

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

December 19, 2006
Jefferson City, Missouri
Volume 6

In the Matter of the Application)
of USCOC of Greater Missouri,)
LLC, for Designation as an) Case No. TO-2005-0384
Eligible Telecommunications)
Carrier Pursuant to the)
Telecommunications Act of 1996)

MORRIS L. WOODRUFF, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE

JEFF DAVIS, Chairman,
CONNIE MURRAY,
STEVE GAW,
ROBERT M. CLAYTON, III,
LINWARD "LIN" APPLING,
COMMISSIONERS

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

2 JUDGE WOODRUFF: Welcome back for Day 2 of the
3 hearing in TO-2005-0384. When we finished yesterday
4 afternoon, we had just completed the evidence from
5 U.S. Cellular.

6 And I believe we are now ready for Mr. McKinnie
7 for Staff. Now, I might add I got a phone call a few
8 minutes ago from Mike Dandino. He had been delayed in
9 traffic and said to go ahead without him. He'll be here
10 in a few minutes.

11 Please raise your right hand.

12 ADAM MCKINNIE,
13 being first duly sworn to testify the truth, the whole
14 truth, and nothing but the truth, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. HAAS:

17 JUDGE WOODRUFF: You may be seated. And you may
18 inquire.

19 Q (By Mr. Haas) Mr. McKinnie, please state your
20 name.

21 A Adam McKinnie, M-c-K-i-n-n-i-e.

22 Q Where are you employed?

23 A I'm employed by the Telecommunications
24 Department of the Missouri Public Service Commission.

25 Q And are you the Adam McKinnie who has prepared

1 supplemental rebuttal testimony in this case?

2 A Yes, I am.

3 Q And do you have any additions or corrections to
4 make to that testimony?

5 A I just have three small corrections that are
6 mostly just spelling errors, but I wanted to take care of
7 them. And what's tabled page i in the Table of Contents
8 on line 13, it should be executive summary, s-u-m-m-a-r-y.

9 And then on page 12, line 7, the first word
10 should be regarding, not regerding.

11 And the final one is on page 13, line 16 within
12 the excerpt. The fourth word of line 16 should be
13 proceeding without the capital F in the middle.

14 Q Are those all of your corrections?

15 A No. There's one other thing I need to address.

16 Q And what is that?

17 A I need to address the issue of the -- the maps
18 and locations for existing tower locations. Due to an
19 EFIS snaffoo, the maps were not correctly in EFIS at the
20 time I filed my testimony.

21 Later on, these maps had been received. They
22 were provided by counsel, so I would just like to state
23 that there are maps in the record that do provide where
24 the existing tower locations are for U.S. Cellular.

25 Q Okay. Do you have any other additions or

1 corrections?

2 A No, I don't.

3 Q All right. With those additions and
4 corrections, if you were giving this testimony today live,
5 is that testimony true to the best of your knowledge,
6 information and belief?

7 A Yes, it is.

8 MR. HAAS: Your Honor, I would many move for the
9 admission of Exhibit No. 29, the supplemental rebuttal
10 testimony of Adam McKinnie. And that comes in three
11 versions, P, NP and HC.

12 JUDGE WOODRUFF: Thank you. 29-NP, P and HC
13 have been offered into evidence. Any objections to its
14 receipt? Hearing none, it will be received into evidence.

15 (Exhibit Nos. 29-NP, 29-HC and 29-P were
16 admitted into evidence.)

17 MR. HAAS: Your Honor, I tender the witness for
18 cross-examination.

19 JUDGE WOODRUFF: Thank you. For
20 cross-examination, we begin with CenturyTel.

21 MR. STEWART: Thank you, your Honor.

22 CROSS-EXAMINATION

23 BY MR. STEWART:

24 Q Good morning, Mr. McKinnie.

25 A Good morning.

1 Q Just a few questions. Did you participate and
2 file testimony on behalf of the Commission Staff in the
3 MO-5 and Northwest Cellular case?

4 A Yes, did.

5 Q So you're familiar with the applications that
6 those companies have filed?

7 A Generally, yes.

8 Q Did the applicants in those cases make a general
9 statement in their testimony like the one made here by
10 U.S. Cellular that they promised they would spend ETC
11 dollars only for allowed ETC purposes and not for expenses
12 they might otherwise incur as part of their normal
13 business activities?

14 A I believe they did. But if you could point to a
15 portion of their application, that might be helpful.

16 Q Well, unfortunately, I don't have that up here.
17 Let me go on. In those cases, did the applicants also
18 submit service area build-out plans and ETC budget and
19 investment information?

20 A Eventually, yes.

21 Q In those cases, did certain ETC investment
22 issues come to light?

23 A Can you tell me what you mean by investment
24 issues?

25 Q Issues with their proposed budget, their

1 proposed expenses.

2 A Yes.

3 Q In fact, they -- they had included certain
4 expenses that they otherwise would have incurred in their
5 normal business dealings?

6 A Yes. That is correct.

7 Q In fact, there were expenses included for
8 non-supported services, weren't there?

9 A Yes.

10 Q Now, once these items came to light, were these
11 items ultimately addressed by the Commission before it
12 granted ETC status to those applicants?

13 A Yes, they were.

14 Q In fact, they did that in the report and order?

15 A That is correct.

16 Q Were these improper items originally included in
17 the budget detail provided by the applicants?

18 A I know that at least one of the applicants went
19 through some budget revisions, so I don't know whether I
20 can say originally. But I will say that the items were
21 included before hearing.

22 Q In its submission, has U.S. Cellular provided
23 the same level of budget detail as was provided by the
24 applicants in the MO-5 and Northwest Cellular cases?

25 A By level of budget detail, if you mean do they

1 list the same number of items and the same types of
2 information, I would say that the showings are -- are
3 fairly similar.

4 Q How many pages, if you recall, did U.S. Cellular
5 provide in its August filing that listed the budget
6 detail?

7 A If I remember correctly, it's just one page.

8 Q Do you remember how many lines of detail were on
9 that page?

10 A Not right off, but I can -- I can examine it for
11 you.

12 Q Well, I suppose it will speak for itself. Did
13 -- did U.S. Cellular aggregate a number of categories in
14 terms of its expenses rather than break them out
15 individually?

16 A I'm a little bit confused by -- by what you mean
17 by aggregation.

18 Q Well, let's -- let's use an example from one of
19 the previous cases. In one of the previous cases, certain
20 services were listed and costs for those services. I
21 believe it was EVDO.

22 Were there any specific services like that
23 listed or of that nature listed, supported or unsupported,
24 in U.S. Cellular's filing?

25 JUDGE WOODRUFF: If I can interrupt for a

1 minute, I just have a question for the court reporter.

2 (Break in proceedings.)

3 JUDGE WOODRUFF: All right. We can go back on
4 the record.

5 Q (By Mr. Stewart) I believe I was waiting for
6 your answer.

7 A No, there is no information of that sort in the
8 page that is -- that is listing their -- their
9 expenditures.

10 Q And that -- that page is designed to outline
11 their budget and expenses for their plan as submitted,
12 correct?

13 A Correct.

14 Q I'm going to shift gears a little bit. Are you
15 familiar with the Commission's new ETC rule?

16 A Yes.

17 Q Does that rule require initial upfront
18 submission of detailed build-out plans and specific budget
19 information?

20 A Yes, it does.

21 Q Do you believe that all ETC applicants should be
22 treated equally?

23 A Yes, I do.

24 Q Should they be subject to the same level of
25 review in terms of initial compliance with the

1 Commission's ETC rule?

2 A Yes.

3 Q Is there any provision in the Commission's ETC
4 rule that allows an ETC to submit its detailed budget and
5 expense information for the first time in its annual
6 review phase as opposed to their upfront initial
7 submission?

8 A No, there is not.

9 Q If in the annual review phase the Staff or the
10 Commission might discover that ETC funds had been spent
11 for unsupported services or spent on items that the ETC
12 might otherwise incur, could the Commission recover those
13 misspent dollars?

14 A I don't believe so. And if so, it would be
15 quite difficult.

16 Q Okay. One final question. Once the Commission
17 grants an ETC a specific ETC service area, and, I guess,
18 other than revoking ETC status after the Commission's
19 annual review process, does the Commission have any
20 control over the total amount an ETC receives from the USF
21 fund once it grants ETC status?

22 A To an extent, I would say the answer is yes.

23 Q Explain that, please.

24 A I would say the Commission could decline to
25 certify an eligible telecommunications carrier for -- for

1 one-quarter or for a period of multiple quarters.

2 Q By quarter. But I guess my question was -- was
3 did -- so there -- let me back up. There's an option for
4 the Commission to revoke ETC status totally, correct, at
5 that annual review process?

6 A That option -- I believe that option does exist.

7 Q And you're saying that the Commission also has
8 an option to say, Well, we -- we will continue your ETC
9 status, but we're only going to certify you for a quarter
10 or half or whatever?

11 A I may have misspoken. I'm not sure the word
12 revoke actually is in the rule at all. I believe the rule
13 discusses declining to certify.

14 Q Declining to recertify?

15 A It's -- it just says certify in the portion that
16 I'm looking at.

17 Q But you would agree with me that, as a general
18 proposition, this Commission has no control over the
19 amount of funding other than what you just said, other --
20 for -- that an ETC might receive once granted
21 certification? Or once granted status?

22 A Other than the ability to decline certification
23 on a quarterly basis, no, the Commission does not have any
24 control over the amount of money that would be received by
25 an ETC.

1 Q They could, perhaps, though, in the initial
2 phase, limit the total amount they might receive by
3 reducing or modifying the proposed service area, couldn't
4 they?

5 A Yes.

6 MR. STEWART: Okay. That's all I have. Thank
7 you.

8 JUDGE WOODRUFF: Thank you. Cross by Small
9 Telephone Company Group?

10 MR. MCCARTNEY: Yes. Thanks.

11 CROSS-EXAMINATION

12 BY MR. MCCARTNEY:

13 Q Good morning, Mr. McKinnie.

14 A Good morning.

15 Q Do you have a copy of your 2005 rebuttal
16 testimony?

17 A I believe I do.

18 Q Would you please turn to page 6 and look at
19 lines 12 through 14?

20 A I'm there.

21 Q In the middle of line 12, you state that there
22 will be, "areas in U.S. Cellular's proposed ETC area that
23 will have no cellular service from U.S. Cellular either
24 before or after the potential approval of the instant ETC
25 application."

1 Since you prepared that testimony, U.S. Cellular
2 has filed a new two-year plan. Wouldn't you agree that
3 there are still portions of U.S. Cellular's proposed ETC
4 area that have no cellular service from U.S. Cellular
5 today?

6 A Yes. there are areas where there is no service
7 from U.S. Cellular today.

8 Q Okay. And isn't it also still true that there
9 are portions of U.S. Cellular's proposed ETC area that
10 would have no cellular service from U.S. Cellular even
11 after the completion of the towers outlined in their
12 proposed two-year plan?

13 A There are areas that are not planned to be --
14 I'm going to use the term lit up, which isn't very
15 scientific, but there are areas that will not be lit up by
16 the proposed two-year plan.

17 Q So they wouldn't have service from
18 U.S. Cellular?

19 A Not from U.S. Cellular. Correct.

20 Q Okay. So you're familiar wit the Chariton
21 Valley Wireless ETC case, aren't you?

22 A Yes.

23 Q Would you agree with me that in that case the
24 Commission granted Chariton Valley a wireless ETC status,
25 but they excluded a certain rural ILEC exchange? And I'm

1 talking about the Northeast Missouri Rural Telephone
2 Company, Winnegan exchange.

3 A That is correct.

4 Q Okay. Are you familiar with an ETC case
5 involving a Kansas City CLEC called Ex-Op?

6 A I am less familiar with that case than I am with
7 -- with the MO-5 that we just discussed. But, yes, I'm
8 vaguely familiar.

9 MR. MCCARTNEY: May I approach, your Honor?

10 JUDGE WOODRUFF: You may.

11 MR. STEINER: Do you have one for us, Brian?

12 Q (By Mr. McCartney) I've handed you a copy of
13 the report and order in that Ex-Op case. It's Case No.
14 TA-2001-251. Would you please turn to page 5 and just
15 read the area that I've got highlighted there?

16 A "Section 214(e) (1) of the Act requires that
17 designated carrier both offer and advertise the eligible
18 services throughout the designated service area. The FCC
19 has interpreted this language as not requiring offer and
20 advertisement as a condition of designation.

21 The Commission, like the Public counsel,
22 concludes that the statutory language is not a meaningless
23 formality. The facts show that Ex-Op offers and
24 advertises these services only in the Kearney exchange.

25 Ex-Op has made no showing as to its plans to

1 provide service in additional exchanges. The Act clearly
2 requires that a carrier both offer and advertise the
3 services in question throughout its designated service
4 area upon designation.

5 Therefore, Ex-Op may be designated only for the
6 Kearney exchange, for Ex-Op has not shown that it will
7 both offer and advertise the services in question in a
8 larger area upon designation."

9 Q Thank you. And so will you agree with me, given
10 the Chariton Valley Wireless ETC case and this Ex-Op case,
11 that this Commission can and has excluded ETC designation
12 in areas where a carrier is not currently serving and has
13 not offered plans to serve?

14 A I may have a small quibble with the word
15 serving, but definitely offer and -- offer and advertise.

16 Q Okay. And they -- they have excluded ETC
17 designation in some areas, then?

18 A Yes. The Commission has.

19 Q Okay. During the last hearing, I asked you this
20 question about the FCC's ETC designation order. "Do you
21 think that the FCC is trying to make the ETC designation
22 process more rigorous or less rigorous?"

23 And I think at that time, you answered that the
24 FCC was trying to make it more rigorous than it was before
25 that order.

1 Would your answer today still be that they're
2 trying to make it more rigorous than it was before the ETC
3 designation order was issued?

4 A Yes.

5 Q Would you agree with me that the FCC has
6 indicated a desire to contain the rapid growth in the USF?

7 A I would have to be pointed to a certain specific
8 order. But I know that some sort of concern on that has
9 been expressed. I'm not sure it's been by the FCC.

10 Q Do you know whether the PSC has recently made
11 some similar comments to the FCC about containing the
12 rapid growth in the federal USF?

13 A Yes.

14 Q Okay. Is it correct to say that Staff does not
15 recommend that the US -- I'm sorry -- Staff does not
16 recommend that the Commission approve U.S. Cellular's ETC
17 application at this time?

18 A That is correct.

19 Q In the event that the Commission does choose to
20 grant the application, do you think it would be reasonable
21 for the Commission to exclude those areas where U.S.
22 Cellular does not serve and has not offered plans to
23 serve?

24 A I -- I would not recommend the Commission do so.

25 Q You would not recommend that they exclude those

1 areas?

2 A No, I would not.

3 Q Why not?

4 A I would not recommend that they include those
5 areas, first of all, because of U.S. Cellular's offer to
6 offer resale in order to kind of meet those areas kind of
7 on a -- on a possible basis, first of all.

8 Second of all, there are -- there are benefits
9 to that resale arrangement if a life line thing can be --
10 can be considered for those resell plans.

11 And third, as I discussed in my previous
12 testimony, I -- I believe to an extent in administrative
13 simplicity. Because as much as I've enjoyed getting
14 together with everybody in this room multiple times, I
15 would -- I think just from an administrative standpoint it
16 might be inefficient for all of us to gather here in
17 another year.

18 Q Let me kind of back through those here. Your
19 last reason was you'd just rather not go through another
20 USF proceeding or ETC proceeding?

21 A I just think we would end up relitigating the
22 same issues over and over again.

23 Q If U.S. Cellular hasn't made their case on a
24 certain issue, don't you think that it ought to be looked
25 at again?

1 A If U.S. Cellular has not made their case.

2 Q Okay. Let's talk about your resale example.

3 Will you assume for me for a moment that you are a
4 customer down somewhere in this boot heel area that's
5 white on the map?

6 A Okay.

7 Q And would you also assume for me that you've got
8 kind of crummy cellular service now, that you're not
9 getting a very good signal and that you're upset about it?

10 A Okay. I'm upset.

11 Q All right. Assume for me now that you see U.S.
12 Cellular advertising all over the place down there.
13 They're on TV, the radio. You decide that your friends in
14 St. Louis are getting good service, so you're going to
15 make the switch. Even though there's a -- there may be an
16 early termination fee or something, you decide to switch
17 to U.S. Cellular service. All right?

18 A Okay.

19 Q But they're reselling the same kind of crummy
20 service that you had to start with. Is there a public
21 interest benefit in that?

22 A To the extent that they may be able to offer a
23 life line plan, perhaps.

24 Q Okay. would you turn to page 3 of your 2006
25 supplemental testimony? I think it starts at page 11.

1 You express some concerns about whether U.S. Cellular has
2 complied with the PSC's rule 4 CSR 240-3.572(a) (3) (g) .

3 Will you please read the specific text of that
4 rule, page 11, lines 22 through 24?

5 A "A statement as to how the proposed plans would
6 not otherwise occur absent the receipt of high cost
7 support, and that such support will be used in addition to
8 any expenses the ETC would normally incur."

9 Q I'd like to focus on the first part of that
10 provision, that the plans would not otherwise occur absent
11 high cost support.

12 On page 12 of your testimony, you note that
13 U.S. Cellular has already built four of the 16 sites it
14 previously stated would not be built without high cost
15 support. Does that fact cause you some concern when you
16 evaluate U.S. Cellular's new two-year plan?

17 A Yes, it does.

18 Q Have you reviewed U.S. Cellular's supplemental
19 surrebuttal in response to your testimony on that matter?

20 A Yes, I have.

21 MR. MCCARTNEY: May I approach, your Honor?

22 JUDGE WOODRUFF: You may.

23 Q (By Mr. McCartney) I just handed you a copy of
24 Mr. Johnson's testimony. Would you please turn to page 14
25 and look the lines 1 through 3? Are you there?

1 A Yes, I am.

2 Q Okay. At that part of his testimony, he states,
3 "Every time a site moves up in priority and is built ahead
4 of the time frame anticipated in our ETC plans, we will
5 replace it with another project that would not be planned
6 within that time frame without high cost support."

7 If U.S. Cellular's two-year plan is constantly
8 changing, won't this make it more difficult for Staff to
9 assess whether the identified projects would not otherwise
10 occur absent high cost support?

11 A It would make it a little bit more difficult,
12 yes.

13 Q Okay. I'd like to look at the second prong of
14 the rule, the part about in addition to otherwise
15 incurred. Do you believe that it contemplates
16 U.S. Cellular spending over and above the baseline amount
17 of its normal capital expenditures for network
18 improvements in rural Missouri?

19 A I'm hesitant to use the word baseline because
20 that seems to imply a consistent thing from -- from year
21 to year. But I definitely do agree that it means that
22 there are expenses that they would normally incur, and
23 then there are ETC expenses.

24 Q Okay. Would you agree that USF support should
25 not be used to fund network improvements in U.S.

1 Cellular's St. Louis market?

2 A Can you repeat the -- the verb you used in that
3 -- in that question?

4 Q Sure. Sure. Would you agree that USF support
5 should not be used to fund network improvements in
6 U.S. Cellular's St. Louis market?

7 A Using the word should, I would say no.

8 Q Okay. Let's talk a little bit about life line.
9 You mentioned that earlier. Assume that a customer in
10 AT&T's Macon exchange -- do you know where Macon is?

11 A Roughly, yes.

12 Q Okay. It's a wire center that's served by AT&T
13 land line. Assume that there's a customer there and they
14 qualify for the life line discount and they've got AT&T
15 land line service, and they also get service from Chariton
16 Valley Wireless. Should that customer get the life line
17 discount on both their wire line and wireless service?

18 A Should seems to imply some sort of policy
19 judgment of some sort. I can tell you that they
20 definitely -- they definitely are -- are allowed to under
21 the current rule.

22 Q Okay. Mr. Stewart, I think, may have asked you
23 a question about the Mid-MO cellular ETC case. You were
24 involved in that case, were you not?

25 A I'm not sure he asked about that, but I was

1 involved in that case.

2 Q Maybe -- maybe I heard wrong. I'm getting them
3 all confused now.

4 MR. MCCARTNEY: May I approach? I've got one
5 more?

6 JUDGE WOODRUFF: Yes.

7 Q (By Mr. McCartney) Will you look at page 6 of
8 that testimony, lines 10 through 15? And would you read
9 for me the portion that begins More Companies that I've
10 highlight?

11 A Uh-huh. "More companies requesting support from
12 the fund could affect the stability of the fund or force
13 each ILEC to receive less support, forcing customers to
14 pay more if rural ILECs retain their current level of
15 profitability under rate of return, ROR regulation.

16 Either scenario would be a huge problem to many
17 ILECs who serve in high cost areas as the ILECs would be
18 unable to offer wire line telecommunication services at
19 rates their customers could afford."

20 Q Is Staff still concerned about the impact of
21 wireless ETCs on the size of the federal USF?

22 A Yes.

23 Q Have you reviewed Staff's position statement
24 that was filed in this case last week?

25 A By this case, you mean the instant case?

1 Q Yes. I'm sorry.

2 A Yes.

3 Q Okay. Do you have a copy of it?

4 A I may if you give me just one second.

5 Q Okay.

6 A It appears that I have one.

7 Q Great. Would you look at the -- kind of

8 starting at the end of page 2, beginning on page 3? The

9 position statement concludes, "It is not in the public

10 interest to grant ETC designation for U.S. Cellular to

11 receive high cost support given that U.S. Cellular does

12 not need that support to construct cell sites in its

13 proposed plan." I'm sorry. Did I skip ahead of you?

14 A (Witness shakes head.) No.

15 Q Okay. Is it fair to say that Staff does not

16 believe that it's in the public interest to grant ETC

17 status in those areas that are already served by Chariton

18 Valley Wireless and Northwest Missouri Cellular?

19 A I don't believe any part of our position

20 statement addresses those areas individually.

21 Q Okay. But if it's not in the public interest to

22 grant it for the whole area, then those two parts would be

23 included, right?

24 A That is correct.

25 MR. MCCARTNEY: Those are all my questions.

1 Thank you.

2 JUDGE WOODRUFF: Thank you. AT&T?

3 CROSS-EXAMINATION

4 BY MR. GRYZMALA:

5 Q Good morning, Mr. McKinnie.

6 A Good morning.

7 Q Just a couple questions on a single subject.

8 You had a discussion a few moments ago with Mr. Stewart
9 about the concept of a scenario in which an ETC would
10 spend high cost dollars on non-high cost supported
11 services.

12 And you will recall, am I correct, that
13 suggestion that if that were to occur, recovery of those
14 dollars would be difficult, I think is the word you said;
15 is that correct?

16 A I do recall that discussion.

17 Q Let's -- were you here yesterday when there was
18 testimony relating to the issue of whether it is
19 appropriate to spend high cost funds in non-high cost wire
20 centers?

21 A I was here yesterday for discussions of that
22 nature.

23 Q Now, let me just ask you, if this Commission
24 were to conclude that an ETC cannot spend, consistent with
25 federal law, high cost support dollars in non-high cost

1 wire centers, please assume that, if the Commission were
2 to conclude that, but also assume that an ETC were to do
3 just that, spend high cost support dollars in non-high
4 cost wire centers, that it would likewise be difficult to
5 recover those dollars by means of a compliance review?

6 A While it is difficult to make that assumption, I
7 do agree that it would be difficult to recover those
8 dollars.

9 MR. GRYZMALA: That's all I have. Thank you.

10 JUDGE WOODRUFF: Thank you. Public Counsel, any
11 questions?

12 MR. DANDINO: No questions, your Honor. Thank
13 you.

14 JUDGE WOODRUFF: All right. U.S. Cellular?

15 MR. LAFURIA: Sorry.

16 MR. MCKINNIE: That's all right.

17 CROSS-EXAMINATION

18 BY MR. LAFURIA:

19 Q Good morning, Mr. McKinnie.

20 A Good morning.

21 Q I've placed in front of you this morning a Data
22 Response Request 2.03 that U.S. Cellular submitted in
23 response to data requests from EPS in this case. I think
24 you were provided with a copy of that document yesterday.
25 Is that -- is that correct?

1 A That is correct.

2 Q And have you reviewed it?

3 A I -- I looked it over briefly yesterday.

4 Q Does the information provided in that response
5 -- in particular, Subsection A, provide you with the
6 information that you were looking for in this case on
7 microwave -- microwave deployment in the 39 sites?

8 A It definitely provides more specificity.

9 MR. LAFURIA: Thank you. Your Honor, I'd like
10 to move this into the record, please.

11 JUDGE WOODRUFF: All right.

12 MR. STEWART: Your Honor, I just have a
13 question. What is the date of the response on this data
14 request?

15 JUDGE WOODRUFF: It doesn't appear to be showing
16 on the document.

17 MR. STEWART: I thought I heard you say that
18 maybe you provided it yesterday.

19 MR. LAFURIA: We provided a copy of this to
20 counsel yesterday. And this data response was October
21 19th, 2006. It was a part of our data responses to EPS.

22 MR. STEWART: In October?

23 MR. LAFURIA: Yes.

24 MR. STEWART: Okay.

25 JUDGE WOODRUFF: I've marked it as Exhibit 35.

1 It's been offered into evidence. Is there any objection
2 to its receipt?

3 MR. HAAS: Yes, your Honor. Staff objects in
4 that there's been no authentication. Mr. McKinnie did not
5 prepare this document. We haven't had a -- a person
6 presenting this as being the correct statement of fact.

7 JUDGE WOODRUFF: Your response, Mr. LaFuria?

8 MR. LAFURIA: Well, your Honor, we provided this
9 as a data request to EPS. This -- this particular
10 document was not -- it was requested -- the questions at
11 some point, I think, came up in Staff's testimony.

12 And in responsive testimony, we did not provide
13 this specific information. However, it was provided in a
14 data request.

15 JUDGE WOODRUFF: I'm confused. Who was this
16 data request provided to?

17 MR. LAFURIA: It was provided to EPS in this
18 proceeding.

19 JUDGE WOODRUFF: Okay. EPS is one of the Small
20 Telephone Company Group?

21 MR. LAFURIA: Yes.

22 JUDGE WOODRUFF: I was trying to think how EPS
23 was involved in this.

24 MR. LAFURIA: It was an STG company request.

25 JUDGE WOODRUFF: Okay. Mr. McCartney did you

1 want to say something?

2 MR. MCCARTNEY: (Mr. McCartney shakes head.)

3 JUDGE WOODRUFF: Okay. I'll overrule the
4 objection and admit 35-HC into evidence.

5 (Exhibit No. 35-HC was admitted into evidence.)

6 Q (By Mr. LaFuria) Same problem. Mr. McKinnie,
7 you were just asked some questions about whether the
8 Commission could recover so-called misspent dollars if on
9 the annual review it were discovered that -- I think it
10 was EVDO. That's a -- that's a data service.

11 Let's assume for the moment that a company came
12 at the end of the year and said, Here's what we spent the
13 dollars on, here's the level of detail, and we spent X
14 dollars on data service, and the Commission determined,
15 well, that's an inappropriate expenditure under the
16 Universal Service Fund. Let's assume that for this
17 hypothetical.

18 A Okay.

19 Q How hard would it be for the Commission to say
20 you spent \$1,000 on data, we're going to disallow that
21 expenditure. And going forward, you're going to have to
22 spend an extra thousand dollars this year on appropriate
23 expenses because we're just not going to allow that? How
24 hard would it be for the Commission to make that call?

25 A I believe it would be difficult for the

1 Commission to make that call because of the -- because of
2 the language in what I'm going to call the MO ETC rule.

3 Q And you mentioned earlier, and I think
4 correctly, actually, that the Commission has the option
5 come October 1 to simply not recertify a carrier such that
6 while it might still be an ETC, its funding is going to
7 get cut off, and it would be cut off on a quarter by
8 quarter basis.

9 That is, if a company were out of compliance, it
10 would not receive funds for the next quarter. If it
11 didn't come into compliance, it wouldn't get another
12 certification and it would be out for the next quarter,
13 and it would continue indefinitely until a company came
14 into compliance; is that correct?

15 A That's my understanding of the rule.

16 Q And so couldn't this Commission simply say to an
17 applicant, Irrespective of whether you're going to still
18 be an ETC, we're not certifying you until you fix that
19 thousand dollar problem we just identified?

20 A I believe that the Commission could definitely
21 make that statement.

22 Q Mr. McKinnie, do you know that as a matter of
23 federal law that life line subsidies to consumers are
24 limited to one per household?

25 A I'm not familiar with that -- that amount.

1 Q Thank you. Is it -- is it -- in response to
2 questions about in the size of the fund, isn't it true
3 that the rural ILECs lose no support when a competitive
4 ETC is designated?

5 A That's my understanding of how the USF fund
6 works.

7 Q You were given a hypothetical earlier. You said
8 it was -- let's say you lived down in the boot heel and
9 you get kind of spotty service from a company that U.S.
10 Cellular roams with and you want to get service, and it's
11 not so good and you're mad. Remember that?

12 A I -- yes, I do.

13 Q All right. I want to you stay mad now. Okay?
14 Because I'm going to ask you a question about what this
15 case is all about.

16 Were you here yesterday when U.S. Cellular's
17 witnesses gave testimony that said that the boot heel is
18 on the horizon, that with the first 22 million bucks, this
19 is what we're going to do, but three, four, five -- those
20 out years as the company builds its network out, the boot
21 heel is coming? Did you hear that yesterday?

22 A I'm not sure if I heard that exact phrase. But
23 I was here yesterday for discussions of that nature.

24 Q How would you describe the company's commitment
25 or its description of the -- when things are going to

1 happen in the boot heel?

2 A I'm glad you used the word description. I'm
3 very vague to say commitment in anything that occurs in
4 what I'm going to call the fog of the hearing room.

5 Q Yes. Thank you.

6 A But that description is kind of what was alluded
7 to as -- as what is probably going to occur in Years --
8 I'll call them Years 3, 4 and 5, even though we don't
9 really have Year 0, there's my air quotes, Year 0 set
10 currently.

11 Q So -- so are you more mad if your service is bad
12 now in that area of the boot heel, or are you more mad if
13 at the end of this hearing you find out that U.S. Cellular
14 just isn't coming because it isn't getting the support?

15 A I believe that may be a bit of a Hobson's
16 choice, but if we were under that assumption, then I -- I
17 would -- I guess I would be mad that I'm not going to
18 receive good service. But as I say, I believe that's a
19 bit of a Hobson's choice.

20 Q I understand.

21 MR. LAFURIA: Thank you very much. That's all I
22 have, your Honor.

23 JUDGE WOODRUFF: Thank you. We'll come up for
24 questions from the Bench. And I do have one question.

25 CROSS-EXAMINATION

1 BY JUDGE WOODRUFF:

2 Q And I don't know if you were involved in the
3 Cass-Tel case. But let me ask you, were you involved in
4 the Cass-Tel case?

5 A I was not involved directly in any of the
6 proceedings.

7 Q Okay. Do you know what -- anything about the --
8 decertification of Cass-Tel for receiving universal
9 service funding?

10 A I did follow the case. Yes. I'm familiar with
11 it.

12 Q Okay. Do you know what kind of procedure the
13 Commission followed to do that? Was there a contested
14 case?

15 A I know there was at least a proceeding, but I
16 don't know whether or not it was, like, on the record or
17 if it was something that was contested. I -- I don't
18 remember.

19 JUDGE WOODRUFF: All right. Thank you. That's
20 the only question I had. Is there any recross based on
21 that question? All right. Mr. Dandino?

22 CROSS-EXAMINATION

23 BY MR. DANDINO:

24 Q Mr. McKinnie, to follow-up with on the question
25 about Cass-Tel, do you know whether the Staff of the

1 Commission had to undertake an audit to discover any --
2 any problems with payments of USF funds to Cass-Tel?

3 A I believe the Commission did.

4 Q And how long did that audit take?

5 A I don't know.

6 Q Was it in excess of a year?

7 A I would not be surprised to find that that's the
8 case, but I just don't know.

9 Q Okay. And would you -- would you characterize
10 the -- the process to -- well, how -- do you know how the
11 funds were finally recovered, if -- if you know?

12 A I'm not sure that it was a question of recovery
13 versus maybe a question of not certifying on a going
14 forward basis.

15 Q Okay.

16 A But as I say, I'm not -- this is not my area of
17 expertise.

18 Q Okay. If -- by not certifying Cass-Tel for
19 future payments, was the Commission able to recover funds
20 which were -- which were improperly used?

21 A To be frank, I'm never quite sure how to think
22 about that expression because it kind of implies that I'm
23 putting little checkmarks on my -- the \$5 bills that we
24 were handing out yesterday and then we're taking that
25 exact same \$5 bill back. So to that extent, my answer

1 would be -- would be, no, they can't recover -- they can't
2 recover those specific funds.

3 Q Are you aware of any federal criminal actions
4 that was brought to recover those funds?

5 A I am aware of federal criminal actions. I'm --
6 I'm not certain whether or not they were to recover the
7 funds.

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

10 JUDGE WOODRUFF: Thank you. Any other recross?
11 Then we'll go to redirect.

12 MR. HAAS: No questions, your Honor.

13 JUDGE WOODRUFF: All right. Mr. McKinnie, you
14 can step down. Thank you. Then I believe then we'll go
15 on to CenturyTel's witness.

16 MR. STEWART: Your Honor, CenturyTel calls Glenn
17 Brown.

18 JUDGE WOODRUFF: Good morning, Mr. Brown.

19 MR. BROWN: Good morning, sir.

20 JUDGE WOODRUFF: Please raise your right hand.

21 GLENN BROWN,
22 being first duly sworn to testify the truth, the whole
23 truth, and nothing but the truth, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. STEWART:

26

1 JUDGE WOODRUFF: You may be seated. You can
2 inquire when you're ready.

3 Q (By Mr. Stewart) Good morning. Would you
4 please state your name for the record?

5 A My name is Glenn H. Brown.

6 Q Are you the same Glenn H. Brown that prepared
7 and caused to be filed supplemental rebuttal testimony
8 which has been marked for identification purposes as
9 Exhibit 30 in this proceeding?

10 A Yes, sir.

11 Q If I asked you the same questions that are
12 contained in Exhibit 30 today, would your answers be the
13 same?

14 A Yes, sir.

15 Q Did you have any additions or corrections you
16 would like to make to that testimony?

17 A I have one very, very minor correction. Out of
18 apparently an over-abundance of caution, I identified 39
19 towers that U.S. Cellular has agreed to construct if
20 granted ETC status as highly confidential when, in fact, I
21 have since been informed that that's public information.

22 So I don't know how you un-HC or double asterisk
23 around it or something. But that would be my only --
24 around those 39 towers which have been discussed openly in
25 this hearing.

1 JUDGE WOODRUFF: You're talking about the fact
2 that there are 39 towers or that there are -- the
3 locations of the individual towers?

4 A The fact that there are 39. I think the
5 location is proprietary.

6 JUDGE WOODRUFF: Okay. All right. Thank you.

7 Q (By Mr. Stewart) That's -- that's your only
8 clarification you have?

9 A That's correct.

10 MR. STEWART: With that, your Honor, I would
11 tender the witness for cross.

12 JUDGE WOODRUFF: Thank you. Oh, did you wish to
13 offer the exhibit?

14 MR. STEWART: I didn't know if we were doing
15 that earlier or doing it afterward, but, sure, I'll offer
16 the exhibit.

17 JUDGE WOODRUFF: All right. Exhibit 30, I
18 believe it's NP and HC, has been offered into evidence.
19 Are there any objections to its receipt? Hearing none, it
20 will be received into evidence.

21 (Exhibit Nos. 30-NP and 30-HC were admitted into
22 evidence.)

23 JUDGE WOODRUFF: For cross-examination,
24 beginning with Small Telephone Company Group?

25 MR. MCCARTNEY: No, thank you.

1 JUDGE WOODRUFF: AT&T?

2 MR. GRYZMALA: No, your Honor.

3 JUDGE WOODRUFF: Staff?

4 MR. HAAS: No questions, your Honor.

5 JUDGE WOODRUFF: Public Counsel is not present
6 in the room. U.S. Cellular?

7 CROSS-EXAMINATION

8 BY MR. LAFURIA:

9 Q Mr. Brown, good morning.

10 A Good morning, Mr. LaFuria.

11 Q Just clarify something from the last hearing.

12 You're not licensed or trained as a Radio Frequency
13 Engineer, are you?

14 A No, sir.

15 Q Have you ever designed any cellular or personal
16 communication systems, networks for carriers?

17 A Actually, I did design a small network.

18 Q Which network was that?

19 A In my home. I put a rooftop antenna, because I
20 built a new home, where I got very poor cellular coverage.
21 And I --

22 Q Got up there and put an antenna on the roof?

23 A Put an antenna on the roof, and I designed the
24 location of the antenna from the amplifier. And other
25 than that, no, sir. I've reviewed many in the course of

1 my work for clients reviewing ETC applications. But no.
2 My expertise is in looking at coverage, not designing
3 networks.

4 Q And your -- your expertise is looking at -- what
5 was that again? Looking at --

6 A Looking at given tower locations and -- and the
7 various parameters around that. There's software that
8 allows you to examine coverage. And I found it useful to
9 use that to -- to validate what ETC applicants are
10 claiming the coverage is.

11 Q And would you describe yourself as an expert in
12 that area?

13 A I'd describe myself as a practitioner in that
14 area. I've trained myself to use the software and
15 comparing it to studies that -- that companies have
16 provided. I -- it comes in pretty close.

17 Q But outside of putting an antenna on your roof,
18 you haven't tried to design a cellular system as
19 complicated as something like this, have you?

20 A No, sir.

21 MR. LAFURIA: Okay. That's all I have, your
22 Honor.

23 JUDGE WOODRUFF: No questions from the Bench, so
24 there's no need for recross. Any redirect?

25 RE-CROSS EXAMINATION

1 BY MR. STEWART:

2 Q Mr. Brown, how many ETC-related cases have you
3 testified in?

4 A I'd guess around a dozen.

5 Q Have you had any experience regarding ETC
6 matters at the federal level?

7 A Yes, sir. I've filed --

8 MR. LAFURIA: Your Honor, I'm sorry. I have to
9 object. This is beyond the scope of cross. All I asked
10 him was whether he was a qualified engineer.

11 MR. STEWART: You questioned my witness's
12 qualifications. I have the right to redirect on it.

13 JUDGE WOODRUFF: I'll overrule the objection.

14 A I have filed comments in -- in many federal
15 proceedings involving universal service in ETC matters.

16 Q (By Mr. Stewart) With respect to specific ETC
17 cases -- let me back up. You -- you provided a
18 propagation analysis for purposes of this case, did you
19 not?

20 A Yes. It -- I believe it's Schedule GHB-6.

21 Q And you have provided propagation analyses in
22 other ETC proceedings, correct?

23 A Yes, sir.

24 Q Have any of those proceedings been before this
25 commission?

1 A Yes. I participated -- there was a case
2 involving Western Wireless that I don't believe went to
3 trial, but I believe I filed testimony in.

4 I participated in both the MO-5 and Northwest
5 Missouri cases as well as this case.

6 Q In every other case other than this one, has
7 anyone challenged your credibility or expertise as an
8 expert witness?

9 A I don't believe so.

10 MR. STEWART: Thank you.

11 JUDGE WOODRUFF: Thank you. And, Mr. Brown, you
12 can step down.

13 MR. BROWN: Thank you, sir.

14 JUDGE WOODRUFF: And I believe we're ready for
15 Mr. Schoonmaker. Please raise your right hand.

16 ROBERT SCHOONMAKER,
17 being first duly sworn to testify the truth, the whole
18 truth, and nothing but the truth, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MCCARTNEY:

21 JUDGE WOODRUFF: you may be seated. You may
22 inquire.

23 Q (By Mr. McCartney) Will you please state your
24 name for the record?

25 A My name is Robert C. Schoonmaker.

1 Q By whom are you employed and in what capacity?

2 A I'm President and CEO of GVNW Consulting
3 Service.

4 Q And on whose behalf are you testifying today?

5 A I'm testifying on behalf of the Small Telephone
6 Company Group and the members of that group who are
7 included in RCS Schedule 1 in my initial testimony that
8 was filed over a year ago.

9 Q Okay. And in that capacity, have you caused to
10 be prepared and filed the prepared supplemental rebuttal
11 testimony? And I think that's been marked for
12 identification as 31 and 31-HC.

13 A Yes.

14 Q Do you have any changes to or corrections to
15 that testimony?

16 A I have three rather simple ones. The first is
17 on page 6. On line 3, there is a sentence that says, "I
18 will briefly address this issue later in my testimony."
19 And I would like to strike that because I -- I didn't do
20 that.

21 The second is on page 12. Actually, there's two
22 of them the same. On line 13 and on line 18, RCS Schedule
23 16 should be changed to RCS Schedule 17 in both places.

24 And then the third one is on page 24 on line 15.
25 And I also referred to the number of towers and -- as

1 highly confidential number, and that's been now
2 declassified on line 15, the number, and the
3 non-proprietary version should be added as 35 and the
4 asterisks removed from around that in the highly
5 confidential version.

6 I -- I would note that there are some other
7 highly confidential indications that are in my testimony
8 based on the -- the designations and data requests that
9 some of that data came from that I'm -- I'm uncertain
10 whether that's the appropriate classification or not.

11 But in the -- in the -- to make sure to be
12 careful and honor those things, I -- I didn't include that
13 information as highly confidential information.

14 Q Okay. With those corrections, if I were to ask
15 you the same questions today that appear in your
16 testimony, would your answers under oath be substantially
17 the same as those that appear in Exhibit 31 and 31-HC?

18 A Yes.

19 Q Are the answers and information contained in
20 that testimony true and correct to the best of your
21 knowledge and belief?

22 A Yes.

23 MR. MCCARTNEY: I'd like to offer those exhibits
24 at this time.

25 JUDGE WOODRUFF: All right. That would be 31-NP

1 and HC --

2 MR. MCCARTNEY: (Mr. McCartney nods head.)

3 JUDGE WOODRUFF: -- have been offered into
4 evidence. Are there any objections to their receipt?
5 Hearing none, they will be received into evidence.

6 (Exhibit Nos. 31-NP and 31-HC were admitted into
7 evidence.)

8 MR. MCCARTNEY: I tender the witness for
9 cross-examination.

10 JUDGE WOODRUFF: Thank you. And beginning with
11 CenturyTel? Does CenturyTel have any questions for this
12 witness?

13 MR. STEWART: Oh, I'm sorry. No.

14 JUDGE WOODRUFF: Thank you. AT&T?

15 MR. GRYZMALA: No, your Honor.

16 JUDGE WOODRUFF: Staff?

17 MR. HAAS: No questions, your Honor.

18 JUDGE WOODRUFF: Public Counsel is not present
19 in the room. U.S. Cellular?

20 CROSS-EXAMINATION

21 BY MR. SCHOONMAKER:

22 Q Good morning, Mr. Schoonmaker.

23 A Good morning.

24 Q (By Mr. LaFuria) You have a Master's in
25 Accountancy from BYU; is that correct?

1 A That's correct.

2 Q You're not an electrical engineer, are you?

3 A No.

4 Q And I'll ask you the same question I asked
5 Mr. Brown. You've never designed a wireless system
6 similar to the one that's up on this map, have you?

7 A No.

8 Q Do you agree that it's important for an ETC to
9 offer life line?

10 A Yes.

11 Q Do you think it's important to advertise the
12 availability of life line?

13 A It's required.

14 Q Do you -- are you aware that the FCC has issued
15 reports that a relatively high number of people who are
16 life line eligible actually don't participate in the
17 program?

18 A Generally, yes, I'm -- I'm aware of that kind of
19 a comment being made.

20 Q Well, if it's true that there is a significant
21 number of life line eligible people who are not on the
22 program or not actively participating in the program, do
23 you agree that's a problem that needs to be resolved?

24 A Oh, not necessarily.

25 Q Okay. Can you tell me whether you know if any

1 of the small companies that are represented in this
2 proceeding offer their consumers a hand -- a telephone for
3 a penny when they sign up for life line subscribership?

4 A Not that I'm aware of.

5 Q Do they offer discounted phone -- phones in the
6 -- in the land line world, I think it's customer premise
7 equipment. Do they offer discounted customer premise
8 equipment when life line customers sign up? Do you know?

9 A I -- I don't know specifically. It's not
10 something I have inquired about. After the FCC
11 deregulated customer premises equipment 25 or 30 years
12 ago, many of the companies don't offer customer premises
13 equipment and -- and anticipate that customers will bring
14 their own equipment.

15 And -- and that's readily available in a wide
16 variety of retail outlet for prices starting probably as
17 low as \$10 or so. The cost of the wireless -- or wire
18 line handset is certainly less than the cost of a wireless
19 handset.

20 Q For a low income customer, though, they've got
21 to go buy their own handset? That's your understanding?

22 A In general. I'm not aware of any of our clients
23 that offer handsets to life line customers.

24 Q Could you please turn for a moment to your
25 testimony? If you'd look at RCS Schedule 17, it's got a

1 title on it STG ILEC Local Service and Life Line Rates.

2 A Okay.

3 Q On the right-hand side, there's a column that
4 says USCOC Life Line Rate, and you listed \$24.71. Do you
5 see that?

6 A Yes.

7 Q Were you here in this proceeding when
8 U.S. Cellular testified that their life line offering
9 would be \$25?

10 A Yes, I did. The rate that's shown on Schedule
11 17 was based on the rates that -- that USCOC offered in
12 all of their other states of \$29.99.

13 Q That -- that was going to be my next question.
14 Based on the fact that it's \$25 here, would that -- would
15 that number there, \$21.74 (sic), drop by roughly \$4 a
16 month for life line consumers due to the drop for the --

17 A 4.99, I think. Roughly \$5.

18 Q Thank you. See, you've got the accountancy, and
19 I don't. My next question is premised upon a look that I
20 made on USAC's web site. I looked on USAC's web site, and
21 I went down the list of 16 companies here.

22 And I'm not -- I'm not here to embarrass any
23 particular company, but when I look down this list, I
24 pulled out 16 companies at random and looked at USAC's web
25 site and found that there are only three of the 16

1 companies pulled that had in excess of 3 percent of the
2 customer base on life line.

3 MR. MCCARTNEY: Can I object here? I don't
4 think that's been offered or shown any place. It's just
5 something that Mr. LaFuria has looked up on the Internet.

6 MR. LAFURIA: I understand. And, your Honor,
7 I'm not about to offer it. I'm about to ask a
8 hypothetical question based on if this is true.

9 MR. MCCARTNEY: I don't think it was phrased as
10 a hypothetical.

11 MR. LAFURIA: I'd be pleased to do that.

12 JUDGE WOODRUFF: Please rephrase your question.

13 MR. LAFURIA: Yes.

14 Q (By Mr. LaFuria) Assume that I -- assume that
15 I've done some research and assume that my research is
16 accurate hypothetically. And assume that in looking at
17 USAC's web site you can derive the amount of life line
18 support that each carrier receives, and you can also
19 derive the amount of -- the number of access lines they
20 serve.

21 And you can then, therefore, calculate how many
22 customers they have on life line. And I looked at 16.
23 And in looking at 16, only three of them were above 3
24 percent. And, in fact, most of them were at 1 or 2
25 percent of their entire customer base actually on life

1 line.

2 MR. MCCARTNEY: I'll raise the objection again.
3 That -- that sounds not like a hypothetical.

4 Mr. GRYZMALA: Your Honor, we would join in that
5 objection as well on the additional grounds that it
6 assumes facts that are not in evidence and fails to
7 identify other variables for which the percentages he's
8 providing in each case.

9 It assumes facts not in evidence. It's an
10 improper question. We join in the objection.

11 MR. LAFURIA: Your Honor, I -- my response is
12 when I get to the end of it, I'm simply going to ask
13 whether this is a problem that needs to be resolved if
14 this is the case.

15 JUDGE WOODRUFF: I'll overrule the objection.
16 I'm -- I'm not taking it for the truth of -- of the
17 question --

18 MR. LAFURIA: That's fine.

19 JUDGE WOODRUFF: -- at this point. He's just
20 asking a hypothetical. Go ahead and get to your question.

21 MR. LAFURIA: Thank you.

22 Q (By Mr. LaFuria) Hypothetically, if most, or
23 even many, of these small rural ILECs have life line
24 penetration that is down at the 1 or 2 percent level and
25 in some cases, even zero, what should the Commission do

1 about this to help life line consumers?

2 A I don't know that the Commission needs to do
3 anything about it. There are certain requirements in
4 terms of advertising which the companies do.

5 Some of them do extensive kinds of things,
6 including putting notifications in areas where people go
7 to apply for welfare services and the kind of services
8 that would make them eligible for life line.

9 They post those things in county courthouses and
10 other locations. If customers choose not to apply for
11 life line service, those are customer choices. And I
12 think one of the things that undoubtedly impacts this is
13 that these are people that live in rural areas. They're
14 independent. They don't necessarily like to be on a
15 government dole, if you will, and they choose not to --
16 not to do that.

17 And I think that's fine. And I think that's
18 good for our country. If the people are -- are willing to
19 do that, I don't think the Commission needs to do anything
20 about it.

21 Q Would it surprise you to learn that even though
22 U.S. Cellular has only been a participant in the life line
23 program for a couple of years in some instances that
24 they're already over 2 percent life line penetration and
25 in some cases as high as 6 percent? Would it surprise you

1 to learn that?

2 A No. Somebody mentioned it yesterday in
3 testimony, so it doesn't surprise me at this point in
4 time. And I don't know why U.S. Cellular's customers are
5 different and what kind of -- whether those are mostly
6 people in the St. Louis area. Certainly, a large part of
7 your customers are from the St. Louis area, so I -- I
8 don't know how to address that.

9 Q Well, U.S. Cellular is not an ETC in St. Louis,
10 so there couldn't possibly be any there, correct?

11 A Well, I'm sorry. That's -- that's correct. I
12 guess this is outside the state of Missouri that you're
13 talking about.

14 Q That's -- that's correct. I'm talking about all
15 the other rural states where it's been designated, sir.

16 A Okay. Well, I don't know the circumstances of
17 either U.S. Cellular or -- or the economy or other things
18 in those other states that might have an impact on it.

19 MR. LAFURIA: That's all I have. Thank you,
20 your Honor.

21 JUDGE WOODRUFF: Thank you. I have no questions
22 from the Bench, so there's no need for recross. Any
23 redirect?

24 MR. MCCARTNEY: Yes.

25 REDIRECT EXAMINATION

1 BY MR. MCCARTNEY:

2 Q You received some questions from Mr. LaFuria
3 about your qualifications. You've testified in other ETC
4 proceedings here in the state of Missouri before, haven't
5 you?

6 A Yes, I have.

7 Q Were your qualifications ever questioned before?

8 A No. I don't honestly remember. I think I may
9 have been asked once whether I was an engineer or not.

10 Q Okay. Was that in this proceeding?

11 A It certainly could have been the first round of
12 this proceeding.

13 Q Have you participated in FCC proceedings related
14 to the Federal Universal Service Fund?

15 A Related to the Universal Service Fund, yes.
16 Certainly.

17 Q Okay. You had some questions about RCS Schedule
18 17. Would you flip to that for a second?

19 A I have it here.

20 Q Okay. Even if you were to, say, knock off a \$5
21 discount on the U.S. Cellular life line rate, would the
22 land line company still have much lower life line rates?

23 A Yes.

24 Q Okay. Do you know if U.S. Cellular has been
25 designated as an ETC in Oklahoma?

1 A I don't recall. But I might be able to find it.

2 MR. MCCARTNEY: That's okay. I'll withdraw it.
3 That's all I've got.

4 JUDGE WOODRUFF: Mr. Schoonmaker, you can step
5 down. And I believe we have one more witness with
6 Mr. Stidham. If you could raise your right hand.

7 JAMES STIDHAM,
8 being first duly sworn to testify the truth, the whole
9 truth, and nothing but the truth, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GRYZMALA:

12 JUDGE WOODRUFF: You may be seated, and you may
13 inquire.

14 MR. GRYZMALA: Thank you, your Honor.

15 Q (By Mr. Gryzmala) Please state your name for
16 the record.

17 A My name is James E. Stidham, S-t-i-d-h-a-m, Jr.

18 Q Mr. Stidham, would you kindly tell us by whom
19 are you employed and in what capacity?

20 A I'm employed by AT&T. I'm the Associate
21 Director of Policy and Planning USF.

22 Q Are you the same James Stidham that caused to be
23 filed in this matter supplemental rebuttal dated November
24 14, 2006,

25 A Yes, I am.

1 Q Do you have a copy of that before you,
2 Mr. Stidham?

3 A The original?

4 Q Yes.

5 A No, I don't.

6 Q Okay. I'm handing you a copy of what's been
7 marked as Exhibit 32 for identification.

8 A I'm sorry. I do have the one just filed. I
9 thought you meant the original rebuttal.

10 Q Okay. I'm sorry. Please identify Exhibit 32.

11 A It's my supplemental testimony. Or rebuttal
12 testimony.

13 Q Do you have any changes or corrections to that
14 testimony, Mr. Stidham?

15 A No, I do not.

16 Q If I were to ask you the same questions today as
17 were asked of you when that testimony was filed, would
18 your answers be the same?

19 A Yes, it would.

20 Q And your answers -- strike that.

21 MR. GRYZMALA: May I approach, your Honor?

22 JUDGE WOODRUFF: You may.

23 Q (By Mr. Gryzmala) Would you remind us as to the
24 date of your supplemental rebuttal?

25 A November 14th, 2006.

1 Q And I've handed you what's been marked as
2 Exhibit 33. Would you kindly describe that document?

3 A That's a Order Opening -- an Order Opening
4 Docket from the Kansas Corporation Commission. It's an
5 order opening a review of the Commission's position on use
6 of Universal -- Federal Universal Service Fund money in
7 the state.

8 Q And what is the date of that Order?

9 A That is dated -- date stamped 11/21/06.

10 Q Which would -- which would be approximately a
11 week after your supplemental rebuttal was filed; is that
12 correct?

13 A Yes.

14 Q Okay. That Order, in your view, is germane to
15 this docket?

16 A I believe so.

17 Q Because of the reasons stated in the Order
18 itself?

19 A Yes.

20 MR. GRYZMALA: Your Honor, with that, I would
21 offer into evidence Exhibits 32 and 33.

22 JUDGE WOODRUFF: 32 and 33 have been offered
23 into evidence. Are there any objections to the receipt?
24 Hearing none, they will be received into evidence.

25 (Exhibit Nos. 32 and 33 were admitted into

1 evidence)

2 MR. GRYZMALA: Thank you. And I'll tender the
3 witness, your Honor.

4 JUDGE WOODRUFF: Thank you. For
5 cross-examination, we'll begin with CenturyTel?

6 MR. STEWART: No questions.

7 JUDGE WOODRUFF: Small Telephone Company Group?

8 MR. MCCARTNEY: No questions.

9 JUDGE WOODRUFF: Staff?

10 MR. HAAS: No questions, your Honor.

11 JUDGE WOODRUFF: Public Counsel?

12 MR. DANDINO: No questions, your Honor.

13 JUDGE WOODRUFF: U.S. Cellular?

14 CROSS-EXAMINATION

15 BY MR. LAFURIA:

16 Q Mr. Stidham, good morning.

17 A Good morning.

18 Q Do you -- do you agree that AT&T serves wire
19 centers that are out in Missouri's rural areas?

20 A I agree that -- that there are -- that AT&T does
21 serve throughout the state. Or much of the state. That
22 would include areas of the U.S. Census Bureau would
23 consider rural.

24 Q Yes. Thank you. Do you agree that some of
25 these wire centers are, indeed, sparsely populated?

1 A I know that there's a -- they're relatively
2 small in size. I -- as far as line counts.

3 Q So, for example, I'm going to point at the map
4 here. Up here. Point right here. Are you -- are you
5 familiar up there -- that's a town of Mendon. And are you
6 familiar that that's an AT&T wire center?

7 A I'd have to actually look at a map and verify
8 that.

9 Q Okay.

10 A But I'll assume for purposes of this discussion
11 that it is. And just so you know, I can almost not see
12 the map from here.

13 Q Okay.

14 A So if I need to go up --

15 Q I'm not going to quiz you on that. That's fine.

16 A Okay.

17 Q Let's make that assumption. I mean, I looked at
18 it. I could be mistaken, but I believe that's an AT&T
19 wire center because if it's not, really, any one will do
20 for the purpose of these questions.

21 A I believe that -- that it's coded. And if you'd
22 allow me, I could walk up there and -- and verify, in
23 fact, that it is.

24 Q If you wish, you may.

25 A Permission?

1 JUDGE WOODRUFF: Go ahead. It's Mendenhall?

2 Q (By Mr. LaFuria) Mendon. It's right in this
3 area.

4 (Discussion off the record.)

5 Q (By Mr. LaFuria) Okay. A moment ago when you
6 looked at the map, were you able to identify the Marceline
7 wire center as an SBC wire center?

8 A Yes.

9 Q And do you know whether that area is sparsely
10 populated?

11 A I do not personally know. But based on my
12 knowledge of -- of Missouri in general, I think that I
13 would be willing to stipulate that I believe it is.

14 Q All right. And did you also agree that AT&T
15 serves several, if not a number of such wire centers,
16 which would be considered high cost?

17 A According to the FCC, they're not considered
18 high cost.

19 Q All right. According to the FCC. I think I
20 would take some issue with that. I think my question
21 would be isn't it true that the FCC refers to them as
22 non-rural?

23 A They're non-rural, nor do they receive federal
24 Universal Service Fund support from USAC.

25 Q That's correct.

1 A Which means they are not considered high cost.

2 Q That's correct. However, there's no question
3 but that they're rural in character?

4 A According to the U.S. Census Bureau.

5 Q Yes. And earlier in this proceeding, AT&T
6 submitted an -- in its brief Footnote 64, which it said,
7 "In addition abandoning a public interest analysis when
8 considering areas served by so-called non-rural carriers
9 would ignore the fact that AT&T Missouri and other
10 non-rural carriers often serve customers in rural areas
11 just as do so-called rural carriers as -- this
12 parenthetical here, Missouri Commission, recently noted.

13 Although SBC serves the larger metropolitan
14 areas of the state, many SBC exchanges are similarly
15 situated to rural exchanges of CenturyTel and Sprint."

16 Do you agree with that statement?

17 A I -- I have some difficulty with it personally
18 because the document, as I understand it, was filed with
19 the Commission, the FCC, and was in support of changes to
20 the methodology and processes that are currently in place
21 that this Commission yesterday suggested were broken. I
22 would agree that the FCC needs to fix the broken pieces.

23 MR. LAFURIA: Your Honor, I'm sorry. I want to
24 strike that as non-responsive. I just asked if he agreed
25 with the statement.

1 MR. GRYZMALA: Your Honor --

2 JUDGE WOODRUFF: That's a pretty broad question.

3 So if you want him to move on to another question and stop
4 at this point, that's fine, but I'm not going to strike
5 the response he's already given.

6 Q (By Mr. LaFuria) All right. Fine. Why does
7 AT&T advocate to the FCC that it should calculate its
8 support on a wire center by wire center basis instead of
9 state-wide averaging?

10 A Because --

11 Q I'm sorry. For non-rural carriers like AT&T.

12 A Because it more accurately reflects the actual
13 cost.

14 Q And so out in this -- I'm sorry -- Marceline
15 wire center that we were looking at, what would be the
16 result of doing away with state-wide averaging for a wire
17 center like that that is rural in character?

18 A If the FCC changed the process, it probably
19 would change the -- the amount of money that -- it might
20 allow that there would be money available. But currently,
21 there isn't.

22 Q All right. Were you in the courtroom yesterday
23 when Mr. Wood was testifying and he said that over many
24 years past, I think his term was, SBC's rural networks
25 were constructed with the help of implicit universal

1 service support from higher access charges or higher rates
2 in urban areas, I think is how he characterized it.

3 I'm not trying to be verbatim here, but he spoke
4 of this. And he talked about those implicit subsidies
5 that over many years had flowed from the urban areas
6 towards the rural areas in the state. Do you agree with
7 that statement?

8 A The problem that I have with his statement is
9 that it assumes that the network has been stagnant since
10 it was created. And there's new construction, new
11 expenses, new capital investments done potentially on a
12 daily basis.

13 So for the time that the process changed
14 arguably since the '96 Act, when the -- the -- when many
15 of the implicit subsidies went away, it's been done
16 without explicit support and implicit support.

17 Q I'm not sure I have a problem with what you just
18 said since '96. But my question was really pre '96. Just
19 -- I'm sorry. Pre '96, I'm not talking about whether the
20 network is stagnant after its been constructed.

21 I'm talking about when the network was in its
22 relative infancy and was being constructed, were -- I'm
23 asking if -- did you agree with the statement that the
24 system was built with support at the time it was implicit?
25 The system has changed since '96. With implicit support.

1 A Making -- you suggested that urban to rural kind
2 of shift of funds and stuff. Yeah. I believe that's
3 entirely possible. I mean, it -- it happened then and I'd
4 say that it can happen today for U.S. Cellular.

5 Q You're saying it's entirely possible that AT&T
6 received implicit support, or -- or are you saying it did
7 happen?

8 A Well, what -- originally, the entire system was
9 one company. Or essentially one company.

10 Q I understand.

11 A So you have high toll rates.

12 Q Exactly.

13 A And you had state regulated local rates that
14 were below cost.

15 Q I -- I remember. And -- and do you remember
16 Mr. Wood talking about certain pooling arrangements? Are
17 you familiar with those?

18 A You -- are you referring to the -- let's see.
19 I'm trying to remember the settlement process that -- that
20 occurred back in the '60s and '50s and '40s.

21 Q So you're not familiar with the pooling
22 arrangements that provide implicit support to AT&T?

23 A There were settlements that were made between
24 AT&T and -- and its operating companies.

25 Q So just so I can be clear, is it your testimony

1 that AT&T has never received implicit subsidies?

2 A No. I would say that still happens today, just
3 as it does for U.S. Cellular.

4 Q U.S. Cellular receives implicit subsidies?

5 A Sure, it does. The cost of serving a customer
6 in St. Louis is not the same as it is in Marcel (sic).
7 And so you're charging the same rate, which means the cost
8 of providing service in St. Louis is offsetting the higher
9 cost of providing service in Marcel.

10 If -- if the profitability of a St. Louis
11 customer is \$10 and the cost of providing service to a
12 Marcel customer is -- costs a dollar more than you can
13 recover from them, then you're recovering implicitly the
14 cost of providing service to Marcel by providing service
15 in St. Louis.

16 You provide -- have the opportunity to have the
17 same implicit subsidy that you're asking me to -- to talk
18 about for Bell.

19 Q I think -- I think I might agree with you that
20 there's an opportunity for it. Your testimony is that
21 there is an implicit subsidy for U.S. Cellular?

22 MR. GRYZMALA: Your Honor, asked and answered.
23 I object. Asked and answered.

24 MR. LAFURIA: I'm sorry. Well, I think it's
25 unclear based on he said the opportunity for it.

1 JUDGE WOODRUFF: I'll allow the question.

2 Overruled.

3 Q (By Mr. LaFuria) I just want to understand
4 whether -- whether you're just making an allegation that
5 there is an implicit subsidy mechanism to competitive
6 carriers --

7 A I wanted to --

8 Q I'm sorry. If I could just finish. Are you --
9 are you saying that there's -- there is an implicit
10 subsidy for competitive carriers, or are you saying
11 there's an opportunity for it?

12 A I'm saying that, depending on finances, which I
13 haven't looked at for your company, if your costs of
14 providing service in St. Louis are below the revenue you
15 receive, then you have the opportunity and can and
16 possibly do subsidize the service in Marcel.

17 Q That's -- so we're clear, there's an opportunity
18 for it. You're not saying that the company does. You
19 don't have any evidence or anything else?

20 A I -- I do not have -- I have not gone through
21 your accounting. No.

22 Q All right. Thank you. And just so I can be
23 clear on this because you -- your question -- your answer
24 wandered off the last time. Is it your position that
25 AT&T's network was constructed with implicit subsidies?

1 A The answer is that AT&T's network that existed
2 in 1940 has been replaced since then, in all likelihood.
3 I'm not a network engineer. So that the replaced network
4 that is now in place may not have been. Was it in 1940?
5 I believe it was.

6 MR. LAFURIA: That's all I have, your Honor.
7 Thank you.

8 JUDGE WOODRUFF: Thank you. I have no questions
9 from the Bench, so there's no need for recross. Any
10 redirect?

11 REDIRECT EXAMINATION

12 BY MR. GRYZMALA:

13 Q Mr. Stidham, just a couple of questions. Does
14 the Census Bureau provide the governing rules regarding
15 the eligibility and distribution of high cost support
16 payments?

17 A No, it does not.

18 Q You were asked some question about some apparent
19 AT&T advocacy of looking at costs at the wire center by
20 wire center level from the FCC. Do you remember that
21 discussion?

22 A Yes.

23 Q In response to that approach, that apparent
24 approach, as suggested by Mr. LaFuria, has the FCC in any
25 way altered its governing rules?

1 A No, it has not.

2 MR. GRYZMALA: That's all I have. Thank you.

3 JUDGE WOODRUFF: Thank you very much.

4 Mr. Stidham, you can step down.

5 MR. STIDHAM: Thank you.

6 JUDGE WOODRUFF: And I believe that's all the
7 evidence and testimony in this case, leaving only the --
8 well, there is one -- Exhibit No. 34 was marked yesterday
9 to be a late filed map of plan 2007 coverage without the
10 ETC. I assume that's not ready to be filed yet?

11 MR. LAFURIA: That's correct, your Honor.

12 JUDGE WOODRUFF: All right. Go ahead and file
13 that in EFIS like you prefile your exhibits. But I'll
14 send out a notice to the other parties giving them an
15 opportunity to respond and then make a ruling on what --
16 on the exhibit.

17 MR. LAFURIA: Thank you, your Honor.

18 JUDGE WOODRUFF: The other matter is -- it would
19 be post hearing briefs. The transcript will be due ten
20 working days from the -- for the court reporter.

21 Thereafter, I'll allow you 20 days to file a
22 single round of briefs. I don't know exactly when that
23 will be. It will probably be -- it will be late January.
24 But once we get the transcript in, I'll send out a notice
25 establishing the exact day the briefs will be due.

1 Any other matters?

2 MR. STEINER: Yes, your Honor. Exhibit 35, the
3 DR response, that was marked HC. I wonder if you could --

4 JUDGE WOODRUFF: Oh, yes. Okay.

5 MR. STEINER: -- make sure that that's --

6 JUDGE WOODRUFF: Yes. 35 is highly
7 confidential.

8 MR. STEINER: Okay. And then the maps we've
9 been referring to in this proceeding are all large
10 versions of maps that have already been admitted into
11 evidence. They're on EFIS. Do we need to mark those so
12 the Commission can use them in deliberation? Do I just
13 need to leave them here?

14 JUDGE WOODRUFF: They're already marked, so I
15 don't know that they need to be marked as separate
16 exhibits. You can leave them here if you want. I'll take
17 them up to my office.

18 MR. STEINER: Would you like the backing, or
19 would you like me to roll them up?

20 JUDGE WOODRUFF: Probably be best if they were
21 rolled up. I'd appreciate that.

22 MR. STEINER: Okay.

23 JUDGE WOODRUFF: All right.

24 MR. LAFURIA: Your Honor?

25 JUDGE WOODRUFF: Yes, Mr. LaFuria.

1 MR. LAFURIA: I don't know that I'm scheduled to
2 be in the office much of the month of January, and I would
3 just ask that when you set the date, the latest in January
4 that is possible, I would certainly appreciate it.

5 JUDGE WOODRUFF: For briefs?

6 MR. LAFURIA: Yes, sir.

7 JUDGE WOODRUFF: That's fine with me. Let's
8 see.

9 MR. LAFURIA: I mean, I know I have a laptop and
10 I can write it in the hotel. It's just -- I'm -- I'm
11 aware of that, that that's changed our lives, but I'd ask
12 your indulgence if possible.

13 JUDGE WOODRUFF: All right. Well, I'm looking
14 at -- we can make it January 31st as far as I'm concerned.
15 Does anybody have a problem with that?

16 MR. MCCARTNEY: What day of the week is that?

17 JUDGE WOODRUFF: That's a Wednesday.

18 MR. MCCARTNEY: That's fine with us.

19 JUDGE WOODRUFF: All right. All right. We'll
20 say the single round of briefs are due on January 31.
21 Anything else?

22 All right. With that, then, we are adjourned.
23 Thank you all very much.

24

25

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