

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

September 25, 2001
Jefferson City, Missouri
Volume 3

In the Matter of the Investigation)
of the State of Competition in the) Case No. TO-2001-467
Exchanges of Southwestern Bell)
Telephone Company.)

NANCY M. DIPPELL, Presiding,
SENIOR REGULATORY LAW JUDGE.

SHEILA LUMPE,
CONNIE MURRAY,
STEVE GAW,
COMMISSIONERS.

REPORTED BY:
KELLENE K. FEDDERSEN, CSR, RPR
ASSOCIATED COURT REPORTERS, INC.

1 APPEARANCES:

2 PAUL G. LANE, General Counsel-Missouri
LEO J. BUB, Senior Counsel

3 ANTHONY K. CONROY, Senior Counsel
One Bell Center, Room 3520
4 St. Louis, Missouri 63101
(314)235-4300

5

FOR: Southwestern Bell Telephone Company.

6

LISA CREIGHTON HENDRICKS, Attorney at Law
7 Sprint Communications Company
5454 W. 100th Street
8 Overland Park, Kansas 66211
(913)345-7918

9

FOR: Sprint Communications Company.

10

KEVIN ZARLING, Attorney at Law
11 AT&T
919 Congress Avenue, Suite 900
12 Austin, Texas 78701-2444
(512)370-1083

13

FOR: AT&T Communications of the Southwest.

14

CARL J. LUMLEY, Attorney at Law
15 Curtis, Oetting, Heinz, Garrett & Soule
130 South Bemiston, Suite 200
16 Clayton, Missouri 63105
(314)725-8788

17

FOR: NuVox Communications of Missouri, Inc.
18 XO Missouri, Inc.
MCI WorldCom Communications, Inc.
19 MCI Metro Access Transmission Services.
MPower Communications Central Corp.
20 Brooks Fiber Communications of
Missouri, Inc.

21

BRADLEY R. KRUSE, Attorney at Law
22 McLeod USA
6400 C Street SW
23 P.O. Box 3177
Cedar Rapids, IA 52406-3177
24 (319)790-7939

25

FOR: McLeod USA.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

1 MARY ANN (GARR) YOUNG, Attorney at Law
William D. Steinmeier, P.C.
2 2031 Tower Drive
P.O. Box 104595
3 Jefferson City, Missouri 65110
(573)734-8109
4

FOR: McLeod USA Telecommunications, LLC
5 Allegiance Telecom of Missouri, Inc.

6 CATHLEEN MARTIN, Attorney at Law
Newman, Comley & Ruth
7 601 Monroe, Suite 301
P.O. Box 537
8 Jefferson City, Missouri 65102
(573)634-2266
9

FOR: Birch Telecom of Missouri.
10

LISA CHASE, Attorney at Law
11 Andereck, Evans, Milne, Peace & Johnson
700 East Capitol
12 P.O. Box 1438
Jefferson City, Missouri 65102
13 (573)634-3422

14 FOR: MITG.

15 MICHAEL DANDINO, Senior Public Counsel
P.O. Box 7800
16 Jefferson City, Missouri 65102-780
(573)751-4857
17

FOR: Office of the Public Counsel
18 and the Public.

19 WILLIAM K. HAAS, Deputy Counsel
P.O. Box 360
20 Jefferson City, Missouri 65102
(573)751-3234
21

FOR: Staff of the Missouri Public
22 Service Commission.

23

24

25

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

JUDGE DIPPELL: We can go ahead and go on the record. This is a continuation of case tO-2000-467, and I'm Nancy Dippell, Regulatory Law Judge.

I just wanted to make a couple of clarifying statements because I wasn't very clear yesterday. No food in the courtroom, or in the hearing room. You may drink your drinks, but I would appreciate it if you would keep your edibles out of the hearing room.

And I think we're ready to begin with our first witness, who has already taken the stand, and that's Ms. Jablonski. If you'd please spell your name for the court reporter.

THE WITNESS: J-a-b-l-o-n-s-k-i.

JUDGE DIPPELL: And would you please raise your right hand.

(Witness sworn.)

JUDGE DIPPELL: Thank you.

You may proceed, Mr. Bub.

MR. BUB: Thank you, your Honor.

BARBARA JABLONSKI testified as follows:

DIRECT EXAMINATION BY MR. BUB:

Q. Ms. Jablonski, could you please state your full name for the record.

A. Barbara Jablonski.

1 Q. Where are you employed?

2 A. SBC Communications in Hoffman Estates.

3 Q. What are your responsibilities with SBC?

4 A. I am the product manager for business toll and
5 consumer toll in the Ameritech/SWBT impact regions.

6 Q. And that would include Southwestern Bell
7 Missouri?

8 A. Yes, it does.

9 Q. Are you the same Barbara Jablonski who caused
10 to be filed direct testimony that's been marked as Exhibit 9
11 and surrebuttal testimony that's been marked as Exhibit 10
12 and 10HC?

13 A. Yes.

14 Q. Are there any changes that you need to make?

15 A. Two. On page 10 --

16 Q. Of which piece of testimony?

17 A. Of the direct testimony. I'm sorry. Page 10
18 of the direct testimony, on line 20 it says, Please see
19 Schedules 4, 5 and 6. It should be Schedules 5, 6 and 7.

20 Q. Are there any other changes?

21 A. Yes. On the direct testimony, on page 14,
22 line 5, where it says schedule 7, it should be schedule 4.

23 Q. 4?

24 A. 4.

25 Q. Any other changes besides --

1 A. No.

2 Q. With those changes in mind, if I were to ask
3 you the same questions that are contained in Exhibits 9, 10
4 and 10HC, would your answers be the same today?

5 A. Yes.

6 Q. And are those answers true and correct to the
7 best of your knowledge?

8 A. Yes.

9 MR. BUB: Thank you. Your Honor, with that
10 we'd like to offer Exhibits 9, 10 and 10HC into the record,
11 please.

12 JUDGE DIPPELL: Are there any objections to
13 Exhibit No. 9?

14 (No response.)

15 Then I will receive that into the record.

16 (EXHIBIT NO. 9 WAS RECEIVED INTO EVIDENCE.)

17 JUDGE DIPPELL: Are there any objections to
18 Exhibit No. 10 or 10HC?

19 (No response.)

20 Then I will also receive that into the record.

21 (EXHIBIT NOS. 10 AND 10HC WERE RECEIVED INTO
22 EVIDENCE.)

23 MR. BUB: Thank you, your Honor. At this time
24 we'll offer Ms. Jablonski for cross-examination.

25 JUDGE DIPPELL: Thank you. Is there

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

1 cross-examination from Staff?

2 MR. HAAS: Yes.

3 CROSS-EXAMINATION BY MR. HAAS:

4 Q. Good morning, Ms. Jablonski.

5 A. Good morning.

6 Q. Please turn to page 11 of your direct
7 testimony. In the center of that page you state that
8 allegiance has complete pricing flexibility for optional MCA
9 service.

10 By comparison, is it your opinion that the
11 price cap statute prevents Southwestern Bell from offering
12 an alternate optional MCA pricing structure?

13 A. No, I do not.

14 Q. Also on that same page, at line 21, you state
15 that wireless providers often provide local calling scopes
16 that are much larger than Southwestern Bell's basic local
17 calling scopes.

18 In your opinion, does the price cap statute
19 prevent Southwestern Bell from expanding its local calling
20 scopes?

21 A. I would say not necessarily. It could limit
22 us if we introduced a plan that provided rates for an option
23 plan and at some point we determined the pricing of that
24 plan may not have been the appropriate pricing, it could
25 limit any flexibility we would have on adjusting those

1 prices.

2 Q. At the top of page 12 you point out that many
3 wireless packages also include free long distance and
4 unlimited calling during off-peak times.

5 Is it your opinion that the price cap statute
6 prevents Southwestern Bell from bundling services?

7 A. Again, not prohibiting us from bundling
8 services, but again, as we introduce any package or
9 bundling, the prices that we would charge for that service,
10 if it's subject to price cap, we would again be limited on
11 any type of pricing changes that may be required.

12 Q. The limit would be a price increase, wouldn't
13 it?

14 A. Yes, it would be a price increase.

15 Q. At the bottom of page 18 of your direct
16 testimony and going on to the top of page 19 you say, Under
17 the current price cap regulations, Southwestern Bell may be
18 limited in its ability to restructure its distance-sensitive
19 rates to meet consumer desires.

20 How does the price cap regulation limit
21 Southwestern Bell's ability to restructure its distance-
22 sensitive rates to meet consumer desires?

23 A. Today our basic MTS structure has 16 mileage
24 bands with initial and time of day. If we wanted to
25 postalize that or create a rate basically regardless of the

1 mile, that would require some rates to be increased and some
2 rates to be decreased, and on those -- if we had to increase
3 some of the rates, there would be a cap on those rates.

4 Q. Do you think that the price cap statute would
5 prevent Southwestern Bell from offering postalized rates as
6 an alternative?

7 A. Again, once we've introduced the pricing of
8 that postalized offering and if it was subject to price cap,
9 again, with any price changes we would make would be subject
10 to the price cap.

11 MR. HAAS: That's all my questions. Thank
12 you.

13 JUDGE DIPPELL: Thank you. Public Counsel?

14 MR. DANDINO: Thank you, your Honor.

15 CROSS-EXAMINATION BY MR. DANDINO:

16 Q. Good morning, Ms. Jablonski.

17 A. Good morning.

18 Q. On page 3 of your direct testimony, and I
19 believe it's line 17 and 20, you state that basically you
20 want this classification because Southwestern Bell will be
21 more fully able to compete in the challenging marketplace
22 and better able to respond to changing customer demands.

23 Could you identify what these customer demands
24 are that you're talking about?

25 A. It would be a demand for a possibly different

1 type of optional plans that are out there or different
2 pricing structure in order for us to compete with the
3 competitors. So we may have to offer a plan that is
4 different than what we have out there based on the calling
5 scope and based on what the competitors are offering.

6 Q. Okay. At present, would this be considered a
7 new service?

8 A. Yes, it would be.

9 Q. And is there anything in the price caps
10 statute that would limit Southwestern Bell from introducing
11 a new service?

12 A. Not to my knowledge in introducing a new
13 service, but again, as I stated, once we introduce the
14 service, it would have an impact on any potential changes we
15 wanted to make to that service.

16 Q. But if you want to talk about innovation and
17 offering options and meeting this customer demand today, and
18 that's all we can talk about is today, you certainly have
19 that option, right?

20 A. It's my understanding we do.

21 Q. And as Mr. Haas discussed with you, the only
22 thing that's missing in your ability to bundle services is
23 the interLATA toll piece; is that correct?

24 A. No. I don't believe we're allowed to bundle
25 with any of our non-telecommunications services. I believe

1 we have the ability to bundle with our telecommunications,
2 but if we wanted to offer, I believe Internet or some other
3 type of service, I believe there are some limitations on
4 that.

5 Q. Southwestern Bell, under the SBC umbrella
6 there's many affiliates that offer Internet service, right,
7 or an affiliate that offers Internet service; is that
8 correct?

9 A. Yes.

10 Q. And there's an affiliate that offers DSL; is
11 that correct?

12 A. Yes.

13 Q. And there's an affiliate that offers prepaid
14 local service?

15 A. That I don't --

16 Q. Okay. I went beyond your expertise in this
17 matter. I'm sorry.

18 You also have -- SBC has an affiliate that
19 offers -- called Cingular Wireless that offers a wireless;
20 is that correct?

21 A. Yes.

22 Q. So in many of these markets Southwestern Bell
23 is competing with their brothers and sisters under the SBC
24 umbrella; is that correct?

25 A. They would be one of the competitors. I mean,

1 with wireless, wireless is a competitive alternative. SBC
2 is just one of the wireless providers.

3 Q. Sure. And if Southwestern Bell --
4 Southwestern Bell's toll service competes with Cingular's
5 wireless service that provides free toll under some plans;
6 is that correct?

7 A. Yes.

8 Q. Okay. Now, are you familiar with the primary
9 toll plan that was in Missouri?

10 A. No.

11 Q. Okay. So if I would ask you what happened
12 when the primary toll plan was dissolved in this state, its
13 effect on Southwestern Bell's toll operations, you would
14 have no knowledge of that?

15 A. No.

16 Q. Okay. Would the same be true with the
17 discontinuance of COS, community optional service?

18 A. Yes. That was before my time.

19 Q. That was before your time. So you have no
20 knowledge of COS?

21 A. Huh-uh.

22 Q. Or Southwestern Bell's response to the end of
23 COS; is that right?

24 A. Correct.

25 Q. Do CLECs offer local plus to the residential

1 customers on a resale basis?

2 A. Yes, they do.

3 Q. How many CLECs do that, do you know?

4 A. No, I do not know.

5 Q. Obviously you don't know how many, you don't
6 know who they are either.

7 Do you know --

8 A. As I mentioned in my testimony, allegiance is
9 one of the CLECs that does offer local plus.

10 Q. Are there any others?

11 A. I don't have that information.

12 Q. You don't have that information.

13 What is the rate that Southwestern Bell
14 charges for local plus for residential?

15 A. For residence, it is 32.40 in Missouri, and if
16 they have the optional MCA it's 21.60.

17 Q. And for business?

18 A. For business in Missouri, the local plus is
19 \$63, and with the optional MCA it's 42.

20 Q. So you're bundling local plus and MCA in these
21 cases?

22 A. Not bundling. If you have the MCA service,
23 you may also get local plus. You're not required to do it.
24 They're two separate elements, and that's -- they're not two
25 separate elements, but you would pay the \$42.

1 Q. Well, what's your definition of bundling
2 services?

3 A. My definition would be taking -- well, if
4 you're taking telecommunications services, you would be
5 taking a line possibly with some features and with some
6 usage and offering that to a customer as a bundled package.
7 We're also including non-telecommunications service in the
8 bundle.

9 Q. So if I just wanted MCA as a separate -- as a
10 service, I would pay one price for that, but if I wanted MCA
11 and local plus, I would get a -- I'd get another price, is
12 that correct, and if I just bought local plus and not MCA,
13 I'd get a different price? So there's three different
14 prices?

15 A. Yes.

16 Q. So if I bought them together, it would be
17 cheaper, right, than if I bought them --

18 A. No. I believe with the local plus you're
19 paying that in addition to your MCA rate.

20 Q. Okay.

21 A. So you're still paying your MCA rate plus your
22 local plus.

23 Q. But you're offering me a discount on local
24 plus if I buy -- if I'm already an MCA subscriber or obtain
25 them at the same time; is that correct?

1 A. The rate would be different, yes.

2 Q. Would it be lower?

3 A. Yes, it is.

4 Q. Would that come under your definition of

5 bundling?

6 A. No.

7 Q. Recently Southwestern Bell increased the price

8 of local plus; is that correct?

9 A. Yes, we did.

10 Q. And what was that price increase?

11 A. It was 8 percent.

12 Q. From what? Excuse me. I'll strike that

13 question.

14 Is that the first time Southwestern Bell

15 increased the price for local plus?

16 A. I don't have that information in front of me,

17 but I do not think so.

18 Q. Has Southwestern Bell increased or decreased

19 their price for intraLATA toll, their basic plan, in the

20 last year?

21 A. Yes, we have.

22 Q. And what -- and was that another 8 percent

23 increase?

24 A. Yes, it was.

25 Q. Have you -- and Southwestern Bell cannot

1 increase the price of the MCA service; is that correct?

2 A. That is my understanding.

3 Q. And that was set by the Commission's order in
4 the MCA case; is that correct?

5 A. I believe so, yes.

6 Q. Now, the CLECs, they're subject to that same
7 price cap in the MCA case, are they not?

8 A. That I'm not -- I'm not sure on that.

9 Q. Okay. Have you read the MCA decision?

10 A. I've scanned it. It's my understanding that
11 the CLECs can offer a different rate if they're in the MCA
12 plan than what we offer.

13 Q. But if they offer the same footprint, they
14 have to charge no more than Southwestern Bell's current
15 rate?

16 A. That's not my understanding. I know they
17 have -- they offer the same area in the footprint, and they
18 have to call it MCA, but that it's my understanding that
19 they can price it at a different price than what SWBT,
20 Southwestern Bell is pricing it at.

21 Q. In any event, the decision will speak for
22 itself, I guess, or read for itself.

23 MR. DANDINO: That's all I have. Thank you,
24 your Honor.

25 JUDGE DIPPELL: AT&T?

1 MR. ZARLING: Your Honor, if I could have one
2 minute, because Staff counsel and Mr. Dandino may have taken
3 all my questions, at least touched on all those areas.

4 JUDGE DIPPELL: All right.

5 MR. ZARLING: I think I'll let it go.
6 Thank you.

7 JUDGE DIPPELL: WorldCom?

8 CROSS-EXAMINATION BY MR. LUMLEY:

9 Q. Good morning.

10 A. Good morning.

11 Q. Looking at your local plus service, what's the
12 calling scope in terms of where calls can terminate?

13 A. They can terminate within the LATA.

14 Q. Anywhere within the LATA?

15 A. Correct.

16 Q. And does Southwestern Bell have to pay itself
17 access charges when the calls terminate to its own
18 customers?

19 A. No, we do not pay ourselves access.

20 Q. If a competitor is trying to provide a
21 facility-based version of local plus, they would have to pay
22 Southwestern Bell terminating access for calls terminating
23 to Southwestern Bell customers?

24 A. Can you repeat that?

25 Q. If a competitor is trying to provide a

1 facility-based alternative to local plus, similar calling
2 scope, it would have to pay terminating access for
3 interexchange calls that terminated to Southwestern Bell
4 customers in the LATA?

5 A. I believe that is correct.

6 MR. LUMLEY: Thank you.

7 JUDGE DIPPELL: Sprint?

8 MS. HENDRICKS: No questions, your Honor.

9 JUDGE DIPPELL: McLeod?

10 MR. KRUSE: No questions, your Honor.

11 JUDGE DIPPELL: Are there questions from the
12 Bench, Commissioner Gaw?

13 COMMISSIONER GAW: No, thank you.

14 JUDGE DIPPELL: Is there redirect?

15 MR. BUB: Just a few, your Honor.

16 REDIRECT EXAMINATION BY MR. BUB:

17 Q. Ms. Jablonski, I'd like to follow up on one of
18 the questions Mr. Lumley representing WorldCom asked you.
19 Let's take another call example. If the Southwestern Bell
20 customer subscribes to local plus and calls a facility-based
21 CLEC customer, would Southwestern Bell owe that CLEC access
22 charges to terminate that call to the CLEC customer?

23 A. Yes, they would. Yes, they would.

24 Q. Thank you.

25 Mr. Haas from Staff asked you a series of

1 questions about the price cap statute and its impact on
2 Southwestern Bell's toll services. Could you describe for
3 us what would be the benefits from removing -- from, I
4 guess, confirming the competitive status of Southwestern
5 Bell's toll services?

6 A. Yes. Once we confirm that the services are
7 competitive, we will get some benefit in the sense that we
8 could respond to our customer and competitive alternatives
9 in a quicker time period.

10 Q. Could you describe those for us, please?

11 A. We would be able to, if we wanted to, make
12 price changes. It would drastically reduce our filing time
13 for doing any tariffs from, I think the current is 30 days,
14 and we would be able to drop that to 7 or 10 days, and so we
15 would be able to respond in a quicker manner than we can
16 today.

17 Q. What time frames, if you know, do the CLECs
18 operate under?

19 A. I believe the CLECs can within, I think it's
20 they have -- I think it's ten days for them to -- seven or
21 ten days for them to file a tariff with any price change.

22 Q. Is that the same flexibility that Southwestern
23 Bell's seeking here?

24 A. Yes, it is.

25 MR. BUB: Thank you, your Honor. No further

1 questions.

2 JUDGE DIPPELL: All right, then.

3 Ms. Jablonski, I'm going to let you step down, but I'm going
4 to reserve, ask you to stay here and not excuse you
5 completely until I'm certain that there are no further
6 questions from the Commissioners for you.

7 THE WITNESS: Okay.

8 JUDGE DIPPELL: Southwestern Bell, you can
9 call your next witness.

10 MR. CONROY: Thank you, your Honor.
11 Southwestern Bell calls Ms. Sylvia Fernandez to the stand.

12 JUDGE DIPPELL: Could you please spell your
13 name for the court reporter?

14 THE WITNESS: Yeah. It's Sylvia Acosta
15 Fernandez. That's spelled A-c-o-s-t-a space Fernandez,
16 F-e-r-n-a-n-d-e-z.

17 JUDGE DIPPELL: Could you please raise your
18 right hand.

19 (Witness sworn.)

20 JUDGE DIPPELL: Thank you. You may be seated.
21 Proceed, Mr. Conroy.

22 MR. CONROY: Thank you, judge.

23 SYLVIA ACOSTA FERNANDEZ testified as follows:

24 DIRECT EXAMINATION BY MR. CONROY:

25 Q. Ms. Fernandez, would you state your business

1 address for the court, please.

2 A. Sure. My business address is 530 McCullough,
3 San Antonio, Texas, 78215.

4 Q. By whom are you employed?

5 A. By Southwestern Bell.

6 Q. And what are your responsibilities?

7 A. I'm a director in the Southwestern Bell
8 regional product marketing organization. I'm basically
9 responsible for promotions around the core voice services,
10 business access lines all the way up to super trunk. I'm
11 also responsible for promotions for the equipment that goes
12 with that access, such as key systems, PBXs, et cetera.

13 Q. And are you the same Sylvia Fernandez who has
14 prefilled direct and surrebuttal testimony in this case which
15 has been marked as 11, 12 and 12HC?

16 A. Yes, I am.

17 Q. Do you have any corrections or revisions that
18 you would like to make to your testimony at this time?

19 A. Yes, I do. I have one change to schedule 4 on
20 my surrebuttal testimony.

21 Q. Okay. And schedule 4 is marked as highly
22 confidential. Is it possible for you to make those changes
23 without disclosing highly confidential information?

24 A. Yes, it is.

25 Q. Okay.

1 A. What I'd like to do is ask everyone to go to
2 schedule 4. Under the column called Exchange, Springfield,
3 if under column Competitive Disconnects you would add 66 to
4 that column, for retail disconnects adds 36, which brings
5 all disconnects up by a total of 102 and changes the last
6 column, which is Percent of Disconnects to add .4 percent to
7 that number.

8 Q. Okay. Let me just summarize that. The first
9 column, Springfield, the corrected number should be 66
10 higher than what appears on your original schedule 4?

11 A. Correct.

12 Q. And under retail disconnects, it should be the
13 corrected number is 36 more?

14 A. Correct.

15 Q. And under all disconnects, corrected number is
16 102 more?

17 A. Correct.

18 Q. And under competitive disconnects as a percent
19 of all disconnects, it should be .4 higher?

20 A. Correct.

21 Q. Any other changes?

22 A. Yes. Under -- scanning down to the exchange
23 called Belton, please remove that. That's actually in the
24 state of Kansas. So that doesn't need to be included in
25 this.

1 Q. Okay. And that is, I think it's the 15th
2 exchange down?

3 A. Right. Delete that line completely. Then
4 there's just one final change.

5 Q. Okay.

6 A. About midway down, the exchange Richmond,
7 please add 10 to the competitive disconnect number. I'm
8 sorry. Yeah. Add 10 to that number. Add 14 to the retail
9 disconnect number. Add 24 to all disconnects, and the
10 percent change is a plus 2 percent.

11 Q. 2 whole percent?

12 A. That's correct.

13 Q. Okay. So in Richmond, the change is plus 10
14 in the first column, plus 14 in the second column, plus 24
15 in the third column, and an additional 2 percent in the
16 final column?

17 A. Yes.

18 Q. Any other corrections?

19 A. No.

20 Q. With these changes to your testimony, would
21 your testimony be the same as your prefiled testimony if you
22 were presenting your testimony live here today?

23 A. Yes, sir.

24 Q. And is your testimony true and correct to the
25 best of your knowledge and belief?

1 A. Yes, sir.

2 MR. CONROY: We'd move for the admission of
3 Exhibits 11, 12 and 12HC, your Honor, and tender
4 Ms. Fernandez for cross-examination.

5 JUDGE DIPPELL: Is there any objection to
6 Exhibit No. 11?

7 (No response.)

8 Then I will receive that into the record.

9 (EXHIBIT NO. 11 WAS RECEIVED INTO EVIDENCE.)

10 JUDGE DIPPELL: Is there any objection to
11 Exhibits 12 or 12HC?

12 (No response.)

13 Then I will also receive that into the record,
14 those into the record.

15 (EXHIBIT NOS. 12 AND 12HC WERE RECEIVED INTO
16 EVIDENCE.)

17 JUDGE DIPPELL: Is there cross-examination by
18 Staff?

19 MR. HAAS: Yes, your Honor.

20 CROSS-EXAMINATION BY MR. HAAS:

21 Q. Good morning, Ms. Fernandez.

22 A. Good morning.

23 Q. At page 7 of your direct testimony, you say
24 that Southwestern Bell's business core services face
25 competition from CPE alternatives such as PBXs and key

1 telephone systems. Briefly, what are PBXs?

2 A. PBXs and key systems are pieces of equipment
3 that business customers use to provide utility out of their
4 business communications system. It's like a small switch
5 that goes on the premises of that customer's business. It
6 offers them flexibility to route calls throughout their
7 business, voice mail, et cetera.

8 Q. Do the businesses own or lease these pieces of
9 equipment?

10 A. In many cases they do either. They can do
11 both.

12 Q. And Bell is not the person or the entity
13 providing this equipment?

14 A. We sell the equipment.

15 Q. Now, when the equipment is being operated, who
16 is operating the equipment? Who's responsible for
17 maintaining it and operating it?

18 A. The customer is.

19 Q. On page 9 of your direct testimony, you point
20 out the schedule that shows there are a minimum of 40 CLECs
21 in every Southwestern Bell exchange in Missouri that have
22 filed tariffs offering business core voice services.

23 Is it your opinion that Southwestern Bell
24 faces effective competition from these CLECs even if they
25 are not providing service in an exchange?

1 A. Yes, I do believe we have effective
2 competition in every exchange. The climate today really
3 facilitates our competitors to go and to meet with the
4 business customer, let's say, in St. Louis, Missouri today,
5 and because of the ability to resell and their ability with
6 their approved tariff filings, they can go in and say, I can
7 provide you service in every location you have in Missouri.
8 So this is an opportunity for them to pick up all the lines
9 for business customer, even in exchanges where they don't
10 have any lines today that are being resold.

11 So yes, I believe it's effective. It's a
12 great way for our competitors to win multiple locations in
13 Missouri.

14 Q. At page 6 of your surrebuttal testimony, you
15 report on a study showing that some cellular users and PCS
16 users consider their wireless phone their only phone. Do
17 you know these percentages for Missouri?

18 A. No, I do not.

19 Q. Do you know these percentages for Southwestern
20 Bell Missouri exchanges?

21 A. No, I do not.

22 Q. Do you know these percentages for any
23 individual exchanges in Missouri?

24 A. No, I do not. I do know from talking to my
25 sales channel and from customers they're absolutely

1 migrating their minutes of use to wireless. The utility
2 that's in a cellular phone for a business customer is
3 driving customers to do that now. So I don't have
4 quantifiable information.

5 Q. In schedule 1-1, the top of page 2, there's a
6 sentence that says, According to the Yankee Group's 2000
7 Mobile User Survey, approximately 3 percent of users claim
8 their wireless phone is their only phone and .3 percent use
9 their wireless phone exactly like a wireline phone.

10 Do you know what that phrase means, use their
11 wireline -- pardon me -- use their wireless phone exactly
12 like a wireline phone?

13 A. I can only assume as I read these studies that
14 what that's saying is a business customer, and that's what
15 I'm concerned with, is using their wireless phone exactly
16 like they would their wireline.

17 An example would be I'm a real estate
18 representative. Because I have the ability to forward my
19 calls to my wireless phone or just have one phone available
20 and print that number on my business card, I've got the
21 power to be reached by my customer no matter where I am.

22 The other thing that's happening with PCS is
23 there's more utility that's coming from wireless service
24 than there was before in the features that are available to
25 subscribers to the service. So it gives a business customer

1 who's on the move the ability to be reached at all times.

2 My belief is that's what that means.

3 Q. Wouldn't this lower percent of .3 percent
4 suggest that wireless is not functionally equivalent to
5 land-line service?

6 A. No, I don't agree with that.

7 Q. At page 7 of your surrebuttal, at line 14, you
8 state, There are at least three facilities-based providers
9 advertising in every Southwestern Bell white pages
10 directory.

11 Would you define facilities-based provider as
12 used in that sentence?

13 A. That would be either a competitor that has its
14 own facilities or is offering service through UNE-P.

15 MR. HAAS: That's all the questions I have.
16 Thank you.

17 JUDGE DIPPELL: Thank you. Public Counsel?

18 MR. DANDINO: I have no questions of this
19 witness. Thank you.

20 JUDGE DIPPELL: AT&T?

21 CROSS-EXAMINATION BY MR. ZARLING:

22 Q. Good morning, Ms. Acosta Fernandez.

23 A. Good morning.

24 Q. I'm Kevin Zarling representing AT&T, and I
25 have just a few questions.

1 On page 9 and, I think, also on page 11 of
2 your surrebuttal, you discuss your schedule 4 which has to
3 do with your, I believe the way you describe it, your
4 estimation of competitive disconnects.

5 A. Correct.

6 Q. And you state that your Southwestern Bell
7 service representatives ask the customer for the reason the
8 line is being disconnected. Some of those conversations I
9 imagine take place in a phone call, customer actually calls
10 in and terminates the --

11 A. Absolutely.

12 Q. -- the account?

13 Okay. Do you know the actual question that
14 the service reps ask your customers?

15 A. There's a specific question in their training.
16 I've observed numerous conversations, and our service reps
17 would say something like, May I ask why you're disconnecting
18 that line?

19 Q. Okay. How do your service reps mark or record
20 a customer saying, Oh, I just don't care or no --

21 A. Just don't need it anymore?

22 Q. Yeah.

23 A. That would be typically a no further use.

24 Q. And would that be a noncompetitive disconnect?

25 A. That would be a noncompetitive disconnect,

1 that is correct.

2 Q. Do you think that it's possible that a
3 customer who's filing bankruptcy might say, I just want to
4 change to a different carrier?

5 A. No. I think it --

6 Q. I'm sorry. Go ahead.

7 A. No. I was just going to say, from observing,
8 I think business customers are very open with our service
9 reps and honest about what's happening. Particularly in a
10 case of bankruptcy, I can't imagine a business customer
11 making something like that up.

12 Q. They're sort of readily willing to tell you
13 that they're declaring bankruptcy?

14 A. Absolutely.

15 Q. Because they may have to be listing you as a
16 creditor?

17 A. No. You know, I'll be honest with you, when
18 we listen to our customers, they're very honest about the
19 things they do. What happens often is a customer will call
20 in and do what's called a partial disconnect, just say, I
21 just don't need one line anymore. And when that happens,
22 they'll usually explain why they don't need the line. So
23 they're very forthcoming with regard to what they're doing.

24 Q. Does your schedule 4 include partial
25 disconnects? So in some cases the numbers you've shown

1 Southwestern Bell's retaining the customer business but may
2 be losing a part of it?

3 A. Yes. Disconnects means all disconnected
4 orders.

5 Q. Okay. And there's no follow-up to ensure
6 whether the customer is really being honest; this is just
7 based on your experience with your perception that customers
8 tell you truthfully why they're leaving Southwestern Bell?

9 A. There would be no way for us to follow up on
10 that.

11 MR. ZARLING: I think those are all the
12 questions I have. Thanks.

13 JUDGE DIPPELL: Thank you.

14 WorldCom?

15 CROSS-EXAMINATION BY MR. LUMLEY:

16 Q. Good morning.

17 A. Good morning.

18 Q. Following up on that line of questioning,
19 still on page 9 of your surrebuttal, what else does the
20 service representative ask the customer besides the question
21 you described?

22 A. You mean, May I ask why you're disconnecting
23 the line? As it pertains to that, I don't know that there
24 would be any other questions asked.

25 Q. So if the customer indicates they're changing

1 carriers and don't identify the carrier, they don't ask for
2 any identification?

3 A. That is correct. Here's the situation in
4 competitive disconnects. The vast majority of those calls
5 do not go to the service rep who's actually coding those
6 retail disconnects. They're going through what's called the
7 local service center. Our service reps aren't getting calls
8 from our customers saying, I'm leaving you to go to McLeod.
9 So that's not really happening at all.

10 What could happen is a customer could call in
11 and say, I just want to verify that my lines have been
12 disconnected, because they don't want to get billed for
13 something they're not going to be paying for anymore. We
14 have very strict policies regarding what information on the
15 retail side we can see and have access to, and we do not
16 have access to that information.

17 Q. The verification?

18 A. No. I mean, what happened to that line, where
19 did it go.

20 Q. And on the prior page you speak to that topic
21 about limitations on access to information. Did you review
22 Mr. Hughes' testimony?

23 A. I did.

24 Q. Mr. Hughes is not just responsible for
25 wholesale operations, is he? Doesn't he have retail

1 responsibilities as well?

2 A. He's responsible for all of it.

3 MR. LUMLEY: Thank you.

4 JUDGE DIPPELL: Sprint?

5 MS. HENDRICKS: No questions, your Honor.

6 JUDGE DIPPELL: McLeod?

7 MR. KRUSE: No questions, your Honor.

8 JUDGE DIPPELL: Commissioner Gaw, did you have
9 questions for this witness?

10 COMMISSIONER GAW: No, thank you.

11 JUDGE DIPPELL: Is there redirect?

12 MR. LANE: Yes.

13 MR. CONROY: Just a couple, judge. Thank you.

14 REDIRECT EXAMINATION BY MR. CONROY:

15 Q. Ms. Fernandez, did you review the highly
16 confidential version of Mr. Hughes' testimony?

17 A. I did not.

18 Q. You were asked a question by Staff regarding
19 PBX and key systems. Do you remember that?

20 A. Yes.

21 Q. Do you feel that these pieces of equipment
22 compete with a particular type of service that Southwestern
23 Bell offers?

24 A. Absolutely.

25 Q. What is that?

1 A. That would be Plexar.

2 Q. You were also asked questions about wireless.

3 Do you have any reason to think that wireless users are not
4 competing head on with your services in Missouri?

5 A. I'm sorry. Do I have any reason to believe
6 they're not?

7 Q. Yes.

8 A. No, I do not. They're competing directly with
9 us.

10 Q. And in response to a question regarding
11 Mr. Hughes, does Mr. Hughes have any involvement in setting
12 your retail rates in Missouri?

13 A. No.

14 MR. CONROY: Nothing further, judge.

15 JUDGE DIPPELL: Thank you.

16 Ms. Fernandez, I'm going to ask also that you
17 remain in the hearing room, and I will make sure there's no
18 further questions for you from the Commission.

19 THE WITNESS: Thank you.

20 JUDGE DIPPELL: Southwestern Bell, would you
21 like to call your next witness?

22 MR. CONROY: Thanks, judge. Southwestern Bell
23 calls Aimee Fite.

24 JUDGE DIPPELL: Ms. Fite, would you please
25 spell your name for the court reporter.

1 THE WITNESS: Sure. My name is Aimee Fite.

2 It's A-i-m-e-e, F-i-t-e.

3 (Witness sworn.)

4 JUDGE DIPPELL: Thank you. You may be seated.

5 You may proceed, Mr. Conroy.

6 MR. CONROY: Thank you, Judge.

7 AIMEE FITE testified as follows:

8 DIRECT EXAMINATION BY MR. CONROY:

9 Q. By whom are you employed, Ms. Fite?

10 A. By SBC Management Services.

11 Q. And what are your responsibilities there?

12 A. I'm associate director for core products on
13 the consumer side of the house.

14 Q. Are you the same Aimee Fite who has prefiled
15 direct and surrebuttal testimony in this case which has been
16 marked as Exhibits 13, 14 and 14HC?

17 A. Yes, I am.

18 Q. Do you have any corrections or revisions that
19 you would like to make to your testimony at this time?

20 A. Yes. I have three corrections. First of all,
21 in my direct testimony, page 13, line 5, on the first -- I'm
22 sorry. It's line 3; page 13, line 3. I'm changing schedule
23 7 should have been schedule 4, and so it would read, Please
24 refer to schedule 4, a direct mail piece for AT&T service.

25 And you can delete "wireless phone" there.

1 My second change is in my surrebuttal
2 testimony, page 4, line 17. I want to add a couple of
3 clarifying words onto the first sentence there. It should
4 read, From the end of the fourth quarter 2000 through the
5 second quarter 2001.

6 And my last change will be in my surrebuttal
7 testimony, page 2, line 19, a couple of clarifying words.
8 The sentence after "See Fite schedule 1HC" should read "from
9 the end of December 2000 through June 2001." That's all of
10 my corrections.

11 Q. All right. With these corrections to your
12 testimony, would your testimony be the same here as your
13 prefiled testimony if you were presenting your testimony
14 live here today?

15 A. Yes, it would be.

16 Q. And is your testimony true and correct to the
17 best of your knowledge, information and belief?

18 A. Yes, it is.

19 MR. CONROY: Your Honor, we'd move for the
20 admission of Exhibits 13, 14 and 14HC, and tender Ms. Fite
21 for cross-examination.

22 JUDGE DIPPELL: Is there any objection to
23 Exhibit No. 13?

24 (No response.)

25 Then I will receive it into the record.

1 (EXHIBIT NO. 13 WAS RECEIVED INTO EVIDENCE.)

2 JUDGE DIPPELL: Is there any objection to
3 Exhibits 14 and 14HC?

4 (No response.)

5 Then I will also receive that into the record.

6 (EXHIBIT NOS. 14 AND 14HC WERE RECEIVED INTO
7 EVIDENCE.)

8 JUDGE DIPPELL: Is there cross-examination by
9 Staff?

10 MR. HAAS: Yes, your Honor.

11 CROSS-EXAMINATION BY MR. HAAS:

12 Q. Good morning, Ms. Fite.

13 A. Good morning.

14 Q. Would you please turn to page 4 of your direct
15 testimony. In the second bullet point on that page, you
16 state that customers are not receiving the full benefit of a
17 competitive market because Southwestern Bell's existing
18 pricing constraints limit its ability to respond to changing
19 customer demands in a changing competitive marketplace.

20 Please provide examples for residential access
21 lines and residential line services how the price cap
22 statute limits Southwestern Bell's ability to respond to
23 changing customer demands in a changing competitive market.

24 A. Well, currently the price cap statute only
25 allows us to lower rates. We are capped at raising over a

1 particular amount, and specifically for local access we are
2 limited to raising our rates above the CPITS Index.

3 So because of that, both Southwestern Bell as
4 well as CLECs are limited in the fact that, because we
5 cannot raise the local rate and that has historically been
6 priced below cost, then we are disincenting ourselves as
7 well as our competitors for offering more services,
8 innovative services to our customers because our margins are
9 not very high. So that is limiting your customers' choice
10 in the marketplace for what we have to offer them.

11 Q. So in your opinion, does the price cap statute
12 prevent Southwestern Bell from offering new residential
13 services?

14 A. Well, I think it provides a disincentive to us
15 because we do not have the margins on the local service that
16 would allow us to provide innovative services, and thus it's
17 also a disincentive to our competitors as well.

18 Q. Does the price cap statute prevent you from
19 having the margin on the new service itself that would
20 encourage you to provide a new service?

21 A. Well, a new service like what type of service,
22 like a vertical service?

23 Q. A new residential service or a new related
24 service.

25 A. Well, it would depend on what that service is,

1 but as an example, if we were to provide a new vertical
2 service, as an example, we are limited under price caps to
3 the 8 percent. So depending on that service, then we could
4 be limited depending on what we decided the market-based
5 price should be for that product.

6 Q. Also on page 4 at line 18 you state, We are
7 also experiencing increased competition from the prepaid
8 communications market. And further down you mention, We're
9 seeing a transition from prepaid calling cards to prepaid
10 dial tone and prepaid wireless.

11 Please explain the term prepaid dial tone as
12 you've used it in your testimony.

13 A. Well, prepaid dial tone offers a customer the
14 ability to get service, telephone service, without a
15 contract. They pay up front a specific amount for a
16 specific service, and they are not -- they have the
17 knowledge of what their bill is because they're paying up
18 front for a specific amount of time, and they don't have to
19 worry about a larger bill later on. They pay as they go
20 basically.

21 Q. Does Southwestern Bell offer prepaid dial
22 tone?

23 A. No, they do not.

24 Q. Does the price cap statute prevent
25 Southwestern Bell from offering prepaid dial tone?

1 A. I would say no, it does not.

2 Q. On pages 6 and 7 of your direct testimony you
3 have a general discussion which I believe -- in which you
4 say Southwestern Bell faces competition from Internet and
5 e-mail services. How do residential customers get Internet
6 and e-mail services?

7 A. Well, they can get them from any number of
8 providers. They subscribe to it like any other customer,
9 and they can actually use that Internet service for e-mail
10 and for, you know, corresponding with friends and family.

11 Q. Do you know whether most residential customers
12 would get their Internet service through dial-up?

13 A. I mean, a good number of them do. Some
14 migrate to DSL. I don't have the exact percentages of what
15 that -- what percentage of that market takes dial-up
16 Internet. I know it's a growing market, though, and one
17 that the market is responding to very well because customers
18 can correspond via the Internet and often at pretty good
19 prices as well.

20 Q. We may have already touched on this, but on
21 page 23 at line 8 you say that flexibility in pricing
22 encourage the introduction of new technologies into the
23 market.

24 Does price cap regulation prevent Southwestern
25 Bell from introducing new residential service technologies

1 into the market?

2 A. I think to a certain extent it does because it
3 limits our pricing flexibility for us to raise and lower our
4 prices to meet the demands of the consumer changes and their
5 needs as well as the marketplace.

6 As an example, local service, we are limited
7 in what we can do with that, and like I said previously, it
8 is priced low today and below cost. So it limits our
9 ability on our margins and the ability to introduce new
10 products and services.

11 Q. Please turn to page 3 of your surrebuttal
12 testimony. At line 13 you say, As I mentioned, specific
13 market share or line loss thresholds should not be the
14 determinant for effective competition.

15 Does that mean that if a prepaid reseller CLEC
16 has one customer in an exchange, that, in your opinion,
17 Southwestern Bell faces effective competition in that
18 exchange?

19 A. I do, because I believe that that is
20 competition for us. Any time we've got a CLEC, whether
21 they're a prepaid provider or wireless or a traditional
22 provider of service, we are -- basically have been in the
23 marketplace in that exchange taking our lines.

24 I mean, the bottom line is, regardless of the
25 type of provider that they are, they are in our market and

1 they are taking lines from me. And I think my testimony
2 shows that we've had a definite decline in our net -- in our
3 growth rates since 1997 in the residential market, and that
4 is because we've got competitors in the market taking our
5 lines. And once they take them, they have that customer,
6 and they have the ability to sell to them additional
7 services.

8 So that's the revenue that I've lost not only
9 from the access line but from the additional services that I
10 had. Plus, they have the ability to take the customer
11 before I even had a chance to bring them onto my network and
12 to provide services to them.

13 Q. But if the CLEC is reselling Southwestern
14 Bell's services, Southwestern Bell is getting paid, isn't
15 it?

16 A. Yes, we get paid for that. We sell them the
17 service at a discount.

18 Q. Please turn to page 8 of your surrebuttal. At
19 line 5 you begin a paragraph and you start off by saying,
20 Southwestern Bell is not contending that it is prohibited
21 from increasing local calling scopes, but then you conclude
22 your paragraph by saying, However, this instance clearly
23 demonstrates a regulatory impediment for Southwestern Bell
24 under current price cap regulations. What regulatory
25 impediment did you see there?

1 A. What I'm referring to is the fact that it
2 is -- I was not saying that we could not expand our calling
3 scopes. I could, for example, take a mandatory calling
4 scope and expand it.

5 However, I would probably consider, because of
6 the added value that I've given that customer, I would
7 consider raising the rate for that, but at this point under
8 price cap statutes I cannot do that. Therefore, I'm not
9 able to recover the lost toll that I would lose in that
10 instance.

11 Q. Do you think that an expanded calling scope
12 would be a new service under the price cap statute?

13 A. I believe it would be.

14 Q. And does the price cap statute put a limit on
15 what Bell can initially charge for a new service?

16 A. It does if it's related to the access line,
17 yes. My cap is at the CPITS.

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

19 JUDGE DIPPELL: Public Counsel?

20 MR. DANDINO: Thank you, your Honor.

21 CROSS-EXAMINATION BY MR. DANDINO:

22 Q. Good morning, Mrs. Fite, or Ms. Fite.

23 I was confused on the answer you gave
24 Mr. Haas. When he asked you if you had one CLEC that had
25 one customer in a Southwestern Bell exchange, did you say

1 you considered that effective competition?

2 A. I did say that, yes.

3 Q. And are you aware of any cost study for the
4 state of Missouri that indicates that residential local
5 service is priced below cost?

6 A. I personally am not aware of any.

7 Q. Do you see that the biggest obstacle to
8 Southwestern Bell in the residential market is its inability
9 to raise residential rates to the level it desires to?

10 A. I don't see that as the greatest hinderance.
11 I feel that it's more the effect of us being able to look at
12 and raise and lower our rates on all of our services
13 depending on what we feel the needs of the consumer are and
14 the needs of the market and what the market can bear.

15 So I think it's a combination of raising and
16 lowering rates as well as the ability to get that done in a
17 timely manner.

18 Q. Okay. You're testifying about residential
19 services; is that correct?

20 A. Yes.

21 Q. So in the realm of residential services, would
22 the ability to raise local rates, local residential rates,
23 be a significant advantage for Southwestern Bell?

24 A. I would have to look at, you know, that. I
25 have not -- I don't have a major strategy put in place to

1 see if that would be the case. I would consider it. I
2 would look at it and determine based on my other products
3 and services what I might be able to do at the local access
4 rate.

5 Q. Right now there's no obstacle for Southwestern
6 Bell to reduce local residential rates; is that correct?

7 A. That's correct.

8 Q. Or local business rates?

9 A. That's correct.

10 Q. Or any of its services?

11 A. Yes.

12 Q. Now, there's been some recent price changes by
13 Southwestern Bell for local service, is that correct, in
14 Missouri?

15 A. The only change I know of, because we have not
16 changed our residential local access rate since 1984 with
17 the exception of, I believe, a change due to an MCA issue in
18 Springfield that we were allowed, and I think last year
19 actually the rate was decreased by a small percentage, and
20 this year I believe it's the same.

21 Q. What was that small percentage that it
22 decreased?

23 A. I believe it was about 1 percent, give or
24 take. That's from what I can remember.

25 Q. Now, in terms of vertical services, did

1 Southwestern Bell change the prices of many of their
2 vertical services in Missouri recently?

3 A. Well, as of since 1996, from 1996 to about the
4 year 2000, we had very few changes in our prices. In 2000--
5 recently I believe we've had a few price increases on some
6 of our products and services. We've had some where, as an
7 example, call waiting, we had not touched that rate since
8 1996. We even had a decrease in call trace. We've had a
9 decrease in call waiting ID. But in this year, too, we have
10 had some increases, yes.

11 Q. Let's look at the vertical features in just
12 the last year. What services were increased and by what
13 percentage?

14 A. Well, most of our services, and I believe we
15 had an increase in caller ID, name and number. I believe we
16 had it in call forwarding, and there's several others. I
17 don't have them off the top of my head, but those were
18 raised the 8 percent.

19 Q. The 8 percent --

20 A. Yes.

21 Q. -- maximum?

22 In your testimony about prepaid
23 communications, I believe it's on page 4 of your direct
24 testimony, you talk about falling monthly per-minute rates
25 for prepaid. What facts, what evidence, what companies are

1 you relying on to make that statement?

2 A. Well, I was referring to an article in the
3 Perspectives magazine that talked about prepaid and the
4 surge of prepaid services, whether it's prepaid dial tone
5 or prepaid wireless.

6 Q. Okay. So that's not based on any actual rates
7 of prepaid sellers in the state of Missouri in the
8 Southwestern Bell exchanges?

9 A. Not that I'm familiar with, no.

10 Q. Okay. Mr. Haas asked you if Southwestern Bell
11 offered prepaid services. I understand you said they don't.
12 That's just in Missouri. Doesn't Southwestern Bell offer
13 prepaid services in its other Southwestern Bell states?

14 A. A couple of the other states, I believe we
15 have it.

16 Q. And which states are those?

17 A. I believe we offer it in Texas and Arkansas,
18 if I'm not mistaken.

19 Q. Who are the customers that normally subscribe
20 to prepaid services, prepaid dial tone let's say?

21 A. Well, historically they have been
22 credit-challenged customers, those that want to keep a tight
23 reign on their monthly bill, and again, that's pretty
24 historically.

25 Recently there's been a surge of younger

1 people that have been interested in that market, and I
2 believe there are some providers that are looking more and
3 more towards the younger market, those that are on the move
4 and are mobile, in college, whatnot. So I think that market
5 is expanding quite a bit out of the credit-challenged into
6 that market.

7 Q. And what do you base that description on?
8 Southwestern Bell doesn't have a prepaid in Missouri. So on
9 what are you basing that description?

10 A. Basing it on again some articles that I have
11 read. Part of those came again from the Perspectives
12 article that was published.

13 Q. So it's just articles, not your personal
14 experience?

15 A. Not my personal experience, no.

16 Q. Are many of these customers for prepaid
17 customers that were disconnected from Southwestern Bell or
18 denied service by Southwestern Bell?

19 A. I don't know that for a fact.

20 Q. You just -- you're just not familiar with the
21 market for prepaid service in the state of Missouri?

22 A. Not as familiar as local service.

23 Q. Is prepaid service the same -- equivalent to
24 local service?

25 A. I believe it's a viable alternative to local

1 service.

2 Q. Is it an equivalent, a substitutable
3 equivalent?

4 A. I believe it is, yes.

5 Q. Is it provided on the same rates, terms and
6 conditions as local service, prepaid?

7 A. Yes, I believe it is.

8 Q. Because wireless providers for local service
9 are not regulated by the PSC, do you think that justifies
10 Southwestern Bell receiving reduced regulation by the PSC?

11 A. I definitely do, because I think that is a
12 growing market, and I believe that because customers are
13 actually going with wireless service and not getting their
14 land-line service anymore, that they are using that wireless
15 service as their land-line phone and --

16 Q. So you -- I'm sorry.

17 A. That's all right. Go ahead.

18 Q. So you feel that the level of regulation
19 should be the same as, let's say, as the regulation provided
20 to e-mail?

21 A. I'm sorry. I don't understand your question.

22 Q. That Southwestern Bell should be regulated no
23 greater than an e-mail provider?

24 A. I think that Southwestern Bell should be
25 regulated like other competitors in our market, yes.

1 Q. Well, would that include e-mail providers?
2 A. Yes, it would.
3 Q. Yes?
4 A. Yes.
5 Q. Would that also provide Internet telephony?
6 A. Would that also include Internet telephony?
7 Q. Yes.
8 A. Yes.
9 Q. Would that also include all paging providers?
10 A. I think any service, any provider that is an
11 alternate provider, and I think a lot of these
12 nontraditional ones that you're describing here fall into
13 that category, then yes, I believe we should all be on the
14 same level playing field.
15 Q. Same for the U.S. Mail, you consider that an
16 alternate?
17 A. U.S. Mail to my land-line service?
18 Q. Yes.
19 A. No, I don't.
20 Q. Can you or can a residential customer in
21 Missouri obtain vertical services from Southwestern Bell if
22 their dial tone provider is a CLEC?
23 A. No, they cannot.
24 Q. And a Southwestern Bell customer, dial tone
25 customer, cannot obtain vertical services from the CLEC; is

1 that correct?

2 A. That's correct.

3 Q. Can a -- if you have a CLEC dial tone, can you
4 obtain MCA service from Southwestern Bell?

5 A. If that provider -- it's my understanding if
6 that provider has MCA service, it would be -- it would be
7 the same service we provide through Southwestern Bell if the
8 calling scope is the same and the rates are the same.

9 Q. But that's if it's pro-- if the CLEC is
10 providing Southwestern Bell MCA service on a resale basis;
11 is that correct?

12 A. That's correct.

13 Q. But if I was buying my local service from AT&T
14 but I wanted to contact Southwestern Bell, and since I've
15 had all my intraLATA toll with Southwestern Bell I wanted to
16 have MCA service with Southwestern Bell, could I do that?

17 A. I'm sorry. I don't know the answer to that.

18 Q. If I was a CLEC customer for dial tone, could
19 I subscribe to Southwestern Bell's designated plus?

20 A. I'm not --

21 Q. Designated number?

22 A. That's -- I'm sorry. I'm not familiar with
23 that.

24 Q. Okay. And if I was a CLEC customer, could I
25 subscribe to Southwestern Bell's local plus calling plan?

1 A. I'm sorry. I would have to defer that to
2 Ms. Jablonski in her testimony.

3 Q. For customer -- CPE is customer premises
4 equipment?

5 A. Customer provided equipment.

6 Q. Customer provided equipment. That's basically
7 a -- could be a telephone, right?

8 A. Yes.

9 Q. Now, in order to operate those vertical --
10 those features on it, such as call return, I still have to
11 purchase dial tone, don't I?

12 A. You can buy a piece of equipment. Yes, you
13 would have dial tone in your home, yes, and you would attach
14 that piece of equipment to it. But if a service similar to
15 our auto redial service, which is a vertical service,
16 telephones today widely have on them a redial button which
17 is similar in function to our auto redial whereby you would
18 not need to subscribe to the vertical service, but you have
19 to have a line to have your phone hooked up to.

20 Q. Sure. So I have to write a check to
21 Southwestern Bell or to the CLEC in order to even use my
22 CPE, correct?

23 A. In that instance, yes.

24 Q. Is there any instance where you can use a CPE
25 without subscribing to local dial tone?

1 A. There may be some advanced technology that I'm
2 not familiar with. I don't know.

3 MR. DANDINO: Thank you, Ms. Fite. Thank you,
4 your Honor.

5 JUDGE DIPPELL: Are there cross-examination
6 questions from AT&T?

7 MR. ZARLING: No questions, your Honor.

8 JUDGE DIPPELL: WorldCom?

9 MR. LUMLEY: No questions.

10 JUDGE DIPPELL: Sprint?

11 MS. HENDRICKS: No questions, your Honor.

12 JUDGE DIPPELL: McLeod?

13 CROSS-EXAMINATION BY MR. KRUSE:

14 Q. Good morning, Ms. Fite. My name is Brad
15 Kruse. I'm from McLeod USA. I just have a couple of
16 questions for you.

17 Is it your opinion that wireline customers
18 constitute a direct competitive force or threat to
19 Southwestern Bell's local residential service?

20 A. I'm sorry. Would you please repeat the
21 question?

22 Q. Sure.

23 A. I didn't understand it.

24 Q. Is it your opinion that wireline customers
25 constitute a direct competitive threat to Southwestern

1 Bell's local residential service?

2 A. Wireline customers?

3 Q. Let me strike that. I apologize. I meant to
4 say wireless. Is it your opinion that wireless customers
5 constitute a direct threat to Southwestern Bell's local
6 residential service?

7 A. I do see them, because they are out in the
8 marketplace and I'm seeing a decline in the growth of my
9 access lines in consumer, and those customers are in some
10 cases disconnecting their wireline service and keeping only
11 their wireless service and that is the only service that
12 they have. So I see it as an alternate to our service, a
13 substitute for our service, yes.

14 Q. Are you aware of any specific numbers as to
15 how often that's occurring?

16 A. I do know that approximately -- studies that
17 were done this year by Yankee Group, that approximately --
18 or excuse me, in 2000 -- that approximately 3 percent of the
19 customers in the United States have only wireless phones,
20 and I also understand that there are other types of
21 provisioning besides wireless, as an example, cable and
22 Internet, et cetera, that are out there as well.

23 But the market is growing, and all indication
24 is it's only going to get larger and that customers are
25 using that as an alternative. They're being able to have

1 fairly large calling scopes and long distance plans and
2 calling plans between families and a lot of features and
3 services like caller ID, call waiting, that are offered on
4 wireless and provide them the same type of service that they
5 get from wireline.

6 Q. But do you have any -- you don't have any
7 specific numbers as to Missouri figures as to how many
8 wireline customers -- I'm sorry -- how many wireless
9 customers?

10 A. No, I don't have specifics for Missouri. Just
11 know the marketplace as a whole is experiencing that.

12 Q. Let's back up to that 3 percent national
13 figure that you said that you've read about, the 3 percent
14 of wireless customers nationally. Do you have any idea what
15 percent of those customers went to wireless service from an
16 incumbent carrier or from a CLEC carrier, any breakdown of
17 numbers for that 3 percent?

18 A. No, I do not.

19 Q. So it's possible, then, isn't it, that the
20 entire 3 percent either came from -- it's probably not
21 likely, but it is possible, as far as you know, that the
22 entire 3 percent of wireless customers, they could be
23 brand-new customers, people that didn't drop their local
24 service with an ILEC or a CLEC? It's possible, isn't it?

25 A. I would say it's possible. However,

1 indications of our line loss and the surge of wireless in
2 the marketplace today and the Missouri state being that it
3 is getting more intensely competitive and growing, it's got
4 some major markets in it that are growing tremendously
5 today. I would think that there's got to be a percentage of
6 them that left for a better offer.

7 We have done studies where customers are
8 leaving us because of a better offer, whether that be they
9 may get a better wireless offer, could be anything, but it's
10 a better package deal or better offer from somebody else.

11 Q. Are those studies Missouri specific?

12 A. No, they're not Missouri specific.

13 Q. So as you sit here today, though, you can't
14 really say for certain what sort of a percentage of wireless
15 customers have left Southwestern Bell in the state of
16 Missouri, can you?

17 A. No, I cannot.

18 Q. For that same matter and along that same line,
19 you can't say as you sit here today, can you, how many of
20 those wireless customers would have possibly established
21 service in the future with Southwestern Bell, can you?

22 A. No, I cannot.

23 Q. If Southwestern Bell's main form of
24 competition were with wireless carriers as opposed to, say,
25 competitive local exchange carriers, would it still be your

1 opinion that Southwestern Bell's markets were open to local
2 wireline competition?

3 A. I'm not sure I understand your question.

4 Q. Okay. As I understand your testimony, you
5 want to include wireless customers as part of the
6 competition that Southwestern Bell faces as a means to
7 demonstrate that there is effective competition; isn't that
8 correct?

9 A. That's correct.

10 Q. And since you're not sure exactly what the
11 number of wireless customers is, this is going to have to
12 assume somewhat of a hypothetical nature.

13 Let's say the majority of Southwestern Bell's
14 competition in a market came from wireless customers. Would
15 it -- is it your opinion that that market would be open to
16 local competition just by virtue of the fact that
17 Southwestern Bell experienced competition from wireless
18 customers in that market?

19 A. Well, first of all, I don't believe that my
20 main competitor is wireless. I believe it is an alternative
21 form of competition or nontraditional if you will. I think
22 my major competitors are the CLECs, the resellers out there.
23 I've got resellers in every exchange, as Tom Hughes will
24 attest, that's providing service in the state of Missouri.
25 I believe we are open to local competition, yes, if that is

1 your question.

2 Q. And do you believe that wireless customers
3 make up a substantial or a significant portion of that
4 competition?

5 A. I think they make up a piece part of that
6 competition. I think the majority of my competition is the
7 reseller, and I think they are a portion of over and above
8 that in the state of Missouri.

9 Q. Then is what you're saying, then, the reason
10 that you base your opinion that there is effective
11 competition in Southwestern Bell's markets, is it based
12 primarily on the fact that there is CLEC competition or is
13 it based equally on the fact that there is wireless
14 competition and CLEC competition?

15 A. It's based on the fact that there is all of
16 that type of competition in the state of Missouri. I don't
17 have a percentage of X percent is resellers or X percent is
18 wireless, but it is that in total we have competition.

19 And the bottom line is that competition is
20 taking my lines away, and when it comes to the end of the
21 day, I don't have that customer any longer. I don't have
22 the revenue from the access line that I had before, nor any
23 of the verticals that were attached to that or the intraLATA
24 toll that was attached to that. Plus I lose the potential
25 of a customer I never had before because that competition is

1 in the market.

2 Q. But the fact that Southwestern Bell is losing
3 customers, given the competitive environment, I mean, some
4 loss of customers would be normal, wouldn't it, I mean,
5 given the Telecom Act and given the competitive environment
6 that there are some competitors in the market?

7 A. Yes.

8 Q. So the fact that -- you're not saying, are
9 you, that the fact that Southwestern Bell is losing some
10 customers means that there is effective competition, are
11 you?

12 A. We are losing substantially more customers
13 than we had been. We are -- our outwards are greater than
14 our inwards as you go through time this year, in fact, in
15 2001, because we had a net loss in our growth for the first
16 time. So there is competition out there more so than we've
17 had before. It is growing.

18 Q. More so than before what?

19 A. Well, prior to -- most of my data in my
20 testimony shows our growth has been declining since 1997.
21 That is when we started seeing -- after the Telecom Act and
22 competitors were able to go in and provide local service, in
23 1997 we started to see the decline in growth in the
24 residential market.

25 Q. Okay. If Southwestern Bell receives the

1 relief that it's seeking in this proceeding, are you going
2 to consider lowering residential rates?

3 A. I will be looking at everything. I will be
4 considering both lowering as well as raising local rates. I
5 will look at the potential of lowering or raising vertical
6 services in total. I don't like to look at one particular
7 product and suggest that the customer is that interested in
8 one product. Normally our customers want to see what the
9 bottom line is and what their bill is going to be, and it's
10 a total package of products and services that I can offer.

11 So I will be looking at both lowering and
12 raising my rates to see what would best fit the customer
13 needs based on the marketplace that we have and the
14 competitive competition that I'm experiencing.

15 Q. As you sit here today, do you have a plan as
16 to whether or not Southwestern Bell will raise or lower
17 residential rates and any details of any such plan?

18 A. Today I have no plan. I'll be honest with
19 you. I do not have a specific plan in place or in mind.
20 Should we get the competitive pricing, then we will
21 definitely get after that and look at what that plan would
22 be, but today I do not have one.

23 Q. Do you think it's likely that Southwestern
24 Bell would lower some residential rates?

25 A. I think that's definitely a possibility. We

1 would be looking at the local access line rate, which has
2 been below cost historically, and look at the verticals, and
3 the potential is there.

4 I know a good example that Dr. Aron brought up
5 yesterday was the fact that in Massachusetts they since 1990
6 have put in place competitive pricing whereby they did raise
7 the local access rate, and I believe about three times what
8 it was in 1990, and they were able in concert with that to
9 lower some of the vertical rates, and the outcome was a bill
10 that was basically the same or very close to what the
11 customers had back when the whole thing started.

12 So I think the possibility is there definitely
13 to look at reducing some of the higher margin products if
14 you were to look at the access, the local access rate.

15 Q. And do you expect residential rates, if
16 Southwestern Bell is granted the relief it seeks in this
17 proceeding, to generally increase or decrease on the whole?

18 A. On the whole, I don't know. Again, I would
19 have to look at that and balance all of the rates and look
20 at lowering some and raising some possibly, and so I can't
21 tell you for sure. Generally, it would go one way or the
22 other.

23 Q. And in formulating your decision to raise or
24 lower rates, you'll be looking at competitors' rates, won't
25 you?

1 A. Well, I would be looking at the competitive
2 environment. So many of our competitors today are resellers
3 and they obviously purchase the service from us at a
4 discount. That would provide them -- if I were to raise
5 some rates, it would provide them some incentive to offer
6 additional services or features and to price differently
7 because their margins would be different.

8 Q. But you will in formulating your plan, won't
9 you, be looking at specific rates for specific competitors,
10 services?

11 A. More than likely, yes.

12 MR. KRUSE: That's all the questions I have.

13 JUDGE DIPPELL: Thank you. It's almost 10:05,
14 so we're going to go ahead and take about a 15-minute break
15 and return at 10:20.

16 We can go off the record.

17 (A BREAK WAS TAKEN.)

18 JUDGE DIPPELL: We can go ahead and go on the
19 record.

20 Let's see. We ended the cross-examination of
21 Ms. Fite, and I'm not certain if there are Commission
22 questions. I believe there are for Ms. Fite. So I will
23 probably recall you after the Commissioners are finished
24 with agenda, but at this time we'll go ahead with redirect.

25 MR. CONROY: Thank you, Judge.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

1 REDIRECT EXAMINATION BY MR. CONROY:

2 Q. Good morning again, Ms. Fite.

3 A. Fine, thank you.

4 Q. Are you aware if there's any requirement in
5 the statute or the definition of effective competition in
6 the statute, a requirement that Southwestern Bell suffer any
7 harm?

8 A. No, I'm not.

9 Q. You also discussed in response to several
10 questions, in particular Mr. Kruse's questions on behalf of
11 McLeod, that your major competition is resale or resellers.

12 When you talk about resellers, are you talking
13 about CLEC competition generally or are you limiting it to
14 straight resale of Southwestern Bell's services?

15 A. I'm talking about CLEC competition in general,
16 and that would include resellers, UNE-Ps, facility-based.

17 Q. And do you -- is it your understanding that
18 CLECs are subject to retail price cap regulation as well as
19 Southwestern Bell?

20 A. No, that's not my understanding.

21 Q. It's your understanding that CLECs are not
22 subject to --

23 A. That's right.

24 Q. -- price cap regulation?

25 A. Correct.

1 Q. And in response to questions from Staff and
2 their attorney, is it your understanding that simply
3 expanding a calling scope would be a new service under the
4 price cap statute?

5 A. I think just expanding it, I would not be real
6 sure if that would be considered a new service or not. I
7 think it's possible that it would not, but I'm not certain.

8 Q. And if it was not a new service, is it your
9 understanding the price cap statute would constrain pricing
10 flexibility for Southwestern Bell in that situation?

11 A. Yes.

12 MR. CONROY: That's all I have, Judge. Thank
13 you.

14 JUDGE DIPPELL: Thank you. Ms. Fite, you may
15 step down, but I will ask you to remain for further
16 Commissioner questions.

17 Would Southwestern Bell like to go ahead and
18 call its next witness?

19 MR. CONROY: Yes, your Honor. Southwestern
20 Bell calls Thomas Anvin.

21 JUDGE DIPPELL: Mr. Anvin, would you please
22 spell your name for the court reporter.

23 THE WITNESS: Thomas Anvin, A-n-v-i-n.

24 (Witness sworn.)

25 JUDGE DIPPELL: Thank you. You may be seated.

1 Mr. Conroy, you made proceed.

2 MR. CONROY: Thank you, Judge.

3 THOMAS ANVIN testified as follows:

4 DIRECT EXAMINATION BY MR. CONROY:

5 Q. Mr. Anvin, who are you employed by?

6 A. I am employed by SBC Ameritech Corporate.

7 Q. I'm sorry?

8 A. SBC Ameritech Corporate.

9 Q. And what are your responsibilities?

10 A. I'm associate director of competitive
11 intelligence, and in that function I monitor and report on
12 the competitive environment in which SBC operates.

13 JUDGE DIPPELL: Mr. Anvin, can I get you to
14 speak up just a little bit and maybe speak toward the
15 microphone?

16 THE WITNESS: I'm sorry.

17 BY MR. CONROY:

18 Q. Are you the same Thomas Anvin who filed direct
19 testimony in this case which has been marked as Exhibit 15?

20 A. I am.

21 Q. Do you have any corrections or revisions that
22 you need to make to that testimony at this time?

23 A. I do not.

24 Q. Would your testimony be the same as your
25 prefiled testimony if you were providing your testimony live

1 here in this hearing room today?

2 A. It would be.

3 Q. And is your testimony true and correct to the
4 best of your knowledge, information and belief?

5 A. It is.

6 MR. CONROY: Judge, we'd move that Exhibit 15
7 be admitted into evidence and would tender Mr. Anvin for
8 cross-examination.

9 JUDGE DIPPELL: Are there any objections to
10 Exhibit No. 15?

11 (No response.)

12 Then I will receive Exhibit 15 into evidence.

13 (EXHIBIT NO. 15 WAS RECEIVED INTO EVIDENCE.)

14 JUDGE DIPPELL: Is there cross-examination by
15 Staff?

16 MR. HAAS: Yes, your Honor.

17 CROSS-EXAMINATION BY MR. HAAS:

18 Q. Good morning, Mr. Anvin.

19 A. Good morning.

20 Q. Is it your opinion that a CLEC's tariff
21 allowing it to provide service in a Southwestern Bell
22 exchange means that Southwestern Bell is -- or has effective
23 competition in that exchange?

24 A. I do.

25 Q. And would that be so even if that CLEC has no

1 customers in that exchange?

2 A. I do believe that with the entries to provide
3 service being as low as they are, that they could use resale
4 as stated before in previous testimony as well as UNE-P, so
5 yes.

6 Q. At page 9 of her direct testimony,
7 Southwestern Bell witness Douglas says, As shown in
8 Mr. Anvin's direct testimony, there are approximately 31
9 facilities-based CLECs which have service areas within
10 Southwestern Bell's Missouri service area. I'm hoping I
11 quoted her right and that she quoted you right.

12 Would you please define facilities-based as
13 you use it?

14 A. Facilities-based would be a CLEC providing
15 service over its own facilities or UNE-P.

16 Q. In which Southwestern Bell exchanges do CLECs
17 provide service with their own facilities without using
18 Southwestern Bell UNEs?

19 A. I don't have a complete list of them.

20 Q. Do you have a partial list?

21 A. No, I don't.

22 MR. HAAS: Thank you. That's all my
23 questions.

24 JUDGE DIPPELL: Public Counsel?

25 MR. DANDINO: Thank you, your Honor.

1 CROSS-EXAMINATION BY MR. DANDINO:

2 Q. Good morning, Mr. Anvin.

3 A. Good morning.

4 Q. Is it Anvin?

5 A. Anvin.

6 Q. Now, sir, you work for Ameritech; is that
7 correct?

8 A. I work for SBC Ameritech Corporate, yes.

9 Q. Okay. And wasn't at one time Ameritech
10 certificated to provide local service in Missouri?

11 A. We were, yes.

12 Q. And was it also certificated to provide long
13 distance service in Missouri?

14 A. I do believe that's correct.

15 Q. And at one time wasn't Ameritech making
16 substantial steps toward competing with Southwestern Bell in
17 the St. Louis metropolitan area for local service?

18 A. I can't speak to that.

19 Q. You can't speak to that because you have no
20 knowledge or what?

21 A. I have no knowledge what we did specifically
22 in Missouri, no.

23 Q. Do you think Ameritech would have been a
24 formidable competitor to Southwestern Bell?

25 A. I think it would have been a competitor, yes.

1 Q. A competitor or a formidable competitor?

2 A. I can't speak to what efforts would have been
3 made in Missouri, so I'm sorry, I don't have that
4 information.

5 Q. And Ameritech was one of the regional Bell
6 operating companies; is that correct?

7 A. That's correct.

8 Q. And after the merger, Ameritech surrendered
9 its Missouri certificate to provide local service; is that
10 correct?

11 A. I believe so.

12 Q. You have no knowledge?

13 A. I have no, you know, direct knowledge of that,
14 no.

15 Q. Has Ameritech -- or working for SBC Ameritech
16 Corporate, what Ameritech markets or SBC markets do you have
17 responsibility for?

18 A. I monitor mostly the Southwestern Bell
19 territories.

20 Q. Now, your title is what, sir?

21 A. I'm associate director of competitive
22 intelligence.

23 Q. Competitive intelligence. Is that like
24 Central Intelligence Agency?

25 A. We do market studies to see what competitors

1 are offering, where they're offering, et cetera, et cetera.

2 Q. So you gather information about competitors;
3 is that right?

4 A. By competitor, by technology, by market.

5 Q. It wouldn't be fair to categorize that as a
6 corporate spy, would it?

7 A. No, it would not.

8 Q. On Schedule 6 in your direct, the CLEC
9 information from the Commission's website, is that something
10 you just downloaded from the Public Service -- Missouri
11 Public Service Commission's website?

12 A. I got it from the website, yes.

13 Q. And did you make any investigation into the
14 accuracy of that?

15 A. We called the Commission and asked if they
16 believed it to be true as of the date dated on it, yes.

17 Q. And what was the date?

18 A. I believe the date on here is, the last
19 revision is 3/08/2001.

20 Q. And did you make any other independent action
21 to verify the accuracy of the information in that?

22 A. We did not.

23 Q. And do you intend the Public Service
24 Commission to rely upon this schedule in making its
25 decision?

1 A. Yes, I do.

2 Q. So you're representing to this Commission that

3 this list of CLECs is true, accurate and correct?

4 A. As of the date printed, yes.

5 Q. But you have no independent knowledge of that?

6 A. I have not further investigated, no.

7 Q. Did you take any action to confirm whether or

8 not any CLEC listed in that exhibit, in that Schedule 6, was

9 still providing service in Missouri?

10 A. Again, I believe that being certified to

11 provide service is providing -- or is presenting a potential

12 threat to SBC and, therefore, they should be considered.

13 Q. So your answer is no?

14 A. Yes, it is no.

15 Q. It is no. So you don't know whether they're

16 providing service or not?

17 A. I did not verify it.

18 Q. Okay. And to this date, you still haven't,

19 have you?

20 A. I have not.

21 Q. I believe it's Schedule 7 of your testimony,

22 and that's the -- what is that, sir?

23 A. It is a list of certified IXC's.

24 Q. And where did you obtain that?

25 A. From the Commission.

1 Q. And did you make any independent efforts to
2 verify whether those companies are providing -- actually
3 providing service in the state of Missouri?

4 A. No, I did not.

5 Q. Did you take any action to verify that those
6 certified IXCs actually had tariffs filed in Missouri?

7 A. No, I did not.

8 Q. Did you take any independent action to verify
9 that these companies are still viable operating
10 telecommunications companies?

11 A. No, I did not. I'm taking it that the
12 Commission is providing the latest data.

13 Q. Did you intend that the Public Service
14 Commission rely upon the information in this Schedule 7?

15 A. Yes, I did.

16 Q. And you didn't make any independent effort to
17 verify it; is that correct?

18 A. That is correct.

19 Q. And are you representing that this schedule
20 data of IXCs operating in Missouri is true, accurate and
21 correct?

22 A. As of last updated, yes.

23 Q. But you have no independent knowledge of that?

24 A. I have not verified all 600 of them, no, or
25 any of them.

1 Q. Have you verified any of them?

2 A. No, I haven't.

3 MR. DANDINO: That's all I have, your Honor.

4 Thank you.

5 JUDGE DIPPELL: AT&T?

6 MR. ZARLING: No questions, your Honor.

7 JUDGE DIPPELL: WorldCom?

8 CROSS-EXAMINATION BY MR. LUMLEY:

9 Q. Good morning.

10 A. Good morning.

11 Q. My first question is, if you were a spy, would
12 you tell us?

13 A. Under oath, yes.

14 (Laughter)

15 Q. Looking at your direct testimony, page 9, the
16 question and answer at lines 12 and 13 where you're talking
17 about Commission regulation of CLEC and IXC prices, do you
18 see that?

19 A. Yes.

20 Q. Are you aware that the Commission does on
21 occasion suspend CLEC and IXC tariff filings?

22 A. I am aware on occasion they do.

23 MR. LUMLEY: That's all my questions. Thank
24 you.

25 JUDGE DIPPELL: Are there any questions from

1 Sprint?

2 MS. HENDRICKS: No questions, your Honor.

3 JUDGE DIPPELL: McLeod?

4 MR. KRUSE: No questions, your Honor.

5 JUDGE DIPPELL: All right, then. Again, I
6 will reserve questions from the Bench, but we'll go ahead
7 and proceed with redirect.

8 MR. CONROY: None, your Honor.

9 JUDGE DIPPELL: Mr. Anvin, you may step down.
10 I'll ask you to remain for recall for possible questions
11 from the Bench.

12 THE WITNESS: Thank you.

13 JUDGE DIPPELL: Thank you. And Southwestern
14 Bell, you may call your next witness. Mr. Hughes, would you
15 spell your name for the court reporter.

16 THE WITNESS: My name is Thomas F. Hughes,
17 H-u-g-h-e-s.

18 (Witness sworn.)

19 JUDGE DIPPELL: Thank you. You may be seated.

20 Mr. Lane, you may proceed.

21 THOMAS F. HUGHES testified as follows:

22 DIRECT EXAMINATION BY MR. LANE:

23 Q. Could you state your name for the record,
24 please.

25 A. My name is Thomas F. Hughes.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

1 Q. And by whom are you employed?

2 A. I'm employed by Southwestern Bell Telephone
3 Company.

4 Q. What's your position with Southwestern Bell
5 Telephone Company?

6 A. Vice President - Regulatory for the state of
7 Missouri.

8 Q. and Mr. Hughes, did you prepare direct
9 testimony that has been marked as Exhibit 16 and surrebuttal
10 testimony that's been marked as Exhibit 17 and 17HC?

11 A. Yes, I did.

12 Q. Do you have any changes first to your direct
13 testimony?

14 A. I do. I have two changes to my direct
15 testimony.

16 Q. What's the first one?

17 A. The first one is on page 26 at line 20. I
18 state that the market share gained by CLECs is over
19 17 percent. 17 percent should be replaced with 15 percent.

20 Q. What's your second change?

21 A. My second change is on page 27 at line 16.
22 The same change should be made. 17 percent should be
23 15 percent.

24 Q. And is that 15 percent figure reflected in
25 your surrebuttal testimony?

1 A. Yes, it is.

2 Q. Do you have any other changes to your direct
3 testimony?

4 A. No, I do not.

5 Q. Do you have any changes to your surrebuttal
6 testimony?

7 A. I do. I have two also in my surrebuttal
8 testimony.

9 Q. And are those just in the NP version of that
10 testimony?

11 A. Yes, they would be.

12 Q. What's your first change?

13 A. My first change is on page 5 at line 19, the
14 line currently reads, The CLEC lines and market share
15 identified in many of schedules. The word "my" should be
16 inserted between of and schedules. So it would read, In
17 many of my schedules.

18 Q. And what's your second change?

19 A. My second change is on page 16 at line 8.
20 Following the HC information are the words "of the total
21 lines in the state," and it should read "of the total
22 Southwestern Bell lines in the state."

23 Q. Do you have any other changes to your
24 surrebuttal testimony?

25 A. No, I do not.

1 Q. If I were to ask you the questions contained
2 in your Exhibits 16, 17 and 17HC today, would your answers
3 be the same?

4 A. Yes, they would.

5 Q. Are they true and correct to the best of your
6 knowledge and belief?

7 A. Yes, they are.

8 MR. LANE: Your Honor, at this time we would
9 offer Exhibits 16, 17 and 17HC and tender Mr. Hughes for
10 cross.

11 JUDGE DIPPELL: I just want to clarify first
12 because you said that the correction was only in the NP
13 version. It's actually to nonproprietary information, but
14 the correction appears in both versions of testimony?

15 THE WITNESS: That is correct. Thank you.

16 MR. LANE: My mistake.

17 JUDGE DIPPELL: Then is there any objection to
18 Exhibit 16?

19 (No response.)

20 Then I will accept that into evidence.

21 (EXHIBIT NO. 16 WAS RECEIVED INTO EVIDENCE.)

22 JUDGE DIPPELL: Is there any objection to
23 Exhibit 17 or 17HC?

24 (No response.)

25 Then I will also admit those into evidence.

1 (EXHIBIT NOS. 17 AND 17HC WERE RECEIVED INTO
2 EVIDENCE.)

3 JUDGE DIPPELL: Is there cross-examination by
4 Staff?

5 MR. HAAS: Yes, your Honor.

6 CROSS-EXAMINATION BY MR. HAAS:

7 Q. Good morning, Mr. Hughes.

8 A. Good morning, Mr. Haas.

9 Q. At the bottom of page 19 of your direct
10 testimony, you identify several alternative providers. Has
11 Southwestern Bell provided evidence in this case on an
12 exchange-by-exchange basis of the extent of competition
13 Southwestern Bell faces from wireless carriers?

14 A. Southwestern Bell has not provided that
15 information on an exchange-by-exchange basis because
16 Southwestern Bell is not aware of that information on an
17 exchange-by-exchange basis.

18 Q. Has Southwestern Bell provided information on
19 an exchange-by-exchange basis for cable TV providers?

20 A. To a certain extent the answer to that
21 question is yes. Where a cable TV provider is operating as
22 a CLEC and Southwestern Bell is aware of the customers that
23 they're providing service to, we have included that in my
24 schedules to my surrebuttal testimony.

25 Q. Is it your opinion that cable TV providers

1 offer competition to Southwestern Bell only if they're
2 CLECs?

3 A. No. They also offer competition in the arena
4 of high-speed Internet to the -- high-speed access to the
5 Internet. Southwestern Bell Telephone Company does not
6 offer that particular service, but through our affiliate
7 SBC/ASI who offers a DSL transport service, they do compete
8 directly with cable TV providers.

9 Q. Has Southwestern Bell provided evidence on an
10 exchange-by-exchange basis concerning the competition it
11 receives from Internet service providers?

12 A. No. Similar to wireless carriers,
13 Southwestern Bell is not aware on an exchange-by-exchange
14 basis the level of competition from Internet service
15 providers.

16 Q. Has Southwestern Bell provided evidence on an
17 exchange-by-exchange basis of the competition it faces from
18 fixed satellite providers?

19 A. My answer would be the same as for an Internet
20 service provider and wireless carrier.

21 Q. And one last question on that line. Has
22 Southwestern Bell provided evidence in this case of the
23 competition on an exchange-by-exchange basis that it
24 receives from CPE manufacturers?

25 A. We have not on an exchange-by-exchange basis,

1 but I believe in the testimony in particular of
2 Ms. Fernandez we have outlined where CPE and in particular
3 customer premise equipment PBX type of equipment is
4 available, and that competes with some of our services,
5 including Plexar.

6 Q. At the top of page 22 you refer to Case
7 No. TO-99-227. What is your understanding of the standard
8 Southwestern Bell must meet to get FCC approval to provide
9 in-region interLATA services?

10 A. The standard is defined by Section 271 of the
11 act, and within that there are a couple of items that both
12 the Missouri Public Service Commission as well as the
13 Federal Communications Commission must consider.

14 First is compliance with the 14-point
15 checklist which is defined in Section 271. In addition,
16 there is a public interest section of 271 that also must be
17 met. And as the Missouri Commission found in Case
18 No. TO-99-227, Southwestern Bell has provided access to the
19 14-point checklist and has met the public interest
20 requirement.

21 In addition, within that section there is a
22 thing called Track A or Track B as Dr. Aron discussed
23 yesterday, and under Track A, which Southwestern Bell
24 Missouri has satisfied, there has been evidence presented in
25 the case that CLECs are providing both facility-based and

1 other type of services to residential and business customers
2 in the state of Missouri.

3 Q. Within that test, is there a requirement that
4 the -- or a finding required that the market, that the local
5 market be open?

6 A. There is, and a standard that is generally
7 used is that the market is irreversibly open to competition.

8 Q. Is it your opinion that that standard is
9 synonymous with effective competition as used in the price
10 cap statute?

11 A. I don't think it's synonymous, but I do
12 believe that it is a good indication for the Commission as
13 to what is taking place in the market. The Missouri
14 Commission has found that the market in Missouri is open
15 during Case No. 99-227.

16 What this case does is it allows the
17 Commission to delve into the level of competition that
18 exists and whether or not effective competition exists as
19 defined by the act -- excuse me -- by the statute.

20 And in Section 386, in particular subsection D
21 of the definition of effective competition is where we talk
22 about whether or not -- excuse me. I think it's C, whether
23 or not the market is open, and that would be satisfying that
24 requirement as found in 99-227.

25 Q. On page 26, line 18, in the middle of the

1 sentence you state, Competition in the local markets is
2 flourishing in Missouri. Now, would you please turn to your
3 surrebuttal testimony, HC Schedule 2-1.

4 A. Okay.

5 Q. If you look at the first ten exchanges listed
6 there and the information provided for those first ten
7 exchanges, do you believe those numbers show that
8 competition is flourishing in the local markets in Missouri?

9 A. I do. And the reason for that is, Mr. Haas, I
10 think there are many components of what encompasses
11 flourishing as I use the term. I think there are different
12 ways that CLECs can enter the market. I think that has been
13 discussed here, that there is resale. They can also
14 purchase unbundled network elements, and they also have
15 facility-based competition.

16 As I demonstrate in my Schedule 10HC regarding
17 some collocation information, provides some HC information
18 to the Commission about where CLECs have collocated in
19 Southwestern Bell exchanges.

20 In addition to that, I think there's been
21 evidence presented in this case that Southwestern Bell faces
22 competition from alternate providers such as wireless
23 providers, cable TV providers, et cetera.

24 In those instances, while Southwestern Bell is
25 not able to track the data at an exchange level, that does

1 not mean that those particular companies are not competing
2 for Southwestern Bell's customers or to provide particular
3 services to Southwestern Bell's customers.

4 Q. On page 27 of your surrebuttal, beginning on
5 line -- pardon me. I'm sorry. That's in your direct
6 testimony, page 27. On line 10 you state that Southwestern
7 Bell believes that there are facilities-based CLEC providers
8 in more than 80 percent of Southwestern Bell's exchanges.
9 Would you define facilities-based as you use it in that
10 sentence?

11 A. Facilities-based, as has been defined by most
12 of the witnesses representing Southwestern Bell or SBC in
13 this proceeding, are either CLECs that are providing service
14 via totally their own facilities, that is where they have
15 their own switch and provide their own switching and they
16 have their own loop, or where a CLEC is purchasing unbundled
17 network elements to provide part of the service in
18 conjunction with the switch, or where the CLEC is purchasing
19 all the elements such that they are providing end-to-end
20 service via what is commonly called the UNE platform or
21 UNE-P.

22 Q. On page 19 of your direct testimony at
23 line 17, you refer to the direct testimony or the testimony
24 of Dr. Aron that cable TV providers have been making the
25 upgrades necessary to make their cable plant capable of

1 providing two-way service.

2 Do you know of any Southwestern Bell exchanges
3 in Missouri other than St. Charles and Harvester where cable
4 providers are providing telephony over cable?

5 A. I don't know that I'm aware of any particular
6 exchanges, but I am aware that other cable TV providers are
7 upgrading their plant to be able to provide service, and
8 Charter in particular has sought certification from the
9 Commission and, in fact, has been granted that certification
10 to provide telephone service as a CLEC.

11 Q. And do you know where Charter plans to
12 operate?

13 A. I know they're very active in the St. Louis
14 market, and when I say St. Louis market there, Mr. Haas, I'm
15 not referring to just the St. Louis Rate Group D, but all
16 the optional areas of the MCA as well.

17 I would also point out that Charter has
18 requested an asset transfer via an acquisition of some
19 properties with AT&T that is pending before the Commission
20 as well. It's further evidence that they plan to provide
21 cable telephony.

22 Q. Is it your opinion that CLECs and IXC's are
23 able to change their prices up or down on short notice
24 without providing cost support?

25 A. Yes, they can.

1 Q. In your opinion, does price cap regulation
2 prevent Southwestern Bell from lowering its prices?

3 A. I don't believe it prevents us from lowering
4 our prices. What I believe price cap regulation does is
5 prevents us from competing equally in the marketplace.

6 Q. What cost support does Southwestern Bell
7 provide when it changes its prices under price cap
8 regulation?

9 A. Break that answer into two parts. For basic
10 service, the rates are currently tied to a formula in the
11 statute, the CPITS, which is the Consumer Price Index for
12 Telephone Service, Telecommunications Service, and under
13 that Southwestern Bell makes a filing, an annual filing that
14 outlines what the CPITS is and the rates are adjusted
15 accordingly for basic service.

16 In the area of non-basic service, Southwestern
17 Bell has the flexibility to increase prices up to 8 percent
18 in a 12-month period. So the cap, if you will, on those is
19 already identified as 8 percent.

20 In the instances where Southwestern Bell has
21 decreased prices on non-basic services, because Southwestern
22 Bell has done that in the last couple years, I'm not aware
23 of any cost support that Southwestern Bell provided.

24 Q. Has the CPITS been positive or negative for
25 the past two years?

1 A. It's been negative.

2 Q. At the top of page 32 of your direct you say
3 that, It is in this unfettered environment where service
4 innovation flourishes, customer demands dictate outcomes and
5 maximum benefits are derived.

6 How is price cap regulation hindering
7 Southwestern Bell in meeting those goals?

8 A. Currently under price caps Southwestern Bell
9 has regulatory burdens that its competitors do not face
10 regarding pricing. When I say that, what I mean
11 specifically, Mr. Haas, is Southwestern Bell has regulation
12 on whether it can increase its prices to a certain extent
13 or, in the case of basic local service, what its rates are
14 tied to via the CPITS.

15 The CLECs and other competitors in the
16 marketplace do not have those same constraints. When we
17 talk about unfettered environment in this sense, as some of
18 our witnesses have attested to during the last day and a
19 half, Southwestern Bell seeks the ability to be able to both
20 increase and decrease rates.

21 Today, I would agree that we do have the
22 ability to decrease prices, but there could be risks
23 associated with that in that it could lower the cap, and if
24 the marketing decision to lower prices turns out to be the
25 incorrect one based upon the marketing environment, you may

1 not have the ability to increase prices later.

2 What Southwestern Bell is seeking is the
3 ability to change prices on the same terms and conditions as
4 its competitors.

5 Included in that, I think it's important to
6 note, is the CLECs are able to do that on a shorter period
7 of time as I believe Ms. Jablonski testified to. We're tied
8 to a 30-day time frame, and the CLECs operate at, she
9 testified to a seven or ten day. I'm not exactly sure
10 myself which one it is. But that's another example of being
11 able to react in a competitive marketplace that's ever
12 changing to meet customer demands.

13 Q. Assume that Southwestern Bell lowers the price
14 on a non-basic service by 10 percent in order to meet
15 competition, and then assume that Bell determines that that
16 was a bad decision and it would like to go back to the
17 original price.

18 Do you believe that the price cap statute
19 would prevent Southwestern Bell from going back to that
20 original price?

21 A. That's a good question. We're not sure of the
22 answer to that question under the statute. We believe that
23 the possibility exists that depending on -- let me answer it
24 this way, Mr. Haas.

25 I think it would depend on how we lowered the

1 service and whether or not we lowered the cap or if we just
2 lowered the rate. If we put in effect a cap and just said,
3 Commission, we want to keep the cap at, let's say, \$4 for a
4 service but we want to lower the rate to \$3.60, then I think
5 we would have the ability to go back to \$4.

6 If, however, we lowered the rate and the
7 associated cap to \$3.60 in this example, then our price
8 increase to the extent that it was an improper decision or
9 unwise decision in the competitive marketplace to lower it
10 by 10 percent, we would only be able to increase the rate by
11 8 percent on the \$3.60.

12 Q. Is it your opinion that the price cap
13 regulation has prevented Southwestern Bell from offering new
14 services?

15 A. I don't participate in the development of our
16 new services, but I would offer that there is a risk in
17 establishing a new service and establishing a price that may
18 not be the correct price in the marketplace, and if you
19 establish the price incorrectly up front, then your ability
20 to change that price would be tied to the price cap statute.

21 So there is risk associated with establishment
22 of new services that Southwestern Bell faces as competitors
23 in the market do not.

24 Q. Do you know whether Southwestern Bell has
25 introduced any new services since becoming price cap

1 regulated?

2 A. Yes, we have.

3 Q. Can you identify some?

4 A. Two come to mind. One is local plus, and the
5 other is call waiting, caller ID. There may be others that
6 I'm not familiar with.

7 Q. Please turn to page 3 of your surrebuttal
8 testimony. At line 11 you describe an attached map in which
9 you show the number of CLECs competing in each Southwestern
10 Bell exchange. What do you mean by the word competing?

11 A. Those are CLECs that are providing service to
12 customers, and that could be via any of the three methods of
13 entry. For the CLECs, that would be resale, the purchase of
14 unbundled network elements or entirely over their own
15 facilities.

16 Q. Do you have a breakdown of which of those
17 methods is being used?

18 A. If you look at Hughes Schedule 2-1HC, we do
19 provide a breakdown there of the three methods of entry. We
20 have the resold lines, we have a breakout of UNE-P, then we
21 also have an E911 listing.

22 Now, under E911 listing, they -- a CLEC could
23 be purchasing an element, an unbundled network element from
24 Southwestern Bell such as an unbundled loop. So E911
25 listings does not necessarily mean that the CLEC is

1 providing it totally over their own facilities, but in the
2 vast majority of the cases, and when I say that I mean in
3 upwards of 90 percent, they are providing service over
4 completely their own facilities.

5 So I believe my Schedule 2-1HC to my
6 surrebuttal provides that breakout for the Commission.

7 Q. At page 7 of your surrebuttal you provide some
8 percentages, and in Footnote 4 you explain your calculations
9 and there is a multiplier there of 2.75. What does that
10 2.75 represent?

11 A. The 2.75 in Footnote 4 on page 7 refers to a
12 calculation to develop an estimate of CLEC competition in
13 the marketplace whereby you take the number of resold lines,
14 add it to UNE-P or the UNE platform, and to both of those
15 you add the number of interconnection trunks times a
16 multiplier of 2.75. 2.75 is the multiplier that
17 Southwestern Bell has used throughout the 271 process as an
18 estimate of competition.

19 I would point out that about that 2.75 number,
20 Mr. Haas, that in the 271 proceeding in Missouri, and that's
21 TO-99-227, Mr. Voight in gathering some data from CLECs
22 through his independent analysis, I believe, came up with a
23 multiplier at that time based upon August data of about
24 2.54, if I recall, as an estimate of interconnection trunks
25 times 2.54 to be an estimate of competition, and that was

1 actual data that he received from the CLECs.

2 Q. On page 15 of your surrebuttal testimony,
3 line 7, you state that there are 23 CLEC switches throughout
4 Missouri.

5 A. I'm sorry. At line?

6 Q. 7.

7 A. On page 15?

8 Q. I'm reading from the highly confidential
9 version, although this isn't highly confidential material.

10 A. Okay. I don't have it at that same line, but
11 I think I know where you're speaking.

12 Q. Do you know in which Southwestern Bell
13 exchanges those 23 switches are providing service?

14 A. Yes. If you look at Hughes Schedule 2-1HC, if
15 you look at the E911 listings part of that schedule, that
16 would provide the Commission with information about where
17 CLECs are providing service via their own switch.

18 As Dr. Aron testified to yesterday, CLEC
19 switches do not need to be located in each Southwestern Bell
20 exchange. Advances in technology that exist today allow a
21 CLEC to place a switch in a particular location and serve
22 multiple of Southwestern Bell exchanges via that one switch.

23 Q. Do you know whether these 23 CLEC switches are
24 connected to CLEC loops or to Southwestern Bell loops?

25 A. Both. They purchase unbundled network

1 elements from us, and in that they would purchase an
2 unbundled loop, and in many cases they provide services via
3 their own facilities, including the loop.

4 Q. Do you have a breakdown of that information?

5 A. I do not have a breakdown of that information.
6 I do know or I could determine what the number of unbundled
7 loops, stand-alone loops that Southwestern Bell provides,
8 but I have not provided that in my testimony.

9 Q. Has Southwestern Bell identified the rates
10 that would be raised and those rates that would be lowered
11 if Southwestern Bell services are granted competitive
12 classification?

13 A. We have not identified any rates that would be
14 raised or lowered. As our marketing witnesses have attested
15 to today, they have not developed any plan, but they would
16 certainly look at both increasing and decreasing rates
17 depending on the market that existed.

18 Q. In Missouri, does mobile wireless service
19 provide access to local emergency services, including 911?

20 A. I believe it does.

21 Q. You believe mobile does?

22 A. I believe if you dial 911 from your mobile
23 phone you would be connected with an 911 agency, yes.

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

25 JUDGE DIPPELL: Thank you.

1 Public Counsel?

2 MR. DANDINO: Yes, your Honor. Thank you,
3 your Honor.

4 CROSS-EXAMINATION BY MR. DANDINO:

5 Q. Good morning, Mr. Hughes.

6 A. Good morning, Mr. Dandino.

7 Q. Since Southwestern Bell has been granted price
8 cap status, have they -- have they increased any of their
9 local rates?

10 A. When you say local rates --

11 Q. Local service.

12 A. Basic local rates?

13 Q. Basic local rates and vertical services.

14 A. We have not increased the rates of basic local
15 service. In fact, the rates have decreased based upon our
16 price cap filing last year, based upon the CPITS. For
17 vertical services, we have increased some rates and we have
18 decreased others.

19 Q. Now, on page 12 of your direct testimony,
20 you're asking -- I guess you're asking the Commission to
21 confirm whether you're a competitive status instead of
22 deciding whether you have a competitive status. Is that
23 your position?

24 A. What I'm referring to there on page 12,
25 Mr. Dandino, is back at page 10 I refer to the Commission's

1 decision in Case No. TO-93-116 where the Commission found
2 services such as Southwestern Bell's MTS, Southwestern
3 Bell's 800 Max-- excuse me -- Maximizer 800 service,
4 Southwestern Bell WATTS service, Southwestern Bell digital
5 private line and special access services and Southwestern
6 Bell's operator services were deemed as transitionally
7 competitive in Case No. TO-93-116.

8 Under the transitionally competitive
9 classification at the time, three years following the
10 services were to be deemed competitive. Southwestern Bell
11 extended that to a second three-year extension, and we
12 believe in January of '99 those services became
13 competitively classified.

14 What we're asking the Commission to do in this
15 proceeding is confirm that those services are, in fact,
16 competitively classified as identified in TO-93-116.

17 Q. Hasn't since January 10th, 1999 Southwestern
18 Bell has acted upon those services and the prices on those
19 services as if they were under price cap regulation?

20 A. We have modified the prices for some of those
21 services, and, in fact, we have modified them as defined in
22 the price cap statute. When I say that, I mean we have
23 chosen not to increase any rates where we increased rates by
24 more than 8 percent.

25 And the reason Southwestern Bell did that is

1 Southwestern Bell wants to be sure that the Commission
2 agrees with us that those, in fact, are deemed competitive
3 before we modify our pricing plans for those services.

4 Q. So you're not willing just to go on as if they
5 were competitive if this Commission doesn't confirm that?

6 A. I believe in this particular docket what's
7 before the Commission is the Commission will review all of
8 our services in all of our exchanges and make a finding that
9 effective competition exists on an exchange-by-exchange
10 service -- on an exchange-by-exchange basis for all of our
11 services.

12 So I think they'll confirm that not only for
13 those services effective competition exists but for all of
14 our other services, Mr. Hughes, if they do not, does
15 Southwestern Bell plan to treat those services as
16 competitive services?

17 A. If the Commission would find in this
18 particular docket that some of those services that they had
19 previously found to be transitionally competitive, if they
20 deemed them in this particular docket to not be subject to
21 effective competition in a particular exchange, Southwestern
22 Bell would abide by the Commission's decision in this case
23 for those particular services.

24 However, given that the Commission has
25 previously found these services subject to competition back

1 in 1992, and certainly competition has done nothing but
2 grown in the past eight or nine years, I would be very
3 surprised if the Commission would find such a determination
4 for those services.

5 Q. The Commission can be surprising.

6 A. It can, but I think Southwestern Bell has
7 provided evidence for all the services, but those in
8 particular, that we do face effective competition.

9 Q. Mr. Hughes, talking about the evidence, I
10 understand that in your direct testimony you didn't provide
11 the same schedules that you did in your surrebuttal
12 testimony. It seems to me that this -- or it seems like it
13 would be natural you'd want to provide this type of
14 information on an exchange-by-exchange basis in your direct
15 testimony. Why did you wait 'til your rebuttal testimony or
16 surrebuttal testimony?

17 A. As Mr. Lane pointed out in his opening
18 statement, Southwestern Bell does not believe that it has
19 the burden of proof in this case. And what Southwestern
20 Bell did in its surrebuttal testimony was provide a response
21 to the rebuttal testimony of witnesses such as Office of
22 Public Counsel witness Meisenheimer, Staff witness Voight,
23 et cetera, and that is why Southwestern Bell put the
24 particular schedules into surrebuttal that we did, in
25 particular in my testimony.

1 I will mention, though, Mr. Dandino, that in
2 the direct testimony of some of the other Southwestern Bell
3 witnesses, we did provide evidence of where effective
4 competition does exist.

5 Q. In Hughes Schedule 1-1 on your HC testimony,
6 you have number of active CLECs per exchange. How do you
7 define active in terms of this exhibit or this schedule?

8 A. Just to clarify, you're in my surrebuttal
9 testimony, Schedule 1?

10 Q. Yes. Did I say rebuttal?

11 A. No. I just wanted to make sure I was in the
12 right schedule.

13 In this particular one, the number of active
14 CLECs in --

15 Q. I'm just looking at the word active. What do
16 you mean by active?

17 A. Right. In Hughes Schedule 1 of my surrebuttal
18 testimony, those represent the number of CLECs that are
19 providing service to customers in Missouri, and they can be
20 providing service via resale, via the purchase of unbundled
21 network elements or completely over their own facilities.

22 Q. How did you obtain the information of
23 providing service?

24 A. As I've noted in Hughes Schedule 2, which is
25 highly confidential, we've provided the Commission with the

1 breakdown of resold lines, UNE-P lines and E911 listings by
2 exchange. Southwestern Bell gathered that data. It's data
3 that Southwestern Bell has.

4 We did not receive data from the CLECs in the
5 Data Requests that we sent out. So we had to use the data
6 to provide on an exchange-by-exchange basis that we had
7 within our systems that tracked this type of information.

8 Q. Is Southwestern -- Mr. Haas talked to you
9 about whether or not Southwestern Bell would or has plans to
10 increase residential rates. Recently Southwestern Bell
11 increased residential rates in Kansas and lowered access
12 rates. Was that based on any cost of service study for
13 residential service?

14 A. I'm not familiar with what the decision was
15 based on there, other than the fact that the parties in that
16 particular proceeding, with one exception, reached a
17 unanimous stipulation to rebalance rates in Kansas. I'm not
18 aware of the particular cost that was determined, whether or
19 not there was a cost finding or showing in the proceeding.

20 Q. Was the one exception the consumer
21 representative?

22 A. Yes, it was.

23 Q. Has Southwestern Bell performed an imputation
24 test for local plus to know whether or not this service is
25 priced below or above cost?

1 A. Not to my knowledge. Since the Commission in
2 its Order ordered the service be available for resale and in
3 the Order did not require us to do an imputation test, I'm
4 not aware that Southwestern Bell has done an imputation test
5 for that service.

6 Q. Would that be your same answer for designated
7 number service?

8 A. Yes. I'm not aware that we've done an
9 imputation study or an imputation test on that service
10 either.

11 Q. What does the word captive customer mean to
12 you? Have you heard that term?

13 A. Probably.

14 Q. And how is it generally used? What does it
15 usually refer to?

16 A. A captive customer, in my opinion, is a
17 customer who only has one choice and doesn't have any other
18 choices to provide whatever service it is that that customer
19 is seeking.

20 MR. DANDINO: Okay. That's all the questions
21 I have, your Honor. Thank you.

22 JUDGE DIPPELL: Are there questions from AT&T?

23 MR. ZARLING: Yes, your Honor.

24 CROSS-EXAMINATION BY MR. ZARLING:

25 Q. Good morning, Mr. Hughes.

1 A. Good morning, Mr. Zarling.

2 Q. I think you said before that you are the Vice
3 President of Regulatory for Missouri. So is it fair to say
4 that you're generally familiar with Southwestern Bell's
5 service offerings in Missouri, what they are and where
6 they're provided?

7 A. Generally, that's true.

8 Q. And similarly, you're generally familiar with
9 the interconnection agreements that Southwestern Bell has
10 with the CLECs in this state?

11 A. Generally, that's true as well.

12 Q. Now, I'm a little bit confused. Maybe you can
13 clarify for me. In your surrebuttal testimony you seem to
14 be using interconnection trunk data and E911 listing data to
15 try and provide evidence of the same thing, actual pure
16 facilities-based competition; is that correct?

17 A. Can you point me to a cite?

18 Q. No. That's just the general impression I have
19 from your testimony. Maybe you can clarify for me what it
20 is you're using E911 data for maybe as a starter.

21 A. Okay. If I can, let me first state,
22 Mr. Zarling, that I tried to very carefully use the data,
23 E911 versus interconnection trunks, and where possible we
24 utilized E911 data. E911 data represent the minimum level
25 of market share that the CLECs have gained. And that's why

1 I asked if you had a specific cite where you thought I may
2 have been confusing the issue.

3 Q. Well, for example, in your 1-- in your 2-1HC,
4 that schedule uses E911 listings?

5 A. That's correct.

6 Q. And I didn't count the number, but I thought I
7 heard you say in response to some questioning maybe from
8 Mr. Haas that these represented where there were facilities,
9 true facilities-based carriers present maybe because that's
10 where switches are.

11 But maybe you can just explain to me why, for
12 example, there's no listings in some of these columns, no
13 number in some of the columns under the total and then in
14 some there is a number.

15 A. Okay. To the extent that there is no number
16 in a column, that means that there is no presence of that
17 type of CLEC competition in that exchange.

18 Q. So, for example, for the Adrian exchange
19 where -- I don't know if this -- the fact that there's no
20 number there would -- or there is a number technically.
21 Would you consider that confidential? Can we say that
22 there's a zero in that number, in that row for Adrian?

23 A. I don't think on an exchange-by-exchange basis
24 we should discuss any data. We believe that's HC
25 information and it --

1 Q. Fine.

2 A. HC not only to some of your folks, but also to
3 some of your marketing witnesses.

4 Q. Okay. For any particular exchange where
5 there's a zero, the row for that exchange would show a zero,
6 then that indicates to me there's no 911 data provided.

7 A. Yes. It could be a zero or could be a blank.

8 Q. Okay. What does a zero indicate?

9 A. Zero indicates that there are no E911 or UNE-P
10 or resale, depending on whichever the case may be, for that
11 particular presence of CLEC competition in that particular
12 exchange.

13 Q. Okay. And I'm looking under the total column
14 that appears to be under the E911 listing. So if there's a
15 zero there, I think what you -- I think we may be talking
16 past each other a little bit. You said there might be no
17 resale or no presence at all. I'm looking at the column
18 that says E911 listings total, and there might be a zero
19 there and that indicates --

20 A. Oh, I'm sorry. I wasn't looking at that
21 particular column. Yes. Yes. If that column indicates a
22 zero, then what that would represent is that, based upon the
23 records that we have, and Southwestern Bell obviously
24 doesn't have all the complete records of where CLECs are
25 competing, we're not aware of the presence of any E911

1 listing in that particular exchange.

2 Q. Okay.

3 A. I'm sorry. I was looking at a different
4 column.

5 Q. And what does that signify to you, that
6 there's a lack of -- there's no E911 listing?

7 A. It signifies that, based upon the information
8 that we have, that there may not be any facility-based
9 competition in that exchange, but we're aware of where the
10 CLECs are providing facility-based competition. To the
11 extent the CLEC doesn't have an E911 listing, we wouldn't be
12 aware of whether or not they're serving a customer in a
13 particular exchange or not.

14 Q. Now, I think it was Dr. Aron who referred to
15 the use of interconnection trunk data as some other
16 indicator of facilities-based competition.

17 A. That's correct.

18 Q. Okay.

19 A. We have historically -- when I say
20 historically, talking about in Case No. TO-99-227 -- had two
21 methods of CLEC market penetration. The use of E911
22 listings combined with UNE-P combined with resale represents
23 the minimum level of CLEC market entry. The use of
24 interconnection trunks represents what we believe to be a
25 low estimate of CLEC market entry.

1 Q. I got to miss that case, but the --

2 A. You missed out.

3 Q. The 2.75 that you've used, am I correct in

4 that's some attempt to take interconnection trunks and

5 translate that into the number of lines actually served by

6 the CLEC over those facilities?

7 A. That's correct. When a CLEC purchases an

8 interconnection trunk, we believe that they provide service

9 to, based upon the number that we used, 2.75 customers

10 behind that interconnection trunk.

11 Q. And I think you referenced that Mr. Voight had

12 used a lower number in the 227 case, 99-227 case?

13 A. What he came up with there is, based upon the

14 information that the CLEC provided him in August of 2000, he

15 was able to calculate the actual number of interconnection

16 trunks to customers, facility-based customers served by

17 CLEC. As I recall, that was 2.54.

18 Q. And have you explained in your testimony the

19 reason for using a higher number?

20 A. No. That particular issue was presented to

21 the Commission in Case No. TO-99-227 by Southwestern Bell

22 affiant or witness David Tebeau.

23 Q. So did you advocate 2.75 in 227?

24 A. Yes. We have advocated that, not only in

25 Missouri, but all the other Southwestern Bell states as

1 well.

2 Q. Now, interconnection trunks are ordered
3 both -- interconnection trunks connect both the CLEC and
4 Southwestern Bell, correct?

5 A. Yes. An interconnection trunk is a connection
6 between possibly an AT&T switch to a Southwestern Bell
7 switch.

8 Q. And interconnection trunks are basically sized
9 to handle traffic that's coming from both parties; isn't
10 that correct?

11 A. Depends if trunks are ordered to be one-way or
12 two-way, but generally, yes, they're sized to both receive
13 and transmit traffic.

14 Q. Generally in Missouri Southwestern Bell
15 insists on the use of two-way trunks?

16 A. We believe that's the most effective use of
17 the network, yes.

18 Q. So it would be true that generally the traffic
19 on trunks is both Southwestern Bell's and a CLEC's?

20 A. Generally, yes. I'm not sure of specific CLEC
21 interconnection agreements.

22 Q. Okay. And so in managing the traffic volume
23 between the two companies, CLEC and Southwestern Bell, the
24 parties have to estimate the amount of traffic that they
25 may -- that may flow in order to order trunks? At least

1 that's the active network management?

2 A. Yes. Initially CLECs estimate -- it's more on
3 the CLEC side. They order the interconnection trunks from
4 us. Initially what kind of volume they think they will gain
5 as far as market penetration and then order the number of
6 interconnection trunks, and then you're correct, the parties
7 work collaboratively from that point on to make sure the
8 number of trunks are sized properly.

9 Q. So the number of trunks reflect also
10 Southwestern Bell's traffic that's flowing to the CLEC?

11 A. I would say generally that's a true statement.
12 If we want to assume that they're two-way trunks, the answer
13 is yes.

14 Q. And I think you agreed with me that the CLECs
15 have to kind of project the amount of traffic on the trunks,
16 both theirs and Southwestern Bell's?

17 A. That's correct.

18 Q. And would you also agree with me that as a
19 general rule there's a planning horizon for ordering those
20 trunks?

21 A. I believe there is, and I believe the
22 respective companies and the organizations that handle that
23 routinely meet to go over that type of information to make
24 sure that the network is sized properly.

25 Q. And it's also true, is it not, that

1 Southwestern Bell has insisted on there being a certain
2 window in which trunk usage is examined to determine whether
3 trunks should be pulled down?

4 A. That's correct. We believe that that should
5 be reviewed. We have numerous CLEC requests to add
6 interconnection trunks, and at some of our particular
7 locations, in particular our tandems, we run out of
8 facilities when CLECs have purchased the wrong amount or
9 generally too many interconnection trunks.

10 Q. Okay. So, in fact, CLECs sometimes order more
11 trunks than they can end up using?

12 A. That is a true statement. That's why we use
13 the multiplier of 2.75. We actually believe CLECs provision
14 service to more than 2.75 customers per trunk.

15 Q. But at any given time, the amount of trunks in
16 place may reflect estimated usage that doesn't come to pass?

17 A. It could, yes.

18 Q. Now, I think you'd agree with me that one of
19 the big themes of Southwestern Bell's case has been the
20 flexibility to both raise and lower rates?

21 A. Yes. We would like complete pricing
22 flexibility.

23 Q. And the ability to both raise and lower rates
24 is often referred to as rebalancing; isn't that true?

25 A. That is one portion that could result from

1 this particular docket, but rebalancing is not necessarily
2 the end that we seek in this particular case.

3 There are services that prices we believe
4 should be -- we should have the ability to both raise and
5 lower prices that may not impact the overall rebalancing,
6 because typically rebalancing is referred to as the lowering
7 of access rates and the increasing of basic local rates,
8 particularly for residential customers.

9 Q. But you would seek at least the flexibility to
10 do that in this case?

11 A. We're seeking the ability to be able to raise
12 and lower our prices in the same time frames and under the
13 same parameters as the CLECs, yes.

14 Q. And I think in your testimony, surrebuttal, at
15 page 29, you echo some of the same comments as Dr. Aron and
16 I think Ms. Douglas and quite a few other witnesses that --

17 A. I'm sorry. Did you say at page 29?

18 Q. Page 29, and I don't know if my numbers and
19 pages are matching up. At times it didn't seem that they
20 were. But you've echoed the sentiment that prices
21 ultimately need to move towards costs. You see that on
22 page 29, line 18?

23 A. Yes, I do. As Mr. Lane mentioned in his
24 opening statement, we think in a competitive environment
25 what will ultimately happen is that the rates that are

1 charged to customers, both business and residential
2 customers, will move closer to whatever their costs are.

3 Q. And so Southwestern Bell would like the
4 flexibility among various types of flexibility to be able to
5 raise residential rates toward what you perceive to be their
6 costs, correct?

7 A. We'd like that flexibility. I don't know that
8 that will be what we decide to do if we -- if the Commission
9 grants that -- deems that effective competition does exist
10 for those services.

11 Q. Should the Commission and interexchange
12 carriers like AT&T expect that Southwestern Bell would also
13 lower in the classic sense, or rebalancing as you described
14 it, lower its access rates towards cost?

15 A. I think in the classic sense of rebalancing,
16 what you would see is the access rates would be lowered and
17 other rates would be increased to make up that difference.

18 In this particular case, as you know with
19 switched access, we are seeking the same flexibility that
20 the CLECs have in regards to the ability to reprice, or
21 restructure is a better word, access.

22 Q. Now, Mr. Hughes, you have had -- Southwestern
23 Bell has had the ability to rebalance to some degree its
24 access rates and residential rates under the price cap
25 statute?

1 A. No, we have not.

2 Q. I'm referring, and I'm sure you're familiar
3 with, I'm referring to Section 392.245.8.

4 A. .8?

5 Q. Yeah, which I assume you probably know inside
6 and out.

7 A. Let me refer to it. Okay.

8 Q. Do you have it there with you?

9 A. I do.

10 Q. If Judge Dippell will bear with us. I'd like
11 you to read the first sentence, beginning with reading the
12 first sentence of paragraph 8.

13 A. In 392.245.8?

14 Q. Yes.

15 A. An incumbent local exchange telecommunications
16 company regulated under this section may reduce interstate
17 access rates, including carrier common line charges, subject
18 to the provisions of subsection 9 of this section to a level
19 not to exceed 150 percent of the company's interstate rates
20 for similar access services in effect as of December 31st of
21 the year preceding the year in which the company is first
22 subject to regulation under this section.

23 Q. Now, would you agree with me that paragraph 9
24 or section -- subsection 9 of this part of the statute
25 allows Southwestern Bell to raise its residential rates to a

1 maximum of \$1.50 for the first time that Southwestern Bell
2 might reduce its access rates under the sentence I just had
3 you read?

4 A. No, I do not agree with that. I believe
5 Section 9 allows price cap companies that meet the
6 definition of what I just read in subsection 8 to do that.
7 The other two price cap companies in the state do meet that
8 and have done that, but Southwestern Bell does not meet that
9 requirement in subsection 8.

10 Q. Okay. Would you read for me the last sentence
11 of paragraph or subsection 8.

12 A. Beginning with nothing?

13 Q. Yes.

14 A. Nothing in this subsection shall preclude an
15 incumbent local exchange telecommunications company from
16 establishing its intrastate access rates at a level lower
17 than 150 percent of the company's interstate rates for
18 similar access services in effect as of December 31st of the
19 year preceding the year in which the company is first
20 subject to regulation under this section.

21 Q. Okay. Now, Mr. Hughes, what is your
22 contention that -- or how is it that you contend that
23 Southwestern Bell could not avail itself of the provisions
24 of subsection 8 there and reduce its access rates as of the
25 time that it elected price cap regulation?

1 A. Look up a quick case number.

2 Q. Sure.

3 A. In Case No. TO-97-397, that is the case in
4 which the Commission granted Southwestern Bell price cap
5 status, and the Commission's Report and Order in that case
6 was issued on September 16th and I believe became effective
7 on September 26th, yes, of 1997.

8 So, Mr. Zarling, in reading this particular
9 statute and reading subsection 8, which I have just read
10 part of it into the record, it is clear that the rates that
11 are price capped were in effect as of December 31st of the
12 year preceding. In the case of Southwestern Bell, that
13 would be December 31st of 1996.

14 At that point in time, Southwestern Bell's
15 inter and intrastate access rates were within 150 percent.
16 Therefore, we do not believe under the statute we have the
17 ability to rebalance as defined in 392.245, subsection 9.

18 Q. And you hold that belief notwithstanding the
19 last sentence of that subsection that says nothing prohibits
20 Southwestern Bell from reducing its access rates below
21 150 percent?

22 A. We do hold that belief, that we cannot
23 rebalance rates as a price cap company under this statute.

24 Q. Despite the fact the statute says that
25 Southwestern Bell could reduce its rates below 150 percent,

1 that is bring its intrastate rates to below a 150 percent
2 measure of its interstate rates?

3 A. Again, it has the clarifier of December 31st
4 of the year preceding, which for Southwestern Bell would
5 have been the rates that were in effect as of 12/31/1996.

6 Q. I understand that. I think what you said was
7 your rates at that time were already within 150 percent of
8 each other.

9 A. That's correct.

10 Q. What I'm asking you is, that fact
11 notwithstanding, why does Southwestern Bell interpret the
12 statute to preclude its rate rebalancing when the last
13 sentence of subsection 8 says nothing in this statute
14 prohibits Southwestern Bell from taking its rates below
15 150 percent -- its intrastate rates to below 150 percent of
16 its intrastate rates?

17 In other words, if they were at 140, you could
18 have bought them down to 130. Why didn't Southwestern Bell
19 interpret the statute that way? If Southwestern Bell -- go
20 ahead. I'm sorry.

21 A. Go ahead. I was going to say, if you're
22 asking me does Southwestern Bell have the ability to
23 decrease its interstate access rates as a price cap company
24 outside of its annual filing, the answer to that would be
25 yes.

1 Can Southwestern Bell decrease those access
2 rates outside of the annual filing on a revenue neutral
3 manner, we believe the answer to that is no. We don't
4 believe we have the ability to rebalance rates under the
5 statute.

6 Q. Because they weren't initially above
7 150 percent of your interstate rates?

8 A. That's correct.

9 Q. Did you apply to the Commission to get a
10 Commission determination about whether that rebalancing will
11 be permitted?

12 A. We have not.

13 Q. One last question on your surrebuttal,
14 Schedule 7, and I won't talk numbers here, but there's a row
15 for WorldCom that --

16 A. I'm sorry. Did you say Schedule 7?

17 Q. Yes. I'm sorry. Let me know when you're
18 there.

19 A. Okay.

20 JUDGE DIPPELL: Before you go any farther, are
21 names as well as numbers confidential?

22 THE WITNESS: What we have done, Judge, in
23 identifying data as HC, any aggregate number we believe to
24 be not HC. Data that's exchange-specific or
25 carrier-specific we believe is HC.

1 JUDGE DIPPELL: Okay.

2 MR. ZARLING: And, your Honor, from my
3 perspective here, I don't think mentioning the names would
4 be a problem, but I don't know if -- Mr. Lumley, are you
5 there yet? Do you have any concern? I'm not going to
6 mention the number. I'm just pointing to the appropriate
7 row.

8 MR. LUMLEY: I guess I don't know that I have
9 a specific concern, but it does occur to me that given the
10 title of the document it is releasing information about
11 carriers named on the document.

12 MR. ZARLING: Okay. Well, I haven't mentioned
13 the title.

14 JUDGE DIPPELL: Can you find a way to identify
15 it by row rather than --

16 MR. LUMLEY: I have no problem with this
17 particular question as long as we don't get into the title
18 of the document.

19 BY MR. ZARLING:

20 Q. The very first row, I've already identified
21 WorldCom. There's a total there. Doesn't seem to match up
22 with the other numbers in the row. Is there an error in the
23 calculations?

24 A. I did not bring a calculator with me to
25 verify, but what the total should represent is what I have

1 noted in my footnote at the bottom of the schedule.

2 Q. Okay. That total that I'm referring to is the
3 far right of the first row for WorldCom. So it doesn't
4 appear to be the total in aggregate for all the carriers
5 identified. It appears to be the total for --

6 A. Yes.

7 Q. -- WorldCom?

8 A. Yes. It should be, reading from left to
9 right, you would add the -- there's five columns. If you
10 add the two, three and four, you should get five with the
11 clarification that I've identified in my footnote.

12 Q. And so that would be -- I see. So the
13 multiplication factor is what you think would bring it to
14 that table?

15 A. Yes.

16 MR. ZARLING: Thanks. That's all the
17 questions I have.

18 JUDGE DIPPELL: Do you have a substantial
19 amount of questions, Mr. Lumley?

20 MR. LUMLEY: I can wait until after lunch.
21 Everybody's saying yes, I have a substantial number of
22 questions.

23 JUDGE DIPPELL: Let's go ahead and break early
24 for lunch. We will resume at one o'clock and see what the
25 status of the Commission's agenda is at that time.

1 I just wanted to state on the record that,
2 depending on how the witnesses fall from here on out, maybe
3 we'll get to Mr. Voight today. Maybe we won't. So we'll be
4 prepared to go forward skipping Mr. Voight and possibly
5 WorldCom's witness if they're not available. And so be
6 prepared to present your witnesses tomorrow morning or be
7 prepared to do your cross on the witnesses who are available
8 in the morning.

9 MR. DANDINO: Your Honor, Ms. Meisenheimer is
10 scheduled after Mr. Voight. Were you going to move in --

11 JUDGE DIPPELL: I'm sorry.

12 MR. DANDINO: Well, I just wanted to know. I
13 didn't know if WorldCom had to get their witness on and off.

14 JUDGE DIPPELL: No. That was not an issue.
15 They were sticking in my mind because he had said that their
16 witness may not be available until two, but that's correct.
17 We will go to Ms. Meisenheimer before we go on down the list
18 to Sprint's witness.

19 MR. LANE: Your Honor, do you think you'll
20 know after the lunch break whether the Commission has
21 questions for the first three or four witnesses?

22 JUDGE DIPPELL: Yes. I will attempt to
23 determine during the lunch break whether we need to recall
24 any of those witnesses. Thank you.

25 We can go off the record.

1 (A BREAK WAS TAKEN.)

2 JUDGE DIPPELL: We can go back on the record,
3 and I apologize for being just a few minutes late. I was
4 trying to determine if the Commissioners had questions, and
5 I believe all three of the witnesses that I did not
6 previously excuse can be excused, Ms. Fernandez, Ms. Fite
7 and Mr. Anvin.

8 MR. CONROY: What about Ms. Jablonski?

9 JUDGE DIPPELL: Oh, I'm sorry. Ms. Jablonski,
10 too. I thought maybe I excused her already.

11 And we were going to resume with
12 cross-examination by WorldCom of Mr. Hughes. You may
13 proceed, Mr. Lumley.

14 MR. LUMLEY: Thank you, your Honor.

15 CROSS-EXAMINATION BY MR. LUMLEY:

16 Q. Mr. Hughes, if you could look at page 19 of
17 your direct testimony, and in the first full paragraph
18 you're speaking to this Commission's consideration of the
19 status of Southwestern Bell's compliance with Section 271 in
20 Case TO-99-227; is that correct?

21 A. Yes.

22 Q. Would you agree with me that the FCC actually
23 has the final ruling on whether or not you comply with the
24 checklist?

25 A. I would agree that the Missouri Commission is

1 just making recommendations to the FCC and they have the
2 ultimate approval.

3 Q. Would you also agree with me that the
4 Department of Justice has come out and said that they don't
5 feel you complied yet?

6 A. I would agree that the Department of Justice
7 issued their opinion yesterday. They did not recommend
8 approval or denial of our application.

9 Q. What was their opinion?

10 A. Their opinion was that they -- I don't know if
11 asked is the right word, but they asked the FCC to
12 investigate or look at some particular areas, and they
13 indicated that the FCC, based upon the record, could find
14 that the application met its approval, but the department
15 could not recommend that it did or that it did not meet the
16 department's approval.

17 Q. And did those areas include certain UNE
18 prices?

19 A. Yes, they did.

20 Q. And you're indicating that, I believe your
21 testimony today was that the Missouri Commission's
22 determination in the 99-227 case was an indication of the
23 status of competition. Do you recall that?

24 A. In 99-227, the Missouri Commission did
25 consider in the public interest section the level of

1 competition in the state, yes.

2 Q. So would it be your company's position that if
3 the FCC denied your pending application for 271 relief in
4 Missouri, that this Commission should also deny your
5 application to be released from price caps?

6 A. No, not at all. I think the FCC is looking at
7 a lot of criteria, just as the Missouri Commission did in
8 recommending approval, and that is competition, level of
9 competition is just one component of the public interest
10 that the Missouri Commission used in recommending approval.
11 It's just one component that the FCC will use.

12 Q. On page 21 of your direct, line 14, you're
13 talking about a commitment to offering Lifeline service?

14 A. Yes.

15 Q. How is that commitment expressed?

16 A. Well, Southwestern Bell has a tariff that
17 offers Lifeline service that's before the Commission, and
18 it's our belief that with that tariff and with my testimony
19 what we were trying to convey to the Commission is that
20 Southwestern Bell is committed to continuing to provide
21 Lifeline service as -- in a separate docket, USF docket. We
22 strongly believe the Commission should implement quickly the
23 low-income portion of the fund. It's been a pretty constant
24 position of Southwestern Bell.

25 Q. When you say you have a tariff before the

1 Commission, you just mean on file --

2 A. Yes.

3 Q. -- or is there one in controversy?

4 A. I'm sorry. The one that's on file with the
5 Commission.

6 Q. Throughout your testimony you make use of
7 information about 911 listings; is that correct?

8 A. We do provide evidence particularly in my
9 surrebuttal testimony on an exchange basis via 911 as a
10 method of entry for the CLECs. That's a method that
11 Southwestern has data which it can provide to the
12 Commission.

13 Q. Isn't it true that there's a Commission rule
14 in effect that limits your company's ability to make use of
15 911 data?

16 A. I don't know.

17 Q. Isn't it true that at least several of your
18 interconnection agreements make that information
19 confidential?

20 A. There is a section in the interconnection
21 agreement that talks about proprietary information and talks
22 generally about CPNI, customer proprietary network
23 information related to customers' information. I'm not sure
24 if that's exactly what you're referring to or not, but there
25 is a section in general terms and conditions of the M2A and

1 other interconnection agreements that does cover that, yes.

2 Q. On page 29 of your direct, at line 5, you
3 provide an estimate of 1.8 million wireless customers in
4 Missouri. Do you see that?

5 A. Yes, I do.

6 Q. How many of those are Cingular customers?

7 A. I don't know.

8 Q. Is it more than half?

9 A. I don't know.

10 Q. More than 25 percent?

11 A. I don't know.

12 Q. You have no idea at all?

13 A. I have no idea.

14 Q. Would you expect it to be a significant
15 percentage?

16 A. I guess we could debate significant, but there
17 are multiple wireless carriers in the state. In some
18 instances, I doubt that Cingular, which is a joint venture
19 between SBC and BellSouth and is a wholly -- a company unto
20 itself now, I'm not sure that they're the dominant provider
21 in any market. So I don't know what market share they would
22 have of the 1.8 million.

23 Q. Wouldn't you expect them to be in the top five
24 in the state?

25 A. Probably, yes, but I don't know specifics.

1 Q. Page 12 of your surrebuttal testimony, at the
2 top of the page you're talking about your anticipation that
3 the large IXCs would enter the local market, I think you use
4 the words in full force in Missouri when you gain 271
5 relief. Do you see that?

6 A. Yes, I do.

7 Q. And the time that you gain 271 relief is the
8 time that the FCC finds that you've opened the market to
9 local competition, correct?

10 A. The time that we gain relief is when the FCC
11 supports our application and makes an affirmative ruling
12 that we are 271 compliant.

13 Q. And part of that, I mean, it's words that
14 you've used in your testimony, is the finding that you've
15 opened the market to local competition, correct?

16 A. That's one component that the FCC will review,
17 yes.

18 Q. At the bottom of the page you talk about --
19 and carrying over to the next page. In part you're talking
20 about the experience in Texas after your company obtained
21 271 relief; is that correct?

22 A. Correct, based upon an FCC report Mr. Kohly
23 referenced in his rebuttal testimony.

24 Q. Are you familiar with the Texas Commission's
25 report to the Texas legislature for 2001?

1 A. I have seen that report.

2 MR. LUMLEY: May I approach the witness?

3 JUDGE DIPPELL: Yes. Would you want to show
4 that to his counsel first, though?

5 BY MR. LUMLEY:

6 Q. Are you able to identify this document as that
7 report?

8 A. This is the report to the 77th Texas
9 Legislature from the Public Utility Commission of Texas,
10 January 2001. That's what it appears to be.

11 Q. And directing your attention to the Executive
12 Summary, the first paragraph, if you could read the sentence
13 I'm pointing to (indicating).

14 A. Pointing to the sentence that says, While the
15 potential for genuine competition is strong for some markets
16 in Texas, it is less likely to flourish in others.

17 I will note that the document you handed me,
18 Mr. Lumley, looks -- appears to be about 200 pages in
19 length, and I'm not familiar with all the other nuances and
20 wordings that may or may not have been findings in that
21 particular report.

22 Q. Page 14 of your surrebuttal, the first
23 question that actually appears on the page where you're
24 talking about a decrease in the total number of retail lines
25 served.

1 A. Correct.

2 Q. Does that include second lines?

3 A. What this -- you're referring there, the
4 question on page 14 refers to my Schedule 8, which is not an
5 HC schedule, and what that shows is an actual net loss to
6 Southwestern Bell, a net downward trend. So it does not
7 take into consideration lines that we may not -- second
8 lines that may have gone to wireless providers or to CLECs
9 that never were Southwestern Bell customers. This is a net
10 number.

11 So on the -- on kind of the greenish-blue bar
12 chart on Schedule 8, you can see through January of 2001
13 we've had a net loss this year of approximately 40,000
14 lines.

15 Q. Okay. But my question is, that information
16 includes both primary and second lines?

17 A. It's a total number, so it's primary and
18 secondary.

19 Q. So you can't equate the loss of a line with
20 the loss of a customer, can you, in all cases?

21 A. Not in all cases. In most likelihood, though,
22 customers aren't -- especially residential customers, aren't
23 doing partial migrations. They're migrating totally to a
24 CLEC or in some cases a wireless carrier.

25 Q. And page 17, at the bottom of that page you

1 make reference to the potential for penalty payments in the
2 event Southwestern Bell doesn't meet performance obligations
3 under its interconnection agreements. Do you see that?

4 A. Yes, I do. This is in reference to -- it's
5 Attachment 17 to the M2A in particular, M2A being the
6 Missouri 271 agreement.

7 Q. Would you agree with me that SBC is going to
8 be paying \$69 million for infractions from last December
9 through June of this year?

10 A. I don't know if that's a true number or not.

11 Q. Are you aware that they are making payments
12 for that period of time?

13 A. You're referring to SBC, all 13 states? Yes,
14 we have paid some penalties under various merger conditions,
15 interconnection agreements, et cetera, but I don't know the
16 total.

17 Q. On page 30 of your surrebuttal, the second
18 question on the page, you're talking about promotional
19 offerings. Isn't it true that some of those offerings have
20 been what can be described as win-back offers where the
21 discount's only available to customers that are thinking of
22 changing providers or actually have changed from
23 Southwestern Bell to another provider?

24 A. Southwestern Bell has offered many promotional
25 offers over the last few years, and some of them have been

1 targeted win-back promotions, yes.

2 Q. And others offer discounts in return for
3 multi-year commitments, correct?

4 A. We have had the Commission approve tariffs
5 that include volume and term discounts, particularly on
6 business lines.

7 Q. And they currently have a proposal like that
8 under suspension on an MCA optional service, correct?

9 A. The Commission has suspended an optional MCA
10 promotion associated with volume term discounts, yes.

11 Q. And they suspended a tariff filing proposing
12 win-back discounts under what you've called your Central
13 Link proposal, correct?

14 A. I believe it's Complete Link.

15 Q. Complete Link. Sorry.

16 A. And that promotional filing is an optional
17 filing to business customers based upon minimum usage
18 commitments, and it's not targeted solely for the purposes
19 of win-back.

20 Q. But there are win-back discounts included?

21 A. There are win-back provisions in that optional
22 tariff that's offered to business customers throughout the
23 state.

24 Q. And that tariff has been suspended?

25 A. The Commission did suspend that tariff, yes.

1 MR. LUMLEY: That's all my questions. Thank
2 you.

3 JUDGE DIPPELL: Thank you.

4 Is there cross-examination by Sprint?

5 MS. HENDRICKS: No questions, your Honor.

6 JUDGE DIPPELL: McLeod?

7 MR. KRUSE: Yes, your Honor.

8 CROSS-EXAMINATION BY MR. KRUSE:

9 Q. Good afternoon, Mr. Hughes. Brad Kruse with
10 McLeod USA. I've just got a few questions for you.

11 A. Good afternoon, Mr. Kruse.

12 Q. On page 26 of your direct testimony, you seem
13 to be saying that you believe there is effective competition
14 in the state of Missouri in part anyway because CLECs have a
15 market share of 15 percent; is that correct?

16 A. What I'm suggesting in that question and
17 answer is that there should be no specific market share
18 thresholds to be utilized in determining whether or not
19 Southwestern Bell faces effective competition, but I do
20 mention that we estimate the market share gained by the
21 CLECs at 15 percent as of April of 2001.

22 Q. Okay. But if there's -- are you saying, then,
23 that the market threshold is irrelevant to the analysis of
24 whether there's effective competition?

25 A. I think it's something the Commission could

1 consider, but as Dr. Aron pointed out yesterday, once a CLEC
2 has entered a market, whether they have one customer or
3 multiple customers, they have made the investment. It might
4 be in facilities or it might be in back office systems to do
5 billing and ordering capabilities with Southwestern Bell.

6 So once they've entered the market, there's
7 nothing that precludes that particular CLEC from expanding
8 their operations.

9 Q. Okay. But are you saying that once a CLEC
10 enters a market, even before they have any lines, that
11 there's effective competition in that market if there's only
12 one CLEC?

13 A. If you look, Mr. Kruse, at my Schedule 1 to my
14 surrebuttal testimony, and what that is is a graphical
15 representation of the number of active CLECs per exchange,
16 you will see that in the vast majority of the exchanges
17 there are multiple CLECs operating, and in every exchange we
18 have at least one CLEC operating.

19 So my point is, there are multiple CLECs
20 operating throughout the state, and once those CLECs have
21 made the investment and the business decision to enter the
22 Missouri market, they can expand their operations at any
23 time to move from a particular exchange, if that was their
24 choice, to operating ubiquitously across the state.

25 Q. Okay. But I'm trying to understand the

1 significance of that hypothetical suggestion that once a
2 CLEC has entered the market they can move ubiquitously
3 throughout the state.

4 And to go back to my earlier question, are you
5 saying, then, that once there is at least one CLEC in a
6 given exchange, regardless of whether that CLEC has any
7 lines, are you saying that there is effective competition in
8 that exchange?

9 A. I'm struggling with your hypothetical because
10 you're saying once there's one CLEC in an exchange and then
11 you're saying regardless if they have lines. I assume you
12 mean once a CLEC is operating in an exchange and they have
13 lines in that exchange.

14 I don't think the Commission can look at that
15 in a vacuum. I think they need to look at the level of
16 competition throughout all the exchanges and the number of
17 CLECs that are operating in all the exchanges.

18 Q. Let's take it one step at a time.

19 A. Okay.

20 Q. You could say that once a CLEC is certified to
21 provide service in an exchange, that it is operating in that
22 exchange, couldn't you, regardless of whether the CLEC
23 actually had any customers?

24 A. I don't believe it would be true that they're
25 operating in that exchange. I believe it would be true to

1 say they could operate in that exchange once they have been
2 certified and have tariffs and have an interconnection
3 agreement, but that doesn't necessarily mean that they are
4 operating in an exchange.

5 Q. But once a CLEC gets a customer, as soon as
6 they get a customer in a particular exchange, then you would
7 say that CLEC's operating in the exchange?

8 A. Yes, I would.

9 Q. Now, would you say that once a CLEC is
10 operating in an exchange, which would subsume that they have
11 at least one customer, that that fact that a CLEC is
12 operating in an exchange means that there's effective
13 competition in that exchange?

14 A. There is effective competition. The reason
15 for that is you can't look at an exchange in a vacuum.
16 There are 160 exchanges in the state, and there are multiple
17 CLECs operating throughout Southwestern Bell's territory,
18 and different CLECs have chosen to enter different markets,
19 and they can choose at any time to move into other markets.

20 So I don't think it's appropriate for the
21 Commission to look at a single exchange and say that, based
22 upon just this fact, there is or there isn't effective
23 competition.

24 Q. Okay. Then basically you make no
25 differentiation between competition and effective

1 competition; isn't that true?

2 A. Well, the statute 386 defines the parameters
3 for what the Commission will determine as effective
4 competition.

5 Q. I'm not asking about the statute right now.
6 I'm just asking for your understanding.

7 A. I think there are differences, and here's why.
8 Competition can be -- if all the data is presented to the
9 Commission, and the data has to come from the CLECs, it
10 cannot come from Southwestern Bell, the Commission could
11 quantify the exact and precise level of competition in the
12 state. Okay. So I think you could get to a number that
13 says there's X, Southwestern Bell estimates X to be
14 15 percent in the state.

15 I don't think, however, in determining
16 effective competition that is the only thing the Commission
17 should look at. I think there are other relevant factors
18 that the Commission should take into consideration in
19 determining effective competition.

20 Q. That's fine, and I understand that. I'm
21 trying -- I guess I'm still struggling with your testimony
22 on page 26 of your direct. Are you saying that specific
23 market thresholds should not be utilized at all in
24 determining whether there's effective competition?

25 A. No. I think the Commission should consider

1 that, but I think there are other factors that the
2 Commission should also consider whether or not effective
3 competition exists.

4 Q. Okay. So then that statement -- I guess that
5 statement, then, on that first sentence, or the sentence
6 beginning on line 17, ending on 19, would not be correct,
7 then, because right there, I mean, you say while specific
8 market share thresholds should not be utilized to determine
9 whether or not Southwestern Bell faces effective
10 competition?

11 A. I believe there are other factors besides
12 market share thresholds that the Commission should consider.

13 Q. Okay. I understand. And another way of
14 saying that, then, is to say that specific market thresholds
15 can be, in fact, should be utilized and considered by the
16 Commission in determining it?

17 A. I don't know that they should be. I think
18 it's something the Commission could consider, and it
19 certainly would provide the Commission with an idea based
20 upon evidence that Southwestern Bell's put forth in this
21 proceeding of what Southwestern Bell believes the market
22 share gained by the CLEC in a particular exchange is.

23 But as we've talked about at length in the
24 last day and a half, we don't have all the data for the
25 CLECs, nor do we have data for the alternate providers such

1 as wireless carriers.

2 Q. Okay. I guess since we've established that
3 the Commission could look at market share percentages, is
4 there a certain market share percentage of CLEC competition
5 below which you would agree that effective competition does
6 not exist?

7 A. No. I believe there are too many other
8 relevant factors, such as the number of CLECs operating in
9 the state, where they have switches deployed, where they
10 have collocation, where they have chosen different market
11 entry strategy, where they have updated their OSSs and
12 billing systems to operate in the state of Missouri that
13 need to be considered.

14 And that's just talking about CLECs, not to
15 mention alternate providers besides CLECs that the
16 Commission should consider.

17 Q. So you're saying, then, that if the market
18 share percentage of CLECs was like zero point something or
19 zero, as long as there were certain CLECs that were maybe
20 certified in an exchange and a variety of other factors, I'm
21 not sure what they'd be at that point, but you're saying
22 there could be a zero percent or like a de minimis
23 percentage of competition and, based on other factors, that
24 the Commission could somehow find that there was effective
25 competition?

1 A. Those aren't the facts in the case. The facts
2 in the case are the CLECs have a level of market share in
3 this state. So there isn't de minimis competition in the
4 state as you've put it. There's not a zero point something
5 market share gained by the CLECs in the state. So that's
6 not a fact that I can agree to.

7 Q. But there's certainly exchanges, individual
8 exchanges, are there not, with very low, de minimis market
9 share percentages of CLEC competition; isn't that true?

10 A. I would agree there's a greater level of CLEC
11 market share gained in some exchanges than in other
12 exchanges, yes.

13 Q. And Southwestern Bell's trying to get
14 certification, the price cap restriction lifted in all
15 exchanges for all services; isn't that the case?

16 A. That is true, and that's because there are
17 other factors that the Commission should consider besides
18 market threshold, market share threshold. That's the point
19 I was trying to make on page 26 of my testimony.

20 Q. Let's go, then, to Schedule 2 of your
21 surrebuttal.

22 A. Okay.

23 Q. And on the right-hand column you list minimum
24 CLEC market share by percentage for each exchange.

25 A. That's correct.

1 Q. And I'm going down the page, and I only see
2 one -- on the very first page I only see one exchange, and
3 that would be Chesterfield, in which there's a double digit
4 for --

5 JUDGE DIPPELL: I believe you're going to get
6 into highly confidential information. If you would like, if
7 it's necessary, we can go in-camera, but I don't think we
8 should identify any particular exchange with any particular
9 number or quantifying number.

10 MR. KRUSE: I wasn't going to go into the
11 specific number beyond, but if --

12 JUDGE DIPPELL: Just make sure. That's as
13 much as I can do is to tell you-all to help me police this.

14 MR. KRUSE: Okay. I understand.

15 MR. LANE: So are we going into in-camera now,
16 Judge, is that what we're doing?

17 JUDGE DIPPELL: Mr. Kruse seems to think that
18 he doesn't --

19 MR. KRUSE: I don't think there --

20 MR. LANE: You'll not identify exchanges?

21 MR. KRUSE: I won't. I'm not planning on
22 identifying exchanges.

23 JUDGE DIPPELL: Okay. Thank you.

24 BY MR. KRUSE:

25 Q. If you go down the right-hand column, there's

1 only one exchange out of the 43 exchanges listed on that
2 page with a double digit market share percentage; isn't that
3 correct?

4 MR. LANE: Your Honor, we probably -- if he's
5 going to get into it, we probably need to do it.

6 MR. KRUSE: If you want to, that's fine, Paul.
7 I'm not going to ask for specific numbers on specific
8 exchanges, though.

9 JUDGE DIPPELL: I know, but we're talking
10 about the range of percentage and quantifying them just the
11 same. I think just to be safe that we should go in-camera.
12 If those of you who are not authorized to hear highly
13 confidential information, that'll make it easier for you,
14 Mr. Kruse, to ask your questions.

15 MR. KRUSE: Okay. That's fine.

16 JUDGE DIPPELL: Okay. Mr. Hughes?

17 THE WITNESS: There's one person, I apologize,
18 I don't know who it is, your Honor.

19 JUDGE DIPPELL: We have members of Staff.

20 THE WITNESS: Right behind Tony.

21 (REPORTER'S NOTE: At this point, an in-camera
22 session was held, which is contained in volume No 4, pages
23 407 through 432 of the transcript.)

24

25

1 JUDGE DIPPELL: Mr. Kruse, I'll let you finish
2 your questioning, then. Did you have -- you had additional
3 questions?

4 MR. KRUSE: I didn't know if there were other
5 people coming back in that I should wait for.

6 JUDGE DIPPELL: You can wait just a few
7 minutes. We can go off the record just for a couple
8 minutes.

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

10 JUDGE DIPPELL: I think we can go ahead and go
11 back on the record.

12 Mr. Kruse, you can continue. Thank you.
13 Pardon the interruptions.

14 MR. KRUSE: That's quite all right, your
15 Honor.

16 I believe there was a pending question, and if
17 the court reporter can find it quickly, just repeat it. If
18 not, I'll try to ask it again.

19 THE REPORTER: "Question: Mr. Hughes, to your
20 knowledge, is Southwestern Bell deregulated in the manner in
21 which it seeks to be deregulated in this state in any other
22 state that Southwestern Bell does business?"

23 THE WITNESS: I'm not familiar with the level
24 of deregulation that we have in the other states. I'm
25 generally familiar with many of the Southwestern Bell states

1 operate under a price cap, but I'm not familiar with what
2 type of pricing flexibility that provides to them.

3 BY MR. KRUSE:

4 Q. Okay. Are there any other states in which
5 Southwestern Bell operates in which a price cap isn't in
6 place?

7 A. Is not in place?

8 Q. I'm getting ahead of ourselves -- myself here.
9 Are there any states currently that Southwestern Bell
10 operates in in which a price cap isn't in effect with
11 respect to Southwestern Bell?

12 A. I believe, Mr. Kruse, that all five of the
13 Southwestern Bell states operate under price caps.

14 Q. So Missouri would be the very first one, if
15 the Commission gives you the relief that you seek here, to
16 remove the price cap?

17 A. I don't know that that's true. I don't know
18 what type of pricing flexibility the other states have under
19 their statutes and laws.

20 Q. As you sit here today, Mr. Hughes, are you
21 aware of any specific services or proposed services which
22 Southwestern Bell was precluded from offering since it
23 became a price cap company?

24 A. Yes. I believe, as I discussed with
25 Mr. Lumley, there's another proceeding pending before the

1 Commission where they suspended two tariff offerings, one
2 for an MCA promotion and another one for an optional
3 business offering called Complete Link.

4 Q. Last question, I think, just to follow up with
5 a question that Mr. Lumley asked and I want to make sure I
6 got it straight.

7 According to your testimony, in discussion
8 with Mr. Lumley, the market may, in fact, not be open for
9 competition but you could still find -- the Commission could
10 still somehow find that there is effective competition in
11 that market?

12 A. I believe the Commission has found in
13 TO-99-227 that the market is open to competition.

14 Q. Okay. And I think Mr. Lumley asked you, what
15 if the FCC denied Southwestern Bell's 271 application and
16 indicated that in so doing it would have to make a finding
17 that the market wasn't open, and you agreed with that
18 assessment, correct?

19 A. I believe that is something the FCC will
20 consider in making its determination of whether or not
21 Southwestern Bell satisfies the requirements of Section 271.
22 But I believe even if the FCC for whatever reason made a
23 finding that it wasn't, I'm not sure that would preclude
24 this Commission from finding that effective competition
25 exists in the state.

1 Q. And so just so I can get -- just so I get it
2 straight, you're saying that the determination could be made
3 by the FCC that the Missouri markets were not open to
4 competition, but you're saying that this Commission could
5 still find that effective competition exists within the
6 state?

7 A. I don't believe this Commission is under any
8 obligation under its statute to look at the FCC's opinion in
9 our 271 proceeding. I certainly think it's something that
10 they can consider, but I don't believe they have an
11 obligation to look at it, no.

12 MR. KRUSE: I don't have any further
13 questions, your Honor.

14 JUDGE DIPPELL: Thank you, Mr. Kruse.

15 Are there questions from the Bench?
16 Commissioner Murray?

17 COMMISSIONER MURRAY: Thank you, Judge.

18 QUESTIONS BY COMMISSIONER MURRAY:

19 Q. Good afternoon, Mr. Hughes.

20 A. Good afternoon, Commissioner Murray.

21 Q. I just have a few questions for you, but
22 basically I'd like you to look at the statute 392.245. Do
23 you have that?

24 A. Yes, I do.

25 Q. Subsection 5.

1 A. Okay.

2 Q. In Mr. Lumley's opening remarks, he focused on
3 two sentences in that, stating that the first sentence was
4 not what we were looking at here, but rather that we were
5 beginning with the sentence that says, The Commission shall
6 from time to time on its own motion or motion by an
7 incumbent local exchange telecommunications company
8 investigate the state of competition in each exchange where
9 an alternative local exchange telecommunications company has
10 been certified.

11 And I won't read the rest of the sentence, but
12 I want to ask you, do you agree that that is the portion of
13 that statute under which we are operating in this
14 proceeding?

15 A. No. I believe the Commission should look at
16 the entirety of this statute 392.245 and not just the
17 particular sentence that Mr. Lumley cited in his opening
18 statement.

19 Q. Well, if we look at the beginning of that
20 section, that states, Each telecommunications service of an
21 incumbent local exchange telecommunications company shall be
22 classified as competitive in any exchange in which at least
23 one alternative local exchange telecommunications company
24 has been certified under Section 392.455 and has provided
25 basic local telecommunications service in that exchange for

1 at least five years.

2 And I'm going to stop with that part of the
3 sentence and ask you, if we're operating under that section,
4 how many exchanges are there where a CLEC has been operating
5 or has been providing basic local telecommunications service
6 for at least five years?

7 A. As we sit here today, there would be none.
8 Dial US was the first CLEC that was certified in the state,
9 and it received its certification January of 1997. So with
10 this case -- excuse me.

11 What this case is about and the reason for the
12 timing of the case is under the statute the Commission
13 within five years of certification of Dial US, since they
14 had a statewide certification, the Commission should review
15 the evidence before it and make a determination that
16 effective competition exists in all of Southwestern Bell's
17 exchanges.

18 Q. But would that not put us down into that
19 second sentence as Mr. Lumley says, the one in which we are
20 going forward under?

21 A. I do believe that the second sentence is
22 appropriate for the Commission to consider, but I believe
23 the Commission needs to consider the totality of the statute
24 and not just a particular sentence, in this case sentence
25 No. 2 of 392.245.5.

1 Q. Would you agree that sentence No. 1 does not
2 apply because there are no exchanges in which a CLEC has
3 been providing service for at least five years?

4 A. Today that is a true statement. As I
5 mentioned, the statute is designed for the Commission to
6 investigate the state of effective competition within the
7 first five years or on the Commission's motion.

8 And I believe, Commissioner Murray, that's
9 what the Commission is doing in this proceeding is they're
10 looking at it prior to the certification of Dial US, prior
11 to the five years that this particular portion of the
12 statute contemplates.

13 Q. The second sentence says that. It says, No
14 later than five years following the first certification of
15 an alternative local exchange telecommunications company in
16 such exchange.

17 A. And since Dial US had a statewide
18 certification, we believe it's appropriate for the
19 Commission to look at effective competition in all of
20 Southwestern Bell's exchanges under the statute at this
21 time.

22 Q. And the second sentence -- if we ignore the
23 first sentence, wouldn't the second sentence allow us to do
24 that?

25 A. Yes, and in particular the part that says, No

1 later than five years following the first certification of
2 an alternate local exchange telecommunications company, and
3 then it goes on to say, Whether effective competition exists
4 in the exchange.

5 Q. Now, do you agree that we have to look at
6 every exchange, first of all?

7 A. We believe that since Dial US did receive a
8 statewide certification, the Commission should look at every
9 exchange, yes.

10 Q. And do you agree that we have to look at every
11 service?

12 A. What Southwestern Bell is asking in this case
13 is that the Commission find effective competition for all of
14 our services in all of our exchanges.

15 Q. Do we not have to look at each service in each
16 exchange in order to do that?

17 A. I believe that the Commission could find a
18 determination on an exchange-by-exchange or a
19 service-by-service basis, or another thing that we're
20 seeking from the Commission is just confirmation that
21 services that have been deemed transitionally competitive in
22 TO-93-116 are, in fact, competitively classified already
23 from the Commission.

24 Q. And that would be in every exchange; is that
25 right?

1 A. That's correct.

2 Q. Now, one thing that I'm wondering about, and
3 it may just be something that I haven't thought through
4 thoroughly enough, but maybe you can help. If we go
5 exchange by exchange and find that some services in some
6 exchanges are competitive and in other exchanges those same
7 services are not competitive, would we not be allowing or
8 even almost forcing Southwestern Bell to charge different
9 rates for the same services in different parts of the state?

10 A. I think the answer to your question is yes,
11 and the reason I say that is if the Commission finds that
12 for particular services effective competition does exist in
13 a particular exchange or group of exchanges and not on a
14 statewide basis, then Southwestern Bell would have the
15 ability, pricing flexibility to modify the prices for that
16 particular service in those exchanges that the Commission
17 has determined is subject to effective competition.

18 In those cases, it is quite possible that
19 Southwestern Bell could charge under that determination by
20 the Commission a different rate for the same service in
21 different exchanges.

22 Q. And isn't that geographic deaveraging?

23 A. I suppose it would depend upon the exchanges
24 that the Commission determined that Southwestern Bell's
25 particular service was subject to effective competition. I

1 guess the possibility does exist the Commission could find
2 in a particular geography exchange similarly situated that
3 effective competition exists in one exchange but not in
4 another.

5 But I believe, generally speaking, that that
6 would be considered deaveraging and geographic deaveraging
7 of our rates throughout the state, yes.

8 Q. You don't recall offhand what the statute is
9 that prohibits geographic deaveraging, do you?

10 A. No, I do not.

11 Q. Basically, is it your understanding that if we
12 did find that there was effective competition in certain
13 exchanges for a particular service but not in other
14 exchanges and that finding resulted in different rates for
15 that same service in different parts of the state, that that
16 would be allowed under the statutes, those different rates
17 would be allowed?

18 A. Based upon my reading of this particular
19 statute and based upon what I think the flexibility is the
20 Commission has under this particular statute, I think it
21 could be allowed.

22 But I would offer that I believe we provided
23 evidence just based upon CLECs and not just the alternate
24 providers that we've met the definition of effective
25 competition for all of our services in all of our exchanges.

1 Q. In the other states in which Southwestern Bell
2 provides service, are there statutes that are similar to
3 ours that provide for this type of investigation after a
4 certain period of time to determine whether there is
5 effective competition?

6 A. I'm not familiar with the particular statutes
7 in the other states.

8 Q. In terms of residential service and the degree
9 of competition that is in place today for residential
10 services, when Dr. Aron was on the stand I asked her if she
11 could think of any other way in which to stimulate
12 competition in the residential service market other than to
13 grant Southwestern Bell competitive status in that market at
14 this time.

15 And her answer focused on Universal Service
16 Fund objectives, and I think her answer really was looking
17 at, if Southwestern Bell is removed from price cap
18 regulation, how can we also meet the public interest
19 objective of not significantly raising residential service
20 rates, and she mentioned the Universal Service Fund
21 objectives.

22 I believe you were here, were you not?

23 A. Yes, I was.

24 Q. Would you -- or can you go into more detail
25 about what you think that we should do in terms of Universal

1 Service Fund objectives?

2 A. I believe Dr. Aron, the message that she was
3 portraying is one that the Commission should consider or
4 could consider as far as how residential rates may or may
5 not be impacted going forward.

6 And I believe the point of her testimony was
7 that, to the extent the Commission is concerned that
8 residential rates may increase going forward, there are
9 mechanisms that may be in place that can help alleviate some
10 of those concerns, and one of them is the mechanism such as
11 the Universal Service Fund.

12 And there are two components to the Universal
13 Service Fund as the Commission is aware, one of which is the
14 low-income portion of the fund where Southwestern Bell
15 offers Lifeline service to customers, and that would help
16 offset some of the cost of that service.

17 In addition to that, there's the high-cost
18 portion of the fund whereby there would be some sort of --
19 the parties generally, with one exception, are proposing a
20 surcharge on customers' bills to remove the implicit
21 subsidies that exist today and make it an explicit subsidy,
22 and that may be a way to balance the rate increases for
23 customers as we move forward.

24 I think it's important that the Commission
25 understand that while Southwestern Bell hasn't made plans

1 yet on what it may or may not do upon receiving
2 classification for all of our service in all of our
3 exchanges being effective competitive, we haven't made a
4 decision to necessarily increase basic local rates. And
5 while basic local rates could increase, that could be offset
6 by possible reductions in vertical services and things of
7 that nature.

8 So I don't want the Commission to walk away
9 with a hundred percent feeling that local rates are going to
10 increase as a result of this docket. We have made no plans
11 as a company on how we will react once we receive this
12 classification from the Commission.

13 Q. Do you think that the fact that basic local
14 rates are low compared to business services, for example, do
15 you think that because they are as low as they are, that is
16 the primary reason that competition for residential services
17 is not any greater than it is currently?

18 A. I believe that CLECs can compete for
19 residential customers. I believe CLECs have made the
20 business decision to compete for business customers first
21 because that is where the greatest margins are for their
22 market entry. I also believe that we will see increases in
23 residential competition as time moves on.

24 And I think it's important, some of our
25 witnesses have tried to get this point across, and I really

1 wish we had data on exchange basis, but we are receiving
2 quite a bit of information, and if you read periodicals and
3 such about the wireless industry, Dr. Aron in her testimony
4 stated that 68,000 new wireless subscribers are coming on
5 the network each day, and 12 percent of those are doing so
6 in lieu of a land-line phone.

7 That is certainly impacting the businesses not
8 only of the ILECs but also of the CLECs that compete in that
9 market. The wireless providers are a competitor for all of
10 us. So I think it's important that the Commission also
11 consider that in making its determination.

12 Q. But in terms of competition by CLECs for
13 land-line local basic service, do you think that the degree
14 to which the rates have been kept low had a significant
15 impact on how fast competition has developed for residential
16 services?

17 A. I think it has, and I think that's
18 attributable to the fact that the profit margins are lower
19 for residential customers. And so as CLECs evaluate their
20 business entry strategy, they go for the higher profit
21 margin customers. In this case, that is the business market
22 or the high-end residential market, and I think those are
23 the customers they're targeting.

24 So I think the fact that residential rates
25 over the past years have been kept low for public interest

1 and public policy reasons has had an impact on the level of
2 competition, but I would point out that there are exchanges
3 that we've presented data on where there's a good amount of
4 competition, and it's not that there's not competition in
5 the residential market in the state. It's just different
6 levels in different exchanges for those services.

7 Q. And in those exchanges where there is more
8 competition for residential services, are they -- are those
9 services generally bundled with other services that make it
10 profitable for the CLECs to compete?

11 A. Based upon all the research I've done on what
12 customers want, and the research I've done is based upon
13 reading periodicals and studies and talking to customers,
14 friends, family, et cetera, customers want one bill. They
15 want their long distance, their Internet, those type of
16 services bundled on the same bill as their local service.

17 So I believe that CLECs are bundling the
18 service offerings to their customers and providing one-stop
19 shopping, if you will, to those customers.

20 Q. Now, I think that Southwestern Bell has been
21 criticized by some parties at least for increasing prices
22 under the price cap statute up to the level that you've been
23 allowed to do so, and I believe on page 30 of your
24 surrebuttal testimony you indicate that you increased the
25 price of very few services when first able to do so under

1 the price cap statute. I'm looking at lines 13 and -- 13
2 through 19 on page 30 of your surrebuttal.

3 You also say, While Southwestern Bell has
4 increased prices for some services thereafter, it should be
5 remembered that SWBT has had only limited price changes for
6 most of its services since 1984.

7 And then on down at lines 17 through 19, It's
8 also important to note that there are numerous services
9 where SWBT has not increased prices, and there are some
10 services where SWBT has lowered prices.

11 Since the price cap statute has allowed
12 raising rates up to the 8 percent level, can you quantify in
13 some manner how many areas in which the prices have not been
14 raised, have not been increased?

15 A. I do have some data that I brought to the
16 stand with me, Commissioner, relative to Easy Option
17 services, and Easy Option services are generally the
18 vertical-type services that we offer.

19 And based upon some research that we've done
20 in preparing for this case, there are -- on the residential
21 side, there are 28 services filed in the Easy Option section
22 of the tariff, and only 12 of them had price changes since
23 1996. Eleven of those have been price increases and one was
24 a price decrease.

25 On the business side for once again Easy

1 Option services, there are 29 services filed in the business
2 section of the Easy Option section of the tariff, and only
3 13 of those had price changes, and 9 of those have been
4 increases and 4 of those have been decreases.

5 In addition, I am familiar with in the
6 interLATA toll or MTS arena this past year, while we did
7 raise some rates, we did lower the rates of some of the
8 other offerings that we had for MTS.

9 And as mentioned in that particular cite in my
10 testimony on page 30, we also have done decreases through
11 volume and term discount offerings such as the multi-line
12 business tariff that the Commission approved last year as
13 well as through various promotions that we've run, and the
14 vast majority of those promotions are also available for
15 resale to the CLECs.

16 Q. And has each one of those promotions when you
17 have offered, proposed them been objected to by other
18 parties?

19 A. Not each of them, but we have had parties
20 intervene in some of our promotional tariff filings, some
21 recently MCA and then some initial ones in the summer of
22 last year that the Commission ultimately approved regarding
23 win-back.

24 Q. And I know there's still been some criticism
25 about the treatment of local plus. Can you elaborate a

1 little more completely as to how Southwestern Bell is
2 complying with the majority's decision on local plus?

3 A. The Commission initially when it approved our
4 retail service offering of local plus in its Order approving
5 the retail service made the service available for resale to
6 both interexchange carriers and to CLECs.

7 In implementing that Order, we made it
8 available via resale, as we believe the act defines it, to
9 CLECs and we also made it available to interexchange
10 carriers.

11 Subsequent to that, the Commission opened a
12 docket to investigate the availability of local plus for
13 retail in TO-2001-667, and in that particular docket the
14 Commission determined what it should be available for resale
15 whether or not the CLEC was operating on a facility basis.

16 In that regard, to my knowledge, Southwestern
17 Bell has not received a request from a CLEC to resell local
18 plus either via UNE, purchase of UNE-P, or when the CLEC has
19 its own switch.

20 As I testified to in that proceeding, it is
21 Southwestern Bell's position that, when a CLEC requests
22 that, we will negotiate, and in particular there we were
23 looking to negotiate the price and then we'd make it
24 available.

25 I think the Commission for purposes of UNE-P

1 has established the rate and that it will be the retail rate
2 less the wholesale discount, and to my knowledge we have yet
3 to receive a request from a CLEC to resell local plus on a
4 UNE basis.

5 I would note, Mr. Voight in his testimony
6 alludes to the fact that we did appeal that particular
7 decision, and we have. We do not agree with the
8 Commission's determination and definition of resale, and
9 that is only the second such time that we've appealed a
10 Commission decision in the past six years. But we still are
11 complying with the Commission's Order and will comply
12 pending the appeal.

13 Q. And AT&T's Digital Link service, would you
14 explain why you think that service is functionally
15 equivalent to basic local service?

16 A. AT&T is obviously free to offer the services
17 that it chooses in the marketplace, and they do offer
18 services besides Digital Link offering, but in particular
19 the Digital Link offering, my understanding of it, not
20 necessarily from this particular assignment with
21 Southwestern Bell but previous assignments that I've had
22 where I became familiar with the service, is one in which
23 AT&T has chosen to provide the services to customers that
24 are the greatest profit margins to them, the lines, for the
25 business customers as well as associated vertical services

1 and toll.

2 And then what they've done is they've left the
3 E911 and the operator services and some of the higher-cost
4 service either to another CLEC or to Southwestern Bell's
5 incumbent LEC to provide those services to the customer.

6 So AT&T is making the contention that the
7 Digital Link service offering that they have is not
8 functionally equivalent to the offerings that we make, and
9 while I don't agree with that because the customer is being
10 provided E911 and operator services, albeit from a different
11 provider, even if it were true, I believe we demonstrated
12 through the other testimony that we've given and exhibits
13 and such that effective competition does exist for those
14 particular services throughout all of Southwestern Bell's
15 exchanges.

16 COMMISSIONER MURRAY: Thank you, Mr. Hughes.
17 Thank you, Judge.

18 JUDGE DIPPELL: It's about 2:45, and we're
19 going to take a 15-minute break, and then we'll return with
20 questions from the rest of the Commissioners. Thank you.

21 Let's go off the record.

22 (A BREAK WAS TAKEN.)

23 JUDGE DIPPELL: Let's go ahead and go back on
24 the record.

25 We were about to resume with Commissioner

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

1 Lumpe's questions.

2 QUESTIONS BY COMMISSIONER LUMPE:

3 Q. Mr. Hughes, if these have already been asked,
4 I apologize.

5 A. No problem, Commissioner.

6 Q. There was some discussion about, I think, with
7 several witnesses about the fact that low rates may tend to
8 inhibit competition. Are you allowed in that 8 percent a
9 year to raise local rates?

10 A. No, we are not. Under that particular section
11 of the statute, basic local rates fall under a determination
12 that they're modified each year based upon either the CPITS,
13 which is the Consumer Price Index for Telecommunications
14 Services, or another factor that Southwestern Bell could
15 bring to the Commission and seek approval, and that has to
16 do with exogenous factors and productivity and such.

17 Last year we made our first such what we're
18 calling our annual price cap filing for basic local service.
19 In fact, the basic local rates declined last year.

20 Q. All right. But under that 8 percent cap, that
21 was -- you were not permitted to raise local rates under
22 that, that was for other services?

23 A. That's correct. That's for the non-basic.

24 Q. In the local rate, you were only allowed to
25 use this factor. Was that factor set by the FCC or how was

1 that factor determined?

2 A. Let me first -- I'm sorry -- answer your first
3 question. The 8 percent is specific to the non-basic
4 services.

5 Then on the basic services, the factor is set,
6 I don't want to say it's the FCC because I'm not sure, but
7 it's just based upon the Consumer Price Index for Telephone
8 Service, and I'm not sure if the FCC establishes that or
9 where that's taken from, but I know it's a nationally known
10 number.

11 Q. And you said last year you didn't bring that
12 to this Commission, did you?

13 A. Yes. We made that filing, I want to say it
14 was on October 1st with an effective -- it was in the fourth
15 quarter. I shouldn't say it was October 1st, but it was
16 sometime in the fourth. I think the effective date was
17 around December the 1st, and we actually lowered our
18 basic --

19 Q. Lowered local?

20 A. -- local rate and switched access rates in the
21 state, yes.

22 Q. And by doing that, that made competition even
23 less likely?

24 A. Well, under the scenario that CLECs will not
25 compete for residential services because the prices are too

1 low, then you could go to that conclusion. I'm not
2 personally convinced that CLECs can't compete in the
3 residential market at the rates today.

4 That being said, I think it would require some
5 bundling of services, vertical services, interLATA toll,
6 voice mail, et cetera, in order for the CLECs to compete.
7 But they are, in fact, competing today in all of our
8 exchanges for basic residential service.

9 Q. And I think yesterday there was testimony that
10 actually you have four basic local rates, and I assume those
11 are in different parts of the state?

12 A. Yes. We have four rate groups, Rate Group A,
13 if I recall, is from one line to 5,000 lines. Rate Group B
14 is from 5,000 -- I think it's actually from 1 to 4,999, and
15 then it's from 5,000 for rate Group B to 59,999. Rate
16 Group C is from 60,000 to 229,999, and Rate Group D is
17 greater than 230,000 lines in an exchange.

18 Q. So, in effect, your rates differ depending
19 upon what part or the number of lines in the state? In
20 other words, you don't have one flat rate for all of your
21 exchanges or territory?

22 A. Not today, and we have different residential
23 and business rates by rate group for our customers in those
24 various rate groups.

25 Q. All right. And there was some discussion

1 about the certificate with Dial US, I guess it was.

2 A. Yes.

3 Q. And while they have a statewide certificate,
4 they did not -- they did not service the whole state, did
5 they? They did not provide service in the entire state, did
6 they?

7 A. They initially provided service down primarily
8 in the 417 LATA, the Springfield area primarily, and then
9 Dial US was subsequently purchased by another CLEC.

10 Q. So that would we not just be looking at the
11 particular exchanges where they actually provided service,
12 or are you suggesting we would be looking at all the
13 exchanges because it was statewide?

14 A. We believe under the statute that the
15 Commission within that initial five-year period will look at
16 all of the exchanges since they were certified on a
17 statewide basis and make the determination that effective
18 competition exists in all the exchanges for all of our
19 services.

20 Q. Whether Dial was serving in those exchanges or
21 not because some other CLEC is serving there now or -- I'm
22 trying to get to the five-year period, and if there were
23 only a set number of exchanges that were being served five
24 years ago, how do I incorporate all the exchanges?

25 A. I'm reading just part of 392.245,

1 subsection 5. It says, Not later than five years following
2 the first certification of an alternate local exchange
3 telecommunications company.

4 So we believe that under that section of
5 392.245 the Commission should investigate at this time the
6 state of effective competition throughout the state in all
7 of Southwestern Bell's exchanges since they had a statewide
8 certification.

9 Q. Okay. On page 17 there's the question about
10 discrimination, and I think your response is that there are
11 substantial safeguards in place. And am I correct, you're
12 talking about the various items that are to be monitored in
13 terms of the M2A or --

14 A. Yes. Under the M2A, as the Commission is
15 aware, we have an extensive performance measurement section,
16 Section 17 to the M2A, and that particular section
17 identifies all of the performance measures that Southwestern
18 Bell measures.

19 And on a given month Southwestern Bell for
20 each CLEC in the state tracks and reports in the
21 neighborhood of 300 particular measures potentially per CLEC
22 in the state, and we report those to the CLECs and report
23 those to the Commission. And as the Commission is also
24 aware, 99-227 is to remain open to continue monitoring our
25 performance.

1 So we believe the Commission has the provision
2 in place for that particular monitor and review to ensure
3 that we are continuing to comply with the obligations that
4 we said we would and gain the Commission's recommendation
5 for 271 approval.

6 Q. Okay. Can local service not be competitive
7 but vertical services be competitive or do they -- must they
8 fit together?

9 A. We do not believe they need to fit together.
10 As the Commission found in TO-93-115 back in, I guess it was
11 the late '92, early '93 time frame, Speed Calling 8 and
12 Speed Calling 30, which are vertical features, the
13 Commission determined at that time that those two services
14 were already subject to competition.

15 As some of our other witnesses have testified
16 to and as they put in written testimony, we believe there
17 are things such as CPE on telephones that allow some of the
18 same vertical features without purchasing them from
19 Southwestern Bell or any other LEC in the state, such as
20 speed calling, such as call forwarding, such as return
21 calling, things of that nature.

22 Q. So we could find the various vertical services
23 to be competitive but say the local service is not yet
24 competitive?

25 A. We believe that you could.

1 Q. Is that possible?

2 A. Yes.

3 Q. Okay. On page 29, I think you talk about
4 where all providers can compete equally, the prices will
5 move to cost, and the assumption is they can go up or they
6 can go down; is that correct?

7 A. Yes, it is.

8 Q. Did I hear you say, however, that you have --
9 or the company has not determined yet, should they be
10 classified as competitive, whether they would raise those
11 rates or not?

12 A. We have not made a determination or put in
13 place any plans regarding the outcome of this case. It's
14 likely that some rates will increase, and it's also likely
15 that some rates will decrease as a result of the finding of
16 effective competition.

17 What those rates are that will increase and
18 what those rates are that will decrease we haven't put any
19 formal plan in place. So I didn't want the Commission to
20 walk away with the impression that Southwestern Bell has a
21 plan that's ready to be executed, because at this point we
22 have not made any formal plans pending the outcome of this
23 case.

24 Q. And so you wouldn't be able to determine
25 whether there would be, then, one rate for all of your

1 service areas or whether you would continue the four rates
2 or what you might do?

3 A. That is something that we certainly could
4 consider, I think, with a finding of effective competition
5 is to have a uniform rate for retail offerings across the
6 state.

7 In addition, the statute -- in response to
8 some questions from Commissioner Murray, I think the statute
9 does contemplate that deaveraging is possible, and it's not
10 under 392.245, but I believe it's under 392.200 that
11 deaveraging is possible under the current statutes that
12 exist.

13 But Southwestern Bell could determine, similar
14 for vertical services today, we offer a statewide rate for
15 those particular service offerings. Another example,
16 Commissioner --

17 Q. When you say statewide, do you just mean in
18 your service area --

19 A. Yes, ma'am.

20 Q. -- or do you mean outside?

21 A. Just in our service area. Another example in
22 addition to, I think, basic local service would be some
23 possible change to our rate structure for intraLATA toll.
24 Today it's mileage sensitive and time of day sensitive and
25 things of that nature.

1 And based upon the marketplace that exists
2 today and customers liking what is referred to as postalized
3 rates, and essentially what that is is more of a per-minute
4 rate than a distance-sensitive rate, Southwestern Bell could
5 choose to change the way that it prices its toll offering to
6 its customers as well to more of a uniform statewide rate
7 than the current structure of if you call 1 to 10 miles its
8 X, if you call 1 to 100 miles it's Y.

9 Q. Are those your mileage bands --

10 A. Yes, ma'am.

11 Q. -- that we're talking about?

12 And are you the only company left in the state
13 that has mileage bands?

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

15 Q. Because I think Sprint got rid of theirs, I
16 think, but that was -- there was some distance bands or
17 something. I thought you might be the only one left, but
18 you're not aware.

19 A. I'm not sure. I'm not sure.

20 Q. Okay. Should you receive a competitive
21 classification, and, of course, I guess it would also depend
22 on your 271 filing, would you serve throughout the state or
23 would you just stay in your own territory?

24 A. Are you asking if we would become a CLEC out
25 of region?

1 Q. Right.

2 A. I don't know the answer to that. That is not
3 something that I work on in my current capacity. I do know
4 that as a company in the past and in particular with the
5 Ameritech merger we have indicated that we would like to
6 compete in markets outside of our traditional territory.

7 So I would say that it's something that other
8 folks in our company probably evaluate and review. I just
9 personally don't have any knowledge of the plans.

10 Q. Do you know, then, is it possible for you to
11 be doing that now? In other words, could you be a CLEC
12 outside of your territory now, if not in this state in
13 another state?

14 A. I believe we could seek classification even in
15 Missouri as a CLEC to compete in non-Southwestern Bell
16 territory.

17 Q. I was going to ask about local plus, but I
18 think Commissioner Murray covered that for me. Mr. Hughes,
19 do you -- you're convinced that there are no barriers to
20 entry at this time for CLECs?

21 A. I'm convinced that Southwestern Bell has not
22 provided any barriers to entry for CLECs. What they have to
23 do internally within their companies to be able to market
24 and bring goods and services to the consumers of Missouri
25 and possible barriers on their side I wouldn't have any

1 knowledge of.

2 But I believe the Commission in making the
3 determination that we were 14-point checklist compliant also
4 made the determination that there are no barriers to entry
5 in the state of Missouri.

6 Q. I think I heard you say that we can consider
7 market share but it shouldn't be the only thing we consider,
8 but that market share could be a factor --

9 A. Yes.

10 Q. -- that we consider?

11 A. I don't believe the statute outlines that
12 market share is one of the five points of the definition of
13 effective competition, but I do believe it's something that
14 the Commission could consider in making its evaluation of
15 whether or not effective competition exists.

16 Q. Under the fourth point where it says other
17 factors to consider --

18 A. Yes.

19 Q. -- the Commission to consider?

20 A. Yes, under 386.020(13)(e).

21 COMMISSIONER LUMPE: Thank you. I think
22 that's all I have, Mr. Hughes.

23 THE WITNESS: Thank you.

24 JUDGE DIPPELL: Commissioner Gaw, did you have
25 questions?

1 COMMISSIONER GAW: Thank you, Judge.

2 QUESTIONS BY COMMISSIONER GAW:

3 Q. Good afternoon, Mr. Hughes.

4 A. Good afternoon, Commissioner Gaw.

5 Q. I want to return to something that
6 Commissioner Murray was inquiring of earlier so that I can
7 get your interpretation of this.

8 Under Section 392.245.5, it's on 15, the
9 bottom of 15 on your direct, beginning at line 19 you quote
10 through -- I'm interested in that first sentence there
11 between lines 19 and 24. Do you see that there?

12 A. Yes, I do.

13 Q. Again, what is your interpretation of that
14 sentence?

15 A. That particular sentence, if I recall, is the
16 first sentence of 392.245.5 of the statute, and what this
17 particular sentence is stating to the Commission is that
18 once a CLEC or an alternate local telecommunications company
19 has been certified under Section 392.245, the Commission --
20 within five years the Commission should then look into
21 whether or not effective competition exists.

22 And in this particular section, I think it's
23 important, Commissioner Gaw, that the Commission consider
24 the following sentence as well as the two are interrelated
25 as far as what the Commission should establish in this

1 docket as far as a finding of effective competition they're
2 referring to.

3 Q. What I'm trying to understand here is that, in
4 that first sentence that I just referred to, I want to
5 understand what this means. Each telecommunications service
6 of an incumbent local exchange telecommunications company
7 shall be classified as competitive. I'm going to stop
8 there.

9 A. Okay.

10 Q. What does that mean, shall be classified as
11 competitive, to you?

12 A. What I believe that particular portion in this
13 section of the statute refers to is that the Commission
14 shall find that effective competition exists in each
15 exchange for all of our services.

16 Now, I don't want to anticipate your next
17 question, but then it goes on to say, Unless the Commission
18 determines that effective competition doesn't exist. But I
19 think the statute is written in the affirmative that
20 effective competition does exist in any -- in each exchange
21 for each service of an incumbent local telecommunications
22 company. It's an affirmative statement that the Legislature
23 put in.

24 Q. Now, the next sentence that you're referring
25 to, did you quote that in your testimony?

1 A. Yes. I believe -- let me just double check.
2 On the next page, on page 16, Commissioner Gaw, at the top
3 is the second sentence of 392.245.5, and I'm referring there
4 to the section that begins with, The Commission shall from
5 time to time. That's the second sentence of the statute.

6 Q. And when you're saying that the first sentence
7 is modified by the second sentence, you're referring to this
8 provision that you quoted at the top of page 16 of your
9 direct?

10 A. That's correct. And that's --

11 Q. Bear with me for a second.

12 A. Sure.

13 Q. Because I'm looking at something that's
14 probably meaningless, but I want to make sure it's not a
15 subtlety that has some meaning.

16 The provision in the first sentence refers to
17 a telecommunications company having been certified under
18 Section 392.455 and having provided basic local
19 telecommunications service in that exchange for at least
20 five years.

21 A. Correct.

22 Q. The second sentence that you refer me to, at
23 least as I'm looking at it here, seems to be referring to
24 what occurs within five years. Do you see that, at line 6?

25 A. Yes.

1 Q. Line 5 and 6.

2 A. It states that no later than five years
3 following the first certification is when the Commission
4 should find that effective competition exists.

5 Q. My question is whether or not -- and it's my
6 understanding that Southwestern Bell is taking the position
7 that the second sentence does modify the first sentence; is
8 that correct?

9 A. The first sentence, as you stated at the
10 beginning, is in the affirmative that the telecommunications
11 services of the incumbent LEC are classified as competitive,
12 and the second sentence refers to the fact that within five
13 years of the first certification of an alternate local
14 exchange carrier is when the Commission needs to make the
15 determination for effective competition.

16 And since Dial US has statewide certification,
17 we believe the Commission needs to make the finding in all
18 of Southwestern Bell's exchanges throughout the state.

19 Q. But Southwestern Bell is not arguing that if
20 it could be established that a telecommunications -- basic
21 local telecommunications service operated in an exchange for
22 five years, that it was automatically to be deemed a
23 competitive company without any ability for that to be
24 rebutted?

25 A. We believe that the statute is written in the

1 affirmative unless the Commission finds otherwise.

2 Q. Okay. But there is -- you are not arguing
3 that the Commission could not find otherwise if the
4 provisions of this first sentence could be established?

5 A. That is true.

6 Q. And my understanding is that today it could
7 not be established anyway?

8 A. Today, on September 25th, it could not be
9 established.

10 Q. All right.

11 A. And that's -- I'm sorry. Just to make sure,
12 in my testimony, I put in there the date that Dial US
13 received certification, and I'm referring specifically now
14 to page 17.

15 And I would also note, Commissioner, that this
16 case, I believe, was opened -- I didn't review the case file
17 in total, but I believe it was opened either on a motion by
18 the Commission or on a motion by Staff and not a motion by
19 Southwestern Bell.

20 Q. And that would be appropriate under the second
21 sentence that we've been talking about?

22 A. Correct.

23 Q. The Commission should review that to see the
24 status of competition, correct?

25 A. We agree.

1 Q. I'll ask you this again even though I believe
2 it's been stated several times. You believe that if
3 competition exists, that prices will be driven toward costs.
4 Is that your testimony as well?

5 A. Yes. We believe in a competitive market
6 prices will generally get to what their costs are to
7 actually provide the service.

8 Q. All right. Now, I want you to go through this
9 with me for a moment. Do you believe that basic telephone
10 service, basic local exchange service in Missouri in the
11 exchanges that Southwestern Bell is doing business in, that
12 there is competition currently existing in all of your
13 exchanges in Missouri?

14 A. Yes. As demonstrated on my schedules to my
15 surrebuttal testimony provided specifics on an
16 exchange-by-exchange basis to the Commission, but we believe
17 there's other factors that the Commission should look at,
18 because market share shouldn't be the threshold
19 determination for the Commission.

20 Q. But you believe that competition exists in all
21 of your exchanges in basic local telephone service?

22 A. Yes, we do.

23 Q. And thus would it also be true, based upon
24 what you've testified to earlier, that the prices that you
25 charge for basic local telecommunications service are being

1 driven toward cost under the current -- currently in
2 Missouri?

3 A. I don't believe that's true. It's our belief
4 that basic residential local service in particular, we
5 believe it's below cost. The Commission in establishing the
6 rates in -- if you'll bear with me -- Case No. 18309, which
7 was effective 6/21 of 1977, the Commission established the
8 rates for basic service residually. They didn't base them
9 on any kind of cost showing. So we believe that the rates
10 are, in fact, below cost.

11 Q. So what costs did I -- did you testify earlier
12 under, I believe it was Commissioner Lumpe's inquiry, that
13 had been reduced last year?

14 A. Our basic local service for residential and
15 business as well as switched access rates were reduced last
16 year.

17 Q. Is that the same services or different
18 services than what you just referred to as being below cost?

19 A. I'm speaking now about basic local residential
20 service being below cost, but the price cap statute has a
21 broader definition of basic services that includes basic
22 residential, basic local, as well as switched access.

23 Q. Well, I want you to educate me here.

24 A. Okay.

25 Q. I want you to tell me what it was that you

1 lowered last year that you referred to --

2 A. Okay.

3 Q. -- to Commissioner Lumpe just a few minutes
4 ago.

5 A. Sure. We made a filing -- and I apologize. I
6 wish I could remember exactly when it was. I think it was
7 November 1st, effective date of December 1st. And we
8 lowered the basic residential rates for all the customers in
9 the state.

10 We also lowered the basic rate for basic
11 business, which is single line business account. Those
12 rates were also lowered. In addition to that, we lowered
13 the rates for switched access services in the state of
14 Missouri.

15 Q. All right. Now, of those things that you just
16 mentioned, do you believe any of those are priced below
17 cost?

18 A. I believe that basic residential local service
19 is below cost.

20 Q. And that's one of those that you just
21 mentioned?

22 A. That is one of those that I just mentioned,
23 yes.

24 Q. And you believe that competition currently
25 exists in those exchanges you do business in?

1 A. Yes, I do. Not just competition, but
2 effective competition.

3 Q. And you believe if effective competition
4 exists it will drive prices toward costs; is that correct?

5 A. I do believe that once all competitors are
6 allowed to have the same pricing flexibility, what we'll see
7 is the prices for services will gravitate towards their cost
8 of providing the service.

9 Q. So if that's the case, then why did the basic
10 local residential services rate get reduced by Southwestern
11 Bell last year?

12 A. We have a statutory obligation to lower the
13 rate and --

14 Q. And was that based upon the statutory
15 provision?

16 A. Yes.

17 Q. Go ahead and cite that for me.

18 A. Let me flip back in my statute section and I
19 will provide that cite to you. I'm referring now to
20 392.245.4, and in particular subsection 1 is what I'm
21 referring to there, and the provision that Southwestern Bell
22 applied last year to reduce the rates was subsection A of
23 subsection 1 of that particular language calls for Consumer
24 Price Index as published by -- actually, the United States
25 Department of Commerce is who publishes that.

1 Q. And it was a negative last year, is that what
2 you're saying?

3 A. Yes. We decreased our rates last year.

4 Q. And it was based upon that index being
5 negative?

6 A. Yes, sir.

7 Q. Now, vertical services that Southwestern Bell
8 offers for basic residential, in addition to basic
9 residential, are you familiar with the increases or
10 decreases or otherwise that Southwestern Bell has applied
11 for or has -- well, has applied for under the rate cap
12 provisions since the rate cap started? Are you familiar
13 with that?

14 A. Yes, I am.

15 Q. And do you know whether or not Southwestern
16 Bell has asked for an increase or decrease or no change
17 during the time frame since then?

18 A. Yes, I do.

19 Q. And do you know when those have occurred and
20 what they are?

21 A. I have some information, Commissioner, that I
22 brought with me to the stand that I can provide to you.
23 What this information is, is this particular portion is what
24 we refer to as Easy Option services or vertical services.
25 And under the residential classification we have 28 services

1 filed in the Easy Option section of the tariff. 12 of those
2 services have had price changes, 16 have not had price
3 changes since 1996.

4 So that was even -- under the statute, we
5 could raise our rates a maximum of 8 percent for non-basic
6 services beginning January of 1999. Of those 12, 11 had a
7 price increase, 1 had a price decrease, and 16 had no change
8 at all.

9 You want me to talk about business as well?

10 Q. Right now let's just stick with residential.

11 A. Okay.

12 Q. Of the residential rates that went down on
13 vertical services --

14 A. Yes.

15 Q. -- you say there -- you said one; is that
16 correct?

17 A. Yes. We had a 25 percent reduction in call
18 trace.

19 Q. Call trace?

20 A. Call trace.

21 Q. What is that, by the way?

22 A. Call trace is a feature that customers can
23 activate on their telephones by dialing *57, and what it
24 does is it traps -- there's probably a better word for that,
25 but traps the call in our central office. If customers are

1 being annoying and anonymous phone calls, they can activate
2 *57 and we can put a trace on the call.

3 Q. And do you know why that price was decreased?

4 A. I don't know the specifics around that, and I
5 believe -- I'm looking through here to see if -- I thought
6 we had reduced one additional service. I don't see it on
7 here, though.

8 But our marketing department, what they do is
9 they evaluate what's going on obviously in the marketplace
10 and the pricing flexibility they have for certain services,
11 and they make a determination of what the market-based
12 rate -- what they believe the market-based rate can be for
13 establishing prices, and they try to price to that point.

14 Q. All right. And how many of them again did you
15 say had been increased?

16 A. 11.

17 Q. And of those 11, how many of those 11 were
18 increased by the full 8 percent when it was -- when the
19 request was filed?

20 A. The majority of the time when we've done an
21 increase it's been 7 or 8 percent. We have not always
22 increased the prices. What I mean by that is for the past
23 three years, in 1999, 2000 and 2001, we could have increased
24 the prices by up to 8 percent, and in some cases we have
25 increased prices more than once. The majority of the time

1 we've only increased them once over that three-year period.

2 Q. Have you provided that in some of your
3 testimony on what has been increased and otherwise?

4 A. I have not, but I could put together a
5 schedule if you'd like.

6 Q. That might be helpful at some point if we
7 could do that, Judge.

8 JUDGE DIPPELL: So let me make sure I
9 understand what you want, Commissioner Gaw. A schedule of
10 the price increases and decreases or --

11 COMMISSIONER GAW: Yes, and those that remain
12 the same.

13 JUDGE DIPPELL: For residential?

14 COMMISSIONER GAW: I'm sure we have those in
15 the record, but if he can provide them in an exhibit or
16 whatever, that would be great. For residential is what I'm
17 interested in. It could be broader if others want more.

18 JUDGE DIPPELL: Okay. I will give that
19 schedule right now an exhibit number, and it will be
20 Exhibit 29. And you can provide that as a late-filed
21 exhibit, and the parties will have a chance to give their
22 objections to that.

23 COMMISSIONER GAW: Thank you, Judge. May I
24 proceed? Excuse me.

25 JUDGE DIPPELL: I'm sorry. Mr. Haas?

1 MR. HAAS: Your Honor, would it be appropriate
2 for the Staff to request that it be broader than just the
3 residential services?

4 JUDGE DIPPELL: I was about to suggest to
5 Mr. Hughes that it include the residential and the business
6 services and -- I'm sorry. Mr. Haas?

7 MR. HAAS: Well, could we request that it
8 cover all services?

9 JUDGE DIPPELL: All right. The Commission
10 will request that it cover all services. And also,
11 Commissioner Gaw, was there a specific time period that you
12 were interested in?

13 COMMISSIONER GAW: Since '99.

14 JUDGE DIPPELL: For the last three years.

15 COMMISSIONER GAW: Hopefully that's not going
16 to create a lot of extra work.

17 MR. LANE: We literally have thousands of
18 services and thousands of rate elements. I'm assuming,
19 Commissioner, by your request that if we put it into some
20 kind of workable order that makes some sense rather than
21 giving you a 10,000-page exhibit --

22 COMMISSIONER GAW: Please. My interest is
23 mainly about the testimony that I'm inquiring about on
24 residential, but I have no objection to it being expanded.
25 However, Judge, I'll leave it up to you-all to figure out

1 what the breadth of that is.

2 MR. LANE: We can certainly take a crack at
3 it, and if the parties object to, then we'll respond.

4 JUDGE DIPPELL: You take your crack at it,
5 Mr. Lane, and if it's not what the Commission wanted, then I
6 will let you know that.

7 COMMISSIONER GAW: May I proceed, Judge?

8 JUDGE DIPPELL: Yes, please do.

9 BY COMMISSIONER GAW:

10 Q. Let's see if I can pick back up. Okay.

11 Mr. Hughes, by the way, thank you for that offer.

12 A. You're welcome.

13 Q. If there is -- in the categories on the
14 residential that you just listed, you say there were 11 of
15 them. Would it be possible to just quickly --

16 A. Sure.

17 Q. -- say what those are?

18 A. Sure. And these would be the services that
19 have increased. I hope I did my math right in adding my
20 numbers up, but caller ID, which has a name and a number
21 component, call return, which has multiple components as
22 well, call waiting has -- let me back up. I'm sorry.

23 Call ID, call return, call blocker, call
24 forwarding, three-way calling, auto redial, speed calling 8,
25 auto redial on a per-use basis, which is different, call

1 return on a per-use basis, and three-way calling on a
2 per-use basis are the services that have been increased.

3 Q. All right. And that completes the list?

4 A. Yes, it does.

5 Q. All right. So in rendering decisions about
6 making those increases under the price cap, do you know what
7 drives the request?

8 A. What our marketing results -- we have
9 marketing folks and we also have a pricing organization.
10 They're different organizations within our company. But
11 what they evaluate is what they believe the market-based
12 price will be for these services. So they try to price
13 services to the marketplace.

14 So if they believe that a particular service
15 within the market that exists in Missouri will accept a
16 price increase, then they will increase the prices. If they
17 believe that the market is dictating that a price decrease
18 is necessary, then they will look to decrease the prices.

19 They try to establish their pricing at
20 market-based rates, which is, I believe, what most of the
21 competitors, the CLECs, et cetera, what they price to as
22 well is market-based pricing.

23 Q. Do you -- would you agree that generally those
24 vertical services for residential customers are priced above
25 cost?

1 A. Yes, I would. And if I could refer back to a
2 Case No. 18-309, those services were put into a category one
3 when the Commission established the rates, and in
4 establishing those, the Commission determined that the joint
5 and common costs should be included in that and specifically
6 that contribution be built into the pricing of those to
7 residually price the basic local service where they did.

8 Q. And what do you mean by that when you say
9 that?

10 A. Well, I'll give you my interpretation.

11 Q. That's fine.

12 A. I think what the Commission intended to do was
13 to price optional services, such as custom calling features,
14 at a rate above cost that allowed -- at that time we were a
15 rate of return company -- to allow us to earn our return on
16 the optional services and price the basic local service
17 below its cost to keep it affordable for customers in the
18 state.

19 Q. So in other words, the basic telephone line in
20 your house, that the price that a customer was paying for
21 that would continue to be at a similar level after the
22 legislation was passed in '96, but if you wanted additional
23 options, perhaps the thought was that, if you want those,
24 that's a choice that you can make and you may pay more for
25 that, but it is your choice to decide?

1 A. That would be my interpretation as well of
2 what SB507 the intention was in the subsequent statute. I
3 think, Commissioner, it's important to note, as I believe
4 Ms. Fite put in her testimony, and I think I even cite it in
5 mine, with just one exception, and that was down in
6 Springfield with the implementation of the MCA around 1992,
7 our basic local rates have remained constant since 1984.

8 So we haven't seen an increase -- with the
9 exception of the decrease that we made last year, we hadn't
10 seen a change in the prices for 15, 16 years on the basic
11 local service.

12 Q. Historically up to this point in time, has it
13 been possible for a CLEC to offer the kinds of residential
14 vertical services that you mentioned without also -- without
15 first having established a relationship for basic services
16 with a customer, basic telephone services?

17 A. The CLECs themselves?

18 Q. Yes.

19 A. Not these types of services that we're talking
20 about here. They may have been able to provide services
21 such as voice mail, but that's not something that
22 Southwestern Bell Telephone Company offers.

23 Q. So I guess I should ask you this question to
24 get it out. If you're looking at vertical services alone,
25 and we note that those 11 that you mentioned that have had

1 price increases, they have been rising since 1999 under
2 Southwestern Bell's request; is that correct?

3 A. For those particular 11, yes.

4 Q. Yes. And if we were to look at that by
5 itself, would you not agree that at least some question
6 would arise as to whether or not competition were keeping
7 those costs under control if we assume that the costs for
8 those services, that you're selling those services over cost
9 and yet you're having increases in those services?

10 A. I think what it could indicate to the
11 Commission is that, although services may be increasing, the
12 price for basic local has essentially remained constant. It
13 did decrease last year. But the bundle, if you will, we've
14 talked some about bundling the last couple of days, but the
15 bundling offer together to our customers is still within
16 what they believe is the appropriate rates for the market.

17 CLECs in determining their pricing decisions,
18 I haven't reviewed all of their tariffs in total, but they
19 may have a different pricing structure where maybe they
20 charge more for the line but they charge less for vertical
21 services, as an example.

22 I don't know that any do that. I don't want
23 to suggest that, but that is a possibility, or they could
24 bundle the Internet and long distance and such together and
25 that package together offer just one price to the customer,

1 for X dollars I will provide you, you know, the line,
2 three-way calling, speed calling, caller ID, call waiting,
3 whatever, for \$20.

4 Q. Let me see if I can give you a slightly
5 different question that might assist. Isn't it true,
6 Mr. Hughes, that it is at least at this point in time, based
7 upon prior practice in Missouri, not really appropriate to
8 look at vertical services separate from basic local when
9 you're dealing with residential customers because the two
10 are tied together and looking at them separately will give
11 one a misleading conclusion in regard to costs and
12 competition and how they relate to one another?

13 A. I think there are certain features that
14 Ms. Fite and Ms. Fernandez identified in their testimony
15 where CPE is a substitutable offering for those services.
16 For example, call return, just hit the buttons on your
17 phone. Speed calling, you hit certain buttons on your phone
18 and you're able to perform the same functions that
19 Southwestern Bell provides through its switch. So I think
20 there are offerings out there today, regardless of CLEC
21 entry or not, because of CPE.

22 In addition, with the entry of CLECs into the
23 market and with the fact that CLECs are operating their own
24 switches in the state, their switches have the same
25 capability to provide those vertical services that our

1 switch does. So I think CLECs can actively market those
2 services to their customers in addition to providing basic
3 local service.

4 Q. But they cannot market vertical services or it
5 has not been the practice for them to be able to market
6 those vertical services that you mentioned particularly in
7 that category of 11 unless they have also had that
8 individual residential customer sign up for basic local;
9 isn't that true?

10 A. I believe that the basic local service and the
11 access line is the conduit to generally get the vertical
12 services. There are exceptions to that where CPE can act as
13 a competitor, but the CLECs cannot today -- and maybe they
14 can with their own switch and I'm not familiar with it --
15 offer a vertical service without the line.

16 Q. So if we are examining the relationship of
17 costs in the residential arena in light or in an attempt to
18 determine how it relates to the status of effective
19 competition in the residential arena, would you agree or
20 disagree that we should examine the costs of vertical
21 services plus the costs of local basic services in comparing
22 how prices may currently be in relationship to one another
23 and in figuring out whether or not we are above or below
24 costs for providing those services together?

25 A. I think the bundling, if you will, that you're

1 referring to is exactly the reason I believe CLECs can
2 compete in the residential marketplace. However, I think
3 there needs to be a caution that, if you're going to look at
4 it that way, obviously not all customers behave the same in
5 the marketplace. When I say behave, I mean as far as what
6 they purchase from Southwestern Bell, the CLECs, whomever is
7 providing their service.

8 Since we have a carrier of last resort
9 obligation, I have a concern that the competition will come
10 in, cherry pick if you will, take the best customers. We'll
11 be stuck with the high-cost/low-profit customers to serve
12 and without the ability to adjust prices to be able to
13 compete and earn a return. So I do have a concern about
14 that.

15 Q. And does that infer that in order to take care
16 of making sure that you're not left with that result and
17 having to bear the burden of being the carrier of last
18 resort, that you would need to raise the costs of local
19 basic services?

20 A. That could happen. As I said, we don't have
21 any firm plans to do that one way or the other. I do
22 believe that the prices will eventually get near cost, but
23 we will look at obviously the market mix of services that we
24 offer to our customers.

25 I also think, Commissioner, it's interesting

1 that discussions that I've had with the other price cap
2 companies about some of the things that they've done in the
3 past as far as raising their basic local service under their
4 price cap statute last year by \$1.50, it was interesting to
5 me to hear that they weren't inundated with any formal
6 complaints.

7 MR. ZARLING: I'm going to object to the
8 hearsay in this testimony.

9 COMMISSIONER GAW: Yeah. I don't mind that
10 objection, Judge, because the answer wasn't directly
11 responsive, and it did get into hearsay. So I'll -- so that
12 no one thinks that I'm concerned about the objection.

13 JUDGE DIPPELL: I'm sorry. Was your objection
14 to strike that part of the testimony?

15 MR. ZARLING: I'll object to any additional
16 testimony and striking what Mr. Hughes had said about what
17 other price cap companies have told him.

18 JUDGE DIPPELL: All right. I will strike the
19 portion of the testimony -- I'm trying to look at what his
20 statement was -- about the price, what the other price cap
21 companies have told him. We'll strike that from the record.

22 Commissioner Gaw, would you like to continue?

23 COMMISSIONER GAW: I believe I'm finished
24 anyway. Thank you, Mr. Hughes.

25 THE WITNESS: Thank you, Commissioner.

1 JUDGE DIPPELL: Were there further questions?
2 Commissioner Murray, did you have any additional questions.

3 COMMISSIONER MURRAY: I don't believe so.

4 JUDGE DIPPELL: Commissioner Lumpe?

5 COMMISSIONER LUMPE: Just a couple.

6 QUESTIONS BY COMMISSIONER LUMPE:

7 Q. Mr. Hughes, I think you also mentioned that
8 you lowered the switched access rates?

9 A. Yes, we did last year with our price cap
10 filing.

11 Q. Are they still above cost?

12 A. The access rates?

13 Q. Yes.

14 A. I believe that they are, yes.

15 Q. And I think there was some discussion about
16 this maybe yesterday. If you were to raise the -- to
17 increase the vertical service the 8 percent, the various
18 items the 8 percent, and based on your marketers going out
19 and looking at what's going on in the market, and assume
20 that they sort of misjudged and they thought it was going to
21 go
22 8 percent but it really didn't.

23 Could you lower it or is your concern that if
24 you lowered it then that would become the base for the next
25 year? Is that the company's concern?

1 A. We do have that concern, Commissioner, that if
2 we misjudged the market and we don't have the pricing
3 flexibility that we think we need and we lower our price and
4 that becomes the new cap and then it turns out that the
5 market actually would be agreeable to a 10 or 15 percent
6 increase, let's say, under the current price cap rules that
7 we operate under, if the cap was set at the lower rate, then
8 we'd only be able to increase it by 8 percent, and that's
9 not a situation that the other competitors in the market,
10 that's not a constraint that they have on their pricing.

11 Q. So your concern is that if you were to lower
12 it, that would become the base from which you could raise
13 the next 8 percent?

14 A. That's correct.

15 Q. Would you look on page 21 of your surrebuttal
16 with me. You're commenting on Mr. Price's comments, and you
17 use -- there's the word -- the letters, I'm sorry, EEL.
18 Would you tell me what that is?

19 A. I apologize. That EEL there refers to an
20 enhanced extended link, which is an offering in the
21 interconnection world that provides essentially transport
22 from a CLEC to Southwestern Bell. It's a form of transport.
23 It's a combination of elements to provide that.

24 Q. And Mr. Price's testimony is that you've
25 eliminated a source of revenue from CLECs. Would you just

1 explain a little more to me what's meant there?

2 A. Well, I think where he -- I'm getting him. As
3 far as that source of revenue is concerned, I believe
4 Mr. Price is mistaken. I believe under the M2A in
5 particular in Section 14, and I believe the EEL section or
6 the enhanced incentive link section is 14.7 of Attachment 6.
7 Southwestern Bell has made known it's commitment under the
8 M2A, the Missouri 271 agreement, what it is willing to do in
9 the way of EELs or enhanced extended link services.

10 Q. And do you disagree that this source of
11 revenue has been eliminated?

12 A. Well, he is referring to the fact that it's
13 WorldCom's belief that we have an obligation to do
14 combinations of network elements.

15 And under the law of the land as it is today,
16 we do not have that obligation to do that, but in the M2A we
17 put forth our commitment in Attachment 6, Section 14, about
18 what we would do regarding combination of network elements,
19 and this is one of those combinations that he is
20 specifically referring to.

21 Q. Okay. And on the last page of your
22 surrebuttal, 37, where you suggest that should we not find
23 there's competition, I'm assuming, that we would draw an
24 appropriate road map for you defining what the issues are so
25 that you would know what to correct or where to go.

1 A. Yes. We think that we've met the statutory
2 definition of effective competition, as I've said, but if
3 the Commission determines that we haven't, we think it would
4 be appropriate for the Commission to give guidance so that
5 we know what the Commission is looking at and evaluating in
6 determining what constitutes effective competition. If
7 there's maybe additional data that the Commission wanted
8 that we weren't able to provide, maybe it's data from the
9 other parties. We don't have all the data that the CLECs
10 do. Maybe they need to provide data.

11 There's been a lot of testimony given about
12 wireless and things of that nature, and our testimony is
13 that it is competition and we are feeling the effects of
14 that competition, but we haven't been able to quantify it.
15 I don't know that we could or should have an obligation to
16 do that.

17 But if the Commission has ideas, we think it
18 would be appropriate for you to let us, as well as the other
19 parties, know what the Commission is looking to determine
20 under the definitions in 386.

21 COMMISSIONER LUMPE: Okay. Thank you.

22 THE WITNESS: Thank you.

23 JUDGE DIPPELL: Commissioner Gaw, did you have
24 anything further?

25 COMMISSIONER GAW: No. I'm sorry. Thank you.

1 QUESTIONS BY JUDGE DIPPELL:

2 Q. Mr. Hughes, I just have a couple more
3 clarifying questions for you myself, and I'm going to take
4 you way back to early in the day in your testimony.

5 A. Okay.

6 Q. You talked about, and I think you sort of
7 alluded to this later, but you talked about Rate Group D.

8 A. Yes.

9 Q. Is that one of the four rate groups that you
10 were discussing with Commissioner Lumpe?

11 A. Yes, it is. Rate Group D is the largest rate
12 group. It's the one that's 230,000 lines and greater.

13 Q. And then once -- and I know what this is, but
14 so that the record is clear, once you've made reference to
15 the St. Louis area, and you said that you were talking about
16 the optional areas of the MCA. Do you want to just describe
17 for the record a little bit what that is?

18 A. When I referred to that, what I meant was the
19 St. Louis area is comprised of the principal zone and then
20 five MCA tiers that fan out from the principal zone, which
21 is downtown St. Louis.

22 The first two tiers, MCA-1 and MCA-2, along
23 with the principal zone in St. Louis, comprise the mandatory
24 MCA area, and then MCA-3, MCA-4 and MCA-5 are the areas that
25 comprise the optional MCA area. So when I refer to the

1 St. Louis MCA, I was referring to it in total from the
2 principal zone out through MCA-5.

3 JUDGE DIPPELL: Okay. Thank you. Is there
4 recross based on questions from the Bench from Staff?

5 MR. HAAS: Yes, your Honor.

6 RECROSS-EXAMINATION BY MR. HAAS:

7 Q. Mr. Hughes, in response to questions from
8 Commissioner Gaw you stated your belief that residential
9 basic local service is priced below cost based on a
10 Commission decision in a 1977 case. Does Southwestern Bell
11 have a more recent cost study that shows the cost of
12 providing basic local service?

13 A. Not to my knowledge.

14 MR. HAAS: Thank you.

15 JUDGE DIPPELL: Is there recross based on
16 questions from the Bench from Public Counsel?

17 MR. DANDINO: Yes, your Honor.

18 RECROSS-EXAMINATION BY MR. DANDINO:

19 Q. Mr. Hughes, Commissioner Lumpe asked you about
20 the rate bands --

21 A. Yes, sir.

22 Q. -- and the statewide. Could Southwestern Bell
23 reduce their rate bands under price cap regulation?

24 A. Let me just make sure I understand the
25 question. Let me give you an example, if I could,

1 Mr. Dandino.

2 Q. Sure.

3 A. Are you asking if we could combine Rate
4 Groups A and B as an example?

5 Q. Yes.

6 A. To the extent that it's a new service
7 offering, I believe that we can. To the extent that under
8 the current price cap statute rates would change and
9 specifically possibly increase over what they are today, I
10 don't believe we have the statutory authority to do that.

11 Q. If they fell within a percentage, you could?

12 A. I don't believe the 8 percent would apply to
13 the basic services that comprise the rate groups. I believe
14 that would be for the non-basic services.

15 Q. Commissioner Gaw asked you about any decreases
16 that there were in the basic rate, especially the basic
17 residential rate. I believe your response was not since
18 1984 until just recently; is that correct?

19 A. With the exception of a rate change in the
20 Springfield area with the implementation of MCA back in
21 1992.

22 Q. Weren't residential rates or local basic rates
23 reduced in overearnings cases since '84?

24 A. Not that I'm aware of. In all the research
25 that I've done, Mr. Dandino, all the evidence that I've seen

1 has been that our basic local rates have been constant since
2 1984.

3 Q. Has some services such as touch tone been
4 blended into or included in the basic rate?

5 A. I am familiar that Southwestern Bell
6 eliminated touch tone several years ago. I don't know the
7 specifics of how that was done, though.

8 Q. So if you buy basic service, it includes that?

9 A. Today it does, yes.

10 MR. DANDINO: That's all I have. Thank you.

11 JUDGE DIPPELL: Is there recross based on
12 questions from the Bench from AT&T?

13 MR. ZARLING: Yes, your Honor.

14 RECROSS-EXAMINATION BY MR. ZARLING:

15 Q. Mr. Hughes, I can really hit *57 and do call
16 trace?

17 A. If you get service from Southwestern Bell or
18 from AT&T.

19 Q. Okay. That's good to know.

20 A. I'm asking you who you get service from. I
21 don't know. If you get it from AT&T, I don't know if they
22 offer it.

23 Q. Okay. Earlier in response to some questions
24 or a question from Commissioner Murray you referred to some
25 testimony of Dr. Aron about the number of wireless

1 subscribers coming on line or coming on the network and you
2 quoted a figure of 68,000 daily, I think. To be clear,
3 that's nationwide, is it not?

4 A. Yes, it is.

5 Q. Commissioner Lumpe asked you some questions
6 about -- many different questions about your ability to
7 raise rates under the price cap statute, and I think your
8 responses generally were you have an 8 percent limitation on
9 the -- on what I'd call discretionary services or non-basic
10 services, non-basic services, and that basic services are
11 pretty much tied to the CPI for where they have to be, is
12 that your --

13 A. That's correct.

14 Q. We had a discussion before, though, about
15 whether subsection 8 and 9 of -- it would really be under 9,
16 I guess, of 245 allows Southwestern Bell to raise local
17 rates as part of a rebalancing effort. Do you recall my
18 line of questioning on that before?

19 A. I do.

20 Q. So would you agree with me that if
21 Southwestern Bell could rebalance, that would provide them
22 an opportunity to raise local rates under the price cap
23 statute?

24 A. If I could agree with that, I would agree that
25 that would allow us to rebalance under the price cap.

1 Q. But we don't agree. You think Southwestern
2 Bell cannot rebalance rates, and I don't think the
3 Commissioners were actually here when we did that cross, but
4 you don't believe Southwestern Bell can rebalance under
5 subsections 8 and 9 of the price cap statute?

6 A. That's correct, we do not believe that we can.

7 Q. Chair Lumpe and -- excuse me. Commissioner
8 Lumpe -- no offense to Commissioner Simmons, Chair
9 Simmons -- and I think Commissioner Gaw also asked questions
10 related to the tying together, if you will, of vertical
11 features with the local line, and I think specifically
12 Commissioner Lumpe asked about whether they did have to be
13 tied together for determining whether or not you could
14 competitively classify some vertical features.

15 And you've -- I think your general answer has
16 been that there's some CPE that would permit some of those
17 to be done. Is that your recollection of your answer?

18 A. That's correct, there is some CPE that would
19 offer vertical service, similar services to vertical
20 services.

21 Q. You would agree, however, that, for example,
22 caller ID needs -- is not one that today -- is not a
23 vertical feature that today can be provided without the --
24 well, is provided over the dial tone line through the
25 carrier's switching technology?

1 In other words, there's no CPE today that will
2 give you caller name or caller name and number on its own
3 without that service being turned on at the switch?

4 A. I'm trying to recall, Mr. Zarling, testimony
5 from, I believe it was Ms. Fite who provided an example in
6 her testimony, and I thought it was caller ID, but I could
7 be wrong on that. Her testimony, her written testimony
8 would speak for itself about whether or not it was caller
9 ID, and that's why I'm hesitating in answering your
10 question.

11 I'm not aware of the ability to have it, but
12 in the back of my mind, in reading her testimony, I think it
13 was Ms. Fite mentioned, but I do believe that you need to
14 get something from the switch in order to determine what the
15 calling name and calling number is.

16 Q. We're probably all familiar with the idea you
17 can buy a separate caller ID box, but it doesn't do anything
18 unless you subscribe to the service?

19 A. Correct.

20 Q. And with the caveat you said you think
21 Ms. Fite may have spoken to that.

22 Is that your understanding with call waiting
23 as well?

24 A. Yes, it is.

25 Q. And even if you do have CPE that would perform

1 some of the other vertical features that you talked about,
2 you have to have a basic dial tone line to plug that CPE
3 into?

4 A. That would be true. Without some sort of
5 basic local service, there would be no need for call
6 waiting, as an example.

7 Q. You received a lot of questions about the
8 interpretation of 245.5, and let me just try and ask a few
9 and see if it doesn't make matters worse or clarify things.
10 But when I read the first sentence of 245.5, and it talks
11 about a trigger of -- actually two triggers there, as I read
12 it, certification and providing service.

13 Okay. It then goes on to describe, if you
14 will, the standard for Southwestern Bell achieving
15 classification, competitive classification for a service as
16 being subject to the Commission not finding effective
17 competition. Do you see that in the last clause of the
18 first sentence?

19 A. Are you referring to the last maybe 15 words
20 or so, that effective competition?

21 Q. Where it says that effective competition,
22 unless the Commission determines after notice -- it is the
23 last clause. If the Commission determines that after notice
24 and hearing that effective competition does not exist in the
25 exchange of such service.

1 Okay. Do you see that? Because I'm going to
2 try to work through maybe what the second sentence and
3 beyond accomplishes.

4 A. I do see that, yes, in the statute.

5 Q. Okay. The first sentence -- to sum up, the
6 first sentence talks about there's two keys to whether Bell
7 might be classified that trigger the examination, and that
8 is there's certification and there's also service having
9 been provided, basic local service having been provided for
10 at least five years, and then the Commission basically has
11 to make a finding that effective competition does not exist
12 in order for that competitive classification to not occur.

13 Would you agree with that characterization of
14 the first sentence?

15 A. I would agree that the first sentence talks
16 about each telecommunications service of the incumbent LEC
17 shall be classified as competitive unless the Commission
18 does not find that effective competition exists, and within
19 that section there is a trigger regarding certification and
20 providing service.

21 Q. Okay. Actually, I may have misstated it.
22 It's the Commission must find that effective competition
23 does not exist?

24 A. That's correct.

25 Q. And would you agree with me that on page 15 of

1 your direct testimony, lines 19 to 24 where Commissioner Gaw
2 was questioning you about that, that that particular
3 condition, those words from the first sentence were omitted
4 from your testimony?

5 A. Yes. On the quote on page 15, I did not have
6 all of the words in the first sentence, yes.

7 Q. And then the next page and in the statute, you
8 go on and the statutes goes on, and Commissioner Gaw asked
9 about this, and it talks about the Commission on its own
10 motion, and you described how this can just be an
11 examination prior to the five years of whether there's
12 competition.

13 I think it's been your testimony that without
14 the condition of whether there's actually been service
15 provided in any particular exchange, as the first sentence
16 would seem to require?

17 A. That's correct.

18 Q. Okay. Would you -- and then if you read
19 through that second sentence, and, of course, it goes on
20 quite a ways. In that second sentence, I think it's
21 actually in two places, the Commission has to make an
22 affirmative finding that there is effective competition.

23 Do you agree that that's the language of the
24 statute in the second sentence?

25 A. I would agree that it's in there once. I

1 don't see it twice.

2 Q. It may actually -- sorry. It may actually be
3 beyond that second sentence. Yes. The beginning of the
4 third sentence in the statute which you haven't quoted, but
5 the third sentence of the statute it says, If the Commission
6 determines that effective competition exists. So again,
7 it's a determination that effective competition exists
8 rather than doesn't exist.

9 Would you agree with me that that's in the
10 third sentence? It appears you have the statute there.

11 A. Yes, the third sentence does state that.

12 Q. So would it appear to you that if we're not
13 proceeding under the first sentence, which is triggered by
14 whether or not there's certification and a carrier providing
15 service, but we're, in fact, proceeding under the second
16 sense, which is just a general investigation that the
17 Commission can initiate on its own motion but is still
18 directed at a period five years after somebody's been
19 certified, the primary difference between these two sections
20 of the statute is whether the Commission has to either
21 affirmatively find that effective competition does not exist
22 or find that effective competition does exist?

23 A. I would agree that there is that difference
24 between sentence 1 and 2, yes.

25 Q. Do you think that this line of questioning has

1 been helpful at all in explaining how this section might
2 work, how those two sentences might work together?

3 A. If I was writing this, there would be a few
4 more periods in there and that would be about four or five
5 sentences, but I didn't write it.

6 MR. ZARLING: I tried, Commissioner Gaw.

7 THE WITNESS: I'm sorry I'm not an attorney.

8 BY MR. ZARLING:

9 Q. In response to some general questions from
10 Commissioner Murray about the evidence that you put on to
11 show that there's competition, and you refer to numerous
12 schedules having to do with lines that have been lost and so
13 forth --

14 A. Yes.

15 Q. -- have you reported anywhere in your
16 schedules, put on evidence about the number of access lines
17 that Southwestern Bell has gained in, say, the last two
18 years?

19 A. I believe I have. I believe, Mr. Zarling,
20 that would be -- let me not cite you to the wrong schedule,
21 but Hughes Schedule 8 to my surrebuttal, and I think what
22 you will see there is that Southwestern Bell hasn't gained
23 any lines in the last three years, and, in fact, we've had a
24 decrease in lines.

25 We have year to date totals in here. We

1 give -- I'm sorry. We have -- these are quarterly totals.
2 I apologize. And we've gone for the last six quarters that
3 we have, and you can see that the downward trend from March
4 to June to September continues until you see December of
5 2000 through March of '01 and June of '01, a declining trend
6 of Southwestern Bell retail lines, and I'm referring to the
7 kind of greenish-blue bar.

8 In fact, for the last three quarters we've
9 seen negative line growth or the loss of lines. I believe I
10 have provided that information to the Commission.

11 Q. And I was looking at Schedule 8 and it was not
12 clear to me. This is line growth -- excuse me -- line loss
13 in an absolute basis relative to, what is it, January 1st of
14 2000?

15 A. Yes. And it is a net number. So to the
16 extent that we won a customer back or added an additional
17 line during the period, this is taken into account and this
18 would be a net number. So the loss of 40,000 would be the
19 total loss, including inward activity. You know what I
20 mean, inward activity?

21 Q. That's cumulative?

22 A. Yes.

23 Q. Thank you for that clarification. Let me see,
24 your Honor. I might just be done.

25 You were asked some questions about

1 Southwestern Bell's ability or interest in becoming a CLEC
2 outside of Southwestern Bell territory, and you said you
3 don't really know Southwestern Bell's plans to become a
4 CLEC.

5 A. I'm sorry?

6 Q. You didn't know of any plans by Southwestern
7 Bell to become a CLEC in Missouri. Have you had any contact
8 or do you know of any plans by any other ILECs to become a
9 CLEC in Southwestern Bell territory?

10 A. I don't know, Mr. Zarling. I haven't looked
11 at or reviewed in several months whether or not -- I'm
12 assuming you're referring to maybe like a BellSouth or
13 Verizon or maybe even -- well, let me answer it this way.

14 The answer to that question is yes, and I
15 forgot about Sprint. They are an ILEC in the state and they
16 are a CLEC in the state. So we have had inquiries and, in
17 fact, we have an interconnection agreement and Sprint is
18 operating in our territory as a CLEC.

19 Q. You also had a question from Commissioner Gaw
20 having to do with the residential, I want to say price cost
21 differential, and your answer was that in general you had
22 fear that CLECs would cherry pick and you would be left with
23 all the customers with no vertical features and just the
24 lines that cost more than the basic retail rate would
25 recover. Do you recall that?

1 A. Yes, I do.

2 Q. Isn't it true that that dilemma, if you will,
3 or that problem would be addressed and solved by the
4 implementation of a USF, a Universal Service Fund in this
5 state?

6 A. Not necessarily. The reason I say that, the
7 implementation of a Universal Service Fund, as I mentioned
8 earlier, there's two components. There's a low-income
9 piece, which Southwestern Bell strongly advocates that we
10 get that piece up and running, and there's the high-cost
11 portion of the fund.

12 And on the high-cost portion of the fund
13 today, we don't believe there's a universal service problem
14 in the state of Missouri based upon the level of
15 subscribership to basic local service in the state.

16 Now, if rates increase, which I presume the
17 hypothetical that we're talking about here in subscribership
18 would dramatically decrease such that there may be a
19 universal service issue in the state, then a Universal
20 Service Fund may be able to address that, but today I don't
21 believe there is a universal service problem in the state of
22 Missouri.

23 Q. So you think -- is it your position that rates
24 ought to increase and then you see a drop in subscribership
25 or some indication that rates need to come down, or are you

1 suggesting that you only use a -- I mean, what kind of fund
2 would it be that would address the problem of consumers
3 finding the rates being too high, such as subscribership
4 dropped off?

5 A. Well, I think the low-income side of the fund
6 can address some of that for consumers that are challenged
7 financially.

8 On the high-cost side, I'm not sure that we're
9 going to see a correlation if residential rates increase to
10 a decrease in subscribership in basic local service. I'm
11 not sure that that correlation will, in fact, happen. So I
12 don't know that we should put a fund in place that tries to
13 address a problem that doesn't currently exist.

14 Q. Okay. My question really goes to whether or
15 not the fund would address a problem that apparently
16 Southwestern Bell is concerned might exist in the future and
17 I guess is looking for relief here, and that is, without
18 competitive classification, Southwestern Bell won't be able
19 to compete and be left with only those lines that are
20 unprofitable to serve.

21 And so my question to you is, won't a USF, a
22 high-cost USF address Southwestern Bell's problem by
23 insuring that Southwestern Bell continues to -- does not
24 lose money on those lines that are unprofitable to serve,
25 that cost more than the retail rate will support?

1 A. I think it could. I just don't know how the
2 market dynamics are going to change in the near term
3 relative to any pricing adjustments that Southwestern Bell
4 may or may not make.

5 But to the extent that there is high-cost
6 areas and to the extent that Southwestern Bell serves those
7 high-cost areas and to the extent that there is a Universal
8 Service Fund, we should receive funding for providing
9 service in those high-cost areas.

10 Q. Okay. But I'm not sure that answered my
11 question.

12 A. I'm struggling answering your question,
13 Mr. Zarling, because I guess maybe I'm confused slightly by
14 what exactly you're asking me.

15 Q. Well, in a nutshell you, I think, responded to
16 Commissioner Gaw that you were concerned about being stuck
17 with customers that were unprofitable to serve. And my
18 question to you that I think you finally answered yes to
19 was, wouldn't a USF address that concern that you would not
20 have to raise local rates in order to insure that you were
21 recovering your cost of providing service to these
22 unprofitable local customers?

23 A. I don't think that addresses what I'm looking
24 for in this docket and what Southwestern Bell's looking for
25 in this docket. That possibly could eliminate the concern

1 that I have about us providing service in the high-cost
2 areas below cost, but that would not allow us -- the advent
3 of a state Universal Service Fund would not allow us the
4 pricing flexibility that the other competitors in the
5 marketplace have, and we need that to be able to compete in
6 all -- for all the services for all the customers in all the
7 exchanges.

8 Q. I understand. You're looking for more
9 flexibility and not simply to be able to continue to serve
10 low-end customers without raising local rates?

11 A. In concert with one another, I think that
12 might be able to meet the concerns that I have. I just
13 don't know how the marketplace is going to play out, though.

14 Q. You would agree with me that to the extent the
15 Commission is concerned about raising local rates, a
16 functioning USF may permit competition in other services,
17 such as business services, without requiring Southwestern
18 Bell to raise local -- residential rates?

19 A. It may. I'm just not sure that the
20 residential market won't allow a price increase without
21 there being a loss in subscribership. I don't know.

22 Q. Sure. I understand that.

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

24 JUDGE DIPPELL: Is there further cross from
25 WorldCom?

1 RE-CROSS-EXAMINATION BY MR. LUMLEY:

2 Q. Mr. Hughes, you've had several questions from
3 the Commission regarding your ability to increase the
4 residential rates under the price cap situation. Wouldn't
5 you agree with me that Section 392.246 provides a potential
6 avenue for your company to come to the Commission under
7 price caps and seek an increase in those rates?

8 A. Do you have that statute?

9 Q. (Indicating)

10 A. The statute refers to 392.220.

11 Q. If you're not certain as you sit here, that's
12 fine. I really didn't mean to force you to study it. I was
13 looking more for your understanding as you sit here.

14 A. I have not reviewed that statute, and that
15 statute refers to other sections of the statute, Mr. Lumley,
16 specifically 392.220 and 230. And without reviewing all the
17 statutes in combination, I'm not sure.

18 Q. That's fine. I wasn't trying to give you a
19 live law test or anything. Didn't mean to put you on the
20 spot like that.

21 In connection with some questions from
22 Commissioner Lumpe you discussed again your company's
23 concern about the possibility that the cap could somehow
24 fluctuate as you change your rates. You recall that?

25 A. Yes, I do.

1 Q. Wouldn't you agree with me that the last
2 sentence of subsection 11 of Section 245 specifically says
3 your company can change your rates, meaning increase or
4 decrease, as long as you don't go over the maximum rate,
5 which is the initial rate subject to the annual changes?

6 A. Yes. I believe that's what subsection 11
7 would potentially allow us to do. The specific issue that I
8 was talking to Commissioner Lumpe about was if the cap
9 itself would have changed as a result of our filing and it
10 was later determined that the market would allow an increase
11 greater than 8 percent, we wouldn't be able to get it back
12 up to that range.

13 Q. But when it says you're allowed to change your
14 rate, doesn't that imply you can change it up and down?

15 A. I believe that is a correct interpretation of
16 the statute.

17 Q. And then you had some questions from
18 Commissioner Lumpe about page 21 of your surrebuttal where
19 you're addressing WorldCom witness Don Price's testimony.
20 Do you recall that?

21 A. I do.

22 Q. Specifically with regard to the EELs. And as
23 phrased, the question in your testimony remarks that
24 Mr. Price is talking about Southwestern Bell eliminating a
25 source of revenue to CLECs using EEL, and isn't it true that

1 in your answer you don't say, No, we haven't eliminated the
2 source of revenue; instead what you say is, We believe we've
3 been allowed to eliminate the source of revenue?

4 A. I don't believe we have eliminated the source
5 of revenue under the M2A.

6 Q. Okay. Isn't it true that the M2A provides
7 that EELs involving DS1 and DS3 circuits can only be used
8 for the CLEC's own end user customers?

9 A. Are you reading from the M2A?

10 Q. No. I'm reading from Mr. Price's testimony,
11 but it is in Section 14.7.1, because when you had your
12 testimony I checked it again.

13 A. I don't have the M2A in front of me to know if
14 it has that limitation as you've suggested in Mr. Price's
15 testimony about it would only be to their customers or not.
16 I don't recall the 14.7.1 specifically of Attachment 6 UNE.

17 Q. Do you recall that it's your company's
18 interpretation of the M2A that EELs involving DS1 and DS3
19 circuits cannot be used for providing terminating access
20 service?

21 A. Yes.

22 Q. So you agree with that?

23 A. I do.

24 MR. LUMLEY: Okay. Thank you.

25 JUDGE DIPPELL: Is there recross based on

1 questions from the Bench from Sprint?

2 MS. HENDRICKS: No, your Honor.

3 JUDGE DIPPELL: McLeod?

4 MR. KRUSE: Thank you, your Honor. I'll be
5 very brief.

6 RECROSS-EXAMINATION BY MR. KRUSE:

7 Q. I wanted to follow up, Mr. Hughes, on a
8 question from Commissioner Lumpe regarding the use of market
9 share factors in evaluating effective competition. And I
10 believe that you indicated that you could use market share
11 factors under prong -- under subsection E of the statute
12 386.020.13; is that correct?

13 A. I believe under subsection E of that provision
14 of the statute, the Commission could consider market share
15 gained by the CLECs.

16 Q. And that subsection E of that statute deals
17 with other factors, kind of a catchall?

18 A. I believe it does.

19 Q. Yes. Wouldn't you agree with me, though --
20 and I bring this up because I don't think it's a trivial
21 point. Wouldn't you agree with me that the use of market
22 share factors would be highly relevant if not maybe the most
23 relevant characteristic for determining whether Southwestern
24 Bell complied with prong A or subsection A?

25 A. Not at all. Not at all. Subsection A talks

1 about to the extent services are available from alternate
2 providers. It mentions nothing about the level of market
3 share gained by a CLEC.

4 Q. Don't you think the level of market share
5 relates directly, if not specifically, to market share of
6 competitive providers?

7 MR. LANE: Judge, I'm going to object. I
8 think it's been asked and answered previously by Mr. Hughes
9 about eight times in his initial cross-examination.

10 MR. KRUSE: Well, your Honor, I know that we
11 discussed it quite a bit. I'm not up here to belabor it,
12 though. We kind of danced around the issue a lot, but I
13 don't think it was framed quite in that way.

14 And I think Commissioner Lumpe's question kind
15 of hit the nail on the head when she said kind of where
16 is -- it brought out a determination of where does market
17 share fit into the five factors, and I'm trying to establish
18 that I think it fits into both A and E. I don't think it
19 was ever put -- in my questioning, I don't think it was ever
20 put that directly.

21 JUDGE DIPPELL: I think you're right that it
22 was never put that directly. I think that it was discussed
23 a lot when you were questioning Mr. Hughes before. And I
24 will allow you to ask it that directly, but then move on.

25 MR. KRUSE: I think I have. I think the

1 question's pending, if he can just answer it.

2 THE WITNESS: Could you please restate the
3 question?

4 MR. KRUSE: Sure. Could the court reporter
5 read the pending question back, please?

6 THE REPORTER: "Question: Don't you think the
7 level of market share relates directly, if not specifically,
8 to market share of competitive providers?"

9 MR. KRUSE: Better restate that.

10 BY MR. KRUSE:

11 Q. Don't you think that the market share of
12 competitors relates directly, if not specifically, to the
13 analysis contemplated in subsection A of that statute?

14 A. No, I do not. The statute states services are
15 available from alternate providers. Doesn't give any
16 threshold level that they have to be available at in order
17 to meet the criteria of subsection A.

18 Q. You're getting away from my question.

19 A. No.

20 Q. Okay. I didn't say --

21 A. The answer is no.

22 Q. To the question I was going to ask you?

23 A. If you're saying I'm not responsive to your
24 question, I apologize. Directly answering your question,
25 no.

1 Q. Well, I think you went to -- I agree with you
2 that the statute doesn't set a specific threshold level for
3 market share. All I'm trying to establish is that I think
4 market share is highly relevant to this particular analysis.

5 A. I do not agree.

6 MR. LANE: Your Honor, there's no question
7 pending.

8 JUDGE DIPPELL: I agree. Mr. Kruse, your
9 opinion at this point doesn't matter.

10 MR. KRUSE: I understand that, your Honor.

11 JUDGE DIPPELL: The witness' opinion you have
12 asked for. It has been answered. The witness does not
13 agree with you that it's in A. He thinks it's in E. I
14 think that's clear.

15 BY MR. KRUSE:

16 Q. One final question, then. What do the words,
17 in your opinion, the extent to which that section's prefaced
18 on mean?

19 A. Are you referring, just to make sure I'm
20 clear, to 386.020(a)?

21 Q. Uh-huh.

22 A. 13(a). I'm sorry.

23 Q. Uh-huh.

24 A. I think it means to the Commission that as
25 they're doing their investigation in this docket regarding

1 effective competition, they need to make a determination the
2 extent to which the determination that services are
3 available.

4 Q. Okay. And so you don't think that market
5 share is -- or evaluating market share is one way to
6 determine the extent to which services are available under
7 that subsection?

8 MR. LANE: Judge, I'd object. It's been asked
9 and answered again.

10 MR. KRUSE: I want to get this -- I want to
11 get this straight because I frankly find his testimony
12 extremely evasive and nonresponsive.

13 MR. LANE: I'll object to that, your Honor.
14 We don't need speeches. I have an objection pending.

15 JUDGE DIPPELL: I'm sustaining your objection.
16 The question has been asked and answered.

17 MR. KRUSE: I have no further questions, your
18 Honor.

19 JUDGE DIPPELL: Thank you.

20 Mr. Lane, I see you moving this way. It's a
21 quarter 'til five. Do you think that redirect will take
22 less than 15 minutes?

23 MR. LANE: Yes, I do.

24 JUDGE DIPPELL: All right. Then we'll
25 continue with redirect.

1 MR. LANE: But if you don't want me to, I
2 won't.

3 JUDGE DIPPELL: You'll think up more questions
4 overnight, so let's continue.

5 (Laughter.)

6 REDIRECT EXAMINATION BY MR. LANE:

7 Q. I'm going to go in reverse order here with
8 you, Mr. Hughes. Let me start with the EEL question that
9 Mr. Lumley asked you. In your opinion, is Southwestern Bell
10 fully in compliance with the FCC relevant orders concerning
11 the provision of EELs?

12 A. We are fully in compliance, and the language
13 contained in the M2A is similar or exactly the same language
14 as included in other x2A agreements in states that have
15 received 271 approval from the FCC.

16 Q. You had some questions from Mr. Zarling
17 concerning conversations with Commissioner Gaw on whether a
18 high cost fund would be an appropriate solution to the
19 problem of being left with unprofitable customers. Do you
20 recall those questions?

21 A. I do.

22 Q. In your opinion, are all unprofitable
23 customers going to be customers that are in high-cost areas
24 of the state?

25 A. No, they are not.

1 Q. And so to the extent that high-cost --
2 unprofitable customers are not in high-cost areas, would a
3 high-cost fund do you any good?

4 A. It wouldn't. That's why I attempted to
5 clarify with Mr. Zarling that in concert, and what I meant
6 by concert is to gather a finding of effective competition
7 with pricing flexibility and a high-cost fund, that might
8 alleviate my concern.

9 Q. You had some discussions with Mr. Zarling
10 concerning Schedule 8 to your, I believe it's your
11 surrebuttal testimony.

12 A. Schedule 8?

13 Q. Yes.

14 A. Yes, it would be to my surrebuttal.

15 Q. And to clarify, is that Schedule 8 showing
16 that Southwestern Bell lost not only all the growth in the
17 market but some existing access lines from January of 2000?

18 A. Yes. That is a net number. That would
19 include any inward activity such as additional lines or
20 win-backs.

21 Q. I want to turn to the rebalancing question
22 that you were asked by Mr. Zarling as well, and in
23 particular under subsection 9 of that, is there some
24 language in there that makes it clear in your opinion that
25 rebalancing is only permitted for companies to the extent

1 that when they originally went under price caps that their
2 intrastate rates exceeded their interstate rates by more
3 than 150 percent?

4 A. In section 9, I believe there is -- there's
5 some language on my copy of the statute about two-thirds of
6 the way down that states, The Commission shall allow the
7 company to offset the revenue loss resulting from the
8 remaining three-quarters of the total needed to bring that
9 company's interstate access rates to 150 percent of the
10 interstate levels by increasing the company's monthly
11 maximum allowable prices.

12 And the discussion there regarding the
13 remaining three-quarters indicates that that particular
14 portion of the statute would have to be after the first
15 quarter is implemented, and the first quarter is based upon,
16 as Mr. Zarling and I discussed, the rates that were
17 established in 12/31 of '96 in the case of Southwestern Bell
18 the year preceding it becoming a price cap company.

19 Q. In questions from Commissioner Gaw, you had
20 some discussion about whether vertical services were priced
21 above cost and whether Southwestern Bell had increased some
22 of the rates for its vertical services. Do you recall those
23 questions?

24 A. I do.

25 Q. In your opinion, is an increase in vertical

1 service charges indicative of non-competitive vertical
2 services market if they're made at a time when basic service
3 prices are being held at a constant or decreasing level by
4 other sections of the statute?

5 A. I don't believe so. I think in total
6 consumers base their buying decision on what they believe
7 the prevailing rates are in the marketplace, and included in
8 that would be what they believe the prevailing market rates
9 would be for bundles of services, including basic local
10 service and any vertical features.

11 Q. Okay. Let me ask you, if you would, to turn
12 to -- this is in response to some questions from
13 Commissioner Gaw -- to Section 392.245.5 and see if we can
14 cover these one more time.

15 Would you agree in general that the first
16 sentence of that talks in terms of automatic classification
17 as competitive after the expiration of five years from a
18 competitor beginning service in an exchange?

19 A. I would. The statute specifically says shall
20 be classified as competitive.

21 Q. And under that, if the Commission did nothing,
22 held no hearing, did nothing, would Southwestern Bell be
23 granted competitive classification?

24 A. I believe that under the statute it would.

25 Q. And then does the second sentence say,

1 instruct the Commission that it needs to hold a hearing
2 within the first five years?

3 A. Yes. And specifically it says, The Commission
4 shall from time to time on its own motion conduct such a
5 hearing.

6 Q. And would the Commission be able to do this on
7 an exchange-by-exchange basis as each five-year period comes
8 up if it so chose?

9 A. We don't believe so. I don't believe so. In
10 particular, in the second sentence talks about the
11 Commission's investigation being no later than five years
12 following the first certification of an alternate local
13 exchange telecommunications company.

14 Q. Assuming that the Commission had authority to
15 do it and it made -- to do it on a exchange-by-exchange
16 basis as each five-year period came up, do you think it
17 would be an appropriate use of the Commission's resources to
18 handle it that way?

19 A. I don't. I think it's in the Commission's
20 interest as well as the interest of probably the majority of
21 the parties here for the Commission to find that effective
22 competition exists today or at least make the determination
23 during the investigation whether or not it exists today.

24 Q. And how many exchanges does Southwestern Bell
25 have in the state of Missouri?

1 A. 160.

2 Q. If I could ask you to turn to the statute that
3 you have in front of you, Section 392.245.4. You had a
4 discussion with Commissioner Gaw about what was covered
5 under basic local service. Do you recall that discussion?

6 A. Yes, I do.

7 Q. And would you look at Section 386.020, the
8 definition section under subdivision 4.

9 A. Okay.

10 Q. Does that section identify what's considered
11 to be basic local telephone service?

12 A. Yes. In 386.020.4 it has a definition of
13 basic local telecommunications service. States, Two-way
14 switched voice service with a local calling scope as
15 determined by the Commission comprised of any of the
16 following services. And then underneath that is
17 subsections A through H to define what basic local
18 telecommunications services are.

19 Q. And basic service then under Section
20 392.245.4, that and switched access have to go up and down
21 in accordance with CPI of telephone service; is that your
22 testimony?

23 A. That's correct. The statute states that the
24 maximum allowable price for exchange access and basic local
25 telecommunications services of large incumbent local

1 exchange telecommunications companies regulated under the
2 section shall not be changed prior to 12 -- excuse me --
3 January 1st, 2000, and then it goes on to identify how the
4 prices would change.

5 Q. Within the CPI for telephone service, does
6 that include local service, toll service and wireless
7 service in the bundle of services that's included under
8 Consumer Price Index for Telephone Services?

9 A. Yes, it does. In doing our calculation last
10 year under this section of the statute, we included all
11 three of those.

12 Q. And to your knowledge, has wireless service
13 been decreasing in price on a nationwide basis in general?

14 A. Yes, it has. I have cited even in my
15 testimony, in my surrebuttal testimony, an article that
16 was -- it's actually, now that I think about it,
17 Attachment 12, I believe. Yes, Hughes Schedule 12, the
18 St. Louis Business Journal article regarding the rates for
19 wireless service in St. Louis.

20 Q. You were asked a question by Mr. Haas on
21 behalf of the Staff concerning cost studies on local
22 service, and you indicated that you hadn't performed a study
23 on -- cost study on local service?

24 A. Right. We have not done a study on local
25 service, but we have done and presented to the Commission

1 our cost studies pursuant to arbitrations under the act
2 related to the cost of providing service to CLECs
3 specifically for loops and switching and things of that
4 nature.

5 And the studies for those loops in all cases,
6 the rates determined by the Commission as being TELRIC
7 compliant, the loop rate itself was higher than any of the
8 residential access rates that we charge our customers.

9 Q. Did Southwestern Bell present any cost study
10 to the Commission concerning the change in UNE loop and
11 other UNE prices in connection with the most recent AT&T
12 arbitration, TO-2001-455?

13 A. Yes. In that particular case, the arbitration
14 between us and AT&T, we did provide new cost studies, and in
15 those cost studies our studies showed that the cost of the
16 loops had increased since the Commission had established the
17 rates back in TO-97-40.

18 Q. You had indicated in response to some
19 questions about what Southwestern Bell had done under price
20 caps in terms of increasing and decreasing various rates.
21 Do you recall those questions?

22 A. Yes, I do.

23 Q. And you had indicated that Southwestern Bell
24 had, in addition to decreasing some rates, had offered some
25 promotional services. Do you recall that?

1 A. Yes, we have. We've offered promotions on the
2 business side and on the residential side, different types
3 of promotions for vertical services as well as for
4 additional lines for residential and business customers.

5 Q. Can you give some examples of promotions that
6 you've offered and what the impact has been on what either
7 business or residential customers pay in terms of cost?

8 A. I can. I do have -- we've run a lot of
9 promotions over the last couple of years, and I brought with
10 me some examples from business promotions. Equal to credit
11 on one month bill of \$18.95 for The Works, a 19.95 credit
12 for The Works for customers with one to ten lines, a credit
13 for a service what we offer called The Basics, credit for
14 caller ID, nonrecurring charge waivers for Plexar, credit
15 for BizSaver, super trunks, nonrecurring charge waivers, et
16 cetera.

17 Q. You had some questions from Commissioner
18 Murray concerning geographic deaveraging and whether that
19 was or was not permissible. Do you recall those questions?

20 A. I do.

21 Q. Are you familiar with any part of the
22 Telecommunications Act of 1996 that deals with geographic
23 deaveraging and any limitations that might be imposed by
24 that act?

25 A. The act at Section 254, I believe it's

1 Section G, discusses specific to toll and deaveraging of
2 toll in an urban versus rural classification.

3 Q. Are you aware of any geographic deaveraging
4 prohibitions under the federal statute other than for toll
5 services?

6 A. I'm not personally familiar with any, no.

7 Q. And are you aware of any prohibitions in the
8 state statute that concern -- that would prohibit geographic
9 rate deaveraging?

10 A. No. And as was discussed, we do have
11 deaveraging with our rate groups today, and I also believe
12 flipping to the statute, Section 392.200.4 talks
13 specifically about geographic area -- excuse me -- areas and
14 some of the deaveraging that may be available under that
15 particular section of the statute.

16 Q. Are local rates deaveraged in Missouri today?

17 A. Yes, they are.

18 MR. LANE: That's all I have. I had more, but
19 I want to get done.

20 JUDGE DIPPELL: I was about to sound the
21 one-minute warning. All right. Is that all you have,
22 Mr. Lane?

23 MR. LANE: Yes.

24 JUDGE DIPPELL: We can continue in the
25 morning. You're done?

1 MR. LANE: I'm finished. Thank you.

2 JUDGE DIPPELL: I guess that concludes
3 Mr. Hughes' testimony, and you may be excused, Mr. Hughes.

4 We will conclude for the day. We will begin
5 tomorrow morning at 8:30. Since Mr. Voight has a conflict,
6 we will skip him in the lineup and proceed with
7 Ms. Meisenheimer, and then if we get past Ms. Meisenheimer
8 in the morning, we will proceed with Sprint's witness if
9 they're available or --

10 MR. ZARLING: I think Mr. Kohly would be next
11 in line.

12 JUDGE DIPPELL: All right. We will begin with
13 Mr. Kohly. I'm sorry. I'm not looking at the list.

14 That's all. Off the record.

15 WHEREUPON, the hearing of this case was
16 recessed until September 26, 2001.

17

18

19

20

21

22

23

24

25

1	I N D E X	
2	SOUTHWESTERN BELL'S EVIDENCE	
3	BARBARA JABLONSKI	
4	Direct Examination by Mr. Bub	273
5	Cross-Examination by Mr. Haas	276
6	Cross-Examination by Mr. Dandino	278
7	Cross-Examination by Mr. Lumley	286
8	Redirect Examination by Mr. Bub	287
9	SYLVIA ACOSTA FERNANDEZ	
10	Direct Examination by Mr. Conroy	289
11	Cross-Examination by Mr. Haas	293
12	Cross-Examination by Mr. Zarling	297
13	Cross-Examination by Mr. Lumley	300
14	Redirect Examination by Mr. Conroy	302
15	AIMEE FITE	
16	Direct Examination by Mr. Conroy	304
17	Cross-Examination by Mr. Haas	306
18	Cross-Examination by Mr. Dandino	312
19	Cross-Examination by Mr. Kruse	322
20	Redirect Examination by Mr. Conroy	332
21	THOMAS ANVIN	
22	Direct Examination by Mr. Conroy	334
23	Cross-Examination by Mr. Haas	335
24	Cross-Examination by Mr. Dandino	337
25	Cross-Examination by Mr. Lumley	342
26	THOMAS HUGHES	
27	Direct Examination by Mr. Lane	343
28	Cross-Examination by Mr. Haas	347
29	Cross-Examination by Mr. Dandino	362
30	Cross-Examination by Mr. Zarling	368
31	Cross-Examination by Mr. Lumley	387
32	Cross-Examination by Mr. Kruse	397
33	(In-Camera Session - see Index below)	
34	Questions by Commissioner Murray	436
35	Questions by Commissioner Lumpe	453
36	Questions by Commissioner Gaw	464
37	Further Questions by Commissioner Lumpe	487
38	Questions by Judge Dippell	490
39	Recross-Examination by Mr. Haas	492
40	Recross-Examination by Mr. Dandino	492
41	Recross-Examination by Mr. Zarling	494
42	Recross-Examination by Mr. Lumley	508
43	Recross-Examination by Mr. Kruse	512
44	Redirect Examination by Mr. Lane	517

1	THOMAS HUGHES (In-Camera Session - Volume 4)	
	Cross-Examination by Mr. Kruse	410
2	Questions by Judge Dippell	422
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBITS INDEX	
2		MARKED RECEIVED
3	EXHIBIT NO. 9	
4	Direct Testimony of Barbara Jablonski	275
5	EXHIBIT NO. 10	
6	Surrebuttal Testimony of Barbara Jablonski	275
7	EXHIBIT NO. 10HC	
8	Surrebuttal Testimony of Barbara Jablonski	
9	Highly Confidential	275
10	EXHIBIT NO. 11	
11	Direct Testimony of Sylvia Acosta	
12	Fernandez	293
13	EXHIBIT NO. 12	
14	Surrebuttal Testimony of Sylvia Acosta	
15	Fernandez	293
16	EXHIBIT NO. 12HC	
17	Surrebuttal Testimony of Sylvia Acosta	
18	Fernandez, Highly Confidential	293
19	EXHIBIT NO. 13	
20	Direct Testimony of Aimee M. Fite	306
21	EXHIBIT NO. 14	
22	Surrebuttal Testimony of Aimee M. Fite	306
23	EXHIBIT NO. 14HC	
24	Surrebuttal Testimony of Aimee M. Fite	
25	Highly Confidential	306
26	EXHIBIT NO. 15	
27	Direct Testimony of Thomas Anvin	335
28	EXHIBIT NO. 16	
29	Direct Testimony of Thomas F. Hughes	346
30	EXHIBIT NO. 17	
31	Surrebuttal Testimony of Thomas F. Hughes	347
32	EXHIBIT NO. 17HC	
33	Surrebuttal Testimony of Thomas F. Hughes	
34	Highly Confidential	347
35		