 when price caps was established for --

15 Q. So would you agree with the statement or
16 would you disagree with the statement?

17 A. I was just trying to -- I couldn't tell if
18 you were just trying to gain knowledge or -- I was just
19 trying to point out that there were some --

20 Q. I want to make sure that I -- well, let me
21 just --

22 A. -- all --

23 Q. I'll place my cards on the table.

24 A. I didn't mean -- I'm sorry. I didn't mean
25 to be controversial. I was just trying to make sure.

1 Q. I understand. Let me finish real quick.
2 I'm not trying to be controversial and part of this, I've
3 got some questions that I'd like to ask, and you have much
4 more experience in this business than I do, and I want to
5 make sure that I understand it. But I ask a question and
6 I don't need the full -- they're not complex questions.
7 So if you don't understand it or you think it can't be
8 answered easily.

9 It's my understanding that in 1994, after
10 divestiture, that rate of return regulation was the method
11 of regulation for local phone companies. Would you agree
12 with that statement?

13 A. Generally, yes.

14 Q. Okay. And it wasn't until the Telecom Act
15 of 1996 when alternative forms of regulation were brought
16 about which would include price cap regulation or even
17 competitive classifications. Would you agree with that
18 statement? Was there an intervening act that changed that
19 between 1984 and 1996?

20 A. The only point I was trying to make is I
21 think state commissions were -- they were experimenting
22 with different types of regulation. We're --

23 Q. Let's focus on Missouri. Let's focus on
24 Missouri. All my questions will be Missouri specific.

25 A. It was rate of return driven, but it wasn't

1 exactly rate of return. There were features built in to
2 where, well, how would you earn more money and --

3 Q. What would you entitle it --

4 THE REPORTER: Wait, you guys. You're on
5 top of each other.

6 COMMISSIONER CLAYTON: Well, you write down
7 my question, ma'am. Okay?

8 THE REPORTER: I can't understand it,
9 though, when you're talking at the same time.

10 COMMISSIONER CLAYTON: I understand.

11 THE WITNESS: My fault.

12 BY COMMISSIONER CLAYTON:

13 Q. What would be the title that you would use
14 for this term -- this type of regulation?

15 A. I think it was generally referred to as
16 alternative regulation.

17 Q. Okay. So it wasn't called rate of return
18 regulation. I misspoke when I started earlier; is that
19 correct?

20 A. Yeah. The major change occurred with price
21 caps in Missouri and with -- coincident with the Telecom
22 Act. That's certainly what opened the market to CLECs,
23 and then coincident with that was the movement to price
24 caps.

25 Q. Okay. But 1984 to 1996 was rate of return

1 regulation, correct, or would you call it something else?

2 A. I think through the '80s and early '90s
3 there was some experimentation with alternative forms of
4 regulation, but it was largely rate of return based.

5 Q. Largely or entirely?

6 A. I guess the -- where I'm going is that
7 the -- and I don't know the specifics of the plan, but my
8 general belief is that under rate of return, if you
9 overearn, then the Commission could come in and say, hey,
10 you overearnest and let's adjust your prices.

11 Under what these alternative forms of
12 regulations were, to the extent you were able to operate
13 more efficiently and earn more money, you got to keep a
14 portion of what might have historically been considered an
15 overearnings.

16 Q. Okay. And that's different than rate of
17 return regulation? What would you call that?

18 A. I think it was generally called alternative
19 regulation.

20 Q. And when did that begin?

21 A. I'm going to say late '80s, but I'm not --
22 I'm not certain of that.

23 Q. Was that due to FCC action or state
24 commission action?

25 A. State commission action.

1 Q. Okay. At that time was there anything
2 called competitive classification during that rate of
3 return regulation? Was there anything like the
4 competitive classification that we're talking here today?

5 A. Yes. The -- prior to the price cap
6 statute, there was another statute in existence that
7 created a mechanism whereby services could become what's
8 cons-- what was called or is called transitionally
9 competitive and then also competitive.

10 Q. Okay. And those statutes were in existence
11 prior to 1996?

12 A. That's correct.

13 Q. Okay. And how many different
14 classifications were there or are there? I mean, I
15 suppose I need to know if they're going to change, so --

16 A. Yes.

17 Q. -- until you can anticipate that question,
18 have they changed since then and what are those
19 classifications?

20 A. The statute that existed prior to price
21 caps still exists, and it contains what's called a
22 transitionally competitive classification and then a
23 competitive classification. Price caps then created a
24 different mechanism whereby a price cap regulated company
25 could obtain a competitively classified classification,

1 competitive classification.

2 Q. Okay. And was that definition of
3 competitive classification any different between the two
4 after that change in the statute?

5 A. No. I believe they end up being the same
6 result, is my understanding.

7 Q. But the definition is the same for both
8 compet -- competitive classification?

9 A. Yes.

10 Q. Yes?

11 A. Yes.

12 Q. Now, what is the definition of a
13 transitionally competitive company, if you know? If you
14 don't, you don't.

15 A. I may actually have the definition.

16 Q. You can paraphrase. I don't --

17 A. Generally, and there's -- we might want to
18 draw a distinction to use the term "transitionally
19 competitive company." When -- and I don't know if that's
20 precisely defined. The concept of transitionally
21 competitive services was, and the intent there was that
22 the service isn't in the Commission's view fully
23 competitive yet, but it's moving in that direction. And
24 so it gave a broader sense of pricing flexibility, not
25 complete pricing flexibility.

1 Q. I don't want to talk about what it does
2 yet --

3 A. Okay.

4 Q. -- or what the classification meant.

5 I just want to talk about what the
6 definition of transitionally competitive is. And I'm not
7 trying to be difficult. I'm not satisfied with that
8 definition. Competitive classification is defined by
9 effective competition in the marketplace?

10 A. For a price cap company, the -- the
11 criteria that the Commission has defined effective
12 competition and then effective to get to a competitive
13 classification, and then effective competition is defined
14 in the statute.

15 Q. Okay. And then in the transitionally --
16 just contrasting competitive classification, contrasting
17 with that, what is transitionally competitive? It's not
18 effective, but what?

19 A. It contains similar -- I'm working from
20 memory. It contains similar criteria, I guess, for the
21 Commission to evaluate, like are there substitutable
22 services in the marketplace, and I believe to find a
23 tran-- to find transitionally competitive might have also
24 had a link to the fact that there were other similar
25 services that were competitively classified.

1 Q. Now, to the best of your knowledge, under
2 Missouri law, are there any exchanges -- whether they are
3 in SBC territory or not, are there any exchanges that have
4 not yet reached the classification of transitionally
5 competitive that are not competitive, and is there a
6 definition for not competitive in the statute?

7 A. I don't believe there's a definition of not
8 competitive. I also don't believe that a number of -- I
9 don't believe that there are very many companies that
10 prior to price caps went through the transitionally
11 competitive mechanism that was defined in the statute.
12 SBC Missouri did back in 1993, I guess.

13 Q. And I mean, I understand there is a
14 difference in classification between a large ILEC and a
15 small ILEC. Would you agree that there are some small
16 ILEC exchanges which have no competition at all? Would
17 you agree with that statement?

18 A. I don't know whether or not there are small
19 ILEC exchanges that don't have wireless carriers or
20 wouldn't necessarily have a voice over IP provider or
21 anything like that. I can't speak to their exchanges.

22 Q. Would you agree that the Commission still
23 uses rate of return regulation for certain small ILECs in
24 the state of Missouri?

25 A. Yes.

1 Q. Would that not indicate that there is no or
2 little competition in those exchanges?

3 A. No, I don't think that necessarily follows.
4 For the small ILECs they have a choice of moving to price
5 cap regulation and --

6 Q. If there are alternative --

7 A. -- most of them haven't chosen to do that
8 yet.

9 Q. If there are alternative providers in their
10 exchange?

11 A. Right.

12 Q. Okay.

13 A. Yes, that would have to be met.

14 Q. Okay. Are we stopping now? Let me ask you
15 this. Apparently we're going to stop. In the meantime,
16 if you could check on that transitionally competitive,
17 that definition, and also the definition of a carrier or
18 an exchange that would not be considered competitive, I'd
19 like to discuss that when we get back. Is that okay?

20 A. Uh-huh.

21 COMMISSIONER CLAYTON: Thank you.

22 JUDGE RUTH: Okay. It is 11:30. We're
23 going to break for lunch until 12:30 by the clock in the
24 back, and we're now off the record.

25 (A BREAK WAS TAKEN.)

1 JUDGE RUTH: Mr. Unruh, you're still under
2 oath. We just had a short break for lunch, and now we are
3 ready to continue questions from the Commissioners.

4 BY COMMISSIONER CLAYTON:

5 Q. Craig, I hope you had a chance to grab a
6 bite to eat.

7 A. I did, thank you.

8 Q. Did you have four bowls of chili?

9 A. No.

10 Q. Got my badge here. I was a judge.

11 Did you have a chance to do any work on
12 that, the definition of transitionally competitive?

13 A. I did.

14 Q. Could we go back over that? And I don't
15 want to dwell on it. I just -- I want to put some things
16 in context. So I guess if you would go ahead and describe
17 for me what transitionally competitive means in contrast
18 to what a competitive classification would be.

19 A. Sure. The statute does -- the statute does
20 provide definitions of all those terms, including -- I
21 believe I mistakenly said earlier that there might not
22 have been a definition for noncompetitive services. It
23 does include that definition as well.

24 The definition of transitionally compe--
25 there's both transitionally competitive companies and

1 transitionally competitive services. A transitionally
2 competitive service is defined by the statute as
3 telecommunications service, and I'm -- just to be clear, I
4 am citing from 386.020, the definitions section. Under
5 item 57 it says, a transitionally competitive
6 telecommunications service is a telecommunications service
7 offered by a noncompetitive or transitionally competitive
8 telecommunications company and classified as
9 transitionally competitive by the Commission pursuant to
10 Section 392.361 or 392.370.

11 Q. Are we -- in this case, are we making a
12 determination of a competitive company or a competitive
13 set of services or both in this case?

14 A. In this case, we are looking at
15 competitively classified services.

16 Q. Just services?

17 A. Just services.

18 Q. Okay. And the company has already been
19 classified as competitive?

20 A. No. The company would still be considered
21 noncompetitive, a noncompetitive company. For a
22 competitive -- for a company to be defined as a
23 competitively classified company, all of its services have
24 to be defined as competitively classified services.

25 Q. Well, if we were to give you what you want

1 in this case, wouldn't that be the case?

2 A. No. We would still have a number of
3 services that would still be price cap regulated and not
4 competitively classified.

5 Q. Okay. What would remain as price cap
6 regulated if we give you the full cornucopia of things
7 that you are asking for?

8 A. There's a -- there's just a number of
9 various services that aren't really kind of your everyday
10 household services. More -- one that is more every day
11 household would be 911, and we haven't included that, but
12 there's various things like there's some kind of radar
13 service and there's convention service. There's different
14 kind of just things you don't normally think of.

15 Q. Okay. What level of competition is
16 necessary then for a transitionally competitive finding?

17 A. The -- under 392.361, which is the statute
18 that guides the Commission in terms of defining whether
19 something's transitionally competitive or competitive,
20 there are various criteria. For example, here's one that
21 the Commission -- if you go through a proceeding, the
22 Commission can determine that a telecommunications service
23 is subject to sufficient competition to justify a lesser
24 degree of regulation and that such lesser regulation is
25 consistent with the protection of ratepayers and promotes

1 the public interest, is one example.

2 Q. So it's really not defined, it's kind of a
3 very loose definition, it sounds like?

4 A. I believe so. In the -- in -- I'm
5 forgetting the case number. In, I believe it was 92-113
6 -- I'm sorry. The case was 93-116, I believe, the
7 Commission I think developed its own set of criteria for
8 examining whether or not SBC's -- the service that SBC
9 Missouri had requested to be transitionally competitive
10 were transitionally competitive.

11 Q. Okay. So moving from 1984 where the
12 company would be considered acting as a monopoly in a
13 given market, there is a system of transitions that
14 supposedly would occur moving towards a competitive
15 market. Would you agree with that statement?

16 A. Yeah. Primarily price caps is a form of
17 regulation we were placed under once the market was opened
18 up to local competition.

19 Q. It is one of the steps where -- one of the
20 steps is theoretically the market would move to a fully
21 competitive market, correct?

22 A. Yes.

23 Q. Okay. You would agree that the company
24 acted as a monopoly in 1984?

25 A. We were the only provider providing local

1 service.

2 Q. Is that a yes or a no?

3 A. Yes, I guess.

4 Q. You guess?

5 A. Well, I'm trying to decide what you meant
6 by acted as a monopoly.

7 Q. Was it a monopoly? It's not a trick
8 question.

9 A. I guess I don't know that sort of legal
10 definition of monopoly, but it's clear we were the only
11 provider of basic local service.

12 Q. So the answer is you don't know. If you
13 don't know the definition of monopoly, then the answer
14 would be you don't know.

15 A. I would say in the common sense of the way
16 we use that term, I would agree with you. I don't know if
17 there is some legal meaning that I would say wouldn't
18 apply.

19 Q. Okay. Now, with each change in definition
20 or classification, what is the -- what -- in reality, what
21 is the impact on the company? What is the company able to
22 do differently with being moved to a transitionally
23 competitive service or company, and then making the move
24 to a competitive service or company? What is the impact
25 or the result of that classification?

1 A. Under the transitionally competitive
2 classification that was created in a particular piece of
3 legislation that passed in 1987 called HB 360, which is
4 where it laid out the transitionally competitive
5 classification, the -- what happened there was if you were
6 granted a transitionally competitive classification, you
7 had the flexibility to create a range of prices for the
8 particular service that was transitionally competitive.

9 Q. So there's an impact on pricing by the
10 company on particular services, correct?

11 A. It certainly increased pricing flexibility,
12 moved prices.

13 Q. Yes or no. Yes or no. It gives you more
14 flexibility on price?

15 A. Yes, definitely.

16 Q. Let's try to get into the habit of this.
17 I'm going to ask questions that may only require a yes or
18 no answer. Don't feel like you need to answer more than
19 that unless you really feel you need to.

20 A. Okay.

21 Q. Now, are -- is there any other flexibility
22 either in marketing or providing service or any technical
23 changes where there would be an impact coming from these
24 different classifications other than price?

25 A. I don't believe so.

1 Q. Okay. So we're talking price really is the
2 ability of the company to assess and determine what price
3 should be charged or how things should be bundled or --

4 A. I believe so.

5 Q. Okay. Good. Okay. And that narrows
6 everything down to that. Now, that flexibility would
7 assist SBC in being able to compete in a marketplace at a
8 better level, would it not, or do you agree with that
9 statement?

10 A. That's certainly the intent was to increase
11 pricing flexibility in response to the growing
12 competition.

13 Q. With growing competition, the flexibility
14 loosens up your company to where you can compete with more
15 tools? And I mean tools, I meant price.

16 A. That's correct.

17 Q. Okay. Now, by implication, that statement
18 suggests that SBC is not able to compete in the various
19 markets throughout the state of Missouri right now because
20 it has not been classified competitive. Would you agree
21 with that statement or not?

22 A. I would -- I would couch it as we're less
23 effective at competing.

24 Q. Less effective?

25 A. Yes.

1 Q. Okay. Okay. Okay. Can you give me an
2 example if we were to grant competitive classification,
3 how SBC would be able to compete with cellular phone
4 service, which has been suggested to be a substitutable
5 service in this case?

6 A. I don't have a particular example of a
7 particular plan or promotion that we might offer. I think
8 you've heard the -- our various other witnesses talk about
9 they don't necessarily have any concrete plans, but the
10 ability to move prices around just like our competitors do
11 will enhance our ability to compete more effectively.

12 Q. Could you give me an example of what prices
13 you could move around that would allow you to compete
14 effectively with cellular phone service? And I know
15 you're not going to give me a detailed marketing plan. I
16 understand that.

17 A. Sure.

18 Q. I'm just asking for a few examples, if you
19 can think of any.

20 A. Well, one of the examples that -- that I
21 used in my testimony was, we have a charge called the --
22 for lack of a better term, it's called the outside the
23 base rate area charge, and it's a charge that's applied to
24 end user customers as an additive to their basic local
25 service that if -- in certain exchanges there's a boundary

1 line, if you will, and if you live outside that boundary
2 line, you get this charge applied to you, and if you're
3 inside the boundary line, you don't get the charge applied
4 to you.

5 Naturally customers living outside the line
6 don't like that, and so one of the things that in terms of
7 trying to simplify our business that we've talked about
8 doing, it's possible we could consider trying to eliminate
9 that charge, but I'd want the ability to try to recover
10 that revenue somewhere; so, for example, maybe coincident
11 with another example I've used and some of the other
12 witnesses have used about trying to equalize our basic
13 local service price.

14 Today we have about seven different prices
15 for basic local service of residential customers. We
16 might want to try to move those to just one single price.
17 Maybe as part of that effort of moving those dollars
18 around, you take that outside base rate area revenues and
19 just fold it into the pricing change you would make as
20 part of that levelizing those prices.

21 Q. And in that example, you would be
22 responding to losing wirelines outside of that boundary to
23 wireless service, and you'd be -- and what you're talking
24 about is being able to respond to win those wirelines
25 back?

1 A. Potentially, yes. But I think it gets into
2 just a broader, a broader context of the impacts that
3 pricing regulation has on us and then in turn the market.
4 One of the things that I think can occur in a market where
5 pricing regulation exists that perhaps no longer should
6 exist is -- is today, for example, we have marketing folks
7 who are working on plans and offers and they're trying to
8 decide what they want to do.

9 And if, for example, they have a choice
10 between, just to try to make this real simple, some kind
11 of promotion that's a promotion on regulated services
12 versus some kind of promotion or offer on non-regulated
13 services, there's a strong incentive for them to focus on
14 the non-regulated services because -- because putting
15 things into the regulated environment adds an inherent
16 level of risk and complication that they don't have to
17 deal with on the non-regulated side.

18 Q. Could you give me an example? What would
19 be on the non-regulated side?

20 A. Like an offer, for example, on say DSL or
21 SBC Dish, something like that.

22 Q. Okay. Would it be the goal of SBC to try
23 to reduce the market share of wireless carriers and
24 replacing them with its own wireline service?

25 A. Yes. I mean, that's -- that's what

1 competition is all about, trying to better serve that
2 customer.

3 Q. So you thought it was a trick question,
4 didn't you?

5 A. Now, what I'll add is that if that's a
6 Cingular customer, we try to find ways to have them have
7 both services and -- so we can try to find ways to
8 integrate and add value of having both Cingular and SBC.

9 Q. Can you give me an example of how SBC
10 wireline service would compete with, say, a Sprint
11 cellphone user in a particular area? Take out the
12 Cingular.

13 A. Well, certainly the customer is going to
14 have a choice when they're deciding -- how am I going to
15 communicate with people? And the particular customer or
16 what they want could vary significantly, but they might
17 be -- they're thinking about, okay, well, how am I going
18 to call people and what am I going to use to call people?
19 And one of their choices would be Sprint PCS in your
20 example, and another choice would be to have SBC Missouri
21 service. Obviously we're going to try to put offers into
22 the marketplace to convince them to buy our service.

23 Q. Do you know how many wireless access lines
24 or phone lines there are in the state of Missouri?

25 A. I did put that in my direct testimony,

1 rough number. I think it was --

2 Q. I think you may have said that it was more
3 than how many lines you-all have maybe.

4 A. I think it's around 2.5 million maybe.

5 Q. 2.5 million. And are you aware of what
6 percentage of that 2.5 million would actually be in play
7 for trying to remove them from wireless, getting rid of
8 their wireless and coming back to a wireline, what
9 percentage of those lines would be in play for that type
10 of company?

11 A. We don't know exactly, but I believe in my
12 testimony -- direct testimony we tried to estimate how
13 many wireless lines. We knew the wireless lines in the
14 state. We tried to make an estimate of wire -- if I said
15 wireline, I meant wireless, wireless phones in the state.
16 We tried to then estimate what that might mean, how many
17 wireless services there are in our territory, but it was
18 an estimation.

19 Q. Okay. And there would be a significant
20 number of those lines that those people have wireless
21 because they want wireless or it's an extra line that
22 would not be in play? It would be a minority that would
23 possibly be in play for bringing back to a wireline
24 number?

25 A. There are -- there are a number of people

1 who would -- who will choose to have a wireless phone
2 regardless of whether or not --

3 Q. Did you supply data in your testimony about
4 how many that would be out of the 2.5 million? You may
5 have just said that.

6 A. No. Let me make sure I understood your
7 question.

8 Q. How many of the 2.5 million wireless would
9 be potential wireline customers?

10 A. We did try to estimate the number of
11 wireless lines in SBC Missouri's territory -- sorry -- SBC
12 Missouri's exchanges.

13 Q. And yeah. What was that?

14 A. We estimated -- and I'll give you the
15 total, too, just put it in perspective. Based on the
16 FCC's latest report, the FCC reported that there were --
17 round it to 2.7 million wireless subscribers in Missouri.
18 And then from that we estimated there were approximately
19 1.32 million residential wireless subscribers in SBC
20 Missouri's service territory.

21 Q. And that those 1.32 million are going to --
22 will be in play for changing back to a wireline?

23 A. Well, all those -- the 1.32 million doesn't
24 necessarily mean they dropped wireline service to buy
25 wireless.

1 Q. And how many of that 1.32 million have
2 dropped wireline for wireless?

3 A. There isn't really a good way to calculate
4 that. What Mr. Shooshan's testimony showed, that when we
5 surveyed wireless subscribers, 18 percent of those
6 wireless subscribers didn't have a wireline phone.

7 Q. Okay. In that -- in his survey, did he --
8 did he ask those wireless subscribers how many would be
9 willing to drop their wireless in favor of wireline to get
10 a percentage of how many people would be in play from that
11 set?

12 A. I don't believe that question was asked
13 because the focus --

14 Q. Would that be valuable?

15 A. Well, the focus is in the reverse. We were
16 trying to gauge -- as Mr. Shooshan said, we were trying to
17 gauge how people perceived wireless service and its
18 functionality for being a substitute to SBC Missouri's
19 wireline service. That was the purpose of the study.

20 Q. Do you think that would have been
21 worthwhile to ask them the question of whether or not
22 they'd be willing to change back to wireline and do an
23 analysis from going backwards to see who's in play?
24 Wouldn't that be useful to Southwestern Bell?

25 A. I guess it might be interesting. I guess

1 maybe I think about it differently. What we're looking at
2 is -- one of the things that we look at here is, are there
3 effective -- are there alternatives to SBC Missouri's
4 landline, wireline service. And ultimately what people
5 try to get to is, you know, is there sufficient
6 competition to -- to manage prices, to constrain pricing
7 in a competitive market.

8 And so the purpose then is -- or I guess
9 what we need to look at, at least what I think we need to
10 look at is, as one piece of this was -- is wireless --
11 would people view wireless as a way of -- as an
12 alternative to SBC Missouri's landline such that if SBC
13 Missouri started we'll use the term unreasonably
14 increasing prices, would people view wireless as a
15 substitute? Would they be willing to move to wireless
16 because we've raised the price too high?

17 Q. I understand what you're saying, but my
18 question was, do you think it would be a benefit in
19 assessing the marketplace to ask a wireless user what it
20 would take for them to come back to a wireline
21 exclusively?

22 A. I guess I can see it as useful marketing
23 information. I'm not sure about the relevance of gauging
24 whether or not SBC Missouri faces effective competition
25 and one component of that being wireless, sir.

1 Q. Well, isn't one factor in this analysis
2 whether or not a service is substitutable? Is that one
3 part of this analysis?

4 A. Yes. Yes.

5 Q. And as you look at a wireline service and
6 consider whether wireless is a fair substitute, can you
7 not look at wireless service and think from the wireless
8 person's perspective whether a wireline service is a
9 substitutable service? Isn't that the same analysis?

10 A. I'm not sure that it is.

11 Q. So you're suggesting it's only a one-way
12 street in looking at it? It's only looking at it from
13 the wireline that it's faulty looking at it from the
14 wireless -- the person that you're supposedly going to go
15 compete for that, looking back, isn't that information
16 going to be helpful in determining whether service is
17 substitutable?

18 A. But we're trying to define if wireless is
19 substitutable for landline, not if landline's
20 substitutable for wireless, sir.

21 Q. Is it not one and the same? Why are they
22 different?

23 A. Well, it may or may not be. I just don't
24 see how that gets to whether or not SBC Missouri faces
25 effective competition. I mean, it could be useful

1 marketing information. I'm just not sure.

2 Q. What happens if the analysis looking from
3 the wireless side says that the wireless user does not
4 look at the wireline as a substitutable service, that a
5 wireless service is one that you can take with you that
6 offers long distance free, that has any number of things
7 and doesn't look at wireline as a substitutable service?
8 If that's the case, is wireless truly a substitutable
9 service for wireline?

10 A. Yeah, because it's in reverse. The
11 customer would need to view wireless as a substitute for
12 our landline service, not in reverse.

13 Q. But it goes one and -- you disagree with me
14 that it -- that it shouldn't matter which way you look at
15 it?

16 A. It doesn't seem to matter to me in terms of
17 trying to define if wireless is a substitute for landline
18 that it necessarily follows that landline would have to be
19 a substitute for wireless. We're not gauging the effect,
20 whether wireless faces effective competition. We're
21 gauging whether SBC Missouri faces effective competition.

22 Q. So it's not -- so it's not relevant whether
23 or not the cellphone is facing competition from the
24 wireline? They're competing in two different
25 marketplaces, or are they competing in the same

1 marketplace?

2 A. Well, they're certainly competing in the
3 same broad marketplace. A wireless phone can provide
4 different functionality, and so people may use that
5 certainly differently than a wireline phone, but it just
6 seems like we're a -- the goal here is to try to determine
7 whether or not people would view wireless service as a
8 substitute for landline.

9 Q. Doesn't that go to the core of whether it's
10 a substitutable service or not, how a wireless subscriber
11 would look at wireline?

12 A. I don't think so, because it's --

13 Q. Okay. Okay. Well, I'm not going -- that's
14 enough. On Schedule 7 of your testimony, you indicated
15 that there are some 21 CLECs operating in -- in SBC's
16 exchanges throughout the state. Is that an accurate
17 number?

18 A. Well, clarify what Schedule 7's showing.
19 Schedule 7 is showing it's a cumulation of what's on the
20 Commission's website of what carriers are authorized and
21 certificated and tariffed to serve in which exchanges. It
22 does not follow -- just so you're clear -- that -- and you
23 used the word, the number 21 -- that 21 CLECs actually
24 have a customer in a particular exchange.

25 Q. Maybe --

1 A. It's measuring two different things.

2 Q. Maybe I'm looking at the wrong schedule.

3 Maybe I'm confused on the --

4 A. There are other schedules that identify the
5 num-- what we call active CLECs, the number of CLECs
6 that --

7 Q. I thought it was your -- I thought it was
8 your schedule, and I thought it said Schedule 7. It may
9 end up being page 7.

10 A. Well, there's different ones we can look
11 at, but Schedule 10HC, for example, identifies the actual
12 number of CLECs who have customers in each exchange, and
13 that number would vary.

14 Q. It's the right schedule. It's -- the one
15 she just showed me, Schedule 7-1, which has the number of
16 CLECs that are serving in particular exchanges. So those
17 are just people who are certificated in the areas, they're
18 not necessarily providing the service?

19 A. Yeah. Again, this came from the
20 Commission's website, and it's -- the Commission Staff, I
21 believe, put together where you can pull up a community
22 and then it will give you a list of communities that their
23 tariffs say they serve that community.

24 Q. Okay.

25 A. And that's -- this is a cumulation of that

1 data.

2 Q. Okay. But this is your schedule, correct?

3 A. Correct.

4 Q. How does this schedule help us in
5 establishing whether there's competition in an exchange?

6 A. It's a piece of the puzzle that shows that
7 these CLECs have gone through the steps in terms of
8 getting certificated from the Commission and filing their
9 tariffs and identifying these exchanges that are specified
10 here as areas where they hold themselves out to provide
11 service.

12 Q. Okay. But you're not sure whether or not
13 they're actually providing service or not?

14 A. The number would vary depending on the
15 exchange in terms of CLECs that actually have customers.

16 Q. Okay. Do you know whether looking at any
17 one of those 21 CLECs that are supposedly certificated in
18 a particular exchange -- let's say we were to choose
19 Hannibal, which is an SBC exchange. Do you know whether
20 or not any of those CLECs are actively advertising
21 marketing or have a sales force on the ground working in
22 Hannibal?

23 A. I don't know the particulars of each and
24 every exchange in terms of each of the CLEC's activity.
25 The CLECs have lines in every exchange, so obviously

1 they're doing something to get customers. Could be a
2 variety of things. Sage, for example, sends out direct
3 mail pieces. They mail things to customers. I think
4 it'll just kind of vary depending on the CLEC and what
5 their individual strategy is.

6 Q. Okay. Looking at Schedule -- Unruh
7 Schedule 10HC and comparing that with Schedule 3-3 -- or
8 excuse me -- Schedule 3-1 through 3-3, which is from
9 Mr. Peters' testimony, do you know why the numbers of SBC
10 residential lines and CLEC lines are different from your
11 Schedule 10HC? Do you know why they're different?

12 A. I don't have Mr. Peters' schedule that
13 you're referring to.

14 Q. Are you familiar with the schedule I'm
15 talking about?

16 A. Well, is it the schedule that lists CLECs'
17 911 listings?

18 Q. Yes. It's a similar schedule to what
19 you've got. It's got a couple of other columns in it that
20 you probably don't like, but it's got the columns that you
21 have with a few more.

22 A. Okay. I believe if the -- the difference
23 could be due -- and I'm not sure what you're looking at
24 exactly, but the difference could be between -- what I
25 believe Mr. Peters did was he just took the lines that are

1 based on the 911 listings, which as we've discussed is a
2 -- is an estimation of lines that a CLEC uses -- serves
3 with its own switch. He may have -- I believe he isolated
4 to just that count of lines and did not count CLEC lines
5 that would be served through other ways.

6 Q. Okay. Because SBC is not competitively
7 classified in the exchanges that we're talking here, it's
8 not competing at a level that it could compete. Would you
9 agree with that statement?

10 A. Yes.

11 Q. Could I analogize, saying that you're being
12 forced to fight with only one hand tied behind your back?

13 A. I like that.

14 Q. You like that? Okay. So I'd like to
15 look -- I'm going to use your -- I'm going to use your
16 schedule because I'm sure you're more familiar with --
17 with your schedule than Mr. Peters' schedule. Do you have
18 your Schedule H10 --

19 A. 10HC?

20 Q. 10HC.

21 A. I do.

22 Q. Is everything on this HC?

23 A. Yes.

24 COMMISSIONER CLAYTON: Okay. Can we go
25 into HC, please?

1 JUDGE RUTH: Mr. Lane, are you clearing the
2 courtroom in the back there?

3 MR. LANE: We will, your Honor.

4 (REPORTER'S NOTE: At this point an
5 in-camera session was held, which is contained in
6 Volume 6, pages 621 through 638 of the transcript.)

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1 JUDGE RUTH: And we are actually going to
2 go back to Ms. Stoia. Is she available?

3 We'll go ahead and go off the record for
4 five minutes. That's not long, but that will give her a
5 chance to get up here.

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

7 JUDGE RUTH: We have Ms. Stoia back at the
8 witness chair, and you are still under oath. Ms. Stoia,
9 we have some more questions from the Bench for you, and I
10 believe Commissioner Gaw is going to start.

11 THE WITNESS: Okay.

12 ELIZABETH STOIA testified as follows:

13 QUESTIONS BY COMMISSIONER GAW:

14 Q. Good afternoon, Ms. Stoia.

15 A. Good afternoon.

16 Q. I apologize for keeping you here, and I
17 will try not to be too lengthy, but let me apologize in
18 advance if I ask you questions that you've already
19 answered.

20 A. Not a problem.

21 Q. It's not my intent to duplicate that, but I
22 have a feeling I may.

23 A. Not a problem.

24 Q. In any event, first of all, let me just ask
25 you in general, the purpose of your testimony had to do

1 with discussing residential customers. Is that mainly
2 your area in your testimony that you deal with?

3 A. Yes, residential customers and alternate
4 options from other providers.

5 Q. Okay. In your testimony you have -- you
6 provide numbers on lost revenue amounts, and in particular
7 you -- like, for instance on page 9, you talk about a
8 certain amount that's HC. I won't say what it is, but
9 that the customers -- on average the customers that you
10 lose to competition spend a certain amount of money on a
11 monthly basis?

12 A. That's correct.

13 Q. How do you determine that number?

14 A. Well, there's some assumption that's made,
15 because as you probably know, or maybe you don't know, I'm
16 in the retail side of the business, so therefore, I'm not
17 allowed to see wholesale specific information.

18 Q. Uh-huh.

19 A. So what we do is we make some assumptions.
20 We know customers who have left us who have called in and
21 talked to us and told us that. So we're able to know
22 exactly specific information on those customers. And then
23 we have to make some assumptions on the rest of the folks
24 that have left us based on order type and billing records
25 that we have. So that's how we get to that information.

1 We look at past billing records on the people that we
2 assume have left us to go to another provider, a CLEC
3 provider.

4 Q. So how -- all right. Are any of the work
5 papers in regard to how you calculated that number
6 included in any of the exhibits that we have?

7 A. As far as how I got to that dollar amount?

8 Q. Yes.

9 A. There's a chart. It's Schedule 5HC. It
10 doesn't give you the calculation of how we got to that. I
11 can try and explain that to you.

12 Q. Well, I'd like for you to do that.

13 A. Okay.

14 Q. Are there work papers that show how you
15 made the calculation?

16 A. I don't know if I got the total document
17 with all the back end -- backup information.

18 Q. Did you do the actual --

19 A. I think I just got the summary. No, I got
20 a --

21 Q. -- calculation?

22 A. No, I did not.

23 Q. Who did that?

24 A. Our MIS group?

25 Q. Who? I'm sorry.

1 A. Marketing -- our marketing information
2 systems group.

3 Q. Okay.

4 A. They pulled data for me based on my request
5 and then put it in a summary.

6 Q. You made the request?

7 A. Right.

8 Q. They did the work to make the calculation?

9 A. Right.

10 Q. Do you know, did they provide you with
11 their work papers and how they came to that particular
12 number?

13 A. Not the back -- they gave the summary. We
14 talked about how they got to these numbers, but I don't
15 have the actual back end work for that.

16 Q. Okay. So if you want to go then to the
17 Schedule 5HC, is it easier to discuss this when you can
18 refer to the numbers? If so, I'll ask the Judge to close.

19 A. I mean, we can probably go by -- whatever
20 you would like to do. I can probably do it by tier level,
21 if you'd rather have me not mention the numbers out loud.

22 Q. Why don't we go ahead and close.

23 A. Okay.

24 Q. I'm afraid we will be spending more time
25 trying to avoid something than we would if we just close.

1 JUDGE RUTH: We're going in-camera then,
2 and I need Mr. Lane to look and clear the courtroom.

3 (REPORTER'S NOTE: At this point an
4 in-camera session was held, which is contained in
5 Volume 6, pages 644 through 655 of the transcript.)

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1 JUDGE RUTH: We are now back in the public
2 session of the hearing.

3 BY COMMISSIONER GAW:

4 Q. How do the CLECs know who spends the most
5 money? How do they make a determination so that they can
6 go out and cherry pick these residential customers?

7 A. I'm not for certain how they would know
8 that. I would imagine they make some general assumptions,
9 just as anybody would that's marketing their products and
10 services to go target certain areas.

11 Q. You have to have access to some information
12 in order to target them, right? What information do they
13 have access to?

14 A. They have information or access to
15 demographic data --

16 Q. Where do they get that?

17 A. -- census data.

18 Just from any type of firm that would
19 supply that. There's census data, there's demographic
20 data that any kind of agency could provide.

21 Q. Do they have access to information from SBC
22 itself on the amount that they spend per month on their
23 phone bills?

24 A. The amount they spend when they're with us
25 or the amounts --

1 Q. Yes, the amount that they spend.

2 A. I -- unless a customer provided it, I
3 wouldn't think so.

4 Q. Okay.

5 A. And I think there's an attachment in my
6 direct testimony, Schedule 6, that might help you
7 understand why I made that assumption, if you would like
8 to look at that.

9 Q. I've got Schedule 7. Schedule 6. Okay.
10 I've got it.

11 A. It's titled Price Comparison at the top.

12 Q. Right.

13 A. Commissioner Murray and I went through this
14 this morning, and if you look at -- what I've done is I
15 took the tariffs filed for Charter, SBC, Sage, Vartec and
16 AT&T and I compared a variety of different services, the
17 basic access line, MCA rates, some vertical features, and
18 then at the bottom I compared package rates.

19 And if you look at that, this I think will
20 help you understand why I made that assumption, that they
21 are going after the top revenue customers or the customers
22 who spend the most --

23 Q. Right.

24 A. -- because they've priced their access line
25 at such a higher rate. And then, you know, there's not

1 really any incentive for customers who just want a basic
2 access line and one vertical feature to buy that service
3 from those providers.

4 However, if you look at their package
5 rates, they're extremely competitive in comparison to what
6 SBC provides, as well as when you look at their direct
7 mail, which I provide several examples in here in my
8 testimony. I think it's in Schedule 7, I have 48 pages of
9 examples of direct mail pieces that have gone out. You
10 can see that in their advertising, their direct mail
11 advertising. I'm sure you've heard their radio ads and
12 seen their TV ads and print ads out there.

13 Q. Not so much around here.

14 A. Yeah, since we're not a provider here, but
15 you can see they're not -- they're not targeting customers
16 with basic access line service or basic access line plus
17 one or two vertical features. They're targeting customers
18 with a bundled option which typically includes unlimited
19 local service and some sort of unlimited LD or a big bulk
20 of minutes, you know, of minutes of LD. So that's why I
21 made that assumption.

22 Q. Would it be -- would it be fair to say that
23 perhaps the way of the -- of CLEC marketing in order to
24 target the customers that might be spending more per month
25 is more of a -- more related to how they structure the

1 product they offer rather than how they pick out or target
2 particular customers, with some knowledge that those
3 customers spend more to begin with?

4 In other words, they're putting out -- they
5 may be putting out a package that's more appealing to
6 someone who spends more rather than identifying those
7 customers who spend more ahead of time?

8 A. I think it's a combination of both. I
9 think they've set their pricing such that -- that those
10 people who don't want a bundled offering wouldn't even
11 look at them as an option.

12 And I think they also -- I mean, anybody
13 who is in business does marketing, targeted marketing and
14 figures out who their targeted customers are. It wouldn't
15 make sense to spend money on a direct mail piece if you
16 don't have some sense of that could be a, you know,
17 success, a financial success.

18 Q. Right.

19 A. So I think it's a combination of both.

20 Q. I was trying to understand the latter part
21 in my earlier questions, if you knew how they would do
22 that.

23 A. I doubt they'd share that information with
24 me, but --

25 Q. Well, how would SBC do it?

1 A. How would SBC do it?

2 Q. Figure out which customer spend the most
3 money?

4 A. Well, we would -- based on demographic data
5 and segmentation that we do, just like any other business
6 in the country does and probably across Europe. I mean,
7 we look at --

8 Q. Do you do that work?

9 A. I work with the agency that does it, yeah.
10 We look at --

11 Q. How do they identify?

12 A. We look at lifestyle type stuff.

13 Q. Particular customers that tend to spend
14 more money?

15 A. We look at demographic data and lifestyle
16 information, location, where they live.

17 Q. What kind of demographic? Location, like,
18 for instance, if they live in Ladue, that would be -- you
19 might think that might be a good place to go market?

20 A. You know what, I'm not certain where Ladue
21 is.

22 Q. That's right. You're in Texas?

23 A. That's right.

24 Q. Let's see. If only you were in St. Louis
25 you'd be able to answer my question. Let's say there was

1 a very wealthy residential area in St. Louis County --

2 A. Okay. Yes.

3 Q. -- that might be known as Ladue.

4 A. Okay. That helps me.

5 Q. Would that -- would that be a good place to
6 try to market?

7 A. Absolutely. For bundled service,
8 absolutely. I think what we look at, again, is we look at
9 demographic data. When I say demographic, I mean
10 lifestyle type of stuff that you -- you know, it's the
11 same as politics. You know, when George Bush says he's
12 going after the soccer moms, you know, certain lifestyle
13 things fit with those type of people and we know certain
14 things about them based on customer research, customer
15 surveys, you know, that type of thing. And we also know
16 based on zip code where you live.

17 Q. Uh-huh.

18 A. You know, that's an indicator of what level
19 of spend you'll have, not just on your telecom services,
20 but anything else that you buy, whether you drive a Volvo
21 or you drive a VW. I mean, there's certain inferences you
22 can draw.

23 Q. Those are attractive customers to SBC and I
24 would assume to CLECs; is that correct?

25 A. Absolutely.

1 Q. They're going to spend more money with you,
2 you're going to try to get them in if you can. It's a
3 priority item?

4 A. I think -- I think all of our customers are
5 a priority, not just the high spend, but obviously the
6 people who have one access line and one vertical feature,
7 everybody's a priority for us. I just noticed based on my
8 experience in the time that I've been doing this that the
9 CLECs view the high spend customers as a bigger or larger
10 priority for them.

11 Q. But does SBC spend -- if I understand you
12 earlier, SBC also spends time and money trying to identify
13 those customers that might spend more --

14 A. We --

15 Q. -- and -- and have particular marketing
16 dollars spent towards acquiring those customers or
17 retaining them?

18 A. We do that for all of our customers now.

19 Q. In the same -- at the same level?

20 A. It's hard for me to say. Probably not
21 exactly at the same level. I would assume, just as you
22 would, just as anybody in this room would, that I'm going
23 to spend more money on my higher value or higher dollar
24 customer than I would on a lower dollar customer.

25 Q. Uh-huh.

1 A. But I can tell you there's certain things
2 based on our demographic and segmentation data that we
3 have that tell us that somebody who has just an access
4 line and one feature also has a propensity to purchase
5 something else. We definitely don't ignore those people.
6 We definitely have ideas and plans around how we can
7 market and target those folks for other products and
8 services that we provide.

9 Q. Does SBC make money on the residential
10 customer in your opinion that is a single line customer,
11 just has local basic service with you?

12 A. Just has local basic service and nothing
13 else?

14 Q. Yes.

15 A. No.

16 Q. Do you lose money, in your opinion?

17 A. Probably over time when you add in all of
18 the other items that go with servicing a customer. It's
19 not just providing them dial tone, you know, and as you
20 know, it's our opinion that our access lines are priced
21 below cost. So when you add in those other expense
22 factors, you know, it would be my opinion that we don't
23 make money on those customers.

24 Q. Do you market -- spend money marketing
25 those customers?

1 A. Sure.

2 Q. And in what way?

3 A. Well, if you're a basic access line
4 customers we might contact you to try and move you to call
5 waiting. We might try and move you to call waiting and
6 caller ID. We get you up to that level, we might try to
7 move you to, you know, a package, a three-feature package.
8 We certainly don't disregard or ignore them. You know, I
9 think -- I value our services, so I think anybody who has
10 an opportunity to use them sees the value of them as well.

11 I can give you an example, and that's my
12 dad, my mom and dad. Until I worked for the phone company
13 they didn't have any vertical features. They just had a
14 basic access line. Well, once I started working at SBC,
15 of course they had to get call waiting and three-way
16 calling. Next thing you know, they have caller ID and now
17 they have DSL and long distance and wireless. I think
18 it's -- I guess my point is, is we don't disregard
19 anybody.

20 Q. I can read two points into that and I'm
21 trying not to. Go ahead.

22 A. No. I guess my point is, is that we see
23 value in all of our customers, and we think if we get the
24 right opportunity to present to them our products and
25 services, they'll see value in them as well and that

1 hopefully they'll take advantage of those services that we
2 provide, regardless of whether they have basic access line
3 or more.

4 Q. Are you involved in any win-back efforts?

5 A. Not at -- I have been, but not at this
6 time, huh-uh.

7 Q. Are -- are win back -- are win back --
8 first of all, on win back, do you contact those customers
9 by phone? Does Bell do that?

10 A. Yes.

11 Q. How do they determine -- do they contact
12 everyone who has left equally on an equal priority basis,
13 or do they particularly target those who have tended to
14 spend more money with them?

15 A. We contact everybody.

16 Q. Equally?

17 A. You know, I'm not an expert on win back. I
18 was involved in my team in developing some of the
19 promotions, but the operations side of that and how we set
20 up our dialer to call them and in what priority, I -- I
21 would imagine it would be based upon the date that they
22 left us and not upon what features that they had when they
23 left us.

24 Q. What -- and I know you've hit on this
25 already probably several times. What is it that you

1 believe Bell is -- will be able to accomplish that they
2 can't accomplish now if they get the competitive status
3 designation on residential?

4 A. I think the biggest thing -- and I have
5 said this a couple of times, but the biggest thing in my
6 mind is that I'm going to have the ability to respond,
7 react and think like a competitor. In today's
8 environment, I don't have that ability. I have to not
9 only think about the market analysis, the financial
10 analysis, the operational issues, the expense, you know,
11 all of those things, but the first and foremost thing that
12 I have to consider when I'm launching a new product and
13 service is the regulatory impacts of doing that.

14 And so I think by -- by getting price cap
15 relief I'm going to be able to compete and think like a
16 competitor, whereas I can't do that today.

17 Q. Would that include the thought process that
18 you earlier suggested the CLECs have of cherry-picking?

19 A. No, because I'm under a different level of
20 obligation, and besides that, I see value in all of our
21 customers, not just a certain few that live in a certain
22 area and spend a certain dollar amount, as I explained to
23 you before.

24 Q. Well, help me to understand then what
25 you're trying to do that would be allowing you to respond,

1 react and think like a CLEC. Be more specific.

2 A. Okay. In today's environment, if I want to
3 launch a new package, let's say --

4 Q. Uh-huh.

5 A. -- I have to file CLEC notification, which
6 I know will not go away, but I have to file a 30-day CLEC
7 notification. And then on top of that, I have to file a
8 30-day tariff. So it's a 60-day time frame prior to my
9 product even being in the market that I'm letting
10 everybody else know exactly what it is I'm going to do.

11 And so within that 60-day time frame, my
12 competitors, CLECs, are able to very easily preempt me to
13 the marketplace. So I've gone through the expense, you
14 know, all of those things associated with developing and
15 deploying a new product into the marketplace only to be
16 preempted by my competitors before I can even get out in
17 the marketplace.

18 Q. Is that true with promotions?

19 A. No, not the same time frames. We still
20 have CLEC notification, but the tariff filing time frames
21 are shorter.

22 Q. And what's the difference on the
23 promotions?

24 A. It's ten days for promotions. Still 30-day
25 CLEC notification, but ten days for promotion. So we're

1 still at a disadvantage in that as well because of the
2 CLEC notification, but I know that has nothing to do with
3 this case.

4 Q. What is the CLEC notification that you're
5 referring to required by?

6 A. It's required by the interconnection
7 agreement that we have with the CLECs, that SBC has with
8 the CLECs, that our wholesale side of the business has
9 come into agreement with the CLECs.

10 Q. Okay. Does that change as a result of any
11 competitive designation?

12 A. No, it doesn't. What does change, though,
13 is the tariff filing timeframe for me.

14 Q. All right. So we're not really -- that
15 first 30-day problem that you've got is not something that
16 we would be impacting at all by this decision?

17 A. No.

18 Q. So let's talk about that next -- next time
19 frame.

20 A. Okay.

21 Q. What prevents -- what prevents SBC from
22 filing -- from filing reactions that they want to make
23 into the market as promotions?

24 A. We do it today. Nothing.

25 Q. Okay. And is there a problem with -- with

1 SBC if they find that promotion a success translating that
2 promotion into a permanent -- permanent -- or I don't know
3 if that's -- that's not really the right word -- but
4 something that's not a promotion that would require the
5 30-day notice?

6 A. If it's not a promotion, is there a problem
7 with us --

8 Q. Once it is a prom-- if you filed it as a
9 promotion, can you make an initial filing later to make it
10 more permanent?

11 A. You know, I believe the answer to that is
12 yes, but I'm going to defer to Mr. Unruh, because he's the
13 expert on those. And as I'm sure you can see, and it gets
14 very complicated and confusing when you start talking
15 about tariff filing timeframes and requirements and that
16 type of thing.

17 Q. Is -- is that -- this idea of being able to
18 react in regard to your filings the most important issue
19 that you see in regard to competitive classification?

20 A. Not the most important.

21 Q. Is there another one that's more important?

22 A. I don't know if I'd say it's more
23 important. I think it's equally important.

24 Q. All right. What is that?

25 A. I think it's -- as Mr. Unruh touched on, I

1 think it's equally important for us to be able to deliver
2 products to the marketplace that are simple and easy for
3 our customers to understand, as well as our sales folks,
4 you know, on the residential side that are -- they're
5 selling those products. I think that's equally as
6 important.

7 And today under the price cap regulation I
8 am forced to launch packages, for example, so like an
9 access line and vertical package with features on it with
10 different discount amounts, by rate group because I'm not
11 able to adjust those things so that I can have one easily
12 understandable package across the whole state of Missouri.

13 Q. I'm not following you. Be more specific.

14 A. Okay. In the state of Missouri we have
15 seven rate groups. Right. And the access line rate for
16 each one of those rate groups varies from \$7.29, I think
17 it is, to \$12.07.

18 Q. Is that for local basic?

19 A. Yeah, basic access line rate.

20 Q. So would it be accurate to say that SBC
21 would like to have one local basic rate throughout the
22 state? If they receive competitive classification, that
23 would be one of the things that would be changed?

24 A. Maybe over time. Obviously not -- we'd
25 have to do the right analysis. I'd have to look at the

1 market analysis -- a market analysis to see what kind of
2 impact that would have on my customers before I could make
3 that type of a decision to change, either to increase or
4 lower basic access line rates. The last thing I'm going
5 to do, believe me, is do something that's going to cause
6 our customers to leave us to go to somebody else for their
7 service.

8 I think what I'm trying to suggest to you
9 is I don't have the flexibility to adjust rates so that I
10 can have simplified packages across the state. I can't
11 have statewide pricing because I've got this varying
12 access line rate across the rate groups.

13 Q. You have varying rates for local basic?

14 A. Yes.

15 Q. Seven different rates?

16 A. Yep.

17 Q. Do you want to make them one?

18 A. I don't know at this time. I think
19 eventually that's something we might want to do.

20 Q. Who would make that decision? You're
21 giving me lots of assurances that you wouldn't want to do
22 that to your customers. Do you have final decision over
23 what happens to rates in Missouri?

24 A. I have significant input on that decision.

25 Q. Do you have final decision-making

1 authority?

2 A. It would be --

3 Q. Because we can move you to St. Louis and
4 then make sure that --

5 A. I -- you know, not one person in our
6 company has final decision-making authority, I would say,
7 except for Mr. Whitaker.

8 Q. Oh, yes, Mr. Whitaker.

9 A. I would say that it's a combination of
10 several different people who provide input, and I would be
11 one of those people. I would have significant input on
12 any decision made regarding access line rates in the state
13 of Missouri or any other state in our footprint.

14 Q. So I'm just trying to track with you here,
15 because you're telling me that you think seven rates are
16 too many, because it's too complicated. So how many rates
17 do you want?

18 A. I haven't done that analysis. All I can
19 tell you is seven rates is complicated, and it's confusing
20 for the customer.

21 Q. Well, if you have one rate --

22 A. Uh-huh.

23 Q. -- are they all going to go down to the low
24 rate?

25 A. I haven't done that analysis. I can't

1 answer that question.

2 Q. You would be pricing all of your rates --
3 you already told me that you believe that it cost -- that
4 you're under cost on local basic?

5 A. Uh-huh.

6 Q. So would you bring all of your rates down
7 to the lowest cost, even knowing that?

8 A. You know, it's so hard for me to answer
9 that question. I wish I could answer it, but I haven't
10 done a financial analysis. And for me to say something
11 like that under oath and then, you know --

12 Q. My problem is that I'm trying to understand
13 what's likely to occur here, because -- because one of my
14 obligations is to ensure that this competition that's out
15 there is going to act as a surrogate for regulation under
16 the statute, as I understand it.

17 A. Uh-huh.

18 Q. Usually things are worded just the
19 opposite, but in the Missouri statutes it's worded that
20 way. And then I've got to look at public interest issues
21 under that section as well, I think. So I'm trying to
22 understand what the impact to those consumers might be,
23 and you're not helping me right now.

24 A. I could tell you --

25 Q. As to what Bell's intention is if there is

1 competitive status declared for residential.

2 A. I can tell you that I haven't done the
3 financial analysis to answer that question in particular,
4 but I can tell you a couple things.

5 The first one is, the last thing that I'm
6 going to do is do something that would cause my customers
7 to leave SBC and go to another provider, whether it's a
8 CLEC, voice over IP or wireless. I can guarantee you
9 that. I'm going to do the appropriate financial analysis.
10 I'm going to do the market analysis. I'm going to talk to
11 my customers and see what it is that they want. I'm not
12 going to do anything that's going to affect us losing more
13 access lines.

14 Q. Now, when you say you're not going to do
15 anything to cause them to leave, does that mean you're --
16 is that the same thing as saying you're not going to do
17 anything to want to cause them to leave or that you're not
18 going to do anything that would allow them to go to
19 another provider, if there was one there?

20 A. I don't think I have -- when you say allow
21 them, I can't control if they decide to -- what do you
22 mean by allow them?

23 Q. My point is, what if they don't have much
24 other choice but to be your customer?

25 A. You mean because the competitors have

1 priced their basic access line rates at such a high level

2 or --

3 Q. There's just nothing else out there that's
4 comparable.

5 A. I think there's lots of options out there.

6 Q. Let's talk about them.

7 A. Okay.

8 Q. Let's talk about your options. You talk
9 about VOIP, right?

10 A. Yes.

11 Q. And talking about voice over IP, what do
12 you have to have to be able to access VOIP in your house?

13 A. A broadband connection.

14 Q. All right. Now, if I don't have a
15 broadband connection, can I get it?

16 A. No.

17 Q. No. All right. So if I do have a
18 broadband connection and it comes off of SBC's DSL --

19 A. Yes.

20 Q. -- can I get a naked DSL line from SBC?

21 A. Not at this time.

22 Q. No. And is it anticipated that I'll be
23 able to get one in any discussions that you've heard
24 internally that you can disclose?

25 A. I don't have any information regarding

1 that. I don't work at that affiliate.

2 Q. When I get a DSL line, what do I get with
3 it when I order it from SBC? What's my minimum that I get
4 with that, the DSL?

5 A. You mean like equipment or --

6 Q. No. From the standpoint of what -- what
7 the package consists of.

8 A. Like the level of bandwidth or --

9 Q. No. Do I have a -- do I have an Internet
10 provider? Does Yahoo come with it?

11 A. You can buy SBC ASI's transport product
12 from several different ISPs, so there's SBC IS is one of
13 them --

14 Q. Okay.

15 A. -- which is the one that I deal with, the
16 retail product.

17 There's also other providers that sell SBC
18 ASI's transport product, which is our DSL product. So you
19 don't have to pick.

20 Q. What does it cost me to get DSL?

21 A. I think it depends upon whether you buy it
22 online, whether you have other vertical features, whether
23 you're -- you know, buy it through the channel, the level
24 of contract you have, that kind of thing. I think the
25 price points range from 19.95 a month to --

1 Q. What do I get from 19.95 a month? What
2 comes with that?

3 A. You get a self-install kit.

4 Q. Self-install kit. Okay.

5 A. Okay. Which is the equipment, you know,
6 that you need to get it to work, the modem. And you get
7 bandwidth, high-speed bandwidth.

8 Q. How -- how wide?

9 A. You know, I'm not exactly sure, so I'd hate
10 to give --

11 Q. That's okay.

12 A. -- you the wrong speed tiers.

13 Q. There are different speeds that you can --

14 A. Yeah.

15 Q. -- acquire for different prices, right?

16 A. Right. Exactly.

17 Q. What else do I get?

18 A. What else do you get?

19 Q. Uh-huh.

20 A. I think that's it.

21 Q. So if I plug my computer in, my computer,
22 right, to your DSL?

23 A. Modem.

24 Q. Right. And I turn it on, I click on, what
25 happens if I access the Internet?

1 A. So are you wanting to know how to set it
2 up?

3 Q. No. I want to know, does Yahoo come up,
4 who comes up?

5 A. Oh, well, it depends upon who you buy it
6 from.

7 Q. Is that in addition to the 19.95?

8 A. No, no, no. It depends --

9 Q. That's what I'm trying to figure out, what
10 comes with the 19.95. What else comes with it? Do I get
11 Internet service with that?

12 A. Yes.

13 Q. From who? Could be several? It could be
14 Yahoo?

15 A. Could be Yahoo. Could be AOL. Could be --
16 I can't think of another provider off the top of my head.
17 There's several that sell.

18 Q. Can I get DSL from SBC and get my telephone
19 from somebody else?

20 A. If you wanted an additional line.

21 Q. Oh, no. On that line.

22 A. No.

23 Q. Okay. So I can't get it on that line. I
24 can get telephone service from SBC on that line, though,
25 right?

1 A. Sure.

2 Q. But you won't allow another competitor to
3 come in and use that line if you have it for DSL?

4 A. If you're asking me if we sell DSL on a
5 naked loop or stand-alone, the answer to that question is
6 at this time we don't.

7 Q. Okay. Now, if -- how much does it cost for
8 my telephone service, local basic?

9 A. Depends upon which rate group you're in.

10 Q. Pick one.

11 A. \$7.29.

12 Q. That's the low one, right?

13 A. Yes.

14 Q. That's in addition to the 19.95?

15 A. Right.

16 Q. All right. Okay. So I've got phone
17 access, right?

18 A. Yep.

19 Q. And I've got access on DSL. Now, tell me
20 why I want to get voice over IP for my local.

21 A. Because you've got a house full of
22 teenagers or one teenager or two teenagers or you've got a
23 business that you conduct out of your house, and so rather
24 than install an additional line from SBC, you're going to
25 get VOIP service for your teenager or for conducting

1 business from home.

2 Q. So it's an additional line issue?

3 A. And that --

4 Q. How much does it cost? How much can I get
5 VOIP service for?

6 A. Starts at like 24.99, and it goes up from
7 there, depending upon who the provider is.

8 Q. All right.

9 A. But in that instance, yeah, about 24.99 in
10 that hypothetical situation that you're describing.

11 Q. What can I get my second line for on local
12 basic?

13 A. 7.29 to 12.07 in the state of Missouri.
14 The rates are the same.

15 Q. So if I'm requesting to get the VOIP
16 service, I'm not going to get it for local basic, and I'll
17 only get it for long distance, because the price is a lot
18 cheaper to get the second line from SBC?

19 A. Yeah, but when you get unlimited long dis--
20 and what you asked me was the basic access line rates.

21 Q. That's all I know.

22 A. Yeah, but the price I quoted you for Vonage
23 isn't just for basic local service.

24 Q. It includes other things?

25 A. It includes custom calling features. It

1 includes unlimited long distance.

2 Q. Unlimited long distance, but we're not
3 talking about long distance competition right now, right?

4 A. No, but if you're talking about why would I
5 substitute VOIP for an additional line --

6 Q. Because you could get other things besides
7 local basic, such as unlimited long distance?

8 A. It's because you could -- if you're using
9 it for a teen line, you're going to want all those other
10 things on your additional line. You're going to
11 substitute VOIP for your additional line because you can
12 get all of those things you'd want on your teen line
13 through a VOIP service for cheaper.

14 Q. If I wanted long distance service?

15 A. Or if you wanted caller ID or if you wanted
16 three-way calling when you, you know --

17 Q. Can I get Vonage service with those
18 vertical services and lo-- but with only local calling, no
19 long distance?

20 A. Let me look at my schedule and see if it
21 tells us in here. Yeah, you can. You can get a basic
22 package with Vonage -- I'm looking at Schedule 7, page 36
23 of 48. You can get a basic package -- I think your
24 question was, can I get a basic package with just local --

25 Q. Uh-huh. Vonage.

1 A. -- without any vertical features or --
2 Q. No, without any long distance.
3 A. Yes, you can.
4 Q. How much is that?
5 A. 14.99.
6 Q. 14.99. And what comes with that?
7 A. It includes, from what this says,
8 500 minutes anywhere.
9 Q. That includes long distance then?
10 A. Yeah. You're right.
11 Q. So you can't get it without the long
12 distance, is all I'm trying to ask you?
13 A. Yeah, but I think -- okay. If you want to
14 compare apples to apples, you know, most providers do
15 offer unlimited local and unlimited LD. You know, those
16 lines have really blurred between those two offerings, but
17 if you look at the CLEC offers throughout my testimony,
18 you'll see that, you know, if you want to make an apples
19 to apples comparison, that's what everybody is marketing.
20 That's what customers want.
21 Q. Can SBC package and bundle currently under
22 current regulatory environment if they're not under price
23 cap environment in Missouri?
24 A. I can package.
25 Q. Can you bundle?

1 A. What's your definition of bundle?

2 Q. What's yours? It's your-all's word, not
3 mine. You-all use it all the time.

4 A. Bundle means adding together access line
5 with other products and services. And the answer to your
6 question is, can I bundle under the price cap?

7 Q. Uh-huh.

8 A. Yes, I can.

9 Q. Okay. Does SBC bundle things that are
10 outside of just local basic and bundle with other entities
11 and affiliates in marketing packages?

12 A. Yes, we do.

13 Q. When you do that, how is that filed in
14 regard to the portion of the bundle that would be --
15 include vertical services and local basic? How is that --
16 how is that handled in regard to filings at the Commission
17 here?

18 A. Do you mean if I am introducing a new
19 bundle or if I'm pro--

20 Q. If you have a bundle package, you're doing
21 a promotion, maybe it includes your -- your DSL service
22 and other things that aren't really regulated. Maybe it's
23 a dish that's included in there and you've got a package.
24 You can do all of this, unlimited calling, maybe the whole
25 package you get the local Vonage, everything. What do you

1 have to file here?

2 A. Well, if I'm taking a discount on the
3 regulated portion of that package or bundle, then I have
4 to file a -- a tariff for that promotion. So for example,
5 for example, if I was going to say sign up for the X, Y, Z
6 package and get 10 bucks off for each month for three
7 months, and the \$10 was being taken off of the regulated
8 components, then I would file a tariff, a professional
9 tariff, you know, seeking approval to be able to do that.

10 Q. Okay.

11 A. Does that answer your question?

12 Q. I think so.

13 A. Okay.

14 Q. So when you say promotional tariff, that
15 would mean that you could file that within the ten-day
16 window in Missouri?

17 A. That's correct.

18 Q. All right. Does the customer see the price
19 differential on the local basic when you -- when you
20 bundle a promotion like that? I don't know how it works.

21 A. You mean on the bill?

22 Q. Yeah.

23 A. On the bill?

24 Q. Yeah.

25 A. Well, and you're probably not familiar with

1 this --

2 Q. No.

3 A. -- but we can't do promotions on basic
4 access line service. Typically what we do it on is the
5 vertical feature package, and if we do that, then the
6 discount that is applied for that, like I said before, X,
7 Y, Z package \$10 every three months --

8 Q. Right.

9 A. -- they would see that on their bill. It
10 would say \$10 discount or credit or something like that on
11 their bill.

12 Q. When it's marketed, is it marketed in
13 broken-down figures or is it just marketed as one price
14 for all those services grouped together, do you know?

15 A. Are you talking about a promotional
16 offering?

17 Q. Let's say it's promotional. If you're out
18 there in the newspaper or something, you're saying you can
19 get all these services for, is it just all these services
20 for this price, 24.99 or 105.67? I mean, what -- is it --
21 is that how it's marketed?

22 A. I think it depends. I mean, if we're
23 talking about a promotional offer, say, for example I have
24 a package that's out in the marketplace and I'm offering
25 \$10 off each month for a three-month period --

1 Q. Okay.

2 A. -- then what you would see is \$10 off for
3 three months.

4 If you're asking me how do we advertise the
5 package price that includes affiliate, is that what you're
6 asking me?

7 Q. Yes.

8 A. Okay.

9 Q. That's really what I'm asking.

10 A. We -- it depends. It depends upon what the
11 product is. Sometimes we'll say, you know, get the
12 combination of three things for up to X dollars. In some
13 cases we'll actually advertise a static price point. It
14 just depends on what the particular offer is.

15 Q. Is there anything under current -- under
16 the price cap regulation prevents you from lowering prices
17 for bundles of vertical services in local basic?

18 A. Not to my knowledge.

19 Q. Okay. And, in fact, you do have packages
20 of vertical services that are priced at a different amount
21 than the sum of those vertical services at a tariffed rate
22 that are offered on a fairly frequent basis, don't you, if
23 they were priced a la carte?

24 A. Oh, sure.

25 Q. That's three, two and a half hours. All

1 right. I'm trying to remember.

2 A. Thank you.

3 Q. Okay. So I've got two major points from

4 you; your ability to respond, react and think like a CLEC,

5 and then -- and that's a yes?

6 A. That's a yes. Sorry.

7 Q. And then the other one was a -- was to be

8 able to deliver products to the market that are simple and

9 easy to understand?

10 A. That's correct.

11 Q. And those are your two reasons for wanting

12 competitive classification from your standpoint?

13 A. Those are two reasons, yeah. Those are two

14 reasons that I have.

15 Q. Do you have others?

16 A. I have lots of different reasons.

17 Q. Well, remember that the clock is ticking,

18 so if you have other reasons, you need to --

19 A. This is much more important to --

20 Q. -- announce them.

21 A. This is much more important to me than

22 making sure I get back to San Antonio tonight.

23 Q. I understand. Just tell me -- but tell me

24 if there are other things I should be concerned about.

25 A. I just -- I just don't think that -- I

1 think that we're doing the consumer a disservice by not
2 allowing everybody to compete on an even playing field. I
3 understand that even with the price cap, if it is removed,
4 we're still not going to be on the same playing field, but
5 I think we're doing the customer a disservice by not
6 allowing us to have the opportunity to compete and think
7 like our competitors.

8 Q. Do you have another reason besides the two
9 that you gave me for believing that going to competitive
10 classification is a -- is something that would be a
11 positive thing?

12 A. I think it would be positive for customers,
13 for consumers.

14 Q. Be more specific for me, though. I mean,
15 that opinion is -- is a nice marketing tool, but help me
16 to understand specifically how you would -- you believe
17 that would take place.

18 A. Well, it's back to the first two reasons I
19 gave you.

20 Q. Okay. That's all I'm trying to do is make
21 sure -- I want to make sure I've explored the universe of
22 your rationale for why we should -- why it would be better
23 from a public interest standpoint to move to a competitive
24 classification.

25 A. Okay.

1 Q. All right. So we've got two reasons from
2 you. That's what I'm trying to make sure of.

3 A. There's also risk associated.

4 Q. I knew there would be something else.

5 A. There's also --

6 Q. Okay. What is that?

7 A. There's also risk associated for us, for
8 SBC. You know, we all do our best that we can in our jobs
9 every day, but there's things that -- in launching a new
10 product that we may not take into consideration or may not
11 fully understand that if I launch a new product at a
12 certain price and realize that I made a mistake and want
13 to increase that, to compensate for that mistake under the
14 price caps, I'm limited in my ability.

15 Q. Give me an example.

16 A. Of something?

17 Q. That would meet that test that you just --
18 that result.

19 A. Let's say I wanted to launch a new package
20 and I do what I think is appropriate analysis, financial
21 market analysis. I think I have taken into account --
22 into account all the appropriate expense items, and I get
23 it out in the marketplace.

24 Q. Give me a specific item that you're
25 thinking of or an example of where you -- where that's

1 occurred or something --

2 A. Well, you know --

3 Q. -- with a particular product or service.

4 A. We haven't launched a new product in over
5 five years simply -- which has a lot to do with the
6 regulation that we're under, at least not a regulated
7 product because we're concerned about the risks that we're
8 under. So for me to give you an exact example of a
9 product that we've launched where this has occurred, I
10 can't give you that example.

11 Q. You haven't launched a new product in
12 five years?

13 A. A new regulated.

14 Q. What do you consider -- what would be an
15 example of a new regulated product?

16 A. Like privacy manager.

17 Q. What is that?

18 A. That's a service where if you call and you
19 don't deliver your caller ID, you get a recording that
20 says, you know, please enter a PIN number or, you know,
21 after the tone record your name so that the person on the
22 other phone can either accept or reject your call.

23 Q. Do you have that service now?

24 A. Do I personally have it or --

25 Q. No. Does SBC offer it?

1 A. Yeah.

2 Q. Okay. So that was -- and obviously that
3 was something more than five years ago when it came into
4 being?

5 A. Five or six years ago.

6 Q. All right. So -- and it's subject in an
7 a la carte pricing to --

8 A. Price cap.

9 Q. -- price cap?

10 A. Uh-huh.

11 Q. And if you would offer one particular
12 service tomorrow in a la carte, that would be subject to
13 price cap going forward?

14 A. That's my understanding, uh-huh. Yes.
15 Correct.

16 Q. Okay. Well, assuming that to be the case,
17 is there any -- is there any reason why you would be
18 concerned that you might price it too low?

19 A. Right.

20 Q. And that it would not be -- that you would
21 not be able to recover your costs?

22 A. Right.

23 Q. Can you drop a service after it's started?

24 A. Yes.

25 Q. All right.

1 A. You mean drop the price or drop offering
2 it?

3 Q. Stop the service.

4 A. I don't know if we can -- once we've filed
5 a tariff for a service, if we're able to immediately drop
6 it. I think there's some regulation around grandfathering
7 and sunseting products, so I don't think it's something
8 we can do in a quick time frame. I think there's an
9 extended period.

10 Q. You don't know?

11 A. I don't know the exact time frame. I can
12 tell you we can't just pull something out of our product
13 lineup if it's tariffed already.

14 Q. You'd have to withdraw the tariff?

15 A. Right, which there's time frame associated
16 with doing that.

17 Q. But it can be done, correct?

18 A. Sure.

19 Q. Can you -- so your concern would be you
20 made an error in the calculation and for -- that is the
21 reason why for five years SBC has failed to offer any new
22 services, because they're fearful that their analysis of
23 what they price something at would be wrong, so they are
24 afraid to offer any new services to customers?

25 A. I think that's a piece, that's a component.

1 There are risks associated with -- as any business owner
2 would tell you, if you don't have control over your
3 pricing of your product.

4 Q. Is SBC considered -- does SBC management
5 consider taking risk bad business de-- a bad business
6 decision?

7 A. I don't -- no, we don't. I think it
8 depends upon which area of the business you're taking the
9 risk in.

10 Q. Would you say SBC didn't take any risks
11 when it decided to -- through its affiliates to acquire
12 AT&T Wireless? Was there no risk in that?

13 A. Not in the regulatory risk.

14 Q. Were there business risks?

15 A. Sure, but I -- sure.

16 Q. Were there any -- would you say there might
17 be any risks in acquiring AT&T when SBC proffered
18 acquiring AT&T?

19 A. Sure, but I think we're talking about two
20 different things.

21 Q. Right. One of them -- a couple of those
22 examples carry a lot more risk with it than the example I
23 gave initially, wouldn't you say?

24 A. It's a different type of risk.

25 Q. Well, okay. I'll leave it at that.

1 What -- if I -- if you're looking at what you want to do
2 on the flexibility regarding prices in Missouri, if you're
3 free to price where -- these services wherever you want,
4 what is going -- what is likely to change in your prices
5 in the state?

6 A. If I get the flexibility, you're asking me
7 what's likely to change in the state?

8 Q. Yes. Will my basic local rates stay the
9 same, go down or go up in your estimation?

10 A. I haven't done the business case. I
11 haven't done the analysis. I haven't talked to the
12 customers. I don't -- I can tell you we're not going to
13 do something that's going to cause customers to leave us.

14 Q. Has anyone in your company done that
15 analysis?

16 A. Not yet. We don't have competitive
17 classification.

18 Q. So before you get competitive
19 classification, no one's spending any time determining
20 what would happen if you got it?

21 A. We haven't done any of that.

22 Q. No one in the company has done any analysis
23 on what would happen in Missouri if you got competitive
24 classification from this Commission?

25 A. I haven't done any focus groups. I haven't

1 done any financial analysis. I haven't done any of that.

2 Q. And I'm not asking specifically whether you
3 have. Your answer was that the company hasn't, right?

4 A. Not to my knowledge.

5 Q. All right. Well, would it have occurred
6 without your knowledge?

7 A. I doubt it.

8 Q. Okay. I think I'll just talk to Mr. Unruh
9 and let you go catch your plane, Ms. Stoia. Thank you
10 very much.

11 A. Thank you, sir.

12 JUDGE RUTH: We're going to need to offer
13 the parties an opportunity to do recross based on the
14 questions from the Bench.

15 COMMISSIONER MURRAY: Judge, could I ask,
16 is there still time even to catch your plane?

17 THE WITNESS: Sure.

18 COMMISSIONER MURRAY: You don't allow
19 nearly as much time as I do to get to the airport.

20 THE WITNESS: But if you have another
21 question, I'm --

22 COMMISSIONER MURRAY: Well, no, I don't.
23 If you think you can still make it, then I --

24 THE WITNESS: No, go ahead.

25 COMMISSIONER MURRAY: If you couldn't make

1 it --

2 THE WITNESS: Go ahead. I'm fine.

3 COMMISSIONER MURRAY: I think you're
4 cutting it really close at this point. Thank you.

5 JUDGE RUTH: No? Okay. Then I will start
6 with Staff for recross based on questions from the Bench.

7 MR. HAAS: Yes, your Honor.

8 RECROSS-EXAMINATION BY MR. HAAS:

9 Q. In response to a question from Commissioner
10 Gaw, I believe you stated that SBC did not or could not
11 have statewide pricing for bundles; is that correct?

12 A. Statewide discounting.

13 Q. Statewide pricing or --

14 A. I don't recall exactly what.

15 Q. Let me set up a situation for you. Is it
16 your opinion that SBC could not offer a bundle of basic
17 local and let's say DSL and price that at \$40 in all of
18 its exchanges?

19 A. We could, but the discount amounts, as I
20 explained earlier, would vary depending upon what rate
21 group you're in to get to that price point, which becomes
22 very confusing for customers when they read their bill and
23 very confusing for employees, service reps who are trying
24 to offer that service.

25 Q. Why were you phrasing it as a discount

1 instead of as a price?

2 A. Well, if I'm going to build a package --
3 well, okay. If I'm going to build it as a regular retail
4 price for DSL and a regular retail price for the basic
5 access line, no, I can't get a single statewide price
6 point.

7 Q. Not even doing them as a bundle?

8 A. No.

9 Q. And why is that?

10 A. Unless I provide a discount, I can't get to
11 a single price point, because my access rates change by
12 rate group across the state, so my -- my denominator
13 changes across state, although my DSL price point might be
14 the same. Say, for example, Rate Group 1, \$7.29, DSL
15 19.95, if you add those together it comes out to -- let's
16 round it up to \$20 and \$7.30. So that's 27.30. Rate
17 Group 2 has a different price point.

18 So the denominator changes. The
19 denominator is not the same across the state. The DSL
20 rate is the same across the state, but the denominator,
21 the basic access line rate is not the same. So unless I
22 provided discount on that access line rate, I can't get to
23 a flat rate price point across the state of Missouri.

24 MR. HAAS: I think I understand where
25 you're coming from, but I don't agree with it. But we'll

1 let you leave today.

2 JUDGE RUTH: Public Counsel, do you have

3 recross?

4 MR. DANDINO: I have no questions.

5 JUDGE RUTH: Mr. Lumley?

6 MR. LUMLEY: No questions.

7 JUDGE RUTH: Redirect?

8 MR. BUB: None, your Honor. Thank you.

9 JUDGE RUTH: All right. Ms. Stoia, you are

10 excused.

11 (Witness excused.)

12 JUDGE RUTH: We have been on the record for

13 a while. I think we'll take a ten-minute break. Come

14 back at five 'til three, and at that time we'll continue

15 with Mr. Unruh. We're off the record.

16 (A BREAK WAS TAKEN.)

17 JUDGE RUTH: We are now ready to continue

18 with some questions from the Bench for witness Craig

19 Unruh, and Commissioner Gaw, we'll start with you.

20 CRAIG UNRUH testified as follows:

21 QUESTIONS BY COMMISSIONER GAW:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. Mr. Unruh, do you know Mr. Whitaker?

25 A. We're not close personal friends, but I

1 have met the gentleman.

2 Q. You have met him?

3 A. I have.

4 Q. Where is he, by the way?

5 A. In some undisclosed location. He resides
6 in San Antonio. Where he is today, I don't know.

7 Q. San Antonio, Texas?

8 A. Yes.

9 Q. That's what I thought. Would you mind
10 explaining to me whether that quote that's attributed to
11 him about wireless calls not being a substitute is a
12 misquote? Did he really say that?

13 A. I don't know whether or not he really said
14 that, but even -- let's assume for the moment that he did.
15 It sounded to me like a salesman who's running a wireline
16 business trying to hang onto some wireline business.

17 Q. So if you were talking to him today, would
18 you ask him to correct that statement?

19 A. It would perhaps have to be in the right
20 context. Like we were joking before we went on the
21 record, I value my paycheck.

22 Q. He did say that, though? I mean, that's --
23 he's at least had that quote attributed to him in media
24 accounts, has he not, that wireless is not a substitute
25 for wireline?

1 A. I don't recall if that was his exact quote,
2 but something to that effect.

3 Q. All right.

4 A. And --

5 Q. Did you get your testimony approved by him
6 before you filed it, Mr. Unruh?

7 A. No, I did not.

8 Q. All right.

9 A. And, you know, it's --

10 Q. Should we run it by him, do you think?
11 Maybe we could have him come in here and explain his quote
12 to us.

13 A. I don't -- I don't know that that would be
14 necessary.

15 Q. Does he like to come to state commissions
16 and testify?

17 A. He probably doesn't like to testify, but he
18 does like talking with state commissioners.

19 Q. Okay. All right. Let me see if I can get
20 a sense of what it is that SBC would do if it received
21 competitive classification statewide. Now, I've asked
22 that question before, and I'm not satisfied that I've
23 gotten an answer. Do you know what would be different
24 from SBC's standpoint and how they would do business and
25 how they would price their services if that occurred?

1 A. We would certainly be free to raise and
2 lower prices as we saw fit in a competitive marketplace,
3 trying to match our desire to generate revenues from
4 customers while not losing those customers to competitors.
5 With respect to specific plans about what we would do, I
6 don't know. You heard the marketing witnesses. They're
7 certainly closer to those kind of decision-making things
8 than I am.

9 But I know what's been discussed at least
10 in general terms, in terms of things that I think that
11 people would think about doing. Obviously they'd have to
12 take a more serious look at in terms of what could they do
13 and not do in light of competition.

14 But one of our overarching goals is to try
15 to simplify our business. We don't think we have a cost
16 structure that's going to allow us to compete over time,
17 so we're trying to drive costs out of the business. We're
18 trying to simplify the business. And today as an example
19 of one of the things that's more difficult or not as
20 simple in our business and perhaps could be more simple in
21 our business is our pricing of basic local service.

22 Q. And is that because of the difference in
23 prices or the level of price or both or something else?

24 A. Certainly the difference in the price of
25 service, it makes it more difficult for us operationally

1 to function and provide services to customers. Makes it
2 more difficult for our service reps and trying to put
3 together packages and things like that.

4 Q. All right. And tell me what that means
5 when you say it's more difficult.

6 A. Service reps have to deal with the services
7 that we sell to customers, as an example. They're dealing
8 with seven different prices of basic local service in
9 Missouri, and I'll focus on residential.

10 Q. All right.

11 A. They're dealing with things like EAS
12 surcharges. They're dealing with things like what we
13 talked about a little earlier, outside the base rate area
14 charges and things like that, and those type of issues and
15 prices vary by state. Our service reps don't just cover
16 Missouri. They cover multiple states. So they're having
17 to deal with all those different kind of pricing
18 structures.

19 Another example is when we try to put
20 together packages, what we -- what we typically do is
21 charge the tariffed price for -- let's say we're going to
22 bundle a regular regulated tariffed product and an
23 unregulated product. And typically when we do that, we
24 like to pick one target price to offer to the customer.

25 Q. Okay.

1 A. And so it makes it operationally more
2 difficult to get to that one price when you have various
3 prices for the regulated service that's the piece part of
4 the total package.

5 Q. All right. Now, I'm going to stop you for
6 a minute, but you may have to help me remember if you have
7 more to add onto that. My intention is to keep you from
8 going forward. I need to get a better explanation here of
9 this topic that was brought out by Ms. Stoia, I think.

10 What is it that's difficult about the
11 pricing of a bundled package when the elements that make
12 up that package separately may be not priced the same
13 because of the local basic differences from one area to
14 another?

15 A. I'll try. I don't do this stuff, so I
16 won't know all of the particular details of how they have
17 to do it.

18 Q. To the extent that you know.

19 A. But the concept would be, say we're going
20 to -- I'm trying to think of something simple. We're
21 going to bundle Southwestern Bell Internet services,
22 high-speed Internet service, what we could call SBC Yahoo
23 DSL with local service and package that at a particular
24 price. To get to that particular price, we are going to
25 have to discount the SBC Yahoo DSL service, because we

1 will likely charge the tariffed price for basic local
2 service.

3 Q. Why?

4 A. So we don't have to file a tariff.

5 Q. Why would you not do it the other way
6 around, so you don't have to file a tariff?

7 A. Well --

8 Q. If you're bundling, do you have -- if
9 you're bundling -- maybe that's what you're trying to get
10 to. I might have cut you off too soon. If you're
11 bundling when you move that local basic price, do you have
12 to file a new tariff if you move that price, but you don't
13 have to if you don't move it in the bundle?

14 A. As long as we're charging the regulated
15 tariffed prices for the regulated products, then we don't
16 have to file tariffs.

17 Q. All right. So you're moving --

18 A. We're charging --

19 Q. -- the DSL price?

20 A. Right.

21 Q. You're leaving your local basic price where
22 it is tariffed?

23 A. Exactly.

24 Q. Okay. So keep going, then. I cut you off.

25 A. So then what you have -- we've established

1 you have to -- so we're discounting, we'll shorten it to
2 DSL service.

3 Q. All right.

4 A. You're discounting our DSL service. They
5 will have to vary the discount --

6 Q. Right.

7 A. -- based on what the underlying local
8 service price is.

9 Q. Okay. So where is that a problem? What
10 makes that a problem?

11 A. It makes it more operationally difficult
12 to try to manage that. We have to properly allocate
13 revenues to the right company and all that kind of stuff.
14 It just --

15 Q. Okay. All right. Keep going. I'm trying
16 to follow through with this. From a marketing standpoint,
17 if you want to market the thing, all you've got to do is
18 say you've got this bundle for one price, so I don't --

19 A. Certainly --

20 Q. To me it doesn't make --

21 A. Certainly to the -- I'm sorry. I didn't
22 mean to speak over you.

23 Q. That's all right.

24 A. Certainly to the end user customer when we
25 speak through all the operational issues, yeah, we're just

1 out there saying, hey, buy local service and DSL for X
2 price, and so, yeah, it looks real simple to the end user.
3 We try to make it as simple as possible to the end user.
4 But operationally we've had to jump through a lot of hoops
5 to try to get to that point.

6 Q. This is an internal issue about accounting
7 for where the money is allocated?

8 A. That's certainly part of the equation.

9 Q. What other -- what's the rest of it?

10 A. I suppose there would be various, like,
11 billing-system-type changes that have to be made. You
12 know, if this kind of customer with that kind of local
13 rate and that kind of EAS rate, then discount this much,
14 and if it's a different kind of customer with that kind of
15 rate and this kind of service, discount it that much.

16 Q. Right.

17 A. That's another example I can think of off
18 the top of my head.

19 Q. You deal with different rates from -- in a
20 lot of ways, though, don't you, Mr. Unruh?

21 A. Certainly.

22 Q. I mean, you have different charges for
23 different municipals and other things like that. I don't
24 know if that varies from bill to bill or not, but
25 accounting-wise you've got to do that operation inside?

1 A. Certainly.

2 Q. So it's not like --

3 A. This isn't the only operational issue we
4 have, no doubt, but it's a regulatory.

5 Q. It's one of the issues that you see --

6 A. Right.

7 Q. -- as a problem?

8 A. And something that we can't fix.

9 Q. By yourself?

10 A. By ourself.

11 Q. Have you -- you do have -- on occasion I've
12 noticed SBC has called out for help, Mr. Unruh, in the
13 Legislature. I'm sorry I'm phrasing it that way, but
14 would you say that -- would you say that -- have you filed
15 a bill that would allow you, or asked a bill to be filed
16 on your behalf that would allow you to price all your
17 local basic statewide at the same price?

18 A. No, we've not approached that kind of a
19 narrow legislative solution.

20 Q. That would fix that issue that you
21 mentioned, though, wouldn't it?

22 A. Certainly, but it wouldn't -- it
23 wouldn't --

24 Q. But you haven't asked that piece of
25 legislation be filed, have you?

1 A. We've not sought that particular.

2 Q. And if you were to ask to set all of your
3 local basic rates at one price in Missouri, what would you
4 expect that rate to be set at?

5 A. I don't have any idea.

6 Q. If you were free to set it?

7 A. I don't have any idea.

8 Q. Okay. Would you expect it to be at --
9 what's the low rate?

10 A. \$7.29.

11 Q. Would you expect it to be there, if you
12 moved all your prices to one price?

13 A. I don't believe the competitive market
14 would result in the need to have \$7.29 basic local prices.

15 Q. Okay. What's the higher --

16 A. I'm not saying it couldn't happen, but just
17 by sitting here today.

18 Q. What's the high price?

19 A. In downtown St. Louis and Kansas City, it's
20 12.09, I believe.

21 Q. Would you expect it to be set at that
22 price?

23 A. I don't know.

24 Q. Would you -- would you envision the
25 possibility that it might be set higher than that price?

1 A. I don't know.

2 Q. Is it your belief, Mr. Unruh, that local
3 basic rates for SBC are set under cost?

4 A. Primarily for residential service, yes.

5 Q. On residential. I'm sorry. I should have
6 specified that. You believe that, right?

7 A. Yes.

8 Q. Earlier you testified, if I recall, that
9 you had relied on some cost studies in coming to that
10 conclusion; is that correct?

11 A. That's one aspect of it. I would also
12 point to the various UNE proceedings that we've engaged in
13 where this Commission's looked at costs for things like
14 UNE loops and items leading to the UNE-P, where similar
15 types of costs are looked at.

16 Q. And the cost studies that you relied upon,
17 what particular dates were those cost studies, do you
18 know?

19 A. I don't recall.

20 Q. Do you know, are those cost studies cost
21 studies that have been disclosed to the Commission in
22 other cases?

23 A. I don't know.

24 Q. Are those cost studies cost studies that
25 have particular methodologies for allocation of costs of

1 the local basic loop with other -- with other costs that
2 are out there in wireline?

3 Is there a particular methodology used to
4 determine what -- how much to allocate to the local, to
5 local basic in those cost studies that you've seen?

6 A. The particular cost study that I'm
7 recalling would be a cost based on what we consider to be
8 an incremental cost, like a long-run incremental cost
9 study.

10 Q. Would it be fair to say that there are very
11 many different conclusions that have been drawn about
12 allocating costs between the local loop and other portions
13 of wireline that -- that have been out there and discussed
14 in various places around the country?

15 A. Yes.

16 Q. And the conclusions vary dramatically, do
17 they not, in regard to how much should be allocated to
18 which portion of the wireline?

19 A. I believe different parties have different
20 views about what basic local service would cost, yes.

21 Q. So when you're referring to a cost study,
22 Mr. Unruh, would it be -- would it be unfair for me to
23 question whether or not that cost study might be the
24 ultimate answer to all questions about how to allocate
25 those local costs?

1 A. Certainly the number I reflected earlier in
2 my testimony was -- was a cost estimate that would be
3 based on our belief of what our long-run incremental costs
4 of providing basic local service.

5 Q. But that would be subject to debate,
6 wouldn't you say? If it were brought in here and we
7 vetted out the cost study, there would be lots of
8 different opinions that would probably be expressed by
9 Public Counsel, by others that were in the long distance
10 market and maybe -- in regard to whether or not that was
11 the appropriate way to allocate those costs?

12 A. At least the Office of Public Counsel would
13 probably argue with our -- with our cost study.

14 Q. Okay. All right. So in regard to the
15 issue of whether or not local basic rates are likely to
16 change if you get competitive status for residential, what
17 would you say the likelihood is that they'll remain the
18 same?

19 A. I don't know, other than to suggest that I
20 believe there's at least a chance that marketing would
21 take a serious look at trying to change the price to
22 one -- at least move towards one price. Would it happen
23 all at once? No, I don't think so. I think it would be
24 phased in over a multi-year period. It would take a look
25 at how much they felt like they could increase it by

1 without impacting our ability to retain customers and keep
2 them buying our service.

3 I think perhaps even -- I won't say more
4 importantly from your perspective, but another important
5 factor I think we need to consider is that while we --
6 while I believe that the competitive marketplace will
7 constrain our pricing even for basic local service, even
8 putting that aside for a moment, we'll call it politics
9 will control the pricing of basic local service.

10 We are -- we are not going to go out there
11 and dramatically increase basic local prices, because the
12 Commission will get mad at us, legislators could get mad
13 at us, other public officials could get mad at us, and
14 perhaps most importantly our consumers are going to get
15 mad at us.

16 So I just don't see that, even putting
17 aside the competitive impact, if we could just do whatever
18 we wanted because there were no competition, which I don't
19 believe exists, we would still be constrained by that
20 reality of the environment that we operate under.

21 When we think about rural Missouri, I
22 understand there could be a concern about rural customers.
23 While I believe that rural customers have options and
24 choices available to them and will have going forward and
25 that that will serve to constrain SBC Missouri's pricing,

1 I understand from at least some people's perspective why
2 there might be concern about that. Those represent a
3 fairly small percentage of our lines, and certainly of our
4 revenues.

5 There's no way for us to really generate a
6 whole lot of revenue even by dramatically increasing those
7 prices. It just doesn't buy us that much from a revenue
8 standpoint, and it sure isn't worth the risk of raising
9 the ire of the Commission, legislators, other public
10 officials and particularly consumers, because who knows
11 what could happen in that kind of environment. Lawmakers
12 could take action. Certainly this Commission could and
13 likely would take action to put us back under price caps,
14 and that's not something we would be interested in having
15 happen, so . . .

16 Q. Help me to understand this -- this concept
17 here that -- of being able to react to CLEC pricing on
18 customers that you consider to be attractive customers to
19 have from a financial standpoint and what it is that Bell
20 would be likely to do to react to that in a different way
21 than what they can currently in the price cap environment.

22 A. The price cap environment limits our
23 ability to move prices around, and that then can have the
24 impact of reducing our incentive or perhaps disincenting
25 us to do certain things. For example, if I'm a marketing

1 person and I'm just -- hypothetical example, I've
2 developed two concepts that I would like to think about
3 doing in the marketplace and I can only do one of them,
4 limited budget or whatever, and one of them is to take
5 some action in the regulatory -- on a regulated product
6 and the other is to take some action on a non-regulated
7 product, and the outcome's going to be the same, except
8 that there could be regulatory risk associated with doing
9 something in the -- on the regulated service, my choice is
10 probably going to be go do something on the non-regulated
11 side.

12 It doesn't have the inherent regulatory
13 risk. It's just me trying to compete in the marketplace.
14 I don't have that kind of extra component that I have to
15 borrow, my competitors don't borrow, and so that's going
16 to disincent me as a marketing person from doing more
17 things in the regulated side of the business.

18 Q. Will you give me a more specific example?
19 Give me an example of something that you would do as Bell,
20 that Bell would be doing if they did not have price cap
21 status.

22 A. Well, I don't know what that is, partly
23 because --

24 Q. The fact that you don't know is what's
25 making it difficult for me to assess public interest in

1 regard to the change in classification. I can't assess
2 what that public interest is without having a better
3 understanding about what changes would happen for
4 customers out there and how Bell reacts in the marketplace
5 differently. That's why I'm asking.

6 A. It's difficult to give examples because
7 it's like -- I may not even hear about the kind of things
8 but they don't even -- they don't even get out of the
9 hatchling stage. Somebody cooks up an idea and says, oh,
10 that's going to raise some regulatory question. Forget
11 it. Let's just go do something over here where I don't
12 have that regulatory risk.

13 Q. Well, give me an example. Give me an
14 example historically.

15 A. I don't know.

16 Q. If you've seen something in the last
17 18 years -- well, let's say since '96 that you think that
18 would have happened but it didn't happen because of price
19 cap.

20 A. Well, we'll talk about -- Ms. Moore raised
21 an example. Maybe that will help put it in better
22 perspective. Part of the problem is you don't know what
23 you -- when you start with a starting point of regulation
24 exists, then it's difficult to identify what you would be
25 doing if the pricing constraint didn't exist. So it's

1 kind of hard. But let me give you the example Ms. Moore
2 used, because I think it helps show an example of the kind
3 of issue we face.

4 We offer directory assistance at a price,
5 and her example was, well, what if she wanted to offer --
6 and I don't remember. I think she used the number six.
7 What if she wanted to offer a price, a discounted price
8 that would give a customer six DA calls, let's say, per
9 month. When Ms. Moore looks at her marketplace and the
10 financial ramifications of that and how you would expect
11 people to use that or not use that, she might reach the
12 conclusion that that might be a smart thing to offer, but
13 not at the price that a la carte directory assistance is
14 at.

15 Q. Right.

16 A. If my a la carte directory assistance price
17 were a little higher -- and I don't know what that means
18 exactly, but something higher, then maybe it makes more
19 sense and is better for us financially, meet more
20 customers' needs or whatever, that then I could offer that
21 package, if you will, of six DA calls. But -- and the
22 analysis might show that offering six DA calls at the
23 discount that you would need to offer it at to incent
24 people to subscribe to that kind of thing might not be
25 financially attractive, given the current price of

1 directory assistance.

2 Q. Okay.

3 A. That's a --

4 Q. Let's just take that example then and
5 extrapolate just a bit. So in essence what we're talking
6 about here is pricing that Bell has on an a la carte
7 service, and if they want to offer something that has
8 unlimited or six -- let's say we'll use six -- six calls a
9 month directory assistance, it would allow Bell if you
10 were in a competitive classification to move the one call,
11 the charge per call amount up, therefore making this --
12 and having the six calls then if they -- perhaps they
13 would be priced at what originally six calls would have
14 been priced at under the price per call before it was
15 raised. Maybe that would be the price.

16 And so if that's the case, then it would be
17 more attractive for customers then maybe to consider
18 getting the six because you're actually getting some
19 discount in comparison to the new price, correct?

20 A. Yes.

21 Q. That's the scenario, isn't it?

22 A. Yes.

23 Q. Okay. Now, in essence, something similar
24 to that goes on today, doesn't it, in regard to vertical
25 services pricing?

1 A. Yes.

2 Q. So if I have a -- if I have various
3 features that are available to me, call waiting, call
4 forwarding and things of that sort, caller ID, Bell offers
5 packages of those that are actually priced, if you add
6 them all up, at less than what those prices would be
7 priced a la carte, correct?

8 A. That's correct.

9 Q. And if I follow your reasoning here and the
10 reason why you might want to get competitive
11 classification on the directory assistance, if that same
12 logic were applied to the price cap analysis, I might
13 think that, well, if I were in Bell's shoes, the best
14 thing to do would be raise those a la carte prices close
15 to the maximum 8 percent every year so I could make the
16 bundles appear more attractive. Would that be the same
17 basic kind of analysis?

18 A. I'm going to draw the distinction perhaps
19 in terms of attractiveness, just to make sure we're
20 talking about the same thing.

21 Q. All right.

22 A. There's kind of a standard marketing thing
23 of, hey, the newsstand price is X.

24 Q. Right.

25 A. If you go buy it in the newsstand it's X.

1 Q. Right.

2 A. But I'm going to mail you a -- a direct
3 mail piece says, hey, if you sign up for a one-year
4 subscription, you get 75 percent off the cover price.

5 Q. Right.

6 A. And so there's -- the 75 percent makes it
7 look more attractive. There's that kind of a concept, and
8 certainly that's a standard marketing type of an approach.
9 And there's a little bit of difference between that and
10 what I was talking about with DA. There could certainly
11 be the, hey, I can save you X percent by signing up for
12 this package of six DA calls. There's that piece of it.

13 Q. Yes.

14 A. But from our perspective there's also the
15 attractiveness of offering that. It's more -- it's
16 attractive to us rather than attractive to a consumer
17 perhaps. So if I ran my financials with today's
18 a la carte directory assistance price and then said, well,
19 what would happen if I offered six DA calls, well, I might
20 find that that kills my DA revenue when I don't really
21 need to do that. So I don't -- I'm not incented to put
22 that into the marketplace. So that's more of an
23 attractiveness from our standpoint.

24 Q. So --

25 A. Just -- I just want to make sure we weren't

1 talking about two different concepts.

2 Q. But in essence, though, in analyzing the
3 rationale for SBC raising its vertical services when they
4 price a la carte up to the full percent, there would be
5 similar elements there in what -- in the scenario that you
6 described with the directory assistance?

7 A. Yes.

8 Q. Okay. Now, when SBC looks at marketing and
9 its bottom line on different services, you're not trying
10 to indicate, are you, that the only thing that they look
11 at is one service or the group of services that -- that
12 produce given financials separate and apart from how that
13 plays into how the big package attracts customers in, or
14 does a better job of attracting customers in than some
15 other competitor's package, are you?

16 I mean, Bell doesn't analyze things that
17 narrowly in looking at marketing that you did, just a
18 simple example to try to demonstrate how that isolated
19 might look?

20 A. Right. Yes. They would -- marketing would
21 try to take into effect as best they can -- everybody has
22 limited knowledge, but as best they can all the various
23 impacts associated with the pricing change.

24 Q. Okay. So there isn't anything, though,
25 currently that prevents you from packaging and bundling

1 those things and pricing them at a discounted amount over
2 the a la carte prices? You can do that today?

3 A. Yeah. Let me be clear. We are not saying
4 that we are prohibited from bundling. What we're saying
5 in part is that because we have pricing restrictions, it
6 can serve to disincent that kind of packaging,
7 particularly in the regulated side of the business.

8 Q. But you do it today. You do bundle today
9 discounted prices in Missouri.

10 A. Absolutely, but what we don't know is how
11 much more of it there might be or what form it might take
12 absent --

13 Q. We don't know very much of anything
14 about -- so far about what Bell may do if they're declared
15 competitive because no one will tell me --

16 A. And the --

17 Q. -- so far.

18 A. But it's -- I mean, do you know how car
19 manufacturers are going to change their prices? I mean,
20 that's --

21 Q. I have a feeling they do.

22 A. Because they operate in a competitive
23 market.

24 Q. I have a feeling they would know if the
25 market was going to change and they knew there was an

1 anticipated change how they might react, and all I'm
2 asking for is surely everyone is -- someone in SBC is
3 anticipating the possibility, whether great or small, that
4 competitive classification may occur in Missouri and be
5 planning for it, but so far I haven't heard anybody that
6 tells -- that's been able to tell me that there is any
7 planning going on.

8 A. Well, let me couch it this way. Our
9 marketing folks are busy trying to compete in the
10 marketplace, in the market reality they face today, so
11 they don't spend a whole lot of time thinking about
12 what-ifs, what if I had this flexibility, it may vary.

13 Q. Well, does Bell spend much time trying to
14 accomplish competitive status in the state of Missouri?
15 Does it pay any people on work and trying to gain
16 competitive classification in the state?

17 A. There's a difference between us.

18 Q. Just answer my question first. Does Bell
19 spend any time or money trying to gain competitive
20 classification in the state of Missouri?

21 A. Certainly.

22 Q. Is that amount of money significant?

23 A. We've put a lot of time into this case.

24 Q. Yes. And is the lobbying effort that goes
25 on by Bell in the Missouri legislature to gain easier

1 access to competitive status significant? I mean, I could
2 ask you for the specific numbers. I was -- you know, but
3 would you say it's significant effort of time and money?

4 A. Absolutely. This is -- this is very
5 important to us.

6 Q. So help me to understand and comprehend a
7 little better why I would want -- why I would tend to
8 understand when SBC's witnesses are telling me that they
9 do not know what they would do with their pricing and
10 their plans for a Missouri where they were declared
11 competitive statewide. Help me to understand that.

12 A. It can take a fair amount of work to try to
13 design plans and efforts and strategies, and they just --
14 they don't spend a lot of time thinking about, well, what
15 if all my pricing restrictions went away? It's, okay, I'm
16 faced with what I'm faced with today. How can I compete
17 in the marketplace? That's where their focus is.

18 Q. Is anyone in SBC thinking about how they
19 would be doing different marketing and how they would be
20 responding in a competitive market, do you think?

21 A. Again, I think there's general concepts
22 that have been discussed like getting to a single price
23 for residential basic local service.

24 Q. But no one's discussed what that price
25 might be in SBC that you know of?

1 A. It -- it could vary based on, you know,
2 what's happening in the marketplace, what the voice over
3 IP providers are doing --

4 Q. Well, you know what they're doing today.

5 A. -- what the CLECs are doing.

6 Q. You know what they're doing today. You
7 have significant amounts of schedules about what they're
8 doing today. And I think that to the extent that you can
9 assess where they are, where they're present, where
10 they're not, it would be -- I mean, that information is
11 all there. So somebody surely in the company is -- has a
12 direction in mind about what those prices might be if
13 you're allowed to price at a single rate statewide.

14 And you tell me the answer to that is no,
15 no one knows, no one's -- no one's come up with any
16 numbers, no one's come up with any ranges. Is that your
17 answer?

18 A. I don't know, but let me offer maybe this,
19 that there are various -- my guess is what people are
20 looking at and thinking about are -- there are various
21 prices in our states that vary, and they're probably
22 trying to look at or would look at, you know, we have an
23 \$11 price in X, how are we doing there? Are we losing
24 customers because we have an \$11 price? Are we able to
25 keep customers because we have an \$11 price versus this \$7

1 price in Missouri, can we -- is there something different
2 about Missouri that would suggest we couldn't have \$11
3 price?

4 If we decided maybe we could try to get to
5 an \$11 price, do we -- do we do it 50 cents a year, a
6 dollar a year, that kind of thing, all of that kind of
7 thing would go into it. What I -- what I do believe is
8 that the marketplace and just the realities of where -- of
9 who we are and where we operate, it's not going to allow
10 us to have any kind of significant price increases on
11 basic local service.

12 Q. But you think that prices would go up?

13 A. I think it's possible. Again, if you're
14 trying to get to one price, I don't think we're going to
15 lower St. Louis prices to \$7.29 because I don't -- because
16 I think the marketplace can support a higher price than
17 that. I don't anticipate lowering the price from \$12 to
18 \$7.29. So that in reverse would suggest that I think our
19 marketing folks would think about trying to move the \$7.29
20 price up.

21 Q. To?

22 A. I don't know.

23 Q. All right. And you're telling me that your
24 marketing people at this point have not come up with a
25 range of what that price would be?

1 A. Ms. Stoia is probably as close to that as
2 anyone, and she expressed that she hasn't seen any plans
3 about exactly what to do in Missouri, assuming we were
4 granted a statewide competitive classification for
5 residential service.

6 Q. Let me ask it a different way, I guess,
7 Mr. Unruh. Do you agree with the statement that
8 competition drives prices toward cost?

9 A. I believe economists say as a general
10 statement that would tend to be true. There probably are
11 and can be factors that would influence that, whether or
12 not that -- the degree to which that occurs perhaps.

13 Q. Would you say that generally is true?

14 A. Yes.

15 Q. And you've testified earlier that you
16 believe local basic is priced in your opinion below cost
17 in Missouri?

18 A. That's correct.

19 Q. So if I would use this general analysis
20 coupled with your analysis that the prices are below cost,
21 would there be any reason for me not to conclude that
22 local basic charges in the state of Missouri would go up
23 if Bell received competitive classification?

24 A. I think that will be dictated by the
25 marketplace.

1 Q. Do you agree with my -- with my question
2 and the assumption in the question that prices would go up
3 if Bell received competitive classification for Missouri
4 residential customers?

5 A. I don't know. I would suggest that in
6 light of what we just discussed in terms of economic
7 theory, there certainly could be pressure to increase
8 those prices. I think what would factor into that is the
9 realities of the marketplace in terms of where we started,
10 what is the starting point. And the starting point is the
11 prices set where they are.

12 I think that will have an influencing
13 factor on where you can move the prices to without getting
14 people too upset. So that's one of the mitigating factors
15 I can see that would impact the incentives of the general
16 economic statement about prices moving towards cost.

17 Q. Let's talk just a little bit about the
18 uncertainty that's facing the telecommunications industry,
19 and particularly the wireline business, with the FCC's
20 anticipated order on UNE-P. Okay. In your opinion, does
21 doing away with UNE-P increase the likelihood that CLECs
22 will be participating in the market, at least in the near
23 future? I'll confine it to that.

24 A. I'm sorry. Did you say that loss of UNE-P
25 will increase?

1 Q. Yes, that's what I asked, whether you
2 thought it would increase CLEC -- the CLECs that are
3 participating in wireline markets.

4 A. I don't know. I think it's fair to say
5 that there could be certain UNE-P based providers that
6 sought to take advantage of the low UNE-P prices, and they
7 may decide they've had enough of this game and get out.
8 That's certainly possible.

9 Q. So when you say it is more likely -- I
10 mean, that it is not likely that that -- changing that
11 element will cause an increase in participation by CLECs,
12 the pressure is the other direction, isn't it?

13 A. Probably -- possibly that in isolation.
14 What changes the dynamics, though, is certainly voice over
15 IP-type technologies that might --

16 Q. Let me deal with this one at a time, and
17 I'll try to get to some of those other topics, too. If I
18 don't, maybe you can remind me. But in regard to CLEC
19 participation on the wireline side, doing away with UNE-P
20 is likely to reduce the participation of CLECs, is it not,
21 as an element by itself?

22 A. I don't know that it's likely. I mean, I
23 will certainly say that there could be certain carriers
24 that may choose not to continue to --

25 Q. Yes.

1 A. -- provide service.

2 Q. It's not likely to increase it for sure;
3 would you agree with that?

4 A. I don't know if -- I guess I can't think of
5 an incentive. You know, the premise is that we're taking
6 away what we believe to be a below cost service that
7 probably incented certain carriers to get in the market
8 that perhaps shouldn't have been in the market to begin
9 with, and you're going to take that away, so there may not
10 be incentive for additional carriers to enter.

11 Q. And if I use your premise about it being
12 priced under cost, I don't know how you can draw any other
13 conclusion, do you, in regard to that segregated portion?

14 A. Isolating that, I believe that's probably
15 correct.

16 Q. And we can discuss whether or not your
17 assumption is correct, I suppose. What's your -- what's
18 your price in Missouri under the -- under the M2A or
19 wherever it's priced?

20 A. For UNE-P?

21 Q. Yes.

22 A. UNE-P is actually made up of a series of
23 prices.

24 Q. Yes, it is.

25 A. But if you kind of --

1 Q. Do you want to segregate out by the switch
2 by itself, is that the easiest way to do it?

3 A. Perhaps an easier way to do it is this. We
4 look at what's everybody buying and create like a weighted
5 average cost.

6 Q. All right.

7 A. On average, what's a CLEC paying to buy
8 UNE, accumulation of the UNEs, and that's around \$19.

9 Q. Around 19. And you -- earlier you quoted a
10 different price for your commercial agreement that you
11 have or maybe -- am I -- did I hear that correctly?

12 A. The agreement we reached with Sage --

13 Q. Yes.

14 A. -- the price actually varies depending on
15 some factors, but we've estimated that it will likely be
16 less than \$25.

17 Q. All right. So it's gone up, what, \$4-plus
18 from what the weighted average is currently, is that --

19 A. Ballpark, yeah.

20 Q. Is that ballpark?

21 A. Uh-huh.

22 Q. All right. And are you willing to enter
23 into that price arrangement with any other carrier --

24 A. Again --

25 Q. -- that wants to?

1 A. Again, it would depend on their -- the CLEC
2 customers' particular needs, what they're interested in
3 and that kind of thing. So that might affect the price
4 somewhat, but --

5 Q. Okay.

6 A. -- generally, yes.

7 Q. And is that when you -- tell me how that
8 price -- what is that price for? Is it a per month price?
9 Tell me how the -- the rest of what that price is.

10 A. Yeah. It's a -- it is a per month price,
11 and it's different than UNE-P in that UNE-P as we just
12 discussed was a series of elements that add up to kind of
13 an average price. The particular agreement we had with
14 Sage is more of just a fixed price that -- it's more of a
15 service-based thing where we'll provide the same kind of
16 functionality as UNE-P and it will be at a fixed price of
17 say, just call it \$24 a month.

18 Q. Okay. What was your -- what is the price
19 that was arrived at in Arkansas for that same -- same
20 thing on the -- on the average weighted price for the
21 switch, an apples to apples comparison, with what the
22 price was you gave me a while ago for Missouri?

23 A. For the Sage agreement?

24 Q. No, not for the Sage agreement.

25 A. Or what's the weighted average UNE-P price?

1 Q. Yeah, prior to this latest round of
2 commercial agreements.

3 A. I don't know.

4 Q. Do you know? Can you find out?

5 A. Certainly.

6 Q. Is it true that the prices in Arkansas were
7 prices that were volunteered by Bell?

8 A. I don't know, but it's probably a general
9 statement that there were some negotiations that took
10 place as part of our efforts to get into the long distance
11 business on UNE pricing.

12 Q. Would it not be good --

13 A. That may have happened in Arkansas.

14 Q. Do you know?

15 A. I don't know.

16 Q. Could you find out?

17 A. Yes.

18 Q. That would be helpful, so when you come
19 back -- darn.

20 JUDGE RUTH: Are you asking for a
21 late-filed exhibit?

22 COMMISSIONER GAW: No. I'm thinking he's
23 going to find this out before the end of the week, is what
24 I'm thinking.

25 BY COMMISSIONER GAW:

1 Q. Did you look at the Schedule 3-1HC filed by
2 Mr. Peters?

3 A. Yes, I believe so.

4 Q. Does that schedule track the numbers that
5 you have in your schedule less his in his last line the
6 UNE-P and resold percentages? Are those numbers the same
7 except for that subtraction or are they different?

8 A. I did not do a line-by-line comparison, but
9 if I understand what Mr. Peters tried to do, then -- then
10 they should match up.

11 Q. Did he get his numbers from you, from SBC?

12 A. Yes, I believe so.

13 Q. If I look at those numbers -- and I don't
14 know, tell me if I get HC material here. If I look at
15 those numbers on his last night --

16 A. I don't have Mr. Peters' schedule.

17 Q. Would you like it so you can see it?

18 A. That would be helpful.

19 Q. Somebody maybe could provide it, whoever
20 wants to. No one looks very interested in having you see
21 the document.

22 A. And which schedule were you looking at?

23 Q. 3-1HC. Looks like there's 3-1 and 3-2 and
24 3-3. I think those are all dealing with SBC residential
25 lines.

1 COMMISSIONER GAW: We might as well go into
2 HC, Judge, so I don't get in trouble.

3 JUDGE RUTH: Mr. Lane, would you please
4 assist in clearing the courtroom?

5 We're going to go in-camera. Let me turn
6 off the video stream.

7 (REPORTER'S NOTE: At this point an
8 in-camera session was held, which is contained in
9 Volume 6, pages 735 through 744 the transcript.)

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1 JUDGE RUTH: Okay.

2 THE WITNESS: Yes, in general we've argued
3 that pricing in general for unbundled network elements has
4 been priced below our cost --

5 BY COMMISSIONER GAW:

6 Q. In Missouri?

7 A. What we believe our cost to be.

8 Q. -- in Missouri?

9 A. Yes.

10 Q. Do you make that argument in other states
11 as well?

12 A. Yes.

13 Q. All right. Does SBC do business as a CLEC
14 anywhere in Missouri?

15 A. We have an affiliate called SBC Advanced
16 Services, Inc., ASI, that is -- I guess would be
17 considered a CLEC. It does not provide voice service. It
18 provides the DSL transport that -- provides what we
19 generally refer to as packaged switch-based services. And
20 a kind of simple example of that is DSL transport that
21 Internet service providers use to provide high-speed
22 Internet service.

23 Q. Does SBC or any of its affiliates act as a
24 CLEC for purposes of providing local basic service in
25 Missouri?

1 A. No.

2 Q. Do they in any other state?

3 A. Yes.

4 Q. Which states?

5 A. I won't be able to give you an exhaustive
6 list.

7 Q. Give me examples, if you know.

8 A. I know we -- I know we entered Florida,
9 New York, Massachusetts. I'm not certain about New York.
10 Massachusetts, Florida. I'm not certain about anywhere
11 else.

12 Q. Okay. Do you know why SBC decided to enter
13 those markets as a CLEC?

14 A. No.

15 Q. Did SBC view -- first of all, who are the
16 ILECs that serve those areas that SBC entered into as a
17 CLEC?

18 A. Florida would be -- well, there would be a
19 lot of ILECs, but the RBOC would be BellSouth, I'm sorry,
20 and Massachusetts I believe would be Verizon.

21 Q. Okay. If SBC viewed the prices for UNEs to
22 be too low, why wouldn't SBC have seen it attractive to
23 enter the markets, other markets in the state of Missouri
24 as a CLEC if there was significant, significant profit to
25 be made because of the belief that SBC UNEs are priced too

1 low?

2 A. I don't know. I'm not involved in those
3 kind of deliberations, but in general I would say that --

4 Q. That wasn't Ms. Stoia was it, because she's
5 already left.

6 A. No, no. No, I don't think she would have
7 been involved either. In general, I believe it's probably
8 due in large part to where we want to invest our capital
9 and our time and our resources.

10 I'm trying to decide if we need to go
11 in-camera. Let's just say it's safe --

12 Q. If it's helpful to --

13 A. Let me just say generally that we generally
14 look at opportunities, and there's only so much stuff you
15 can do with the limited amount of capital that we have. I
16 mean, everybody has scarce resources. And so I think
17 serving other areas in Missouri has not been a priority to
18 date.

19 Q. You do understand why I get perplexed about
20 this, don't you, Mr. Unruh, that when SBC maintains these
21 prices on UNEs are too low and that CLECs can make too
22 much money at SBC's expense, why I'm perplexed that SBC
23 doesn't take advantage of other ILECs in the same fashion
24 that they say CLECs are taking advantage of them.

25 Do you understand why I have this -- this

1 discomfort that I don't see that reaction from SBC, their
2 action following their rhetoric?

3 A. I would point out that Sprint's and
4 CenturyTel's UNE prices are different than ours.

5 Q. So theirs are priced much higher than
6 yours?

7 A. I believe that to be the case.

8 Q. I see. Would that be --

9 A. Now, is that -- is that the reason we're
10 not entering Missouri? I don't know. Again, I'm not
11 involved in those discussions. I think it has a lot more
12 to do with just where we would want to spend our
13 resources.

14 Q. Are the UNE prices in Arkansas generally
15 higher, lower or the same as Missouri's?

16 A. If I had to give an educated guess, I would
17 say they're roughly the same but maybe slightly lower.

18 Q. And again, if I could get that information
19 from you about whether -- how those UNE prices came into
20 effect when you have a chance to come back and talk to me,
21 I would be interested in that.

22 A. Certainly.

23 Q. You said that one of the reasons was lack
24 of access to capital for why you wouldn't be getting into
25 that CLEC market. Did I understand that correctly?

1 A. No, that's not what I said. I said we have
2 a limited amount of time, people, resources, capital to
3 invest. Not necessarily access to capital, but -- well,
4 maybe in a sense it's access. The corporation decides how
5 much it's going to spend investing in various projects,
6 and the money's doled out, so to speak, in terms of what
7 projects are we going to invest in and --

8 Q. Could --

9 A. -- expanding in Missouri hasn't made that
10 list yet.

11 Q. Neither has expanding anywhere else in the
12 traditional SBC territory as a CLEC, it sounds like?

13 A. I -- no, I wouldn't say that. Texas.

14 Q. Let me say traditional SBC states, not SBC
15 territory.

16 A. Probably should have clarified my answer
17 earlier. Texas has -- in Texas we are serving outside of
18 our traditional service area.

19 Q. You are. Where is that?

20 A. I might have got a little hung up on the
21 word "CLEC."

22 Q. How are you serving in that other area?

23 A. I don't know.

24 Q. Is it not as a CLEC? Is it some other?

25 A. Well, we're a competitor. I don't know

1 that we created a new company --

2 Q. Okay.

3 A. -- to go do that.

4 Q. But outside of your normal territory?

5 A. Yes.

6 Q. Is it possible that --

7 A. I'll add that in other states, we

8 are -- we've taken steps to, whatever the appropriate

9 process is in that state, to -- to allow us to serve

10 outside of our traditional footprint, is what we'd call

11 it.

12 Q. Okay. But you haven't done that in

13 Missouri?

14 A. Not to date.

15 Q. Haven't done it in Arkansas?

16 A. I'm not certain about Arkansas.

17 Q. Kansas?

18 A. I'm not certain.

19 Q. Oklahoma?

20 A. I don't know.

21 Q. Illinois?

22 A. We might have in Illinois.

23 Q. Okay. And in assessing -- in assessing

24 whether or not it's a good idea to go into the business as

25 a CLEC, you gave me the reasons why you didn't think it

1 may have been done with a list of general -- general
2 ideas, including resource and capital. And I guess my
3 question is, is it just a -- it surely must be just a
4 priority of where to place those resources and capital
5 rather than a lack of access to either that would have
6 resulted in that decision. Would you agree with that?

7 A. Certainly businesses make decisions every
8 day about what they focus their efforts on, and if we
9 chose to quit spending money on deploying DSL, for
10 example, we could take that money from deploying DSL and
11 take that money to enter other markets.

12 Q. Buy AT&T?

13 A. Or buy AT&T.

14 Q. Speaking of AT&T, do you know how long the
15 negotiations had been going on with AT&T before the
16 announcement?

17 A. I don't know. The only thing I've seen is
18 the press account that suggested that the discussions
19 really took place during January.

20 Q. Okay. Do you have any better figures in
21 regard to the -- or any idea if there are numbers
22 available in regard to households that use their wireless
23 as their only telecommunications service? In other words,
24 that this -- it is -- that they do not use a wireline in
25 their home?

1 A. Well, what we've presented here was the
2 survey where we ask wireless customers if they had a
3 wireline phone, and 18 percent said they did not.

4 Q. 18 percent of those that you actually
5 reached by a cellphone --

6 A. Right.

7 Q. -- right, said that they didn't have a
8 wireline phone; is that right?

9 A. It was definitely a survey of wireless.
10 That particular number came from a survey of wireless
11 customers.

12 Q. That does not give us -- does that give us
13 any idea about the number, the percentage of individuals
14 that have -- that use wireless as their exclusive
15 telecommunications?

16 A. I think as Mr. Shooshan said, that he
17 wasn't trying to gauge market share, was the term he used.

18 Q. Right.

19 A. And I think that's what you're getting at.

20 Q. I am, but I guess what I'm doing here is
21 not asking you just to tell me what Mr. Shooshan said, but
22 ask whether or not you have any knowledge --

23 A. I don't have any.

24 Q. -- separate from that -- from that that we
25 heard from Mr. Shooshan?

1 A. I do not.

2 Q. All right. And do you know whether or not
3 SBC has internally tried to track that information at any
4 point in the last two or three years?

5 A. I'm not certain. I think you heard Ms.
6 Stoia talk about focus groups, for example, that talk to
7 people about -- I would anticipate we've had focus groups
8 talking to people about why they would select wireless
9 only. And I don't know what all kind of information might
10 have been derived from something like that.

11 Q. But you don't know if there are any
12 percentages available within SBC in regard to those
13 numbers?

14 A. I don't recall seeing any.

15 Q. Do you know of any national numbers that
16 have been generated by or on behalf of SBC in regard to
17 that question?

18 A. Not that I'm aware of.

19 Q. Okay. Does SBC view Cingular Wireless as a
20 competitor?

21 A. It's interesting. Probably depends on who
22 you asked. If I'm responsible for wireline revenues, I
23 might say yes because they take my revenues away.

24 As a general corporation, we are -- we are
25 interested in finding ways of enticing people to own both

1 an SBC wireline and Cingular Wireless service, so we're
2 trying to find way to enhance the value of owning both,
3 integrating services and features to try to incent people
4 to purchase both.

5 Q. So the answer to that question is generally
6 no, it's not viewed as a competitor, but internally there
7 may be some parochial protections by those who work for
8 the wireline side?

9 A. 40 percent of revenue that Cingular
10 generates goes to BellSouth, so there's conflicting
11 interest there.

12 Q. All right. Okay. That's fair. And that
13 would be the same for the AT&T Wireless addition, those
14 numbers don't change; that's still owned by Cingular the
15 partnership or LLC or whatever it is?

16 A. That's correct.

17 Q. If the AT&T acquisition goes through, that
18 would be owned entirely by SBC; is that the way that's
19 structured?

20 A. I don't know the details, but I believe
21 that to be the case.

22 Q. When I look at the difference in the way
23 wireless has impacted wireline service between local basic
24 and long distance revenues, which would you say it's had
25 the biggest impact upon, if you know?

1 A. I don't know.

2 Q. Do you think that it's had an impact on
3 long distance revenues for companies that are in the long
4 distance market fairly exclusively?

5 A. Well, when you say fairly exclusively --

6 Q. Let's strike that. Just say in the long
7 distance market.

8 A. Certainly people -- people use their
9 wireless phone to make what we traditionally call long
10 distance calls, rather than using a long distance -- a
11 traditional long distance carrier.

12 Q. Do you find that to be a motivating factor
13 to have a wireless phone yourself?

14 A. That issue alone?

15 Q. That that is a motivating factor.

16 A. For me personally?

17 Q. Yes.

18 A. Not really because I receive discounted
19 concession long distance service.

20 Q. I see.

21 A. If I was what I'd call a normal consumer,
22 then it might.

23 Q. Well, that's interesting that you bring
24 that up. I guess we can have some inquiry about what your
25 discounts are, but I'll leave that for another time. If

1 you didn't receive those discounts, would it be a
2 motivating factor for you?

3 A. I think it would be one component of
4 consideration of buying a wireless plan, certainly.

5 Q. You don't dispute, do you, Mr. Unruh, that
6 it is not infrequent to have difficulty receiving a
7 wireless signal in houses and buildings that do not have
8 some sort of antenna on the roof?

9 A. I don't know that I would agree that it's
10 not infrequent. It's fair to say there are -- can be
11 reception problems in places. As a general rule, I found
12 that at least where I'm at, I'm generally able to receive
13 service.

14 Q. And you are where?

15 A. In St. Louis.

16 Q. What part of St. Louis? You're not in
17 Ladue, are you?

18 A. No. No, I'm not.

19 Q. I'm kidding. But what part of St. Louis,
20 St. Louis County, St. Louis City?

21 A. Where I live?

22 Q. Not your address, but generally.

23 A. In terms of where I live, I live in south
24 St. Louis County.

25 Q. You can get a signal inside of your house?

1 A. Uh-huh.

2 Q. Would it surprise you to hear that people
3 in rural parts of the state might have frequent problems
4 getting signal inside of their house?

5 A. I don't know.

6 COMMISSIONER GAW: Okay. That's fair. I'm
7 stopping right now. Thank you, Judge.

8 JUDGE RUTH: Okay. We're going to go off
9 the record for just two minutes. I'm asking that you not
10 leave. I'm just going to confer with the Commissioners as
11 to what the schedule will be for the rest of the day, so
12 it's a very brief intermission.

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

14 JUDGE RUTH: We are back on the record.
15 Mr. Unruh, it looks like we are going to continue with
16 some questions by the Bench for you. Commissioner
17 Appling?

18 COMMISSIONER APPLING: He and I have
19 already had our discussion. I think I'm finished.

20 JUDGE RUTH: Commissioner Murray?

21 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

22 Q. I do have some more, Mr. Unruh. I'm sorry.
23 Maybe we can finish mine today, my second round of
24 questions.

25 You were -- when Commissioner Clayton was

1 asking you some questions earlier, he was asking you about
2 substitutability of services, as I recall, and going into
3 some issues about whether wireless is substitutable for
4 wireline. And in the example that he gave where he asked
5 you about wireless, if customers were -- wireless
6 customers were asked would they go back to wireline only,
7 whether that was relevant to substitutability.

8 And I believe your answer was no, and I
9 don't see how there could even be a question about
10 substitutability, because I was thinking -- and tell me if
11 I'm wrong -- but I thought, okay, wouldn't this be like
12 comparing when a horse and buggy received competition from
13 the automobile, and the automobile was definitely a
14 substitute for the horse and buggy, and so the buggy
15 manufacturers faced effective competition from the
16 automobile manufacturers. You'd agree with that?

17 A. Yes.

18 Q. And if you had asked an automobile owner
19 whether he or she would be willing to give up the
20 automobile and go back to exclusively using a horse and
21 buggy, I would expect that their answer would have been
22 no. Would you not have expected that?

23 A. I would expect that.

24 Q. And also wasn't the result of the
25 automobile coming in to not only have the buggy makers

1 face effective competition, but they actually faced fatal
2 competition, did they not?

3 A. That's correct.

4 Q. And then with -- for example, if you look
5 at IBM's Selectric typewriter being popular back in the
6 '60s -- I remember them well, and I thought they were
7 wonderful at the time. But then the computers with word
8 processing came into being, and they became a substitute
9 for that IBM Selectric typewriter or other similar
10 typewriters. So customers that switch to their word
11 processing computer I don't think would have been likely
12 to say that they would give up their computers and switch
13 to going back to exclusively using something like an IBM
14 Selectric typewriter. Would you agree with that?

15 A. I agree.

16 Q. But the Selectric typewriters certainly
17 faced a substitutable product, people substituted that new
18 computer with word processing for that typewriter, did
19 they not?

20 A. I agree, yes.

21 Q. And that was effective, and pretty
22 devastating competition, was it not?

23 A. I agree.

24 Q. And then another example I'm thinking of
25 that's currently in the marketplace would be high

1 definition television. I think it's -- I think you would
2 probably agree it's substitutable for low definition
3 television, and I'm not sure that's the proper
4 terminology, but the type of television that we've all
5 been used to for years. And I would seem that -- I would
6 think that at least for a while customers are likely to
7 have some of both, some low definition televisions and
8 some high definition televisions. Would you agree?

9 A. I agree, yes.

10 Q. In their homes, and then once a customer --
11 or let's take one of those customers that has some of
12 each. How likely do you think it would be that the
13 customer that has both would be willing to go back to low
14 definition television only as his exclusive -- as an
15 exclusive means of their household television viewing?

16 A. It's probably not likely.

17 Q. And do you see that as a similar analogy to
18 what's happening in telecommunications with wireless
19 substitution?

20 A. Those are -- those are very good analogies
21 to make the point. I would just hope that SBC Missouri's
22 wireline business doesn't suffer the fate of the buggy and
23 IBM Selectric.

24 Q. I hope it's not that severe as well, but
25 you do agree that it's a similar type of analogy?

1 A. Yes, I do.

2 Q. And then you were also asked about
3 transport, I believe, and when a competitor would need to
4 use transport to use a distant -- I believe this was in
5 terms of using a server in a distant place, but they would
6 need to buy transport from someone else and that might be
7 from SBC?

8 A. That's correct.

9 Q. If there were a dispute as to the
10 arrangements between SBC and the competitor for that
11 transport, would that have to come back to the Commission
12 for arbitration?

13 A. It would come back before the Commission --
14 if it was an issue over an existing interconnection
15 agreement, it would be part of a dispute resolution
16 process. If it was a disagreement over establishing
17 prices or terms and conditions for purchasing that service
18 going forward, then that would be done through an
19 arbitration, yes.

20 Q. Now, in most instances I would assume that
21 for existing competitors there are interconnection
22 agreements that do incorporate transport?

23 A. Yes.

24 Q. And those terms have been agreed to?

25 A. Either agreed to or arbitrated, yes.

1 Q. And then you were asked about waiting, the
2 advisability of waiting until the -- something like the
3 market's no longer -- I can't remember the words that were
4 used, but --

5 A. Might have been uncertain.

6 Q. Uncertain. Thank you -- 'til the market's
7 more certain based upon certain things that might happen
8 at the FCC or as a result of the rules, the transition
9 period expiring. If we did wait to see whether we were
10 going to consider SBC to have effective competition and
11 base that determination on whether CLECs had changed to
12 their own switches, wouldn't that be a great disincentive
13 for CLECs to do anything prior to when they had to?

14 A. It certainly could be it could be a
15 disincentive for that. It could be a disincentive --
16 actually, it could serve as a disincentive to even
17 negotiate with us over trying to reach a commercial
18 agreement with us, if they recognize that it can delay all
19 this by not appearing to want to compete in the
20 marketplace.

21 Q. And then use that as evidence?

22 A. And I guess slightly different thought on
23 that, if this -- the same disincentive exists if this
24 Commission were to ignore that competition, then again
25 that would disincent us from trying to have people use our

1 switches if it's going to be held against us in terms of
2 looking at competition.

3 Q. Yes. And I would assume that you would
4 weigh that in the whole picture -- well, never mind. I'm
5 not going to go there. It would take me too long.

6 I'm glad you brought up contestability of a
7 market, because I've been trying to remember for days what
8 that term was, and for some reason I had a mental block.
9 When a company doesn't have market power but a market is
10 contestable, is that correct under economic theory?

11 A. I think general economic theory says that,
12 that if an entity can enter a market, then -- or entities
13 can enter a market, then that has the effect of
14 constraining existing provider or providers, because if
15 they try to increase their prices to noncompetitive
16 pricing levels, then that will simply incent the entities
17 to enter the market and take that business away.

18 Q. And then on page 42 of your -- I believe it
19 is your surrebuttal, you talk about OBRA, O-B-R-A charges?

20 A. Yes.

21 Q. Can you explain what that is?

22 A. It's a charge that exists in certain
23 exchanges for customers that reside outside of -- to throw
24 another term in here -- the base rate area. So some of
25 our exchanges have a -- an area, I guess, and we'll say

1 it's sort of around the central office, and kind of
2 picture -- let's just make it simple.

3 You've got a big circle that's the
4 exchange. In some exchanges there's a smaller circle, and
5 that smaller circle defines the base rate area. So what
6 that means is if you're inside that circle, you are just
7 charged the regular basic local service price, if you
8 will.

9 Q. Are you talking about MCA?

10 A. No. No. This is different than MCA. This
11 is with -- within an exchange. So I don't know if -- if
12 Meta exactly has a base rate area, but let's just use Meta
13 as an example. In the exchange of Meta, there might be --
14 and it's not actually a circle, but let's for simplicity
15 say there's a circle inside the exchange, and if you live
16 inside this circle, then you get this extra charge -- I'm
17 sorry. If you live inside the circle, you do not get this
18 OBRA charge. You just pay the regular basic local service
19 price. If you live outside the circle, then this OBRA
20 charge is added on top of your basic local service rate.

21 Q. And how is that OBRA charge, where does it
22 come from? Where does it go to?

23 A. When you say come from and go to --

24 Q. Well, what established it?

25 A. I don't know. It would be speculation on

1 my part, but what -- if I had to speculate, I would assume
2 that it might have been a mechanism at some point to
3 reflect the fact that it in general costs more to serve
4 farther from the central office. Now, I don't know that
5 for certain, but that could be one explanation of why --
6 why that charge exists. I mean, it's a regular tariff
7 charge.

8 Q. It's not a regulatory fee or anything like
9 that? It is within base rates, basic rates?

10 A. Right.

11 Q. And is it only existent in some exchanges?

12 A. That's correct.

13 Q. Okay. I'm still not sure I understand
14 that, but when I read it, it made me think about whether
15 getting price cap removed, price cap regulation removed,
16 whether that would allow or incentivize SBC in any way to
17 offer more expanded calling scopes or be able to offer,
18 for example, flat-rated calling throughout an MCA,
19 throughout the optional zones and that kind of thin. And
20 I don't know if this would affect that ability, those
21 incentives in any way, and if it would, please tell me
22 how, and if it wouldn't, you can tell me that also.

23 A. I think it definitely could. Again, to the
24 extent companies are free to move prices around, up and
25 down in the marketplace, then it increases their

1 flexibility to do things. And if one of the things, for
2 example, was to try to create expanded calling scopes,
3 then you might be able to find a way to make that more
4 attractive if you're able to move prices around.
5 Similarly with MCA service, if you're again able to move
6 prices around more freely, then -- then you certainly have
7 more flexibility to take a look at changes to something
8 like an MCA service.

9 Q. So it is a possibility that --

10 A. Yes, I believe it is.

11 Q. -- competitive status could affect that?

12 In regard to the degree of attention that
13 SBC gives to seeking competitive classification, I'm
14 assuming that a part of becoming competitive is -- and a
15 very important and valuable part of being classified as
16 competitive is that you're able to develop marketing plans
17 that do not have to be shared in advance, and that
18 competitors' success depends largely on their ability to
19 outthink, out-innovate, be one step ahead of the
20 competitor all of the time or most of the time. Is that
21 an accurate assessment?

22 A. Yes, that's a key component of trying to
23 compete in the marketplace.

24 Q. So if in order to be declared competitive,
25 if you had to first come to a regulator and share -- lay

1 out all your plans for the next six months or year or
2 whatever and say, this is how we're going to use it if we
3 become competitive, would that defeat if the -- somewhat
4 defeat the whole process of getting the competitive
5 classification?

6 A. Certainly could be a risky -- risky thing
7 to disclose.

8 Q. And would it be prudent in seeking
9 competitive classification to delay any such planning
10 activities until after the classification were granted?

11 I mean, I'm assuming that that could be
12 done as a prudent choice, delay in marketing any of those
13 plans or even discussing any of those plans, rather than
14 as a sort of a -- an inattention to detail or just
15 sloppiness on the part of the company?

16 A. I think that's something that the parties
17 could consider.

18 Q. There's several possible outcomes to this
19 proceeding, are there not?

20 A. Yes.

21 Q. One would be that you just become
22 competitive, your PBX -- I may not be calling it the right
23 thing, but that service be declared competitive or that
24 only directory assistance be declared competitive or that
25 both of those services be declared competitive. And that

1 can be exchange -- certain exchanges, statewide, all kinds
2 of variations there, or you could have both of the above
3 and you could have selected exchan-- additional exchanges
4 in which you receive total reclassification. Is that a
5 possible outcome?

6 A. That's correct.

7 Q. Or you could receive reclassification for
8 both of those services plus basically across the state as
9 you have requested?

10 A. That's correct.

11 Q. That's a possible outcome. When I was
12 listening upstairs, I heard you telling someone, and I
13 can't recall who was questioning you at the time, but you
14 indicated that you're very much -- SBC is very much aware
15 of the politics and the public policy issues involved in
16 raising rates, and that SBC is very reluctant to anger
17 legislators, regulators and customers by unreasonably
18 raising rates and making it difficult for all of the
19 above.

20 Now, that to me indicates that while a true
21 competitive market would probably dictate to a company who
22 was fully trying to compete to the fullest extent possible
23 to move prices toward cost, and if that meant lowering
24 prices somewhere, that's what would happen, and if it
25 meant raising prices elsewhere, that's what would happen.

1 I hear what you were saying earlier to
2 indicate to me that SBC would not be just looking at the
3 ability to compete, but would also continue to be aware of
4 these other forces, political and public policy issues
5 that still very much impact what you are able to do; is
6 that correct?

7 A. That is very correct.

8 Q. And there would continue, then, to be some
9 pressures constraining the true effect of competition on
10 SBC, regardless of what we do in this proceeding; is that
11 right?

12 A. I believe that would be correct. I think
13 the starting point of basic local service prices and the
14 historical importance and sanctity, if you will, of basic
15 local service prices adds an extra factor on top of just
16 the general economic theory about prices moving towards
17 cost.

18 We will -- and again, I think competition
19 will take care of it, but even independent of competition,
20 we will certainly have those extra constraints, if you
21 will, that we will be paying very close attention to and
22 -- and I think that will serve the purpose of keeping us
23 from raising prices even again independent of the
24 competition not allowing us to, but even independent of
25 that, those extra constraints are going to keep us from

1 significantly raising basic local service prices to
2 reasonable levels.

3 JUDGE RUTH: I'm sorry. I was just going
4 to point out that we're going to need to shut down in just
5 a minute probably for the day.

6 COMMISSIONER MURRAY: We don't have 'til
7 five o'clock? I'll probably be finished with this in two
8 minutes.

9 JUDGE RUTH: All right.

10 BY COMMISSIONER MURRAY:

11 Q. And I also understand you to say, and I
12 think from my perspective very reasonably so, that if as a
13 result of receiving competitive status some prices do need
14 to move up, that they will move up as much as they can
15 without affecting the consumer adversely. Is that -- I'm
16 also understanding you correctly there, that you're not
17 saying you will not raise prices anywhere, correct?

18 A. Yes, that's correct. I can't today say
19 there will be absolutely no price increases anywhere.

20 Q. And I would assume that would have to be
21 the case.

22 A. Just like it's the case with most
23 competitive markets.

24 Q. And then just one last thing. The -- you
25 were asked earlier whether Mr. Shooshan example of

1 18 percent of wireless customers having no landline phone
2 you think is representative of actual numbers. And just
3 as a little aside, I was just calculating here. I know
4 that at least 20 percent of this Commission, of the
5 members of this Commission have -- only have wireless as
6 their only home phone, so . . .

7 A. I made what calculation, too, Commissioner.

8 COMMISSIONER MURRAY: I have no idea if
9 we're representative, but thank you, Judge. That's all I
10 have.

11 JUDGE RUTH: Then we are to go off the
12 record for today. Tomorrow we will start back up at 8:30
13 in the morning with the same witness again. Any questions
14 on the procedure?

15 (No response.)

16 JUDGE RUTH: Then we are off the record.
17 Thank you very much.

18 WHEREUPON, the hearing of this case was
19 recessed until February 3, 2005.

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I N D E X

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