BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

January 25, 2001

Jefferson City, Missouri

Volume 4

In the Matter of the Investigation into Signaling Protocols, Call Records Trunking Arrangements, and Traffic Measurement.	))))	Case No. TO-99-593

BEFORE:

LEWIS R. MILLS, JR. Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE.
SHEILA LUMPE, Chair
ROBERT G. SCHEMENAUER,
KELVIN SIMMONS,
CONNIE MURRAY,
M. DIANNE DRAINER, Vice-Chair
COMMISSIONERS.

REPORTED BY:
TRACY L. THORPE, CSR
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Fidelity Telephone Company.
Goodman Telephone Company, Inc.
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IAMO Telephone Company.
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JUDGE MILLS: Mr. Lane?

MR. LANE: Your Honor, we have two exhibits from yesterday from the TCG Kansas arbitration we'd like to mark.

(EXHIBIT NO. 30 WAS MARKED FOR IDENTIFICATION.)

JUDGE MILLS: Mr. Hopfinger's testimony we'll mark as Exhibit 30.

(EXHIBIT NO. 31 WAS MARKED FOR IDENTIFICATION.)

JUDGE MILLS: This is the full text of the decision that there were excerpts from in Mr. Jones' testimony?

MR. LANE: Yes, sir.

JUDGE MILLS: We'll mark that as Exhibit 31.

MR. LANE: And at this time, your Honor, we'd offer Exhibits 30 and 31.

JUDGE MILLS: Are there any objections to the admission of Exhibits 30 or 31?

Hearing none, they will be received.

(EXHIBIT NOS. 30 AND 31 WERE RECEIVED INTO EVIDENCE.)

JUDGE MILLS: Please go ahead.

MR. LANE: Thank you, your Honor.

DAVID L. JONES, having been previously sworn, testified as follows:

CROSS-EXAMINATION BY MR. LANE:

Q. Good morning, Mr. Jones.

A. Good morning.

Q. In your direct testimony on page 4 where you lay out the Small Companies' terminating compensation proposal, on line 15 you reference that LECs not owning an access tandem would remove interstate Feature Group A on IBIS statement from the total minutes which would be billed to the former PTC; is that right?

A. That's correct.

Q. And the same on line 25 for LECs owning an access tandem. Right?

A. Correct.

Q. You don't list intrastate Feature Group A on your proposal. Is that something that should be added as something to be subtracted from the total minutes that you would then try to bill the former PTC?

A. I don't believe it would be appropriate to subtract intrastate Feature Group A because that -- Southwestern Bell is the originating carrier for that or responsible carrier and would be subject to pay us intrastate access rates for the Feature Group A traffic.

Q. Okay. Would you agree with me that intrastate

Feature Group A is accounted for and settled with the Small Companies on the exact same basis as interstate Feature Group A?

A. I believe the rates may be different.

Q. But the process of settling is the same, is it not?

A. It is.

Q. The connecting carrier with the Feature Group A connection splits the revenue that's received with the Small Telephone Companies who may terminate some of those calls based on the relative number of access lines. Correct?

A. I believe it's based on actual usage times the rates.

Q. That's part of the settlement process today, is it not?

A. Yes.

Q. And so if, under your proposal, you're being paid already for that traffic and it's not subtracted out, you'd be paid twice on that traffic, would you not?

A. Well, that's not the intent, to be paid twice on it.

Q. So after having gone through this discussion, you would agree if your proposal's adopted, you would also have to subtract out intrastate Feature Group A?

A. We would still look to Southwestern Bell for payment for intrastate Feature Group A, whether the mechanics are you subtract it out or you let it be part of what Southwestern Bell pays us intrastate access for. The answer's the same. We wouldn't expect to double recover on it.

Q. And Southwestern Bell and the Small Companies presumably would have to change their access tariffs to reflect the payment was going to be made under the Small Telephone Company proposal rather than under the existing tariff terms; is that right?

A. No. I don't believe it would require a tariff change.

Q. Our tariff today calls for revenue sharing as does the Small Telephone Companies' tariff. Right? On Feature Group A traffic?

A. I think I have a copy of the Oregon Farmers access tariff. I can look at it to refresh my memory. I don't know if it calls for revenue sharing or if it calls for Feature Group A on a usage settlement basis.

Q. But in either case, the tariff contemplates payment for intrastate Feature Group A traffic?

A. Sure does, uh-huh.

Q. And if that process keeps going and this proposal as written is adopted, we would have a double recovery that has to be taken care of either through changing the access tariff or through changing the proposal. Right?

A. Yes.

Q. Okay. On page 4 of your rebuttal testimony, lines 24 and 25, you make the claim that use of originating records system discriminates against interexchange carriers. Do you see that in your testimony?

A. Just a minute. Let me get to that. What page were you referencing again?

Q. Page 4 of your rebuttal testimony, lines 24 and 25.

A. Yes. I do see that statement.

Q. I'm sorry?

A. Yes. I do see it.

Q. Would you agree with me that AT&T and MCI are regular participants in Missouri Commission regulatory proceedings?

A. Yes.

Q. And fair to say that they're not bashful about asserting and protecting their rights?

A. Generally, I would agree with that.

Q. If the use of originating records was truly discriminatory, wouldn't you expect AT&T and MCI to be here telling the Commission that they agreed with your assertion?

A. I don't know. I mean, that depends on what AT&T's resources and their workload are like and how big an issue it is to them. It doesn't change the fact that it is discriminatory.

Q. And Sprint is an interexchange carrier in Missouri, is it not?

A. Yes.

Q. Operates throughout the state, does it not? Not just in the territories that they serve as an LEC. Right?

A. That's correct.

Q. And they don't make the claim that the continued use of the originating record system is discriminatory to them in their capacity as an IXC, do they?

A. I --

MR. JOHNSON: Objection, your Honor. Sprint, the IXC, is not a participant in this case and, therefore, the question calls for speculation on the part of the witness.

JUDGE MILLS: Would you repeat the question, please?

MR. LANE: Could you read it back?

THE COURT REPORTER: "Question: And they don't make the claim that the continued use of the originating record system is discriminatory to them in their capacity as an IXC, do they?"

JUDGE MILLS: Well, I don't think it calls for speculation. I mean, either he knows that they do or he knows that they don't.

Mr. Minnis, is Sprint, the IXC, a party in this case or are you simply representing Sprint Missouri?

MR. MINNIS: Just Sprint Missouri.

JUDGE MILLS: Okay. I think he can answer the question, but I'd be surprised if the answer was anything but I don't know.

THE WITNESS: I don't know.

MR. LANE: Well, there's a clue.

JUDGE MILLS: Okay.

BY MR. LANE:

Q. And the basis of your claim that it's discriminatory against IXCs is set out on page 5 of your rebuttal testimony. Correct?

A. Yes.

Q. And you claim that there's some 25 percent cost advantage overall apparently as a result of not paying on all traffic that is sent to Small Companies; is that right?

A. Yes. On average, the -- the unreconciled records at the time was, like, 25 percent. If you take Mid-Missouri specifically for about a year and a half, Southwestern Bell enjoyed about a 50 percent reduction in their access costs because those minutes weren't reported.

Had Sprint -- had Sprint or AT&T tried to offer a similar plan, they would have had to pay 100 percent of the access for that period of time. Granted, Southwestern Bell ultimately paid what we believed to be the right amount for that traffic, but for that 18-month period, AT&T or any other carrier trying to compete with Southwestern Bell's Local Plus service would have been at a financially dis-- financial disadvantage.

Q. Assuming that, as Southwestern Bell witnesses have testified, that the Local Plus problem is resolved, would you agree that there's no longer any cost advantage to Southwestern Bell or the other former PTCs from the use of originating records?

A. I would agree in a perfect world where every minute is tracked and every record is properly accounted for, that there shouldn't be a difference.

Q. If Southwestern Bell and the other former PTCs are paying terminating access for their own originating toll, they don't have a cost advantage, do they?

A. Again, if -- if all the records are being reported and properly accounted for, a minute's a minute and both should be billed.

Q. And if the --

A. I'm not sure -- I can't agree with you and say that that's for sure happening today. I mean, based on my research, I don't believe it is.

Q. Now, the amount of unexplained traffic, as I understood Mr. Schoonmaker's testimony, was somewhere around 13 percent at this point; is that correct?

A. I recall him saying that, yes.

Q. So the cost advantage, if there is one, is 13 percent, in your view; is that right?

A. I think -- I think the statement was 13 to 17 percent or something to that effect. And that's only for that 48-hour period. We don't know what it is today.

Q. Okay.

A. That was only for the period that the study was done.

Q. And would you agree with me that if that traffic is not Southwestern Bell or other former PTC originating toll traffic, that there's no cost advantage to Southwestern Bell or the other former PTCs in their capacity as toll providers?

A. Okay. Make sure I understand the question. The question is that if -- if Southwestern Bell is properly tracking and paying for all its terminating usage, is there a cost advantage. And I don't believe there is.

Q. If that 13 to 17 percent unexplained traffic is not Southwestern Bell or other former PTC toll originated traffic, then there's no cost advantage, is there?

A. I believe that to be correct, but experience hasn't borne that out, so -- in fact, quite the opposite was true in our case. It turns out it was Southwestern Bell traffic, so --

Q. Yesterday you testified that as far as you knew, that the Local Plus issue had been resolved; is that right?

A. I testified that I believe that the missing records or the unidentified traffic was related to Local Plus. I think I testified that I still had some concerns with respect to the Blue Springs and Independence exchanges and also exchanges that hone on the Kirksville tandem. We're still seeing some records come through or some calls there that have not been explained as to what -- why they didn't reconcile properly.

Q. With regard to Local Plus, in your surrebuttal testimony at page 24, lines 11 to 14, you claim that it took over five months for Mid-Missouri to be paid on the Local Plus traffic once Southwestern Bell identified it. Do you recall that?

A. Yes.

Q. It's fair to say, isn't it, Mr. Jones, that within three weeks after Southwestern Bell identified the

problem, it made a partial payment to Mid-Missouri?
A. Yes, they did.
Q. You don't reflect that in your testimony, do you?
A. I believe -- I thought I did. I thought that -- it may have been in the Local Plus case.
Q. And would you also agree that prior to the final payment, that Southwestern Bell also made another interim payment to Mid-Missouri?
A. There were a total, I believe, of four different payments. The last payment -- the first payment was $150,000 in round numbers. I believe the second payment was around 45,000, 48,000. And then the final payment was somewhere just shy of 200,000. And we received the final payment December 7th of '9-- or of 2000.
Q. And would you agree with me that in that final payment that's been made to you, that you have acknowledged back to Southwestern Bell that you were overpaid because some traffic shouldn't have been included in that?
A. Yes. There were a couple of months that we included -- included some incidental -- or Feature Group A traffic, but not talking very significant -- significant amounts. And we've agreed to adjust that on CABS billing.
Q. Okay. And since that was made in December, I take it you've now reimbursed Southwestern Bell for what you

agree was the excess payment?

A. I believe the agreement was to try and do it in the February CABS cycle, because it wasn't brought to our attention until later on.

Q. You didn't discover that error yourself?

A. No.

Q. In Mr. Larsen's testimony, on page 17 of his rebuttal, he says that it's important to note that Mid-Missouri terminating records were used to settle the Local Plus issue with Mid-Missouri. Do you recall that?

A. What page?

Q. Seventeen of his rebuttal testimony.

A. Yes.

Q. And Mr. Larsen is a consultant for Mid-Missouri and the other members of the MITG group?

A. That's correct.

Q. And was it you that informed him that terminating records of Mid-Missouri were used for that purpose?

A. Yes.

Q. And did you inform him that by using those records, that Southwestern Bell was not agreeing that it was appropriate or that they were accurate, but were simply using them for settlement purposes?

A. I don't remember totally the -- the nature of the discussion, but I do recall that -- I mean, he asked how we arrived at that -- that number and we talked about it.

Q. You would agree, wouldn't you Mr. Jones, that the settlement agreement between Southwestern Bell and Mid-Missouri contained a provision that we were not agreeing that your records were either accurate or that it was appropriate to use them, but that we were simply using them to resolve a disputed issue?

A. Yes. But also note, it's the only records we had.

Q. Now, I'm going to follow-up on a couple questions from yesterday. Yesterday you agreed that the linchpin of the Small Company proposal was the proposition that neither Small Companies nor former PTCs had an obligation to accept or carry indirectly connected traffic. Do you recall that?

A. Yes. That's one of the linchpins.

(EXHIBIT NO. 32 WAS MARKED FOR IDENTIFICATION.)

JUDGE MILLS: This is Exhibit 32. And, Mr. Lane, what is this?

MR. LANE: This is Sections 251 and 252 of the Telecommunications Act of 1996 -- the Federal Act. And I'd ask that the Commission take official notice of those portions of the Telecommunications Act that are contained in

Exhibit 32.

JUDGE MILLS: Since we've got copies and we've got it marked, we'll go ahead and make it an exhibit. We'll call it Exhibit 32. Are there any objections to the admission of Exhibit 32?

Seeing none, it will be received.

(EXHIBIT NO. 32 WAS RECEIVED INTO EVIDENCE.)

BY MR. LANE:

Q. Mr. Jones, directing your attention to Section 251, would you agree that Subsection A discusses general duties of telecommunications carriers?

A. Yes.

Q. Section B deals with obligations of all local exchange carriers?

A. Yes.

Q. And Section C deals with additional obligations of incumbent local exchange carriers. Right?

A. Yes.

Q. Referring to Section A, the general duties of telecommunications carriers, would you agree that that provision in Subsection 1 requires both direct and indirect connections with the facilities and equipment of other telecommunications carriers?

A. Yes.

Q. Okay. And by its terms it doesn't appear to be limited to local exchange carriers, does it?

A. No.

Q. Let's assume for a moment that your position is correct, that neither the former PTCs nor the Small Companies have the obligation to carry or to terminate indirectly connected traffic. Okay?

A. I think the term is "transited traffic." I mean, we currently -- we currently offer an indirect interconnection called access Feature Groups A, B, C and D access. And we fulfill our obligation for indirect interconnection through that mechanism.

Q. Okay. Maybe I'm misunderstanding something about your position. Is it your view that you do have an obligation to accept indirectly connected interexchange traffic?

A. We have an obligation to accept interexchange traffic under the terms and conditions of both our federal or interstate and intrastate access tariffs, which fulfills our obligation to indirectly interconnect with other carriers. That's different than the transited traffic issue.

Q. Okay. If we're dealing with interexchange traffic, intrastate interexchange traffic, does Southwestern Bell -- do Southwestern Bell and the former PTCs have the obligation to carry traffic that is originated by CLECs and interexchange carriers and carry that to the end-office of Small Companies that do not have a tandem?

A. I'm not sure you have an obligation to do that.

Q. Okay. So it's optional on the part of Southwestern Bell and the former PTCs whether they will carry interexchange toll traffic that's originated either by a CLEC or by an interexchange carrier, under your view. Right?

A. That's correct.

Q. So for Small Companies that operate without a tandem, at least 25 of which are in Missouri, Southwestern Bell and the former PTCs could, in your view, refuse to carry the interexchange toll traffic of interexchange carriers like AT&T and MCI?

A. Right now you perform that duty -- I mean, there's been an agreement somewhere that that end-office interconnect with your tandem. I can tell you there's been times in the past where Southwestern Bell totally disconnected its facilities from Mid-Missouri Telephone Company and did not interconnect with Mid-Missouri Telephone. And that -- I mean -- so, I mean, there's history for that happening in the past.

Q. All right. But that wasn't my question, Mr. Jones.

A. Okay. I'm using an illustration to try and answer. I'm sorry.

Q. Okay. Your company's a tandem company, is it not?

A. Yes, it is.

Q. And, under your view, as a tandem company, you can require interexchange carriers to come and connect directly?

A. Yes.

Q. My question's referring to the non-tandem company in Missouri. Under your view, Southwestern Bell could decide not to carry interexchange traffic originated by AT&T and MCI to those non-tandem companies. Right?

A. I believe you have the choice to enter into an agreement to provide facilities to that end-office company or you could choose not to.

Q. Okay.

A. Now, I think under the carrier of last resort obligations in Missouri, you may have some issues being as you're already holding yourself out to offer that service. I'm not sure.

Q. Would you agree that today for some Small Companies without a tandem that the only direct connections that they have is to an LEC tandem --

A. Yes.

Q. -- like Southwestern Bell or Sprint or GTE. Right?
A. Yes.
Q. And if Southwestern Bell and the other former PTCs exercised what you view as their right not to carry interexchange traffic, that would require all of the interexchange carriers to come and make some direct connection with each of the Small Companies that don't have their own tandem. Right?
A. That or that Small Company might have to negotiate with another tandem provider to re-hone their exchanges to that tandem provider's tandem.
Q. But that other tandem provider also has the option not to carry those calls. Right?
A. That's my understanding.
Q. Would you agree that even if it's lawful to exercise what you see as the right not to carry the traffic, that it's good public policy -- strike that.
Would you agree that even if it's lawful to exercise the right not to carry the traffic, that it's not good public policy and it's not efficient to set up the network that way?
A. I would generally -- generally agree with you.
Q. Would you agree that if Southwestern Bell and the former PTCs don't have the obligation to carry

indirectly connected traffic, but if they choose to do so, they're required to pay terminating compensation on that to Small Companies, that it would be in their financial interest not to carry the traffic?

A. No.

Q. Would you agree with me that there would be a financial risk in carrying the traffic to the extent they don't get paid from the carrier who was originating the traffic?

A. Yes.

Q. And if the former PTCs don't receive some premium above and beyond the cost to carry the traffic and to pay the Small Companies, there would be no incentive to take that risk, would there?

A. I would generally agree with that.

Q. And so is it your recommendation that Southwestern Bell and the former PTCs would be allowed to receive a premium if they exercised their right to carry that indirectly connected traffic if your proposal's adopted?

A. I don't know that I have an opinion on that. I mean, there's a lot of factors to be considered. One is how full is that facility, how much excess capacity do you have on it, how much stranded investment would you have if you didn't do that? And, you know, there's a lot of things to weigh. So I don't know that you can generally say that it would require you to charge a premium.

The business model may show that if you recover your costs. And one of those costs would be your anticipated uncollectibles or unreceivables from those carriers that failed to pay. That might be all that's required. I really don't know.

Q. If all you can collect is your own cost plus what you have to pay the terminating LEC to finish off the call, there isn't an incentive to carry it, is there?

A. Well, it's my understanding that if you didn't carry it, you wouldn't roll the facilities out. The facilities are still going to be there, so it's a cost avoidable -- unavoidable. I mean, the cost is sunken cost --

Q. You'd agree --

A. -- on the investment.

Q. -- a carrier is certainly more likely to carry the call and agree to continue carrying it if there's some premium that's there to carry it?

A. Certainly. But there could be other -- other reasons that it's attractive for you to offer that service.

MR. LANE: That's all I have. Thank you.

JUDGE MILLS: Thank you.

I realize we've only been on the record for half an hour, but we're going to take a five-minute recess. We're off the record.

(A RECESS WAS TAKEN.)

JUDGE MILLS: We've finished with cross-examination of Mr. Jones and we're ready for questions from the Bench. Commissioner Schemenauer?

COMMISSIONER SCHEMENAUER: Thank you, your Honor.

QUESTIONS BY COMMISSIONER SCHEMENAUER:

Q. Good morning, Mr. Jones.

A. Good morning.

Q. Just a few short questions. If your request is granted, how do you envision from a practical standpoint getting a business arrangement with -- I guess in your case it would be Southwestern Bell?

A. Yes.

Q. Would that be reduced to writing a contract with them, delaying -- or listing all of the things you expected them to do?

A. I would assume that -- I mean, our tariffs currently anticipate the kind of business relationship we're asking for, the Oregon Farmers access tariff and also the NECA interstate access tariff. And I believe for the most part the tariff covers the things that we've talked about with the exception of the things that we've agreed to subtract. And I believe the Commission's order could address those and that would be all that would be necessary.

Certainly if other parties felt that we need to have contracts, we'd be willing to enter into those contracts, but I don't really believe it's necessary. I believe an order from this Commission coupled with the current language in our approved access tariffs gives us that kind of business relationship.

Q. Would your company reimburse Southwestern Bell for collecting your access charges?

A. I don't know that there would be a need to, because Southwestern Bell would be the one to hold themselves out for that wholesale business relationship. And if they chose not to enter into that wholesale business relationship, they wouldn't have to -- they wouldn't have a problem there. If they elect -- if that's a business they want to pursue, then that's between them and the carriers that interconnect with them.

That's part of the problem with the indirect business relationship is we have the stealth minutes, as I'll refer to them, we have traffic show up at our doorstep that we don't know where it came from, we don't know who put it on the network or we certainly don't know who to bill for it.

And the business relationship that we propose would be, as it's been for many, many years, and that is if a carrier wants to provide service in our area, they come and give us an Access Service Request pursuant to our access tariffs. And in that Access Service Request, it spells out how much capacity they need, what the percentage interstate usage of the traffic is and all the necessary parameters such that we can accurately record and bill that customer for their usage.

Q. I don't want to stretch this out any longer than necessary. You said if Southwestern Bell elects to transit that traffic too. They don't have any option, do they? Aren't they required by law to transit that traffic and deposit it to whatever exchange it's headed for?

A. I don't believe so, no. In fact, I think that's what's important about the Kansas case that I cite in my testimony is there Southwestern Bell specifically rejected the notion that they had the requirement to accept transiting traffic when they were the one having transit -- TCG was wanting to transit traffic to them much like Southwestern Bell is wanting to transit traffic to us.

And there they said -- they rejected that notion saying that they had the right to refuse it and to negotiate their own direct interconnections. And I don't believe that they're under any obligation in the Act to pass transited traffic to us. They certainly can if there's a mutual agreement between the parties for it, but I don't believe there's any requirement to.

Q. So they could simply tell anyone transiting traffic on their network that they had to have a interconnection agreement with you even though they are not directly connected?

A. That's correct. They have to establish a business relationship with us, and then we can agree to allow that traffic to be transited over our mutual facilities, if we choose. I mean, there's a difference between the indirect interconnection and the indirect business relationship.

And what we're -- what we're saying is we want to have a direct business relationship with those carriers. We may agree or we may choose to have an indirect connection to those carriers, but we have to have a direct business relationship.

Q. And absent that, you would hold Southwestern Bell liable as those carrier's agent because they're depositing that traffic on your network?

A. That's exactly correct.

Q. And would you expect Southwestern Bell to pay you what they collect from those carriers or pay you for all the minutes that show up on your network?

A. We would look to Southwestern Bell to pay us for all the minutes they terminate just like we do when MCI terminates traffic for AT&T or anyone else. We charge MCI for the traffic that MCI presents at our access tandem.

Q.   And if there's a dispute, then you would resolve that?

A.   Yes.

Q.   And if Southwestern Bell could not collect from a carrier, would you eat that loss or would Southwestern Bell eat that?

A.   Southwestern Bell would have to eat that loss, just like if a carrier directly interconnects with us today and they don't pay us and we can't collect it, we have to eat that loss. We would look to Southwestern Bell as the person terminating the traffic to be financially responsible for the traffic they terminate to us.

COMMISSIONER SCHEMENAUER: Okay. That's all I have. Thank you.

JUDGE MILLS: Thank you.

QUESTIONS BY JUDGE MILLS:

Q.   I've got a few questions. Mr. Jones, in Sprint Witness Cowdrey's testimony, surrebuttal testimony, he discuss a 50/50 split. Are you familiar with that proposal?

A.   Yes, I am.

Q.   And what's your response to that?

A. Well, I believe a 50/50 split would have the effect of reducing our access tariffs by 50 percent on that traffic. I mean, we would be waiving our right to recovery of that, and I don't believe that's appropriate.

Q. Now, have you determined the overall cost either to -- well, let's first talk about the overall cost of implementing your proposal to the industry.

A. I believe the cost would be very minimal. I know Mid-Missouri has been operating under this proposal since last fall as an inner measure because we had the recording problems with the Local Plus. Southwestern Bell agreed to allow us to do our own recording and bill based upon it. And the cost is very minimal. The systems are already in place. The main cost is the labor of doing the switched translations to turn on the recording.

Q. From your answer it sounds like you're discussing the cost to Mid-Missouri in that answer?

A. That's correct.

Q. And how about the cost to other industry participants?

A. The members of the MITG have all indicated they have the ability to record and measure this traffic, so I wouldn't anticipate much cost related to it from the MITG Companies' perspective.

Q. How about from the perspective of the former

PTCs?

A. I think they're -- I mean, we're going to be sending them a bill. We're going to use our recorded minutes to issue a bill to them. And part of that is, is we're going to subtract out the usage they're already providing to us, the items that we delineated.

They're already providing that information to us today. The only possible exception would be the intrastate Feature Group A that Mr. Lane was talking about this morning. I would say the cost to the former PTCs would be very minimal.

Q. Now, I'm going to ask you a question I'm pretty sure I know what your answer is, but it's a question that Vice-chair Drainer posed to Mr. Schoonmaker yesterday and either herself or through me will pose to all the witnesses.

And the question is, since all parties are present and represented in this case, PTCs and small LECs, isn't it judicially efficient to go ahead and decide the business relationship issue in this case?

A. Absolutely.

Q. Now, in your testimony, you say that even though you did settle the lost revenues issue with Bell, you said that there were other conditions they wanted you to agree to?

A. Yes.

Q. What were those conditions?

A. They were asking that I not testify as to how we reached the calculation on the lost revenues, i.e., they didn't want us to disclose that we actually used our own measurements to develop those -- those missing minutes.

JUDGE MILLS: Okay. Those are all the questions that I have. And I don't believe any of the other Commissioners have questions at this time.

So we'll do a further round of cross-examination based on the questions from the Bench beginning with the Small Telephone Company Group.

MR. ENGLAND: Thank you, your Honor. Try to be brief on follow-up and just on one line of questioning that I believe came from you regarding the Sprint proposal to split the difference on the unidentified traffic, the 50/50.

THE WITNESS: Yes.

FURTHER CROSS-EXAMINATION BY MR. ENGLAND:

Q. And I want to relate it to your specific example where you were not receiving records for approximately 50 percent of the traffic you were terminating.

A. Correct.

Q. If you implement that proposal and if you assume that all of that traffic is made up of, in that case, PTC-originated traffic, specifically Local Plus, what is the practical effect on the -- first of all, on the PTC and then on you as the receiving company?

A. Essentially, the PTC would be receiving a 50 percent discount in their cost to terminate traffic to us.

Q. And, conversely, what's the effect on you?

A. In -- I mean, we'd be receiving 50 percent reduction in our access that we bill as far as the rate.

Q. What incentive would the PTC have under that 50/50 arrangement to ferret out and identify who's responsible for that unidentified traffic?

A. None.

MR. ENGLAND: Thank you, sir.

JUDGE MILLS: Thank you.

Public Counsel is not here. For the record, let me mention that I did get a voice mail message from Mike Dandino, the attorney for Public Counsel, asking to be excused from the rest of this proceeding saying that he had no further cross-examination.

Staff?

MR. WILLIAMS: No questions.

JUDGE MILLS: Verizon?

FURTHER CROSS-EXAMINATION BY MR. FISCHER:

Q. Mr. Jones, I'd like to follow-up just a little bit on Judge Mills' question and the conversation you just had with Trip England.

Let's assume for a minute that unlike the existing system where you connect directly to -- or behind -- your tandem is receiving traffic directly from Southwestern Bell; is that correct?

A. That's correct.

Q. Let's assume there's a Verizon tandem in between and whenever there was a problem with Local Plus traffic, it would go to Verizon's tandem before it goes to your system and to the end-offices. Under your business proposal, if we -- or excuse me.

If we split that unidentified traffic 50/50, would you agree that Verizon would be on the hook for 50 percent of any Local Plus traffic that was there by mistake or that you were receiving without compensation?

A. Assuming that the intermediate tandem in that case, Verizon, was relying on the same originating records that we are --

Q. Yeah.

A. -- I would agree that it would be a 50 percent hit for you all as well.

Q. So even though Verizon didn't have any role in creating that issue, they would be on the hook for that?

A. Sure would.

MR. FISCHER: Okay. Thank you.

JUDGE MILLS: Thank you.

Sprint?

MR. MINNIS: No questions.

JUDGE MILLS: And, Mr. Lane?

FURTHER CROSS-EXAMINATION BY MR. LANE:

Q. Also a follow-up to the 50 percent split that Judge Mills asked about. Would you agree that your proposal -- or that proposal applies only to unidentified traffic?

A. Explain what you mean by "unidentified traffic." I need you to be more specific.

Q. Doesn't your proposal call for minutes to subtract out certain elements from it before you get to the level of things that aren't identified or otherwise paid for?

A. Right.

Q. And so if the Local Plus traffic, for example, is identified and paid, then there's nothing to split there, is there?

A. That's correct.

Q. Okay. And the parties, if there's an issue or a problem, would presumably work to try to identify the originating carrier and make sure that one pays before you get to the point where there's a split of the unidentified traffic. Right?

A. That would be correct.

Q. Judge Mills asked a question that was, I think, from Vice-chair Drainer concerning whether it was efficient to handle the business relationship issue in this case.

Would you agree that under your proposal as it's made here, that the former PTCs, including Southwestern Bell, need to go back and renegotiate or make other arrangements with CLECs and others who are using their networks to reach the Small Companies' networks?

A. I would have -- I would say, yes, if you assume that your interconnection agreements don't contemplate that and make provisions for them today. I really don't know.

Q. And you don't know whether the interconnection agreements contemplate the change in the business relationship that you propose here?

A. No, I do not.

Q. Okay.

A. Certainly -- if they didn't, there may be a need for a window of time to allow you to go back and renegotiate those contracts.

Q. And if those contracts call for the CLECs, for example, to generate originating records and to send them to Small Companies for payment, then those provisions would need to be taken into account under your proposal, right, before it could be implemented?

A. That's correct.

Q. And those parties, the other CLECs that have entered into the interconnection agreements, they're not here or a party to the case, are they?

A. No.

Q. But their interests would be affected by what you propose here, would it not?

A. Yes.

Q. And I may have misunderstood the direction of questions from Judge Mills on what changes need to be made. Would you agree that Southwestern Bell and the former PTCs couldn't simply use the records that your companies would generate to go back and collect from the other carriers who were originating and putting the traffic on the network?

A. I -- yeah. The records I would record would be used for my rendering of a bill to Southwestern Bell, the carrier that I'm interconnected with. I would assume that you have to have processes in place today to track usage from carriers that interconnect with you just like I have processes in place to track usage from carriers that directly interconnect with me.

Q. And the bills that the Small Companies would pay -- would send to the former PTCs wouldn't contain sufficient information to identify the originating carrier for the former PTCs to go back upstream and collect from them. Right?

A. That would be correct.

Q. We're dealing with two different sets of records, are we not?

A. That's correct.

MR. LANE: Okay. That's all I have. Thanks.

JUDGE MILLS: Thank you.

Redirect, Mr. Johnson, on all the cross-examination, the questions from the Bench and the further cross-examination?

MR. JOHNSON: Thank you, your Honor.

REDIRECT EXAMINATION BY MR. JOHNSON:

Q. Mr. Jones, I think I'm going to try to go backwards and start with today and maybe we'll finish up with topics left over from yesterday.

With respect to Mr. Lane's last question, if you today at the Small Company level don't get a record that identifies who the originating carrier is for traffic that Southwestern Bell and the originating carrier have agreed to put on their network through their interconnection agreement, who's in a better position to have the information as to who originated the traffic? You or Southwestern Bell?

A. Southwestern Bell.

Q. Now, Southwestern Bell asked you a question about the fact that their interconnection agreements with the CLECs don't contain any ability for Southwestern Bell to recover the, quote, wholesaling costs. Isn't it correct that when the Commission rendered its decision in Bell's wireless tariff case, that the Commission provided an opportunity for Bell to be indemnified by the wireless carriers if they had to pay for the traffic that was terminating to you?

A. I believe that to be the case. That's my recollection.

Q. And was that --

A. Also --

Q. I'm sorry.

A. Okay. I was thinking about that also. I believe there was something in the Dial U.S. case in the information that -- that Mr. Lane with Southwestern Bell shared with me yesterday where it said that -- I don't have that, but in essence, it said that facility-based carriers had to make arrangements before they terminated traffic to Choctaw and Halltown. And I think that kind of language could also be employed.

Q. Okay. And that Commission decision in Southwestern Bell's tariff case I believe was rendered in early 1998. Is that consistent with your recollection?

A. I don't recall the date.

Q. Do you know of any reason why Southwestern Bell couldn't have included similar provisions to recover this potential liability in the interconnection agreements that they've negotiated with CLECs?

A. I don't know any reason why they couldn't, and they may very well indeed have the language in them today. I don't have any knowledge so I --

Q. Did Southwestern Bell invite you, Mid-Missouri Telephone Company, to participate in the negotiation of those interconnection agreements that addressed traffic that was going to be terminating to Mid-Missouri Telephone Company?

A. No.

Q. I want to ask you a question about the missing traffic. First question I want to ask is, I think in opening statements yesterday and in some questions yesterday and today from Southwestern Bell, there's been some sort of an assumption that all of the traffic that Mid-Missouri Telephone Company was missing was Local Plus traffic. How do you know that?

A. At this point I'm relying on them to tell me that it was all Local Plus. They have acknowledged that some of it was OCA and some of it was one-plus safer traffic limited to, I believe, the Marshall and Slater exchanges. Based on my own research, I also believe that we've got some problems in the other areas I identified, but I have no way of determining what the traffic is. They're stealth minutes. They just show up, and I don't know where they came from or who the carrier was.

Q. Do the records exist that could establish the missing minutes were Local Plus?

A. Southwestern Bell has indicated to me consistently recently that they didn't record that traffic, so the minutes don't exist to prove that that was all Local Plus.

Q. Mr. Jones, would you please tell Judge Mills what the difference is between indirectly connecting your network and constructing a business relationship over an indirect interconnection and receiving transiting traffic?

A. Well, I think the easiest way to explain that is to go back and look at the end-office company that hones on a Southwestern Bell tandem or a Sprint tandem or a Verizon tandem. That company has made an arrangement to -- to use the tandem provider's tandem to indirectly connect its network with the network of all the interexchange carriers.

However, in that environment, the interexchange carrier wanting to provide service to that end-office company's customers has to submit an Access Service Request to both the tandem provider and the end-office company to establish the direct business relationship even though their network is indirectly connected.

And I think that's the primary focus of this proceeding for our companies is that we want that direct business relationship and tandem companies want the direct interconnection and the direct business relationship and end-office companies just need the direct business relationship. Without that, we don't know who to bill, we don't have -- we don't have even the billing information.

Q. Under Sprint's suggested 50/50 sharing of the residual, assuming that the missing 50 percent of your traffic was indeed all Local Plus traffic, what incentive would Southwestern Bell have ever had to identify that traffic?

A. None.

Q. I want to turn another question Mr. Lane asked you around. If the Small Companies' direct business relationship proposals were offensive to AT&T, Sprint or MCI, would you expect them to be here opposing it?

A. Ask the question again, please.

Q. If the Small Companies' direct business relationship proposal that you've made in this docket were offensive to the traditional IXCs like AT&T, Sprint or MCI, since they're not bashful, would you expect them to be here opposing it?
A. I assume they might.
Q. Yesterday Mr. Lane asked you if it was true that the traffic at issue in this case is interexchange traffic as opposed to local traffic. Do you have any way of knowing whether the stealth minutes are local or interexchange under their interconnection agreements?
A. No, I do not.
Q. Do you know whether or not Southwestern Bell's interconnection agreements are indeed limited only to local traffic?
A. In general, interconnection agreements under the Act deal with local traffic. However, they're not -- I mean, you know, the Act doesn't limit what you can decide in an interconnection agreement, and I'm certain that the interconnection agreements can address traffic that's well beyond the scope of local.
Q. Has Southwestern Bell invited you to participate in the negotiation of any interconnection agreement that did address traffic that was beyond the scope of being local?

A. No.

Q. I think one of the examples that Mr. Lane used yesterday was if a CLEC in its, quote, IXC capacity, gives Southwestern Bell interexchange traffic, if that happens then under the IXC business model, who would be responsible to provide an Access Usage Record for the end-office companies that subtend Bell's tandem?

A. Southwestern Bell.

Q. Is that happening today?

A. No.

Q. If a CLEC, in its IXC capacity, gives Southwestern Bell interexchange traffic, under that IXC business model, must Southwestern Bell pay for that IXC traffic it brings to Mid-Missouri at Mid-Missouri's access tandem?

A. Yes. They would be responsible as the IC carrier that delivered the call.

Q. To your knowledge, is Southwestern Bell doing that today?

A. I don't know.

Q. To your knowledge, besides the MCA or Metropolitan Calling Area plan, are there any other defined local calling scopes between a CLEC and a Small or Independent Telephone Company?

A. None that I'm aware of.

Q. Is it your recollection that the Commission defined the local calling scope or the MCA plan before the Telecommunication Act of 1996?

A. Yes. I believe it -- yes.

Q. I want to talk a little bit about choices. Yesterday Mr. Lane was asking you questions about how Southwestern Bell holds it out -- or what service that Southwestern Bell chooses to provide. Is Southwestern Bell required to directly interconnect with Mid-Missouri Telephone Company?

A. No. I don't believe they are.

Q. Has Southwestern Bell chosen to do that?

A. Yes.

Q. And today are they directly interconnected with you?

A. Yes.

Q. If Southwestern Bell chose to remove its terminating facilities or the common trunks, would it be allowed to do that under today's regime?

A. Yes.

Q. After the PTC plan ended -- and for the record, I believe I was wrong yesterday in opening statement, that that ended in October of 1999 as opposed to '98.

After the PTC plan ended, were Southwestern

Bell's originating access facilities removed as Southwestern Bell would no longer be originating traffic in the Mid-Missouri exchanges?

A. Mid-Missouri converted the Feature Group C common trunk group to a terminating only trunk group.

Q. As long as Southwestern Bell remains directly connected to you, are they subject to your access tariff?

A. Yes.

Q. Yesterday Mr. Lane presented you with MoKan Dial's answer to Southwestern Bell Data Requests 1 and 3. And I believe in the answer to No. 1 MoKan said it was capable of recording terminating usage, and in answer to Data Request 3, MoKan said that the type of records being recorded were conversation minutes and did not include the to or from numbers. Do you remember that conversation?

A. Yes, I do.

Q. My question to you is, does the fact that MoKan was not currently recording to and from numbers mean that they did not have the capability to do that?

A. No.

Q. Do you know what type of a switch MoKan has?

A. The Northern Telecom DMS-10.

Q. Did any of the independent companies that participated in the 48-hour network test also have Northern Telecom DMS-10's?

A. Yes.

Q. Is that switch capable of recording the to and from number if it's presented to the switch?

A. To my knowledge, it is.

Q. Is there any reason that you can think of why MoKan Dial would not be as interested as other carriers in recording traffic that terminates to it?

A. I've heard Mr. Stole say in industry meetings that 80 to 90 percent of their traffic that they terminate is MCA traffic which is bill and keep, and you wouldn't normally measure -- you know, to turn on that recording capability it certainly would require you to poll the switch much more often than you would have to if you didn't have it turned on.

Q. Finally, Mr. Jones, yesterday Mr. Lane asked you some questions about Exhibit 29, which is the Commission's December 23rd, 1997, decision in Southwestern Bell's tariff filing to revise its wireless carrier interconnection service tariff. I want to hand you that exhibit and ask you some questions about it as well.

A. Okay.

Q. At page 16 of that exhibit did the Commission recognize that there was an open question as to whether reciprocal compensation applied for indirect interconnections between three carriers?

A. What's said -- the Commission in their decision said, Consequently, three carriers are needed to terminate the traffic. And they considered that an open question whether reciprocal compensation arrangements apply.

Q. Okay. And for the transiting traffic that's involved here, is that what is happening, that there are three carriers involved -- or three or more than three carriers involved?

A. Yes.

Q. Okay. Did the Commission in the next paragraph say that it was not in the position to decide that issue because it lacked the jurisdiction to declare federal law?

A. Yes. The Commission said that it -- it wasn't in a position to decide the issue because it didn't have the jurisdiction to declare federal law.

Q. Turn to page 21, the first paragraph of the order, please -- first full paragraph on that page. In that paragraph did the Commission say that in the event a wireless company does not satisfy its primary responsibility to pay the third-party LEC, that Southwestern Bell would be secondarily liable to the third-party LEC and, in turn, would be entitled to indemnity from the wireless carrier itself?

A. Yes, they did.

Q. Okay. And at the bottom of page 22 did the Commission say that it would not assume that wireless carriers would violate the tariff and send traffic to third-party carriers in the absence of an agreement between the wireless carrier and the third-party LECs?

A. Yes, they did.

Q. Does Mid-Missouri Telephone Company get CTUSR reports from Southwestern Bell?

A. Yes, we do.

Q. And is Southwestern Bell reporting to you that there are minutes being terminated to your exchanges?

A. Yes.

Q. Have any of those wireless carriers entered into such an agreement or interconnection agreement or some sort of arrangement with Mid-Missouri Telephone Company?

A. No.

Q. So, in your opinion -- would it be fair to say that in your opinion the wireless carriers have not complied with that part of the Commissions order insofar as tariff traffic is concerned?

A. Absolutely.

MR. JOHNSON: Your Honor, that's all the questions I have.

I do want to re-offer Mr. Jones' surrebuttal, which is Exhibit 6. I think we've adequately addressed the objections that were pending with respect to that exhibit.

JUDGE MILLS: Mr. Lane, one of the objections went to the incompleteness of the schedules attached to Mr. Jones' testimony. And I believe you have offered the complete documents from which he had excerpted. Does that satisfy that portion of your objection?

MR. LANE: That portion of it, yes, your Honor.

JUDGE MILLS: And the other portion was overruled. So with that, we will admit Exhibit --

MR. ENGLAND: Six.

JUDGE MILLS: -- 6 into the record.

(EXHIBIT NO. 6 WAS RECEIVED INTO EVIDENCE.)

JUDGE MILLS: Thank you. And, Mr. Jones, you may step down.

THE WITNESS: Am I excused?

JUDGE MILLS: Yes, you are.

THE WITNESS: Thank you.

JUDGE MILLS: Next we'll call Kent Larsen.

(Witness sworn.)

JUDGE MILLS: Thank you.

KENT LARSEN testified as follows:

DIRECT EXAMINATION BY MR. JOHNSON:

Q. Good morning, Mr. Larsen.

A. Good morning.

Q. Would you state your name, please, for us.
A. My name is Kent Larsen.
Q. And give us your business address, Mr. Larsen.
A. My address is 8801 South Yale, Suite 450, Tulsa, Oklahoma 74137.
Q. And by whom are you employed?
A. I'm employed by Beacon Telecommunications Advisors, LLC.
Q. And what's your capacity with Beacon?
A. I'm a partner in the firm.
Q. Are you the same Kent Larsen that, through my office, has caused to be prepared and filed rebuttal testimony in this case which has been marked as Exhibit 7, and surrebuttal testimony which has been marked as Exhibit No. 8?
A. I am.
Q. Okay. Do you have any changes or corrections you need to make to your rebuttal testimony?
A. Not to my knowledge.
Q. To your surrebuttal testimony?
A. Not to my knowledge.
Q. If I were then to ask you the same questions today as are contained in those two pieces of testimony, would your answers be substantially the same today?
A. They would.

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

A. They are.

MR. JOHNSON: Your Honor, at this time I would offer Exhibits 7 and 8.

JUDGE MILLS: Any objections to the admission of Exhibits 7 and 8?

Hearing none, they will be admitted.

(EXHIBIT NOS. 7 AND 8 WERE RECEIVED INTO EVIDENCE.)

JUDGE MILLS: Cross-examination, Mr. England?

MR. ENGLAND: No, thank you.

JUDGE MILLS: Public Counsel is not here. Staff, Mr. Williams?

MR. WILLIAMS: Yes. I have a few questions.

CROSS-EXAMINATION BY MR. WILLIAMS:

Q. Mr. Larsen, my name's Nathan Williams, and I'm here for Staff.

Are you familiar with the Hewlett Packard Intelligence Access 7 system that SWBT's implemented?

A. Only to the extent I've had discussions with Southwestern Bell employees.

Q. Are you familiar with the new OBF proposal that Verizon mentioned?

A. Only to the extent I read Kathryn Allison's testimony.

MR. WILLIAMS: No further questions.

JUDGE MILLS: Thank you.

Verizon?

CROSS-EXAMINATION BY MR. FISCHER:

Q. Good morning, Mr. Larsen. I'm Jim Fischer representing Verizon in this proceeding.

A. Good morning.

Q. I just wanted to follow-up on a line of questioning that occurred this morning with Mr. Jones. And I'd like to first refer you to page 5 of your surrebuttal testimony where I believe you indicate that you disagree with Tom Hughes of Southwestern Bell that Southwestern Bell is obligated by the Telecommunications Act to transit calls from an originating carrier to a terminating carrier; is that correct?

A. Yes. I challenged that motion.

Q. Are you suggesting there that Southwestern Bell and Verizon are not obligated to transit any calls that come to their tandems from an originating carrier and transit those calls to a terminating carrier?

A. To answer that question, you have to understand that I see the world where there are two types of traffic that can be handled by a Verizon or Southwestern Bell tandem. There's interexchange access traffic and there's local traffic.

To the extent that Southwestern Bell represents that the transiting traffic -- that they handle is local interconnection traffic between themselves and other CLECs for local traffic, then there is some obligation under 251-A to handle that traffic. But to the extent that it's interexchange traffic, as Mr. Jones has testified and I believe Mr. Schoonmaker, there are already procedures in place to handle interexchange traffic, and that is the access tariffs, both state and interstate.

So transiting to me -- my understanding of what Mr. Hughes is saying is that transiting is a local interconnection phenomenon and that if we're talking about interexchange traffic, then we should properly look at access charge regimes through the tariffs that have been in place for many, many years.

Q.   And I'd like to focus on the termination of access traffic coming into the Verizon tandem that would then be transited over to the end-office.

A.   Okay.

Q.   Is it correct, I believe, as Mr. Jones indicated, there are a number of local companies, rural small ILECs that don't have tandems in the state?

A.   I believe I have testified to a couple of dozen.

Q. Okay. For those companies that don't have their own tandems, would it be correct that they only receive IXC traffic by connecting to someone else's tandem?

A. No. I think that's part of the issues here is that on those common trunk groups, there are all sorts of traffic types that are coming down. There is the traditional interexchange traffic that would be passed by the tandem to the end-office, there's wireless traffic that can be passed.

Q. But to the extent we focus on interexchange traffic, unless they connect to someone's tandem, they don't receive interexchange traffic; is that correct?

A. Correct. That -- yeah. That traffic must pass through a tandem.

Q. Okay. Let's assume that a company like Peace Valley does not have a tandem, but it receives traffic from IXCs by connecting to a Verizon tandem. Will you assume that for me?

A. Okay.

Q. Okay. For IXC traffic that's destined to Peace Valley, isn't it true that the IXCs will have a direct connection at the Verizon tandem and that Verizon will then transit that IXC traffic to Peace Valley?

A. Yes.

Q. Okay. And Verizon will transit the IXC traffic using usually the Feature Group C network that goes between Verizon's tandem and the Peace Valley end-office; is that right?

A. Yes.

Q. Wouldn't it be possible for a tandem company like Verizon to decide that it would only terminate traffic to Peace Valley if that traffic was originated by Verizon's customers?

A. Would it be possible for Verizon to decide to only send traffic down the common trunks that Verizon originated?

Q. Yes. Since we don't have the obligation to transit IXC traffic.

A. Well, now, I don't know that I agree with your use of the word "transit" and I probably --

Q. Okay.

A. So to the extent that transiting is a local interconnection phenomenon, I'm not going to agree with that. And I would say that if another IXC wants to transit -- or transport traffic from wherever to Peace Valley, that you, as Verizon, have held your tandem out as a point of interconnection for that IXC and that having done that, you would accept that traffic and that you would transport and on a meet-point basis get that traffic to Peace Valley.

Q. We are holding ourselves out at the tandem, but you are suggesting, are you not, that Verizon and Southwestern Bell do not have the obligation to transit that originating carrier's traffic, the IXC, to Peace Valley, the terminating carrier?

A. No. According to your tariffs, my understanding would be, I guess, different than what you're suggesting. My understanding would be you're holding yourself out as a tandem in the network, that you're accepting interexchange carrier traffic.

Q. So are you accepting Tom Hughes' position that under the Telecommunications Act, Southwestern Bell and Verizon do have the legal obligation to transit calls from an originating carrier to a terminating carrier?

A. Well, at the risk of splitting hairs, I'm saying that we all, under 251-A, have a duty to interconnect our networks and that that interconnection can be direct or indirect. And that, furthermore, that that network interconnection does not necessarily characterize the business relationship that is attached to the interconnection. And I think that's a key to our case.

Our case is saying that, yes, we understand there are obligations under 251-A, but no, there are not obligations for my clients to accept the business arrangement that Southwestern Bell or Verizon insists upon.

If it's access traffic, our position is is that we have what we need today in our access tariffs to accept that traffic. And that if it's local interconnection traffic or cellular traffic, that we need to be parties to any agreement between carriers -- between all involved carriers before we are required to accept the business arrangement.

And I think we've recognized that correctly in our proposal where we've looked at CTUSR reports as, for the time being, a method to accept or carve out wireless traffic. So my answer is, yes, we have to interconnect our networks. No, we don't have to accept a decision made by other parties as to how their business arrangements impact us unless we're a party to it.

Q. I'm not sure that was my question. And let me make sure -- I may have misunderstood your position and the answer from David Jones this morning.

A. Okay.

Q. It's my understanding that your position is that you feel that Southwestern Bell and Verizon or the other PTCs are not obligated by the Telecommunications Act to transit calls from an originating carrier to the terminating carrier. And that's a linchpin of your position.

A. I've -- Counselor, I hope I'm not clouding. I have to insist by saying that transiting is a local interconnection, and we need to be a party to any arrangements for local interconnection and that simply doesn't exist.

Q. Okay. Let me change my -- not use the word "transit." Are you suggesting that we do have the obligation to terminate calls that we receive from an IXC at our tandem to end-offices in the state --

A. Yes.

Q. -- is that true?

A. For interexchange access traffic, under the current arrangements if an interexchange carrier comes to you and you have the facilities, you have an obligation to interconnect with that interexchange carrier directly at your tandem. And that, furthermore, downstream in your example, Peace Valley would have an obligation to accept that interexchange access traffic from the tandem.

Q. So even though we have an obligation under law, which we cannot walk away from, under the business relationship that you're suggesting, we would be on the hook financially for that traffic whether or not those originating carriers are paying the end-office carrier?

A. No. I don't think that you're -- you have to be on the hook for it financially. Two issues, interconnection of networks and business arrangements. If there's an interexchange carrier -- I mean, if we want to stick with the interexchange carrier example, I'd be happy to. Shall we go that route?

Q. Let's stay with that.

A. Okay. When that interexchange carrier interconnects to your tandem for traffic destined to Peace Valley, you, Verizon, have the capability of measuring that traffic entering into your network. And we know this because you've required at your access tandem for that interexchange carrier to order separate trunks for his traffic. So you know, as the tandem owner, exactly who the carrier is coming into your tandem. And, furthermore, you know what you're sending downstream to Peace Valley.

Now, in that process you pass to Peace Valley the AUR records necessary for them to look to the interexchange carrier for compensation. And you also have the records that you've measured at your tandem for yourselves to reach that carrier for compensation.

In that circumstance, if that carrier does not pay Peace Valley, Peace Valley does not look to you. You are not on the hook for that traffic.

Q. To the extent there is unidentified traffic, however, between the terminating company and the tandem company and that is a result of an IXC putting traffic on the network and Verizon having to under-- as I understand your position now, we have to accept that traffic, that then Verizon would be on the hook financially for that unidentified traffic; is that right?

A. Yes. And -- and the answer there is because Verizon had the capability at their tandem to understand who that carrier was. And if they failed to perform that recording function and pass the records on, it's our position that it was Verizon's responsibility as the point of entry into the network in this case and as the carrier measuring the traffic and having that relationship that if Verizon passes traffic that was unidentified by an IXC, Verizon is in a significantly better position and should be held responsible for that position to determine whose traffic is leaking and who is responsible.

As the subtending end-office, we are not in the same position that Verizon is in in that Verizon has that direct connection and the Peace Valley does not. So, yes, to answer your question, that traffic would be unidentified due to some problem with Verizon's network presumably and Verizon would be held responsible.

Q. Wouldn't it be also just as possible it could be due to someone else's network and not Verizon, but yet Verizon would be held responsible for that unidentified traffic?

A. You know, to answer your question, I would have to say at your access tandem if there's a problem with somebody else's network, you still would be in a much better position to determine whose network the problem existed with and we are in a substantially --

Q. I don't think that was the question though. Isn't it true that the problem of the unidentified traffic could be someone else's problem?

A. Oh, yes, it could be.

Q. And yet Verizon, under the business proposal that is being suggested by your clients, would be on the hook financially for that unidentified traffic?

A. Yes.

Q. Okay. Let me switch gears with you a little bit. And if I understand your testimony, you believe that Southwestern Bell, Verizon and Sprint should be considered as interexchange carriers when they transit traffic to small ILECs?

A. For the purposes of our business arrangement, yes, sir.

Q. Would you agree that an interexchange carrier is not obligated to connect to any particular tandem or end-office in the state if they don't want to?

A. That's correct.

Q. In other words, an interexchange carrier can choose the exchanges where it wants to serve; is that --

A. Absolutely.

Q. So if Verizon is considered an interexchange carrier, is there any reason why it would be obligated to provide Peace Valley with a common trunk to receive traffic from other interexchange carriers?

A. Well, I guess arguably for Verizon, originated traffic that was interexchange, yes, but we get back into those -- those definitions of LEC-to-LEC network and Verizon's access tandem functions, not as an interexchange carrier function, but as a LEC function, so --

Q. Well, so you're saying we're both a LEC and an IXC?

A. Absolutely.

Q. Let's assume that the Commission adopts your proposal to change the business relationship between the former PTCs and the secondary carriers. If that happens, then the former PTCs will be financially responsible for all the traffic that comes over their tandems with the exclusions that I think are contained in Mr. Jones' testimony. Correct?

A. Yes.

Q. And one way for the former PTCs to limit their risk from this new relationship would be for them to decide that they no longer wanted to carry other carriers' traffic; isn't that true?

A. Yes.

Q. So if the Commission accepts your proposal to change the business relationship and adds some financial risk to the former PTCs, isn't it conceivable that they could just decide to take care of their own traffic that they can control?

A. Yes.

Q. If the Commission accepted your proposal to change that business relationship, wouldn't the Commission be creating disincentives for former PTCs to continue to provide services to the rural, small ILECs?

A. What kind of services would you contemplate that they were providing to the rural, small ILECs?

Q. I think you're suggesting we don't have to transit traffic.

A. Well, the LEC access tandem owner has obligations that it holds itself out as. Maybe I'm being thick-headed. I'm not sure I understand what you're saying. For originating traffic? For terminating traffic? What?

Q. For IXC traffic coming in or other transiting traffic.

A. So let's take the interexchange traffic first. You're suggesting that Verizon could choose not to provide interexchange services to --

Q. I'm really asking if the Commission accepts your business relationship proposal, aren't you creating some incentives for us to look for ways where we don't have to serve those rural exchanges?

A. Sure.

MR. FISCHER: Okay. Thank you. That's all I have.

JUDGE MILLS: Thank you.

Sprint?

CROSS-EXAMINATION BY MR. MINNIS:

Q. Morning, Mr. Larsen. I just have a couple follow-up questions. You described a situation, and I want to clarify Sprint's situation if you're familiar with it. Is it possible -- well, are you familiar that some of Sprint's tandems connect with a Southwestern Bell tandem?

A. I'm not familiar, but I can -- hypothetically in my mind, if it's true --

Q. Okay. Let's say, for example, an IXC call goes to a Bell tandem then is sent to a Sprint tandem, which then sends it to a small LEC switch.

A. Okay.

Q. In that circumstance, is it possible that the Sprint tandem would receive a call which would be unidentified?

A. From the Bell tandem?

Q. Yes.

A. Yes.
Q. Okay. And under your plan -- under that scenario, under your plan, the Sprint company, since it's the last tandem before it gets to the small LEC switch, would be responsible for that unidentified traffic; is that right?
A. Yes.
MR. MINNIS: Okay. I don't have anything further.
JUDGE MILLS: Thank you.
Southwestern Bell?
CROSS-EXAMINATION BY MR. LANE:
Q. Good morning, Mr. Larsen.
A. Good morning.
Q. If you'd turn first to your rebuttal testimony, page 4, lines 9 to 11.
A. I need to go get it. I failed to bring it with me.
MR. JOHNSON: What do you need?
THE WITNESS: My testimony. I'm sorry.
BY MR. LANE:
Q. I'm going to give you your surrebuttal too.
A. Thank you. In my rebuttal, what page?
Q. Page 4, lines 9 to 11.
A. Okay.

Q. In there you state that Southwestern Bell and the other PTCs should be financially responsible for traffic they agree to terminate to the exchanges served by the Small Companies. I want to focus on the word "agree." Are you saying that Southwestern Bell should be financially responsible only if it voluntarily agrees to provide a LATA-wide termination service?

A. I don't want to limit it to that, but certainly starting from that position, yeah. If you agree to terminate it, that you should be responsible for it voluntarily.

Q. Is it a more accurate description of your position that Southwestern Bell should be responsible for all traffic that it's required to accept and pass through to the Small Companies?

A. I think that's a fair assessment.

Q. So that even if Southwestern Bell is placed in the middle and is required to carry the calls, your proposal would say Southwestern Bell is financially responsible to the small LEC for another carrier's traffic. Right?

A. Yes.

Q. Would you agree with me that the Commission has previously addressed this issue and found that when a company like Southwestern Bell is placed in the middle, that it does so only because it's required to do so as a matter of law?

A. I can agree to that -- in certain cases where that's true.

Q. There's no question that the position that the Small Companies are advancing in this case would require a complete restructuring of how the industry operates on an upstream basis, is there?

A. I don't know that -- I don't think that complete restructuring is an accurate description of what we're asking.

Q. You'd agree that the former PTCs would be required to amend their access charge tariffs in order to try to collect back from carriers who placed calls on the network to be able to recover the cost that the Small Companies choose to impose on the former PTCs?

A. I believe it was somebody else's testimony that suggested, no, that would not be necessary, that it wasn't necessary in the former PTC plan where exchange of monies took place without tariff changes.

Q. Is there any portion of the Southwestern Bell access tariff or any of the other former PTC's access tariffs that you can point to that indicates that they're entitled to pass on to an interexchange carrier charges assessed by Small Telephone Companies?

A. No. In the case of interexchange carrier traffic, I would agree it's meet-point billed, multiple bill, multiple tariff.

Q. And that tariff would have to be revised in order to permit the former PTCs to collect back from the interexchange carrier who placed the call on the network?

A. No. The interexchange carrier traffic would be accepted. And all interexchange traffic that is identified is an exception to the amount of traffic that would remain unidentified.

Q. All right. And then let me ask this. A CLEC operating in a former PTC's territory can also send toll traffic over the network. Right?

A. By your agreement. But that's interexchange traffic, would you agree? I can't ask you questions.

Q. When I sit on the stand, you can, but I don't think it's going to happen for a while.

A. That's interexchange traffic, sir.

Q. Okay. And would you agree then that your proposal does not seek to hold Southwestern Bell and the former PTCs responsible for CLEC-originated interexchange traffic?

A. If the proper interexchange record had been passed by the access tandem, specifically the AUR, similar to what are passed to the end-offices by Southwestern Bell on behalf of AT&T traffic or WorldCom traffic, to the extent that interexchange traffic records are passed to the subtending end-office, I would agree that that is no longer considered CLEC traffic in the proposal. It's interexchange traffic in the proposal.

Q. All right. And would you agree with me that the way the industry is structured today, that's not how it operates? That the tandem owner does not create the records that are passed to the Small Companies for CLEC-originated interexchange traffic?

A. I -- I -- I think that was in all likelihood not a standard issue. I think that was a choice that was made by Southwestern Bell in its agreements with the CLECs.

Q. All right. My question was, is that the way the arrangements are today?

A. No, it's not.

Q. Are the Small Companies today receiving Access Usage Records from the former PTCs for CLEC-originated interexchange traffic?

A. My understanding of the situation today is, first of all, it was testified yesterday that there was little, if any, CLEC traffic being transported in that fashion, that that was not being used. And, furthermore, that the access tandem company is not passing the AURs specifically for CLEC, but that the CLECs are obligated to pass the Cat 11 records themselves as any other PTC.

Q. So if the Small Companies' proposal is adopted, that relationship has to be changed, does it not?

A. For all former PTCs and CLECs that are performing an IXC function, yes.

Q. Okay. For all CLECs that are operating in all former PTC territory. Right?

A. Yes.

Q. And would you agree that that position is contrary to what the Commission previously set up for interexchange traffic originated by CLECs in various cases before the Commission?

A. I -- I'm not totally familiar with what the Commission ordered in those cases.

Q. Fair to say that under the Small Companies' proposal that Southwestern Bell and the former PTCs would have some potential financial liability because today their agreements and their tariffs don't permit them to assess the charges from the Small Companies back to the upstream carriers. Right?

A. For the limited duration of their remaining contracts, yes, there could be some potential liability.

Q. And before we implemented the proposal, the Commission would need to take that into account and revise those contracts and tariffs as well in order to avoid a confiscation question. Right?

A. Presumably, yes.
Q. Okay. It wasn't clear to me from reading your testimony whether your proposal on wireless-originated traffic was the same as that proposed by Mr. Jones and by Mr. Schoonmaker. Do you see those positions as being -- your position being the same as theirs with respect to wireless-originated traffic?
A. Yes.
Q. And would you take a look at your rebuttal testimony at page 9.
A. Okay.
Q. I took your position there to say that wireless-originated traffic remains the responsibility of the former PTC to pay at access rates to the Small Companies unless the Small Company has participated in some agreement that would result in something else being charged.
Is that a fair characterization of your position?
A. To the extent that we interpret that unless there's a local interconnection arrangement, such wireless traffic is interexchange access and is not identified on a CTUSR, then I suspect you would be asked to pay for it.
Q. Okay. And maybe it was my misunderstanding of your testimony. You're not saying in your testimony that wireless traffic is excluded only if there's an

interconnection agreement entered into between the wireless carrier and the Small Company?

A. No. I'm saying any wireless traffic that's identified on the CTUSR is accepted.

Q. Okay. And the small local companies don't have to agree to that arrangement, their proposal is we'll accept the CTUSRs?

A. Yes.

Q. Now, your position is that all of the traffic which Southwestern Bell presents to small LECs for termination is IXC traffic. Right? If you look at your rebuttal, pages 10, lines 10 and 11.

A. Yes. To the best of my knowledge -- I suspect maybe I guess to the -- there may be some MCA traffic that I failed to account for in this sentence, but --

Q. All right. This isn't exactly true as you now understand it?

A. As I now understand it, that's correct.

Q. Because of MCA traffic?

A. Because of MCA traffic.

Q. Which is considered local, is it not?

A. Yes.

Q. And you'd agree with me that there are several Small Companies that operate within the MCA -- within the MCAs in St. Louis, Kansas City and Springfield. Right?

A. Yes.
Q. Now, under your proposal, would Southwestern Bell be required to pay intrastate access charges on MCA traffic unless traffic was either put on a segregated trunk group or some factor was agreed to?
A. I believe that's our position. I know that's our position.
Q. And I note on your surrebuttal on page 10, lines 16 and 17 you say that Southwestern Bell's concerns over the inefficiencies of separate trunk groups are a, quote, minor and manageable concern. Do you see that?
A. Yes, I see that.
Q. Okay. If you're correct that it's a minor and manageable concern, would you agree that the Small Companies, as part of their plan, will agree to pay whatever the costs are to segregate MCA trunk groups?
A. I don't know that I'd agree to that. I mean, I'd suspect it would be handled in the normal fashion. MCA is, as I understand it, bill and keep, so trunks are sized and each carrier's responsible for their calls.
Q. MCA traffic flows over the common trunk groups for the most part in Missouri, does it not?
A. No. To my knowledge -- as I understand it, there are several dedicated MCA trunks in certain locations.
Q. Is it your understanding that the majority of

MCA traffic with CLECs -- or with small LECs today is on separate trunk groups?

A. No. It's not a majority of it. I think what I intended to say, and I'll say here, is that it's a mixed bag. There is some that's on common and there are some that are on dedicated. And I don't know the exact ratio.

Q. And the way your proposal works, unless that traffic is segregated on a trunk group or there's an agreement to a factor, then Southwestern Bell and the other former PTCs are required to pay intrastate access rates for that traffic which is otherwise supposed to be bill and keep. Right?

A. To the extent that the MCA traffic is, in fact, subtracted from the total measured by the end-office, that traffic is an exception as enumerated in our proposal. So to the extent that there could theoretically be remaining MCA traffic that is unidentified, then, yes, the proposal would contemplate that, in fact, Southwestern Bell would be responsible.

Q. And it's only excepted out if it's placed on a separate trunk group or an agreement is reached between the parties?

A. Yes. That's the proposal, yes, sir.

Q. But if there's not an agreement on factors, then you're not willing to represent that the Small

Companies will pay the cost to segregate that MCA traffic. Right?

A. I'm not prepared to represent that.

Q. It would be, under your proposal, Southwestern Bell's and the other formers PTCs' responsibility for that?

A. No. I'm not saying that either. I'm assuming that reasonable arrangements can be made and that the costs are borne appropriately by the carriers involved.

Q. But until the reasonable arrangements are made, Southwestern Bell and the other former PTCs would be required to pay access charges on traffic that's supposed to be bill and keep. Right?

A. If the segregation didn't take place and if the factors were wrong, then hypothetically that could take place.

Q. It's also true that CLECs are now permitted to participate in the MCA plan in Missouri. Right?

A. Yes, sir.

Q. You're familiar with the Commission's order in that regard?

A. No.

Q. Is your knowledge based on what you heard earlier in the testimony?

A. Primarily.

Q. Would you agree with me that CLEC-originated

MCA traffic is also supposed to be bill and keep?

A. Sure.

Q. And, under your proposal, if that MCA-originated traffic transits through Southwestern Bell or another former PTC's network on its way to termination to a small LEC, then Southwestern Bell and the other former PTCs would have to pay intrastate access charges on those calls as well. Right?

A. It's not the intent, but it's possible.

Q. And those parties aren't here in front of the Commission to agree to any factor or to agree to segregate their trunk groups that have MCA traffic, are they?

A. No. No, they're not.

Q. Would you agree with me that under the Commission's orders in that case that CLECs offering MCA service are required to send records for non-MCA traffic to the Small Telephone Companies?

A. I haven't read the order. I don't know.

Q. Do you know whether that's, in fact, occurring?

A. As I understand it, my clients have told me that CLECs -- they do not receive records from CLECs.

Q. And are you aware of any actions that the Small Companies have taken with regard to enforcing that portion of the Commission's order in TO-99-483 that requires them to provide those records?

A. No, I am not.

Q. Would mandatory EAS arrangements also potentially be subject to payment of access charges under the plan that the Small Companies advance?

A. Not being familiar with the EAS arrangements in Missouri and looking at the plan on its face, I would say that, no, the --

Q. If minutes from mandatory EAS flow over a common trunk group, wouldn't they be subject to your proposal?

A. If that were true, then I would have to answer, yes, they would be.

Q. Okay. And you'd agree that mandatory EAS arguments are to be bill and keep. Right?

A. I don't understand that at all. That's typical.

Q. You don't know one way or the other?

A. Not for Missouri, no, sir.

Q. Are you in agreement with Mr. Jones that Southwestern Bell and the other former PTCs have the discretion to refuse to carry any indirectly connected traffic originated by others to the -- that is designed for termination to Small Companies?

A. What type of traffic?

Q. I understood from Mr. Jones that all traffic was subject to the right of the carrier in the middle to decline to carry it. Is that your position as well?

A. No. As -- as I understand carrier's obligations, is that they have a duty to connect their networks directly or indirectly. And as I testified earlier, it does not go to the issue of the business arrangements, so there's not a mandatory requirement that my clients or any of the Missouri independent LECs accept the arrangements that Southwestern Bell may have made with another carrier. So I -- I read 251 to say there is a duty to connect networks, but not to accept business arrangements.

Q. And I want to focus on Southwestern Bell and the former PTCs, whether you agree with Mr. Jones that those companies should have the right to decline to accept traffic from carriers that is designed for termination in Small Companies' exchanges?

A. Access traffic that comes to Southwestern Bell destined for a Small Company exchange carries with it an obligation for Southwestern Bell to treat it consistent with Southwestern Bell's tariffs. And, therefore, as a common carrier, you have an obligation to carry interexchange traffic from your tandem to an end-office that subtends your tandem.

Q. Okay.
A. Under the terms of your tariff.
Q. But under the proposal that the Small Companies advance, we're being asked to take an additional duty on. Right?
A. No. We're asking that everybody comply with their tariffs. If it's interexchange traffic, you treat it as interexchange traffic at your tandem and you generate the appropriate records that you pass to the end-office.
In the case of interexchange traffic that was originated by Southwestern Bell and destined to Pilot Grove's tandem, just like any other interexchange traffic, you would be responsible for everything on those directly connected trunks. So to the extent that there's problems back upstream with the connections you have with other carriers is -- is risks that, yes, we're asking you to take.
Q. All right. That is an additional responsibility?
A. I don't say it's additional. I believe it's existing.
Q. Okay. Now, CLEC-originated interexchange traffic does Southwestern Bell -- do Southwestern Bell and the former PTCs have the ability, under your view, to decline to carry that traffic for termination?
A. CLEC interexchange traffic?

Q. Yes.
A. No. I don't believe that you do.
Q. And today that traffic, as well as all other interexchange carrier traffic, is designed for a meet-point bill and keep arrangement. Right?
A. All -- I don't care whether you use CLEC or whatever. All interexchange traffic under our access tariffs, all of it unless -- well, no. All interexchange traffic is designed for meet-point billing.
Q. I want to focus a minute on interstate intraLATA traffic. Would you agree that today that that traffic can be sent over and is sent over common trunk groups for termination to small local exchange companies?
A. Yes.
Q. And would you agree that historically those arrangements have been on a bill and keep basis?
A. Yes.
Q. And are you aware of changes that are being implemented with regard to that traffic?
A. Yes. It's, I believe, noted as an exception in the -- in the -- in our plan.
Q. And until the records are created then under your plan, Southwestern Bell and the other former PTCs would be required to pay intrastate access charges on those calls rather than interstate access being billed to the originator

of the calls?

A. Yeah. To the extent that you can't tell us what's interstate, just like any other interexchange carrier is allowed to identify interstate traffic through PIUs, our position is that all unidentified traffic default to the current intrastate access rates, yes.

Q. And that would mean that Small Companies would be being paid substantially in excess of the interstate access rate that ought to be applicable to that?

A. I disagree with your supposition. I mean, we don't know it's interstate until you tell us. So until you tell, we're assuming it's intrastate. It's incumbent upon you to tell us what the traffic is.

Q. Now, all the traffic that's originated on interstate basis that's intraLATA is not Southwestern Bell traffic, is it?

A. No. I'm sure that's correct.

Q. What other companies are involved, to your knowledge, in sending that type of traffic?

A. You know, I don't have specific knowledge. I understand there are some in the Kansas City LATA. I don't know.

Q. How about in St. Louis LATA?

A. I understand that exists over there as well.

Q. Okay. And is it possible for CLECs to be operating in the St. Louis or Kansas City LATAs on the Kansas and Illinois side?

A. Sure. Sure.

Q. And they could send interstate intraLATA calls to the Small Companies for termination as well. Right?

A. That's correct.

Q. And Southwestern Bell and the other former PTCs would be responsible for paying intrastate access charges on these calls under your proposal. Right?

A. To the extent that Southwestern Bell's tandem cannot identify, measure and report that traffic as interstate, then, yes, Southwestern Bell would have the obligation commensurate with its responsibilities.

Q. In your rebuttal testimony on page 16, lines 22 and 23, you discuss the records issue. Could you turn to that for a moment?

A. Sixteen, twenty-two and twenty-three?

Q. Yes, sir.

A. Okay.

Q. And I want to focus on the sentence that starts on line 22 and then carries over to 23 where you say, For purposes of the network tests, Southwestern Bell agreed that call code 119 terminating records were an appropriate and accurate basis for comparison and reconciliation to the multitude of billing records it generates.

Do you see that?
A. Yes, sir.
Q. Wouldn't you agree that the records test simply looked at two available records, originating and terminating, and tried to determine what the reasons for the difference were?
A. That, at a minimum, was the objective. I don't know that that was the complete objective.
Q. And isn't it fair to say that neither side agreed that the other's records were either accurate or appropriate for use?
A. For -- I believe my understanding is is that I'm -- well, what I'm saying here is that they were accurate and appropriate for comparison and reconciliation.
Q. And then the originating records that were used in the test, from the Small Companies' views, are an equally appropriate and accurate basis for comparison?
A. I think that would logically follow, but that's not what I'm testifying.
Q. Okay. And I took that to -- that statement to indicate that we thought that -- you were asserting that because we used terminating records for purposes of the comparison, that we agreed that those records were valid and appropriate for use, but that's a misunderstanding? That's not your testimony other than for purposes of that test?

A. Well, we -- you know, we acknowledge that at a subtending end-office that the 119 records that we're able to record have limitations for purposes of billing other carriers, but they have great applicability for billing the access tandem responsible for sending the traffic downstream. So our position -- I mean, I can't deny that our position is that we're going to rely on 119 records.

Q. And that wasn't my question. I thought you were indicating in your answer here that the former PTCs were essentially conceding that your records were accurate and reliable because they used them in the records test, but that's not what you're saying, is it?

A. I don't believe you've conceded that they're accurate and reliable for purposes of our plan, no, I do not believe that.

Q. Okay. Now, would you agree with me that terminating records are not necessarily 100 percent accurate and correct in all instances?

A. Nor are originating.

Q. They're equally subject to whatever problems can occur on the recording side. Right?

A. Technically, yes, but financially -- or practically, I think there are some issues of originating that brought us here today.

Q. The terminating side operates using software operating within some piece of hardware. Right?

A. Yes.

Q. And if you have a problem with the software or if you have a problem with the hardware, you can have a problem with the terminating record. Right?

A. Absolutely.

Q. Or you could have human error that's introduced into the equation as well. Right?

A. Absolutely.

Q. Whether the terminating records are accurate or not, you agree that those records cannot identify the originating carrier because the carrier identification code is not something that is passed or recorded at the terminating end?

A. I'm going to give you a two-part answer. At an access tandem that point is irrelevant, because we'll have the dedicated trunk group that identifies the responsible carrier. At a subtending end-office, you're absolutely correct. The records do not contain information as to the originating carrier.

Q. Okay. On page 13 of your rebuttal you discuss IWS service. Do you recall that?

A. IntraLATA wholesale service?

Q. Yes, sir.

A. Page 13 of the rebuttal?

Q. Yes, sir. Do you see that?
A. Yes. I'm there.
Q. Okay. You'd agree with me that service is not offered in Missouri. Right?
A. To my knowledge, no.
Q. Okay. And under that service where it is offered, it's a proposal to terminate on a LATA-wide basis and to take into account the cost of the terminating companies. Right?
A. Yeah.
Q. In that case the company has made an express offer to carry on a LATA-wide basis and to terminate on a LATA-wide basis. Right?
A. Southwestern Bell's made an express offer? Yes.
Q. And you would agree with me that today in Missouri, Southwestern Bell does not have any LATA-wide termination offering in which it agrees to terminate calls from others and be responsible for the terminating access of Small Companies?
A. I believe Feature Group A has that feature.
Q. And that's a revenue sharing arrangement?
A. Yeah.
Q. Okay. With that exception, would you agree that there is no LATA-wide termination service that

Southwestern Bell offers in which it agrees to be responsible for the terminating costs of the Small Companies?

A. In Missouri, that's true. In other states there are two offers.

MR. LANE: Thank you. That's all I have.

JUDGE MILLS: Thank you.

We're going to take a 10-minute recess. We're off the record.

(A RECESS WAS TAKEN.)

JUDGE MILLS: We're back on the record. We finished cross-examination of MITG Witness Larsen, and we're ready for questions from the Bench. I have just a few questions.

QUESTIONS BY JUDGE MILLS:

Q. Mr. Larsen, are you familiar with Mr. Cowdrey's testimony in which he proposed a 50/50 split?

A. Yes.

Q. And what is your response to that proposal?

A. I tend to agree with David Jones' response in earlier testimony, and that is that it has at least the appearance of an incentive for a carrier to not report minutes on an originating response -- or the originating records that form the basis for the billing under the Southwestern Bell position. The carrier would be motivated to withhold those records knowing full well they would receive an automatic 50 percent discount.

Q. Now, have you determined the cost to the industry of the proposal that you've put forward in this case?

A. Not having any knowledge of Southwestern Bell's cost profiles in something of this nature, I would say what we're asking here is for the carriers to comply with our tariffs. And that to the extent that there would be costs included in any subsequent renegotiation of local interconnection contracts between Southwestern Bell and a CLEC, that I would assume for the marginal issue at -- before us, that the cost of negotiation would be diminimus.

I don't see any major network reorganizations, any major on Southwestern Bell's part or a CLEC's part to comply with this. So I think this is just complying with tariffs, and I think this is pretty straightforward, so --

Q. Now, since all the parties are present in this case, the PTCs, the former PTCs and the small LECs, wouldn't it be judicially efficient to go ahead and decide the business relationship issue in this case?

A. Yes.

JUDGE MILLS: That's all the questions I have.

We'll do a round of cross-examination based on those questions beginning with the Small Telephone Company

Group.

MR. ENGLAND: No questions. Thank you.

JUDGE MILLS: Public Counsel is not here. Staff?

MR. WILLIAMS: No questions.

JUDGE MILLS: Verizon?

MR. FISCHER: No questions.

JUDGE MILLS: Sprint?

MR. MINNIS: No questions.

JUDGE MILLS: And Southwestern Bell?

MR. LANE: No questions.

JUDGE MILLS: Thank you. Redirect, Mr. Johnson?

REDIRECT EXAMINATION BY MR. JOHNSON:

Q. Mr. Larsen, I want to go back to some topics that Mr. Fischer, on behalf of Verizon, was asking you about. When a company such as Verizon has a switch designated as a tandem switch, what kind of declarations or what type of a process is formalized for becoming a tandem?

A. At the discretion of the local exchange carrier, they make a declaration of a particular switch at a particular location is an access tandem and that would be the location where interexchange carriers are expected to interconnect with them. And they further make a designation as to all of the end-offices that subtend that tandem.

Q. Now, is that designation made at any state or federal tariff?
A. Both.
Q. And in the state and federal tariffs, when they make that designation, does the tariff also contain a listing of the end-offices that are going to be served by that tandem?
A. Certainly for the -- in the LERG, in the -- in the federal tariff.
Q. Okay. Would it be fair to say then that, in your opinion, when GTE's or Verizon's tandem switch that serves Peace Valley became a designated tandem in the state and federal tariffs, that GTE or Verizon held itself out to terminate interexchange traffic to the Peace Valley exchange?
A. That is the place where interexchange carriers come to get to Peace Valley, yes.
Q. When interexchange carriers come to Verizon's tandem switch that serves Peace Valley, do they have separate trunks that they interconnect with Verizon at or -- on or at that tandem?
A. Yeah. That's one of the advantages of having a tandem, is that you do get those separate trunks.
Q. Okay. When Verizon measures that interexchange carrier's traffic, does it care who originated

the traffic?

A. Not at all.

Q. How could it happen that Verizon could ever fail to accurately measure the traffic that the IXC brings to Verizon's tandem?

A. If their equipment failed -- their measuring equipment failed.

Q. Would any failure depend upon the identity of the originating carrier?

A. No.

Q. One other thing. When Verizon designated that tandem in the state and federal tariffs as a tandem, did that have a corresponding requirement for interexchange companies that if they want to go to the end-offices served by that tandem, they have to either connect at that tandem or at the end-office itself?

A. Yes.

Q. Mr. Minnis from Sprint asked you a question, and the hypothetical was, let's suppose a call terminating to a Small Company by going through first a Sprint tandem and second a Bell tandem -- or there was an example like that. My question to you is, if both of those tandems are in the same LATA and that's an IXC or interexchange call, is it appropriate for that call to go through two separate tandems?

A. No. The interexchange carrier would have to arrive at the serving tandem.

MR. MINNIS: Judge, I don't want to object. I don't know if the answer made a difference to his question, but the question actually was that a call goes from the Bell tandem to the Sprint tandem to the LEC switch.

MR. JOHNSON: Okay.

JUDGE MILLS: Thank you for clarification. I really don't think it does make a difference to the point he was trying to make.

BY MR. JOHNSON:

Q. I want to go to some questions now that Mr. Lane asked you. To your knowledge, is there anything in the Telecommunications Act that would preclude Bell from negotiating sufficient revenues from the CLECs to cover its costs in terminating their interexchange traffic to the Small Companies that Bell's tandem serves?

A. Bell could readily agree to do that with a CLEC.

Q. He asked you some questions that had to do with factors that might be used for calculating MCA traffic quantities if it's not placed upon separate trunks. Do you remember those?

A. Yes.

Q. I want to ask you some questions about factors. Are there any situations in the industry which factors are used to determine the amount of traffic that's placed on a particular facility?

A. Oh, it's a common practice.

Q. Can you give the judge some examples?

A. Yes. Interexchange carriers, when they order service from a local exchange carrier, part of that order requires them to declare the percent of interstate usage. And it's at the discretion of the interexchange carrier to designate what they believe to be that percent to be used for interstate.

So, therefore, access bills that are rendered to those interexchange carriers that reflect that PIU immediately allow that carrier to determine how much of his business is he going to pay for out of the state access tariff and how much is going to be paid out of the interstate tariff. There's also percent local usage factors that are negotiated in interconnection arrangements so that -- and they perform the same function.

Q. The last question I wanted to ask you, Mr. Larsen, in response to some of Mr. Lane's questions, you were -- as I understood them, for that 48-hour records test, I think his question was that they were comparing the terminating switch recordings to the originating switch recordings. Is that what was really being compared in that test?

A. No. In fact, the terminating recordings that were made by the -- by the Small Companies were being compared to originating billing records, the 92 Cat 11 type records.

Q. As you understand it, the former PTCs' billing systems, are those software programs that are overlaid upon the originating switch recordings themselves?

A. Yes. They -- they are.

Q. But they're a separate -- the output from the billing system is a separate output from the switch recording?

A. Yes. It goes through several stages.

MR. JOHNSON: Thank you, your Honor.

JUDGE MILLS: Thank you. You may step down.

It's my understanding that because of a scheduling conflict, all the parties have agreed to take Sprint Witness Cowdrey out of order next; is that correct?

MR. WILLIAMS: Yes.

JUDGE MILLS: Mr. Cowdrey, why don't you come forward?

(Witness sworn.)

JUDGE MILLS: Thank you. You may be seated. Please go ahead, Mr. Minnis.

W. ROBERT COWDREY testified as follows:

DIRECT EXAMINATION BY MR. MINNIS:

Q. Would you state your name and occupation, please.

A. Yes. My name is William Robert Cowdrey. I'm director of regulatory affairs for Sprint for the states of Kansas and Missouri.

Q. Did you cause in this docket to file three sets of testimony, direct testimony, rebuttal and surrebuttal?

A. Yes.

Q. And for the record, your direct testimony has been labeled as Exhibit No. 17, your rebuttal testimony has been labeled as Exhibit No. 18, and your surrebuttal has been labeled as Exhibit No. 19; is that correct?

A. Yes.

Q. Do you have any corrections or modifications to this pre-filed testimony?

A. No, I do not.

Q. If I were to ask you the same questions that are contained in Exhibit Nos. 17, 18 and 19 of your pre-filed testimony, would your answers be the same today?

A. Yes.

Q. And are they true and correct, to the best of your knowledge and understanding?

A. Yes.

MR. MINNIS: Sprint would move for the admission of Exhibit Nos. 17, 18 and 19.

JUDGE MILLS: Are there any objections to the admission of 17, 18 or 19?

Hearing none, they will be admitted.

(EXHIBIT NOS. 17, 18 AND 19 WERE RECEIVED INTO EVIDENCE.)

MR. MINNIS: Pass this witness for cross-examination. Thank you.

JUDGE MILLS: Thank you. Cross-examination, Verizon?

MR. FISCHER: No questions, your Honor.

JUDGE MILLS: Southwestern Bell?

MR. LANE: No questions, your Honor.

JUDGE MILLS: Public Counsels? Staff?

MR. WILLIAMS: No questions.

JUDGE MILLS: Small Telephone Company Group.

MR. ENGLAND: Your Honor, Mr. Johnson and I have agreed to reverse our roles. He's going to take the first crack at cross-examination and I'll take the second, if that's okay.

JUDGE MILLS: Mr. Johnson?

CROSS-EXAMINATION BY MR. JOHNSON:

Q. Mr. Cowdrey, how are you doing?

A. Fine. Thank you.

Q. Good. I want to start with talking about an originating records system for determining terminating compensation.

A. Okay.

Q. Is it true that during the term of the PTC plan, that the PTCs used an originating records system between themselves?

A. Yes.

Q. Okay. And would you agree with me that during the term of the PTC plan that Sprint also kept track of its terminating traffic and compared it from time to time to the originating records it was receiving from the other PTCs?

A. No. I don't believe -- I'm not sure what you're referring to, but I don't believe we had a terminating measurement to compare to the originating records.

MR. JOHNSON: Excuse me just a second.

JUDGE MILLS: You ran him right out of the room.

BY MR. JOHNSON:

Q. I'm sorry. Did you ever have occasion to request from Southwestern Bell permission to audit their originating records creation system?

A. Yes. We've -- Sprint audited Southwestern Bell twice, I believe, back in the mid-90s.

Q. Okay. And if you didn't keep track of the traffic that was terminating to you and compare it to the originating records you were receiving from the other PTCs, how would you ever had occasion to request such an order?

A. Well, I think that was part of the -- the PTC plan was that as part of the validation and verification process, companies were allowed to audit each other to ensure the integrity of the records.

Q. So there was at least a theoretical need or there might be a potential need to audit one another to make sure that the originating record system of another carrier was performing properly?

A. Yes. I think it's good business practice in all aspects of your business to make sure that it's working correctly, and auditing is part of that process.

Q. Okay. I don't want to spend a lot of time with this, but I want to talk a little bit about those '95 and '98 audits without going into any highly confidential or proprietary information, if I could. Okay?

A. Okay. To the extent I can remember those.

Q. Okay. Were you part of the 1995 audit that Sprint performed with Southwestern Bell?

A. Yes.

Q. Okay. And would it be fair to say that an issue that Sprint was concerned about was the programming that Southwestern Bell was using for interexchange traffic that was not dialed with the use of a one?

A. Yes. I believe that was one of the issues we reviewed in that audit.

Q. Return call COS traffic, was that one of them?

A. Yes.

Q. Okay. And, as I recall, you found in that audit that Southwestern Bell was not providing -- well, first of all, under your-all's agreement to use originating records, what you exchanged was a 92-01 record; is that correct?

A. I believe we exchanged 92-99 records, which are summaries of 92-01 records.

Q. Okay. But it was a 92 based record system as opposed to a Category 11 based record system?

A. That's correct.

Q. Is it fair to call that a Category 92, or is that something different?

A. Category 92 is fine.

Q. Okay. And I think it was found during that first audit that Bell was not providing as many 92-01 records as United had recorded for the Ferrelview exchange; is that right?

A. I don't remember that to be the case.

Q. Okay. Is Ferrelview a Sprint -- when I say

United, I mean, Sprint United, the LEC. Is Ferrelview an exchange of Sprint, the LEC?

A. Yes.

Q. Okay. And is it somewhere near north Kansas City?

A. Yes.

Q. Do you remember whether or not you had -- or believed there were problems that existed for traffic coming from Bell's exchanges here in the Westphalia LATA that were terminating to Jefferson City?

A. Yes. I believe that was an issue in that -- in that audit.

Q. And what you wanted to accomplish in your review of Bell's systems was to see if Bell was correcting converting its toll recordings into Category 92 records?

A. That was part of -- that was part of the audit plan, yes.

Q. Okay. And you went to Bell's offices in St. Louis in October of 1995?

A. I believe that's the correct time frame.

Q. And they knew you were coming and you told them in advance what you wanted to do?

A. Yes.

Q. And you had requested certain records be made available for you. Is that fair to say?

A. I think that's generally -- we provided them a plan in anticipation of our arrival.

Q. Okay. And did they provide you everything that you wanted to see on that initial visit?

A. I don't believe we received everything that we'd requested in that initial visit.

Q. You'd wanted to be given access to Bell's edits, tables and procedures necessary to review the conversion of toll records to 92 billing records; is that right?

MR. LANE: Judge, I'm going to object to this line of questioning. It's irrelevant to the issues in this case, and it's far beyond the scope of his pre-filed testimony.

JUDGE MILLS: Well, I think one of the issues is call records and the reliability of originating records and the superiority of terminating records, at least that's one of the allegations. And I think this line of questioning so far has been the auditability of originating records, and I think it is relevant, so I'm going to allow it. Objection's overruled.

BY MR. JOHNSON:

Q. Do you remember the question?

A. No, I do not.

Q. When you arrived in St. Louis, you wanted to be given access to Southwestern Bell's various edits, billing tables and their internal procedures that would be necessary for you to review how they converted a toll record to a Category 92 billing record; is that fair?

A. Yes.

Q. And did Southwestern Bell refuse you access to some of that information on the grounds that they considered that to be proprietary or internal information to Southwestern Bell?

A. As I recall, yes.

Q. And at that point in time, did Southwestern Bell and Sprint already have proprietary or confidentiality agreements between them?

A. I don't remember that. I'm not sure.

Q. Were you able -- did you go ahead and complete that audit that was started in 1995?

A. Yeah. I think the companies reached a settlement on all of the issues that were in that '95, and we were happy with the final results.

Q. Okay. In 1998 you did another audit; is that right?

A. Yes.

Q. And, as I recall, looking at the paperwork, you headed up the team this time?

A. That's correct.

Q. And the critical issue was seven-digit dialed COS?
A. That was one of the issues as part of that audit.
Q. There was also a negative MCA provisioning issue?
A. I don't remember that one, but I -- I know that issue, so it very likely could have been part of that.
Q. Wasn't the COS -- the seven-digit dialed COS issue also an issue three years earlier in 1995?
A. I -- I don't know if it was the same issue or if it was -- if it was a different issue from that.
MR. JOHNSON: With permission, Judge --
JUDGE MILLS: Go ahead.
BY MR. JOHNSON:
Q. Just for you to be able to refresh your recollection, I was going to hand you what was marked as a highly confidential Exhibit 85-HC in TO-99-254. And I wanted to --
MR. LANE: Your Honor, if I may object, this is -- is this one of our documents?
MR. JOHNSON: No.
JUDGE MILLS: He has stated -- I don't know if you could hear -- that it's an exhibit from 99-254 with which he's intending to refresh the witness's recollection

about the scope of the audit in '95.

MR. LANE: I haven't seen the document, your Honor, but if it's a highly confidential document from another case, the Commission's protective order that's entered in the other cases makes it absolutely abundantly clear that highly confidential documents may be used only for the purposes of that case and they're to be returned to the party at the conclusion of the case. Now, I don't know whose document it is, because he hasn't shown it, but if it's ours or if it relates to us, then I certainly object to that.

JUDGE MILLS: Is it a highly confidential document?

MR. JOHNSON: It is a highly confidential document that was produced by Sprint to me and designated as a highly confidential document and it was admitted into evidence in that case.

MR. ENGLAND: Your Honor, if I could weight in on that, I think Mr. Lane's mistaken because once that highly confidential information that may have been revealed in discovery is made part of the record, albeit in-camera under seal, it doesn't get destroyed at the end of the case. It becomes part of that case. It's just simply a sealed document.

So I think there's a distinction between highly confidential information provided in discovery that isn't used in the process of the case versus highly confidential information that becomes part of the record of the case.

JUDGE MILLS: Mr. Lane, I don't know the providence of this exact copy, but I think Mr. England is right, that this is not simply a response to discovery, but it is an exhibit that's -- I mean, it's hard to say it's a public record because it's highly confidential, but it is essentially a highly confidential public record that's part of the record in 99-254.

MR. LANE: Well, I don't know about the return of the document, but the Commission's order says that anything that is highly confidential can be used only for the purposes of that case, period.

Now, it may have to stay part of the record because of appellate concerns, but the order -- the protective order is still very clear that something's to be used only for the purposes of the case.

MR. JOHNSON: Your Honor, the witness has stated he doesn't remember whether or not the scope of the 1995 audit specifically included return COS, and I was just offering him this exhibit for an opportunity for him to refresh his recollection as to whether it was included in the scope. And I'm not intending to elicit anything of a highly confidential nature contained in the exhibit.

JUDGE MILLS: I understand that. And I think that the latitude with which a cross-examiner is allowed to try to refresh the recollection of a witness is very -- fairly broad, but I don't think that's Mr. Lane's point.

I think Mr. Lane's point is that even though you have a broad latitude to refresh a witness's recollection, you can't use this particular document in this case because of the protective order in the previous case. Is that --

MR. JOHNSON: This is a document --

JUDGE MILLS: Excuse me. Is that a correct paraphrasing of your point, Mr. Lane?

MR. LANE: Yes, your Honor.

JUDGE MILLS: How do you respond to that?

MR. JOHNSON: The particular document I'm asking him to look at is an internal handwritten memo created by Sprint, not even Southwestern Bell.

MR. LANE: What I don't know, your Honor, is what the confidential information is in there. If it's ours, then Sprint would have that and would have an obligation to keep it highly confidential. That's the point. That's why the Commission says you can use it only for the purposes of this case. And I don't know -- you know, I don't know what's in the document because I haven't seen it, but if it relates to our information --

JUDGE MILLS: Let me hold off on that. Mr. Johnson, will you please show Mr. Lane the document?

MR. JOHNSON: Yes. Well, do I need Sprint's permission to show Southwestern Bell this since it's their highly confidential document?

MR. LANE: That's exactly why the Commission has the order in that kind of case. It's very unusual to be using it in a subsequent case. We just went through this in the last case that we tried and it wasn't permitted.

I can't tell from that whether it's our information or not, your Honor. I can't tell.

JUDGE MILLS: The way I'm going to rule in this instance is because this is a document that was provided in a previous case by Sprint to the MITG, although it was probably the Mid-Mo Group at that point, anyway, to this group of intervenors in a previous case, I'm going to allow the use of this document only for the purpose of refreshing the Sprint witness's recollection and for no other purpose.

BY MR. JOHNSON:

Q. After having reviewed that document, Mr. Cowdrey, is your recollection refreshed with respect to whether or not COS traffic was included in the scope of the 1995 audit?

A. Yes. According to this document, that was part of the audit in 1995.

Q. Thank you. I better take that back.

Do you recall any of the particulars of the 1998 audit about what Bell's systems that you looked at and what you, in particular, had concerns about?

A. Not specifically. I think we started it out as just a general audit to go see -- just check the validity of their originating records.

Q. Can you explain to me what a re-circle file is?

A. Re-circle file?

Q. Yes.

A. In some billing systems, if there's a record that temporarily errors, it will go into a re-circle file until someone can manually get in and adjust that record so it will process accurately.

Q. Do you recall whether or not you reviewed Southwestern Bell's re-circle file in your --

A. I think it was one of the issues that we looked at --

Q. Do you recall --

A. -- but I don't remember any of the specifics to it.

Q. Do you recall something about checking

Southwestern Bell's indicators?

A. I don't know in what context.

Q. Do you know what an indicator is?

A. Yes.

Q. What is an indicator?

A. Indicator is part of a record that says something about that record where -- it may say where it came from, it may say that -- you know, how this was recorded. There's numerous indicators on records.

Q. Okay. If there's an error in a re-circle file, can that result in an error to send an originating record?

A. It's temporary, but those are generally looked at very closely, and it would not properly last more than a week or so.

Q. If there's error in the way an indicator is set up in the billing systems, can that result in a failure to provide originating records?

A. Yes. But I'd like to go on to say that it's not -- any record that flows through the billing system would be apt to this, even like terminating Feature Group D records provided by tandem companies. They would go through the same process and, you know, the same issue exists and then even when it gets to the Small Companies, when that's pulling into their billing system, a similar issue exists.

So, yes, that's possible anywhere in that process.

Q. Would you agree with me as a result of that 1998 audit, you found that Southwestern Bell owed Sprint substantial amount of money or significant amount of money?

A. Yes. I believe -- in fact, I don't think I uncovered it. I believe Southwestern Bell brought the issue to me, but --

Q. Would you agree also as a result of that audit that Southwestern Bell found or maybe you found, that you owed Southwestern Bell a significant amount -- by "you," I mean Sprint --

A. In that particular audit?

Q. -- not you personally?

A. Hopefully not personal. I don't recall, but I remember in both of these audits there were offsetting issues both ways where, you know, Southwestern Bell would bring something to our attention that maybe went in our favor and also went the other way. And Sprint did the same thing, so there were offsetting issues.

Q. Thank you, Mr. Cowdrey. I want to change topics a little bit now. Do you agree that an IXC or an interexchange carrier is required to deliver its terminating traffic directly to the tandem that serves an end-office or directly to the end-office itself?

A. No, I do not. I know of examples where IXCs deliver to a larger tandem and then send the traffic on through a smaller tandem to the final end-office.

Q. If both of those tandems are in the same LATA, that's not an appropriate tandem-to-tandem transport function, is it?

A. I don't think there's anything that prohibits that.

Q. Isn't it true that if you get a request from a company to stop handling their traffic to your tandem and instead send it to this tandem, that you'll honor that request and perform the necessary translation work to make sure that traffic does go to them at their own tandem?

A. Yes. If there's another tandem owner that desires to have that traffic come directly to them, then I will attempt to change the translations to correct -- or to make that change.

Q. And that's actually happened with Kingdom Telephone Company; is that right?

A. Yes.

Q. I want to ask you a question about Feature Group A traffic. You don't currently have any Feature Group A traffic, do you?

A. That's my understanding, yes.

Q. Why do you not have it and the Small Companies still have it?

A. I don't know that iss-- well, I'm not the carrier. We may have some settlement from Southwestern Bell on the revenue-sharing standpoint, but -- but I'm not the carrier of that Feature Group A traffic.

Q. How many interconnection agreements has Sprint negotiated in -- or have approved in Missouri?

A. I don't know that answer. I'm sure the Commission's website could provide that.

Q. Excuse me a second. Are you familiar with your interconnection agreements?

A. Somewhat. I wasn't personally involved in the negotiation, but I've briefly looked through some of --

Q. Are you familiar with the data responses that you've given to the Missouri Independent Telephone Group asking questions about the structure of your interconnection agreements?

A. Yes.

Q. Okay. Would you agree with me that when you interconnect with either a CLEC or a wire-- or a wireless carrier, you interconnect with them on a direct interconnection basis?

A. No. I don't think that's the case. In many instances -- for example, in our Maryville tandem there are certainly numerous CLECs and wireless providers interconnected with Bell in their Kansas City tandem. And we would have an indirect connection with those wireless and CLEC carriers in that situation at our Maryville tandem.

Q. Maybe my question wasn't very clear. I was asking you about the structure of your interconnection agreements that you negotiate and submit to the Commission for approval.

A. We -- we do two different types. There's also a traffic termination agreement where it's an indirect connection, but I think our interconnection agreements generally are on a direct connection basis.

Q. The traffic termination agreement, is that the agreement that you have with -- is it ExOp?

A. No. I think we have one with -- some of the other CLEC affiliate -- or Small Company affiliates.

Q. Was that submitted to the Commission for approval?

A. Yes. I believe so.

Q. The direct interconnection agreements that you have, do you have some of those with both wireless carriers as well as competitive local exchange companies?

A. Yes. I believe so.

Q. And is their traffic put on a separate trunk where they interconnect with Sprint?

A. I don't know that answer.

Q. Do you know whether or not, under your agreement, you have the ability to terminate your interconnection with them for failure of -- for non-payment?

A. I don't know specifically the language, but if you've got some language or something that -- I'd be happy to look at it. I'm sure that we do. In any agreement that Sprint enters into, we would put some language like that.

Q. I'll tell you what I'll do so we're not -- I brought sufficient copies to make an exhibit if everyone wants it, but I don't think it's necessary.

Are those the data responses that Sprint provided under your signature?

A. It's a portion of them, yes.

Q. You're right. I didn't do them all, yes. Would you look at Information Request No. 33?

A. All right. Okay. And my --

Q. And my question was whether your agreements have a disconnection provision whereby for non-payment after a certain amount of time, you can disconnect the trunks?

A. Yes.

Q. Now, look at No. 29, which is -- these aren't --

A. They're not in order.

Q. These are in what I consider logical order, not numerical order, so just flip back two or three pages, please. My question is, under your interconnection agreements, are the CLECs and wireless carriers limited to exchanging only local traffic?

A. No.

Q. So that means they can deliver to you, pursuant to the interconnection agreement, interexchange or toll traffic as well as local traffic?

A. Yes. I think -- I think we entered into these with the understanding of the Federal Act that we were required to interconnect with these providers and let them transit traffic through our company.

Q. When they hand you an interexchange or a toll call, what rate do you charge them? Is it a negotiated rate, or is it your access rate?

A. Are they the -- is the CLEC the toll provider in that scenario?

Q. Yes. The CLEC has an interconnection agreement with you, it allows the CLEC to put interexchange or toll traffic on the network. Let's suppose the CLEC in its capacity as an interexchange carrier gives you an interexchange -- or a toll call that terminates to Sprint. Do you charge them access rates or something else?

A. Access rates.

Q. And is it true that under your interconnection agreements, these carriers that you interconnect with are not limited to giving you only traffic that they themselves originate?

A. I believe -- I don't believe the agreements speak to that so I -- yes, I believe they could provide us traffic that they don't originate.

Q. So under your agreement if -- give me the name of a CLEC that you do have an interconnection agreement with. TCG?

A. No. We don't have one with TCG.

Q. Okay. ABC?

A. Let's do that, yeah.

Q. All right. So under your agreement, if ABC delivers traffic to you at the interconnection point that ABC did not originate, would you bill ABC for that traffic?

A. Until that time when we could identify the correct originating carrier, I think we would bill ABC.

Q. What mechanisms do you have in place in your interconnection agreements that allow you to distinguish between ABC-originated traffic and traffic that ABC brings to you that may be originated by another carrier upstream?

A. I think we need to talk -- figure out what type of traffic you're talking about. If we're still talking about interexchange access, the tariff still allows us to bill whoever sent us the traffic and we don't have to look straight to the CLEC. We can go back and get the originating party based on our access tariff.

Q. So even though you have an interconnection agreement with ABC that covers interexchange traffic, you would bill them under your access tariff?

A. I believe our interconnection agreement refers to the access tariff for interexchange traffic.

Q. Okay. Why was it necessary to do that, to include --

A. I think we attempted to reflect how compensation would work for the different types of traffic.

Q. Do your interconnection agreements address traffic that may be destined for the network of a LEC that is not a party to the interconnection agreement itself?

A. Again, are we talking local traffic or interexchange toll traffic?

Q. Let's take them one at a time. Interexchange traffic.

A. Interexchange traffic is still under the access tariff.

Q. Does your interconnection agreement allow that ABC CLEC to hand off to you local traffic that's destined for the exchange of a third-party LEC?

A. In, for example, the MCA area where there would -- there would be three local providers, the CLEC -- well, we're not in the MCA area. I guess the -- the idea would be like ExOp to Sprint where we've interconnected with them in the MCA. And, no, we cannot take that traffic to MoKan or one of the other ILECs in the MCA.

Q. Let me ask you this question, Mr. Cowdrey. It might simplify things. Do you have any interconnection agreements with CLECs where the CLEC is not resident within the metropolitan calling area? I'm trying to get rid of the MCA complication.

A. I don't believe we do.

Q. Okay. That's fair. Getting back to interexchange traffic that ABC LEC presents to you, are you telling me that when they present interexchange traffic to you, it doesn't -- it's not processed under the interconnection agreement, that it's processed solely under your access tariff?

A. Yes. If it's interexchange toll traffic, that's correct.

Q. Mr. Cowdrey, I wanted to ask you a question about one of the sentences in the Commission's June 10, 1999, Report and Order in TO-99-254. It's just a simple question. Could I approach you to do that?

A. Sure.

Q. And I'm referring to that part of the order where the Commission's talking about whether it's going to order you to provide Category 92 records to the Small Companies or Category 11 records. And I want you to read the first two sentences of that paragraph that starts on page 14.

A. However, the Commission will order the provision of standard Category 11 records. This will provide the SCs better information about calls terminated to them.

Q. Do the Category 11 record provide any better information than a Category 92 record with respect to identifying the originating carrier?

A. Absolutely. In the Category 11 record that the Small Companies requested and received, they got the detailed billing information on a per call basis. The 92-99 summary records that the PTCs use are summarized versions. So there is definitely more detail in the Category 11 record than those used in the 92-99's.

Q. Do you recall in that case that Sprint -- I think it was you or maybe before -- let me back up.

I know we tried TO-97-217, then we tried TT-- or TO-99-254 and there was an implementation or a -- another proceeding for converting from the PTC plan to an originating responsibility plan. And somewhere in there there was testimony submitted to the Commission that had to do with efforts going on to make the Feature Group C network provide more originating carrier information. Do you remember that?

A. I think there were discussions of -- that there was no more information provided in the D network than there is in the C network at the terminating end, and that there were options coming forward that would allow the Feature Group C network to provide the same -- same or more information than it did at that time.

Q. And that was a couple years ago. What's happened to that work, do you know?

A. Well, I believe that the basis of that -- and I don't remember the basis of that. That wasn't my statement. I believe that was a statement of another Sprint witness. But the Hewlett Packard system has been purchased by, I think, all of the Bell Companies in the nation. Sprint purchased it, I believe, last year.

And both companies are incorporating that in and getting additional information from the C network than was previously available. And I think that type of information is what, for example, helped Southwestern Bell find the Local Plus issue. So, yes, there have been improvements in not necessarily the C network, but in the ability to better identify where calls come from.

Q. But the HP Intelligence Access SS7 system is not necessarily a direct outgrowth of the industry work that was being done to enhance Feature Group C, is it?

A. I think it was a -- a private industry's solution to try and help the telecommunications industry solve a problem that it was facing.

MR. JOHNSON: Thank you. That's all I have, your Honor.

JUDGE MILLS: Thank you.

Mr. England?

MR. ENGLAND: Thank you, your Honor.

CROSS-EXAMINATION BY MR. ENGLAND:

Q. Good morning, Mr. Cowdrey.

A. Hello, Mr. England.

Q. I've got some bad news for you. Mr. Johnson didn't do my work for me. Unfortunately, I've got a number of questions that he didn't ask in no particular order.

Let me start with a question regarding whether or not you have settled with Southwestern Bell over what we've referred to as this lost Local Plus traffic over the last year and a half or whatever?

A. Absolutely. We had that settled before the end of 2000. It was -- Southwestern Bell brought us an estimate, and we reviewed it and made a fair settlement on that.

Q. Okay. I want to -- without getting into the nitty-gritty, can you give me kind of a general way in which that estimate was calculated?

A. I think it was calculated based on the records that began to flow between the companies. We saw how many there were, Southwestern Bell saw how many there were and made the estimate based on that.

Q.   Okay. My understanding in talking with Ms. Dunlap in a prior case, they basically had turned it up -- turned up the recording, I believe, around October of 2000, looked at a month's worth of data and assumed that that was the data for all of the months which they didn't have data with exception of maybe the first or second month where traffic would have been less, it was ramping up, if you will? Is that kind of your recollection of how that was done for you all?

A.   Well, I think that Sprint took additional verification. We went back and looked at PTC records prior to the initiation of Local Plus and ensured there was a reasonable trend and an appropriate ramp up for the Local Plus issue. And, again, we were satisfied with the results.

Q.   Okay. I want you to -- were you involved in that settlement, by the way?

A.   Yes, I was.

Q.   I want you to think about this question very carefully. Was that settlement amount made to you unqualified, or were you required to agree to certain terms before the check would be cut?

A.   We talked back and forth, and we were actually talking about a true-up process and our management felt it was -- it was fine to go forward with the settlement as it was. There was no ultimatum placed on Sprint.

Q. I didn't ask about an ultimatum. I asked whether or not that settlement was qualified. In return for you accepting a check for the amount you felt was due, were you required to make any concessions, required to make any other -- meet any other conditions, or was that payment an unqualified payment for past due Local Plus traffic which had not been recorded?

A. I don't believe we were required to make any other concessions unless there's something I'm forgetting. I think it was pretty much unqualified.

Q. Was there a written agreement that memorialized that or was it just an exchange of a check?

A. It was a letter from Bell that I signed and sent back. And I don't remember any specific qualifications in that letter.

Q. Let me switch gears on you then. I think you testified in response to a question from Mr. Johnson that you thought it was, if not appropriate, that it was happening today where interexchange traffic coming over the Feature Group D network could transport, transit, whatever term you want to use, two tandems before being delivered to the ultimate end-office --

A. Yes. That's correct.
Q. -- within the same LATA?
A. That's correct.
Q. Would that be true for Small Companies where that interexchange traffic terminates to the end-office of a Small Company?
A. Yeah. I think that's a very real possibility. I believe that some IXCs pop their traffic in Kansas City and then it just routes through our Maryville office to, for example, Rockport.
Q. Okay. That was going to be an example. So you're saying that the point of entry into the LEC network is actually Southwestern Bell's tandem in Kansas City?
A. I -- that's my understanding.
MR. ENGLAND: Okay. Your Honor, if I may, I'd like to have a page from the Oregon Farmers tariff marked as an exhibit and you can either take official notice of it or accept it as an exhibit. And I'd like to inquire of the witness after he's had an opportunity to review that.
JUDGE MILLS: Please go ahead.
MR. ENGLAND: Thank you.
JUDGE MILLS: This will be Exhibit No. 33, and it is First Revised Sheet 84.1 from Oregon Farmers tariff. Are there any objections to the admission of this exhibit into the record?

Seeing none, it will be received.

(EXHIBIT NO. 33 WAS MARKED FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

BY MR. ENGLAND:

Q. Mr. Cowdrey, I'd like to direct your -- first of all, this is the tariff that a number, if not a majority of the Small Companies concur in for purposes of intrastate access tariff -- or service. Correct?

A. Yes.

Q. Okay. And let me turn your attention to paragraph 5 in the middle of that page regarding FGD or Feature Group D switching. Do you see that?

A. Yes.

Q. Have you had an opportunity to read that, by the way?

A. Yes, I have.

Q. Okay. Take a look at the very last sentence of that paragraph. And it states, and I'm quoting, When routed through an access tandem, only those valid NXX codes served by end-offices subtending the access tandem may be accessed.

Do you see that?

A. Yes.

Q. Okay. Let's take your Rockport example. And I'll tell you how I read the tariff and you tell me if you agree. That this means that if an IXC wants to access the Rockport exchange, it must connect to your Maryville tandem because Rockport is the NXX that subtends that tandem, not the Kansas City tandem of Southwestern Bell Telephone Company. Do you agree with that interpretation?

A. No, I do not. I believe reading that, this particular language doesn't address where there's two tandems. It doesn't say that it has to go to the last tandem, for example, I think the -- the option is there for two tandems, and it doesn't directly address that issue.

Q. Do you think that the Rockport exchange is listed either in the LERG or Southwestern Bell's access tariff as an end-office or NXX that subtends their Kansas City tandem?

A. I think it's listed under Maryville.

Q. Okay. So it's not an NXX that's listed in Southwestern Bell's tandem? Excuse me. Listed in their tariff as an NXX access reached by their tandem?

A. I guess I still don't agree. It could be routed through the Southwestern Bell tandem and routed through the Maryville tandem.

Q. Is the routing between the Kansas City tandem and the Maryville tandem, as we've discussed in this example, Feature Group C or Feature Group D?

A. That I don't know.

Q. Is it fair to say that you're really not sure if there is intertandem routing for interexchange traffic destined for Rockport in this example?

A. I'm not absolutely sure. I -- as I recall, that was how some calls happened in the network.

Q. I'm going to switch gears on you a little bit, but I want to stick with interexchange traffic, IXC traffic. And I'm talking about IXC traffic that is originated by a CLEC --

A. Okay.

Q. -- over the Feature Group C network.

A. So the CLEC is the IXC is what you're --

Q. Correct.

A. Okay.

Q. And let's go back to Mr. Johnson's hypothetical. ABC CLEC interconnects with Sprint on a local basis but also sends interexchange traffic over that connection.

A. We don't have that scenario today.

Q. Okay. Would you assume it then for purposes of my question?

A. Okay.

Q. Well, I'm sorry. Let me back up a second. You say you do not have that. Do you permit it or has no one requested it?

A. No one has requested it, so I don't have that particular scenario that you're asking about.

Q. But it would be possible if someone requested that type of arrangement?

A. Yes. I believe it would be --

Q. Okay.

A. -- possible.

Q. So, again, back to my hypothetical, if you'll assume this, please. ABC CLEC interconnects with you on a local basis but also seeks to originate interexchange traffic and put it over the Feature Group C network through that interconnection.

A. Okay.

Q. Okay. My understanding in response to your questions earlier is that your interconnection agreement would refer that traffic, if you will, to your interexchange tariff as governing -- interexchange access tariff as governing how to handle that call, who pays and what have you?

A. The compensation, yes. If the CLEC is the IXC and it's interexchange toll type traffic, then the access tariff would apply.

Q. Okay. Now, again, I believe in response to a question or two from Mr. Johnson, you indicated that if ABC CLEC was also delivering to you traffic originated by

another CLEC, we'll say, call that XYZ CLEC --
A. Okay.
Q. -- your access tariffs which govern your relationship insofar as that interexchange traffic is concerned would authorize you to look to ABC to be responsible for XYZ's interexchange traffic. Correct?
A. I think until such time as we located XYZ and XYZ took responsibility for that traffic, then maybe in the interim you could look at ABC.
Q. Okay. That gets to my next question then. So if ABC comes to you and says, I've got an interconnection agreement with XYZ CLEC, and that agreement says it will not place traffic -- XYZ will not place traffic on my ABC network for delivery to a third party without having an obtained relationship or an arrangement with that third party.
A. Okay. What's the question?
Q. Would you accept XYZ's traffic without having that relationship with XYZ?
A. Now, has XYZ held itself out to pay -- well, wait a minute. Has ABC held itself out to pay for that XYZ traffic?
Q. No, it hasn't. It only performs a transiting function pursuant to its interconnection agreement with XYZ.
A. Just a second. Let me -- I'm getting a little

confused here.

Q. Sure. I was looking to see if I had something to draw on, but I don't.

A. Certainly we would look back -- we would look back to XYZ for payment because they originated the traffic. If I've got the scenario right, XYZ originated, ABC transited or transported it and it came to Sprint.

Q. Right.

A. Would we still look to the originating carrier for that compensation?

Q. Even though you have no agreement with XYZ at that point.

A. Yeah. I believe our -- yes.

Q. How are you going to know how much traffic XYZ is sending to you?

A. I think our Access 7 system will help identify that.

Q. What are you going to bill them based on then? Records that you create when the traffic flows through ABC and hits your network?

A. I think we would identify that the traffic was coming via the HP system and then address -- go back and address XYZ for payment. They're the ones that owe us the money in that situation.

Q. So you'd be willing to accept ABC's

representation that some of the traffic they're delivering to you really is XYZ-originated traffic and you wouldn't bill ABC for it even though you don't have an arrangement in place yet with XYZ?

A. I'd go back and bill XYZ. They are the people -- they are the company that put the traffic on the network and are responsible for payment. ABC has not held itself out to pay for that XYZ-originated traffic.

Q. And that's addressed in your interconnection agreement with AB&C -- ABC, excuse me?

A. I think we're still going back to our access tariff. I think this is still interexchange toll type traffic.

Q. Okay. The way I've diagramed it for myself is I've got XYZ in one box, if you will, transiting ABC in the middle box and ending up at Sprint in the right-hand box for purposes of my diagram. I don't know. Maybe you've got it going differently.

A. I think I've got it the same way. I think we've got a similar picture.

Q. Because my next question is, let's insert an IXC -- traditional IXC instead of ABC. So XYZ's traffic now is popped out to the IXC Feature Group D and then delivered to Sprint.

A. Okay.

Q. Your access tariff doesn't tell you you can go to XYZ for payment of its originated traffic, does it?
A. No. In that situation I go to the IXC because that IXC has held out -- back to XYZ that it will pay full termination for that call. That's the voluntary relationship that I talk about in my testimony that the IXCs enter into to pay for full termination of that traffic.
Q. Is it your position that when traffic is handed off to you for transiting to a third-party LEC, that you have no other option but to do so?
A. Are we talking -- now I'm back to your transiting is interexchange -- transiting and transport are one and the same?
Q. Yes.
A. Yes. We believe that we must interconnect with other companies and deliver their traffic.
Q. And that's pursuant to the Act?
A. Yes.
Q. Okay. Would you agree with me that the Act doesn't preclude you, Sprint, from negotiating with that carrier that delivers traffic to you to being compensated not only for the costs you incur in transiting but the costs you incur in terminating that to a third-party LEC?
A. The Act?
Q. Correct.

A. I don't think it precludes it, but I don't think our access tariffs allow for it. Basically your clients are asking us to perform a new service, and I don't know whether the Commission would approve rate increases for that or not.

Q. Okay. You did it in the past, didn't you, Mr. Cowdrey?

A. I don't know.

Q. Okay. Let me be more specific.

A. Okay.

Q. You used to transit wireless traffic and terminate it to third-party LECs and collect from the wireless carriers compensation that not only paid you for your cost of transiting but your cost of terminating to third-party LECs?

A. And I think that was a voluntary -- I think we volunteered and held ourselves out at that point, just as Southwestern Bell did in their early days, that we would pay for termination of that traffic. And we no longer do that.

Q. Okay. But the point is that the Act certainly doesn't prohibit it and it's a business decision that you've made? You can voluntarily choose to do it or, in your case, voluntarily choose not to do it. Right?

A. I don't know that the Act addresses that --

Q. Okay.

A. -- particularly. Okay.

Q. Similarly, during the 11-year run of the PTC plan, again, that's what you did? You were responsible for paying the third-party LEC its terminating access regardless of which PTC originated the toll traffic. Correct?

A. And we were willing to hold ourselves out in that situation because we knew that we were going to be compensated by one of the other PTCs for terminating that traffic. It's not the same scenario because we knew we were going to be paying. In this scenario you're asking us to eat something that we -- because we don't know that we're going to be able to collect from them.

Q. You're not precluded from negotiating with them that provision, are you?

A. In some instances I don't have a direct connection with these CLECs and carriers.

Q. Well, you're getting compensated some way for your efforts from them, aren't you?

A. To the extent they're sending records, yes.

Q. Okay. You draw a distinction at page 7 of your rebuttal testimony, lines 5 through 15, between IXCs and LECs. Do you see that?

A. Yes.

Q. And it occurred to me as I was reading it that your company is actually both, isn't it?

A. I have an affiliate that's an IXC, that's correct.

Q. And so Sprint Missouri, Inc., the ILEC, if you will, provides interexchange service over the Feature Group C network in this state; is that right?

A. That's correct.

Q. Does it provide service at all through the Feature Group D network?

A. Sprint, the ILEC, does not.

Q. Then you've got Sprint Long Distance, for lack of a better term, your affiliate that provides interexchange service over the Feature Group D network in Missouri. Correct?

A. That's correct.

Q. Does it provide any services over the Feature Group C network? "It" being Sprint Long Distance?

A. I don't know.

Q. Would you agree with me that Sprint Long Distance is a wholesale provider of long-distance service?

A. Yes. I believe they are.

Q. In other words, it, as we discussed a minute ago, holds itself out and willingly agrees to accept traffic from other carriers to transport over its facilities and terminate to third-party companies. Correct?

A. Yes.

Q. And when it does so and delivers that traffic to the end-office -- excuse me -- not the end-office, to the LEC tandem, it agrees to pay for all of that traffic whether Sprint Long Distance originated it or some other carrier with whom they contracted originated it?

A. Yes. They enter into a voluntarily agreement with that reseller or whoever on the front end. And they have the money needed to pay for termination of that traffic.

Q. Let me get back to the wireless situation. For some point in time, I think you agreed with me, that you accepted wireless traffic, transited it through your network and back to Sprint Missouri, the LEC -- transported it through your network and delivered it to third-party LECs?

A. I believe we had -- I don't remember if it was a tariff or an agreement that, yes, we charged them -- we were their toll carrier at that time and we agreed to pay -- to terminate that traffic and the rate compensated us for that.

Q. Okay. You, I believe, charged the wireless carriers a blended rate, if I remember the testimony from years back, that would cover your costs of transport and termination to your exchanges as well as the cost of termination to third-party exchanges?

A. Yes.

Q. Okay. Now, it's my understanding you no longer provide that service; is that right?
A. That I don't know for sure. There were some carriers that for a long time did not enter into negotiation for an interconnection agreement and still purchased under that tariff, if that tariff still exists. I'm not sure they've all totally stopped using that service.
Q. When you say "tariff," it was my understanding, and correct me if I'm wrong, that you did not have a wireless interconnection tariff like Southwestern Bell, you simply contracted with wireless carriers to provide this service?
A. I don't remember for sure, but I'll agree with that because I don't know.
Q. Okay. You think you still may be providing that service whether it's via a contract or tariff whereby Sprint Missouri, the LEC, has agreed to pay the third-party terminating charges for that wireless traffic?
A. Like I said, I don't know.
Q. Okay. There are situations, however, now where you don't provide that service, but you have wireless companies interconnected with you?
A. Yes.
Q. And my understanding is that you -- in those situations you are creating a -- what we've referred to as a

CTUSR summary report for that wireless usage?

A. Yes.

Q. And it's your position that you simply create that record and pass it on to the third-party LEC and it's the third-party LEC's responsibility then to get compensated from the wireless carrier; is that right?

A. Yes. And I think they've accepted that as a fair way to do that.

Q. Are you currently creating and passing that CTUSR record on a regular basis, monthly basis, for example?

A. I don't know. I know that we've -- there have been some issues with the report that we provided to Kingdom, and I know that they're continuing to work with them. I talked to them at late as last week. There may have been a couple months or so where we were not able to pass that report.

The report is actually made kind of on an ad hoc program and we're going to be moving to a standard part of the billing system to create that report and they're working on that at this time.

Q. When will that happen?

A. They told me as early as the -- March or April.

Q. Let me ask you this. If you fail to create that CTUSR report or for some reason you don't capture all of the wireless minutes in that CTUSR report, is it your position that Kingdom should suffer the consequences of not being able to bill the wireless carrier or not being able to bill the wireless carrier for all that traffic?

A. No. I don't think they should suffer. If that -- if it's wireless carrier traffic and we made the mistake, then I think they are probably entitled to compensation for that.

Q. So you'd agree with me that where we rely on you to create the records for billing, if you don't create those records or those records are in error, then you ought to be responsible for that failure or that error?

A. I think we should work to try to help them get those records if they're not available, but I agree we have some liability in there as far as the fact that they don't get their records.

Q. I'm still talking a little bit about wireless, but I'm going to change the subject. I want to refer you back to the complaint you filed against Southwestern Bell four or five or more years ago regarding what you believed was their failure to pay you terminating access on wireless calls that they delivered to your exchanges for termination. Do you remember that?

A. Yes. But I was not the witness in that case.

Q. Okay. I'm not -- hopefully I'm not going to get into the nitty-gritty.

A. Okay.

Q. During the period of time leading up to the complaint, Southwestern Bell was not passing any records to you to identify the wireless traffic that was being sent to you. Correct?

A. I believe that was correct. I know that the majority of the issue had to with the rate. I'm not sure about the records.

Q. Well, do you recall if it was Southwestern Bell's unilateral decision to withhold passing those records in early 1990 --

A. I don't -- do you want to finish your question?

Q. I was going to say, that led to your inability to bill for and get compensation for that traffic?

A. I don't remember if they didn't have the records or the wireless -- I remember the main issue was the rate. Somebody had the records, and I don't know if it was Southwestern Bell or not. I don't remember.

Q. Let me get more generic with you then.

A. Okay.

Q. Do you think in an originating responsibility plan proposal, such as the one that you and the other former PTCs are advocating, that it is appropriate for an originating carrier to unilaterally stop providing records for a certain type of traffic it is delivering to another carrier?

A. No. I'm -- no. I agree.

Q. Let me get more specific. For example, if at some time in the future Southwestern Bell Telephone Company takes the position that it is not appropriate to pay terminating access charges on interexchange calls that their customers make to a third-party LEC exchange, but actually to an ISP, Internet Service Provider, in that third-party exchange, is it your opinion that Southwestern Bell can simply stop providing those records because they don't -- or Southwestern Bell doesn't think it's appropriate to pay access on that type of traffic?

A. No. I don't think that would be appropriate.

Q. Okay. If for some reason they take that position, "they" Southwestern Bell, that they can and they unilaterally stop providing those records for calls to Internet Service Providers, how is the terminating company going to know that in an originating carrier responsibility environment as you propose?

A. That's exactly the issue that we're planning to address with our Hewlett Packard system. And we plan to share those reports with other carriers that are involved in the call path.

Q. And you have testified -- I couldn't find it last night, quite honesty, looking for it, but I thought I saw somewhere in your testimony that you are in the process of deploying this Hewlett Packard system?

A. Yes. It's been -- I believe it's been installed in Missouri, and they're testing it now.

Q. Ubiquitously throughout the state of Missouri or just in selected areas?

A. It only has to be deployed, I believe at the -- it's either the SSPs the STPs, and we only have two of those locations in Missouri. It's actually deployed as part of the SS7 network, and it's fully deployed within Sprint territory.

Q. And when will that be up and operational?

A. I don't know for sure. In talking with them, they said that we would be able to do some validation as early as June, as far as validating calls and missing calls and that sort of thing.

Q. Let me switch gears on you.

JUDGE MILLS: I'll tell you what then, since it appears you're going to a new line of cross-examination, I think we'll take a noon recess. It's a few minutes after 12:00. We'll be off the record until 1:15.

(A RECESS WAS TAKEN.)

JUDGE MILLS: We're continuing with the

cross-examination of Sprint Witness Mr. Cowdrey. Please proceed, Mr. England.

MR. ENGLAND: Thank you.

BY MR. ENGLAND:

Q. Mr. Cowdrey, do you remember where we left off?

A. No, I don't.

Q. Neither do I.

MR. ENGLAND: I think you were through.

JUDGE MILLS: You were just about to switch gears. I recall that.

BY MR. ENGLAND:

Q. Let me downshift then. I believe -- I want to ask you a few questions about your rebuttal testimony, pages 7 and 8. Very bottom of page 7, the first full sentence that begins there on line 23, you state, The tandem owner PTCs will be in no better position in many instances to identify the correct carrier to bill than the Small Company.

Do you see that?

A. Yes, sir.

Q. Would you agree with me -- and let me get my chart for you. Would you agree with me, sir, that at least in all cases the PTC owner -- tandem owner would be one step closer to the originating carrier than the Small Company for

purposes of tracking down the responsible carrier?
A. Yeah. I think they'd be at least one step closer. Certainly you have to go back to the originating tandem that interconnected with the party putting traffic on the network to get to the real answer and, thus, need to be able to go back up in the chain to get to the right -- right person responsible for the traffic.
Q. But at least the tandem owner's going to be one step closer in that relationship than the end-office company?
A. One step closer doesn't give me any more information than it gives the Small Companies.
Q. It would if your one step closer also happens to afford you a direct interconnection with some of those carriers that are delivering traffic to you. Correct?
A. That's correct. For the ones that are directly interconnected with us, we would be able to identify that traffic and ensure that it was provided to the Small Companies, but like I say, that's only a subset of the total traffic between us -- our tandem and the Small Companies.
Q. I'm sorry. Would you say that again please? What was the small subset?
A. The traffic that's directly interconnected with us is a small subset of the total traffic that

terminated to the Small Companies from our tandem.

Q. Okay. What's the large subset of that traffic?

A. Well, certainly there's a large amount of traffic coming between two tandems. And I'm especially thinking about in the Kansas City LATA from the Kansas City tandem to Maryville and the Kansas City tandem to Warrensburg.

Q. Is it fair to say that that's more PTC-to-PTC or former-PTC-to-former-PTC traffic?

A. I don't know what the proportions of traffic are on those routes.

Q. Okay. Let me turn your attention to your direct testimony, page 5, lines 5 through 8, I believe. You note that in at least one case, the originating records sent by Sprint and the other companies that terminated traffic to a small LEC are actually greater than those recorded by the terminating LEC or Small Company.

Do you see that?

A. Yes. At that time in the testing process the records were greater that Kingdom had received than Kingdom had recorded. Now, there was one issue where Kingdom did not record all of the traffic and it had not to do with an Internet Service Provider, but there was another issue where duplicate records were sent from Sprint to Kingdom, and that has since been located and I think adjusted.

Q. Okay. I guess my first question was -- and I think you've already answered it -- is we're talking about Kingdom Telephone Company. Right?

A. Yes. That's correct.

Q. And I believe you also indicated that in some instances what happened upon further review was that two originating records were being sent for the same call; is that right?

A. That was half of the answer, yes.

Q. Okay. And let's isolate just on that answer, if you will. In those cases when Kingdom matched the first originating record with its terminating record, there was a match. Correct?

A. That's correct.

Q. But when it went to try to match a terminating record to the duplicate or second originating record, of course, there was no match?

A. That's correct.

Q. Okay. And that's how some of these additional originating records, if you will, can be explained; is that correct?

A. Yeah. That's part of the additional records. As I said, there's another part where Kingdom didn't record the correct number of minutes.

Q. Okay. Let me take that example. And would you agree with me that in those instances where the end-office company fails to record all of the traffic that is terminated to it, that it will -- that, in general, the detriment is to itself because it's not going to be able to bill for all of that traffic. Correct?

A. I believe so. At any time that a company doesn't record the traffic that it should, it's a detriment. I mean, if we're at the tandem and we don't record the traffic, we would be in the same detriment as the Small Company would be.

Q. So the one getting shorted in that situation is the end-office company because of its failure to accurately record all of the traffic that's coming over its network?

A. That's correct.

Q. Okay. Let me talk to you about interstate intraLATA traffic. I'm not sure if you testified to it, but I know you replied in a data request response that Sprint does originate interstate intraLATA traffic calls from Kansas to Missouri customers in what we call the Kansas City LATA.

A. Yeah. I think we have four or five exchanges on the Kansas side, and we are a toll provider there. So I do believe we originate some calls into the Kansas City

LATA.

Q. Okay. And those calls use the Feature Group C network. Right?

A. That's correct.

Q. Okay. And up until the elimination of the PTC plan, LECs involved in that interstate intraLATA exchange of traffic on both sides treated it as bill and keep; is that correct?

A. That's correct.

Q. But my understanding is we've agreed now to compensate each other for that traffic. Correct?

A. Well, I'm not absolutely sure of that. There has been some discussions about interstate intraLATA records and I know there was a meeting in Jefferson City on that issue, but I don't know the results of that meeting.

Q. Okay. At least to the extent that the Small Companies on the Missouri side send traffic to companies on the Kansas side of the Kansas City LATA and the Missouri small LECs send that traffic via an IXC affiliate or an unaffiliated IXC over the Feature Group D network, the companies in Kansas are being compensated for that traffic today. Correct?

A. Yes. I believe they are.

Q. Okay. It's only when you use the Feature Group C network for the origination and termination of those calls where compensation is not flowing today. Correct?

A. Yes. And I think that's why the discussion has taken place that those records need to be transmitted.

Q. And in the Kansas side the only people that are using the Feature Group C network that I know of are you and Southwestern Bell. Right?

A. I don't know that to be true.

Q. Okay. Certainly for calls from Missouri to Kansas none of the Small Companies are using the Feature Group C network to complete those calls. Correct?

A. I believe -- I believe that's true.

Q. I'm looking at your response to my Data Request 3.4. If you have a copy, great. If not, I can give you a copy of mine.

A. I don't think that I've got that with me.

Q. You were responsible for answering -- let me ask you the question first and maybe you'll just remember it off the top of your head. Would you agree with me that from those calls -- excuse me -- for those calls that your Kansas customers are making into Missouri within the Kansas City LATA, that no records are provided on this traffic today?

A. That's correct. The records are not provided today, but I believe there was some agreement that those would be provided at some date this year. And I don't -- wasn't part of that agreement.

Q. Okay. My understanding is there was a meeting in approximately March or April of 2000 to discuss this situation with Missouri, at least, companies. Is that your understanding?

A. Yes. I understood that there was a meeting after --

Q. Okay.

A. -- I found out -- or I found out afterwards that there was a meeting, but I did not find out any particulars from that meeting as I -- I don't remember receiving any minutes or notification of the results of that meeting.

Q. So no Sprint representatives besides yourself attended that meeting?

A. That's correct.

Q. Okay. Have you or any Sprint representatives attended any subsequent meetings regarding interstate intraLATA traffic?

A. I don't believe we've been invited to any meetings or if they have been held, we haven't been notified of those meetings.

Q. Okay. Is it fair then to say that you have not been working with the industry to develop a solution for the recording and billing of interstate intraLATA traffic at least insofar as the Kansas City LATA is concerned?

A. Yes. If there's been ongoing discussions between the companies, we haven't been a part of that.

Q. Okay. Why do you think it's appropriate for you to continue not to pay for that traffic --

A. No. I think --

Q. -- if you do think that? I don't know.

A. Well, yeah. I don't think -- I believe that it is appropriate that we start creating records for that traffic. Whether -- and I haven't really thought about whether compensation's due. There hasn't been any formal announcement that I know of that the bill and keep arrangement has ended.

Q. There was no formal announcement that the bill and keep arrangement was initiated, was there?

A. I don't know that. When I came into the industry, there was a bill and keep, and I don't -- bill and keep relationship, and I don't know how that was initially started.

Q. Have you ever seen a contract to that effect or a tariff provision to that effect?

A. No, I haven't. But that this doesn't mean there's not one that exists.

Q. Okay. Now, you said something about creating records in the future for this traffic. Surely you are billing your end-user customers for the toll calls they make. Correct?

A. Yes, we are. We have the Category 01 records and we do bill our end-users for that. We haven't changed those into Category 11's for the Small Companies and Category 92-99's for the former PTCs if that's the way we're headed.

Q. So you create the switch recordings, if you will, for purposes of billing your end-user on that toll call. Correct?

A. Yes.

Q. And those recordings are the same recordings that you use to generate 92 records in Missouri as well as Category 11 records in Missouri. Correct?

A. I don't know if we're talking interstate intraLATA or intrastate intraLATA.

Q. Interstate intraLATA. I'm talking about recordings though.

A. Okay.

Q. The switch recordings that you create to be able to bill your end-users are the same switch recordings that you use or can use to develop a 92 record if you want to exchange that with another PTC or a Category 11 record if you want to exchange that with a former secondary carrier?

A. Yes.

Q. Okay. And I guess my question is, why isn't that being done today?

A. I think, as I just said, I didn't know that there had been a formal change in the bill and keep relationship. I'm not sure that there's been any document or agreement among the companies -- and I know Sprint for sure has not been part of a discussion that the bill and keep arrangement has -- has completed or has ended.

Q. Do you have any objection to forwarding those records so carriers can pay -- be paid for that traffic?

A. No, I do not.

Q. And do you have any problem with that arrangement being made retroactive to the elimination of the PTC plan?

A. I don't know that that's appropriate. And I don't know whether other discussions have gone on in the industry.

Q. Well, presumably when the bill and keep proposal was in effect and the PTC plan was in effect, there was some benefit for the companies in Missouri who sent traffic over the Feature Group C network to customers in Kansas to be able to terminate for free in return for the Kansas companies to be able to terminate their traffic to the Missouri companies in the same LATA for free. Right?

A. That's true. But I don't think the primary toll carrier plan, when it ceased, it automatically ceased interstate intraLATA. That's a different jurisdiction of traffic that's -- that's interstate in nature.

Q. At the elimination of the PTC plan, however, none of the Small Companies continued to receive that benefit because all of their traffic is carried on the Feature Group D network and your Kansas operations are getting paid for that traffic. Correct?

A. I don't know about ALLTEL. I thought ALLTEL continued on with the Feature Group C process and would be getting that benefit.

Q. They did for an interim period of time, but my understanding is that they've agreed to get off the Feature Group C network. Do you know that?

A. I don't know that.

Q. Never mind. Have there been any discussion about creating any other type of call record other than a 92 or Category 11 for this traffic?

A. I don't know.

Q. Did I understand you to say earlier this morning in response to a question or questions from Mr. Johnson that Sprint first raised the issue of Southwestern Bell Telephone Company's ability to record traffic on non-standard dialed interexchange calls in roughly 1995 as part of your audit?

A. I -- I think I answered that question, yes.

Q. And that had to do with 7- and 10-digit dialed COS traffic at that time. Correct?
A. Yes.
Q. Okay. Wouldn't the same concerns be true of 7- and 10-digit dialed Local Plus traffic?
A. Certainly that possibility exists.
Q. Surrebuttal, page 6, lines 8 through 13 you discuss Ms. Allison's testimony regarding the OBF statement. She testifies on behalf of Verizon in this proceeding. Do you see that?
A. Yes.
Q. My question to you, sir, after reading this testimony, is it fair to say that you have no personal information or knowledge regarding this matter, only what someone else in your organization told you regarding the OBF statement?
A. No. I've actually read the OBF statement, the document 2056.
Q. That's attached to Mr. Schoonmaker's testimony?
A. No. I pulled it off the website myself as well as a couple other documents that supported that.
Q. But you have not personally been involved in the OBF meetings; is that correct?
A. That's correct.

Q. Or participated directly in any other way in the development of that statement or the discussion leading up to that statement?
A. No. My company has, but I have not personally.
Q. And my point is, to the extent you attempt to testify to it here in your testimony, that testimony is based on what other people have told you in your organization. Correct?
A. I think I've been aware of the happenings in OBF. As I said, I have not personally been involved in the discussions.
Q. I guess I'm focusing on that phrase on lines 8 and 9 that said, I contacted our internal OBF contact.
And that leads me to believe that what you're saying here is based on information that your internal OBF contact gave you?
A. That's correct. I have no reason to doubt that it's the truth though.
Q. I think I'm still on your surrebuttal testimony, page 3, lines 17 through 20. You say that the companies simply want to, quote, turn on the meter, end quote, at their office and bill the tandem company for any and all traffic on the public switched network that

traverses the common trunk groups and terminates to their switch.

Do you see that?

A. Yes.

Q. I guess, first of all, my question is, do you understand that the Small Companies propose to subtract certain types of traffic from the totality of the traffic that comes over that common trunk group?

A. Yes. I think in the final analysis I -- there are some items that are subtracted. I think I was actually referring to part of Mr. Jones' testimony that that was one possibility that they should -- we should make a Feature Group D arrangement and bill 100 percent to us. But now I understand that the proposal put forth by the STCG and the MITG is to deduct some records from that total measurement.

Q. So would you agree with me that we're not seeking to hold you responsible for any and all traffic that comes over that common trunk group?

A. I think that would be any and all traffic that was unidentified would be more accurate.

Q. Okay. I'd like to take a few minutes to, for my own benefit and maybe the benefit of the record, understand the difference -- the true difference between our proposal and your proposal. Okay?

A. Okay. Could you -- are you going to use that chart? Could you turn it -- there seems to be a glare. Thank you.

Q. Is that better?

A. Yes.

Q. For purposes of our proposal, we propose to record the terminating traffic -- and let's just take the end-office scenario, for example. We propose to record all terminating traffic at the end-office. Correct?

A. Yes.

Q. And to the extent we get records for interstate intraLATA traffic, we will bill the carrier responsible for delivering that to us?

A. Yes.

Q. To the extent we get Feature Group A traffic records, we will bill that, as we've done in the past, and I understand that's a revenue-sharing arrangement?

A. Yes.

Q. We will bill the wireless service provider based on the records we receive for that traffic. Correct?

A. Yes.

Q. We will bill the interexchange carrier based on the records we receive from the tandem company as we do today, under a meet-point bill arrangement. Correct?

A. Yes.

Q. And to the extent that we're involved in an

MCA arrangement, we will either separately trunk, develop a factor or otherwise attempt to measure and subtract that traffic because that's non-compensable. Correct? Is that your understanding of our proposal?

A. Yes.

Q. Okay.

A. And I -- I haven't seen anything that talks about mandatory EAS, if there is any, but I assume that would also be pulled out similar to MCA traffic.

Q. To the extent EAS comes over the common trunk group.

A. Okay.

Q. Do you have any EAS arrangements that utilize the common trunk group?

A. Yes. We do with Kingdom Telephone.

Q. Okay.

A. It's a one-way EAS route from Kingdom to Jefferson City. But I would suggest any propos-- if the Commission were to adopt the proposal put forth by the Small Companies, that it ought to be equally applicable to all players in the industry. That is, if Kingdom sends me traffic, then I should be able to bill back to Kingdom if I don't know where that traffic came from.

Q. Don't you have an agreement to bill them for that traffic today, that EAS traffic?

A. Yes. But if -- and I don't know if it's on a common -- if they want to split it off and there's other traffic coming down that pipe, then I should have the ability to bill back to them.

Q. And that is one way? That's just from Kingdom to you all. Correct?

A. That's correct.

Q. So you don't have any EAS traffic coming over the common trunk group from you to Kingdom?

A. That's correct.

Q. Okay. Now, so far what we've proposed to do and who we've proposed to bill for these types of traffic that we're going to exclude or accept, that's consistent really with what you want us to do. Right?

A. Yes.

Q. Okay. If I understand this correctly, the only real difference between your proposal and our proposal is that you're going to pay us for CLEC traffic that's delivered over the common trunk group, other ILEC -- primarily other PTC traffic that's delivered over the common trunk group, and if there's any of this unidentified traffic. Correct?

A. Yes. And I -- I think that our proposal would have you -- would have you bill back to the primary toll carriers based on the Category 11's that you had us create and then also bill back to the CLECs once any of that traffic is identified. And then whatever's left over -- at least my proposal is that we would share -- share that unidentified traffic.

Q. Okay. And that's my understanding as well. So that the only real difference we have between the proposals is that we want to hold you responsible for CLEC traffic that you deliver to us rather than bill the CLEC as you would have us do. Right?

A. That's correct.

Q. We want to bill you for the ILEC traffic that you deliver to us over this common trunk group rather than go back and bill the PTCs or whoever that ILEC may be that sends that traffic. Right?

A. I believe that's correct, yes.

Q. And then if there's any unidentified traffic, our proposal is to hold you accountable for it, all of it, your proposal is to split it 50/50?

A. That's correct.

Q. Okay. Would you agree with me that based on the network tests, we're not finding a whole lot of CLEC traffic coming over the Feature Group C network?

A. I don't know what Bell's -- or any of the other tests look like. For our -- the record that I looked at for Kingdom and Rockport that are not in metropolitan areas, no, I do not find a lot of CLEC traffic.

Q. And if we're getting accurate records from all of the providers along the path, our exposure on the unidentified shouldn't be that great. Right? Or your exposure, if you will, if you're the one required to pay for it?

A. If the CLECs are sending the records, then -- and I don't know what the final exposure's going to be.

Q. Okay. Well, I guess -- and you can correct me if I'm wrong, but I got to thinking about this last night and what it really -- I think the real hang-up here is the other ILEC traffic.

I think that -- this is my opinion, you can tell me if I'm right or wrong. I think the problem that you have with our proposal is that the ILEC traffic that comes over that common trunk group from other ILECs other than Sprint makes up the majority of the traffic and creates, in your opinion or from your point of view, the majority of the risk. Is that a fair opinion?

A. No. That's not a fair opinion.

Q. Okay.

A. I don't know what makes up that other percentage. It could have been wireless, it could have been CLEC, it could be ILEC, it could be IXC. So I don't know -- I don't know that it's ILEC traffic, and I don't know that it's CLEC traffic.

Q. If we're getting the right records for wireless, that's taken care of. We're going to go bill them. You're off the hook. Right?

A. That's correct. If all the records are generated. I don't know that they all are, but if they are, that's correct.

Q. If we're getting the right records from you for the IXC traffic, because you as the tandem owner have to give them to us. Right?

A. As I testified earlier in some sense -- in some circumstances I may be an intermediate tandem and not have those records. So you'd have to go back to the tandem that -- the previous tandem to get those.

Q. Okay. But if we're getting the right records there, that's not going to be a problem?

A. That's correct.

Q. If we're getting the right records on Feature Group A, that's not going to be a problem. Correct?

A. That's correct.

Q. And if we can figure out a correct or an agreeable factor of whatever for MCA traffic, that's not a problem for the limited --

A. If we can come up with an agreeable factor on MCA, which still remains to be seen, but yes, that wouldn't be a problem.

Q. Well, you certainly accept factors for purposes of percent interstate usage, don't you?

A. That doesn't mean that we're going to be able to negotiate what the correct factor is.

Q. Okay.

A. And, in fact, our -- the whole -- you know, we accept those PIU factors, but one of the main drivers for us putting in our Hewlett Packard system is to monitor those PIU factors. So we may accept them in the interim until we get a better solution.

Q. And you haven't heard anything from our side that would tell you we're not willing to negotiate an appropriate factor for MCA traffic, have you?

A. That doesn't mean that an appropriate factor will be agreed upon.

Q. Okay. Well, we have to do something about that MCA traffic, don't we? What's your proposal?

A. Under your proposal, yes, we have to do something with that MCA traffic.

Q. Under your proposal, it would just be part of the residual. Right? Or the unidentified?

A. I think that's part of the -- the issue out there today, that it is -- it is part of the unidentified.

Q. Creating an even bigger question mark with respect to the unidentified traffic. Correct?

A. That's correct.

Q. Until we get a handle on it and know exactly how much it is or at least can agree on the magnitude.

So don't you think under either proper proposal we're going to have to get our arms around the MCA traffic?

A. I think that's probably true. That still doesn't mean we'll be able to negotiate a fair percentage on that -- or a fair factor on that.

Q. Whether we can negotiate or not, we're going to have to, aren't we, under either proposal?

A. Yes. I think so.

Q. So it's not the other PTC traffic that's giving you heartburn, having to pay for that. Is that a fair statement?

A. No. I think -- I don't think it's right for us -- when the Commission has ordered us to send you Category 11 records for each of the PTCs and you're receiving those records and you have that billing relationship set up now, that you should now turn and ask us to do that on your behalf. The process is already set up where you bill Southwestern Bell, you bill Verizon and you bill Sprint. And I don't think there's a reason for us to change that.

Q. I don't understand the difficulty for you to bill them if those records are accurate.

A. I'm not being --

Q. You -- excuse me. Go ahead.

A. -- compensated -- I'm not being compensated to bill them and I don't see the relationship today as a meet-point billing not -- it's meet-point billing and I bill my portion and you bill your portion. And what you're suggesting is that I start being your billing agent for all of it, and I'm not being compensated for that.

Q. You did it for 11 years under the PTC plan without being compensated for it, didn't you?

A. That was -- at that time, yes, that was our decision. That's not our desire at this time.

Q. Well, and maybe I'm -- not maybe. I am. I'm trying to put words in your mouth, Mr. Cowdrey, but it seems to me that you have a certain lack of confidence in the records that the other PTCs are creating by being unwilling to use those for purposes of billing among yourselves?

A. No. I just simply don't want to be the billing agent for the Small Companies for no compensation. I don't think that's unreasonable.

Q. Okay. Let me ask you about your 50/50 split, and you probably were in the hearing room earlier today when I believe Judge Mills asked Mr. Jones about that, were you not?

A. Yes, I was here.

Q. Okay. I want to take a very, very simple example. And let's assume that a tandem company has a common trunk group to a Small Company end-office and only sends its own traffic over that common trunk.

A. So it's not a common trunk, it's a direct trunk now.

Q. It could be common -- I mean, it could carry other traffic in the future, but for the time being all it's carrying -- let me ask -- the difference between a common trunk and a direct trunk is that one carries a bunch of different kind of traffic and the other carries one kind of traffic. Right?

A. But you said a common trunk that carries one type of traffic. That's not the same thing.

Q. Okay. Then let me back up and we'll just say a direct trunk between the tandem company and the secondary carrier.

A. Okay.

Q. All of the traffic, 100,000 minutes a month, is coming from the tandem carrier?

A. That's correct.

Q. No question about it, his traffic, his customers' originated traffic. Okay?

A. Okay.

Q. Now, under your proposal if he neglects to record and pass those records for all 100,000 minutes, he only has to pay for 50,000. Right?

A. No. I think that the Small Companies at that time is going to be able to tell it's coming from one carrier and that they sent down 100,000 minutes and would have a way of billing that. They know who the carrier is that's responsible for that traffic.

Q. You said we're not -- under your proposal we don't get to bill from our terminating records.

A. That doesn't mean you won't have them.

Q. Okay. Well, my point is, in getting back to the common trunk that Mid-Missouri has over which different types of traffic occur, in that example with Mid-Missouri, the unidentified traffic was Local Plus, correct, or the majority of it?

A. That's been the testimony, yes.

Q. Okay. Southwestern Bell, no question about it, was the originator of that traffic. Correct?

A. That's correct.

Q. To the extent Southwestern Bell doesn't identify that traffic, they get to terminate Local Plus at a 50 percent discount under your proposal, don't they?

A. I think -- where we are today -- I mean, that's where we were four months ago. Where we are today Mid-Missouri has agreed that at least a majority of the traffic has been identified. And so we're not sharing -- you know, we're not sharing 50 percent. We may be sharing a 10 percent difference or something like that. So there's certainly a different relationship now than there was three or four months ago.

Q. All I'm saying is whatever traffic is unidentified, under your proposal the end-office absorbs, eats, whatever you want to say, 50 percent of that. Correct?

A. Yes.

Q. Okay. Now, if that unidentified traffic happens to be traffic for which the tandem company is responsible, until they come in and voluntarily provide those records, they can continue to run at a 50 percent discount under your proposal, can't they?

A. And I think if you look at my testimony, I didn't talk about a discount. I was talking about -- let me re-answer that question. Would you re-ask the question?

Q. Sure. Under your proposal, to the extent the unidentified amount is traffic that truly belongs to the tandem company, unless the tandem company comes forward and says, Oops, that's all our traffic, they can ride on a 50 percent discount?

A. Yeah. I think today we've got a zero percent liability and the Small Companies have 100 percent of the risk. And tomorrow we're -- we've got some risk involved in it. And I agree that we should have some risk involved, but I also agree the Small Companies should have some too and that's where I game up with a 50/50.

Q. I guess I'm getting at the incentive for the tandem company to go track down that unidentified traffic when it finds out it's its own. Because the only upside for them is to pay 100 percent on that traffic as opposed to continuing to say, We still can't find what it is, so we'll split the difference with you.

A. Well, that's where I get to where the Small Companies, without some risk on their benefit, they're just going to continue to bill the tandem company. Even if we further identify records, they have no incentive to continue to bill that tandem company. So that's where I get back to both parties need some incentive to go get the right records.

Q. If you find these records for interstate intraLATA, Feature Group A, wireless, interexchange MCA, we're going to go bill them under our proposal. Right? We're not going to stick you with them?

A. And I don't know that if we find those additional records -- I don't remember looking -- seeing in your testimony that you had agreed to go bill those correct carriers.

Q. We've agreed to bill to the extent we have the ability to do so for these types of traffic. So if you can produce more records, we'll go bill them. Right?

A. How about if there's -- I'm sorry. I can't ask you a question. I guess I have a concern about the CLEC -- if we identify some CLEC, what incentive is it for you to go back and bill those?

Q. Well, but under our proposal we don't propose to bill the CLEC whether you give us a record or not.

A. Right. So then we're short in that circumstance, because you have billed the primary toll carrier and we've got to go back.

Q. The only reason you're short is because you haven't negotiated the proper deal with the CLEC that has connected with you?

A. That's not an -- that's not 100 percent true. If there's two tandems, I don't have a direct connection with that CLEC and, therefore, I don't have the relationship with them to go back and get that money.

Q. No. But as we've discussed, you're one step closer in the process to going after them than we are?

A. And, as I said, I have no more information than you do.

Q. You've got the direct connect with the tandem that connects with your tandem.
A. I still have no more information than the Small Company has.
Q. Don't you have your Hewlett Packard whizbang system in place?
A. I will have that. And we will also share those results with any Small Company that desires those.
Q. That reminds me. Are you going to share that with us, or are you going to share that at a cost to other carriers?
A. I think if it helps the integrity of our billing and the Small Companies' billing, I don't think we have a problem with sharing that free of cost.
Q. So that system will be made available without charge to the Small Companies?
A. The reports out of the system would be available. I mean, I can't say at this time that our company's made a decision, but I would think that to get credible billing across the industry, I think that's probably a fair or reasonable thing for us to do.
MR. ENGLAND: Thank you, sir. No other questions.
JUDGE MILLS: Questions from the Bench, Chair Lumpe?

QUESTIONS BY CHAIR LUMPE:

Q. Mr. Cowdrey, you talk about other solutions on the horizon. Do you have a time frame and are those solutions some of the things that have been mentioned in this case already?

A. Yes. I believe Mrs. Allison talks about a solution coming out of the OBF. And I know that it was approved by the OBF in November of 2000. And that certain -- the industry is working towards incorporating that solution. And then also both Southwestern Bell and Sprint have put in this Hewlett Packard system which is going to assist in identifying the, quote, unidentifiable traffic.

Q. All right. And to go back to the OBF, do you have a time frame by which that's going to be in place --

A. I think --

Q. -- or offered or whatever?

A. I'm sorry, Commissioner, for interrupting you. I think that's probably a better question for Mrs. Allison --

Q. To ask?

A. -- because I'm not a direct participant in there.

Q. All right. You also talked about deficiencies of the Small Companies' terminating records. What deficiencies did you have in mind?

A. I think the majority of the issues that came up when we were doing our records test is that the terminating record of the Small Companies does not include in many instances the originating phone number. Without that originating phone number, we don't know the correct -- or they don't know the correct party that originated that call and cannot go back to that party and bill them.

Q. Is it your opinion that there are more deficiencies in the terminating records than in the originating records?

A. Yes. And exactly for that reason. The originating records do include the originating phone number and the terminating records do not. That's the difference.

Q. Are there no deficiencies in the originating number from your view?

A. From the records, I think the records are complete and there is no deficiencies in the record itself.

CHAIR LUMPE: I think the other questions have been asked, so thank you.

THE WITNESS: Thank you.

JUDGE MILLS: Commissioner Murray?

QUESTIONS BY COMMISSIONER MURRAY:

Q. Good afternoon, Mr. Cowdrey.

A. Hello.

Q. In the exchange with Mr. England, there was some discussion about incentives and disincentives to make the billing records correct or to get them to match. Do you recall that?

A. Yes.

Q. Would you explain again what you mean by the disincentives for the Small Companies to work to ensure the correct originating company is billed under their proposal?

A. Sure. I think the issue comes up when we finally locate some carrier that hasn't been sending their traffic, a CLEC or particularly a wireless carrier. And we locate that carrier and we tell the Small Company, Hey, this carrier is sending you 200 minutes or 2,000 minutes or whatever the number is.

There's no incentive for that small carrier to go talk with that CLEC or wireless provider, especially wireless providers, because if they do get those records from the wireless provider, in many instances the rate they'll be able to charge is less than the rate that they could charge if they just billed us.

Q. When they're just unidentified minutes?

A. That's correct.

Q. Okay. In his opening statement, Mr. Minnis mentioned that out of the 18 other states that your company operates in, that there are -- this arrangement that the

Small Companies are proposing would be unique. Can you tell me what some of the other arrangements in the other 18 states are?

A. Yeah. I do not have specifics on all of them, but many of our states even today rely on originating records. I know, for example, Oregon, Washington, Texas, Kansas, Missouri, and I believe New Jersey and Ohio are at least some that I'm aware of that do rely on originating records. But there is no provision in there to bill unidentifiable traffic to the tandem owner. And that's the piece that I think would be unique to Missouri.

Q. And you don't know of any other state that does it that way?

A. That's correct. I'm aware of no other state that does it that way.

COMMISSIONER MURRAY: I believe that's all. Thank you.

THE WITNESS: Thank you.

JUDGE MILLS: Thank you.

Commissioner Schemenauer?

COMMISSIONER SCHEMENAUER: Thank you, your Honor.

QUESTIONS BY COMMISSIONER SCHEMENAUER:

Q. Good afternoon, Mr. Cowdrey.

A. Hello.

Q. In your conversation with Mr. England, I sensed a lack of trust on both sides on this billing issue. And the 50 percent sharing of the unidentified traffic you think would give both sides an incentive to be more forthcoming?

A. Yes. That's -- that's our proposal, that it provides incentives to both companies to search down the correct records and locate the correct originating provider to bill.

Q. And did I understand you to say that your apprehension on this -- on the side of the Small Companies would be if they couldn't identify -- or they couldn't collect some wireless traffic that was unidentified, they would simply just bill the tandem operator or Sprint for those minutes at a higher rate than they could have gotten from the wireless carriers?

A. That's correct.

Q. So there's an incentive to not work too hard?

A. There's an incentive not to work hard and then also there's a incentive that even if the records are identified, to continue to bill under the Small Company proposal instead of chasing down the originating provider.

Q. Would honorable men do this?

A. No, they wouldn't. Not intentionally.

Q. Not intentionally. Do you have a business relationship with all of the carriers that if this proposal were to be in effect, that you could bill them for the small carriers and recover your cost that you have to pay for their minutes?

A. No, we do not. Our access tariffs don't allow for us to -- to bill enough to pay for the Small Company terminating. Today our tariffs require us to meet-point bill so we only bill our portion of the route which may be a penny or two, whereas the Small Company access rates may be 12 to 15 cents and so we would be out the piece of the Small Company terminating.

Q. So you would have to refile all your tariffs --

A. Refile our tariffs.

Q. -- that pertain to that part of your operation?

A. That's correct.

Q. What if you bill another ILEC or someone for these identified minutes that you know they passed through and they refused to pay you? You would still be liable to pay the Small Telephone for that?

A. Yeah. We would still -- the Small Companies we would still have to pay 100 percent and then go back and go through collections procedures with the company that wasn't paying us. And, you know, possibly not only eat --

or not only lose the amount that was due us, but also the amount due the Small Companies.

Q. Okay. Now, I'm going to ask you, you're a collection agent for the state and the local municipalities for sales and franchise taxes. Right?

A. Yes.

Q. The statutes were written that if people didn't pay those taxes, you didn't have to pursue them. The state would have to pursue them; is that right?

A. Yes.

Q. And you're reimbursed for collecting those taxes. Right?

A. We are reimbursed -- I believe there may be an administrative fee.

Q. 2 percent?

A. 2 percent, yes, I believe that's correct.

Q. And you don't have to chase any bad debts and you get 2 percent of what you collect?

A. Correct.

Q. Would that kind of arrangement be satisfactory with Small Companies?

A. I don't know if --

Q. It would be better than nothing. Right?

A. It would be better -- yes, it would be much better than what they have today.

COMMISSIONER SCHEMENAUER: I think that's all I have. Thank you.

JUDGE MILLS: Commissioner Simmons?

COMMISSIONER SIMMONS: No questions, your Honor.

JUDGE MILLS: Chair Lumpe?

FURTHER QUESTIONS BY CHAIR LUMPE:

Q. Just a follow-up, Mr. Cowdrey. In the other states that you were talking about where you operate, do they have any kind of PTC arrangement in those states?

A. Many of those other states have kind of the same primary toll carrier arrangement, yes.

Q. Had before the requirement to get rid of the PTC and --

A. Yes. Yeah. Especially -- I know definitely in the Southwestern Bell states they've had a similar primary toll carrier arrangement in all of them, and that would include Texas and Kansas where we operate. And then I'm also aware of a similar arrangement -- toll carrier arrangement in Oregon and Washington.

Q. And in those states were they facing the same sort of difficulties in Small Companies being paid the minutes they are entitled to be paid?

A. I don't know for sure. I don't -- I don't know what the issues were in those states as far as a particular settlement like this.

Q. So in those states either you weren't involved or you don't know whether those same difficulties have arisen in those states?

A. I have not become aware of them. And when we ask the questions of the other states and inquired as to whether this type of arrangement was happening, I received no information that they said, Well, we've got a similar arrangement or that this is an issue in our state also.

CHAIR LUMPE: Okay. Thank you.

JUDGE MILLS: Thank you. Commissioner Murray?

FURTHER QUESTIONS BY COMMISSIONER MURRAY:

Q. The scenario that Commissioner Schemenauer proposed and he asked you if that would be acceptable to the Small Companies, what do you think companies like Sprint would think of that as an arrangement where you were -- you had some sort of a reimbursement for being the collection agency and you did not have to go after the portions that carriers did not pay? Would such an arrangement be workable?

A. If I understand the arrangement, we would bill on behalf of the Small Companies and they would pay us the 2 percent administrative fee and we would not be responsible for any bad debts or uncollectibles. I think that would be acceptable. I'm still not sure what we do with the unidentifiable traffic.

Q. But as to that which is identified, you think that might be a workable arrangement?

A. I don't know for sure, but it sounds reasonable.

COMMISSIONER MURRAY: Thank you.

JUDGE MILLS: Thank you. I've got a couple questions.

QUESTIONS BY JUDGE MILLS:

Q. Mr. Cowdrey, you were here yesterday when Mr. Schoonmaker was on the stand, weren't you?

A. Yes.

Q. And Vice-chair Drainer asked him about the 50/50 split and he basically said that he didn't think 50/50 was fair because of the ratio of revenues between the Small Companies and the former PTCs is nowhere near parity. How do you respond to that? How did you -- first of all, let me ask you this. How did you come up with 50/50, and how do you respond to the point of view that 50/50 isn't the appropriate split if you were going to do a split?

A. Okay. I came up -- I came up with the rationale and -- today we have no responsibility and the secondary carriers have 100 percent. And under Mr. Jones' testimony earlier today, he wants us to have 100 percent and the Small Companies to have none.

So I basically said, somewhere in there there needs to be a reasonable split of the risk. Mr. Schoonmaker agreed that there should be some sharing of the risk, I believe in his testimony. I don't know that using the percent of revenues as he indicated is going to give the Small Companies any risk at all. You could have a Small Company that may have, you know, a half a percent of the risk and the large company have everything else, the 99.5 percent because of the differences.

There needs to be some measure so that both parties are involved and want to -- want to find the right records. And if you went with Mr. Schoonmaker's proposal, there needs to be probably at least a minimum threshold, I don't know, of a third or something so that both parties are incented to find the correct originating record provider.

Q.   Well, okay. So you think -- well, I won't go there.

I'm going to ask you a couple more questions that Vice-chair Drainer either directly or through me has been asking of all the witnesses. And the second one is, have you determined the cost to the industry of implementing the Small Telephone Company Group's or MITG's proposal?

A.   No, I have not.

Q.   Okay. Do you agree or disagree with Mr. Larsen's, for example, opinion that the cost would be diminimus?

A. And I guess there's two costs. One is the cost of implementing then what the cost of the unidentifiable traffic is. And the unidentified hasn't been really decided upon.

The cost of implementing, I don't really know what all's going to be involved. The Small Companies to this point have not offered to let us see any detailed records of what they recorded. If that becomes part of the final solution that, yes, they provide us detailed records, then both companies have to create a process to do that.

I believe under the Small Company proposal, they just want to render us a bill that -- that we cannot verify and that we will not have the ability to go back and audit them because they won't keep the detailed records.

Q. Okay. Well, let me approach this from two ways then. The unidentified traffic wouldn't be a new cost under their proposal, that's a cost out there now, it's just a question of who bears the cost; is that correct?

A. Well, I think there's traffic today that's not being paid for by some providers. And that will be a new cost to us if we have to pay for someone else's traffic.

Q. Okay. And right now, according to the Small Companies, they're having to pay for it?

A. That's correct.

Q. Okay. And in terms of the cost of implementing the proposal, I'm not sure I understood your answer. Did you say you don't know what the cost would be?

A. I don't know what the cost would be.

Q. Okay. Now then, the last question is, since all the parties are present, including the former PTCs and the small LECs in this hearing, why isn't it judicially efficient to go ahead and decide the business relationship issue in this case?

A. Well, I think that we feel that the business relationship issue was somewhat settled in the 99-254 case when it was found that companies shouldn't be required to pay for residual traffic that they're not responsible for. So I think we've got -- we think there's probably a little duplicity here with this case. I think that's probably it.

JUDGE MILLS: Thank you. That's all the questions I have.

We're going to do a round of further cross-examination based on questions from the Bench beginning with Verizon.

FURTHER CROSS-EXAMINATION BY MR. FISCHER:

Q. Just a couple to follow-up. Chair Lumpe asked you about two solutions, one being the Hewlett Packard system, which I understand Sprint has already deployed; is that correct?

A. Yes. We've deployed it in some of our states and are in the process of deploying it in Missouri.

Q. And she also asked you about the OBF issue 2056. Is that something -- another solution that you would expect Sprint to deploy or go along with the guidelines of the OBF?

A. Yes. The OBF solution was voted on, approved within the OBF and the member companies of that. Sprint is a member company of that committee.

Q. Is that a national guideline, to the best of your understanding?

A. Yes. That becomes the industry standard nationally.

Q. And based on other OBF standards of the past, would you expect most of the industry to go along with those standards?

A. I believe that the majority of the industry was involved in the decision and certainly they would comply with what OBF had said. That's required so that we all bill each other correctly and in the same format and that sort of thing.

MR. FISCHER: Thank you. That's all I have.

JUDGE MILLS: Thank you.

Southwestern Bell?

FURTHER CROSS-EXAMINATION BY MR. LANE:

Q. Good afternoon.
A. Hi.
Q. Commissioner Schemenauer asked you about what would have to be done to go back and handle the upstream solution if the Small Companies' proposal were adopted. And you had indicated in response to his question that you'd have to revise your access tariffs. Do you recall that?
A. Yes. I believe that's --
Q. Would that also be true of the other primary toll carriers or former primary toll carriers?
A. Yes. All of the former primary toll carries would need to revise their tariffs.
Q. How about interconnection agreements with CLECs?
A. Yes. All of the interconnection agreements that Verizon, Sprint and Southwestern Bell have filed with the Commission would need to be renegotiated and refiled with the Commission. And, of course, when you open up those renegotiations with the CLECs, it probably won't just be a single issue.
Q. Okay. Commissioner Murray asked you questions about incentives for identifying the traffic, and you had discussed with her, in your view, the lack of incentive for the Small Telephone Companies because the rates would go down with regard to CLEC and wireless traffic. Do you

recall that?

A. Yes.

Q. Would that also be true to the extent that the unidentified traffic involves interstate intraLATA calls or MCA calls?

A. Yes.

Q. And why would that be?

A. For interstate, certainly the Small Company intrastate tariffs, or at least the majority of them, the intrastate rates are higher than the interstate rates. For MCA traffic, the Small Company -- or the Commission has ordered bill and keep for that MCA traffic, but if the Small Company were to bill a tandem owner for some of that, they would be getting intrastate access rates at maybe 10 to 15 cents for things -- for minutes that should be billed at zero rate.

Q. And a final question with regard to your 50 percent split proposal. Is that based on taking the terminating records of the Small Companies at face value or does it come into play after efforts have been made to determine whether they're terminating records are, one, accurate and, two, that the originating carrier can't be identified?

A. I think it would be appropriate -- I think there's been testimony already that there's still work going on to identify more records in the tests and it may be appropriate to do another test to further reduce that number.

But, yes, after the industry has gone through a reconciliation process and it's completed and there's nowhere else to look for the records, then I -- then at that point I think there should be some sharing of the risks.

Q. And so your proposal to share the risk assumes that all the right steps have been taken to ensure first that the terminating records are indeed accurate; is that right?

A. Yes.

Q. And, second, to ensure that those terminating records or other records can't be used to identify the originating carrier?

A. Yes.

MR. LANE: Okay. That's all I have. Thanks.

JUDGE MILLS: Thank you. Public Counsel is not here. Staff?

MR. WILLIAMS: No questions.

JUDGE MILLS: MITG or STCG, whichever order you all are going in.

FURTHER CROSS-EXAMINATION BY MR. JOHNSON:

Q. Mr. Cowdrey, did I understand you to say that Kansas had a -- formerly had a primary toll carrier type plan?

A. Yes.

Q. And in Kansas was Sprint one of the former primary toll carriers?

A. Yes.

Q. And I would imagine that when they implemented intraLATA toll dialing parity, that plan was disbanded?

A. Yes. I believe that's true.

Q. Okay.

A. Or there was some period afterwards that it was actually disbanded, but yes, it was.

Q. Is it true since then there's been some negotiations going on in Kansas in some dockets concerning what the billing relationship's going to be between the former PTCs and the former SCs?

A. There were some discussions and negotiations, yes.

Q. Okay. Is it true in Kansas that they have agreed that any unidentified traffic exceeding 2 percent will be the responsibility of the former primary toll carrier?

A. Sprint did not agree to that.

Q. Did Southwestern Bell in Kansas?

A. I believe Southwestern Bell may have made some agreement with the Small Companies.

Q. Okay. So they're not negotiating on the same terms in Kansas, Bell and -- strike that.

First of all, were Southwestern Bell and Sprint the only two former PTCs in Kansas?

A. Yes.

Q. Okay. So they're negotiating separately in Kansas; is that correct?

A. I don't know that there's any negotiations going on at this point.

Q. Is it true in Kansas, to your knowledge, that with respect to uncollectibles, if a carrier doesn't pay for the traffic that goes down the network, there's a provision in the Kansas arrangement for that carrier's traffic to be placed on a separate trunk so the former SC can disconnect them without the assistance of the former PTC?

A. That may be part of the agreement. I'm not sure.

Q. Okay. I want to ask you a few questions about the Hewlett Packard SS7 or Access SS7 system. First of all, is it correct that that system operates off of the Signaling System 7 information?

A. Yes.

Q. And, as I understand it, that's why in Missouri you only need two STP points or Single Transfer Points. Is that what that stands for?

A. I think so, yes.

Q. Where would those two points be in Missouri?

A. I believe we have one in Jefferson City and one in Warrensburg, but that is connected to our entire network.

Q. And is it correct that SS7 information is sometimes referred to as out-of-band signaling?

A. Yes.

Q. That's because the signaling goes through separate computer links and not through the direct circuit that the phone conversation takes place on?

A. Maybe not a separate circuit, but a separate --

Q. Network?

A. You're getting beyond my network expertise, but there is a separate path that's -- that's taken by the SS7 signal to set up the call and then the call is actually placed.

Q. Okay. Is it correct that in order for that HP system to work, there has to be SS7 information available?

A. Not necessarily. It's my understanding that you can have MF signaling and as soon as you get to a point that has SS7 signaling, at that point it will start -- the HP system will pick up the record at that point.

Q. At that point if there's a break in the SS7 signaling by a multi-frequency provider, if you will, how do you pick up the originating carrier identification?

A. I think at that point you're -- you're at an -- at least at the lowest I think you're at an ILEC end-office and I think you can narrow -- narrow it down to coming out of that ILEC end-office or I think that's -- I think that's as far as you can go if you don't have full SS7 connectivity.

Q. Would you agree with me that SS7 is also the technology that makes calling number, caller I.D., number forwarding information available to class services?

A. SS7 is required for caller name caller I.D., yes.

Q. And would you agree with me that there are still some cellular carriers who provide their service on a multi-frequency non-SS7 basis?

A. I think they're migrating to SS7, but I think there's probably still some that use MF signaling.

Q. Would you agree with me that there's some interexchange carries today that are migrating away from SS7?

A. No. I don't know that to be fact.

MR. JOHNSON: Thank you. That's all the questions I have.

JUDGE MILLS: Thank you.

Mr. England?

MR. ENGLAND: Thank you.

FURTHER CROSS-EXAMINATION BY MR. ENGLAND:

Q. Mr. Cowdrey, in response to some questions from Chair Lumpe, you talked about the deficiencies in the terminating records, the primary being that you don't have the originating call number. Do you recall that?

A. That's correct.

Q. You don't need that if you don't have to bill the originating provider. Correct?

A. If you're not going to go back and bill the responsible party at the originating end, no, you wouldn't need that information.

Q. And, in fact, in the Feature Group D IXC environment, the records that you and all the other LECs create at the access tandem do not have that information in all respects or in all instances; is that correct?

A. In that situation, you have a direct trunk and you know that all of that traffic is billable to the IXC and you don't need the originating number. In the scenario where you use a common trunk, you need to know where that traffic came from because it could have come from numerous different providers.

Q. Well, you call it a direct trunk, but that IXC direct trunk carries the same traffic that your common trunk group does. Correct?

A. No. I don't believe so. It's dedicated to one carrier.

Q. But that one carrier then resells that service to a variety of other carriers, it resells to other interexchange carriers, it resells to CLECs, it resells to wireless providers. So, as a practical matter, all of the traffic that comes over that direct trunk is the same type of traffic that comes over your common trunk. Correct?

A. No. I still don't agree with you. That traffic at that point -- that's the IXC's traffic. They have voluntarily agreed to be that carrier that terminates there and collect from the originating provider and pay to the terminating end. At that point the -- that is pure IXC traffic and it's the only IXC that has claimed to get that traffic.

Q. I'm not talking about the business relationship, which I understand you draw a very distinct line between. But, as a practical matter, the traffic, regardless of who it belongs to, whose responsible for, is the same over that direct trunk versus the common trunk? It's a mixture. Correct?

A. It would be all interexchange -- it could be interLATA or intraLATA, but it would be -- those types of traffic, it would all be switched access traffic.

Q. But it could be provisioned -- excuse me -- the originating carrier, even though you want to call it interexchange traffic, could be a wireless carrier. Correct?
A. That's correct.
Q. Could be a CLEC. Correct?
A. That's correct.
Q. Could be another IXC than the one who orders the trunk and delivers it to your tandem. Correct?
A. That's correct.
Q. Thank you, sir. And when you record that -- what is it, 119 AMA record at your tandem for that interexchange traffic, you do not record or have the originating call number in all of those call records, do you?
A. And we don't need it. No, we don't have it. We don't need it. That's correct.
Q. And the Small Companies aren't proposing to use anything different than that 119 record for purposes of their terminating billing proposal, are they, sir?
A. That's the record that the Small Companies have proposed.
Q. The real argument, as we all know, is over who's responsible -- or as we've characterized it, the billing relationship. Right?

A. Yes.

Q. Okay. In response to Commissioner Murray's question -- or one of her questions, you talked about a situation where there would be no incentive, I believe, on the Small Companies' part to locate a particular wireless service provider who hasn't provided any records. Do you recall that?

A. Yes.

Q. Okay. First of all, we're not relying on the wireless service provider to provide us any records, are we?

A. Not as long as the wireless provider has interconnected in the network in a way that the former PTCs can get those wireless records.

Q. We, the Small Companies, are relying upon you, the tandem companies, to provide us with CTUSRs. Correct?

A. Yes.

Q. And you voluntarily agreed to provide those, as I understand; is that correct?

A. Yes.

Q. So if you don't provide us with the necessary wireless records, it's not our fault that we can't bill it. Would you agree with me?

A. If -- to the extent that wireless provider is interconnected with the last tandem, it would be our fault that you didn't have those records. If the wireless provider interconnected with a previous tandem, that would be not -- not our fault, but we would still have the requirement to pay you.

Q. Assuming that previous tandem was owned by a different ILEC other than yourself?

A. That's correct.

Q. If you own both tandems in the path, then it would still be your problem?

A. We don't have that scenario, but, yes. If that were the case, yes.

Q. In response to a question or two from Mr. Schemenauer, you indicated -- and I think additionally in response to some recross by Mr. Lane, that you would have to refile all of your tariffs if we adopted the business relationship that the Small Companies propose because you'd need to collect more money from the originating carriers in order to be able to pay the Small Company their terminating access charges; is that --

A. Yeah. I think there's actually another reason that we would need to refile our tariffs and that would be to recoup the extra money that we're paying the Small Companies for the unidentifiable traffic.

Q. Okay. Well, let's stick with the additional monies that you would need in order to pay the Small Companies their terminating charges. Okay?

A. Okay.

Q. You didn't refile your tariffs to do that when you were under the PTC plan, did you, sir?

A. I think our tariffs particularly -- or specifically stated that there's some differences under the primary toll carrier plan. And, to my knowledge, that part of the tariff is no longer there.

Q. But your tariff rates never changed?

A. I didn't --

Q. Excuse me. Your access tariff rates never changed?

A. My rates have not changed, but the fact that I'm no longer billing for that secondary carrier that sits behind me has changed.

Q. I understand the agreement you had with the other PTCs to settle among yourself has gone away with the PTC plan. Correct?

A. I think the settlement across the industry because the Small Companies were players in the PTC plan also, as you recall.

Q. But the PTCs have different contracts than the PTs and SCs, correct -- PTCs and SCs?

A. That's correct.

Q. My point is that you could voluntarily enter back into those contracts with the PTCs, if you desired, to settle between yourselves if you had to pay the end-office companies their access charges just like you did under the PTC plan. Correct?

A. And modify our tariffs just like we did under the PTC plan.

Q. Okay. Why didn't you modify your access tariffs when you voluntarily agreed to pay the third -- or excuse me -- the Small Company their access charges for wireless traffic you delivered to them?

A. Was it switched access? I'm not sure I know what you're referring to.

Q. Okay. Remember our discussion before lunch where you admitted or agreed that United Telephone Company used to -- may still, but certainly used to carry wireless traffic from the wireless company, wireless service provider to the end-offices of third parties and you paid the third parties their access charges for that traffic?

A. Yes. I know what you're talking about now.

Q. Okay. Your access tariffs didn't change when you offered that service, did it?

A. In that instance, we were not acting as an access provider. We were acting as a toll provider for that wireless carrier. And if you look back at our rates, it was a melded -- it looked like a toll rate. It did not look like an access rate.

Q. But your access rates didn't change. Again, that was an agreement you had with the wireless carriers to provide that service and a negotiated rate that you felt comfortable with being paid to do that service. Correct?

A. Yes. I mean, we did -- yes.

Q. I guess my point is, whether you have to refile tariffs or enter into an agreement, it's not unusual to do that, you've done it in the past, it's just a question of you don't want to. Correct?

A. Yeah. We don't want to be -- you know, be part of this relationship. That -- you're right.

MR. ENGLAND: Thank you, sir. No other questions.

JUDGE MILLS: Thank you.

Redirect, Mr. Minnis?

REDIRECT EXAMINATION BY MR. MINNIS:

Q. I just have a couple of questions, Mr. Cowdrey. Mr. England and you discussed direct and common trunks and the difference between those two. And I think one of the last questions he asked you was that you don't -- Sprint tandem does not receive the originating number on a direct trunk call from the IXC; is that right?

A. Yes.

Q. And you said you don't need it. And explain why you don't need this number, the originating number.

A. Well, in that circumstance we know that the IXC has contracted to provide -- to pay for all the traffic coming down that trunk. And all we have to do is measure the number of minutes on that trunk and bill that IXC. What the -- in that situation, the IXC has voluntarily entered into that agreement to pay us for that.

What the Small Companies want is for us to -- us to get into -- be required to enter in an agreement for which we do not have the ability to collect from the originating provider. There's a difference here. And that -- under the IXC scenario they do have the money to pay it. Under the Small Company scenario, they want us to -- to pay for money that we don't have.

Q. Do you see a distinction then between your relationship with direct trunks and common trunks --

A. Yes.

Q. -- and the requirement to have the originating phone number?

A. Yes. Absolutely.

Q. You discussed earlier with Mr. Johnson regarding these audits that you helped perform on Southwestern Bell's records back in 1995 and 1998; is that right?

A. Yes.

Q. And you also have been involved in the experience in this docket with doing the records test; is that right?

A. Yes.

Q. How can you compare the '95 and '98 audits with what happened in this docket?

A. Well, I certainly believe that Southwestern Bell has worked very diligently to try and locate the correct records for their discrepancies. I think they've probably done the most work out of any of the parties in the case.

And I also think that the HP system, which they have and use, also improved the ability to get a good test. As I said earlier, I think another test needs to take place. But it's been my experience that all parties have worked very hard and been cooperative in the records test and attempting to identify unidentifiable minutes.

Q. There was some discussion with Mr. England about -- and I believe you had testimony to say that under this plan, that Sprint would have to eat some of this difference because of an indirect or intermediate tandem relationship that it has. Can you explain -- can you walk through a call when you're talking about an intermediate tandem relationship for us?

A. Yes. I think the situation is a call from Kansas City to Maryville that terminates to Rockport. And

Sprint owns the Maryville tandem. Rockport is -- the Small Company would bill back to Sprint any of the unidentifiable traffic, even if it came from the Kansas City Southwestern Bell tandem.

We're in no better position to collect from the originating CLEC or wireless carrier than the Small Company is. And in that situation we don't have the ability to go back and get that money. So we end up losing the amount that the Small Companies have paid us.

Q. So if I were to go step by step, you'd have someone making a call that goes to a Bell tandem in Kansas City; is that right?

A. That's correct.

Q. That call record is -- that call basically is sent to the Sprint tandem in Maryville?

A. Right.

Q. And then it terminates in the Rockport exchange. Right?

A. Right.

Q. And am I understanding that the record you receive from Southwestern Bell's tandem may also be an unidentified record?

A. That's correct. In that situation, we would not be able to identify where it came from and would need to go back to Southwestern Bell. And that's kind of why I've said that any solution -- if the Commission were to adopt the Small Company proposal or any proposal, needs to include all the players so that, you know, if I can't locate it, then I can go up to the next person in the route to get compensation for that.

Q. Does this mean that -- let's say the Commission adopted your 50/50 proposal and there is unidentified traffic between Rockport and your tandem, but that unidentified traffic actually came from the Bell tandem, you'd split -- you would take that upstream to the Bell tandem to Southwestern Bell?

A. Yes. And I think I would have incentive to go back to the Bell tandem and say -- or the Bell Company and try and locate where that record came from and, therefore, collect some of the money that I had to pay for the Small Companies.

MR. MINNIS: Okay. I don't have anything further. Thank you.

JUDGE MILLS: Thank you. Just a moment.

Yes, Mr. Minnis?

MR. MINNIS: I was just -- if we're done with Mr. Cowdrey, could I ask that he be excused?

JUDGE MILLS: Yes, he may be excused.

Mr. Schoonmaker, we promised you yesterday that you've have the opportunity to be recalled. I think we'll go ahead and do that now. There's a few more questions from the Bench for you and then we'll do -- I'm sorry?

MR. BUB: And, your Honor, there's an agreement between counsel with some late-provided DRs we were to be provided with an opportunity to do additional cross based on these late-filed DRs. We received those this morning and if we're going to recall Mr. Schoonmaker, I could do that cross-examination now or after the Commission. I don't want to -- I could do it now or --

MR. ENGLAND: That's fine.

JUDGE MILLS: Mr. Schoonmaker, you're still under oath.

THE WITNESS: Yes.

JUDGE MILLS: We'll just do a complete round of cross -- I mean, of questions from the Bench starting with Chair Lumpe.

ROBERT C. SCHOONMAKER, having been previously sworn, testified as follows:

QUESTION BY CHAIR LUMPE:

Q.   Mr. Schoonmaker -- and I may be completely wrong in what I heard, but I'll ask you to correct me if possible.

A.   Okay.

Q.   Is it your contention that IXCs, whoever, instead of using other underlying providers, use Southwestern Bell because if they use Southwestern Bell, they don't have to pay or can get away with not paying terminating access?

A. No.

Q. Okay. Would you explain for me where I'm wrong, where I misunderstood here?

A. I'm not -- I'm not exactly sure where you're coming from. I mean, IXCs -- in the IXC industry, there are a lot of carriers who participate in that environment either as a regional provider or sometimes completely as a resale provider.

And subsequent to the termination of the PTC plan, many of our clients established long-distance companies that operate on a resale basis. And they basically retail long-distance service to their end-user customers and purchase the use of long-distance networks from carriers such as AT&T, Broadband -- or Broadwing, MCI, Frontier and other companies.

And when they do that, the agreements that they reach with those underlying carriers is that they will pay them a certain amount per minute and those carriers will deliver that traffic to any point within the state or any point throughout the country.

And when that traffic -- if -- let me use an example of a customer of Citizens Telephone Company in Higginsville who presubscribes to Citizens Long Distance and that call terminates to St. Louis, and let's say that the underlying carrier is WorldCom, Citizens has arrangements and delivers that traffic into the WorldCom network. And when that -- WorldCom would carry it across the state into the St. Louis LATA and take it to the Southwestern Bell switch in St. Louis and would terminate it to Southwestern Bell.

And at that point in time, Southwestern Bell would be measuring that trunk from WorldCom and would charge all the terminating access to WorldCom rather than going back and trying to find Citizens Long Distance and saying they're really the one that's responsible for it.

I'm not sure if that's the situation you were looking for or not, but we have not said that the interexchange carriers are trying to avoid paying for the traffic. I mean, we do have the issue with the wireless carriers which we're pursuing in other places as to whether -- whether and how much they should pay us.

What we have -- and consistently we've found and we've presented evidence in previous cases, we have evidence again in my testimony from Citizens in Kingdom comparing the records that they get with the records that they are recording.

And the network tests all demonstrate that there is more traffic getting to our company than we are getting the records for and we have this unidentified difference that we're concerned about. And that -- in the case of the Local Plus problem it grew to very substantial amounts for particularly Mid-Missouri and there were a couple of other companies -- it wasn't as big as it was for Mid-Missouri, but large amounts where the records weren't produced and we had nothing to bill. And that's one of the primary drivers that's been in this issue and continues to be in this issue.

Q. And the unidentified traffic could be coming from any -- I mean, I think you've called the former PTCs IXCs, in other words --

A. Well, I usually try to distinguish the former PTCs from --

Q. -- it could be coming from any IXC which you consider them to be one of?

A. It could -- it could come from any IXC. It could come from any of the former PTCs to the extent they're originating traffic. It could be coming from a CLEC. It could be coming from a wireless provider. Somewhere in this originating records system records are not being -- getting created and passed to us that identify that traffic.

CHAIR LUMPE: Okay. Thank you. I think that clarifies.

JUDGE MILLS: Commissioner Murray?

QUESTIONS BY COMMISSIONER MURRAY:

Q. Since I've already had one round of questioning with you, I think I just have one more.

A. Okay.

Q. And that would be, why shouldn't we just wait for an OBF solution on a national basis?

A. Well, from what I have been able to gather from reading about the OBF solution that's talked about -- and I included the minutes of -- in regards to that as part of my testimony. From what I can gather from the minutes of that meeting, it's not intending to address nor is it addressing the problems that we're talking about here.

Now, there have been representations in opening statements and in other comments that it is a solution. If it is, we don't have the evidence of it other than the statements of a couple of people that it is.

If there is more documentation than what there was in the minutes that shows that it, in fact, is really dealing with this unidentified traffic problem that we're talking about, it would be helpful to have that information. I don't have it and from everything I've been able to read about it, it doesn't seem to be solving the problem to me.

COMMISSIONER MURRAY: Thank you.

JUDGE MILLS: Commissioner Schemenauer?

COMMISSIONER SCHEMENAUER: Thank you, Judge.

QUESTIONS BY COMMISSIONER SCHEMENAUER:

Q. Good afternoon, Mr. Schoonmaker.

A. Good afternoon.

Q. I wanted to know on these two charts that were Exhibit 24 and 25 that were handed out, you had -- if you could enlighten me to what they're supposed to be telling me. On Exhibit --

A. Okay. Let me try -- I didn't bring those up with me. Exhibit 24 is the one about Peace Valley; is that correct?

Q. Yes. The unmatched terminating call record detail.

A. Okay.

Q. On that one you were going to do some homework, I think, and it was put forth that the difference between Elapsed Time Conversation and Elapsed Time From Carrier Connect, Field 19, that the difference between these two indicate that the time elapsed during the call, there was -- if there was no difference, it indicated the call was not answered. And on your homework, did you arrive at that same conclusion?

A. I haven't been able to do that yet. It's going to take a -- some discussions with technical people in regards to exactly how the switch records the call. And that may be the case, but it may not. I was asked what my supposition was, and my supposition would have been that the Field 19 that's further to the left of the exhibit, I see there's two of them that are titled Field 19, the one that's further left, my supposition would have been that that would have shown zero until the call was answered and then there would start to be time recorded in there.

But that may not be the way the system works and I did not get a chance to research that last night and really hadn't intended to until after the hearings were over. And, again, I saw this information for the first time late Tuesday afternoon.

Q. But part of this record is part of the 13 to 17 percent unidentified traffic; is that correct?

A. That's correct.

Q. Okay. And then on the Rockport recording examples, have you got that chart in front of you?

A. I do.

Q. On Customer 1 it says to the left Matched Calls and it's all zeros. The terminating number's there, but how could it be a matched call if it's not identified?

A. Well, we did the matching, No. 1, based on the terminating number being identical; secondly, on the connect time being within two and a half minutes; and, three, the conversation time being within five seconds.

Now, in many cases there is an originating number and the originating number may match and that further confirms it. But in many cases, first of all, the originating number may not come through as it didn't in these and we have no originating number to look at.

And in some cases in the wireless records, the originating numbers are different even though they match -- the calls match because the terminating record is showing the originating number that was actually generated at the originating set.

In some cases in the wireless records the carriers, when it's recorded at the tandem, replaces that actual originating number with a number of their own that identifies the carrier for billing purposes and so the real originating number is lost. So we haven't used the originating numbers as part of the matching. We use the terminating number, connect time and conversation time.

Q. Is this particular terminating number, I know it's the same on all three examples, is that an ISP?

A. No. These were -- in this case these are all wireless customers.

Q. They're all wireless?

A. Yes.

Q. Okay. That clears it up somewhat. Thank you.

A. Now, the other thing -- let me just mention because I can't remember whether you were in the hearing room yesterday. When this was introduced in the opening statement by the Verizon attorney, he indicated that these conversation times were in minutes. That was corrected yesterday afternoon and I believe it was while you weren't here and these conversations times are not minutes, but they're seconds.

And, in fact, although in Customer 1 there is an overlap in time even calculating seconds, the 2,141 seconds equates to about 35 minutes. In Cus-- in the case of Customer 2 and Customer 3, because the 248 seconds is -- is only 4, minutes there really is no overlap between these calls and there's -- there's not a time conflict at all.

COMMISSIONER SCHEMENAUER: Okay. Thank you. That's all I have.

JUDGE MILLS: Thank you.

We'll do a round of cross-examination based on that. Unless you have this agreement with counsel -- tell me whether or not you want Mr. Bub to go now or after we've done cross based on questions from the Bench.

MR. ENGLAND: Whatever Mr. Bub wants to do is okay with me.

JUDGE MILLS: Why don't you go ahead now? That way we'll just have one round of redirect at the end of this.

MR. BUB: Thank you, your Honor.

CROSS-EXAMINATION BY MR. BUB:

Q. Good afternoon, Mr. Schoonmaker.

A. Good afternoon, Mr. Bub.

Q. You know we asked the Small Companies some discovery requests, some data requests about any traffic or calling plans that the Small Companies might have that go from their exchanges into Southwestern Bell exchanges. Right?

A. Yes. Via the Feature Group C network.

Q. And you just gave us that response this morning?

A. That's correct.

Q. And by agreement you're -- I guess I'm permitted to ask you additional questions concerning the responses?

A. Yes.

Q. Okay. I'd like to give you -- start out by giving you a copy of the responses, and I'd like to have an exhibit marked, please.

JUDGE MILLS: We're up to 34.

(EXHIBIT NO. 34 WAS MARKED FOR IDENTIFICATION.)

BY MR. BUB:

Q. These are the data request answers you gave me this morning?

A. Yes, they are.

Q. I'd like to direct your attention to your response to Data Request No. 4. And the question says, Does your company or one of its affiliates originate any of the following types of traffic for termination to SWBT over the Feature Group C common trunks using our facilities?

And our original response -- we had different questions. In your answer to that particular DR you refer to a chart on the back?

A. That's correct.

Q. Okay. And that chart on the back indicates that there are three companies, ALLTEL, Green Hills, and New London that are providing toll plans using the Feature Group C network into Southwestern Bell exchanges?

A. Optional calling plans.

Q. Optional calling plans into Southwestern Bell exchanges?

A. Yes.

Q. Okay. If we could first focus on ALLTEL's, you have a further description under your answer to No. 5, going back to the second page of this exhibit. With respect to ALLTEL could you agree that some of these optional calling plans that they're offering are interexchange calling plans, go from ALLTEL --

A. My understanding is that the optional calling plan that they're providing is a plan that was to replace some of the community optional service that they had. It's a one-way plan that goes from some of their exchanges into Southwestern Bell exchanges.

Q. Crosses exchange boundaries?

A. Does cross exchange boundaries.

Q. And they also provide intraLATA toll at this point. Right?

A. "They" being who?

Q. ALLTEL.

A. ALLTEL Missouri, Inc.?

Q. Yes.

A. No. To my knowledge, ALLTEL Missouri, Inc. does not provide toll.

Q. Okay. Could you look at your response where it says, ALLTEL reports the following: Local, none; optional calling plans, 92-99; toll, 92-99?

A. Right. And if you go back to Question No. 4, it says, Does your company or one of its affiliates -- affiliates originate any traffic in this regard?

And in some of ALLTEL's responses those relate to their affiliates not to ALLTEL Missouri itself.

Q. Okay. With regard to the optional calling plan then as the telephone company?

A. That's my understanding, yes.

Q. Okay. And on that traffic ALLTEL indicates that it's providing a 92-99 record?

A. That's -- yes.

Q. And you agree that's appropriate?

A. Yes.

Q. Okay. And that's the type of record that would pass to Southwestern Bell and from which Southwestern Bell could bill ALLTEL terminating access?

A. That's correct.

Q. And that's appropriate because it's usually --

A. Yes. Yes. That's my understanding of the agreement.

Q. ALLTEL is using Southwestern Bell's terminating access services. Right?

A. Right.

Q. Green Hills also indicates that it's providing an optional calling plan called Local Reach; is that correct?

A. Yes.

Q. And that goes from Green Hills' exchange to Southwestern Bell's Kansas City exchange?

A. Yes.

MR. BUB: Okay. I'd like to hand out another exhibit, please.

(EXHIBIT NO. 35 WAS MARKED FOR IDENTIFICATION.)

BY MR. BUB:

Q. What I've handed you and the exhibit that's just been marked is Green Hills Telephone Corporation's tariff offering this Local Reach plan that you describe in the data request; is that correct?

A. Yes.

Q. Just to get some perspective, looking at the map, this would allow Green Hills; customers in their various exchanges to call into the Southwestern Bell Kansas City exchange?

A. Yes.

Q. Green Hills -- Green Hills being the dark green color on the map?

A. Yes. Plus two other exchanges in reading the tariff of Carrollton and Chillicothe.

Q. Okay. And who do those belong to, Southwestern Bell?

A. I believe they're both Southwestern Bell exchanges. Chillicothe, I believe, is just to the north of the area. I'm not sure where Carrollton is.

Q. But that's also a Southwestern Bell exchange?

A. To my knowledge, it is.

Q. Do you recall a couple of weeks ago during Southwestern Bell's Local Plus case that we discussed this local calling plan that ALLTEL had -- excuse me -- that Green Hills had?
A. I do.
Q. Okay. And we asked you about what records should be provided by Green Hills to Southwestern Bell?
A. Yes.
Q. And you agreed that if Green Hills, the telephone company, was the service provider, it should be creating records giving them to Southwestern Bell so Southwestern Bell could bill access?
A. Yes. That's correct.
Q. Okay. And you recall Mr. England suggested that it might be Green Hills' interexchange carrier affiliate providing the service, and you indicated that if that was the case, then Green Hills, the telephone company, wouldn't be responsible for providing records?
A. Yes.
Q. Okay. But in preparing the answer to this data request, you've had a chance to look into this; is that correct?
A. That's correct.
Q. And is it correct to say that Green Hills Telephone is the service provider?

A. Yes. And -- and they are using the Feature Group C facilities.

Q. And they're the responsible originating carrier on this traffic?

A. Yes.

Q. Getting retail revenue on it?

A. Yes.

Q. Okay. And they should be giving Southwestern Bell a record on this traffic. Right?

A. They should.

Q. But according to your data request, they're not at this point; is that correct?

A. That's correct.

Q. Okay. Let's go on to the optional calling plan that New London is offering. And that one, I believe, is called TBS Local Enhanced?

A. I haven't seen the tariff for that before so I don't know, but I'm sure you'll give it to me.

MR. BUB: Could I have this marked as well, please?

JUDGE MILLS: Yes. This will be Exhibit 36.

(EXHIBIT NO. 36 WAS MARKED FOR IDENTIFICATION.)

BY MR. BUB:

Q. Now, you've had a chance to look at the exhibit that's just been marked. Is that the optional calling plan for New London that you reference in this data request?

A. Yes.

MR. BUB: Okay. Your Honor, at this time I'd like to offer for admission into evidence Exhibits 36 --

JUDGE MILLS: 34, 35 and 36.

MR. BUB: 34, 35 and 36, please.

JUDGE MILLS: Are there any objections to the admission of Exhibits 34, 35 or 36?

Hearing none, they will be admitted.

(EXHIBIT NOS. 34, 35 AND 36 WERE RECEIVED INTO EVIDENCE.)

MR. BUB: Thank you.

BY MR. BUB:

Q. This New London optional calling plan goes from its exchange, which is --

A. Right there, I think. The white one, yes.

Q. Just south of Hannibal into Hannibal?

A. It goes into Hannibal. I was thinking it was west of Hannibal, but maybe it's south. It's south.

Q. New London's in the white and Hannibal's just directly north. And Hannibal's a Southwestern Bell exchange?

A. Yes, it is.

Q. And, again, this would be a call that would go across the exchange boundary?

A. Yes.

Q. And like Green Hills, New London should also be providing records -- providing them to Southwestern Bell, paying Southwestern Bell terminating access on these calls?

A. They should be, yes.

Q. But they're not doing it either?

A. At this time, they're not. My understanding is that they've had discussions with Southwestern Bell about the appropriate records to send. There's been some kind of discussions, I was told, between their data people and your people, but those records have not started to flow yet. It is their intention to -- at least I was informed by Mr. Zeiler (phonetic spelling), who's their representative, this morning that it is their intention to flow those records and to pay you the appropriate amounts from the beginning of the plan.

Q. You'd expect that Green Hills and New London with those type of discussions could get some arrangement worked out?

A. Some type of arrangement for what?

Q. Passing records, paying terminating compensation --

A. Yes.

Q. -- to Southwestern Bell?

A. Yes.

Q. But those arrangements aren't in place right now?

A. They are not completed at this point in time. I guess I should also mention that both of their plans are plans billed to the customers on a block of time basis, so that they do record the full amount of those calls and have records. And I know in the case of Green Hills specifically I've been told that they have the records so that they can go back and figure the exact amounts on a retroactive basis, and I believe that to be the case with New London as well.

Q. Would you agree that when Green Hills and New London created and began offering these services, that they knew access would be owed to Southwestern Bell for this traffic?

A. Yes.

Q. They knew they should have been providing a record to Southwestern Bell?

A. Yes. They both did.

Q. Looking at the exhibits, the one pertaining to Green Hills, that service -- the tariff for the service was issued in June of '99, effective July of '99?

A. Yes.

Q. About a year and a half ago?

A. Yes.
Q. Same with -- or similar with the one for New London that was issued July '99 and effective August '99?
A. Yes.
Q. Again, about a year and a half ago?
A. Yes.
Q. But still there have been no records provided. Right?
A. That's correct.
Q. And no compensation provided?
A. That's correct.
Q. Do you know when New London and Green Hills had those conversations you've mentioned with Southwestern Bell?
A. In the case of New London, I do not know when those conversations took place. In the case of Green Hills, I was not told that any conversations took place. I know that within a few weeks, maybe two or three weeks of this plan being implemented, the manager at Green Hills, Jim Simon resigned and left Green Hills. And that about six weeks later the manager that was appointed in his place, Rod Cotton, also left Green Hills and went to another company.
And in that double management change at that point in time apparently it dropped through the crack. And it was only after our discussion a couple of weeks ago about

this plan regarding the wireless case that I checked with the -- the current manager Steve Gann. He was not aware of it and had not been made aware of it.

He's been doing the research on it and he's gone back and checked the files and found the full indication that was what they were expecting to do, but it fell through the cracks. And he is in the process right now of trying to correct that both on a going forward and going backwards basis. I haven't had specific information from him as to when that will take place, but I would expect it will be fairly quickly.

Q. Would you expect that in any of those discussions with Southwestern Bell, had they occurred, you'd expect Southwestern Bell would have told both New London and Green Hills that they need to get us records. Right?

A. I would have expected so, yes.

Q. I'd like to go back to Mr. England's opening statement, his discussion, if you recall it, about Southwestern Bell's mistake on Local Plus traffic. He discussed that in pretty strong terms, didn't he?

A. Fairly strong terms, yes.

Q. To be fair, he acknowledged that the translation error that we made in setting up our Erickson switches to handle Local Plus was human error. Right?

A. Yes.

Q. And you'd agree it was just an honest human mistake?
A. From -- all the information that I have would suggest that, yes.
Q. But even though it was just an honest mistake, he in no uncertain terms told us, told the Commission that it never should have happened. Do you recall that?
A. That's true.
Q. He told us that several times. Told us that Small Companies had warned Southwestern Bell about offering toll without a one-plus indicator on that call years ago when COS was being developed. Do you remember that?
A. Yes.
Q. Warned us again when we rolled out Local Plus in '98?
A. Yes.
Q. And both New London and Green Hills were part of the Small Company Groups when those warnings were issued. Right?
A. Yes.
Q. Based on these warnings, Mr. England said that our Local Plus mistake should never have happened even though it was just an honest mistake. Right?
A. Yes, he did.
Q. And when some of those warnings were given or

maybe shortly after some of those warnings, these calling plans were developed. Correct?

A. Yes. Six months to a year, something like that. These were both developed at the termination of the PTC plan.

Q. And the Local Plus was litigated?

A. A year before that, something like that.

Q. And Southwestern Bell rolled out Local Plus in June of '99?

A. December of '98 in some selected locations and June of '99, yeah, statewide.

Q. That was also about the time that Green Hills and New London -- or shortly after that, six months after that, they rolled out, at least with Green Hills, a similar flat-rated 7-digit dial?

A. And they implemented intraLATA presubscription and they terminated the PTC plan and they formed toll carriers to take up the traffic that you and AT&T weren't willing to carry.

Q. And they just made an honest mistake, too, in your opinion?

A. Yes.

MR. BUB: Okay. Thank you. That's all the questions we have.

JUDGE MILLS: Let's go ahead and take a

10-minute recess then we'll come back, do further cross-examination based on questions from the Bench and then we'll allow Mr. England to do redirect. We're off the record.

(A RECESS WAS TAKEN.)

JUDGE MILLS: We're going to backtrack a little bit, do further cross-examination based upon the most recent round of questions from the Bench beginning with the MITG.

MR. JOHNSON: No questions.

JUDGE MILLS: Public Counsel is not here. Staff?

MR. WILLIAMS: No questions.

JUDGE MILLS: Verizon?

MR. FISCHER: Yeah. Just very briefly, your Honor.

FURTHER CROSS-EXAMINATION BY MR. FISCHER:

Q. In answer to one of the questions from Commissioner Murray, Mr. Schoonmaker, you indicated you hadn't seen any other documentation on the OBF proposal. And I had supplied to, I think it was, Missouri Independent Telephone Group a copy of a document. I doubt that you've seen it based on your -- based on your testimony. I just wanted to clarify if you'd seen this document or not?

A. No, I have not.

Q. Okay. Kathryn Allison is going to be testifying tomorrow about the proposals of the OBF. I'd like to show you just one page that has a diagram on it that is in it and --

MR. ENGLAND: Your Honor, if the witness is unfamiliar with the document, I'm having a little trouble with Mr. Fischer cross-examining or even asking him a question about a page from the document.

JUDGE MILLS: And there certainly may be that problem, but I'm going to wait and hear the question.

BY MR. FISCHER:

Q. I'd like to show you one page of the document on -- it has a diagram related to intraLATA toll traffic similar to, I think, the diagrams that you'd seen in the minutes that are attached to your testimony.

A. Okay.

Q. And ask you if that, based upon on your brief ability to look at that, would indicate that the intraLATA toll traffic is indeed a part of that OBF proposal?

A. Well, there is a diagram in here that's labeled Originating Local IntraMTA and IntraLATA Toll Three LECs, and I don't -- I don't know anything about it other than that there's a diagram there. I don't know whether -- I don't know any more than that there is a diagram there without -- in the amount of time I've had to see whether it addresses the concerns we're really dealing with or not.

MR. FISCHER: Okay. Thank you very much.

JUDGE MILLS: Sprint, Mr. Minnis?

MR. MINNIS: No questions.

JUDGE MILLS: Southwestern Bell?

MR. BUB: None, your Honor. Thank you.

JUDGE MILLS: Mr. England, redirect based on not only questions from the Bench, but that brief amount of cross based on those questions and the additional cross that Mr. Bub just completed.

MR. ENGLAND: Thank you, your Honor. And if I may, I need to get my copy of Exhibit 26 from Mr. Schoonmaker.

THE WITNESS: 25 you mean?

MR. ENGLAND: No. 26 -- or excuse me, 24. Thank you.

REDIRECT EXAMINATION BY MR. ENGLAND:

Q. Mr. Schoonmaker, if you would refresh my memory with respect to 24-HC, and I want to stay away from the HC information, but what again did that show or compare?

A. This was an exhibit that showed the switch records for an extracted number of calls out of the one-hour test period for Peace Valley, and it showed the actual record that was recorded in the switch.

Q. Does it show originating records?

A. These would be terminating records recorded by Peace Valley.

Q. Okay. Never mind then. With respect to originating records received by Peace Valley, is it your understanding that those originating records received from Verizon contained in each and every instance the calling party number?

A. No, they did not. And if -- I mean, for those who have my Schedule RCS-9-HC in my surrebuttal testimony, there's a comparison of the originating and terminating records. And you can see that many of the records that came from Verizon did not have an originating number.

Q. So the assertion that originating records are superior to terminating records in that they -- or suggestion perhaps that they are superior because they contain the calling party number isn't necessarily true; is that correct?

A. That's correct. It's not.

Q. Thank you, sir. With respect to the Green Hills and New London OCP plans, do you recall the line of questioning by Mr. Bub?

A. Yes.

Q. With respect to those plans, and without being flip, would you agree with me that that's another indication why originating records should not be relied upon and terminating records are more appropriate?

A. Yes.

Q. If Southwestern Bell were billing from terminating records, would those problems have occurred and that failure to report or pay for that traffic have occurred?

A. No, it wouldn't.

MR. ENGLAND: Thank you, sir. No other questions.

JUDGE MILLS: Thank you.

Mr. Schoonmaker, you may step down, and I believe this time, I believe you're excused.

We'll get back in the normal order and proceed with Mr. Hughes.

(Witness sworn.)

JUDGE MILLS: Thank you. You may be seated.

Please go ahead, Mr. Bub.

MR. BUB: Thank you, your Honor.

THOMAS F. HUGHES testified as follows:

DIRECT EXAMINATION BY MR. BUB:

Q. Mr. Hughes, could you please state your full name for the record.

A. My name is Thomas F. Hughes, H-u-g-h-e-s.

Q. Where are you employed, sir?

A. Employed by Southwestern Bell Telephone

Company.

Q. What's your position with Southwestern Bell?

A. My position is vice president regulatory for the state of Missouri.

Q. Are you the same Thomas Hughes that caused to be pre-filed in this case rebuttal testimony that's been marked as Exhibit 9 and surrebuttal that's been marked as Exhibit 10?

A. Yes, I am.

Q. Do you have changes to either piece of testimony?

A. Yes, I do. I have two.

Q. Tell us what the first one is, please.

A. The first one is in my rebuttal testimony on page 4 at line 19. In the question I have the word "transisting" and it should be "transiting." Strike the second "s."

Q. Okay. What's your other change?

A. My other change is in my surrebuttal on page 5, line 6. The sentence currently reads, Under this section, the CLEC may interconnection with a tandem company. The word "interconnection" should be "interconnect."

Q. Okay. Are there any other changes?

A. No.

Q. With those changes noted, if I were to ask you the same questions contained in Exhibits 9 and 10, would your answers be the same today?

A. Yes, they would.

Q. And are those answers true and correct?

A. Yes, they are.

MR. BUB: Thank you.

Your Honor, at this time I'd like to offer Exhibits 9 and 10 into the record and offer Mr. Hughes for cross-examination by the other parties.

JUDGE MILLS: Are is there any objections to the admission of Exhibits 9 and 10?

Hearing none, they'll be admitted.

(EXHIBIT NOS. 9 AND 10 WERE RECEIVED INTO EVIDENCE.)

JUDGE MILLS: Cross-examination, Verizon?

MR. FISCHER: No questions, your Honor.

JUDGE MILLS: Sprint?

MR. MINNIS: No questions.

JUDGE MILLS: Public Counsel is not here. Staff, Mr. Williams?

MR. WILLIAMS: No questions.

JUDGE MILLS: Small Telephone Company Group?

MR. ENGLAND: Yes, your Honor. Thank you.

CROSS-EXAMINATION BY MR. ENGLAND:

Q. Give me a minute while I spread out,

Mr. Hughes.

A. I guess that means you don't have good news for me.

Q. I was counting on your attorney through direct examination to ask all my questions, but he didn't.

MR. BUB: No further questions, your Honor.

MR. ENGLAND: Too late.

BY MR. ENGLAND:

Q. Let me start with your rebuttal testimony, if I may, Mr. Hughes, pages 5 and 6.

A. Okay.

Q. Actually, what I'm focusing on is the question and answer beginning at the bottom of the page and carrying over, but what I'm really interested in are lines 1 and 4 on the following page, page 6 where I believe you make the statement that your interconnection agreements make it clear that each party is responsible for creating originating records for its own customer's toll calls and supplying those calls to all carriers on the call path.

Do you see that?

A. Yes, I do.

Q. It's my understanding that the interconnection agreements that Southwestern Bell has with CLECs require them to create 92 -- or Category 92 originating records for those toll calls; is that right?

A. That's correct.

Q. Okay. Since the Public Service Commission's decision in the last PTC case, TO-99-254, do you know if Southwestern Bell has modified any of its new interconnection agreements to the extent you've entered into any since then to require CLECs to create Category 11 records for toll traffic they originate and send to Small Companies?

A. I don't believe so. And I believe you're referring there, Mr. England, to the Commission's order in that case. And I don't recall specifically if the order in that case was directed just at the former PTCs or if it was a general requirement that would have applied to CLECs.

Q. That was going to be my next question. Do you know if the Public Service Commission's order in that case required all carriers or just former PTCs to create those Category 11 originating records?

A. I do not have the order with me. I have read it obviously, but I'm not familiar with the exact wording around that issue.

Q. It's my understanding in response to some data requests that we sent to you that Southwestern Bell is currently interconnected with approximately 14 facilities-based CLECs. Does that sound right?

A. I'd say that's a general ballpark, yes.

Q. And when I say "facilities-based," I either mean -- let's go back to our Local Plus resale case -- either pure-facilities based or CLECs that are purchasing one or more unbundled network elements from you. Can we accept that as the facilities-based definition?

A. I would. I would state with that as the definition that the number is probably higher than 14.

Q. In response to a second data request following up on the response that you all gave me that there were approximately 14 facility-based carriers, only 7 of those CLECs were providing Category 92 records, at least at the time that response was answered. Does that sound right to you?

A. I believe 7 is a good -- I don't know specifically who the carriers are, but I think 7 is probably a realistic number.

Q. So roughly half of the facilities-based CLECs with whom you interconnect are creating Category 92 records; is that right?

A. Today -- or at least as of that data request response.

Q. Would you agree with me that a number of those interconnection agreements have been in effect for a year or more?

A. Yes, I would.

Q. Do you have any idea why those CLECs that are not creating 92 records are not doing so?

A. I don't have specific knowledge of their responses, Mr. England. I do know that we have contacted the CLECs who have not been providing us records and tried to inquire regarding that information.

Q. And what's been their response?

A. I'm not familiar with the response. I do know that we have sent letters to them though indicating to them that they are not sending us records per the contract.

Q. Would you agree with me that in those cases where CLECs are not creating 92 records, Southwestern Bell would not be receiving not only the records, but would not be receiving any compensation for traffic terminated to it --

A. I would agree.

Q. -- or for traffic transiting your network?

A. I would agree with that also.

Q. Let me back up a second. Those 92 records are also used for purposes of local reciprocal compensation pursuant to those agreements?

A. That's correct.

Q. So those agreements are critical for you to receive local compensation on calls that terminate locally. Correct?

A. To the extent the traffic locally isn't subject to the Commission's order in the MCA case.

Q. Okay. If it's not subject to the MCA, then you should be receiving local compensation on those calls?

A. That's correct.

Q. Okay. Without those 92 records, though, you don't have the ability to bill those carriers local reciprocal compensation?

A. Today we do not. And that is one of the reasons that we have invested in the HP Access 7 System that has been discussed during this proceeding, so we can identify the carriers that are indeed passing us traffic, but not sending us records.

Q. It's my understanding that, at least for the present time, your only recourse in those circumstances where you are not receiving Category 92 records from facilities-based CLECs and, therefore, not getting paid is that you, in turn, are not paying those CLECs for traffic you terminate to them; is that right?

A. That's correct. We also have -- as I mentioned, we are trying actively to get those records from those companies, so we are trying to pursue that.

Q. To the extent that those CLECs are using the Feature Group C network to terminate calls beyond a calling scope, an interexchange-type call to a third-party LEC whether that's a Small Company or another PTC, those records aren't being passed and those third-party LECs are not receiving any compensation either. Correct?

A. To the extent the records aren't being passed, yes.

Q. And under your proposal for the business relationship, if we don't have an originating record to bill the CLEC, we lose the money. Correct? I mean, you're not going to pay us for it, are you?

A. No. The answer is yes. The reason I hesitated for just a second is I want to make it clear and I think we've made it clear -- I've made it clear in my testimony, I think the other witnesses have, that we do not dispute that the terminating companies should be paid, be it the Small Companies, be it the PTCs or be it the CLECs. The terminating companies should be compensated for terminating those calls.

Q. Well, what recourse today do we, the third-party LECs, have to compel these CLECs to live up to the terms of their interconnection agreement with you and provide records so that we can bill for the service we're providing to them?

A. It's my belief that the HP system will help us along that path. Today, recognizing that that is not currently ubiquitously deployed, I'm not sure that the Small

Companies have a recourse. But I think one of the things that was identified in the records test was that we can, in fact, work together to try to resolve some of the issues that present -- that are present in the industry today. And, hopefully, working collectively, we can all be compensated appropriately.

Q. Do you feel any obligation as a party to the contract with that CLEC to see that they live up to their promises or commitments, whatever you want to call it, to provide those records?

A. I do, because as we've discussed, to the extent you're not getting a record, I'm probably not getting a record also. So I have an interest just as you do, to ensure that these companies provide the appropriate records so we both can be compensated.

Q. I believe you mentioned earlier that you have sort of a procedure that you follow with facilities-based CLECs who are not providing originating records; is that correct?

A. Yes.

MR. ENGLAND: Your Honor, if I may have an exhibit marked, please.

JUDGE MILLS: We're up to No. 37.

(EXHIBIT NO. 37 WAS MARKED FOR IDENTIFICATION.)

JUDGE MILLS: Go ahead.

MR. ENGLAND: Thank you.

BY MR. ENGLAND:

Q. Mr. Hughes, I've handed you a document that I believe, and hopefully you will confirm, is a true copy of the data request response you provided to the Small Telephone Company Group, Data Request No. 2-3 consisting of two pages and marked, as I understand for purposes of identification, as 37. Do you have that, sir?

A. Appears to be such, yes, I do.

Q. And does that answer look correct or appropriate to you?

A. This answer is consistent with my understanding and previous knowledge that I've had of working with some CLECs in the past about trying to receive 92 records, yes.

Q. Okay. Can we talk about that for a second? I believe that the process that at least you refer -- or your company refers to in the data request response is a multi-step process to encourage CLECs to provide these records?

A. Yes.

Q. And that appears on page 2 of 2, or at least a description of that process?

A. Yes, it does.

Q. And I think there in the middle of the page, if I'm following this correctly, initially a CLEC found to not be exchanging data is called to learn if they have any data exchange questions which need to be addressed. Right?
A. Yes.
Q. So essentially you're calling to see if they understand what it is that they're supposed to be doing?
A. That and to inquire from them if they understand maybe where to send the records, some of those type of administrative questions, if you will, that we might be able to address for them.
Q. How quickly is that call made? Is it made in the first month or two after you don't receive a record?
A. I don't know the specific timetable. This response indicates that we review it on a monthly basis. I know that this is something that is discussed and is treated with a high priority within the company, so it would be my expectation that within possibly two, three months we would be calling them to make sure they understand their obligations.
Q. Next, if they're still not providing the data after that initial contact, then you state that there's an escalating series of correspondence that is sent to the CLEC advising them of your concern that the CLEC is not exchanging data in accordance with their interconnection

agreement. Correct?

A. Yes.

Q. And, finally, if they continue to fail to provide you with the data, you send a letter advising the CLECs that they are in breach of their interconnection agreement and you are invoking the dispute resolution clause of the contract; is that right?

A. That's correct.

Q. Now, I think you indicated that in some instances some of these CLECs are not providing data and have not been doing so for at least a year or more; is that right?

A. I don't know the specific time frames that the CLECs started passing traffic to us that would have necessitated the passing of 92 records.

Q. I'm sorry. Would you say that again, please?

A. I'm not sure if your representation that for at least a year is accurate. Each CLEC obviously -- their timing is different when they start passing traffic to us versus when they would need to send us 92 records. For example, if they're not passing us traffic, obviously there's no 92 records to send.

So it could be an issue whereby maybe CLECs who started passing traffic with us, let's say, for example, back in '99, those are the seven that you indicate in the data request, those are, and maybe the CLECs who aren't today are some who maybe just came on line very recently. I don't know the timing of which the CLECs entered the market.

Q. Do you know if you've invoked the dispute resolution clause of your agreements with any of these CLECs that aren't passing data?

A. I'm not -- I don't have any knowledge of where we're at in the process with particular CLECs.

Q. One of the remedies you have available to you under the contract would be to terminate the contract, wouldn't it?

A. We do have a provision in the agreement that would allow us to disconnect the CLEC.

Q. Okay. Do you know if you've gone that far with any of the CLECs for this reason, for failure to provide data?

A. Not that I'm aware of.

Q. And I believe we talked earlier about the recourse the third-party LECs who are not privy to this contract would have with the CLEC. Would you agree with we me -- or I think maybe you did -- that they don't have much recourse to force them to provide originating records?

A. To the extent that they're not providing originating records, I would agree with you. I think I also need to clarify something, that the interconnection agreements for the transport and termination of interexchange traffic refers to the appropriate company's access tariff. So I believe in probably all instances the relationship, at least for what should be billed between the SCs and CLECs for interexchange calls, are already delineated by your access tariffs.

Q. I think you're saying that our access tariffs give us the authority to bill them for this traffic; is that right?

A. Give you the authority as well as outline the rates that should be billed.

Q. Okay. But if we're on an originating record basis, if you will, and we're not getting those records, how do we know who's sending it to us? How do we know we're even coming up short?

A. I personally believe that's a dilemma for the industry. And as I mentioned earlier, that is one of, if not the main reason, that we have chosen to invest in the HP Access 7 System so we can identify who is originating traffic, not only for us, but as Mr. Cowdrey mentioned, those reports would be helpful to the SCs as well.

Q. If we're able to identify CLECs that aren't passing records to us, what recourse do we have at that point pursuant to our tariffs that you're aware of?

A. I can't say that I'm intimately familiar with your tariffs, so I don't know what provisions you would have, but I would say that to the extent you're billing someone and you're not being compensated or they're not paying you, a recourse that you would have is always to bring a complaint to the Commission.

Q. Okay. Certainly we couldn't terminate service because their traffic is coming over the common trunk group with other carriers' traffic whose payment is current. Correct?

A. Today that's a true statement.

Q. Okay. And if I understand your position on blocking, we couldn't direct you to block that CLEC who's sending traffic but not sending records because you require a Commission order before you'll do it. Right?

A. That's correct. We will block upon a Commission order.

Q. Page 3 -- and since I didn't indicate in my notes whether it's rebuttal or surrebuttal, I better double check. I think it's your rebuttal testimony. Yes, it is. At the very bottom a quote from a Commission decision --

A. Yes.

Q. -- lines, I believe, 19 through 22 you quote, Dial U.S. is prohibited by the agreement -- and I believe they're referring to the interconnection agreement between Dial U.S. and Southwestern Bell -- from sending to

Southwestern Bell traffic that is, quote, destined for the network of a third party unless and until compensation arrangements acceptable to Dial U.S. and the third party have been reached, end quote.

Do you see that?

A. Yes, I do.

Q. Is that a common provision in most, if not all, of your interconnection agreements, to your knowledge?

A. Yes, it is.

Q. Okay.

A. It may not be these exact words, but this type of provision is in most, if not all, of the interconnection agreements.

Q. What efforts does Southwestern Bell undertake to enforce this prohibition on carriers such as Dial U.S. and other CLECs with whom it has interconnection agreements?

A. This provision, the way it is written and the way that it is interpreted in our interconnection agreements is the requirement of the CLEC to enter into the arrangement with the third party. And they have the obligation not to send us traffic until they have established such a relationship.

Q. Is it fair to say then your answer is that you undertake no efforts to see that the CLECs comply with this particular provision of your interconnection agreements?

A. I think we undertake efforts that they pass originating records to the parties on the call path. There are other sections in the agreement that indicate that the originating carrier has the responsibility to create originating records and to pass them to the terminating party. And that is, as we've discussed, a step that we go through to ensure that they're sending 92 records to us. Making the assumption that if we're getting 92 records, they're appropriately passing them to the SCs as well.

Q. I think the provision of the records is a separate requirement or condition of the CLEC. This appears to be another obligation or requirement of the CLEC and that is not to even pass the traffic, records notwithstanding, until they have an agreement with a third party to do so. Would you agree with me?

A. That's what it says, yes.

Q. Okay. And I get back to my original question then of, is it fair to say you really don't undertake any effort to determine whether or not the CLEC is complying with this provision of your interconnection agreements?

A. We do not have a requirement that they demonstrate or show us their agreement before they pass this traffic to a third party.

Q. And, again, if we, as a third party, detect that they are sending us traffic, they, the CLEC, and they, the CLEC, do not have the agreement that they are supposed to have with us to do so, you will not terminate that traffic or block that traffic at our request without a Commission order telling you to do so?

A. That is our position, yes.

Q. On the next page of your rebuttal testimony, question and answer beginning on line 19, I believe, and I'm paraphrasing, but it's your opinion that Southwestern Bell is obligated to provide this transiting function to carriers who request it. Right?

A. Yes. We have a duty under the Act to provide direct and indirect -- direct and indirect interconnection.

Q. Okay. So this is a requirement you believe you have imposed upon you by the Telecommunications Act?

A. That's correct.

Q. Okay. Would you also -- or excuse me. First of all, would you agree with me that the Telecommunications Act does not use the term "transit" or "transiting"?

A. Not that I'm aware of. What I can't recall, Mr. England, is do -- does, excuse me, the FCC's First Report and Order that came out August 8th of '96, that gives definition to the Act, if that uses that term somewhere in there.

Q. Okay. As far as the Act's concerned, you're not aware of that term?

A. Not that I'm aware of.
Q. And you're just not sure if it's in the FCC Rules and Orders promulgated pursuant to that Act?
A. That's correct.
Q. Okay. Would you also agree that nothing in the Act prohibits Southwestern Bell from offering an end-to-end service to these requesting carriers and negotiating rates with these carriers that would recover not only the cost to Southwestern Bell for performing the transiting function, but also the cost of Southwestern Bell to transit -- excuse me -- terminate the third-party exchanges?
A. I don't believe there's anything in the Act that would prohibit us from reaching such an agreement.
Q. Is it fair to say you've just made a business decision, you as a company, that you're not going to do that, that you're simply going to provide a transiting function and no more?
A. We have an obligation, in our opinion, to provide this transiting function. So I -- I don't know that I can agree that we've made the business decision to only do transiting. I can agree with you that we haven't made the business decision to provide an end-to-end service.
Q. Did you say you haven't made the --
A. I don't know if we have or if we would have.

We have a requirement so, in essence, that business decision was made for us regarding transiting.

Q. Okay. And I think you agreed with me there's nothing in the Act prohibiting you from offering what I call an end-to-end service if you wanted to. Right?

A. I don't believe so. The Act, as you know, has language regarding reciprocal compensation that the parties must enter into arrangements for local traffic, but I don't believe there's any mention in there that we should or shouldn't or can't enter into a business arrangement. Similar to the question of does it have language, it doesn't have language that says we must do that either.

Q. Okay. Do you know of any instance where you have negotiated to provide not only a transiting function, but a terminating function where that traffic terminates to the exchange of a third party?

A. I'm going to exclude resale, because under the FCC's rules, we have the obligation on resale to provide that end-to-end service with CLECs.

Q. Okay.

A. So in the state of Missouri, I'm not aware of any such arrangement that we have.

Q. I hadn't thought about resale, but now that you mention it, in those instances I think you and I agree that you acknowledge a responsibility to pay terminating compensation, what we'll call a pure resale scenario -- you acknowledge you have the obligation to pay the third party their terminating charges; is that right?

A. We do. In that situation on pure resale the CLEC is reselling our telecommunications services, and we have an obligation to provide the service in a nondiscriminatory manner and the exact same telecommunications service that we offer to our end-user.

Q. Do you know how many interconnection agreements you currently have with competitive local exchange carriers?

A. Over 100.

Q. Okay. And would you agree with me that the terms on those agreements typically run anywhere from one to two years?

A. Typically, they actually run in the neighborhood of three years.

Q. Three years. Okay.

A. Yes.

Q. With respect to your agreement with AT&T, am I correct in understanding that that has been overturned, if you will, or undone by a federal court?

A. The Eighth -- you're referring to the Eighth Circuit decision where they remanded back to the district court and, in turn, remanded back with instruction to this

Commission certain parts, particularly pricing, and vacated the AT&T interconnection agreement that Southwestern Bell has with AT&T.

I do know that at least the Missouri Commission has sought a stay of that. And I believe AT&T was also going to seek a stay and possibly ask for clarification. I do not know what the Eighth Circuit has done in that regard, whether or not the stay has been granted.

Q. Okay. Assuming that the order becomes final without a stay, is it your understanding that it's back to square one or the bargaining table to negotiate a new agreement with AT&T?

A. Yes. To the extent that the Eighth Circuit's order does become final, we would no longer have an interconnection agreement with AT&T and the parties would have to reach agreement on such an arrangement.

Q. Am I also correct to understand that a number of other CLECs have opted into the AT&T/Southwestern Bell interconnection agreement?

A. Yes, they have.

Q. And I guess their options at that time are to opt into another agreement if the AT&T agreement has been undone, if you will, or renegotiate with you like AT&T?

A. To the extent that there's an agreement that they can MFN, most favored nations, into, that certainly would be an alternative. There's the possibility that we could enter into negotiations with them, or a third alternative is we have proposed an M2A agreement in our 271 proceeding that may also be available for them to opt into.

Q. Do you know how many of the 100 agreements that you have -- approximately 100 agreements that you have in Missouri are AT&T or AT&T adopted agreements, if you will?

A. I don't know an exact number. I will tell you that it's -- a significant percentage of the agreements are AT&T or AT&T like agreements.

Q. So it is possible you could be renegotiating in the near future, if the federal district court court of appeal's decision stands, a number of your interconnection agreements?

A. It is possible.

Q. Turning your attention to your surrebuttal testimony, page 9, lines 14 through 16, you indicate that Southwestern Bell has not sought to tariff this service. And I think what we're talking about here is the wholesaling or reselling of your Feature Group C network to other carriers in Missouri; is that right?

A. Yes. You're referring to our intraLATA wholesale service.

Q. I'm sorry. What am I referring to?
A. The name of it is intraLATA wholesale service.
Q. Okay. And that apparently is a service you offer in other states, but not Missouri?
A. That's correct.
Q. Can you just kind of briefly explain to me how that works?
A. Yes. It is a service that we offer. It's primarily designed for interexchange carriers, but it would be available to any carrier. And it allows them to use our intraLATA toll network that we use to provision intraLATA toll service for our customers and those carriers purchase the service from us. In return, under that business relationship that -- and agreement that we enter into with them, we agree to provide an end-to-end service.
Q. Okay. I'm going to get to that in a minute, but let me make sure I understand. You call it an intraLATA wholesale service?
A. That's correct.
Q. In what states do you provide that service today?
A. I believe it is offered in the other four Southwestern Bell states. I believe we have it approved in Arkansas, Kansas, Oklahoma and Texas. And I want to say that that was in the rebuttal testimony of Mr. Larsen

possibly, where the states were listed.
Q. You think you provide it in four of the five states, Missouri being the only exception?
A. I'm pretty sure that it is available in the other states.
Q. Okay. Now, you indicate you haven't sought to tariff it. Have you sought to provide it by way of contract in Missouri?
A. To my knowledge, we have not reached agreement or entered into a contract with any carrier to provide an end-to-end service similar to this in Missouri.
Q. Okay. You have contracted with CLECs in the context of your interconnection agreements to make that Feature Group C network available to them if they want to put interexchange calls on it, but you've made it clear that you're not responsible for the end-to-end service; is that right?
A. We are -- we have made it clear in the agreement that the originating carrier's responsible to pay the terminating carrier. And under the Telecommunications Act we believe we have the obligation to provide, as I mentioned, direct or indirect interconnection which could and in this case does lead to the transport of interexchange traffic.
Q. Does Southwestern Bell have any plans to

tariff or otherwise offer this intraLATA wholesale service in Missouri?

A. We do not have any such plans at this time.

Q. And at this time what kind of time frame are we talking about, 3 months, 6 months, 12 months?

A. I can't answer that. It's a business decision that we will continue to evaluate. And it may be something that we try to offer in the future, but I know of no plans to offer it, let's say, in the first quarter of this year.

Q. If it's a plan that's offered in four of your other five states, isn't it reasonable to assume that eventually it will probably be offered in Missouri?

A. Not necessarily. They are -- the environments in the other states are different and the situations in the other states are different. I don't know the specifics of the other states, but I do know the specifics of this state. And one of the things that we are concerned about is the high access rates that the independent companies, the SCs as well as the other PTCs have. And that could be a service that were -- or a limiting factor in us providing this service in this state.

Q. If you do offer this service on a wholesale basis as you do in the other four states and hold yourself out, I guess, to provide an end-to-end service as you testified, who is responsible then for compensating the terminating ILEC, assuming it's someone other than Southwestern Bell?

A. In this service that we offer, Southwestern Bell pays the terminating compensation on the call.

Q. So even though you may not be the carrier that originated the call, you would nevertheless recognize the responsibility for paying terminating compensation on that call if it's part of your wholesale service?

A. That's correct. We would have entered into at that point in time a business relationship with those carriers. And part of that would be they would pay us whatever the rate would be and that rate would include the recovery of the associated terminating access expense.

Q. Similar to the services that interexchange carriers offer to other interexchange carriers as has been testified previously in this proceeding?

A. Similar. I'm not familiar with the details of those, but I would assume it would be similar.

Q. I mean, would you anticipate probably a blended rate, if you will, that -- one rate, but nevertheless that takes into consideration the varying terminating costs throughout the state?

A. That's certainly one possibility on how it could be offered. I'm not that familiar with how it's been offered in the other states.

Q. Well, assuming Southwestern Bell Telephone Company is able to get into the in-region intraLATA toll market, it will do so through a subsidiary or an affiliate; isn't that right?

A. That's correct. Southwestern Bell Long Distance.

Q. Okay. And will Southwestern Bell Long Distance be able to purchase this intraLATA wholesale service if it becomes available in Missouri?

A. If the service becomes available in Missouri?

Q. Yes.

A. If we choose to offer intraLATA wholesale service and get it approved by the Commission, it would be available to all carriers in the state --

Q. Including --

A. -- regardless of their affiliation, including our long distance affiliate.

Q. Okay. And is that how it works in Texas where I believe you do have the in-region intraLATA authority and you do have this wholesale service?

A. I don't personally know if Southwestern Bell Long Distance is purchasing their service or not or if they're purchasing underlying facilities of another IXC. I don't know.

Q. In the Local Plus resale case, I believe you testified that you did not think it was appropriate to pay terminating access charges on Local Plus calls to Internet Service Providers; is that correct?

A. Local Plus service was designed to be a voice service, not a data service. We did not intend to offer it to our customers for their use for dialing up the Internet.

Q. Okay. But that wasn't quite my question. My question was, in that case I believe you testified that you did not think it was appropriate to pay terminating access charges on Local Plus calls to ISPs?

MR. BUB: Your Honor, I'd like to interpose an objection. If he's quoting from some other case, I think he's entitled to see that testimony Mr. England's quoting.

MR. ENGLAND: I'm not quoting. I'm paraphrasing and simply asking if that's his testimony. He can say yes or no or qualify it.

JUDGE MILLS: Objection's overruled. I think the question is clear enough as it is.

THE WITNESS: As I stated in my previous answer, we did not intend the service to be offered for ISPs, therefore, we do not believe that we should be paying access for those calls to Internet Service Providers. However, to date our tariff does not have such an exclusion and we are paying for that traffic.

BY MR. ENGLAND:

Q. Do you have any plans to change that arrangement in the future?

A. I think it's fair to say that that's a service -- as with most of our services, Mr. England, we evaluate if not on a yearly basis, some fraction thereof to make sure the services are, one, responding to our customers' needs as we had anticipated; and two, are responding to our business needs as we had anticipated.

Q. Let me be more specific. Do you have any plans in the future to stop paying access on Local Plus calls to Internet Service Providers?

A. I can't tell you that we have specific plans. I can tell you that, along with other ideas we do routinely discuss when we discuss all of our product lines, but I know of no firm plans at this point in time to seek that restriction.

Q. Let me have you assume that we're going to operate under the originating responsibility plan environment as you advocate. And further assume that you have made the determination that it is not appropriate and you will not pay access on Local Plus calls to Internet Service Providers.

MR. BUB: Can I stop you right there? I need to make an objection. Your question assumes that we're advocating an originating responsibility plan. I think that term has meaning in the last PTC case. And the PTC case before that the originating responsibility plan meant that it was Small Companies that had to provide toll and that's not our position here. So if you want to use some other words, I think originating responsibility plan isn't what we're advocating here so I think that term needs to be either defined or changed to fit the context of our position in this case.

MR. ENGLAND: I think I can rephrase the question.

JUDGE MILLS: Fair enough.

BY MR. ENGLAND:

Q. Let's assume that in the future we are going to operate on the system of originating records for purposes of compensation where the originating carrier's responsible for creating those records and passing those records and that's what we, the terminating companies, bill on. Can you assume that?

A. Okay.

MR. ENGLAND: Does that make you happy, Leo?

MR. BUB: Yes, it does. Thank you.

BY MR. ENGLAND:

Q. Also assume that you've made the decision that it's not appropriate to pay access on ISP calls and, in fact, you will not pay access on ISP calls.

A. Okay.

Q. And I want to relate this to your proposal or the environment as you would like it to be. Do you believe it is appropriate to simply stop sending those records or to give notice to carriers and an opportunity to object to your unilateral decision to no longer pay access charges on those calls?

A. I don't believe -- let me answer it this way. I believe to the extent that we are going to change our service offering and not pay terminating access for ISP calls, which I believe is your example, we would have to modify our tariffs to modify the offering that we have to our end-users.

Q. I'm having a hard time -- I mean, I understand you're modifying the service, but I'm having a hard time understanding how you can modify your service to your end-users insofar as it relates to your obligation to pay other carriers' terminating access charges which is created really by their access tariffs, not your end-user relationship. Can you explain to me how that -- how you can modify your tariff that affects our access tariff?

A. If I'm tracking with you, I think I can. I believe what you're indicating is if we go in and modify our tariff that says we're not going to pay access for calls that our customers originate and terminate to an ISP, that would have an impact presumably on your clients.

What our proposal would probably be and, as I said, we don't have any firm plans to do this, so I'm purely hypothetical at this point. What we could do is come in and modify our tariff to indicate that we will not allow calls to the Internet long distance one-plus dialed calls or in the case of Local Plus, Local Plus calls to the Internet. And that would be something that we would not offer to our customers.

So the -- the privilege, if you will, that is with the service today that we offer to our end-users, it would be something that we would do, it would impact our customers and our tariff. We wouldn't just unilaterally stop passing you records and, therefore, not provide you compensation for terminating those calls.

Q.   That's my concern. One way to alter the service is to deny your customers the opportunity to call that ISP. Correct?

A.   Correct.

Q.   And you believe you could do that through modification to your tariff?

A.   Yes, we do.

Q.   Another way to modify the problem, if you will, or address the problem of paying access is to simply not pay access on the calls even though they are going to

Internet Service Providers?

A. If I did that, I would be part of the problem and not part of the solution. As I indicated earlier, it's our position that the industry -- anyone who terminates the call should be compensated for it. So I have no plans to unilaterally stop passing records for terminating access purposes to the Small Companies to avoid paying them terminating access for calls to an Internet Service Provider.

Q. Okay. But you understand that your company, and this was before your tenure, did that very same thing with respect to wireless traffic back in approximately 1990, simply stopped passing the records, do you?

A. I don't have any first-hand knowledge of that.

Q. Okay. But what you're representing to me is that in the future, if you believe it's inappropriate to pay access on these, you're not simply just going to stop passing records?

A. It's not our intention, no.

Q. Okay. At surrebuttal, page 10, you note that Kansas and Oklahoma -- or rather in those states the industry has been working together to define who has the responsibility for unidentified traffic?

A. Yes.

Q. And I believe Mr. Cowdrey had some testimony or made -- gave some testimony earlier today on that. Mr. Johnson asked him about the Kansas situation, and I think Mr. Cowdrey indicated that although Sprint didn't necessarily agree to it, he thought Southwestern Bell in Kansas agreed to be responsible for all but 2 percent of the unidentified traffic as far as the state of Kansas is concerned; is that right?

A. That is true. That is a settlement that we did reach. In the context, I'm not exactly sure of the proceeding in Kansas, but it was a bigger proceeding, if you will, it had more in it, as I understand, than just dealing with this particular issue that we're before the Commission on today. But it was a settlement that Southwestern Bell reached with independents in Kansas.

Q. One of the other things I understand was that -- agreements that were reached in Kansas to address this blocking problem that you testified to was an agreement by Southwestern Bell to put traffic on a separate trunk group where a particular carrier was not paying its bill to the third-party, if you will, LEC. Do you understand that to be a provision or an agreement out in Kansas as well?

A. I believe that is a provision.

Q. Okay. Is that a possible solution in Missouri to this blocking issue that we've discussed in this case?

A. I need to respond in this way. I believe that if we were to reach such an agreement with your company's similar to one in Kansas, whatever the parameters might be, I still believe it would be appropriate for the Commission to have knowledge and order us to do the blocking.

Is putting it on a separate trunk a possible -- a possible way to block traffic? The answer to that from a technical perspective is yes. There are also other ways that traffic could be blocked such as the manner in which we did it in the TC-2000-120 case, which was the Southwestern Bell complaint against Mid-Missouri. We did not use a separate trunk group. So there are other ways to block traffic in the network other than just a separate trunk group.

Q. My understanding that one of the, if you will, benefits of the Kansas solution to this was by putting it on a separate trunk group to the third-party LEC, took you out of the middle and if the third-party LEC felt that it was appropriate to terminate that trunk because that carrier was failing to pay them, they could take that action without asking you to do so?

A. That is a true statement.

Q. Okay. And that they could do so without getting a Commission order before doing so?

A. I believe that is also -- well, I'm -- I don't recall the Kansas agreement well enough to know if the KCC, the Kansas Corporation Commission had to approve the blocking. I don't recall.

Q. You'd agree with me that to the extent a carrier delivers traffic to you and fails to pay for it, you have the right under your tariffs or interconnection agreement, whichever governs, to terminate that service albeit with notice to the customer, but not requiring a Commission order to do so?

A. I would agree. And as I noted in previous testimony, to my knowledge, we have never blocked such traffic.

MR. ENGLAND: Thank you, sir. No other questions.

THE WITNESS: Thank you.

JUDGE MILLS: Thank you.

Mr. Johnson?

Just a second, Mr. Johnson. Before we move to you, I show that Exhibit 37, which is Small Telephone Company Group Data Request 2-3 to Southwestern Bell and the response thereto, hasn't been offered or admitted.

MR. ENGLAND: Your Honor, I was just going to interrupt and ask if I could offer that at this time, please.

JUDGE MILLS: Are there any objections to the admission of Exhibit 37?

Seeing none, it will be admitted.

(EXHIBIT NO. 37 WAS RECEIVED INTO EVIDENCE.)

JUDGE MILLS: Thank you.

CROSS-EXAMINATION BY MR. JOHNSON:

Q. Mr. Hughes, to your knowledge, is there anything contained in the language of the amendment to the Telecom Act in 1996 that indicated reciprocal compensation mechanisms were going to displace the existing access regime?

A. I'm not aware of anything in the Federal Telecommunications Act of '96 that has such language, no.

Q. Let me ask you a question about your -- well, first of all, do you have much first-hand experience with the intraLATA wholesale service?

A. Yes and no. I mean, I do in concept. I don't know exactly how we've rolled it out with the specific tariff provisions in other states.

Q. As I understand it, you provision that by an agreement with the interexchange carrier; is that correct?

A. That is correct.

Q. And in that agreement do you agree to pay the tariffed accessed rates of any third-party LEC's network that you're wholesaling?

A. It's my understanding that we do agree to provide -- or excuse me, to pay the terminating access rates. I'm not sure how the language is written in the agreement.

Q. My question was, do you go negotiate separate agreements with the third-party LEC's networks that you might be wholesaling or does your arrangement with the IXC say specifically, We're going to pay their tariffed access rates?

A. I don't know the specifics, but I would assume that we agree to pay the tariffed access reals.

Q. And is it correct then that that wholesale -- the IXC traffic which may have formerly been on the Feature Group D network then may migrate to the Feature Group C network?

A. That's a possibility, yes.

Q. And so when it comes down to a Southwestern Bell terminating tandem that serves a third-party LEC's end-office, you won't have any kind of carrier identification code because the -- well, will you assign a -- are you going to place it on the common trunks between your tandem and the end-office company?

A. That's my understanding of how it's provisioned.

Q. Are you going to prepare at that tandem then the same kind of records that the tandem company provides to the Small Company in the Feature Group D environment?

A. I don't know.

Q. Okay. On the CABS bill that the Small Companies -- that the independent companies or third-party LECs get in the states where this intraLATA wholesale service is being offered, can they distinguish between a Southwestern Bell customer-originated intraLATA call and, for example, an IXC-originated call that's terminated pursuant to this or intraLATA wholesale service?

A. I don't know.

Q. How does the Small Company on its CABS bill know if that IXC call is an interLATA call versus an intraLATA call?

A. I have no knowledge of CABS bills.

Q. Okay. Well, you understand that in Missouri some of the LECs' interLATA rates may be different than their intraLATA rates?

A. That is true.

Q. I want to ask you a couple of questions about the HP System, Hewlett Packard Access 7 --

A. Yes.

Q. -- System.

You said that the only thing it does is help you identify carriers that are not providing originating records; is that -- I thought I heard you say that. Is that an accurate statement?

A. If I said that, that is not an accurate statement. I think with this system, that is our intent to use it, to find that. I think the system, as probably the case is with most systems like this, it probably has capacity that is yet to be deployed in the -- in our network.

Q. You said it had not been ubiquitously deployed in Missouri. Did I get that right?

A. Yes. It has -- and let me qualify for you what I mean by that. I probably should have done that with Mr. England. It's my understanding that we have, as Mr. Cowdrey testified to, we've put it in our STPs, but we have not put the functionality to do the recording and to turn it up in the switches across our network in Missouri, but we've started the process by putting it in the STPs.

Q. When did you put the first STP in?

A. In Missouri?

Q. Yes, sir.

A. I don't know the specific date. I know -- I can tell you that we used it in the records test, so it would be my assumption that it was somewhere around that period of time.

Q. July 2000?

A. Yeah. Somewhere in the last six months or so.

Q. Does the HP SS7 System create billing records, per se?

A. No. I don't believe so. I believe it is a tool that we can use to generate reports that identify different types of information on the incoming call.

Q. Will it be capable of providing a report similar to what the CTUSR report provides, that being a list of carriers who originated traffic and how many minutes they sent to a particular LEC?

A. We believe it will have capacity that will allow us to develop a CT-- CTUSR-like report that's similar in nature where we can identify the carrier, number of minutes, etc.

Q. Do you today know that it will do that?

A. We have started to do some testing on that. We have not produced any reports, to my knowledge, Mr. Johnson, that we've shared with any of the Small Companies.

Q. If you're successful in doing that, you're going to be able to monitor all of the traffic on the intraLATA network?

A. It will be all of the traffic on not just the intraLATA network, but it will be the traffic that terminates both to our customers and that we transit or transport on our network. It won't just be the intraLATA network, but the local market as well.

Q. Will you be able to use that system to quantify the different amounts of traffic that different carriers are originating, for example, in downtown St. Louis?
A. I believe so.
Q. I'd like to go for a minute to page 3 again of your rebuttal testimony.
A. Okay.
Q. And at line 17 through 26 what you're quoting there is a Commission ruling, not a provision of an interconnection agreement?
A. That's correct. It's quoted from the Report and Order, Case No. TO-96-440.
Q. And when I read the sentence again it starts at line 19 and ends on line 22, paraphrasing it, it says, Dial U.S. is prohibited by the agreement from sending to Bell traffic that's destined for the network of a third party unless and until compensation arrangements acceptable to Dial U.S. and the third party have been reached; is that right?
A. That's what it says, yes.
Q. So you understood then that before you were going to allow traffic on your network destined for a third-party LEC, there had to be a terminating relationship that was acceptable to the third-party LEC. Is that a fair

statement?

A. We believe that in this case Dial U.S., but generally speaking, the CLECs have an obligation to reach those arrangements with third parties.

Q. Let me ask you this question. If there's a provision in your interconnection agreement with a CLEC that's inconsistent with the provision of the Small Companies' tariff, which provision would control, the tariff or the agreement?

A. For purposes of our relationship with the CLEC, not having a specific example, I would say the interconnection agreement would be what governs our action and our business relationship with that CLEC.

Q. And what governs your relationship with the Small Company?

A. Our relationship is governed by either our tariff or your tariff. We do have some agreements for services outside of terminating access and things.

Q. Would you agree that under our access tariff, in order to establish the access connection, our tariff requires the interexchange carrier to request -- or order a Trunk Order Request or make an Access Service Request in older facilities?

A. I've not reviewed your tariff for that, but I believe that it's in there.

Q. Now, does your interconnection agreement require that?

A. Does it require that a CLEC order facilities to an independent company --

Q. Yes.

A. -- for terminating?

Not that I'm aware of, no.

Q. I would imagine that AT&T connects to the tandem that Southwestern Bell owns that serves metropolitan St. Louis. I'm changing subjects now. I'm sorry. I should have given you the switching gears warning.

A. They -- we do have an interconnection agreement arrangement with AT&T in St. Louis, yes.

Q. Well, does AT&T order Feature Group D access to your tandem in St. Louis?

A. Yes.

Q. Okay. And I don't want to get bogged down again in the description of that relationship, but would you agree with me that under that relationship all traffic that AT&T brings to terminate at Southwestern Bell's tandem is billed by Southwestern Bell to AT&T regardless of what carrier actually originated any portion of the traffic?

A. I cannot agree to that. AT&T uses one trunk to bring us all their traffic, be it IXC traffic or be it CLEC traffic.

Q. Oh, so you're making a distinction based on whether the traffic is local or interexchange?

A. Correct.

Q. For all of the interexchange traffic that AT&T brings to you at that tandem, do they bring it -- do they pay for all of it?

A. I believe so.

Q. Okay. If AT&T were to say at that Feature Group D interconnection with your tandem that we've decided to change the extent of what we're offering and we're no longer holding ourselves out to these other carriers we've previously been wholesaling for and we're only going to provide a transiting function, so for the traffic we deliver to you, Bell, at that tandem in St. Louis we'll tell you what traffic is ours that's terminating to you, but it's your responsibility to go to the other carriers who are placing traffic on that trunk, find out what traffic is theirs and bill them for it, is there anything in your tariffs that would prevent them from doing that?

A. I believe what we'd do under our tariff -- to answer your question, no. I believe what we'd do under our tariff is continue to bill AT&T for that traffic. Our tariff doesn't govern their relationship with their customer when they act as a wholesaler.

Q. Did you come on board here in Missouri before the PTC plan was ended?

A. No. Right after.

Q. Okay.

A. October of '99.

Q. To your knowledge, during the term of the PTC plan, did the former PTCs have contractual arrangements between themselves with respect to how they were going to handle traffic they sent one another?

A. Only -- the only knowledge I have of that is to the extent I've heard testified here this week and different conversations I've had with employees at Southwestern Bell.

Q. When the PTC plan ended, did they terminate those contracts or are they still using them?

A. I don't know.

Q. Let's say for traffic that, before it hits your facilities, may cross one or more of the other former PTC's facilities, are you billing them out of your access tariff or are you billing them out of some agreement?

A. Again, I don't know if we have an agreement, so I'd hate to say we're billing them out of our access tariff if we do have an agreement. I just don't know.

Q. I want to ask you a few specific questions about wireless traffic that transits your -- or Southwestern Bell's facilities and may terminate to the third-party LECs.

A. Okay.

Q. First of all, would you agree with me that most of the traffic that you're accepting from the wireless carriers is pursuant to interconnection agreements as opposed to the wireless interconnection tariff?

A. That is a true statement.

Q. Would you also agree with me that there's still some traffic coming pursuant to the tariff?

A. Minimal. Less than 1 percent, yes.

Q. Less than 1 percent. And your tariff got modified, I believe, effective February the 5th of 1998. At that point in time how much of the traffic was coming pursuant to tariff versus pursuant to interconnection agreement? I'm trying to get a little bit of the trend here.

A. I don't know the specifics, but I know we started negotiating with wireless carriers in the '97, '98 time frame. So it would have been probably at the time the tariff was modified a larger percentage came out of the tariff. I can't say 100 percent, because I don't know when our first interconnection agreements were with wireless carriers.

Q. When you say "larger percentage," do you mean larger than --

A. Well, greater than half.

Q. -- more than half?
A. More than half.
Q. Okay. Thank you. Now, under the tariff, if they want to interconnect with you and purchase your service, do they have to make a separate -- do they interconnect with you on a direct basis?
A. Yes.
Q. Do you put their traffic on a separate trunk where they interconnect with you?
A. Yes.
Q. For the wireless carriers that are getting their traffic to you through an interconnection agreement, do they also have a direct interconnection by a separate trunk?
A. That's my understanding.
Q. Okay. And I think we can agree that for the then 50 percent or more down to the 1 percent now, that traffic wasn't supposed to be placed on the network until they had an agreement with us for that traffic to terminate; is that correct?
A. I don't know. I don't know that our agreement with them calls for them to have an arrangement with you. I -- I am not as familiar with the wireless contracts. My -- I would speculate though, Mr. Johnson, that a similar provision is in the wireless interconnection agreements as

in the CLEC interconnection agreements.

Q. Would you agree with me that that provision does exist in the tariff?

A. Yes.

Q. Okay. Would you also agree with me that under the tariff, the Commission approved a primary responsibility, secondary responsibility and then an indemnity responsibility?

A. Yes. In their order in that particular docket, that was outlined that we would have potentially some secondary liability to the extent that the ILECs were making a good faith effort, I believe is the terminology the Commission, used to bill and collect.

Q. Does your CTUSR distinguish between traffic that transits to us pursuant to tariff as compared to traffic transited to us pursuant to the interconnection agreements?

A. I don't know.

Q. So is there any way that we have of telling which of the minutes would invoke a primary liability, secondary liability, indemnity relationship under the tariff as opposed to whatever relationships there may or may not be under the interconnection agreements?

A. I don't know.

Q. Do you know whether or not your CTUSRs distinguish between interMTA and intraMTA traffic?

A. No, I do not.

Q. Would you turn with me to page 9 -- or pages 8 and 9 of your -- I believe it's your surrebuttal where we're discussing the Kansas Southwestern Bell, TCG arbitration decision.

A. Okay.

Q. On the last two words on the bottom of page 8, line 23 that sentence there says that on Southwestern Bell Telephone originated local traffic to another CLEC, TCG wants to force Southwestern Bell to subscribe to TCG's transiting service to reach other CLECs. Is that a correct reading of your sentence?

A. Yes, it is.

Q. So were you trying to distinguish there that you're talking about traffic that was originated, if you will, by Southwestern Bell as opposed to terminating from TCG to Southwestern Bell?

A. That's correct. What TCG wanted to do was require Southwestern Bell when one of our customers originated a call to transit their network before the call could ultimately terminate to their local service provider. And it's our belief that we can establish a direct connection with that carrier.

Q. I'm going to hand you what's been introduced as Exhibit No. 27. That's the post-hearing brief of Southwestern Bell in that proceeding. And I want you to turn, if you would with me, to page 36.

A.   Okay.

Q.   And for the record, is page 36 -- is that the partial excerpt that was attached to Mr. Jones' surrebuttal testimony? Well, that's all right. The record will show us that. I don't need to ask you that.

At issue 16 -- and this is a brief that was filed by Southwestern Bell's attorneys; is that right?

A.   Yes, it was.

Q.   Issue 16, would you read that for me?

A.   Issue 16, Must SWBT, at TCG's sole discretion, be required to receive transit traffic from TCG?

Q.   Now, when I read that, I thought the words "must Southwestern Bell be required to receive transit traffic from TCG" implied that it would be traffic terminating from TCG to Southwestern Bell. Is that how you read that?

A.   Yes. It does discuss Southwestern Bell receiving traffic from TCG.

Q.   Would you agree with me that on this page of the brief Southwestern Bell was voicing its opposition to being required to receive transit traffic from TCG without Southwestern Bell's consent?

A. Yes.

Q. And in this docket here in Missouri would you agree that that's what the Small Companies are saying, that we don't want to be required to receive transited traffic from Southwestern Bell without our consent?

A. I think there's a key difference. Southwestern Bell, in this particular docket, outlined that we wanted to and were willing to go and establish direct connection with these carriers.

Q. Isn't the reason that we have objected to a transiting relationship is because we prefer direct interconnections ourselves?

A. I believe you have. And I believe that was our position in Kansas, but I believe in our position in Kansas we also have made efforts to go out and reach those carriers directly rather than have to transit the TCG network. There's also a difference that needs to be distinguished here, Mr. Johnson.

Q. If it needs to be distinguished, let's by all means do it.

A. This arbitration was discussing local traffic, and I believe the relationship that you have in -- primarily in this state is interexchange traffic.

Q. Okay. Would you agree with me that in the arbitration in Kansas, Southwestern Bell was constantly making the claim that TCG's position was going to displace the existing access regime? Look at page 3.

A. I would like to refer to page 17 of this brief to respond to your question, please.

Q. Okay.

A. And I'm at the bottom. It says, To the extent TCG's proposals are inconsistent with federal or state access tariffs, and continues on to page 18, the tariff should control. SWBT does not oppose TCG acting as an IXC or access tandem or from their switch transferring interexchange carrier traffic to Southwestern Bell.

Q. That's exactly what the Small Companies are saying in this docket, is it not?

A. Southwestern Bell is saying here that we do not oppose that TCG performs that function.

Q. And what the Small Companies are saying here is we do not oppose Southwestern Bell performing that IXC function; is that right?

A. We were not requiring TCG to be responsible for the traffic that they terminate to us. It's our position that the originating provider is responsible for paying the terminating provider. So the positions are very different.

MR. JOHNSON: Thank you. That's all I have.

THE WITNESS: Thank you.

JUDGE MILLS: It's five minutes to 5:00. I think we're going to call it a day. We'll begin tomorrow morning with questions from the Bench for you, Mr. Hughes.

MR. FISCHER: Your Honor, could I also inquire about a possible scheduling conflict with Kathryn Allison? She's scheduled to be on the stand tomorrow morning, I think, and it may be that in order to get her off by noon, which is her conflict, we may need to take her out of order.

JUDGE MILLS: Yeah. And I noticed that in the statement of positions, and I don't have a problem with that. I think we probably will be able to finish up with Mr. Hughes before we get to Ms. Allison and still get her done by noon. But we can take that as we go and see if we need to make adjustments.

MR. BUB: Your Honor, we have problems developing too. We have one of our witnesses, Richard Scharfenberg, who's driven up from Arkansas, and with the weather that's coming in, we'd like to take him perhaps out of order as well so that he can get on the road and get back to Arkansas and won't have to drive on the ice in the dark. So we'll probably want to take him ahead of Ms. Dunlap.

JUDGE MILLS: That wouldn't bother me.

MR. BUB: We can talk about that tomorrow.

JUDGE MILLS: Why don't you and the other paries discuss that tonight and maybe present me with an agreement that all parties are okay with in the morning.

MR. BUB: Thank you.

JUDGE MILLS: We're off the record. We'll be back tomorrow at 8:30.

(WHEREUPON, the hearing of this case was adjourned until 8:30 a.m., January 26, 2001.)

I N D E X

STCG'S EVIDENCE:

DAVID JONES

KENT LARSEN

SPRINT'S EVIDENCE:

W. ROBERT COWDREY

I N D E X (CONT'D)

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