

1 STATE OF MISSOURI
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4 TRANSCRIPT OF PROCEEDINGS
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6 Hearing
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8 April 18, 2006
9 Jefferson City, Missouri
10 Volume 4
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15 In the Matter of the Request)
16 of Southwestern Bell Telephone,)
17 L.P., d/b/a AT&T Missouri, for) Case No. TE-2006-0053
18 a Waiver of Certain Requirements)
19 of 4 CSR 240-29.040(4))
20
21
22 COLLEEN M. DALE, Presiding,
23 CHIEF REGULATORY LAW JUDGE
24 JEFF DAVIS, Chairman,
25 CONNIE MURRAY,
STEVE GAW,
ROBERT CLAYTON, III,
LINWARD "LIN" APPLING,
COMMISSIONERS.

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

2 JUDGE DALE: Okay. We are on the
3 record. We are back for day two in our hearing in
4 Case No. TE-2006-0053, in the matter of the Request
5 of Southwestern Bell Telephone, L.P., d/b/a AT&T
6 Missouri, for a Waiver of Certain Requirements of
7 4 CSR 240-29.040(4).

8 We are ready for the testimony of staff
9 witness Bill Voight. Mr. Krueger, we'll go through
10 the same procedures as we did with the striking of
11 testimony previously with Mr. Bub's witnesses because
12 I understand there's a pending motion on these as
13 well.

14 MR. KRUEGER: Okay.

15 JUDGE DALE: Go ahead.

16 (Witness sworn.)

17 JUDGE DALE: Thank you.

18 WILLIAM L. VOIGHT, testified as follows:

19 DIRECT EXAMINATION BY MR. KRUEGER:

20 Q. State your name and address for the
21 record, please.

22 A. William L. Voight. My business address
23 is Post Office Box 360, Jefferson City, Missouri
24 65102.

25 Q. By whom are you employed and in what

1 capacity?

2 A. I'm a supervisor in the
3 telecommunications department of the Missouri Public
4 Service Commission.

5 Q. Did you prepare and cause to be filed in
6 this case the direct testimony of William L. Voight?

7 A. Yes.

8 Q. And do you have any corrections or
9 changes to make to that testimony at this time?

10 A. The direct testimony, there's one minor
11 typographical correction.

12 Q. Please explain that.

13 A. That occurs on the bottom of page 13 of
14 my direct testimony. There's a footnote 8. There is
15 a date in that footnote that reads August 11th, 2006.
16 It should actually be August 11th, 2005. And that's
17 my only correction.

18 Q. If I asked you the same questions today,
19 would your answers be the same?

20 A. Yes.

21 Q. And are they all true and correct?

22 A. Yes.

23 MR. KRUEGER: I would then offer the
24 direct testimony.

25 JUDGE DALE: Let's go ahead and mark it.

1 Is there any HC and P?

2 MR. KRUEGER: No.

3 JUDGE DALE: So we have direct and
4 rebuttal?

5 MR. KRUEGER: And rebuttal. I haven't
6 questioned him about that.

7 JUDGE DALE: Okay. Well, 6 will be the
8 direct, and 7 will be the rebuttal.

9 (EXHIBIT NOS. 6 AND 7 WERE MARKED FOR
10 IDENTIFICATION BY COURT REPORTER.)

11 BY MR. KRUEGER:

12 Q. Did you also prepare to be caused and
13 filed in this case the rebuttal testimony of William
14 L. Voight?

15 A. Yes.

16 Q. Are there any changes or corrections to
17 that testimony?

18 A. No.

19 Q. If I asked you the same questions today,
20 would your answers be the same?

21 A. Yes.

22 Q. And are those answers true and correct?

23 A. Yes.

24 MR. KRUEGER: I would then offer the
25 direct testimony of William L. Voight, Exhibit 5, I

1 believe --

2 JUDGE DALE: Six.

3 MR. KRUEGER: Six. And rebuttal
4 testimony, Exhibit 7, and tender the witness for
5 cross-examination.

6 MR. ENGLAND: Your Honor, we have a
7 pending motion to strike portions of the direct
8 testimony. We have no objection, by the way, to the
9 rebuttal testimony.

10 JUDGE DALE: Excellent.

11 MR. ENGLAND: The direct, fairly
12 limited. Pages 10, first of all, lines 22 through
13 28. Our objection, I believe, was relevancy. This
14 is more appropriate for the second phase, if there is
15 one, of the proceeding.

16 JUDGE DALE: I will strike lines 22
17 through 27, leaving the sentence, "Succinctly stated,
18 the staff concluded the cost exceeded the expected
19 benefits." Which --

20 MR. KRUEGER: Your Honor, may I respond?

21 JUDGE DALE: Yes.

22 MR. KRUEGER: I was waiting for the
23 opportunity to respond.

24 JUDGE DALE: Oh, pick, pick, pick.

25 MR. KRUEGER: I think that the testimony

1 is relevant. The question that was asked was why has
2 the staff changed its mind. That's the essence of
3 the question that was asked on page 9, line 5. And
4 the question -- the issue of whether -- why the staff
5 has changed its mind, there's been some testimony
6 about that. I think it's relevant and I think it's
7 important. And those lines to which Mr. England is
8 objecting are the ones that actually respond to that
9 question.

10 The lines that precede that give
11 background for the explanation as to why the staff
12 changed its mind, and the actual answer to the
13 question why the staff changed its mind is contained
14 in those lines, and I would suggest that it is
15 relevant and should not be stricken.

16 MR. BUB: Your Honor, may I have a
17 chance to chime in as well? I think in the opening
18 statement, if you recall the Small Companies' opening
19 statement, they did open the door because they said,
20 you know, this whole thing is about staff changing
21 its mind. So I think they opened the door, and for
22 that reason, staff's explanation of why they changed
23 their mind, I think, is relevant.

24 JUDGE DALE: And I think succinctly
25 stated, the staff changed its mind because it

1 concluded that the cost outweigh the benefit, and the
2 detailed proceeding is reserved for the next phase of
3 the proceeding. So lines 22 through 27 are stricken.
4 28 is not.

5 MR. ENGLAND: We had one other
6 objection, your Honor. On page 12, line 25, starting
7 with the sentence beginning, "However," through the
8 end of line 27.

9 JUDGE DALE: I'm not even gonna give you
10 a chance to answer because I'm not gonna strike that
11 part.

12 MR. KRUEGER: Thank you, your Honor. I
13 would tender the witness for cross-examination.

14 JUDGE DALE: And I'm not sure you moved
15 admission of this, but if you did and I missed it, I
16 will admit these with the changes into evidence.

17 MR. KRUEGER: I think I did. I
18 certainly intended to. Thank you, your Honor.

19 JUDGE DALE: It's early.

20 (EXHIBIT NOS. 6 AND 7 WERE RECEIVED INTO
21 EVIDENCE AND MADE A PART OF THE RECORD.)

22 MR. DORITY: No questions, your Honor.

23 JUDGE DALE: Thank you. Mr. Bub.

24 MR. BUB: Thank you, your Honor.

25 CROSS-EXAMINATION BY MR. BUB:

1 Q. Good morning, Mr. Voight.

2 A. Good morning.

3 Q. I'd like to talk a little bit about one
4 of the steps that happens during a commission of
5 rulemaking, and that's the fiscal note. And you're
6 familiar with that, aren't you?

7 A. Yes.

8 Q. Okay. And it's a required step in a
9 Commission's rulemaking; is that correct?

10 A. Yes.

11 Q. AT&T Missouri, then SBC Missouri,
12 submitted its fiscal impact to staff, did it not, for
13 the Enhanced Record Exchange Rule?

14 A. Yes.

15 Q. Okay. And in that submission we showed
16 what we thought the Commission's proposed Enhanced
17 Record Exchange Rule would cost us; is that correct?

18 A. Yes.

19 Q. Okay. We saw that there was a separate
20 trunk requirement in the rule, and for that we gave
21 you our financial impact on that. Do you recall
22 that?

23 A. Yes.

24 Q. Okay. And on that one do you recall
25 that staff challenged a substantial part of what we

1 reported?

2 A. Yes.

3 MR. ENGLAND: Objection, your Honor, as
4 to the relevancy of this line of questioning. I'm
5 not sure that Mr. Voight has gotten into fiscal notes
6 in his testimony, so I think it's outside the scope
7 of his testimony.

8 Secondly, I'm not sure the relevance of
9 fiscal notes; and third, fiscal notes related to
10 separate trunking arrangements isn't even an issue in
11 this case.

12 MR. BUB: Okay. Your honor, we're not --
13 in cross-examination we're not limited to what a
14 party has in its testimony for one thing. That's why
15 we're on cross. Second, these are just a couple of
16 background questions on the fiscal notes.

17 Fiscal notes are relevant here, because
18 during a commission of rulemaking, if there's an
19 intent on behalf of the Commission to impose a new
20 requirement, one of the things the Commission needs
21 to do is to gather the fiscal note, gather the impact
22 of that new requirement on an industry.

23 And what I'm showing here is that with
24 things that were specific like separate trunk
25 requirement -- and there's another one, we provided a

1 specific fiscal note. With respect to a -- a
2 requirement to include CPN on the record, there is no
3 fiscal note presented. And that's the line of this
4 questioning and that's why it's relevant.

5 MR. ENGLAND: Excuse me. His witnesses
6 have already testified to that, and my next objection
7 would be redundancy. If the point is we would
8 have -- had we known that this was a requirement, we
9 would have prepared and submitted more fiscal
10 information regarding the cost, that's in their
11 witness's testimony and already in the record.

12 MR. BUB: Our witnesses have testified
13 to that. There's no prohibition to having that
14 corroborated by another witness and especially from
15 getting staff's perspective because staff was the one
16 that was charged with gathering this information.

17 This is a very brief line of
18 questioning. I think I have, you know -- it's not
19 gonna take much time.

20 JUDGE DALE: To the extent that you're
21 going to ask him any more about fiscal notes, he
22 already has -- he's been available and heard all the
23 testimony and read all the other testimony in this
24 case, have you not, Mr. Voight?

25 THE WITNESS: Yes, your Honor, that's

1 correct.

2 JUDGE DALE: So proceed to whatever your
3 question is and leave off the background.

4 MR. BUB: Okay. That's fine. That's
5 fair enough.

6 BY MR. BUB:

7 Q. You would agree with me that AT&T
8 Missouri, then SBC Missouri, didn't submit any fiscal
9 impact for any requirement to include CPN in the
10 billing records for wireless traffic; would you agree
11 with that?

12 A. Yes.

13 Q. Okay. And it's fair to say that even
14 though with some of those other impacts, separate
15 trunks, there was a requirement to allow terminating
16 carriers to use their own rules, and there was
17 discussions and disputes about that with respect to
18 separate trunk -- I'm sorry. With respect to a
19 requirement to impose CPN, there was no discussion
20 between staff and SBC Missouri on the fiscal impact
21 of that?

22 A. Yes, I agree with that.

23 MR. BUB: Thank you. That's all for
24 that line of questioning.

25 JUDGE DALE: Thank you.

1 MR. BUB: Brief as promised.

2 BY MR. BUB:

3 Q. Next I'd like to turn, again briefly, to
4 carrier practices and creating billing records for
5 wireless traffic. It's your understanding that until
6 recently, end of last month, that no carrier in
7 Missouri included CPN in the wireless billing
8 records; is that correct?

9 A. For non-IXC traffic, yes, that's
10 correct.

11 Q. Thank you. AT&T Missouri didn't,
12 CenturyTel didn't and Sprint Missouri, the ILEC,
13 which I think is now Embarq, didn't?

14 A. That would be my understanding, yes.

15 Q. And it was only until the end of last
16 month that Sprint began sending out wireless billing
17 records on non-IXC traffic that contained CPN; is
18 that your understanding?

19 A. Well, since they've been permitted to
20 withdraw from this case, I haven't had an opportunity
21 to -- to submit data requests to them. However, in
22 verbal conversations with Mr. Idoux, yes, that would
23 be my understanding.

24 Q. And it's your understanding that they
25 operate in multiple states across the country, don't

1 they?

2 A. I think the numbers are roughly 18 to
3 20.

4 Q. Okay. And it's also your understanding
5 that they made this change only for Missouri?

6 A. That has been verbally conveyed to me by
7 Mr. Idoux, yes.

8 MR. BUB: Thank you. Those are all the
9 questions we have, your Honor.

10 JUDGE DALE: Thank you.

11 MR. BUB: Thank you, Mr. Voight.

12 JUDGE DALE: Mr. England?

13 MR. ENGLAND: I'm gonna refer to
14 Mr. Johnson. He's gonna jump ahead of me on this
15 one.

16 JUDGE DALE: Okay.

17 MR. JOHNSON: Good morning. I'd like to
18 mark an exhibit, please.

19 JUDGE DALE: Okay. It's No. 8. Is it
20 HC or P?

21 MR. JOHNSON: No, ma'am. Just Public 8.

22 (EXHIBIT NO. 8 WAS MARKED FOR
23 IDENTIFICATION BY THE COURT REPORTER.)

24 CROSS-EXAMINATION BY MR. JOHNSON:

25 Q. Mr. Voight, do you recognize what's been

1 marked as Exhibit No. 8?

2 A. Yes, I do.

3 Q. Is that a copy of an August 11, 2005
4 staff recommendation filed in this docket?

5 A. Yes.

6 Q. And attached to that is there an August 11
7 memorandum from yourself to the official case file?

8 A. Yes.

9 Q. And that document was filed in this
10 case?

11 A. Yes.

12 Q. And does the recommendation discuss CPN
13 and does your memorandum discuss the use or absence
14 or presence of CPN in the 1101 AMA record?

15 A. Yes. It's been a little while since I
16 wrote and read this, but that's my recollection, yes.

17 MR. JOHNSON: Your Honor, I would offer
18 Exhibit 8 into the record.

19 JUDGE DALE: Well, I'm not sure if it's
20 already in the record. It's accepted into evidence
21 and we'll go from there.

22 (EXHIBIT NO. 8 WAS RECEIVED INTO
23 EVIDENCE AND MADE A PART OF THE RECORD.)

24 BY MR. JOHNSON:

25 Q. Mr. Voight, do you agree that this

1 Commission can impose standards on the AMA 1101
2 billing record we're talking about in this case over
3 and above what the Telcordia document recommends?

4 A. Yes.

5 Q. And would you agree with me that if this
6 Commission decides that CPN will be required as part
7 of the Enhanced Record Exchange Rule, then that will
8 become the industry standard in Missouri?

9 A. Yes.

10 Q. Is it correct that when this staff
11 recommendation was filed, Exhibit No. 8, the staff
12 recommended that CPN be required in the AMA 1101
13 record?

14 A. Absent compelling reasons to the
15 contrary, yes.

16 Q. I want to ask you some questions about
17 the transiting function. Does the rule define -- and
18 when I say rule, I mean the Enhanced Record Exchange
19 Rule, does it define transiting?

20 A. Yes. It's items 40 and -- excuse me, 39
21 and 40 of 29.020.

22 Q. Okay. Without reading the whole thing,
23 and paraphrasing it, is transiting traffic, traffic
24 that a carrier neither originates nor terminates, but
25 transports between carriers?

1 A. Yes. And it's customarily applied to
2 the LEC-to-LEC network. In my experience the term is
3 not ordinarily applied to interexchange carriers over
4 that network.

5 Q. This is a term -- the word transiting is
6 something that's more or less surfaced since the 1996
7 Telecommunications Act?

8 A. Yes.

9 Q. The term is not defined in the act, is
10 it?

11 A. I'm -- I don't know. I would not expect
12 to find it there, but I don't know.

13 Q. Would you agree with me that both
14 wireless carriers and interexchange carriers as well
15 as AT&T can perform a transiting function?

16 A. Yes.

17 Q. And what do they normally call that in
18 the -- what do you call that when an IXC does it?
19 What's the traditional nomenclature?

20 A. I don't know if you're looking for the
21 term "reseller" or not. I'm comfortable whatever
22 characterization people care to give it.

23 Q. Okay. Reseller.

24 A. Well, okay.

25 Q. Or carriers? Carriers? Is that

1 something else you've heard?

2 A. Yeah, that's another term.

3 Q. But basically, regardless of the label
4 you use, what is going on is that a carrier with
5 facilities to different places with excess capacity
6 will let other carriers, for a price, use that
7 capacity?

8 A. Yes.

9 Q. And it's not really any different
10 technologically whether an interexchange carrier does
11 it, a LEC does it, or wireless carrier does it, is
12 it?

13 MR. BUB: Your Honor, I'd like to
14 object. I think this goes way beyond the scope of
15 this case. I think we're talking -- we're getting
16 into business relationship issues. We're not talking
17 about records cases, about records -- whether CPN
18 ought to be in a record.

19 So unless there's some relevance to
20 that, I don't see any need to go into -- to rehash
21 the business relationship again. I think that's what
22 we're doing.

23 JUDGE DALE: Mr. Johnson?

24 MR. JOHNSON: One of the things we're
25 talking about in this case is the OCN, and I was

1 getting ready to go to the definition of OCN in the
2 rule and examine Mr. Voight about the record that
3 we're currently getting and its compliance with that
4 rule.

5 JUDGE DALE: Thank you. Proceed.

6 BY MR. JOHNSON:

7 Q. Is it correct that the Enhanced Record
8 Exchange Rule, when it defines an 1101 record, states
9 that this type of call record is identical to a --
10 we're talking about the Missouri-specific category
11 1101 record, which is what AT&T is currently
12 providing the rural LECs, correct?

13 A. Yes.

14 Q. And does the rural, in sub part 5,
15 define that as containing an originating operating
16 company number in positions 167 through 170 instead
17 of a CIC in positions 46 through 49?

18 A. Yes. The term originating operating
19 company number is used there and in a few other
20 places throughout the rules.

21 Q. Okay. But an operating company number,
22 in and of itself, does not tell you if the company
23 that has that number originated the call; is that
24 correct?

25 A. I would agree there are instances where

1 it does not, and in particular, the carrier's carrier
2 type instance, yes.

3 Q. The analogy or the example I set forth
4 yesterday was an Alltel Wireless to Cingular to AT&T
5 to Mid-Missouri call. Do you recall that?

6 A. Yes, I recall that.

7 Q. And in that situation would you agree
8 with me that the originating carrier was Alltel
9 Wireless?

10 A. Yes.

11 Q. Would you also agree with me that the
12 record that AT&T is currently providing for that type
13 of a call would identify Cingular as the originating
14 OCN?

15 A. Yes.

16 Q. Do you agree with me that that creates a
17 potential for arbitrage based on AT&T factors?

18 A. I had never thought about that, that
19 question. I guess the reason I'm a little uncertain
20 is because arbitrage between what?

21 Q. Well, let's say that -- and I'll use
22 another example where I think the factors may not be
23 exact but they're more in scale. Let's suppose that
24 T-Mobile has a fairly high inter-MTA factor with
25 Mid-Missouri Telephone Company in their approved

1 agreement.

2 A. Okay.

3 Q. And let's suppose that Cingular also has
4 an agreement with Mid-Missouri Telephone Company
5 that's got like a 5 percent factor as opposed to a 25
6 percent factor. Do you follow me?

7 A. Okay.

8 Q. And would you agree with me that the
9 intra-MTA rate would be less than the inter-MTA
10 access rate of Mid-Missouri Telephone Company?

11 A. Yes, I would generally agree with that.

12 Q. It might be several times, a multiple of
13 three, four, five?

14 A. Very easily could be, yes.

15 Q. So in terms of arbitrage, wouldn't there
16 be a financial incentive for Alltel to send that to
17 Cingular because Cingular would terminate it cheaper
18 than Alltel could terminate it?

19 MR. BUB: Your Honor, I need to
20 interpose another objection here. We're talking
21 about OCN. OCN is not in dispute in this case. In
22 fact, OCN is required by the Commission's rules
23 not -- hasn't been disputed in testimony, this
24 arbitrage wasn't raised in testimony, it has nothing
25 to do with CPN. So I think we're going way beyond

1 the scope of this case.

2 MR. JOHNSON: I thought we had a wide
3 open cross-examination rule a minute ago.

4 MR. ENGLAND: Your Honor, it does relate
5 to this witness's testimony because he talks about
6 the necessity for CPN for general auditing purpose,
7 and I believe that's what this line of questioning is
8 about.

9 JUDGE DALE: Well, since we discussed
10 arbitrage at least briefly yesterday, I will allow
11 you to continue.

12 MR. JOHNSON: Thank you, your Honor.

13 THE WITNESS: As I recall the question,
14 it had to do with potential for arbitrage in a
15 situation where both Alltel and Cingular had
16 presumably negotiated an interconnection agreement
17 with the small third-party LEC.

18 BY MR. JOHNSON:

19 Q. Yes, sir.

20 A. Under those circumstances, I would have
21 expected your client, Mr. Johnson, Mid-Missouri, to
22 take those sorts of things into consideration when
23 they voluntarily entered into negotiations as to
24 whether or not there would be this type of
25 piggybacking occurring or not.

1 So I don't know as to the incentive that
2 Alltel or Cingular might have in a circumstance like
3 that without reading the agreement or having
4 participated in the negotiations, for that matter.

5 Q. Well, if we, for example, litigated the
6 inter-MTA factors with T-Mobile and the Commission
7 ordered a factor based on the traffic study that
8 didn't -- that only included the T-Mobile traffic,
9 wouldn't it be a way to get around that if now we're
10 directing that factor to traffic that's reported as
11 being Cingular's traffic and not Alltel -- or
12 T-Mobile's traffic?

13 A. The potential certainly does exist to,
14 you know, to have traffic that was not contemplated
15 at the time the agreement was either arbitrated or
16 negotiated.

17 Q. Would you prefer to err on the side of
18 accuracy in terms of identifying the jurisdiction of
19 the call and who originates the call?

20 A. I'd prefer not to err at all. But,
21 yeah, I think it probably would be fair to say I
22 would prefer to err on the side of accuracy, yes.

23 Q. And in your -- the memo attached to the
24 joint staff recommendation, which is Exhibit No. 8,
25 pages 5 to 6.

1 A. I believe I'm there. It's Appendix A,
2 pages 5 and 6. I think we're talking about
3 discussion items 7 and 8 is what my copy shows.

4 Q. Yes.

5 A. Okay.

6 Q. And towards the bottom of the page, in
7 the last paragraph, about the fourth line down,
8 there's a sentence that begins with, "Thus".

9 A. Yes.

10 Q. And I don't know that I need to read it.

11 A. Okay.

12 Q. But you reported to the Commission then
13 that it was SBC's view that if you used the BTN
14 instead of the CPN, that would ensure that the
15 wireless carrier directly interconnected with SBC and
16 not the originating wireless carrier as billed for
17 the call, right?

18 A. I'm gonna take a moment and reread this.

19 Q. Sure.

20 A. It has been some time.

21 MR. KRUEGER: Where are you reading
22 from, Mr. Voight?

23 THE WITNESS: I'm reading from the
24 bottom of page 5 of that document. Mr. Johnson's
25 question began on the last paragraph, the fourth line

1 down to the far right hand, the sentence begins with,
2 "Thus".

3 MR. KRUEGER: Okay. Thank you.

4 THE WITNESS: I wrote those words.

5 Mr. Johnson, forgive me. I've forgotten the question.

6 BY MR. JOHNSON:

7 Q. At the time you wrote those, you
8 understood that SBC, now AT&T, was reporting the
9 delivering carrier as with the BTN and the OCN, not
10 the originating wireless carrier?

11 A. Right. And I believe that's correct.
12 It's the carrier that's interconnected to the tandem.

13 Q. Okay. My question to you is, do you
14 believe that's inconsistent with the rule that
15 requires the originating OCN?

16 A. That's a very good question and I don't
17 know how to answer. I don't know. It would appear
18 to be the issue of -- if that is the case and if that
19 was overlooked in the rule development, it is because
20 there was not much detail given to one wireless
21 carrier -- in developing the rule, there's not that
22 much detail given to one wireless carrier's use of
23 another wireless carrier's network.

24 There is some language in the rule about
25 traffic aggregation. However, it defines that as

1 occurring at an end office location, and, of course,
2 we're talking about tandem connections, and that
3 would be my excuse, if you will, for that oversight.

4 Q. Well, I'm not trying to blame anybody.
5 I'm just trying to see where we are today.

6 A. Exactly.

7 Q. Would you agree with me that in all the
8 discussions and negotiations that were part of the
9 enhanced record exchange rulemaking docket, SBC was
10 postulating that we needed to use an originating
11 responsibility -- originating carrier financial
12 responsibility principle?

13 A. Yes.

14 Q. And at the next page of your -- would
15 you agree with me that the caption for the rulemaking
16 proceeding itself was, "In the Matter of a Proposed
17 Rule to Require All Missouri Telecommunications
18 Companies to Implement an Enhanced Record Exchange
19 Process to Identify the Origin of Intra-LATA Calls
20 Terminated By Local Exchange Carriers"?

21 A. Yes, that sounds familiar.

22 Q. And you mentioned that in the next page
23 of this same memorandum, I believe?

24 A. I seem to recall that, yes.

25 Q. And following up with some of

1 Mr. England's prompting, you thought that knowing the
2 originating carrier was good for network auditing
3 purposes?

4 A. Oh, yes.

5 Q. I want to direct your attention to the
6 next page of your memo, page 7, Appendix A.

7 A. Yes, I'm there.

8 Q. And down to the last item on the page,
9 it's staff's response. And the topic that we're
10 talking about is the new information that the
11 Missouri-specific 1101 provided for wireless calls
12 that the CTUSR did not. I want you to read that
13 because I want to ask you a few questions about it.

14 A. Okay. I've read that.

15 Q. And you're pointing out that the new
16 record provides a time and date stamp called duration
17 information, total minutes. Does that mean total
18 minutes of the call, or is that the summary piece of
19 the record?

20 A. I'm not sure what you mean, "summary
21 piece of the record."

22 Q. Okay. Well, I may have gotten aside.
23 Let me just break it down and ask you questions about
24 each one of these components.

25 A. Sure.

1 Q. The time and date stamp that the new
2 record had that the CTUSR did not have, is that
3 information that's in the signaling system 7 call
4 information stream?

5 A. I honestly don't know.

6 Q. Okay. Is the information as to the call
7 duration information that's in the SS7 call
8 information stream?

9 A. I honestly don't know. However, I would
10 not expect it to be.

11 Q. Okay. Is it correct, then, for me to
12 deduce that what the AMA record puts in an 1101
13 record does not all come from signaling system 7
14 information?

15 A. Yes, you're quite correct on that. I
16 don't -- there could be no question about that. I
17 follow now.

18 Q. Okay. The called par-- called, not
19 calling -- but called-party number is another piece
20 of information that the new record has that the CTUSR
21 did not. Is the called-party number part of the SS7
22 information stream?

23 A. Yes, it is.

24 Q. Okay. Did you ever have any
25 conversations with SBC as to what type of programming

1 changes was required in this Lucent switch to import
2 from the SS7 information to the 1101 AMA record
3 called-party information?

4 A. No, I don't believe I would have had any
5 reason to have that conversation.

6 Q. Would you agree -- do you know whether
7 or not the Telcordia document requires the called-party
8 information as part of its, quote, industry standard
9 information in the 1101?

10 A. I don't think I can answer that for
11 certain without looking at the testimony that's been
12 filed in this case.

13 Q. Can you -- do you know or can you tell
14 me what programming difference would be required to
15 import the called-party number into the 1101 record
16 as compared to the calling party's number, the CPN?

17 A. Well, it would be my understanding that
18 there is -- there would be no requirement, that it's
19 there. If I understood your question right, is the
20 called-party number a part of the -- both the AMA and
21 the EMI, and I think the answer is yes.

22 Q. Do you know what programming work that
23 SBC or Lucent had to do to the Lucent switches to
24 import the called-party number from the EMI -- or I'm
25 sorry, the SS7 or EMI real time information into the

1 AMA 1101 record?

2 A. Is your question about work or
3 programming changes?

4 Q. Yes, sir.

5 A. I don't believe there is anything that
6 needed to be done.

7 Q. Can you explain to me why, from your
8 personal knowledge, there would be a different amount
9 of programming work necessary for the calling party's
10 number or the CPN than there would be for the called
11 party's number?

12 A. Based on my experience and knowledge and
13 understanding, when -- when we heard the Bell -- or
14 the AT&T witness talk about trunk groups yesterday
15 and connections at tandems, when those connections
16 are established, the tandem switch is programmed in
17 such a manner that identifies the type of connection.

18 And based on that, the machine -- the
19 switch would -- is preprogrammed to know whether or
20 not to record the calling-party number that comes
21 down the SS7 bit stream. The switch is preprogrammed
22 record -- to either record or not record that CPN as
23 part of the AMA machine record.

24 Q. We're talking about modules and things
25 that are told to record or not to record, correct?

1 A. Yes, it's -- if we had to summarize it
2 succinctly, it would just be simply with the word
3 programming.

4 Q. Okay. You would agree with me that the
5 testimony so far in this case has been that if that
6 Lucent switch is receiving a wireless originated call
7 from an IXC, you're on an IXC trunk, the Lucent
8 switch does capture the SS7 information and sends
9 both the calling party's number and the called
10 party's number to the AMA 1101 computer?

11 A. Yes, I would agree with you that the
12 evidence so far in this case leads to that
13 conclusion.

14 Q. Did you have any opportunity at all to
15 investigate specifically what Lucent was going to
16 have to do to change that same switch to import the
17 calling party number to the AMA 1101 record when the
18 only difference was that it came in on the direct
19 trunk as opposed -- the wireless carrier's trunk as
20 opposed to the IXC trunk?

21 A. Well, in terms of an opportunity to
22 investigate, which I believe was your question, I
23 don't really know how to answer that. I'm given a
24 lot of leeway in how I'm able to do my job. I
25 suppose I did have an opportunity to follow through.

1 Q. Did you do any investigation?

2 A. No, we didn't.

3 MR. BUB: Your Honor, I need to object.

4 I think counsel here is questioning the witness,
5 Mr. Voight, about things that were struck from his
6 testimony. I think that certainly opens the door to
7 let him testify to what was required to be taken out
8 at their own insistence.

9 So I think the door is now wide open for
10 Mr. Voight to testify to what he learned from us from
11 the Lucent documentation from what it would take to
12 put CPN in the wireless billing record. So I don't
13 think he should be constrained because Mr. Johnson
14 just opened the door.

15 MR. JOHNSON: Is there an objection to
16 the question pending?

17 JUDGE DALE: Yes. The objection is that
18 you're -- you're asking him questions concerning the
19 subject matter that was reserved for the second
20 proceeding about the necessity to make switch
21 changes, programming changes, et cetera, in order to
22 effectuate the changes that you're requesting.

23 MR. BUB: And more than that, your
24 Honor, Mr. Voight felt compelled to constrain his
25 answer to the last question. I think he should be

1 permitted to answer that last question fully without
2 any constraints that was directed by the Court since
3 the door has now been opened by Mr. Johnson's
4 question.

5 JUDGE DALE: I'm not gonna go that far.
6 I would just like for you to cut off the line of
7 questioning concerning what kind of computer changes
8 are necessary to make it happen.

9 MR. ENGLAND: Your Honor, since I'm the
10 person that sort of teed up this issue, I feel
11 compelled to interrupt, if you will, and I apologize,
12 but I think Mr. Bub overstates the scope of the
13 judge's ruling regarding the striking of testimony.

14 My recollection is that the, if you
15 will, the bucket of testimony referring to costs have
16 been struck, but the bucket of testimony that still
17 talked about the AT&T's inability and Lucent's
18 inability to capture this information is clearly part
19 of the record, and I think Mr. Johnson's questions
20 are designed to find -- to explore that portion of
21 the testimony that still is part of this record.

22 MR. JOHNSON: And yesterday in response
23 to Commissioner Clayton's questions, I believe
24 Mr. Constable did tell Commissioner Clayton what all
25 they had to do to import the CPN to the AMA 1101

1 record, and I think it's a fair question to ask what
2 kind of information is in this record and what kind
3 of investigation's been done.

4 MR. BUB: Your Honor, I don't object to
5 that. My only point was that since the door's been
6 opened both by the commissioner's questions and
7 Mr. Johnson's questions, that Mr. Voight should be
8 permitted to answer.

9 JUDGE DALE: And my final answer is,
10 you're straying perilously close to getting into
11 costs. I agree there is a bucket of "why" questions
12 concerning people changing their minds. "I changed
13 my mind because I found out information later." And
14 much of that later information is for a later
15 proceeding. So if you could --

16 MR. JOHNSON: Yes. Let me stray
17 perilously close to something else.

18 JUDGE DALE: Okay.

19 BY MR. JOHNSON:

20 Q. Mr. Voight, I think the record is
21 established that it was approximately May of 2004
22 when the new 1101 type record was supplied by -- or
23 was begun to be supplied by SBC to replace the old
24 paper CTUSR. Does that sound about right?

25 A. Yes.

1 Q. Would you agree with me that at that
2 time that you had been shepherding this dispute for
3 several years?

4 A. Yes.

5 Q. And was it common knowledge in the
6 industry meetings and things that the Small Companies
7 were interested in call information that would allow
8 them to jurisdictionalize the wireless originated
9 traffic?

10 I'll withdraw the question. I mean, if
11 you don't remember, that's fine.

12 A. Yeah. I -- I -- what I'm struggling
13 with is call information to jurisdictionalize
14 wireless traffic. That's certainly always been a
15 concern of the small carriers.

16 Q. Do you recall whether or not SBC or AT&T
17 conferred with you, being the staff of the Commission,
18 or conferred with the Small Companies with respect to
19 not including CPN in the wireless record they began
20 creating in May of 2004?

21 A. I don't ever recall having that
22 conversation during the workshops.

23 Q. So would you agree with me that when
24 they made the decision not to import the CPN, they
25 made that decision unilaterally?

1 A. You mean on their own?

2 Q. Yes, sir.

3 A. It was not discussed at the workshops.

4 The --

5 Q. You have no information that staff or
6 the Small Companies participated in that
7 decision-making?

8 MR. BUB: Your Honor, I think the
9 witness ought to be permitted to answer.

10 MR. JOHNSON: I'm sorry.

11 JUDGE DALE: You may fully answer.

12 THE WITNESS: Actually his question was
13 interrupted before -- I didn't hear his complete
14 question. I have no information that something.

15 BY MR. JOHNSON:

16 Q. My question was, do you have any
17 information that AT&T conferred either with staff or
18 with the Small Companies about the decision not to
19 include CPN and the wireless 1101 record?

20 A. No, I'm not aware that anything like
21 that occurred. The definition of category 11 and
22 Missouri-specific category 11 was introduced at the
23 workshops on February 14th, 2003. The definition
24 that was eventually -- and it never changed.

25 The notion of the difference between a

1 category 11 and a Missouri-specific category 11, and
2 particularly bit positions 167 to 170 as being the
3 only difference, that -- I instituted that definition
4 to the industry on February 14th, 2003, and there was
5 never -- never any correction made to it.

6 Q. Would you agree with me that besides the
7 CPN, that the Small Companies were also interested in
8 who -- well, the business relationship or who the
9 financially responsible carrier was going to be?

10 A. Yes.

11 Q. And would you agree with me that at the
12 time SBC or AT&T created this 1101 in May of 2004,
13 they did not, to your knowledge, discuss with staff
14 or the Small Companies whose OCN would be placed in
15 that record?

16 JUDGE DALE: I'm sorry. I need to
17 interrupt. Could you repeat that question?

18 BY MR. JOHNSON:

19 Q. Would you agree with me that the Small
20 Companies were interested in what carrier's going to
21 be financially responsible for the wireless
22 originated call, and that AT&T did not discuss with
23 staff or the Small Companies whether it would be the
24 originating wireless carrier's OCN or the carrier
25 that delivered the call to AT&T as being the company

1 identified as being responsible in the record?

2 A. I don't know if I can fully agree with
3 that. It was always my understanding that the OCN,
4 whether it's identified in the rule as the
5 originating carrier -- originating operating carrier
6 number or it's simply operating carrier number, that
7 it would always be the carrier interconnected at the
8 tandem.

9 Q. Do you recall the Small Companies ever
10 agreeing with that in terms of the record that Bell
11 was producing?

12 A. I don't recall any outright disagreement
13 over that.

14 Q. It happened kind of late in the process;
15 is that fair to say?

16 A. Yes.

17 MR. JOHNSON: Thank you. That's all I
18 have.

19 CROSS-EXAMINATION BY MR. ENGLAND:

20 Q. Good morning, Mr. Voight.

21 A. Good morning, Mr. England.

22 Q. I'll try to be brief. You had some
23 discussion with Mr. Johnson regarding OCN, and I
24 believe you were here yesterday to hear testimony
25 regarding that issue as well, correct?

1 A. Yes.

2 Q. And you also heard discussion regarding
3 what has been called the BTN, or the billing
4 telephone number?

5 A. Yes.

6 Q. Would you agree with me that it appears
7 that both attempt to identify the same carrier, and
8 that is the carrier that's financially responsible
9 for the wireless call?

10 A. Yes.

11 Q. Do you see any need for terminating
12 carriers such as the Small Companies to get a BTN
13 when they're already getting an OCN?

14 A. There was a -- an example given about
15 how the OCN, even though it may be the same carrier,
16 it's different per tandem. That aside, that sort of
17 thing aside, no, I don't see any particular need.

18 Q. And that was a discussion that we had
19 yesterday, correct?

20 A. Yes.

21 Q. So for the first time you learned that
22 there's possibly a difference between the BTN and the
23 OCN yesterday. But would it be fair to say that up
24 until yesterday, your assumption was these two
25 identifiers were the same, or at least identified the

1 same information?

2 A. Yes.

3 Q. Would it be fair to say that getting a
4 BTN for the terminating telephone company at best is
5 redundant if they're already getting an OCN?

6 A. I don't know if it's fair to say that at
7 best or not.

8 Q. Okay. Would you agree with me that the
9 BTN certainly is not gonna give you jurisdiction of
10 that wireless call?

11 A. I -- forgive me just a moment. I'm
12 starting to get BTN and OCN confused.

13 Q. Well, I could ask the same question with
14 OCN as well, if that will help.

15 A. The -- forgive me while I, perhaps,
16 think out loud. In terms of the jurisdiction, the --
17 I guess where I'm getting confused is the billing
18 telephone number, that's SBC's characterization.
19 That's what I'm getting hung up on. My testimony
20 referred to it as the per trunk group billing
21 number.

22 Q. Okay. Well, let's try to deal with it
23 based on your definition.

24 A. Okay.

25 Q. Is it your understanding that obtaining

1 the per trunk --

2 A. -- group billing number.

3 Q. -- group billing number would give you
4 any information regarding the jurisdiction of that
5 wireless call?

6 A. Well, if it -- like in yesterday's
7 example, if it was -- if the tandem interconnection
8 was made in Dallas, yeah, that would -- that would --
9 that per trunk group billing number would give you an
10 indication that that's an interstate call.

11 I understand we don't want the network
12 being used that way, but I can't say conclusive -- I
13 can't conclusively agree with you.

14 Q. If that call was terminated to a Bell
15 tandem in Texas, I'm not sure how we would even --
16 the Small Companies in Missouri would even get a
17 billing record from that tandem.

18 A. Well, it would be the originating
19 tandem, and then that tandem would be connected, for
20 example, to the McGee tandem in Kansas City. I guess
21 what I'm saying is, we're beginning to explore some
22 things that we've not discussed.

23 Q. Let me back up and maybe get a little
24 more fundamental. My understanding is for purposes
25 of determining the jurisdiction of the call, whether

1 it's wireline or wireless, you need to know the
2 geographic location of the originating party and the
3 geographic location of the terminating party. Would
4 you agree with me?

5 A. For purposes of determining the
6 jurisdiction?

7 Q. Right. It has nothing to do with how
8 it's routed; it has to do with the beginning and the
9 end point of the call.

10 A. Well, yes, but CPN is not going to tell
11 you that.

12 Q. You're getting ahead of me.

13 A. Okay. I'm sorry.

14 Q. But for purposes of determining
15 jurisdiction, you need to know where the call
16 originated geographically and where it terminated --

17 A. Right.

18 Q. -- correct?

19 A. Yes.

20 Q. Okay. Now, with landline phones, it's
21 presumed that the CPN will give you a fairly accurate
22 determination of at least where the call originated,
23 correct?

24 A. And I don't mean to quibble, but, of
25 course, there's the internet. But those sorts of

1 things -- there are any number of presumptions in
2 these types of discussions. As a general matter,
3 yes, I would say you are correct.

4 Q. Okay. And with the introduction of
5 mobility in the wireless arena, as I understand, CPN
6 becomes less reliable because that customer with the
7 wireless phone who has a CPN let's say associated
8 with Kansas City could actually be in St. Louis that
9 day making a phone call?

10 A. Yes.

11 Q. All right. But there are instances and
12 circumstances where that wireless carrier -- or
13 excuse me -- wireless subscriber who lives in Kansas
14 City has a Kansas City rated CPN telephone number
15 will be in Kansas City and making a phone call on his
16 wireless phone, right?

17 A. Oh, without doubt. I've attempted to
18 state that in my testimony.

19 Q. Okay. And I guess what I'm getting at
20 is -- well, let me back up. Would you agree with me
21 that the OCN is not gonna give us jurisdiction to the
22 call. That's just gonna tell us the carrier we need
23 to bill?

24 A. Yes.

25 Q. And the BTN you said might begin to give

1 us jurisdiction to the extent it tells us the tandem
2 that it was -- that it came in on?

3 A. At best, yes.

4 Q. Okay. Would you agree with me, though,
5 that CPN, even in a wireless environment, is gonna
6 give you better information than a BTN on
7 jurisdiction of the call?

8 A. I think I would agree with that.

9 Q. Okay. Now, you stated in response to a
10 question from Mr. Bub -- and I think you were very
11 careful about this. He asked you about whether or
12 not wireless CPN was -- your understanding was
13 captured by either the Bell switches or the Lucent
14 switches, and you said not on -- or excuse me.
15 "There was no wireless CPN on non-IXC carrier
16 traffic." Do you recall that answer?

17 A. Yes, I do.

18 Q. And why did you make that distinction?

19 A. In large part, because of my -- the
20 staff's involvement with Case No. TT-2004-0542. It
21 was a case that I referenced in my testimony that
22 frankly is what the entire case was about, in
23 depositions and so forth, the knowledge that the
24 staff gained from that, what is actually a matter of
25 official record here.

1 Also I was careful in my choice of words
2 because of the evidence that I believe you've been
3 produced, counsel, about the proceedings and comments
4 that the FCC and so on and so forth, I think it's
5 just beyond doubt that calling party, the CPN, is
6 present in AMA records of interexchange carrier --
7 carried calls but not LEC-carried calls.

8 Q. So when I stated I think for purposes of
9 opening statement and maybe in some of my questioning
10 yesterday that wireless CPN is delivered to the
11 terminating office in the billing records for
12 wireless-originated calls that are terminated to the
13 tandem by an IXC, as far as you know, that's a
14 truthful statement, correct?

15 A. Yes.

16 Q. Okay. The only difference is that if
17 that wireless-originated call is terminated to the
18 tandem by a wireless carrier, then CPN apparently is
19 not captured and not sent down to the terminating
20 company in the billing record?

21 A. That's correct. It's a matter of the
22 recording tandem pulling out, if you will, that piece
23 of information from the signaling system 7 bit
24 stream. In the first example with IXCs, the machine
25 is programmed to do so. In the second example with

1 the direct wireless connection on the LEC network,
2 it's programmed not to do so.

3 Q. Let me ask you this question, and I hope
4 it's not confusing, but I'm trying not to make it.
5 But is -- to the extent that you have CPN on a
6 wireless-originated call, whether IXC-carried or
7 wireless-carried, is it any more or less reliable for
8 purposes of determining jurisdiction or is it the
9 same?

10 A. In my opinion they would be the same.

11 Q. Thank you. Getting back to chronology,
12 I believe you agreed with Mr. Johnson that AT&T,
13 formally Southwestern Bell, began creating the
14 wireless 1101 records in May or June of '04; is that
15 right?

16 A. Yes. I -- there was a memoranda from
17 Mr. Unruh to the commissioners, copied to staff, and
18 I think the parties on May 28th indicating that the
19 holes in the Swiss cheese had been -- were nearly
20 filled.

21 Q. Is it fair to say that staff -- well,
22 let me make it more specific. That you were not
23 aware of the fact that those wireless 1101 records
24 that Bell was now creating did not contain CPN until
25 Mr. Johnson and I brought that to your attention in

1 the early fall of '04?

2 A. Yes, that is correct. And thank you for
3 pointing out the October 29th, 2004 e-mail from
4 Mr. Johnson to the commissioners that staff was
5 copied on. Excuse me, to Leo Bub that the -- from
6 Craig Johnson to Leo Bub that the staff was copied
7 on.

8 My testimony -- I'd forgotten about that
9 e-mail when I wrote my testimony. I did make the
10 statement that we didn't find out about it until the
11 public comments at the public hearing, which would
12 have been roughly February of 2005, but after
13 Mr. Schoonmaker's testimony in his case in which he
14 attached a copy of that e-mail from Mr. Johnson to
15 Leo Bub, I do now recall that that was first brought
16 to our attention on October 29th, 2004.

17 Q. Well, and the point I want to get at
18 here is, is it fair to say that at the time that you
19 first learned, whenever that was, that wireless -- or
20 that the AT&T wireless records did not contain CPN,
21 is it fair to say that you were surprised?

22 A. That's completely accurate, yes, I was
23 surprised.

24 Q. Is it fair to say that you would, at
25 that point in time, would have assumed that those

1 records would have contained CPN just like other 1101
2 records contained CPN?

3 A. Yes, that is fair.

4 MR. ENGLAND: Thank you. No other
5 questions.

6 JUDGE DALE: Anything else?
7 Commissioner Clayton will have questions from the
8 bench, so why don't we go ahead and call
9 Mr. Schoonmaker and then recall Mr. Voight when
10 Commissioner Clayton returns.

11 (Witness sworn.)

12 (DISCUSSION HELD OFF THE RECORD.)

13 (A RECESS WAS TAKEN.)

14 (EXHIBIT NOS. 9 NP AND 9 P WERE MARKED
15 FOR IDENTIFICATION BY THE COURT REPORTER.)

16 (EXHIBIT NO. 10 NP AND 10 P WERE MARKED
17 FOR IDENTIFICATION BY THE COURT REPORTER.)

18 (EXHIBIT NO. 11 WAS MARKED FOR
19 IDENTIFICATION BY THE COURT REPORTER.)

20 (EXHIBIT NO. 12 A AND 12 B WERE RESERVED
21 FOR MARKING FOR IDENTIFICATION.)

22 JUDGE DALE: We are back on the record
23 and ready to begin the examination of Mr. Schoonmaker.

24 ROBERT C. SCHOONMAKER, testified as follows:

25 DIRECT EXAMINATION BY MR. ENGLAND:

1 Q. Mr. Schoonmaker, let me turn your
2 attention to a document that I believe is your direct
3 testimony. And would you please -- I guess the first
4 thing I need to do is ask your name and address. I'm
5 sorry.

6 A. My name is Robert C. Schoonmaker, and my
7 business address is 2270 La Montana Way, Colorado
8 Springs, Colorado 80918.

9 Q. And by whom are you employed and in what
10 capacity?

11 A. I'm President and CEO of GVNW
12 Consulting, Inc., a consulting firm specializing in
13 working with small telephone companies.

14 Q. And on whose behalf are you testifying
15 here today?

16 A. I'm testifying on behalf of a large
17 number of small independents in Missouri that are
18 included on Schedule RCS-1, pages 1 and 2. And when
19 we get to corrections, I'll add two companies to the
20 list.

21 Q. You're also testifying on behalf of
22 additional group of companies, as I understand?

23 A. Yeah, there's two groups of companies.
24 The Small -- Small Telephone Company Group and the
25 Missouri Independent Telephone Company Group.

1 Q. Well, let me then turn your attention to
2 your prepared direct testimony. Was that prepared by
3 you or under your direct supervision?

4 A. Yes, it was.

5 Q. And are there any changes or corrections
6 that you need to make to that testimony and/or
7 schedules at this time?

8 A. I have a couple. First of all, on page 9
9 on line 2, at the beginning is the word "access" and
10 before the period I would insert "and interconnection
11 services."

12 MR. BUB: Could you please repeat that?

13 THE WITNESS: Yes. Line 2, right after
14 "access" and before the period, insert "and
15 interconnection services."

16 Next change is on the next page, on
17 page 10, line 11, the reference to the Commission
18 rule there, after the period needs to have a 29., so
19 it reads 4 CSR 240.29.040(4).

20 And then the last change that I have is
21 on Schedule RCS-1 and there's two additional
22 companies that should be added to the Small Telephone
23 Company Group on page 1 of 2. First is Fidelity
24 Telephone Company, and the second is Peace Valley
25 Telephone Company.

1 BY MR. ENGLAND:

2 Q. Does that conclude your corrections and
3 changes to the testimony and schedules -- the direct
4 testimony -- excuse me -- and schedules attached
5 thereto?

6 A. Yes.

7 Q. If I were to ask you the questions today
8 under oath, would your answers be substantially the
9 same as indicated or -- in that prepared testimony or
10 has it changed?

11 A. Yes.

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

15 A. Yes.

16 MR. ENGLAND: Your Honor, I believe
17 there are actually two versions of this testimony.
18 There's 9 Nonproprietary and 9 Proprietary. I would
19 offer both of those at this time.

20 JUDGE DALE: Are there any objections?

21 MR. BUB: Your Honor, we're only talking
22 about the direct testimony at this time, correct?

23 JUDGE DALE: Yes.

24 MR. BUB: No objections.

25 JUDGE DALE: Thank you.

1 (EXHIBIT NOS. 9 NP AND 9 P WERE RECEIVED
2 INTO EVIDENCE AND MADE A PART OF THE RECORD.)
3 BY MR. ENGLAND:

4 Q. Let me turn the witness's attention to
5 your rebuttal testimony. Would you please identify
6 that for the record, please.

7 A. Yes. The rebuttal testimony has been
8 marked 10 parens N and 10 parens P and is entitled
9 "The Rebuttal Testimony of Robert C. Schoonmaker."

10 Q. And was that prepared by you or under
11 your direct supervision?

12 A. Yes.

13 Q. Are there any changes or corrections
14 that you need to make to that testimony at this time?

15 A. I don't believe so, no.

16 Q. Okay. If I were to ask you the
17 questions that appear in that testimony, would your
18 answers and the information contained in that
19 testimony here today under oath be the same or very
20 similar?

21 A. Yes.

22 Q. And are those answers and the
23 information contained in that rebuttal testimony true
24 and correct to the best of your knowledge,
25 information and belief?

1 A. Yes.

2 MR. ENGLAND: Excuse me, your Honor.

3 Oh, Ms. Morgan reminds me that I think some of the
4 rebuttal testimony relates to direct testimony that
5 was struck, and so I think we need to withdraw some
6 of that rebuttal testimony. So before I offer it,
7 let us go to --

8 THE WITNESS: I think on page 19.

9 BY MR. ENGLAND:

10 Q. Page 19. With that introduction,
11 Mr. Schoonmaker, do you have some line numbers and
12 page numbers of testimony that relates to direct
13 testimony that was ultimately struck that needs to be
14 removed from your rebuttal testimony?

15 A. I think the question and answer on the
16 bottom of page 19, starting with line 18 and going
17 through line 26, relates to testimony that was
18 previously removed and so should be withdrawn.

19 Q. Okay.

20 A. You and I didn't come to total agreement
21 on the testimony on page 20, so maybe you should look
22 at it and decide what you think needs to be...

23 Q. I believe it's the testimony beginning
24 on line 18 where we talk about money, and concluding
25 on line 9 of the following page, page 21. So unless

1 you see some other --

2 A. Would you look on page 21, the question
3 and answers, line 11 through 15? I think the
4 testimony of Mr. Constable regarding the intercarrier
5 compensation was -- was that left in? Let me check
6 my notes.

7 MR. BUB: I thought that was left in, in
8 the bucket that you categorized as marginally
9 relevant.

10 JUDGE DALE: Yes. I said it met the
11 very, very, very low threshold of admissibility and
12 relevance because I didn't expect intercarrier
13 compensation to be resolved until some time in the
14 next millenium.

15 MR. ENGLAND: Millenium and a half.

16 JUDGE DALE: Yes.

17 MR. ENGLAND: So I think we've
18 identified at least what we believe to be removed
19 from the rebuttal testimony as lines 18 through 26 on
20 page 19, lines 18 through 23 on line 20 -- or excuse
21 me, page 20, lines 1 through 9 on page 21. So we
22 would voluntarily withdraw that testimony --

23 JUDGE DALE: Thank you.

24 MR. ENGLAND: -- and offer the remainder
25 that appears in what has been marked Exhibits 10

1 Nonproprietary and 10 Proprietary.

2 JUDGE DALE: Are there any objections?

3 MR. BUB: Your Honor, with that text
4 removed, we have no objection.

5 JUDGE DALE: Thank you.

6 MR. ENGLAND: And I've got two other
7 exhibits. One that was not introduced but marked
8 yesterday, which was Exhibit 3 P that I need to lay a
9 foundation for, please.

10 JUDGE DALE: Okay.

11 BY MR. ENGLAND:

12 Q. Mr. Schoonmaker, do you have a copy of
13 what has been marked for purposes of identification
14 as 3 P?

15 A. Exhibit 3 P, yes.

16 Q. And what is that, sir?

17 A. That is page No. 4-119 (sic) from the
18 OBF-EMI documentation, which is the standard
19 documentation for the EMI records, the category 1101
20 record being one of those records.

21 Q. Would you give me the page number again,
22 please?

23 A. It's 4-19.

24 Q. Okay. And is that a page out of the
25 document that you have excerpted other portions from

1 and attached to your testimony?

2 A. Yes.

3 Q. And what was the significance of this
4 page?

5 A. This page is the page that includes a
6 definition of BTN, or billing telephone number.

7 Q. Are you aware of any other definitions
8 in that document relating to BTN, or billing
9 telephone number, other than what is shown on
10 Exhibit 3 P?

11 A. No, I'm not.

12 Q. Okay. And is that an accurate copy of
13 that page from the document as you know it to be?

14 A. Yes.

15 Q. Okay.

16 A. And that's the most recent version of
17 the document as of a couple of weeks ago when I
18 purchased it.

19 MR. ENGLAND: I'd offer Exhibit 3 P at
20 this time.

21 JUDGE DALE: Thank you. Are there any
22 objections? We've already chatted about it at
23 length.

24 MR. BUB: Your Honor, we don't dispute
25 that it's part of the EMI documents or it's one of

1 the definitions contained in the document, but I
2 don't know if an adequate foundation has been laid as
3 to how that -- or if this witness can testify as to
4 how that is used or applied in the record that we're
5 talking about today, the 1101, so I think there's
6 been lack of foundation for that document. That
7 would be our objection.

8 JUDGE DALE: It's my understanding that
9 yesterday qualified people chatted about it.

10 MR. ENGLAND: Well, my understanding
11 is that -- I mean, the whole issue here is what does
12 this documentation require.

13 JUDGE DALE: Uh-huh.

14 MR. ENGLAND: And I inquired of the
15 witness as to what the definition of billing
16 telephone number was, and he gave me one definition.
17 I gave him one that came out of the document, and my
18 understanding was the testimony that the way that SBC
19 interpreted it was if you were using it is not the
20 same as defined in the document. I'm simply offering
21 the document for the purpose that this is the
22 definition in the document. I hadn't planned on
23 doing any more examination of the witness.

24 And quite honestly, if SBC/AT&T can find
25 another definition which comports with what they say

1 it is, I'm willing to let that into the record.

2 JUDGE DALE: At this point, I think that
3 there's been sufficient discussion about it, and I
4 will allow it into the record.

5 (EXHIBIT NO. 3 P WAS RECEIVED INTO
6 EVIDENCE AND MADE A PART OF THE RECORD.)

7 MR. BUB: Fair enough, your Honor.

8 MR. ENGLAND: And then one other line of
9 questioning -- oh, excuse me. Just to tidy things
10 up, we have also, in Mr. Schoonmaker's rebuttal
11 testimony, quoted from a petition filed with the FCC
12 by, at that time I believe SBC, and has been marked
13 for purposes of identification as Exhibit 11.

14 We've also agreed to provide written
15 comments that may have been filed in support of that
16 by SBC and reserved Exhibit 12. So for the time
17 being, I'd offer Exhibit 11 with the understanding
18 that we will be providing additional information for
19 Exhibit 12 and offer that either now or at that time,
20 whatever's your pleasure.

21 MR. BUB: We don't object to 11, your
22 Honor.

23 JUDGE DALE: Okay. And 12?

24 MR. BUB: Well, we haven't seen 12 so I
25 thought the understanding was that Mr. England would

1 provide that to us, and if we wanted that to be
2 included in the record to explain the petition, then
3 we could include that as a late-filed exhibit. I
4 have not seen the document yet. Mr. England was
5 going to provide that to us.

6 JUDGE DALE: Barring an inaccurate copy
7 of the comments filed in the same docket, they will
8 be admitted.

9 MR. BUB: That's fine.

10 JUDGE DALE: So if you have a problem
11 with whatever he submits, we can fight about it then.
12 But unless there's something inaccurate included in
13 that, then they will be admitted as well.

14 (EXHIBIT NOS. 11 AND 12 WERE RECEIVED
15 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

16 MR. ENGLAND: We'll try to resolve that
17 ahead of time. As I said, I'll let Mr. Bub have a
18 copy of what we believe was filed on behalf of SBC --

19 JUDGE DALE: Okay.

20 MR. ENGLAND: -- in addition to the
21 petition ahead of time, so hopefully that will all be
22 taken care of.

23 JUDGE DALE: Good. In that case, then,
24 just clearing up all the record here, Exhibit 3 P, 9
25 NP, 9 P, 10 NP, 10 P, 11, and to be later filed, 12,

1 are admitted into evidence.

2 (EXHIBIT NOS. 10 NP AND 10 P WERE RECEIVED
3 INTO EVIDENCE AND MADE A PART OF THE RECORD. ALL
4 ADDITIONAL EXHIBITS WERE PREVIOUSLY RECEIVED.)

5 MR. ENGLAND: Thank you, your Honor.

6 And I believe I was allowed yesterday to ask
7 Mr. Schoonmaker some additional questions, following
8 up on some questions, I believe, from Commissioner
9 Clayton on Feature Group C.

10 JUDGE DALE: Yes.

11 MR. ENGLAND: Thank you.

12 BY MR. ENGLAND:

13 Q. Do you recall that line of questioning
14 yesterday, Mr. Schoonmaker --

15 A. I do.

16 Q. -- with the AT&T witness? Okay. And
17 I'll try to be brief. Mr. Schoonmaker, did the Small
18 Telephone Companies in Missouri want Feature Group C
19 to continue?

20 A. The position that they've generally
21 taken in several cases is that they would prefer that
22 Feature Group C be eliminated.

23 JUDGE DALE: Actually, if I can
24 interrupt, it is my understanding from having just
25 recently been upstairs, that agenda is almost over,

1 so if you would reserve that for when Commissioner
2 Clayton is back down here, I think that would be more
3 helpful.

4 MR. ENGLAND: Be happy to. If that's
5 the case, then I'll tender the witness for
6 cross-examination at this time.

7 JUDGE DALE: Okay.

8 CROSS-EXAMINATION BY MR. KRUEGER:

9 Q. Good morning, Mr. Schoonmaker.

10 A. Good morning, Mr. Krueger.

11 Q. Have you read the testimony that Chris
12 Read filed in this case?

13 A. Yes.

14 Q. On page 16 of his direct testimony,
15 lines 2 and 3, he said that EMI records are created
16 utilizing the network recordings made in AMA format
17 as the primary source. Do you agree with that
18 statement?

19 A. Yes.

20 Q. If data is not available in the AMA
21 recording, can it be included in an EMI billing
22 record?

23 A. Most of the data in an EMI billing
24 record would come from an AMI (sic) recording.
25 However, there's some elements of data that would

1 come from other sources besides the AMA recording and
2 may be put in the record.

3 For example, the OCN number is not in
4 the AMA recording per se. To my knowledge, I believe
5 there's a trunk number that's in the AMA recording in
6 the wireless record, as I recall, and the -- my
7 understanding would be that the AT&T system
8 translates that trunk number into an OCN number and
9 puts the OCN number in the record.

10 Q. Let me ask you then specifically about
11 CPN. If CPN is not captured in the AMA recording,
12 could that be included in the EMI billing record?

13 A. No.

14 Q. To your knowledge, is the CPN captured
15 in the AMA recordings for wireless-originated traffic
16 at AT&T's switches?

17 A. Their testimony has been that it is not
18 at the present time.

19 Q. Do you have any reason to doubt that?

20 A. No, I don't doubt that. I'm not sure
21 that's the standard. That's their testimony and I
22 don't have reason to doubt it.

23 Q. Mr. Read also said that CPN is not
24 provided in billing records associated with wireless-
25 originated traffic in any of the AT&T states. Do you

1 agree with that statement?

2 A. I don't know.

3 Q. Do you have any reason to disagree?

4 A. I -- I don't have any direct knowledge.

5 Q. Okay. Mr. Read also said there is no
6 established industry -- established accepted industry
7 practice for use of CPN in the standard EMI category
8 1101 XX records for wireless-originated traffic. Do
9 you agree with that?

10 A. Would you repeat the question?

11 Q. Sure. He said there is no established
12 accepted industry practice for use of CPN in the
13 standard EMI category 1101 XX records for wireless-
14 originated traffic.

15 A. I -- I don't know what standards he
16 was -- I mean, first of all, no.

17 JUDGE DALE: Thank you.

18 THE WITNESS: I don't know what
19 industry's practices he's referring to, and, in fact,
20 we asked a data request of Mr. Read, and all he did
21 was refer to his testimony.

22 In terms of the standards for those
23 records in the EMI document, he and I disagree on
24 what those standards require. And I believe the
25 standards as outlined in the EMI document require the

1 CPN to be in that for wireless records.

2 JUDGE DALE: I have a clarifying
3 question. When you are talking about
4 wireless-originated traffic, are you speaking
5 strictly about wireless-originated traffic that is
6 delivered directly as wireless traffic by the
7 wireless carrier?

8 MR. KRUEGER: I was -- what I read was a
9 quotation from what Mr. Read said, so I --

10 JUDGE DALE: And I see Mr. Read nodding,
11 so I'll take that -- so if you could clarify, I will
12 assume that when you say wireless-originated traffic,
13 that you're always talking about directly-delivered
14 wireless traffic, and any time that you're talking
15 about wireless-originated traffic delivered through
16 an IXC, you will say so. Okay. Thank you.

17 MR. KRUEGER: That is my intent and I'll
18 try to do that.

19 JUDGE DALE: Okay. Thank you.

20 THE WITNESS: And just for
21 clarification, my answer was based on the assumption
22 that he was talking about --

23 JUDGE DALE: Directly-delivered?

24 THE WITNESS: -- directly-delivered
25 traffic.

1 JUDGE DALE: Okay. Thank you.

2 BY MR. KRUEGER:

3 Q. Since your initial direct answer to my
4 question was no, I understand, then, that you believe
5 CPN is provided in billing records associated in --
6 I'm sorry.

7 You -- you believe that there isn't
8 established accepted industry practice for use of CPN
9 in the standard EMI category 11 records for wireless --

10 A. I believe that the standard is that it
11 should be there. What the practice is may be
12 something different. But the standard in the EMI
13 record, as I read the EMI record and all the
14 exceptions and changes, does not talk about there
15 being a billing telephone number in the 1101 record
16 in the "from" field.

17 Q. And what I'm asking about is the
18 practice. Is there an established practice?

19 A. I mean, from the testimony in the
20 record, AT&T does not provide the CPN record in that
21 field in those wireless records. From Mr. Read's
22 testimony, he said that Bell South and Verizon did
23 not. I don't -- I don't have any personal knowledge
24 in regards to those -- the records of those
25 particular companies.

1 In regards to Century Telephone Company,
2 Mr. Martinez testified that they use the billing
3 telephone number in that record. I don't have any
4 personal experience with the Century records. I have
5 attempted to inquire as to what kinds of records
6 Qwest is providing certain of our companies that
7 operate in both Missouri and Iowa in their Iowa
8 operation, and as far as my inquiries have gotten,
9 they are doing something different than Southwestern
10 Bell.

11 I know that there's not a line number in
12 the record. It's zero-filled. The information that
13 I have gotten is not clear as to whether that's a
14 billing number or has the NPA-NXX of, in fact, the
15 wireless carrier.

16 Q. Well --

17 A. In some, many people apparently in
18 practice do as Mr. Read said they do. Others may do
19 it differently.

20 JUDGE DALE: Excuse me. So was that an
21 "I don't know" or a "sometimes"?

22 THE WITNESS: A "sometimes".

23 JUDGE DALE: Thank you.

24 BY MR. KRUEGER:

25 Q. Mr. Read also said that CPN has never

1 been a standard field in the category 1101 XX record
2 for wireless-originated calls. Do you agree with
3 that statement?

4 A. I disagree with that.

5 Q. When was it a standard field?

6 A. I haven't researched when it was
7 established. As of the most recent issue of the
8 document, there is a "from" number field, there's a
9 defined "from" number, there's no indication in the
10 documentation, the standards documentation, that
11 wireless-carrier wireless traffic is to include a
12 billing telephone number.

13 And, in fact, the billing telephone
14 number that's defined in the standard is not the same
15 billing telephone number that Mr. Read is talking
16 about, as he admitted yesterday.

17 Q. Has CPN ever been populated as a
18 standard practice in the field -- in a field in the
19 category 11 records?

20 A. It may have been sometimes.

21 Q. But you don't know?

22 A. I don't know for certain, for example,
23 with Qwest.

24 Q. Mr. Read said he's not aware of any
25 complaints from terminating carriers if they are

1 unable to use category 11 records to bill wireless
2 carriers. Are you aware of any such complaints?

3 A. In terms -- no, in terms of billing
4 wireless carriers.

5 Q. Thank you. In your direct testimony on
6 page 11 at lines 8 to 10 --

7 A. Excuse me just a minute.

8 Q. Sure.

9 A. Direct testimony?

10 Q. Direct testimony, page 11, lines 8 to
11 10.

12 A. Okay.

13 Q. You state, "As can be seen on HC
14 Schedule RCS-2, the 'from' number field in positions
15 15 to 24 of the record contains the ten digits,
16 NPA-NXX and line number of the party that originates
17 the call."

18 A. I'm sorry. I was in the wrong
19 testimony. Just a second. Okay.

20 Q. Where does it say that the number that
21 goes -- that goes there is the number of the party
22 that originates the call?

23 A. Well, it says specifically that it's
24 a -- and Mr. Read quoted this in his rebuttal
25 testimony, that it's the number from which the

1 originating rate center is derived, and then it
2 further says that, "For messages originating within
3 the North American numbering plan, the firm number is
4 in the format NPA-NXX-LLLL."

5 Q. You can't --

6 A. Those two combined together, I interpret
7 it to mean the originating -- the party that
8 originates the call.

9 Q. You interpreted it as that, but is there
10 anyplace that it says that it is the party that
11 originates the call?

12 A. It doesn't say that specifically.

13 Q. Thank you. In your direct testimony at
14 page 11, lines 13 to 16 --

15 A. Just a minute. Okay.

16 Q. You state that, "For numbers within the
17 North American number plan, the 'from' number is the
18 number from which the call originates." Where does
19 it state that the number that goes there is the
20 number from which the call originates?

21 A. I previously quoted exactly what that
22 says, and it was my interpretation of that because
23 the format is NPA-NXX-LLLL, that's the format of an
24 originating number, and the definition of "from" number
25 would say that's the call that it comes from, not the

1 call that it's made to. And there is a separate
2 field for the "to" number.

3 Q. So it's in the same format, but it
4 doesn't actually say that the number that goes there
5 is the number from which the call originates?

6 A. That's correct, it doesn't. I would
7 point out that the billing telephone number that
8 Southwestern Bell indicates that they put in clearly
9 would not indicate the originating rates enter from
10 which the call is derived.

11 Q. In your direct testimony on page 11,
12 lines 18 to page 12, line 11, you discuss indicator
13 9. And you say there that for cellular traffic,
14 indicator 9 has a value of eight; is that correct?

15 A. That's correct.

16 Q. And that if indicator 9 has a value of
17 seven or less, the "from" number consists of only six
18 characters, correct?

19 A. Yes.

20 Q. And you then conclude that where
21 indicator 9 has a value of eight, the full "from"
22 number should be provided. Where does it say that?

23 A. There is no exception for category 8.
24 If, as Mr. Read indicates, it was the standard that
25 the billing telephone number be put in the "from"

8 But it doesn't say that at all. It says
9 nothing unusual about when category 9 is -- or
10 indicator 9 is an eight, and therefore you would
11 expect that it's the normal usage of that record.

13 A. Yes.

20 A. Let me read the question again. There
21 are several places in Mr. Read's and Mr. Constable's
22 testimony both where they state that the category
23 1101 record produced by AT&T Missouri is an industry
24 standard record.

1 undoubtedly find those, but it will take some time.
2 I don't have them specifically listed. And those
3 records do not contain the originating number in the
4 "from" number field. They contain the billing number
5 as Mr. Read described.

6 Q. And I think what you said was that
7 AT&T's witnesses said that a category 11 record that
8 does not contain the "from" number is not an industry
9 standard. I couldn't find anyplace where that was
10 stated.

11 A. Well, I think you need to read the next
12 question and answer after that, because Mr. Read's
13 actual statement says that the CPN is not a required
14 field, and I referenced that in lines 12 through 13.
15 I can read my answer again if you want -- or the
16 question and answer.

17 Q. But what -- what he said was that CPN
18 was not a required field.

19 A. That's correct. And my response on
20 lines 12 through 15 was that the record contradicts
21 it unless Mr. Read is relying on a terminology
22 difference.

23 Q. Is it your contention that AT&T does not
24 populate the "from" number field at all?

25 A. No.

1 Q. Your complaint is just that they don't
2 populate it with the CPN?

3 A. Yes.

4 Q. You said that Mr. Read and Mr. Constable
5 said the industry standard AMA record for wireless
6 calls does not contain the "from" number. Do you
7 know where they said that?

8 A. I'm sorry. Can you refer me in my
9 testimony again? I believe --

10 Q. In your rebuttal, page 6, lines 2
11 through 5.

12 A. Through 5, okay. Okay. Can you ask the
13 question again?

14 Q. Where did Mr. Constable or Mr. Read say
15 that the industry standard AMA record for wireless
16 calls does not contain the "from" number?

17 A. In this case, I guess I used the
18 terminology change of the "from" number and CPN being
19 the same. Their statement was that it did not
20 contain the CPN.

21 Q. Would it be fair, then, to say that your
22 argument on this issue depends upon your belief that
23 the "from" number is identical to the CPN?

24 A. I'm not quite sure what you mean by "this
25 issue."

1 Q. On the issue of what must be populated
2 in the "from" number section.

3 A. Would you ask your question again?

4 Q. Would it be fair to say that your
5 argument on this issue depends upon your belief that
6 the "from" number is identical to the CPN?

7 A. No, not entirely.

8 Q. You said that you are using those terms
9 interchangeably; the "from" number means CPN; is that
10 correct?

11 A. I said that in regards to lines 3 and 4
12 on page 6, yes.

13 Q. And once -- in what sense does your
14 argument not depend on your belief that the "from"
15 number is identical to the CPN?

16 A. I guess I'd have to break down, quote,
17 this issue, into some piece parts.

18 Q. I think I'll just move on.

19 A. Okay.

20 Q. If the Commission finds that the "from"
21 number is not identical to the CPN, would you agree
22 that the Commission's rule does not require a CPN to
23 be provided in category 11 billing records for
24 wireless-originated calls?

25 A. Not necessarily.

1 Q. Why not?

2 A. Because if -- as I read -- as I read the
3 record, and particularly the definition of "from"
4 number, the number that AT&T currently puts in there
5 that they describe as the billing telephone number
6 does not meet the standard of the category 1101
7 record.

8 Even if you read the definition
9 precisely, it does not -- just a minute. The number
10 that AT&T currently provides the field -- in that
11 field is not a number which -- a number which
12 identifies the originating from which the
13 originating's rate center is derived.

14 So if the Commission determines that CPN
15 is not the "from" number, it's clear from the
16 definition that the BTN isn't, so then I guess the
17 Commission would have to decide what is the "from"
18 number that they want in there. But the BTN that
19 AT&T provides does not identify the originating rate
20 center.

21 JUDGE DALE: Excuse me. If I may
22 interrupt, could you ask your question again, please,
23 and could you answer it so that I can tell whether
24 you're saying yes, no, maybe, sometimes or I don't
25 know?

1 THE WITNESS: I'm not sure -- I'm not
2 sure the question was susceptible to that, but I will
3 listen again.

4 JUDGE DALE: Thank you.

5 BY MR. KRUEGER:

6 Q. If the Commission finds that the "from"
7 number is not identical to the CPN, would you agree
8 that the Commission's rule does not require CPN to be
9 provided in the category 11 billing record for
10 wireless-originated calls?

11 A. I would not agree with that statement
12 totally.

13 JUDGE DALE: Thank you.

14 BY MR. KRUEGER:

15 Q. Mr. Constable stated that Telcordia
16 provides the requirements for what types of
17 information should be provided in the AMA records
18 generated by a switch. Do you agree with that?

19 A. Yes.

20 Q. Would you agree that if the Telcordia
21 document does not require the AMA records to capture
22 the CPN, there is no requirement to capture it?

23 A. If that's the case. But I disagree with
24 Mr. Constable in terms of --

25 Q. Okay.

1 A. -- what the document requires, apparently.

2 MR. KRUEGER: Your Honor, I have some
3 questions pertaining to the Telcordia document that I
4 can't ask without quoting from it, so we'll need to
5 go in-camera.

6 (REPORTER'S NOTE: At this point, an
7 in-camera session was held, which is contained in
8 Volume 5, pages 325 through 332 of the transcript.)

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1 ROBERT C. SCHOONMAKER, testified as follows:

2 CROSS-EXAMINATION BY MR. KRUEGER:

3 Q. Do you know when the MITG and STCG
4 member companies began to receive category 11
5 billings -- billing records of wireless-originated
6 calls from Sprint and CenturyTel?

7 A. In regards to CenturyTel, I don't
8 recall.

9 Q. Do you recall for --

10 A. In regards to Sprint, I -- I don't know
11 exactly, but I believe it's been for a period of
12 years. I don't believe Sprint ever produced a CTUSR
13 type of paper report. I think they provided category
14 11 records earlier than that.

15 Q. Do the records that are received from
16 Sprint and CenturyTel contain the CPN of
17 wireless-originated calls?

18 A. Based on the testimony of Century, no.
19 Based on the document that I provided from Sprint in
20 its motion that it filed in this case, until recently,
21 no, but it does now.

22 Q. Do you know when that began?

23 A. In March of this year.

24 Q. At page 19 of your rebuttal testimony,
25 you mentioned that Sprint has modified its systems to

1 produce the appropriate records in compliance with
2 the Commission's rule. Do you know what kind of
3 switches Sprint uses, that is, the manufacturer?

4 A. I believe they have some Northern
5 switches. I don't know if that's all that they have
6 or not.

7 Q. Do you know if they have any Lucent
8 switches or the type that AT&T uses?

9 A. I don't know.

10 Q. Did the MITG or STCG ever explain about
11 not receiving CPN from Sprint or CenturyTel on
12 wireless-originated calls?

13 A. I don't believe so in regard to Century.
14 I don't know in regards to Sprint. Kingdom Telephone
15 Company is really the only company that receives
16 wireless records from Sprint, and I don't know
17 whether they -- what kind of conversations they may
18 have had with Sprint about the CPN number.

19 Q. Do you know any reason why complaints
20 were not made?

21 A. Well, over that period of time -- first
22 of all, let me just mention in regards to Century,
23 the only MI -- or STCG member that might receive
24 Century records would be Piece Valley Telephone
25 Company, and I don't know whether there are any

4 So I'm not sure that we have any
5 companies that have ever received any Century records
6 because I'm not sure that there are any that are
7 applicable.

18 MR. KRUEGER: Okay. That's all the
19 questions I have.

1 Mr. Krueger a question while he's getting set up?

2 Mr. Krueger, I want to be clear. In the
3 first part of this proceeding, this bifurcated
4 session, whatever -- however you want to describe
5 it -- what is staff's position on the first part,
6 whether CPN is supposed to be included within the
7 record or not as it fits under the rule?

8 MR. KRUEGER: Our position is that it is
9 not required to be included.

10 COMMISSIONER CLAYTON: It is not. So
11 that the rule was never intended to include this?

12 MR. KRUEGER: Correct.

13 JUDGE DALE: Please proceed.

14 MR. BUB: Thank you, your Honor.

15 CROSS-EXAMINATION BY MR. BUB:

16 Q. Good morning, Mr. Schoonmaker.

17 A. Had to look to make sure it was still
18 morning, right? Good morning.

19 JUDGE DALE: Thank you.

20 BY MR. BUB:

21 Q. Mr. Schoonmaker, you would agree with me
22 that the only evidence before the Commission right
23 now of any carrier in the country putting CPN in a
24 wireless billing record is Sprint, and they just
25 began about a month ago?

1 A. That's the only evidence that's in the
2 record.

3 Q. Thank you. And you'd expect the other
4 carriers across the country, Bell South, Verizon,
5 Qwest, Century, Sprint, they would all have experts
6 within their companies that look at things, like how
7 their switches should be set up and whether they
8 comply with industry standards, correct? That would
9 be your expectation?

10 A. Yes.

11 Q. Same with experts within those companies
12 whose job it is to make sure their billing records
13 comply with industry standards, the OBF-EMI
14 guidelines; that would be your expectation as well,
15 correct?

16 A. That would be my expectation they would
17 have that kind of people, yes.

18 Q. And your testimony here today is that
19 all those carriers, including AT&T Missouri, is
20 making a wireless billing record wrong because it
21 doesn't have CPN in it?

22 A. No, that's not my testimony.

23 Q. So all across the country there's other
24 carriers that are not populating the "from" number
25 field in a category 11 billing record for these

1 wireless-terminating calls we're talking about, all
2 those records all across the country comply with the
3 industry standards?

4 A. We don't have evidence what a number of
5 those carriers are doing, particularly Qwest. We
6 don't have evidence about a number of other carriers
7 around the country who may have experts and do that.
8 We don't know what they're doing, and there's not
9 evidence in this record to that, so I can't --

10 Q. Okay. Did you hear Mr. Read testify
11 about what Verizon does, what Century does, what Bell
12 South does, that they do not put CPN in the record
13 and you don't have any evidence to contradict that,
14 do you?

15 A. I did hear that testimony, yes, and I
16 don't have evidence to contradict it, but I did not
17 hear testimony about what Qwest does. In fact,
18 Mr. Read said he didn't know.

19 I didn't hear testimony about what
20 Cincinnati Bell does, I didn't hear testimony about
21 what Citizens does, I didn't hear testimony about
22 what TDS does and a whole lot of other companies in
23 the country.

24 Q. You didn't have any evidence that they
25 do put CPN in the record, do you?

1 A. I didn't.

2 Q. You did make some inquiries you told us
3 a little early -- earlier to Qwest, and all the
4 information you got back was some sketchy information
5 that they may have zero filled, putting zeros in that
6 field?

7 A. I did not get a chance to talk to Qwest
8 directly about it.

9 Q. I'd like to change gears on you just a
10 minute. I'd like to talk about your client's
11 position that CPN should be in the category 11 record
12 for the traffic -- the wireless carriers terminating
13 to the LEC network.

14 You're aware that AT&T Missouri
15 submitted data requests to your clients asking
16 whether they were using these records and whether
17 they were encountering -- encountering problems using
18 them. Are you aware that we requested data requests?

19 A. Yes, I am aware of that.

20 Q. Okay. And your clients objected to
21 answering them, but were compelled to do so by the
22 Commission, right?

23 A. That's my understanding.

24 MR. BUB: Okay. Your Honor, could I
25 go off the record a minute and have an exhibit

1 marked?

2 JUDGE DALE: Yes.

3 (DISCUSSION HELD OFF THE RECORD.)

4 (EXHIBIT NO. 13 WAS MARKED FOR

5 IDENTIFICATION BY THE COURT REPORTER.)

6 BY MR. BUB:

7 Q. Mr. Schoonmaker, I've handed you what's
8 been marked as Exhibit 13. Can you identify these as
9 the data request answers that The Small Telephone
10 Company Group provided to AT&T?

11 A. Yes, I can.

12 Q. And these answers indicate that they're
13 using our records -- or our wireless billing records,
14 right?

15 A. Yes, they are.

16 Q. Okay. And in answer to our question
17 about whether they were encountering problems,
18 the response was generally "no," but there was
19 some exceptions and a clarification listed in
20 the attachment; is that accurate? Is that a fair
21 description?

22 A. That's the response, yes.

23 Q. Okay. Based on these answers, is it
24 fair to say that our records for this type of traffic
25 is doing the job?

1 this provision in the rule is already quoted in his
2 witness's testimony. It's unnecessarily redundant.

3 MR. BUB: Your Honor, the witness has
4 just disagreed that this provision is not there. I
5 think I'm entitled to at least show that it is.

6 MR. ENGLAND: The witness disagreed that
7 the Commission is not -- the question was the
8 Commission has prohibited the use of CPN to
9 jurisdictionalize traffic and, in fact, this witness
10 has testified in his rebuttal testimony that the
11 Commission has used CPN --

12 THE COURT REPORTER: I'm sorry,
13 Mr. England. Could you use your microphone?

14 MR. ENGLAND: I turned off my
15 microphone. The question was whether the Commission
16 had prohibited the use of CPN to jurisdictionalize
17 wireless traffic. The witness said "No," and the
18 witness's rebuttal testimony reveals that the
19 Commission has used CPN to jurisdictionalize wireless
20 traffic in the recent BPS complaint case with
21 T-Mobile, as well as recent arbitrations between
22 Small Telephone Company Group members and MITG group
23 company members and T-Mobile.

24 MR. BUB: I would beg to differ. That's
25 a completely different use in jurisdictionalizing

1 traffic. What Mr. England is referencing is the use
2 of some CPN information that comes through the
3 signaling that helps them develop a factor that's
4 used.

5 What we're talking about here is
6 jurisdictionalizing traffic as they -- as they come
7 through. And the Commission, in its order,
8 prohibited it. Mr. Schoonmaker disagrees, and I
9 think I'm at least entitled to point that out. The
10 Commission can, you know, weigh it.

11 MR. ENGLAND: He's entitled to point
12 that out, but to reread or reproduce the rule that's
13 already in the record is -- is redundant.

14 MR. BUB: It's three sentences. I could
15 have read it by now.

16 JUDGE DALE: Well --

17 MR. BUB: I think it's really important
18 that the Commission sees what it says.

19 JUDGE DALE: The Commission, each and
20 every one of the members, can read and can tell
21 what's in the order of rulemaking which is already
22 the subject of much discussion in this proceeding, so
23 the objection is sustained.

24 MR. BUB: Okay.

25 JUDGE DALE: And Mr. Schoonmaker has

1 given his answer of what he thinks, and we will let
2 it stand at that.

3 MR. BUB: Okay. I'll move on, your
4 Honor.

5 JUDGE DALE: Thank you.

6 BY MR. BUB:

7 Q. Let's move on to the next topic.

8 JUDGE DALE: Oh, I'm sorry. Did you
9 want to offer Exhibit 13?

10 MR. BUB: Yes.

11 JUDGE DALE: Any objection?

12 MR. ENGLAND: No objection.

13 JUDGE DALE: Then Exhibit No. 13 is
14 admitted into evidence.

15 MR. BUB: Thank you, your Honor.

16 JUDGE DALE: You're welcome.

17 (EXHIBIT NO. 13 WAS RECEIVED INTO
18 EVIDENCE AND MADE A PART OF THE RECORD.)

19 BY MR. BUB:

20 Q. Mr. Schoonmaker, I'd like to go to your
21 rebuttal testimony at page 13, please, if we could.
22 Are you with me?

23 A. I'm on page 13.

24 Q. Okay. At line 15 you state that you
25 agree that CPN is not always a reliable

1 jurisdictional indicator for wireless calls because
2 of the mobility of the wireless customer; is that
3 your testimony?

4 A. Yes.

5 Q. Okay. And a good example of that
6 mobility would be your own cell phone use; would that
7 be correct?

8 A. That would be one example of many.

9 Q. I take it your cell phone number has a
10 Colorado Springs telephone number?

11 A. It does now.

12 Q. Okay. And you brought that to Jefferson
13 City with you, did you not?

14 A. I did.

15 Q. Okay. And if you were to use it here in
16 Jefferson City to call Mr. Voight's office at the
17 Commission, your Colorado Springs telephone number
18 would show up on Mr. Voight's caller ID display,
19 wouldn't it?

20 A. If he has one.

21 Q. And if that CPN was used to bill
22 intercompany compensation on that call to your
23 wireless company, that call would be billed wrong,
24 wouldn't it?

25 A. Yes.

1 Q. Okay. That's because it would look like
2 an inter-MTA call from Colorado Springs to Jefferson
3 City when, in fact, it was just a local call?

4 A. Yes.

5 Q. Okay. You'd agree with me too that
6 because of the prevalence of roaming, use of CPN to
7 actually bill is not acceptable?

8 A. It's not the most desirable. I don't
9 know that I would say that it's not acceptable.

10 Q. You heard Mr. Constable testify
11 yesterday, our own network expert, and Mr. Read, that
12 from the network's perspective and the billing
13 system's perspective, you never know when a cell
14 phone is roaming and when it's not. Do you have any
15 information to contradict that?

16 A. No.

17 Q. So even if CPN was included in the
18 wireless billing record that we're talking about
19 here, would you agree that your clients wouldn't
20 actually use it to bill for specific calls?

21 A. Yes.

22 JUDGE DALE: Thank you. I wasn't sure.
23 Did Trip see you make the secret sign?

24 MR. ENGLAND: It got there.

25 BY MR. BUB:

1 Q. Roaming also prevents -- presents
2 problems in identifying carriers --

3 A. Excuse me just a minute. I need to
4 write myself a note here. Okay.

5 Q. What your clients do use to bill each
6 call is the OCN; is that correct?

7 A. They do use the OCN to identify the
8 carrier.

9 Q. Okay. And to your knowledge, that's no
10 different than it's done anywhere else in the
11 country?

12 A. To the extent of my knowledge, that's
13 correct.

14 Q. Okay. Would you also agree with me that
15 roaming presents problems in also identifying the
16 carrier just using CPN?

17 A. Yes.

18 Q. Okay. Because, for example, your cell
19 phone number was assigned to a particular --

20 A. Excuse me a minute. All right.

21 Q. Okay. For example, your cell phone
22 number from Colorado Springs, that number was
23 assigned to a particular carrier, wasn't it?

24 A. It was assigned to a carrier and it's
25 been ported to another carrier.

1 Q. Okay.

2 A. Sorry. That was more than yes.

3 Q. That's okay. If that carrier -- let's
4 say your carrier that now has the number, didn't --
5 you know, doesn't have a network here in Jefferson
6 City. Another wireless carrier would have to handle
7 your call to Mr. Voight's office, wouldn't it?

8 A. If they didn't have a network here.

9 Q. And to handle that, cell companies have
10 roaming agreements with each other to use each
11 other's networks to handle their calls when they
12 don't have a network, right?

13 A. Yes.

14 Q. Common all the way across the country?

15 A. Yes.

16 Q. Okay.

17 A. In general.

18 Q. So let's hypothetically say that your
19 cell carrier doesn't have a network here and has a
20 roaming agreement with Cingular. And in this
21 example, your call would be brought to a landline
22 network by Cingular, right?

23 A. Unless they hand it off to somebody
24 else.

25 Q. Okay. Cingular has the direct

1 connection to the LEC in Jefferson City. You can add
2 that to the example so it's not handed off.

3 A. Okay. Yes.

4 Q. Okay. In this example the local
5 company, Sprint Missouri or Embarq, would bill
6 Cingular for terminating your call to Mr. Voight,
7 right?

8 A. Presumably.

9 Q. Okay. And you'd agree with me that if
10 the local telephone company here uses CPN on that
11 call, they would have billed the wrong carrier?

12 A. Depending how they use the CPN.

13 Q. If they were to bill the call based on
14 the CPN --

15 A. In the call record --

16 Q. -- in the call record?

17 A. -- it would be incorrect.

18 Q. Okay. But we all don't use CPN, right?
19 Just like you said we use the OCN which identifies
20 the proper carrier to bill; is that correct?

21 A. That's correct.

22 Q. And even in Sprint's new record, they
23 provided the OCN, and that's what your clients use to
24 bill, right?

25 A. Yes.

1 Q. Okay. And that works just fine?

2 A. For determining who to bill, it does.

3 Q. Okay. Now I'd like to change gears a
4 little bit and focus on uses of CPN on wireless calls
5 that you think are acceptable. And here I'd like to
6 focus on your rebuttal, page 13. Actually, I think
7 you're quoting Mr. Voight, line 17 of your testimony.

8 Mr. Voight states, "CPN should only be
9 used in establishing general auditing guidelines such
10 as using CPN to monitor billing records to determine
11 if there are excessive amounts of interstate
12 inter-MTA wireless-originated calls being terminated
13 over a local and interconnection trunks instead of
14 access trunks." Does that quote your testimony
15 correctly?

16 A. I believe so.

17 Q. Okay. This wireless traffic that your
18 clients receive from us, would you agree with me that
19 it doesn't come over local interconnection trunks but
20 over common trunks?

21 A. Yes, using general definitions of those
22 terms.

23 Q. Okay. Would you agree with me that if a
24 terminating carrier wants to monitor CPN, that
25 information is available in the signaling that comes

1 into the terminating carrier in real time with the
2 call?

3 A. The CPN is generally available.

4 Q. Okay. And it can be used to monitor
5 billing -- to determine -- it can be used to see the
6 calls if a carrier would want to audit the records?

7 A. Yes, but generally there wouldn't be
8 identifying -- an identification of the carrier in
9 that record at the same time.

10 Q. Okay. Would you agree with me that, in
11 fact, when Mark Twain got the study that you cite at
12 the bottom of this page, they were using the CPN that
13 was in the signaling, right?

14 A. Yes, they were.

15 Q. Okay. And it wasn't necessary to get
16 CPN in the billing record for them to do that, right?

17 A. Just a second.

18 Q. I'm sorry.

19 A. I'm sorry, would you ask the question
20 again?

21 Q. Sure, absolutely. For Mark Twain to do
22 that study that you referenced at the bottom of
23 page 13, it wasn't necessary for them to have CPN in
24 the wireless billing records?

25 A. It was not necessary. It would have

1 been desirable, but it was not necessary.

2 Q. Able to do it without it?

3 A. Not as well.

4 Q. Okay. You were also the witness for the

5 Small Companies in the recent arbitration between

6 Small Companies and various wireless carriers, right?

7 A. Two of them.

8 Q. Okay. And some of the Small Companies

9 in those cases, they presented evidence to support a

10 proposed inter-MTA factor; is that right?

11 A. Yes.

12 Q. Okay. And those that did, like Mark

13 Twain, use CPN for the signaling that they received

14 to perform their traffic studies, right?

15 A. Yes.

16 Q. Okay. And again, they didn't need CPN

17 to perform those studies?

18 A. They didn't have it so they did them

19 with the information they had. The studies would

20 have been better had they had CPN in the billing

21 record.

22 Q. You had CPN in the signaling, did you

23 not?

24 A. Yes. And we don't have the responsible

25 carrier in the signaling.

1 Q. I'd like to shift gears on you a moment
2 and now talk about some -- actually, some of the
3 wireless interconnection agreements that your clients
4 have with wireless carriers.

5 You'd agree with me that all of your
6 clients handle the jurisdictionalization of
7 wireless-terminated traffic stuff we're talking about
8 here through factors, right?

9 A. I believe that's the case in all of
10 them.

11 Q. Okay. And that's just a fancy name for
12 percentages?

13 A. The factors are percentages.

14 Q. Okay. And those factors are included in
15 the agreements, right, and those agreements are filed
16 with the Commission for approval?

17 A. Yes.

18 Q. Okay. And just to back up a little bit
19 so everybody understands what we're talking about
20 when we use the word "factor," it's my understanding
21 and if you would agree with it, that a particular
22 month -- let's just focus on the mobile-to-land
23 traffic.

24 A. Okay.

25 Q. Of all the traffic that terminates to

1 the LEC from the wireless carrier, you applied a
2 factor to that total number of minutes to produce
3 what would be considered inter-MTA traffic; is that
4 correct?

5 A. That's the use of one factor, yes.

6 Q. The inter-MTA factor, right? That's
7 what we're talking about.

8 A. If you say that's what we're talking
9 about, that's fine. There are more factors than that
10 in the --

11 Q. Well, let's just talk about that one for
12 the beginning. For that factor, that's how it
13 works --

14 A. Okay.

15 Q. -- is that right?

16 A. Yeah, after the use of another factor,
17 but, yes.

18 Q. Okay. And once you get that amount
19 that's determined by the factor to be inter-MTA,
20 that's the amount of traffic you applied the access
21 rate to; is that correct?

22 A. Yes.

23 Q. And then the rest is intra-MTA, and that
24 is charged at a lower reciprocal compensation rate;
25 is that right?

1 A. It's charged at a reciprocal
2 compensation rate.

3 Q. Okay. The other factors you were
4 talking about is when you start to look at the
5 inter-MTA bucket, then you have to decide between
6 interstate and intrastate. Is that the other factor
7 you're talking about?

8 A. That's another factor.

9 Q. Okay. And you do the same thing: You
10 have a percentage that you've agreed to in the
11 agreement, applied it to the factor to divide that
12 traffic, right?

13 A. Yes.

14 Q. And then you have separate rates to
15 apply?

16 A. Yes.

17 Q. Would you agree with me that most of the
18 time those factors are negotiated between the
19 parties?

20 A. Yes.

21 Q. Okay.

22 A. Or set -- or set by the Commission.

23 Q. Okay. That was the other half of my
24 question. If they can't agree on it, then you'd
25 bring it to the Commission and the Commission decides

1 what those factors are, correct?

2 A. Yes.

3 Q. And let's focus on the negotiated
4 factors for a minute. Would you agree with me that
5 sometimes those agreed factors really don't
6 correspond to specific traffic flows?

7 A. Sometimes.

8 Q. Okay. And a good example of that would
9 be the interconnection agreement that's attached to
10 our witness Chris Read's testimony, and that's the
11 interconnection agreement between T-Mobile U.S.A.
12 and your clients, New London, Orchard Farm and
13 Stoutland Telephone Companies, right? I'll take --

14 A. Right, that is the agreement that's
15 attached. I'm not --

16 Q. Okay. I'll take it a step at a time.
17 I'm sorry for the compound question.

18 A. Okay.

19 Q. But that is the agreement that's
20 attached, right?

21 A. Yes.

22 Q. And you'll agree with me that that
23 contains a 2 percent inter-MTA factor?

24 A. Is that on his rebuttal or direct?

25 Q. I think rebuttal.

1 MR. ENGLAND: Before we go much further,
2 I have to ask the reference of getting into inter-MTA
3 factors. I know we've made an issue of
4 jurisdictionalizing, but --

5 JUDGE DALE: Why, thank you very much.
6 I've been staring at you meaningfully for a while.

7 MR. ENGLAND: I've been so busy writing
8 notes.

9 MR. BUB: I can shorten this up if
10 that's the problem, moving too slow.

11 JUDGE DALE: One more question. We all
12 understand what inter -- inter- and intra-MTA factors
13 are, how they're arrived at, what they're used for.

14 BY MR. BUB:

15 Q. Okay. And do you have that agreement?

16 A. I do.

17 Q. Okay. Would you agree with me that it's
18 a multistate agreement with a single factor?

19 A. I didn't look at them that closely.

20 Q. Twenty-five states to be exact.

21 A. It does say it's a multistate agreement.

22 Q. In the back you have a list of all those
23 different companies that it applies to.

24 MR. JOHNSON: It's in the record, isn't
25 it? This is in evidence.

1 MR. BUB: Okay. And the fact --

2 MR. JOHNSON: We're just wasting time
3 reading stuff that's already in the record, your
4 Honor.

5 BY MR. BUB:

6 Q. That factor just represents what your
7 clients and T-Mobile is willing to live with across
8 all of the states. Has nothing to do with the
9 particular traffic flows in one particular state like
10 Missouri, right?

11 A. I don't know.

12 Q. Okay. Do you also agree with me that
13 the contracts give parties the right to update the
14 factors?

15 A. I didn't look specifically at this
16 contract, but generally they do. But --

17 MR. BUB: The relevance here, your
18 Honor, if you're concerned, that one of the uses that
19 they want CPN in the record for is to help them
20 jurisdictionalize and figure out the factors. This
21 is relevant because there's a limit under their
22 agreement of how often they can do that.

23 BY MR. BUB:

24 Q. And I just have one question, and that
25 is under these agreements, they can't do it more than

1 once annually, right?

2 A. When you say "these agreements," are you
3 talking about --

4 Q. These wireless --

5 A. -- TDS agreement?

6 Q. TDS is one example. I have others if we
7 want to go through them.

8 A. Again, I didn't read specifically.
9 That's frequently -- the frequency of it, yes,
10 paragraph 4.2.

11 Q. And that's not an uncommon provision in
12 interconnection agreements?

13 MR. ENGLAND: Asked and answered. He's
14 already said that.

15 JUDGE DALE: Yes, move on.

16 BY MR. BUB:

17 Q. Would you also agree with me that even
18 though your clients have the right in these
19 agreements to update the factors annually, they just
20 don't do that?

21 MR. ENGLAND: Objection.

22 JUDGE DALE: Okay.

23 MR. BUB: Do you want me to move on
24 beyond the factors?

25 JUDGE DALE: I want you to move

1 beyond --

2 MR. BUB: Okay.

3 JUDGE DALE: -- the interconnection
4 agreements pertaining to --

5 MR. BUB: Factors?

6 JUDGE DALE: -- factors.

7 MR. BUB: I will.

8 BY MR. BUB:

9 Q. Mr. Schoonmaker, I'd like you to focus
10 on paragraph 4.4, that first sentence. Would you
11 agree with me that this agreement that we're talking
12 about says, "That parties agree to accept the usage
13 data or traffic distribution report from the tandem
14 operator, and the foregoing calculation is an accurate
15 statement of traffic exchanged between the parties"?

16 MR. ENGLAND: Objection, your Honor. If
17 the point is that we're using Southwestern Bell's
18 records to bill from, that's been established by data
19 requests and responses that have been submitted into
20 evidence. We're just beating a horse now.

21 MR. BUB: That's not the point.

22 MR. ENGLAND: Okay. Sorry.

23 MR. BUB: The point is that they've
24 agreed and the wireless carriers have agreed that our
25 records are sufficient. That's the only point. It's

1 a different -- than what they're using. The point is
2 that the wireless carriers have agreed to accept our
3 usage data that they've used to bill.

4 JUDGE DALE: The objection is sustained.

5 MR. BUB: Okay.

6 BY MR. BUB:

7 Q. Mr. Schoonmaker, I'd like to turn real
8 quick to page 16. And there you cite --

9 A. 16 of what?

10 Q. 16 -- I'm sorry, of your rebuttal. At
11 line 5 you referenced an e-mail from Mr. Johnson to
12 me. It's correct that that e-mail wasn't filed in
13 the formal comments concerning the rulemaking in
14 TX-2003-0301?

15 A. I don't know.

16 Q. Okay. Let's go to your direct, page 8,
17 please. At the top you have a quote from Case 99-254,
18 and that's the case in which the Commission
19 eliminated the PTC plan; is that correct?

20 A. Yes.

21 Q. Okay. Are you trying to convey the
22 impression there that the PSC, the Commission,
23 ordered us in that case to provide your clients with
24 category 11 -- category 11 records on wireless-
25 terminated calls at that time?

1 A. No.

2 Q. Okay. You'd agree with me that at that
3 time we were under an earlier Commission order to
4 produce a CTUSR; is that correct?

5 A. That's correct.

6 Q. Can we go back to your rebuttal,
7 page 10? At the top you have a discussion about the
8 title of this rule as the Enhanced Record Exchange
9 Rule, right?

10 A. Yes.

11 Q. And I'd like to focus on your
12 presumption that the rule was intended to enhance the
13 records that your clients were receiving prior to the
14 rule, and specifically your statement that, "Without
15 the inclusion of CPN or the 'from' number in the
16 billing record for wireless calls, the rule provides
17 little or no enhancement of the record." Do you see
18 that?

19 A. Yes.

20 Q. Would you agree with me that the phrase
21 "Enhanced Record Exchange Rule" was actually coined
22 by the Commission in Case TO-99-593?

23 A. I don't know when it was first coined.

24 Q. Okay. Would you agree with me that in
25 that case in December 2001, the Commission ordered

1 the implementation of OBF 2056 to enhance the record
2 exchange?

3 A. I remember that case.

4 Q. Okay. Would you agree with -- that
5 staff later concluded that 2056 wouldn't address the
6 issue and as a result, the Commission directed the
7 industry to work on an enhanced record exchange
8 process; do you recall that?

9 A. Yes, that's in my direct testimony.

10 Q. Okay. And you'd also agree that staff's
11 February 2003 Motion For Finding of Necessity For
12 Rulemaking which led to the rule we're talking about
13 today, it repeated the Commission's language from
14 99-593 that it was necessary for the Commission to
15 adopt a rule for the enhanced record exchange, right?

16 A. I don't recall that specifically.

17 MR. BUB: May I approach the witness?

18 JUDGE DALE: Yes.

19 MR. BUB: What I'm handing the witness
20 is the staff Motion For Finding of Necessity of
21 Rulemaking in TX-2003-0301.

22 BY MR. BUB:

23 Q. And at page 4 there's language that,
24 "It's necessary for the Commission to adopt a rule
25 for the -- for enhanced record exchange that will

1 improve call records and traffic measurement, reduce
2 the number of billing discrepancies and make it
3 easier to resolve the billing discrepancies that do
4 arise." Do you agree with that?

5 A. Yeah, that's a correct reading of the
6 staff's motion.

7 Q. Now, would you agree with me at that
8 time that it was filed, February 2003 --

9 A. Okay.

10 Q. -- that AT&T Missouri was producing the
11 CTUSR for the wireless-terminating calls?

12 A. Yes.

13 Q. Okay. And it wasn't until the following
14 year, June 2004, that we began actually providing
15 these detailed records, right?

16 A. Yes.

17 Q. Okay. Would you agree with me that
18 these detailed category 11 records we're providing on
19 wireless traffic are a considerable enhancement over
20 the CTUSR?

21 A. Yes.

22 Q. Okay. Mr. Schoonmaker, I'd like to
23 change gears now. Let's go to a different topic, if
24 I can.

25 JUDGE DALE: Before you change gears --

1 MR. BUB: Okay.

2 JUDGE DALE: -- Commissioner Clayton
3 would like to reexamine Mr. Voight. Since it appears
4 that we are not going to, in fact, finish by noon in
5 accordance with my fondest hopes, so with that, if
6 you'll please switch places with Mr. Voight who I'll
7 remind is still under oath.

8 COMMISSIONER CLAYTON: That's the case,
9 unless Mr. Bub thinks he's gonna finish here fairly
10 quickly.

11 MR. BUB: In all honesty, I do have
12 more, your Honor --

13 COMMISSIONER CLAYTON: Okay.

14 MR. BUB: -- so I don't have any trouble
15 with --

16 COMMISSIONER CLAYTON: I've got about
17 ten or 15 minutes that I think will remove me from --
18 from the hearing, and I've got a full afternoon.

19 JUDGE DALE: Of course, when he's gone,
20 I'll be really surly.

21 MR. ENGLAND: Are we off the record?

22 JUDGE DALE: Now we are.

23 (DISCUSSION HELD OFF THE RECORD.)

24 JUDGE DALE: I wanted to clarify that in
25 Exhibit No. 13 which has been accepted into evidence,

1 you will note that not every STCG member responded,
2 and that was allowed in a previous ruling on a
3 discovery dispute. With that, we will go to
4 commissioner questions of Mr. Voight.

5 COMMISSIONER CLAYTON: And just so the
6 parties are aware, really I don't have much -- that
7 much in questions, so in terms of timing...

8 QUESTIONS BY COMMISSIONER CLAYTON:

9 Q. Mr. Voight, thank you for coming back
10 and thank you for taking my questions out of order
11 and restructuring the day.

12 Looking at your direct testimony on
13 pages 9 and 10, you lead into a quote on lines 3
14 through 21. Do you have your direct testimony with
15 you?

16 A. Yes.

17 Q. Okay. And -- and that quote comes from
18 what? At least I assume it's a quote.

19 A. I believe -- I think we're talking about
20 the one on page 10, line 3?

21 Q. Yes.

22 A. That's from the -- that's from an
23 August 11th, 2003 staff recommendation that has been
24 marked as Exhibit 8 in this case. We were -- we were
25 responding to a Commission order to respond to a

1 number of, I guess you'd call them allegations in
2 this case.

3 Q. What case is that document in? Is it in
4 the rulemaking? Is it in TX-2 -- TX-2003-0301 is the
5 rulemaking case, is it not?

6 A. Yes, I believe --

7 Q. I've had some difficulty identifying an
8 August 11 filing in that case.

9 A. Well, it's the rulemaking case, that's
10 right. It's TX-2003-0301. And it was at a period of
11 time before the Commission decided to open a new case
12 to examine this issue.

13 MR. KRUEGER: Your Honor, may I
14 interrupt? I think in addition, in the current case,
15 it's Case No. TE-2006-0053, I believe.

16 COMMISSIONER CLAYTON: And that's a
17 staff response to Commission inquiries?

18 MR. KRUEGER: It is a staff
19 recommendation.

20 COMMISSIONER CLAYTON: Okay.

21 MR. ENGLAND: There should be a copy on
22 the bench for you, Judge.

23 JUDGE DALE: As I'm flipping through,
24 all I can find is a copy of my note and not a copy
25 that I marked Exhibit 8.

1 BY COMMISSIONER CLAYTON:

2 Q. That's okay. I just -- it doesn't --
3 the case number threw me off and I couldn't find it
4 in the case number.

5 A. I apologize. I appear to have quoted
6 the wrong case there on line 2.

7 Q. There's no need to apologize, Wild Bill.

8 A. Well, I've got myself confused.

9 Q. Would -- would it be a fair statement
10 that the language that you have quoted between line 3
11 and line 21 on page 10 of your direct testimony is
12 similar to language that comes from the order of
13 rulemaking on -- on the rule in question --

14 A. Yes.

15 Q. -- which I believe is .040(4), the
16 comments and the Commission responses to comments in
17 the rulemaking?

18 A. Yes, it's similar.

19 Q. I don't want to say it's quoted
20 verbatim, but the gist is identical though?

21 A. The gist is identical. I -- it came up
22 this morning while you were in agenda that one
23 significant aspect of this quote here is our
24 reference to absent -- that the term "absent
25 compelling reasons to otherwise."

1 Q. Okay.

2 A. And that's what happened.

3 Q. The Commission responses in the order of
4 rulemaking are -- are responses prepared by whom? We
5 can't assume that the Commission actually writes
6 these. They're prepared on behalf of the Commission;
7 would you agree with that?

8 A. Yes, they are prepared on behalf of the
9 Commission.

10 Q. Do you know who prepared them?

11 A. I think it varies from case to case
12 with --

13 Q. I'm talking about this case.

14 A. This particular case, primarily the
15 staff.

16 Q. I recognize the staff. That would be
17 you?

18 A. Yes.

19 Q. Were you the person that prepared them?

20 A. Yes.

21 Q. Okay. And do you recall the date on
22 which these comments were prepared by you?

23 Approximately. I don't need exactly.

24 A. It would have been in the
25 February/March/April time frame.

1 Q. Of 2005?

2 A. Yes.

3 Q. All right. So about three months ahead
4 of the final order of rulemaking being issued by the
5 Commission, the comments and responses were prepared
6 by you and your staff --

7 A. Yes.

8 Q. -- of the Commission; is that a fair --

9 A. Yes.

10 Q. -- assessment of what happened?

11 A. Yes.

12 Q. Okay. Okay. And at -- at that time,
13 there were comments filed inquiring about whether the
14 CPN was required to be included within category 1101
15 records; is that correct?

16 A. Yes.

17 Q. And who raised that issue?

18 A. It was originally raised by Mr. Johnson
19 and the Small -- excuse me, Missouri Independent
20 Telephone Company Group.

21 Q. And in the comments that were raised, do
22 you recall what the responses were included within
23 those comments prepared for the Commission?

24 A. I'm sorry. The Commission's responses
25 or Bell's responses?

1 Q. Well, I keep saying that the responses
2 that were included within the order of rulemaking.
3 Did -- did the comments and responses within the
4 order of rulemaking establish whether the CPN was to
5 be included within category 1101 records? Do you
6 recall?

7 A. Yes. The Commission's responses,
8 written responses to those comments indicated -- I
9 would have to use the term categorically that it was
10 required.

11 Q. And those comments were prepared --
12 those comments and responses were prepared by you and
13 your staff and then adopted by the Commission?

14 A. Yes.

15 Q. The order of rulemaking was
16 approximately May 11th of 2005; would you agree with
17 that?

18 A. Yes. That's when the Commission's --
19 that's the exact date, I believe, when the
20 Commission's comments -- Commission's responses to
21 the rule comments was issued, the Commission's
22 responses to those comments.

23 Q. So at that time -- at that time by
24 adopting the -- this language, would you agree that
25 the CPN was to be included in category 11 records as

1 part of this rule?

2 A. Well --

3 Q. Or no?

4 A. -- no, I have to answer no to that
5 because given my understanding that the legal
6 concept that the comments do not constitute the
7 rule itself.

8 Q. So what does that language mean? Are
9 you saying that it's just not binding? I guess, let
10 me rephrase the question.

11 Aside from whether or not these comments
12 are legally binding, in your mind as the lead staff
13 person at the time these comments were prepared and
14 eventually adopted, in your mind was the CPN to be
15 included in category 11 records?

16 A. Yes.

17 Q. Okay. And in your testimony, you state,
18 I believe, that at some point -- I think on page 10
19 the question that is asked, "Mr. Voight, were there
20 other reasons for staff to change its mind?" So there
21 was a change in position by staff; is that correct?

22 A. Yes.

23 Q. And it suggests that that occurred
24 sometime later in 2005, perhaps October or later in
25 2005 when staff changed its mind?

1 A. Yes. This process of changing our mind
2 occurred over the course -- generally from the fall
3 of 2004 to the fall of 2005. There is no single
4 defining event that caused us to change our mind.

5 Q. But you hadn't changed your mind as of
6 May 11th --

7 A. That's correct.

8 Q. -- 2005?

9 A. That's correct.

10 Q. Okay. So your mind changed 2005 -- or
11 late 2005?

12 A. Yes, if I had to put a date on it, it
13 would be October 13th, 2005.

14 Q. And that was following a conversation
15 that you had with Tim Judge; is that correct?

16 A. Yes, sir, that's correct.

17 Q. And what would that --

18 So you had a conversation with Tim Judge
19 of then SBC, now AT&T, and information that was
20 conveyed at that time assisted in modifying your
21 position on the issue?

22 A. Yes.

23 Q. Okay. And just generally speaking, that
24 information with regard to cost, that would be the
25 cost impact on SBC because of the interpretation of

1 the rule?

2 A. Yes, cost and other mitigating factors.

3 Q. What other -- what other factors,
4 generally speaking?

5 A. The rule can be interpreted, I believe,
6 as either including it or not including it. I
7 don't -- I honestly don't believe it's that specific,
8 just reading the plain words of the rule.

9 It's only when we get into this
10 discussion of intent does it become clear that, yeah,
11 that's what we intended, but it may not say that, so
12 that's certainly one mitigating factor.

13 The other mitigating factor, without
14 question and I think equally was as strongly, was
15 the -- what's been called the GR-1504 document
16 supplied to staff by Mr. Bub that was not available
17 in the, you know, early in 2005. In particular, the
18 R3-85 per trunk group billing number requirement.

19 Those would be the two main -- as well
20 as knowledge that something called the jurisdictional
21 informational parameter, which I went into in my
22 testimony. Those -- primarily those three issues
23 were the other mitigating factors that caused us to
24 change our mind.

25 Q. At what point was doubt created in your

1 mind about the intention of the Commission's
2 rulemaking?

3 A. When -- at some -- I don't know that I
4 can put it -- an exact date on it. Certainly in my
5 own mind, it was when I read the rule definition of
6 an EMI billing record and exchange message interface
7 billing record, which is, after all, what we're
8 really talking about here.

9 And that the definition says an industry
10 standard, so some doubt began to -- basically the
11 definition says, "We shall use an industry standard."
12 So some doubt began to creep into my own mind as to
13 whether or not an industry standard actually required
14 the CPN.

15 So -- but I -- undoubtedly it was in the
16 spring/summer time frame of 2005 is when I began to
17 have some doubt in my own mind.

18 Q. But you didn't act on that prior to
19 May 11th, 2005, did you?

20 A. No, I did not.

21 Q. No. The language which I think has been
22 probably quoted by various people, reading from page
23 13 from the comments in the order of rulemaking,
24 "we," meaning the Commission, "We, thus, determined
25 that transiting carriers shall include the CPN as

1 part of the category 1101 XX records created for
2 wireless-originated traffic occurring over LEC-to-LEC
3 network. If any carrier determines that it cannot or
4 should not include the originating CPN of wireless
5 callers in a category 1101 XX billing record, it is
6 free to petition the Commission to be excluded from
7 that aspect of our rule."

8 There's some other language and it says,
9 "We see no reason to exclude wireless CPN from the
10 billing records generated by transiting carriers."
11 Did you write that language?

12 A. Yes.

13 Q. That's pretty clear that the Commission
14 contemplated whether or not CPN was to be included
15 within category 1101 records, isn't it, in that the
16 method for a party feeling aggrieved to such a ruling
17 would be to request a waiver? Now, would you agree
18 or disagree with any part of that statement?

19 A. I agree fully that that wording seems
20 pretty clear.

21 Q. "That the time that the Commission
22 enacted this rule, it contemplated this issue, and it
23 dispensed with arguments made by a party. It seems
24 that according to this language, that it's fairly
25 clear whether or not the Commission intended for CPN

1 records to be included within the 1101 records." Do
2 you disagree with that?

3 A. No, I do not disagree with that.

4 Q. Okay.

5 A. I view that as central and critical,
6 which is why I put it in my testimony.

7 Q. Okay. Well, and I appreciate you saying
8 that. That this is not an easy issue, and you've
9 been involved in it for quite some time. Longer,
10 certainly, than most of the commissioners.

11 So I will ask you this: Wouldn't it be
12 the most -- the most appropriate way for this
13 Commission to deal with this issue is to not face it
14 as whether the rule intended to deal with CPN, but
15 whether or not a waiver is appropriate? Shouldn't we
16 be looking at this as a waiver case rather than
17 whether CPN was intended or not?

18 A. You know, I honestly don't know. We
19 debated -- the parties had many, many discussions
20 about how to -- how to proceed procedurally. I'm not
21 sure if we, as it were, to fast forward to the
22 critical issue of permanent waivers required, I don't
23 know if that would be the most judicial way to handle
24 this or not.

25 Q. Mr. Voight, it just seems like you're

1 thinking more like a lawyer than you should in this
2 case.

3 A. I need to go fishing this afternoon if
4 that's the case.

5 Q. And I know that's strange to have an
6 attorney say that you shouldn't be thinking like an
7 attorney, but is it a fair statement that until
8 someone said that perhaps this document was legally
9 binding, then suddenly there's an argument that --
10 that the language that you drafted and that the
11 Commission adopted should not be considered or is
12 irrelevant or is not -- is not relevant for the
13 discussion on what we intended?

14 A. I think it's very relevant. I also --
15 well, yes, I'll leave it at that. I think it's very
16 relevant. It --

17 COMMISSIONER CLAYTON: Okay. Judge, I
18 don't have any other questions. Thank you and I will
19 say I don't have any questions for Mr. Schoonmaker
20 either, so I appreciate the parties being patient
21 with my attendance. Thank you.

22 MR. ENGLAND: Your Honor, based on that
23 exchange between the commissioner and Mr. Voight, I
24 would move at this time for a summary determination
25 on the phase one issue which is whether or not CPN is

1 required in the rule.

2 I think it's pretty unequivocally been
3 demonstrated that it's in the rule. If there's any
4 ambiguity, the intent was that it was to be in the
5 rule based on the comments adopted by the Commission.

6 And without wasting any more time,
7 recess and move to phase two where we can put in
8 testimony and Southwestern Bell can put in additional
9 testimony regarding the appropriateness of a
10 waiver.

11 MR. BUB: Your Honor --

12 MR. ENGLAND: I think to do any more is
13 just a waste of time, quite honestly. And I
14 appreciate that's just my opinion, but I feel pretty
15 strongly about it.

16 JUDGE DALE: Mr. Bub?

17 MR. BUB: Your Honor, I do think it's
18 premature. I think that we really do need to look at
19 the rule. And, you know, we all agreed to a
20 particular process. It was our proposal that we take
21 it all together, and it was against our wishes that
22 we bifurcate it. We think there's a real crossover
23 between all the evidence. But if we started along
24 this process, I think we need to finish it.

25 I think I'm also entitled to redirect --

1 or recross-examine Mr. Voight, and his own attorney
2 is permitted to redirect on the questions that
3 Commissioner Clayton has asked, you know, about the
4 Commission's intent in this rule. So I think it's
5 very premature.

6 MR. KRUEGER: I would oppose the motion
7 as well, your Honor. The -- what needs to be
8 determined is what the rule requires, and what the
9 rule requires is what the rule says. The comments
10 can be used for providing guidance in regard to that,
11 but they can't be used to change what the rule
12 actually says.

13 And I think the determination of what
14 the rule says is that it must utilize the category 11
15 records. And what goes into those records is what's
16 at issue in this case, and that can't -- that can't
17 be changed by the comment or responses to comments.

18 And the case that I'm basing this upon
19 is State ex rel. City of Springfield versus Public
20 Service Commission of the State of Missouri where
21 the -- where the Court of the Western District said
22 that the statements that are made in responses to
23 comments can't be used to change the requirements of
24 the rule.

25 JUDGE DALE: Oddly enough, I have a list

1 of legal questions that I'm going to be giving you
2 concerning legal standards for interpretation of
3 rules.

4 Be that as it may, unfortunately, I
5 think that the timing of your motion is improper in
6 that we cannot, at this point halfway through a
7 witness, abandon the proceedings and go on.

8 However, it's my fond hope that we will
9 move along very, very quickly. Cross on Mr. Voight?
10 Who's up next? Staff witness, CenturyTel?

11 MR. DORITY: I have no questions, your
12 Honor.

13 JUDGE DALE: Then it's AT&T Missouri.
14 CROSS-EXAMINATION BY MR. BUB:

15 Q. Mr. Voight, in your discussions with
16 Commissioner Clayton, you talked about the intent,
17 staff's, Commission's intent, that these category 11
18 records we're talking about right now for terminating
19 wireless traffic be industry standard records, right?

20 A. Yes, we talked about that.

21 Q. Okay. And that's your testimony that it
22 was the intent that they be industry standard
23 records -- based on the definition of the category 11
24 in the rule, it was the intent that those records be
25 industry standard records?

1 A. I don't -- I don't know, Mr. Bub. I --
2 our intent -- the intent was -- at that time was that
3 CPN would be there and --

4 Q. Okay. And it was your understanding at
5 that time that that was the industry standard?

6 A. Yes.

7 Q. Okay. Would you agree with me that
8 industry standards are shown by what carriers across
9 the country do?

10 MR. ENGLAND: Objection. I believe that
11 calls for a legal conclusion.

12 THE WITNESS: I honestly --

13 MR. ENGLAND: Well, never mind.

14 BY MR. BUB:

15 Q. Well, let me back up.

16 A. I don't know.

17 Q. Would you agree with me that industry
18 standards are shown in technical documents?

19 A. Yes.

20 Q. Okay. Like the GR document that you
21 referenced?

22 A. Yes.

23 Q. And the Telcordia document -- and the
24 EMI-OFB document?

25 A. Yes.

1 Q. Okay. Would you also agree with me that
2 how manufacturers interpret those in building their
3 machines reflects industry standards?

4 A. Yes.

5 Q. And how carriers creating records also
6 reflects their understanding of these industry
7 standards?

8 A. Yes.

9 MR. BUB: Okay. I think that's all the
10 questions I have, your Honor. Thank you.

11 JUDGE DALE: Thank you.

12 MR. BUB: Thank you, Mr. Voight.

13 CROSS-EXAMINATION BY MR. ENGLAND:

14 Q. Mr. Voight, I'll try to be brief because
15 I know how important it is for you to get away this
16 afternoon. I just wish I could be with you.

17 Very briefly, if I understand your
18 testimony and I think I do, you do not agree, if
19 you will, with Mr. Schoonmaker that the -- and I
20 hope I get the numbers right, the R 79 and the R 80
21 issues, whatever you want to call it in that
22 Telcordia document, require additional information in
23 the AMA recordings to include, among other things,
24 CPN?

25 A. I don't know that I disagree with

1 Mr. Schoonmaker in that regard. I might say that
2 certainly the potential exists for a disagreement
3 on the ultimate conclusion about what that data
4 means.

5 MR. ENGLAND: Okay. Fair enough. Thank
6 you. No other questions.

7 JUDGE DALE: Thank you. Redirect?

8 MR. KRUEGER: Thank you.

9 REDIRECT EXAMINATION BY MR. KRUEGER:

10 Q. Mr. Voight, in opening statements,
11 Mr. Johnson stated that the only reason we are here
12 is because the staff changed its mind. Do you recall
13 that?

14 A. Yes, I recall that.

15 Q. Do you agree with that?

16 A. Well, I'm flattered that Mr. Johnson
17 would think that the reason we're here is because of
18 a staff recommendation to change its mind. But, no,
19 I do not agree with that. I think the Commission was
20 bound to have had this issue brought before it in
21 some form at some point in time irrespective of the
22 staff's opinion.

23 Q. Would the CPN give you a jurisdiction of
24 a wireless-originated call?

25 A. Not on the LEC network, no.

1 Q. Does the OCN do that?

2 A. No.

3 Q. Does the BTN do that?

4 A. No.

5 Q. Would the CPN sometimes give a correct
6 jurisdictional indicator for a wireless call?

7 A. Yes, sometimes.

8 Q. Can you rely upon it doing so?

9 A. Not in my opinion.

10 MR. KRUEGER: Thank you. That's all the
11 questions I have.

12 JUDGE DALE: Thank you. Mr. Voight, you
13 may step down and are excused.

14 THE WITNESS: Thank you, your Honor.

15 JUDGE DALE: And we will then resume
16 with Mr. Schoonmaker.

17 ROBERT C. SCHOONMAKER, testified as follows:

18 CROSS-EXAMINATION RESUMED BY MR. BUB:

19 Q. Good afternoon, Mr. Schoonmaker.

20 A. Good afternoon, Mr. Bub.

21 Q. Let's move to rebuttal, page 11 I think,
22 where we left off, please. Line 22 you indicate, "In
23 other cases where AT&T Missouri is the terminating
24 carrier, it has forcefully argued that the
25 information required by the rule is necessary in

1 order to bill for wireless traffic." And then you go
2 on to reference an FCC ex parte filing that we made
3 that you attached as RCS 6; is that right?

4 A. Yes.

5 Q. Okay. If we could move to that exhibit.
6 This is your document that you just -- that you
7 attached that actually -- the first page is a cover
8 sheet, and the second page is actually the
9 substantive document, and it deals with phantom
10 traffic; is that right?

11 A. That's correct.

12 Q. Okay. And this is a problem that -- of
13 a concern to most LECs, including your clients, isn't
14 it?

15 A. Yes.

16 Q. Okay. And you attached this document to
17 your testimony, so I take it you're familiar with it?

18 A. I have -- have gone through it once or
19 twice. I'm not intimately familiar with it.

20 Q. Okay. You'd agree with me that this
21 document advocates the FCC establishing rules
22 requiring the signaling of CPN; is that right?

23 A. That's correct.

24 Q. And its focus really isn't on billing
25 records for wireless traffic, is it?

1 A. That's not the recommendation, no.

2 Q. And in fact, the document itself
3 recognizes that wireless traffic is handled
4 differently from the landline traffic, isn't it? And
5 I can give you a reference. Page 7. Are you at 7?

6 A. I'm at page 7 and I assume you're
7 referring to the second dash under the first bullet
8 point?

9 Q. Correct, correct. And you'd agree with
10 me that there's an announcement there that for
11 wireless traffic delivered over local
12 interconnection, negotiated factors are used, right?

13 A. Generally, yes, and that's what it says.

14 Q. Okay. And taking the document as a
15 whole, there really isn't anything in this document
16 that your clients disagree with, is there? And if
17 you haven't had a chance to review the whole thing --
18 but I would be interested in your opinion, if you
19 know. But I don't want to make you have to read it.

20 A. Well, I guess I would say this: That
21 the recommendation, as far as it goes, is fine, but I
22 don't think the recommendation will solve all the
23 problems with phantom traffic, and we would have
24 other things that we think might be -- need to be
25 done as well.

1 Q. Okay. But you agree with the
2 recommendation?

3 A. I agree with the recommendation as far
4 as it goes. I don't agree with the recommendation
5 that it solves the problem.

6 Q. I'd like to change gears in here and
7 talk about the Global Crossing. You referenced that,
8 I think, on page 12 of your rebuttal?

9 A. Yes.

10 Q. Okay. It's, for reference, footnote 2.
11 The litigation you cite concerned wireless traffic,
12 right? But it was -- the suit wasn't between SBC and
13 a wireless carrier, was it? I'm sorry. If you need
14 time to get that. I didn't mean to jump into --

15 A. Well, it wasn't a suit; it was a request
16 for declaratory ruling. But yes, it was between SBC
17 and Global Crossing.

18 Q. Okay. And Global Crossing acting as an
19 IXC, interexchange carrier?

20 A. Yes.

21 Q. And is it correct that the litigation
22 concerned this wireless-originated traffic that the
23 IXC brought to the landline network for termination?
24 And an example of that would be that Colorado Springs
25 cell phone call that you made from home to Mr. Voight

1 here in Jefferson City, right?

2 A. Presumably, yes.

3 Q. Okay. And that call you'd agree would

4 be likely handed off to an IXC in Colorado Springs

5 for carriage to Missouri, right?

6 A. Likely, yes.

7 Q. Okay. And brought into the LEC network

8 here in Jefferson City as a Feature Group D long

9 distance call?

10 A. Yes.

11 Q. Okay. And your clients agree with us

12 that that type of call, even though it may have

13 started on your cell phone, should be treated as a

14 long distance Feature Group D call?

15 A. Yes.

16 Q. Okay. You would agree with me that

17 access charges are appropriately applied on that

18 call?

19 A. Yes.

20 Q. Okay. And on Feature Group D calls,

21 you'd look at CPN to determine jurisdiction, right?

22 A. Yes, that's what SBC argued.

23 Q. Okay. And that's what your clients do

24 also too, right?

25 A. Yes, it is.

1 Q. And that's pursuant to your access
2 tariffs, right?

3 A. Yes.

4 Q. And that's consistent --

5 A. It would be pursuant to the fact that
6 it's the best available information as well.

7 Q. And it's also pursuant to SBC's access
8 tariffs that you're also familiar with, right?

9 A. I mean, in general terms I'm familiar
10 with it. I'm not familiar with all the specifics of
11 SBC's access tariff.

12 Q. For that particular provision, you know
13 that under our access tariff it says you look at CPN
14 to determine jurisdiction, just like your access
15 tariff does?

16 A. That's what I -- what I understand SBC's
17 position to be.

18 Q. And you understand that access tariff
19 has that provision in it too, right?

20 A. I assume since SBC argued that, that it
21 does.

22 Q. Okay. Now, you would agree with me
23 that the wireless calls we're talking about here
24 are handled differently under a completely different
25 regime, right? Instead of being handled on an

1 access tariff, the FCC says it's treated differently,
2 right?

3 A. Most of them wouldn't be billed under an
4 access tariff. Some of them would.

5 Q. Okay.

6 A. And actually, for a couple of our
7 clients, a substantial amount of them would be billed
8 under the access tariff.

9 Q. Okay. Let's look at it from a technical
10 perspective. You would agree with me that that
11 Colorado Springs cell phone call to Jefferson City --
12 and we already talked about how that technically
13 comes into the network. One technical aspect that we
14 didn't talk about was that when that comes in, it
15 comes in over a specific type of trunk for an
16 interexchange carrier, right?

17 A. Yes.

18 Q. And the specifications that we've talked
19 about today, the Telcordia specifications talk about
20 what types of information are to be recorded on those
21 IXC calls, right?

22 A. Yes.

23 Q. And then there's OBF-EMI guidelines that
24 also talk about what specific information needs to be
25 included from those -- from that AMA data into the

1 EMI category 11 record for those specific calls,
2 right?

3 A. Yes.

4 Q. Okay. Now, I'll contrast that to the
5 wireless-terminating calls that actually we're
6 talking about here today. Those come in over
7 completely different trunk groups, right?

8 A. The ones that are directly terminated --

9 Q. Yes.

10 A. -- by a wireless carrier --

11 Q. Yes.

12 A. -- are on different trunk groups, yes.

13 Q. Dedicated trunk groups to the wireless
14 carriers?

15 A. Yes.

16 Q. And there's specific standards for those
17 types of calls under the Telcordia document, right?

18 A. There are, and they include --

19 Q. Just yes. We don't need --

20 A. Okay.

21 Q. We've already talked those to death.
22 Yes, specific standards. And there's also specific
23 standards for -- under the EMI guidelines for the
24 creation of wireless billing records, right?

25 A. Yes. And in my view they're the same

1 in -- as for both kinds of records.

2 Q. Okay. Now, let's look at how those are
3 handled under the different regulatory regimes. And
4 we've talked about the access tariffs, which are that
5 long distance wireless call that came from Jefferson
6 City -- I'm sorry, from Colorado Springs to Jefferson
7 City.

8 Let's look at the directly-connected
9 wireless call. The one that -- for example, one you
10 might make from here in the courtroom to Mr. Voight's
11 office. In that particular case, the FCC says that
12 that has to be handled pursuant to an interconnection
13 agreement, right?

14 A. I think actually you've got to blame
15 Congress for that one.

16 Q. Okay. Federal Telecommunication Act,
17 right?

18 A. Yeah.

19 Q. And in interpreting that act, the FCC
20 specifies a different intercompany compensation
21 regime for those, right, for those calls? Let me --
22 I'll be more specific.

23 A. The amounts that are paid for the calls
24 are different for certain types of calls.

25 Q. They set up something called the MTA

1 that's to be defined as the local area for
2 landline-to-mobile or mobile-to-landline calls,
3 right? On that MTA is the local area, right, for
4 intercompany compensation purposes?

5 A. For calls originating from a wireless
6 phone, which is the example we're using, yes.

7 Q. Okay. And all calls that originated
8 from a mobile phone within the MTA terminating to a
9 landline also within the MTA is considered local for
10 intercompany compensation purposes, right?

11 A. Yes, and wireless-to-wireline.

12 Q. Okay. And for example, the St. Louis
13 MTA takes up more than half of the state, right?

14 A. Yes.

15 Q. And on those calls FCC prohibits access
16 charges and mandates the application of a lower
17 reciprocal compensation rate, right?

18 A. As -- yes, they do now.

19 Q. Okay. And in contrast to the IXC
20 terminating call, even such calls that might start on
21 a cell phone, if the call crosses, you know, even one
22 exchange boundary, the IXC is obligated to pay access
23 charges, isn't it?

24 A. Unless it's within an extended area of
25 service area.

1 Q. Okay. And even from a state
2 perspective, those -- until recently I think as you
3 were starting to point out, those were handled under
4 completely two separate tariff regimes. On one hand
5 you had the IXC traffic, your call from Colorado
6 Springs to Jefferson City, that would be handled
7 under the access tariffs, right, either state or
8 intrastate?

9 A. Yes.

10 Q. On the wireless terminating side, the
11 directly-connected wireless calls, until recently
12 your clients had a separate tariff for those, right,
13 wireless termination service tariffs?

14 A. Yes, until April 25th.

15 Q. Okay. Until the FCC said that those
16 services can't be tarified at all?

17 A. Yes.

18 Q. Would you agree with me that had AT&T
19 Missouri's witnesses here been maybe a little bit
20 more specific in the labels that they were attaching
21 to the traffic at issue here, you know, we're talking
22 about the directly-connected wireless traffic, if you
23 just use that label, would you agree with me that the
24 conflict that you and your clients perceive with our
25 position with the FCC would be less of a conflict

1 because wouldn't it be clear that on that
2 directly-terminated wireless traffic, CPN is
3 unreliable for billing?

4 A. Well, you asked about three questions
5 there and the answers to -- to them are different.

6 Q. Okay. Okay. I apologize for that.
7 Let's break it up. Would you agree with me that on
8 directly -- I think we've already talked about the
9 directly-connected wireless calls, that you can't use
10 CPN to bill those calls, right?

11 A. It's not as reliable. And based on
12 contracts, they're generally not used on an
13 individual call basis.

14 Q. Okay. And if our witnesses had labeled
15 in their testimony the traffic we're talking about
16 here as the directly-connected wireless traffic, you
17 wouldn't have disagreed with their statement that CPN
18 was unreliable for billing this type of traffic?

19 A. That question implies that I disagreed
20 with that statement, and I'm not sure that I did.

21 Q. Okay. Would you agree with me that part
22 of the problem here in these two cases is that we're
23 attaching the same label, wireless-originated
24 traffic, to two different animals?

25 A. No.

1 Q. IXC-terminated on one hand, right?

2 A. Is that a question?

3 Q. Yes.

4 A. There is IXC traffic.

5 Q. Your call from Colorado Springs to

6 Jefferson City, that would be an IXC-terminated call,

7 right?

8 A. It would.

9 Q. Okay. And a local call that you would

10 make to Mr. Voight from this courtroom, that would be

11 a directly-connected call, right?

12 A. Yes.

13 Q. And we've already talked about how

14 those -- two different regulatory regimes for those

15 two different kinds of calls, right?

16 A. We talked about that.

17 Q. And you would agree that there are two

18 different regulatory regimes, right?

19 A. I did.

20 Q. Two different network standards for

21 those two different types of calls, right?

22 A. Somewhat different.

23 Q. Two different tariffs when tariffs were

24 permitted?

25 A. There were different tariffs.

1 Q. And even though all those differences
2 that you agree with them, you still think it's the
3 same traffic?

4 A. No, I didn't say that.

5 Q. Okay.

6 A. I said -- you had -- the question that I
7 answered no to had to do with would all these issues
8 have gone away if we'd recognized that. And the
9 answer to that is no.

10 We still have an issue regarding the
11 direct-connected wireless records and whether they
12 should include CPN or not so that we can use that to
13 help in our jurisdictional factors and the other
14 things that we need to, to try to help determine the
15 jurisdiction of the traffic. And we have a
16 disagreement as to what the EMI standard record
17 requires.

18 Q. Okay. I think you're changing the line
19 of questions that I was trying to focus on, on the
20 different interpretations that we have between this
21 case and that Global Crossing case.

22 Would you agree with me if we had used
23 better labels, our positions which you've
24 characterized as inconsistent would be more
25 understandable?

1 MR. ENGLAND: Your Honor, I've got an
2 objection to this line of questioning, one as to
3 relevance, but more because I believe Mr. Bub is
4 confusing CPN for billing purposes with CPN for
5 jurisdictional purposes.

6 And he keeps asking questions, one,
7 talking about using CPN for billing and then CPN for
8 determining the jurisdiction of the call, and those
9 are two different purposes.

10 And it's -- I think the witness is
11 trying -- the witness is trying to maintain that
12 distinction, but the questions are not following
13 that.

14 JUDGE DALE: Moreover, he -- you asked
15 and he answered the complex compound question. You
16 then broke it up into parts and asked him again and
17 he answered. He has asked and answered more than
18 once. Please move on.

19 MR. BUB: Okay. I'll do that, your
20 Honor.

21 JUDGE DALE: Cool.

22 BY MR. BUB:

23 Q. Okay. Mr. Schoonmaker, final area. You
24 testified concerning your interpretation of the
25 OBF-EMI guidelines; is that correct?

1 A. Yes, I did.

2 Q. And your interpretation is different
3 than that of Mr. Read, right?

4 A. Yes.

5 Q. You've seen his testimony that he's
6 personally participated in the standard-setting
7 process at the OBF for the EMI billing records,
8 right?

9 A. I have.

10 Q. Okay. It's fair to say that you have
11 not?

12 A. That's correct.

13 Q. Okay. And since 1997 he's been a member
14 of the message processing committee at the OBF which
15 is responsible for publishing and maintaining the EMI
16 documents, and he actually chaired that commission
17 for four years. It's fair to say that you're not a
18 member of that committee?

19 A. No, I'm just a reader of the document.

20 Q. Okay. You haven't attended any of those
21 meetings?

22 A. No.

23 Q. Okay. It's fair to say that you don't
24 participate at the OBF at any level?

25 A. Yes, that's correct.

1 Q. Okay. You would agree with me that you
2 don't have the same level of experience with the
3 OBF-EMI document and its application as Mr. Read?

4 A. Yes, I'd agree with that.

5 Q. Okay. You'd also agree with me that in
6 weighing your testimony against his, that this
7 different level of familiarity with the EMI document
8 is something that the Commission can and should take
9 into account?

10 MR. ENGLAND: Objection. That's a legal
11 conclusion.

12 JUDGE DALE: Sustained. I think the
13 Commission takes what it sees before it and weighs it
14 and gives it appropriate weight.

15 BY MR. BUB:

16 Q. As a layman, would you agree that when
17 you have two different opinions like in this case,
18 that it would be appropriate to take into
19 consideration the different level of familiarity with
20 a particular document at issue?

21 A. Yes.

22 Q. Okay. Looking at your background on
23 pages 4 and 5 of your direct, it's correct that you
24 don't have a background in engineering or -- and --
25 or with the network?

1 A. I do not have an engineering background.

2 Q. Okay. And you haven't worked as a
3 telephone network engineer?

4 A. No.

5 Q. You haven't been trained as a telephone
6 network engineer?

7 A. No.

8 Q. Okay. And you're not holding yourself
9 out as a telephone network engineering expert, are
10 you?

11 A. No.

12 Q. Okay. And would you agree with me that
13 as a layman, when looking at your interpretation of
14 the Telcordia document, that your lack of experience
15 in this area is something that can and should be
16 taken into account?

17 A. It should be weighed.

18 MR. BUB: I think that's it, your Honor.

19 JUDGE DALE: Thank you, Mr. Bub.

20 MR. BUB: Thank you, Mr. Schoonmaker.

21 THE WITNESS: You're welcome.

22 JUDGE DALE: Recross? No, wait a
23 minute. We're on STG witness. We just finished all
24 the cross. Now we're on redirect.

25 MR. ENGLAND: Thank you, your Honor.

1 REDIRECT EXAMINATION BY MR. ENGLAND:

2 Q. Mr. Schoonmaker, I'm gonna -- I've got
3 quite a few notes here, starting with some questions
4 and answers -- rather, questions from Mr. Krueger and
5 answers to. Then moving on to questions from Mr. Bub
6 and answers that were given. So bear with me as I
7 work my way through this chronology.

8 MS. MORGAN: Excuse me. You never did
9 finish your extra direct of Bob either, did you?

10 MR. ENGLAND: No, but I have this as
11 part of my redirect.

12 JUDGE DALE: Okay. Cool.

13 MS. MORGAN: Sorry.

14 MR. ENGLAND: I think.

15 JUDGE DALE: If not --

16 MR. ENGLAND: I can't read my own
17 handwriting. That's my problem right now. But
18 that's my problem, that's not anybody else's.

19 BY MR. ENGLAND:

20 Q. I believe in response to questions from
21 Mr. Krueger, you were asked about standard industry
22 practice regarding the population of the "from"
23 number field in 1101 records. Do you recall that
24 question?

25 A. Yes.

1 Q. Is it standard industry practice to
2 populate the "from" number field in 1101 records with
3 CPN for IXC records?

4 A. Yes.

5 Q. Same question for CLEC records?

6 A. Yes.

7 Q. What other records besides wireless is
8 it apparently not industry standard according to
9 staff or SBC?

10 A. Well, Mr. Read, I think, sort of put
11 those in three categories and agreed those were the
12 major categories. In the documentation itself, there
13 are some special kinds of wireless records that I
14 believe I discussed briefly with Mr. Krueger that the
15 EMI documentation specifies that a different kind of
16 number should be put in there.

17 Q. Well, is the "from" number defined
18 differently for IXC and CLEC records versus wireless
19 records?

20 A. No.

21 Q. Is the BTN, as AT&T has defined it in
22 this proceeding, included in the definition of "from"
23 number?

24 A. It is not.

25 Q. Does the BTN identify "the number from

1 which the originating rate center is derived"?

2 A. It does not.

3 Q. If Commission rule requires that
4 SBC/AT&T create an industry standard record for
5 wireless traffic, and that industry standard requires
6 that the "from" number field be populated -- are you
7 with me so far?

8 A. Yeah.

9 Q. Does SBC's practice of populating the
10 "from" number field with the BTN comply with that
11 requirement?

12 A. It does not.

13 Q. Thank you. In some questions from
14 Mr. Bub, I believe he was asking about the 1101
15 records for wireless traffic and how the industry was
16 creating those records, not just SBC but Bell South,
17 Verizon, CenturyTel; do you recall those questions?

18 A. Yes.

19 Q. How long have we been receiving 1101
20 records from SBC?

21 A. Oh, since mid 2004, a little less than
22 two years.

23 Q. Is that, in your opinion -- or excuse
24 me. Are these records, in your opinion, these
25 wireless 1101 records that we're receiving from AT&T,

1 a relatively new phenomenon as far as billing records
2 are concerned?

3 A. From SBC they're relatively new and --
4 and we've been arguing about what should be in them
5 from shortly after we started getting them.

6 Q. Are CTUSR records that we previously
7 received from SBC industry standard records?

8 A. I'm -- I'm not aware that other RBOCs
9 besides SBC prepared that kind of report. I would
10 say that they're not industry standard. They were an
11 SBC-developed report.

12 To the extent that they were approved by
13 this Commission in the wireless tariff case, they
14 sort of became the standard for Missouri. But they
15 weren't generally an industry standard there. They
16 certainly weren't included in the EMI documentation.

17 Q. And how long did we -- I say "we," the
18 Small Companies receive that CTUSR report, if you
19 recall?

20 A. From about 1998 through midyear 2004,
21 roughly six years.

22 Q. Why do we need -- why do the Small
23 Companies need CPN, Mr. Schoonmaker?

24 A. For the wireless traffic, the reciprocal
25 compensation traffic, if you will, that's

1 particularly at issue in this case, we needed to be
2 able to jurisdictionalize the traffic as best we can.
3 And by that, I mean whether by individual call record
4 which we don't do now because we don't have good data
5 to do it that way, or developing the factors to
6 jurisdictionalize traffic.

7 Q. And why do the Small Companies need OCN
8 information?

9 A. The OCN tells us the responsible carrier
10 to bill, and we get the OCN from the billing record.
11 We can get the CPN off the network, and we do get the
12 CPN off the network when we use it. But when we use
13 it in that circumstance, we don't have the specific
14 responsible carrier that's responsible for it.

15 So we have another incongruity or --
16 introduced in terms of the development of our traffic
17 studies to develop and support the factors.

18 Q. What does the BTN, as AT&T has defined
19 it in this case, give the Small Companies that they
20 don't already get with the OCN?

21 A. Well, according to Mr. Read's testimony --
22 or maybe it was Mr. Constable, I don't remember
23 which -- it would give possibly an identification of
24 what trunk group it came over as opposed to just the
25 carrier. I don't see that that gives us anything of

1 any particular value.

2 It's important primarily to know the
3 carrier that's responsible, which is we get through
4 the OCN, and which is the factor that we use for that
5 purpose. And it would be much more useful to have
6 the CPN in the record than the BTN. It really is
7 pretty redundant.

8 Q. What other information do we currently
9 receive in the record today that would tend to
10 identify the jurisdiction of a wireless-originated
11 call?

12 A. In the billing record itself there's
13 nothing.

14 Q. Are the exceptions, if you will, that
15 were discussed by Mr. Bub, or anomalies, if you will,
16 discussed by Mr. Bub with the wireless CPN, the
17 example given, you calling from Jefferson City with
18 the Colorado Springs NPA-NXX, are those examples or
19 anomalies true with respect to wireless-originated
20 calls, whether delivered by a wireless carrier or an
21 interexchange carrier?

22 A. It's the same for both, the same
23 anomalies would exist.

24 Q. Is CPN on wireless-originated calls any
25 more, any less reliable in determining the

1 jurisdiction of wireless-originated calls if that
2 call comes via an IXC or a wireless carrier?

3 A. No. It would have the same quality, the
4 same relevance, the same problems associated whether
5 that is terminated through a direct wireless trunk or
6 through an IXC.

7 Q. Is obtaining or acquiring CPN in what
8 has been described as real time, the same as
9 obtaining that in the billing records that come after
10 the fact?

11 A. Well, the CPN itself would be the same
12 if it were put in the billing record. The thing that
13 the billing record has that is generally not in
14 the -- in the network real time SS7 record, is the
15 OCN number of the responsible carrier.

16 Q. Anything else that we get in the billing
17 record that we don't get in the signaling that you
18 can -- that you can recall?

19 A. Not of particular relevance.

20 Q. Okay. You had a discussion with Mr. Bub
21 regarding traffic -- or excuse me, not traffic
22 studies. Traffic factors, or I guess, a better
23 description would be jurisdictional factors for
24 purposes of wireless interconnection agreements. Do
25 you recall that?

1 A. I do.

2 Q. What information is generally used by
3 the Small Telephone Companies to negotiate and/or
4 arbitrate these jurisdictional factors?

5 A. Well, at this point in time, we do
6 studies using the CPN that comes over the network.
7 And in order to identify a carrier, we do that by
8 assuming that the number that's associated or that's
9 in that CPN is, in fact -- and assigned to a carrier
10 in the LERG is the carrier that's delivering the
11 call.

12 And that's a fairly time-consuming
13 process since there are -- each carrier has hundreds
14 of NPA-NXXs around the country and there has to
15 be done a search on those individually to get
16 that.

17 Q. Are there some small companies that
18 simply can't perform that kind of analysis?

19 A. There's a number of them that at least
20 haven't.

21 Q. What about those in, say, an MCA?

22 A. Those in an MCA, yes, it would be
23 difficult to perform that analysis.

24 JUDGE DALE: Excuse me, Mr. England.
25 How much more do you have?

1 MR. ENGLAND: I'm just about to wrap up.

2 JUDGE DALE: Okay.

3 BY MR. ENGLAND:

4 Q. What impact, if any, does the
5 intercarrier compensation scheme have on the
6 reliability of using CPN for determining
7 jurisdiction?

8 A. Well, the scheme itself doesn't have the
9 need for reliable data. In most -- in both cases
10 it's equally as great. In the wireless arena there
11 has never been sufficient information in the
12 combination of the billing records and the
13 information that comes over the network to determine
14 that precisely, because of the difficulty the
15 industry has migrated towards using estimates of that
16 or the factors that we talked about, rather than
17 using real data.

18 Q. Let me switch gears and get one or two
19 thoughts and I'll be done. How many companies rely
20 on Telcordia and OBF documents for purposes of
21 day-to-day billing and recordings and that sort of
22 stuff, roughly?

23 A. Well, I mean with the EMI documents,
24 there's probably well over 13 -- I mean, there's 1300
25 independent telephone companies, they all rely on it.

1 There's some number of -- several hundred probably
2 CLECs and I don't know how much the wireless carriers
3 themselves rely on it. I would sure -- am sure
4 they'd refer to it some.

5 Q. Are there also billing vendors that rely
6 on that billing documentation for purposes of issuing
7 bills?

8 A. There are.

9 Q. How many of those entities do you think
10 or do you know participate in regular OBF meetings?

11 A. Oh, based on the testimony of -- I was
12 trying to remember whether it was struck or not. But
13 based on the OBF documents, it looks like there's
14 maybe 20 or 30.

15 Q. And so the difference, then, between the
16 1300-plus companies that use this documentation
17 versus the smaller number that participate in these
18 committee meetings, what do -- what does that large
19 group have to rely on in order to interpret standards
20 and apply standards on a day-to-day basis?

21 A. They have to rely on the documentation
22 itself and they did.

23 Q. One final question -- or questions --
24 line of questions. Do the Small Companies -- I think
25 I asked you this question. I apologize. But do they

1 want Feature Group C protocol signaling, whatever you
2 want to call it, to continue?

3 A. In general we would prefer that it go
4 completely to Feature Group D.

5 Q. And has that been a consistent position
6 of the Small Telephone Companies?

7 A. Yes.

8 Q. Who in Missouri has wanted to perpetuate
9 the Feature Group C network as far as you know?

10 A. SBC in particular and in some of the
11 earlier cases, GTE and Verizon. I think Sprint
12 probably did as well.

13 MR. ENGLAND: Thank you, sir. No other
14 questions.

15 JUDGE DALE: Thank you. That concludes
16 the testimony. You were all given an opportunity to
17 provide closing arguments. If you wish to do so, we
18 can reconvene after lunch for that, or you can waive
19 them.

20 And I can tell you that I am going to
21 request from all of you a memorandum of law. I will
22 issue an order this afternoon, but just to give you a
23 little flavor, these are the questions that I will be
24 asking you to research: One, how controlling is a
25 purpose clause? Two, how controlling is an order of

1 rulemaking? Three, if the purpose of the rule can be
2 accomplished through narrow construction, may the
3 agency construe it broadly? Four, if the agency
4 operated under a mistake of fact at the time of
5 promulgation, but later learns of the mistake, can it
6 lawfully alter its construction? Five, what is the
7 standard for vagueness? In other words, what
8 parameters apply when construction that rises to the
9 level of substantive interpretation is permitted?

10 So generally speaking, I'm asking for
11 you to find case law that allows or limits the
12 Commission's alternatives in this matter. All
13 straight administrative law, not really that much of
14 anything to do with telecom particularly.

15 It needn't be limited to telecom cases.
16 It can be any kind of rule promulgation cases. So
17 having said that, let me ask if people are waiving or
18 we are reconvening for closing?

19 MR. BUB: Can I ask a question?

20 JUDGE DALE: Yes.

21 MR. BUB: In this memorandum of law, can
22 the parties put the recap of the case in there?
23 Because if we're allowed to do that, then I probably
24 would be comfortable with waiving a closing argument.
25 But if not, you know, I'd prefer to do a closing

1 argument.

2 JUDGE DALE: If you wish to, as a group,
3 file post-hearing briefs in lieu of closings, you can
4 do that. I don't believe the transcript is expedited
5 in this matter. And so I don't know how long it will
6 take you to get transcripts to file briefs.

7 And I can tell you that the Commission
8 will be discussing this fairly soon and had hoped to
9 have these memorandum of law fairly quickly, like
10 sometime next week.

11 Although they needn't be -- there
12 doesn't need to be a lot of verbiage in these. I
13 need case names, case numbers and I can hit the books
14 from there. But hopefully, if we are all working on
15 this research, we may find relevant case law. So do
16 you want to discuss this among yourselves for a
17 couple of minutes?

18 MR. ENGLAND: I -- no. I was gonna say
19 I can sort of concur with Leo. If we're permitted to
20 take a few pages to just sort of summarize our
21 position in addition to responding to your specific
22 questions, that certainly satisfies my desire for any
23 closing argument.

24 JUDGE DALE: Define a few -- define "a
25 few pages."

1 MR. ENGLAND: No more than five.

2 JUDGE DALE: Yes, include up to five
3 pages of position recap and I think that will do me,
4 and what you have case-law-wise.

5 If we can have this by the end of next
6 week, and I don't know what date that is, but if you
7 can file it by Friday a week and a half from now,
8 then I can use it to draw up a memorandum for the
9 commissioners and have it into their next agenda on
10 the following Tuesday.

11 MR. ENGLAND: I believe that's the 28th
12 you're talking about, a week from Friday?

13 JUDGE DALE: Yes.

14 MR. ENGLAND: Okay.

15 JUDGE DALE: Will that work for
16 everyone?

17 MR. BUB: Could we maybe have until
18 Monday?

19 JUDGE DALE: Well, if I have -- if I
20 don't get it -- well, okay. If you file it by late
21 Sunday night, as long as I have it by eight o'clock
22 on Monday morning, I can use it on Monday to draft
23 the memo for the commissioners.

24 MR. ENGLAND: How about if we e-mail it
25 to you, say, Sunday and make the formal -- I mean,

1 I'm not sure what EFIS handles on the weekends.

2 JUDGE DALE: EFIS should handle anything
3 any time, but you can e-mail it to me directly if you
4 wish.

5 MR. ENGLAND: That's fine.

6 JUDGE DALE: Yeah. So then we'll make
7 the deadline 8:00 a.m., Monday, the 31st? No, this
8 is the -- so it's the 1st.

9 MR. BUB: Your Honor, could I add one
10 more thing too? We have the -- I think the waiver
11 expires 4-30-06 --

12 JUDGE DALE: That's right.

13 MR. BUB: -- so your order assigning us
14 this research project, could you indicate that the
15 waiver is extended so we don't inadvertently let it
16 slip?

17 JUDGE DALE: Yes. The other thing that
18 is pending that I haven't figured on any of this
19 timing-wise, is the Circuit Court case. You have
20 oral arguments scheduled in that; is that correct?

21 MR. BUB: We do.

22 JUDGE DALE: So those are in mid May?

23 MR. ENGLAND: We believe roughly mid
24 May.

25 JUDGE DALE: Okay.

1 MS. MORGAN: The 17th or 18th.

2 MR. BUB: Let me check. You're exactly
3 right, May 17th.

4 JUDGE DALE: Okay. So that will give us
5 at least a couple agenda sessions. So keep in mind
6 that brevity and speed are appreciated greatly. If
7 you finish early, send it on in. I can start looking
8 up your cases.

9 MS. MORGAN: Do we get extra points?

10 JUDGE DALE: No, but you get my undying
11 gratitude. Is there anything further that we need to
12 discuss before we go off the record?

13 MR. KRUEGER: Your Honor, I would like
14 to ask the Commission to take official notice of the
15 contents of the notice of proposed rulemaking and of
16 the order of rulemaking as published in the Missouri
17 Register.

18 JUDGE DALE: So noted. We will do so.
19 Anything else?

20 (NO RESPONSE.)

21 JUDGE DALE: With that, then, we are
22 adjourned and off the record.

23 (WHEREUPON, the proceedings were
24 concluded.)

25

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