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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

HEARING

March 9, 2007

Jefferson City, Missouri

Volume 3

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In the Matter of the Review of the )  
Competitive Classification of the )Case No.  
Exchanges of Southwestern Bell )TO-2007-0053  
Telephone, L.P. d/b/a AT&T Missouri )

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NANCY M. DIPPELL, Presiding,  
DEPUTY CHIEF REGULATORY LAW JUDGE.  
CONNIE MURRAY,  
STEVE GAW  
LINWARD "LIN" APPLING,  
COMMISSIONERS.

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REPORTED BY:  
TRACY L. THORPE TAYLOR, CCR  
MIDWEST LITIGATION SERVICES

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

2 (Exhibit No. 13 was marked for  
3 identification.)

4 JUDGE DIPPELL: Okay. This is Case  
5 No. TO-2007-0053. It's March 9th and we are reconvening with  
6 the hearing in the review of the competitive classification of  
7 the exchanges of Southwestern Bell Telephone Company, doing  
8 business as AT&T Missouri.

9 I've got a couple of housekeeping things to  
10 take care of first. I went ahead -- Mr. Bub provided us  
11 copies of both Exhibit 7, which we didn't have copies of  
12 yesterday, and the tariff sheets, which I took official notice  
13 of. I'm marking that entire packet as Exhibit No. 13 and  
14 that's already been taken official notice of, but I'm just  
15 going to mark that as Exhibit 13 just to keep it straight in  
16 the record.

17 So anyway, Mr. Unruh is on the stand and I  
18 guess I can swear you in.

19 (Witness sworn.)

20 JUDGE DIPPELL: All right. Mr. Bub, you can  
21 go ahead.

22 MR. BUB: Thank you, your Honor.

23 CRAIG A. UNRUH, testified as follows:

24 DIRECT EXAMINATION BY MR. BUB:

25 Q. Good morning, Mr. Unruh.

1 A. Good morning.

2 Q. Could you please state your name for the  
3 record?

4 A. My name is Craig A. Unruh.

5 Q. Okay. And by whom are you employed?

6 A. I'm employed by Southwestern Bell Telephone,  
7 LP doing business as AT&T Missouri.

8 Q. And you are the same Craig Unruh that caused  
9 to be filed Exhibit 5, which is your Rebuttal Testimony, and  
10 Exhibit 6, which is your Surrebuttal Testimony?

11 A. Yes, I am.

12 Q. Okay. Are there any corrections to either  
13 piece of testimony?

14 A. There are not.

15 Q. Okay. If I were to ask you the questions  
16 contained in Exhibits 5 and 6, would your answers be the same  
17 today?

18 A. Yes, they would.

19 Q. Okay. And are those answers true and correct  
20 to the best of your knowledge, information and belief?

21 A. Yes, they are.

22 Q. Okay.

23 MR. BUB: Your Honor, with that, we'd like to  
24 offer Exhibits 5 and 6 into evidence.

25 JUDGE DIPPELL: All right. Would there be any

1 objection to Exhibit No. 5, which is Mr. Unruh's Rebuttal?

2                   Seeing none, then I will receive that into  
3 evidence.

4                   (Exhibit No. 5 was received into evidence.)

5                   Is there any objection to Exhibit No. 6?

6                   Seeing none, I will also receive that into  
7 evidence.

8                   (Exhibit No. 6 was received into evidence.)

9                   MR. BUB: Thank you, your Honor. With that,  
10 we tender Mr. Unruh for cross-examination by the parties.

11                   JUDGE DIPPELL: Thank you. Is there  
12 cross-examination by Staff?

13 CROSS-EXAMINATION BY MR. HAAS:

14                   Q.       Good morning, Mr. Unruh.

15                   A.       Good morning.

16                   Q.       Schedules 4 and 5 to your Rebuttal Testimony,  
17 Exhibit No. 5, list wireless competitors in the 30-day  
18 exchanges. What investigation did you do to list those  
19 wireless competitors?

20                   A.       We looked at each of the wireless carriers'  
21 websites and the wireless carriers have service availability  
22 functions on their websites so we checked service  
23 availability, usually NPA, NXX, you know, phone number.  
24 Checked each of those carriers for each of those exchanges and  
25 confirmed their availability.

1 Q. "And confirmed their availability" --

2 A. Yes.

3 Q. -- what does that mean?

4 A. So we -- we take, say, a phone number out  
5 of -- out of the exchange we were checking, we put that phone  
6 number into their -- on their website and then they -- the  
7 website would tell us whether or not they provide service in  
8 that exchange. So the wireless carriers we've listed for each  
9 of those exchanges provide service in that exchange.

10 Q. And you have similar schedules that list two  
11 wireless competitors in the 60-day exchanges. What  
12 investigation did you do to list those wireless competitors?

13 A. That was the same exercise.

14 MR. HAAS: Thank you. That's all my  
15 questions.

16 JUDGE DIPPELL: Thank you.

17 Are there questions from Public Counsel?

18 CROSS-EXAMINATION BY MR. DANDINO:

19 Q. Good morning, Mr. Unruh.

20 A. Good morning.

21 Q. How are you today?

22 A. Doing great. Thanks.

23 Q. When did AT-- or SBC and AT&T merge? Was that  
24 in 2005 or in 2006 finally?

25 A. It was -- I'm -- I'm drawing a blank. I can't

1 remember if it -- the Bell South merger closed right at the  
2 end of '06 so I don't remember if that's -- if I'm confusing  
3 that with the AT&T merger when it closed right at the end  
4 of '05. If it wasn't the end of '05, it was very early '06.

5 Q. Okay. And with the AT&T merger -- I'll just  
6 call it the AT&T merger, did AT&T then -- was it the second  
7 largest or largest telecommunications company in the United  
8 States?

9 A. It -- it might depend on what you count as --  
10 as largest.

11 Q. Sure.

12 A. It's either us or Verizon.

13 Q. Right.

14 A. Depending on --

15 Q. Depending on number of lines --

16 A. Yeah.

17 Q. -- number of states --

18 A. Revenues.

19 Q. -- revenues.

20 A. Net income, whatever.

21 Q. Sure. But you're both up there in terms of --  
22 and after the -- and let's see. After the Bell South  
23 acquisition, which was, what, about 67 billion or million?

24 A. 67 billion.

25 Q. Okay. By then you'd pretty well be assured of

1 being the largest --

2 A. Yes.

3 Q. -- in the United States?

4 And certainly by being the largest in the  
5 United States, you're the largest in the state of Missouri by  
6 quite a bit?

7 A. The two aren't necessarily correlated, but we  
8 are the largest in the state of Missouri.

9 Q. Sure. And now AT&T completely controls  
10 Cellular now doing business as AT&T Wireless?

11 A. I believe you meant to say Cingular, which is  
12 correct.

13 Q. What did I say?

14 A. You said Cellular. So, yes, AT&T owns  
15 100 percent of what was known as Cingular.

16 Q. And what was known as Cingular, are they the  
17 largest wireline -- wireless provider in the state of  
18 Missouri?

19 A. I do not know.

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

22 JUDGE DIPPELL: Thank you.

23 All right then. Mr. Unruh, I'm not sure if  
24 there are questions from the Bench for you or not. That went  
25 a little quicker than I was expecting so I didn't put the



1 Commissioners on notice.

2 Is there any redirect at this time?

3 MR. BUB: I just have a couple questions, your  
4 Honor.

5 JUDGE DIPPELL: Okay.

6 REDIRECT EXAMINATION BY MR. BUB:

7 Q. Mr. Unruh, what changes or impact did the Bell  
8 South merger have on AT&T Missouri's service in Missouri?

9 A. None.

10 Q. Okay. Did Bell South provide basic local  
11 residential telephone service in Missouri?

12 A. No.

13 Q. Okay. Did it provide basic local business  
14 services in Missouri?

15 A. No.

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

18 JUDGE DIPPELL: Thank you.

19 All right. Mr. Unruh, I'm going to let you  
20 step down at this time and then I may have you come back up if  
21 there are some Commission questions.

22 Mr. Van Eschen, were you able to complete any  
23 of the research that Commissioner Gaw asked about or are you  
24 still working on that?

25 MR. VAN ESCHEN: Still working on it. I've

1 got some information, but I don't know if we're ready to get  
2 into that right now or not.

3 JUDGE DIPPELL: Okay. I think what we'll do  
4 then is we'll, unfortunately, take a little break and I will  
5 see if there are any further Commission questions for  
6 Ms. Meisenheimer and for Mr. Unruh and anything further for  
7 Mr. Van Eschen. So let's go ahead and go off the record.  
8 We'll take a break until 9:00.

9 (A recess was taken.)

10 JUDGE DIPPELL: All right. We're back on the  
11 record. We took a little break and the Commissioners have  
12 joined us. I believe there are no questions at this time for  
13 Mr. Unruh so he has stepped down, but we're going to ask  
14 Ms. Meisenheimer to come back to the stand.

15 And, Ms. Meisenheimer, you were sworn in  
16 yesterday so you are still under oath.

17 COMMISSIONER GAW: Good morning.

18 THE WITNESS: Good morning.

19 JUDGE DIPPELL: We're going to go ahead then  
20 and begin with Commissioner questions. Commissioner Murray,  
21 did you have questions?

22 COMMISSIONER MURRAY: No, I don't. Thank you.

23 JUDGE DIPPELL: Commissioner Gaw?

24 BARBARA MEISENHEIMER testified as follows:

25 QUESTIONS BY COMMISSIONER GAW:

1 Q. Just a few questions, I think.

2 Ms. Meisenheimer, I wondered if you could tell me what you  
3 believe the consequence of healthy competition is in regard to  
4 prices.

5 A. As a general rule, healthy competition will  
6 drive prices downward in the short run. In the long run,  
7 healthy competition should drive prices toward cost.

8 Q. Okay. Is that something that's an accepted  
9 position among most economists, that healthy competition will,  
10 as an effect of that, drive prices toward cost of providing  
11 service?

12 A. In the long run.

13 Q. Okay. You quoted in your testimony  
14 Section 392.185, I think at page 8 and 9 of your Direct. Do  
15 you recall that?

16 A. Yes.

17 Q. If you would, for sake of repetition for me,  
18 what does subsection 6 say?

19 A. Allow full and fair competition to function as  
20 a substitute for regulation when consistent with the  
21 protection of ratepayers and otherwise consistent with the  
22 public interest.

23 Q. Do you have any reason to believe or have  
24 you -- do you have any reason to believe that Section 392.185  
25 is no longer good law in Missouri?

1           A.       No, I don't.

2           Q.       Now, when you look at -- have you had an  
3 opportunity to look at the prices of vertical services in the  
4 exchanges that are at issue in this case since competitive  
5 classification was granted?

6           A.       I did some review in preparing Direct  
7 Testimony regarding certain prices. I -- I did not attach --  
8 I did -- I did not attach anything to my testimony that  
9 specifically identifies vertical prices. And I'm sorry, I  
10 don't think I could quote you specific prices of vertical  
11 services without having something in front of my -- me to  
12 review. I'm sorry.

13          Q.       That's all right. In regard to -- so you  
14 could not -- you couldn't testify here about whether or not  
15 the prices in these exchanges on vertical services have -- how  
16 they've changed or not changed?

17          A.       Well, let me -- let me revise my previous  
18 answer. If you look in my Direct Testimony, Schedule BAM,  
19 Direct 4, I did attach a letter from AT&T, which was part of a  
20 filing that adjusted prices and, in fact, some of them are  
21 vertical prices.

22                    In particular, I'm looking at the bottom of  
23 page 1 of 4. And it indicates there and on the following  
24 pages that they -- that at that time they increased the prices  
25 to the cap of 5 percent and gives the specific prices of

1 certain features, if -- if that assists you in response to  
2 that question.

3 Q. Do you know what exchanges this applies to?

4 A. It would apply to the price cap exchanges.

5 Sorry. So -- and if you were asking me about the competitive  
6 exchanges, I -- I don't -- I don't have --

7 Q. That's all right. I wanted that clarification  
8 though. So, in other words, the prices that you got on there  
9 are the prices for the exchanges under price cap, not those  
10 that have been declared -- exchanges that have been declared  
11 competitive necessarily?

12 A. That's true.

13 Q. All right. And what is the price cap  
14 currently for vertical services?

15 A. 5 percent.

16 Q. So they were increased up to the maximum level  
17 of the price cap --

18 A. Yes.

19 Q. -- in this case?

20 A. Yes.

21 Q. Are you familiar at all with the cost of  
22 providing vertical services?

23 A. I have in the past reviewed cost studies.  
24 It's been quite a while ago.

25 Q. Okay.

1           A.       It used to be, I believe, a requirement that  
2 non-basic services, they had to file a cost study or cost  
3 support to adjust prices to ensure that it was making a  
4 contribution to joint and common cost.

5           Q.       Do you know approximately when the last time  
6 would have been when those kinds of things would have been  
7 filed with the Commission?

8           A.       I started in 1996 with the Public Counsel's  
9 office and I saw them within a year of that time frame.

10          Q.       Okay.

11          A.       There may have also been discussion of cost in  
12 other types of proceedings, like to determine what -- what  
13 portion or what contribution was reasonable in determining  
14 universal service and those types of things. I also worked on  
15 the joint board staff at the federal level where -- where we  
16 discussed that.

17          Q.       Do you know generally if the cost of providing  
18 services for telecommunications has been rising, staying the  
19 same or going down?

20          A.       Generally, I would say that the overall cost  
21 of providing telecommunications service has been declining.  
22 And I actually included as part of my testimony. In my  
23 Surrebuttal Testimony, a graph -- let me -- let me refer you  
24 to Schedule BAM, Surrebuttal 3, pages -- well, primarily page  
25 1 through -- 1 through 5.

1                   In -- in that section, I was trying to  
2 illustrate that over time, the trend in wire-- in wired  
3 service has been declining prices primarily, it's my  
4 understanding, driven by technological advance.

5                   Q.       Can you explain a little bit more fully how  
6 these graphs and pages in Schedule 3 of your Surrebuttal, how  
7 they indicate that, the prices -- the costs have been going  
8 down?

9                   A.       Yes.   In -- on page 1 of 6, I provide a chart  
10 and the associated data points that illustrate an increase in  
11 labor productivity and output per hour.   And the significance  
12 of that is while certainly the cost of labor may increase over  
13 time, if productivity increases at a -- at a faster rate,  
14 then, in fact, the net effect may be to reduce the cost per  
15 unit of production.   And that is a -- that's a -- a common --  
16 a common issue that's discussed in -- in, for example, the  
17 classes that I teach related to economics.

18                   The chart on page 3 of 6 illustrates a price  
19 index.   And a price index is primarily used in economics to  
20 make an apples-to-apples comparison over time of the price of  
21 something, whether it be the price of an input or the price of  
22 an output, the Consumer Price Index, their producer price  
23 indices.   This, in particular, is the industry productivity  
24 and cost.

25                   I got this information from the Bureau of

1 Labor Statistics. And it illustrates, as you can see, that  
2 over the period since the mid-80's, in fact, there's been a  
3 significant reduction in unit labor cost index for -- is -- is  
4 this particular chart.

5 Q. Okay. So this is talking -- your graphs here  
6 are basically about labor costs. Correct?

7 A. Yes. And there's a reason for that.

8 Q. I want you to explain that to me.

9 A. Okay. The -- I believe that it is commonly  
10 agreed that the -- that the cost of technology has been  
11 declining.

12 Q. All right. Now, why do you say that, before  
13 you go on? Because that's the other element of this I would  
14 think we would be looking at, or at least one of them.

15 A. Okay. And I did not believe that would be  
16 reasonably questioned. That's a -- that's a commonly  
17 recognized point. In fact, the FCC has regularly recognized  
18 that and for years has used a productivity offset in adjusting  
19 certain price caps that are controlled at the federal level.

20 The -- the -- in a previous case that I worked  
21 on, there was a question regarding the cost of labor as an  
22 input into the production of telecommunications services. And  
23 so that's primarily why I focused on that. But overall, I --  
24 I believe that it is reasonable to assume that the cost of  
25 providing wired telecommunication services has fallen over



1 time.

2 Q. Okay. All right. Now, you were going to  
3 explain the labor contingent and why that was what you focused  
4 on and I interrupted you. Go ahead.

5 A. Okay. And the reason that I focused on labor  
6 is because I thought that would be the one that would most  
7 likely to be questioned as not a norm or a generally  
8 recognized occurrence.

9 Q. Okay. And so your graphs and your -- that you  
10 have here and the information that you have here illustrates  
11 that labor costs have actually gone down because of increase  
12 in productivity. Am I following that or do you want to  
13 explain it differently?

14 A. Yes. That is an accurate representation, I  
15 believe.

16 Q. Okay. So back in '96 when you started, do you  
17 recall whether or not the incumbent carrier, I think it was  
18 Southwestern Bell at the time -- the names are getting  
19 difficult for me to keep track of, but do you recall whether  
20 or not the vertical services that were priced were priced  
21 below cost?

22 A. No. They were priced above cost. And  
23 although I don't remember a specific number out of a cost  
24 study from back then, I do -- my -- my memory is that  
25 primarily these -- these vertical features that are offered

1 are a function of the switch.

2 Q. What do you mean by that?

3 A. In other words, they are related to the  
4 technology in the central office. And the cost of them is  
5 very low because they tend to be like modifications to -- to a  
6 component of central office as opposed to having to do  
7 anything necessarily to the loop or other outside facilities.  
8 That doesn't mean that those outside facilities don't help  
9 provide them and shouldn't contribute something to their cost  
10 in recovering their cost, but generally the incremental cost  
11 of vertical services is very, very low.

12 Q. Do you --

13 A. And I mean a fraction of -- of the price that  
14 might be charged for them.

15 Q. Less than half?

16 A. Yes.

17 Q. A tenth?

18 A. Maybe in some cases.

19 Q. Do you know whether or not -- and this is  
20 speaking from your time when you looked at those cost studies  
21 in '96?

22 A. Oh, are you -- I'm sorry. You're asking me if  
23 that knowledge is from that time period when I looked at --

24 Q. Yes.

25 A. -- cost studies?

1                   Yes. As well as just general knowledge from  
2 the other things that I've participated in related to costing.

3                   Q.       Do you know whether the prices of vertical  
4 services for what is now known as AT&T have gone down, stayed  
5 the same or gone up since '96? The price is what I'm asking  
6 about.

7                   A.       And the -- they have many different services  
8 and I -- I think it would probably be best if I say I don't  
9 know. It may be that Mr. Van Eschen will have better  
10 information for you. As a general rule, I'd say they've gone  
11 up, but if you're going to ask me a specific service, I'd have  
12 to have the -- the tariffs in front of me to compare the  
13 prices specifically.

14                  Q.       You think generally they've gone up, but you  
15 can't recall specifics --

16                  A.       Yes.

17                  Q.       -- on specific vertical services --

18                  A.       Yes.

19                  Q.       -- would that be fair?

20                  A.       Yes.

21                  Q.       Ms. Meisenheimer, as I understand it, you're  
22 asking this Commission to do more than just look at whether or  
23 not there are particular carriers doing business in an  
24 exchange or particular types of carriers, but to examine a  
25 broader public interest, make a broader public interest

1 analysis. Am I following that?

2 A. Yes.

3 Q. Now, do you think that that is the case on the  
4 30-day -- on those carriers that meet the 30-day requirement  
5 or is that limited to the 60-day?

6 A. I think it would be reasonable -- as we argued  
7 in the first proceeding, that it would be reasonable to  
8 consider simply more than, you know, is, say, for example, a  
9 wireless carrier providing to one line an exchange. Because I  
10 don't -- or -- I don't believe and our office didn't agree  
11 that that ensures that all the customers in an exchange have  
12 access to a competitor that offers comparable services.

13 Q. I need you to do more explanation on that  
14 because I didn't quite follow it. Let's talk about the 30-day  
15 requirement for a moment. And then let me ask you, did your  
16 answer that you just gave pertain to the 30-day requirement or  
17 both?

18 A. I -- I feel that it did. I mean, in this  
19 proceeding ultimately we -- we did not raise a challenge  
20 against the 30-day. That's more an overall consideration of  
21 what's our likelihood of -- you know, all the things we weigh,  
22 resources and those concerns.

23 But in previous proceedings we did bring to  
24 you information that we believe was reasonable in questioning  
25 whether, in fact, wireless carriers or even some of the CLECs

1 that had been presented is -- as being available in an  
2 exchange truly were available to end-users throughout the  
3 exchange.

4 Q. But, again, in that analysis, would you say  
5 that that analysis is one that is meant to determine whether  
6 or not the specific requirements of a type of carrier  
7 providing a minimal level of service was met rather than a  
8 broader public interest analysis outside of that for the  
9 30-day?

10 A. Yes. We -- we argued that it was relevant as  
11 both. That, for example --

12 Q. Go ahead.

13 A. -- in a 30-day exchange, we needed to make  
14 sure that all the customers had access to that alternative  
15 provider that was claimed to be in an exchange.

16 Q. I see. So in other words, if -- well, why  
17 don't you give me an example of a scenario where that would  
18 not be the case for purposes of your position in those cases.

19 A. Okay. And in past cases, one of the things  
20 that -- that I did some research on was to investigate whether  
21 wireless carriers were truly available throughout an exchange.  
22 And I identified -- I -- I visited carriers' websites and I  
23 believe you -- Mr. Unruh actually spoke about this a little  
24 bit. And some of those websites you have the ability to type  
25 in a telephone number to see whether it's available to you.

1 The ones that I remember looking at also there were options  
2 where you could type in a zip code.

3           And I didn't feel that that went far enough in  
4 determining whether the service was, in fact, available out --  
5 you know, on the outer areas or sometimes depending on the  
6 geography, the lay of the land, whether it was actually  
7 available in certain parts of a town because of bad signal.

8           And so I went a step further at that time and  
9 contacted carriers directly, called and spoke to  
10 representatives and had them literally check for me whether  
11 they agreed that they provided service to a number of zip  
12 codes within an area, asked about the quality of the reception  
13 throughout the area.

14           And in many cases, it -- it turned out that,  
15 in fact, the carrier said, no, although our maps are a general  
16 guide, our information that's provided on our website is a  
17 general guide, there are, in fact, places that we don't  
18 provide in -- in that area or there are places where the  
19 signal is -- is weak.

20           And I don't remember specifically the case  
21 number, but in the past I've provided to you maps that  
22 indicated or tables that indicated to you where I found  
23 problems with that. Also, in some cases, you know, just  
24 saying that they had general availability or looking at a map  
25 did not indicate that they, in fact, provided in a particular

1 zip code.

2                   That -- that was the work that I had done with  
3 respect to wireless. With respect to wireline carriers, one  
4 of the things that I did in the past is I went to literally  
5 the phonebooks in a particular area to determine whether  
6 customers -- because I believe a reasonable place for  
7 customers to look to see if they have competitors available to  
8 them would be to look in the phonebook and use those contact  
9 numbers to try and reach a carrier -- an alternative carrier.

10                   And in doing that, in many cases I found that,  
11 in fact, just, number one, being in the phonebook didn't  
12 necessarily mean that the service was really being provided.  
13 I called many of the numbers and found that the company had  
14 been out of business. I think I in one case shared with you  
15 an issue where I called and they wanted me to pay additional  
16 money to be put in contact with a different number where maybe  
17 I could reach a carrier.

18                   And all of that I would say argues against  
19 that common customers would necessarily be able to find  
20 alternatives. In my opinion, that -- that goes to whether the  
21 service is comparable for a customer, is it available to them,  
22 is it readily available, do they know they have options.

23                   Q.       Now, you've raised several issues there in  
24 that testimony to me. Now, one issue I think I heard you  
25 raise is that the reliability of information on what carriers

1 are actually providing service is questionable if you are just  
2 looking to information that may be available on a website or  
3 in a phonebook to make that determination. Would that be  
4 correct?

5 A. Yes. And -- and primarily a reason that I did  
6 that investigation is that in past cases where Southwestern  
7 Bell presented information that I believe that they obtained  
8 from their wholesale operations to benefit their retail  
9 operations, I think they went into their systems and they  
10 looked and they said, where do we think there are competitors  
11 operating.

12 But that doesn't necessarily mean that simply  
13 because they're providing the line to -- to a competitor in an  
14 area that that competitor is really offering service to a --  
15 if you will, a -- an end-user customer that's not necessarily  
16 connected with the competitor or that that service is  
17 generally available to all customers in the exchange.

18 Q. Okay. Well, I want to -- just for a moment  
19 now I want to -- I'm going to get to that, but I want to focus  
20 on this question of reliability of information to determine  
21 whether or not the requirements of the statute are met.

22 Does Public Counsel believe that the inquiry  
23 or the information that is -- that's been provided to the  
24 Commission gives us sufficient reliability on the information  
25 to make a determination as to whether or not the requirements



1 of the statutes are met in this case?

2 A. My opinion is that in this case, as in  
3 previous cases, it is -- there is not sufficient information  
4 to demonstrate with confidence that they -- that they are met.  
5 However, the majority of the Commission in the past did -- did  
6 not accept some of the concerns that Public Counsel raised and  
7 with our resources, we, you know, have to choose where --  
8 where our options lie in terms of are there better  
9 opportunities for us to get positive decisions.

10 Q. I understand. But Public Counsel has a  
11 concern about the information that has -- that is provided as  
12 to the presence of carriers in some of these exchanges and the  
13 provision of service by those carriers?

14 A. Yes. I -- I don't mean to criticize the  
15 portion of the evidence which the Staff gathered from Annual  
16 Reports that is actually reported by the CLECs themselves.  
17 And, I mean, I believe they're under an obligation to provide  
18 that information to the Commission. So I have less concern  
19 about that information than other information that has either  
20 been presented or not been presented.

21 Q. Okay. Well, should the Commission just  
22 utilize that information and deem that sufficient as an  
23 inquiry?

24 A. I think that the Commission reasonably should  
25 go a bit farther than that in terms especially of wireless

1 carriers.

2 Q. What would you think the Commission should do  
3 to properly investigate and adequately investigate the  
4 presence of carriers required to meet the 30-day requirement?

5 A. I personally believe it would be reasonable,  
6 especially for wireless carriers that seek Universal Service  
7 money, to report their presence throughout exchanges. I think  
8 that would assist the Commission. An inquiry to them -- I --  
9 I appreciate that sometimes the Commission has -- the  
10 Commission Staff has difficulty getting information from  
11 wireless carriers; however, to the extent possible, I think  
12 that type of an inquiry should be done.

13 Q. You're suggesting that wireless carriers that  
14 might seek to get qualified for Universal Service Funds ought  
15 to be cooperative with this Commission in providing that  
16 information?

17 A. Absolutely. They are seeking high-cost  
18 support to -- with -- with claims that they serve areas. I  
19 think there's clear evidence in some of those cases that, in  
20 fact, they -- they don't necessarily provide throughout an  
21 entire exchange and that it will take build-out for that to  
22 accomplish or to be accomplished and I think that that's  
23 relevant to this consideration as well. I think it's  
24 perfectly reasonable for them to provide information to a  
25 State Commission.

1           Q.       Now, on the second part of your earlier  
2 testimony, if I followed you correctly, Public Counsel  
3 believes that the availability of the service -- in order to  
4 meet that 30-day requirement, the availability of the  
5 alternate carrier service should be throughout the exchange or  
6 is it sufficient to just -- just provide the service to  
7 customers and the service not actually be offered to anyone  
8 else? Do you have a position on that?

9           A.       Yes, I do. I think that providing service in  
10 an exchange should mean that the customers in that exchange  
11 have access to that -- to that carrier. If the -- if the  
12 intent is to determine whether competitive alternatives are  
13 available to customers in determining whether competitive  
14 status is reasonable, I think that it's perfectly reasonable  
15 and should be considered whether, in fact, the service is  
16 provided to all the customers in the exchange --

17           Q.       Now, that --

18           A.       -- or -- or to the extent it's available to  
19 the incumbents. I mean, we still have some exchanges where  
20 their -- geographic areas that are -- where lines aren't  
21 extended to, if you will.

22           Q.       Now, I want to just -- asking this question in  
23 regard to the 30-day provision on competitive status. Again,  
24 it is Public Counsel's view that if a carrier is offering its  
25 service only to a limited number of customers within the

1 exchange and will not provide service to anyone else, that  
2 that carrier should not be counted toward the minimum  
3 requirements for the 30-day provision of -- 30-day competitive  
4 status?

5 A. That's my belief.

6 Q. Okay. So let me give you an example. If a  
7 facilities-based CLEC were providing service to two business  
8 carriers -- business owners within an exchange but would not  
9 provide that service to any other -- any other business  
10 owners, perhaps because they were too small, perhaps those  
11 were the only two that were large enough for that -- that CLEC  
12 to deem it worthwhile to provide service, would that qualify  
13 as the wireline provider alternative if it were the only one?  
14 Would it qualify, that exchange, for 30-day status?

15 A. From my perspective, it should not.

16 Q. Okay. Now, is there something in the statute  
17 that you think allowed you to have that interpretation?

18 A. I -- I might need to get a -- I'm trying to  
19 see whether I actually have a full copy.

20 Q. Actually, is this being briefed? If it's  
21 being briefed, if that's Public Counsel's position, perhaps  
22 they can just include that so I can see what that is. It's  
23 more of a legal question anyway.

24 And, again, on the wireless side,  
25 Ms. Meisenheimer, is that your position as well, that the

1 wireless service has to be available throughout the exchange  
2 or --

3 A. That would be -- I believe that that is -- I  
4 believe that's -- that should be true.

5 Q. If it's --

6 A. That it should be generally available  
7 throughout the exchange.

8 Q. If it's a cable venue that's being utilized as  
9 the facility-based carrier, but the cable company only  
10 operates within the city limits of a city that's within a  
11 bigger exchange than the city, is that sufficient to meet the  
12 30-day requirement of a facilities-based carrier?

13 A. As with the other technologies, I believe that  
14 they -- they should be available generally where the incumbent  
15 is if -- as condition of determining that they are providing  
16 service there.

17 Q. Okay. Now, in regard to the 60-day provision,  
18 I don't want to spend much more time on this, but again, it is  
19 your belief that -- the Public Counsel's view that there  
20 should be some broader analysis other than just seeing whether  
21 certain trigger points are hit in regard to the presence of  
22 certain carriers?

23 A. Yes.

24 Q. Okay. And should the Commission ensure that  
25 there is sufficient competition on the 60-day provision in

1 order to provide that the prices for services provided by the  
2 incumbent in the exchange be driven toward cost?

3 A. Yes.

4 Q. And if the actions of the incumbent in its  
5 pricing of services in that exchange have, in fact, been going  
6 the opposite direction, been increasing instead of being  
7 going -- instead of going down toward cost, do you believe  
8 that the Commission should, in that event, determine that  
9 there is insufficient competition to grant competitive status  
10 under the 60-day provision?

11 A. Yes.

12 COMMISSIONER GAW: That's all I have. Thank  
13 you, Judge.

14 JUDGE DIPPELL: Thank you.

15 Commissioner Appling, did you have any  
16 questions?

17 COMMISSIONER APPLING: Judge, I think I have  
18 one question.

19 QUESTIONS BY COMMISSIONER APPLING:

20 Q. Good morning, Barb.

21 A. Good morning.

22 Q. Good to see you.

23 A. Hi.

24 Q. I think you answered probably this and another  
25 question that I'd had through Commissioner Gaw, but I wanted

1 to follow up on one. This might not be the correct way to ask  
2 it, but -- and I read your testimony but it was two weeks ago  
3 and I'm trying to get prepared for a case on Monday which is  
4 taking up a lot of time, but would you recap for me on the  
5 case that's before us, when we talk about competitiveness,  
6 being competitive, would you kind of just summarize that for  
7 me quickly? Don't go the long route. Take the short route.  
8 Okay? And tell me what is OPC recommending to this Commission  
9 for this case that's before us. Okay?

10 A. We're recommending that you find that the  
11 conditions that existed when you approved the 60-day  
12 petitions -- or the exchanges on a 60-day petition no longer  
13 exist, that those conditions are different now.

14 And the things that we've put before you to  
15 show you how things have changed, one of them deals with price  
16 increases in services that have been deemed competitive. And  
17 I have in my testimony the -- how much some of those prices  
18 have changed.

19 And also a review of the information that the  
20 Staff gathered based on the Annual Reports of competitive  
21 carriers I believe illustrates that in many of the exchanges  
22 where a 60-day classification was granted, there has been  
23 negative or no growth at all.

24 And I believe that those conditions should  
25 indicate to you that, in fact, competition is not sufficiently

1 growing and developing to ensure that the public interest is  
2 ensured or that consumers are protected. That's the short  
3 story.

4 Q. Well, my concerns are twofold. First of all,  
5 I'm concerned that this company's -- the companies out there  
6 are not providing this Commission what they need in order to  
7 provide -- or make the analysis in which they need to make. I  
8 don't know whether we have any provisions less than holding up  
9 checks until we get the information that we need. That has a  
10 tendency to get people's attention very quickly when they  
11 don't get their financing that they need.

12 But we should not be out there screaming and  
13 hollering and crying and begging them for the information  
14 which we need to determine whether they're competitive or not.  
15 Agree with that?

16 A. I fully agree with that.

17 Q. Okay. The second thing is I'm just concerned  
18 about lending my name to the fact that -- and saying that we  
19 are competitive in the areas when we know all the time that  
20 they're not competitive and they're not in the best interest  
21 of the citizens of this state. That concerns me and it will  
22 be a concern of mine and -- if it should ever be a concern at  
23 the end this -- at the end of this -- these cases in front of  
24 us.

25 A. I believe that Commissioner Gaw has requested



1 information -- perhaps Commissioner Clayton asked for it as  
2 well -- from the Staff, for the Staff to do some additional  
3 information to show you not just the number of providers that  
4 are claimed to exist in an exchange, but the number of lines  
5 in exchanges based on the competitive carriers' reports to you  
6 that they're required to give you annually.

7 Q. Okay.

8 A. I would encourage you to take a look at that  
9 in determining to what extent you feel competition is  
10 sufficient to protect the public interest.

11 COMMISSIONER APPLING: Thank you. I've asked  
12 him to pull out the testimony and take another look at it so  
13 that I'm better prepared. Thank you very much, Barb. Good to  
14 see you this morning.

15 THE WITNESS: Thank you.

16 COMMISSIONER APPLING: Okay.

17 JUDGE DIPPELL: Thank you.

18 Commissioner Murray, did you have a question?

19 QUESTIONS BY COMMISSIONER MURRAY:

20 Q. Good morning, Ms. Meisenheimer.

21 A. Good morning.

22 Q. I believe you answered a question to  
23 Commissioner Gaw earlier that you believe it should be true  
24 that the services should be generally available throughout the  
25 exchange; is that correct?

1           A.     Yes.

2           Q.     So is that conclusion based on your belief of  
3 how it should be rather than how you believe the legislature  
4 directed it to be?

5           A.     No. I was not implying that my belief is any  
6 different. I was -- I -- I didn't have the specific language  
7 before me that -- and if -- if I could get it from someone,  
8 I'd be happy to point to the place where I believe that that  
9 is consistent.

10                   I just was expressing from an economic  
11 perspective, which is what I'm here to testify about and  
12 that's what my background is in, industrial organization is  
13 one of my areas, about what I believe competition -- what  
14 constitutes competition.

15           Q.     All right. And that really was my question  
16 about your interpretation of the statute. Is that your  
17 interpretation as a non-attorney or is it based on some actual  
18 analysis of the statutory language?

19           A.     I have -- I have read the language for -- in  
20 preparing for a number of cases. I just don't happen to have  
21 it with me. Certainly I'm not an attorney. I -- I've never  
22 claimed to be an attorney.

23                   But from a policy witness perspective that's  
24 been with Office of Public Counsel for a number of years and  
25 involved in these -- in these matters and from an economic

1 perspective, I mean, the -- the statute sets out a number of  
2 provisions that I think are consistent with economic theory  
3 and I mean, that's how I look at it. The --

4 Q. Okay. Then in terms of economic theory, do  
5 you disagree with what the Commission said in Case No.  
6 IO-2003-0281, I'm sure you don't recall the case by number,  
7 but I'm quoting from the Report and Order that, There is no  
8 economic or logical reason why prices must always fall in a  
9 competitive market. Sometimes prices do rise in markets that  
10 are clearly competitive.

11 As an economist, do you disagree with that  
12 statement of this Commission?

13 A. I don't disagree with that in a long-run  
14 perspective. Economically --

15 Q. So let's stop -- let me stop you there. If  
16 you're talking about a long-run perspective, what are you  
17 talking about?

18 A. Typically in economics we define a long-run  
19 period to be a period over which a company or an industry can  
20 switch from all costs being -- or from costs being -- some  
21 costs being variable and some being fixed to a situation where  
22 all costs are variable. So in the long run, a company has a  
23 choice of varying many costs. Competitors have an opportunity  
24 to enter and leave the market.

25 Q. And over the long run, prices eventually fall.

1 Is that your statement --

2 A. I would say over --

3 Q. -- or your position?

4 A. -- the long run, prices would go to cost.

5 Q. Okay.

6 A. In a short-run period, you might -- you might

7 have price -- if there is significant competition in the short

8 run, I would expect prices to fall.

9 Q. But if the prices --

10 A. Or --

11 Q. -- prior to competition had been below cost

12 for certain services, would you not expect those services

13 to rise, to go toward cost prices for those services --

14 A. Not --

15 Q. -- in the short run?

16 A. -- not if there were vigorous competition. I

17 would expect --

18 Q. So you think --

19 A. -- them to actually stay the same or fall.

20 And thus far -- I mean, there are other considerations. Like

21 what is the mix of services that a company provides. If it's

22 a single-service company, that's different than if a company

23 provides multiple services. There are different implications.

24 But in the short run, competition drives prices -- or prices I

25 would expect to stay the same or -- or go down.

1           Q.       Well, I thought you said you would expect that  
2 in the long run?

3           A.       In the long run, I would expect prices to go  
4 to cost. If prices are above -- because you may have -- we're  
5 familiar with the concept of price wars. In the short run,  
6 firms that are competing for business in a vigorously  
7 competitively environment may bid prices actually down below  
8 cost.

9           Q.       So I guess I misunderstood your statement. I  
10 thought you said in the long run, competition would drive the  
11 prices downward. That was not what you said?

12          A.       I -- I think what I said was that in the long  
13 run, prices are driven toward cost. In the short run, they  
14 may be driven downward.

15          Q.       So they could rise over -- prices could  
16 increase over the long run. Is that --

17          A.       They could.

18          Q.       -- as a result of competition?

19          A.       As a result of -- if -- if -- they could  
20 rise -- let's say that prices were below cost. Over the long  
21 run, firms -- some firms would exit the market because they  
22 couldn't sustain themselves. And with fewer firms in the  
23 market, that tends to reduce supply. Basic economics, supply  
24 and demand, says that that in the long run, drives -- would  
25 drive the price upward with fewer firms. So that's the

1 long-run analysis where there's the ability for entry and  
2 exit. In the long run, prices are driven to cost.

3 Q. And generally upward?

4 A. I didn't say generally upward. It would  
5 depend on where the short-run pricing was versus the long run.  
6 I didn't -- I didn't say that.

7 Q. So you don't buy into the theory that  
8 competition early on in driving prices to cost causes  
9 increases and then later, in the long run, competition levels  
10 that out so that prices are actually lower in the long run?  
11 You don't agree with that, I assume?

12 A. In -- I don't -- I don't think that I can  
13 agree with that as a general statement. If we talk about  
14 markets that are highly concentrated, in the short run, prices  
15 may initially be significant-- significantly above cost and  
16 that would drive prices downward perhaps if there were  
17 vigorous competition in both the short run and ultimately in  
18 the long run. And I would think that would be the reason to  
19 introduce competition into markets.

20 On the other hand, if you have a market where  
21 the cost structure is driven primarily by something other than  
22 technology, for example, where over time costs rise, then I  
23 would expect in the long run prices would tend to rise toward  
24 those costs.

25 So I don't think there's a clear-cut -- a

1 clear-cut answer. I think it depends on the type of industry  
2 that you're talking about. And I believe that in  
3 telecommunications we're talking about a market that has  
4 historically been a monopoly or at best an oligopoly market.

5 COMMISSIONER MURRAY: Okay. Thank you.

6 JUDGE DIPPELL: Thank you.

7 Is there any further cross-examination based  
8 on questions from the Bench from Staff?

9 MR. HAAS: No questions.

10 JUDGE DIPPELL: AT&T?

11 MR. BUB: We have a couple, your Honor.

12 CROSS-EXAMINATION BY MR. BUB:

13 Q. Ms. Meisenheimer, I'd like to follow up on the  
14 concern you have about the availability of competitor  
15 services, you know, whether as a wireless provider or a cable  
16 TV company providing telephone service or just -- or CLEC.  
17 Would you agree that the purpose of the two competitor  
18 requirement in the statute is to provide a constraint on an  
19 incumbent's pricing decisions?

20 A. Yes.

21 Q. And the concern you have here is that folks in  
22 town would have access to wireless service or cable TV  
23 companies or telephone service or a CLEC, but that folks  
24 further out might not?

25 A. That's one concern.

1 Q. Okay. Would you agree with me that having a  
2 competitor accessible to all in an exchange isn't necessary  
3 for the competitor's existence to serve as a constraint?

4 A. I -- I think that I would agree with that.

5 Q. Okay.

6 A. I think that generally in large part, they --  
7 they should be available to -- I mean, as I -- as I tried to  
8 indicate, there are certain areas that remain unserved even  
9 today.

10 Q. Okay. You would agree with me that the  
11 potential of losing all of its in-town customers would provide  
12 constraint on an incumbent's pricing?

13 A. In a singly -- in a single exchange it may or  
14 may not. There would be -- there would need to be a  
15 consideration of, you know -- if you will, there's a term in  
16 economics we use, "elasticity." Overall, is it going to  
17 benefit or harm the company in terms of revenue to adjust  
18 prices. So I don't think it's as clear-cut as just, you know,  
19 in town versus out of town.

20 Q. But, in general, you agree with me that it  
21 provides some constraint on an incumbent's pricing?

22 A. It might.

23 Q. Okay. I'd like to follow up on some questions  
24 on vertical services. Would you agree with me that you've  
25 seen AT&T Missouri file tariffs to lower packaged prices that



1 would include basic and verticals?

2 A. As compared to the stand-alone prices?

3 Q. Yes. Yes.

4 A. I don't have specifics with me, but I wouldn't  
5 disagree with that.

6 Q. You've generally seen that?

7 A. I would agree that I have seen prices where --  
8 where a package price is lower than a stand-alone.

9 Q. And AT&T Missouri's filed those recently,  
10 hasn't it?

11 A. Can you give me a more detailed reminder?

12 Q. How about the Select Feature package that we  
13 recently filed, Select Feature package?

14 A. I -- I don't recall that specifically. I'm  
15 sorry.

16 Q. Okay. You've also generally seen  
17 long-distance prices come down. Right?

18 A. Since -- over what time frame?

19 Q. Last five years.

20 A. Yes. I would agree to that.

21 Q. And DSL prices as well?

22 A. I can't say.

23 Q. How about over the last year, DSL prices being  
24 decreased?

25 A. I -- I don't know. In --

1 Q. You've seen AT&T's recent price in the market  
2 for \$15 for DSL, haven't you?

3 A. I -- I have recently had discussions with AT&T  
4 regarding some of their pricing, but I -- I honestly can't  
5 recall while I'm sitting here. If you have --

6 Q. You're aware AT&T's been reducing its DSL  
7 prices for its customers in Missouri. Right?

8 A. I'm going to have to say I don't -- I don't  
9 know the specific pricing structure for all your customers in  
10 Missouri. I'm sorry.

11 Q. Okay.

12 A. For DSL. If you have a tariff, I'd be happy  
13 to look at it and verify that for you.

14 Q. Is the package that we've been talking about,  
15 those are -- those are different than the ala carte prices for  
16 the vertical features that you were discussing with  
17 Commissioner Gaw. You'd agree with that. Correct? You were  
18 referencing your BAM Schedule 4 from your Direct, if that  
19 would help you. Those are just the ala carte prices for  
20 buying a single vertical feature, not a package?

21 A. Yes. On those two pages I specifically was --  
22 they are -- I believe those are ala carte prices.

23 Q. And that filing didn't impact or change  
24 package prices. Right? Those are two different things.

25 A. No.

1           Q.       Let me back up just to make sure we didn't  
2 cross wires. The filing didn't change package prices.  
3 Correct?

4           A.       It -- I'm reviewing the letter that I included  
5 as a schedule in my testimony and there -- it does not appear  
6 that they are package prices.

7           Q.       Thank you. The last area I want to follow up  
8 on is the study that you did in Case TO-2006-0102 on  
9 availability of wireless service you were discussing with  
10 Commissioner Gaw.

11          A.       Okay.

12          Q.       That was something that you filed in that  
13 case, the 2006-0102; is that correct?

14          A.       I don't have the case number with me.

15          Q.       Okay. But generally you would agree with me  
16 that that is a study that you did over a year and a half ago?

17          A.       It -- it may have been that long ago.

18          Q.       Okay. And you didn't update that study for  
19 this case?

20          A.       No. I do believe that that information is --  
21 still has relevance.

22          Q.       Okay. But you didn't update the study?

23          A.       No. I think I testified to that yesterday.

24                 MR. BUB: Okay. Thank you. Those are all the  
25 questions we have, Ms. Meisenheimer. Thank you.

1 Thank you, Judge.

2 JUDGE DIPPELL: Thank you.

3 Is there any redirect?

4 MR. DANDINO: Yes, your Honor.

5 REDIRECT EXAMINATION BY MR. DANDINO:

6 Q. Ms. Meisenheimer, Mr. Bub asked you about  
7 package prices. Do some of the packages that AT&T offer  
8 contain both regulated and non-regulated services?

9 A. I believe they do.

10 Q. And was your examination or the -- or looking,  
11 focusing primarily on the regulated telephone services?

12 A. In this proceeding, yes.

13 Q. Commissioner Gaw had asked you -- well,  
14 Commissioner Gaw and Commissioner Murray had both asked you  
15 about looking at the availability and whether any further  
16 investigation was required by statute. Let me ask -- let me  
17 ask you this. Is the -- you know, is your Public Counsel's  
18 position that that -- any inquiry into availability should be  
19 just broader than accepting what availability -- or let me  
20 re-word that.

21 Was the purpose behind your study to look  
22 behind the word "availability," to look at the scope of  
23 availability?

24 A. I -- I think that that's a reasonable  
25 consideration to look at the scope of abili-- of availability

1 across an exchange to determine whether -- whether a company  
2 is providing there as an alternative.

3 Q. And the availability goes to the issue of  
4 providing service?

5 A. Yes.

6 Q. And I believe that the statute says if they  
7 provide service -- or that's kind of the intent, I guess, of  
8 the statute, to provide service. And --

9 A. Provide service to whom? I mean, that I think  
10 is a perfectly reasonable question to ask. Is it -- and I  
11 think that providing service means that the customers in the  
12 exchange should have -- that that service should be generally  
13 available to customers throughout that exchange.

14 Q. Now, that doesn't mean that you're advocating  
15 a -- or that you advocated in the previous case that a 30-day  
16 petition should include a public interest analysis -- separate  
17 public interest analysis?

18 A. No. I -- I --

19 Q. Your analysis went to the availability and to  
20 the providing service?

21 A. Yes.

22 Q. Okay.

23 A. For the 30-day exchanges.

24 Q. And 60-day exchanges then, public interest  
25 test that Commissioner Gaw was asking you about, are you

1 providing that as, once again, a part of the availability of  
2 the services or is there a public interest -- or is the public  
3 interest aspect separate?

4 A. I -- I'd say both of those are -- are present.  
5 First of all, where a competitor is offered up as providing  
6 service, I think it should be available generally through the  
7 exchange from that competitor.

8 And also there is specifically a public  
9 interest standard that I think requires the Commission to take  
10 a broader look before giving competitive classification in  
11 those 60-day exchanges that, in fact, the public interest is  
12 served by accepting less in granting competitive  
13 classification than was required under the 30-day.

14 Q. Commissioner Gaw asked you about whether we  
15 accepted the data that the Staff provided. And let's start  
16 over. In this proceeding, Commissioner Gaw had asked you  
17 about whether in this proceeding that Public Counsel was  
18 accepting the data, the lines and the carriers or  
19 identification of the carriers. What's your comment on that?

20 A. Competitive carriers -- competitive CLECs are  
21 required to provide information to this Commission. They  
22 don't necessarily have any interest in seeing Southwestern  
23 Bell get a competitive classification. I -- the Annual  
24 Reports are something that are regularly provided by  
25 telecommunications carriers. I've relied on them regularly.

1                   It appears that the Staff did some follow up  
2 in certain exchanges where -- where they had a belief that  
3 maybe the extent was different than was reported. We're not  
4 challenging that data, although the data on CLEC lines, in the  
5 past I -- in past proceedings, I actually did some independent  
6 follow up from the Staff. In this case, we did not do that so  
7 we are accepting at face value that aggregated data from the  
8 CLECs that they reported.

9                   In other areas, I -- I do have a concern that  
10 it -- it didn't sound as if there were a significant  
11 investigation into the availability of wireless.

12                  Q.       By using the Staff's data in their -- in  
13 making their report, are you en-- are you endorsing or saying  
14 that it's -- all this data is complete and accurate or are you  
15 just saying that it is the best -- the best information  
16 available given the records and the timing?

17                  A.       I have, in the past -- it's my perspective  
18 that the majority of information provided by CLECs since the  
19 Staff redesigned its collection form, is -- is pretty  
20 reliable. I'm not questioning the CLEC-reported information  
21 in the Annual Reports.

22                         That's a different thing than the entire scope  
23 of information that's been provided in this -- in this  
24 proceeding. I mean, I would have likely relied on the same  
25 CLEC data as the Staff had I gone and compiled it myself from

1 the Annual Reports, as I have done in the past.

2 Q. Commissioner Gaw also was asking you about the  
3 price of AT&T's services and especially vertical services.  
4 Have you ever -- do you recall seeing a schedule or comparison  
5 of prices of AT&T's products from the time they went under  
6 price cap until I guess 2001 or 2002?

7 A. Yes. I do recall seeing that, although I  
8 don't remember the specifics of it. I have seen, I did review  
9 it. I just don't recall. And I'm not -- I'm trying to  
10 remember if that wasn't part of a court case where there is  
11 actually a summary document, if you will, that compares  
12 prices.

13 Q. When you say "court case," you mean one of the  
14 Commission cases dealing with the competitive status?

15 A. That -- that may have been appealed.

16 Q. All right. Commissioner Murray had asked you  
17 about the effect of competition in the long run and the short  
18 run on prices. And one of them she had asked that if you --  
19 if you assume -- or if prices are below cost -- yes, about if  
20 a service -- if prices are below cost. In this proceeding  
21 we're talking about local service prices and costs; is that  
22 correct?

23 A. That's certainly one thing we've been talking  
24 about in this case.

25 Q. Okay. Are you aware of any study or a study



1 that says that local services are not priced below incremental  
2 cost?

3 A. Or?

4 Q. Or --

5 A. Yes, I am familiar with studies like that in  
6 addition to performing them myself. Also, I worked with Bill  
7 Dunkwell (ph.), who presented evidence for our office in the  
8 review of the access case review, where he demonstrated that,  
9 in fact, local is subsidy free and is priced above incremental  
10 cost.

11 Q. Okay. Because I think I misstated it. I said  
12 below incremental cost. But you corrected me. That's fine.

13 Mr. Bub was asking you about the -- that was  
14 it true that there's been -- the presence of competitors have  
15 had some restraint on prices. Has it had some restraint on  
16 prices as compared to what they were under -- what their  
17 restraints were under price cap?

18 A. Well, as one of the schedules in my testimony  
19 indicates, there are prices -- price increases above what the  
20 price cap would have otherwise allowed. And in terms of, you  
21 know, constraining those prices, I would say that that's an  
22 indication that competitive forces are not the constraining  
23 factor.

24 And, in fact, based on the review of the  
25 information that I've seen and more that I believe Mr. Van

1 Eschen may speak to later today, the underlying data to me  
2 indicates that there isn't -- that -- that competition is --  
3 is so minimal that it couldn't reasonably be expected to  
4 constrain price.

5 Q. If, under price cap regulation, local basic  
6 services would have decreased even up to 1 percent, but under  
7 competitive classification it had increased  
8 1 percent, would you say that that was a constraint on prices,  
9 discipline on prices?

10 A. No.

11 Q. One last question, Ms. Meisenheimer. When you  
12 started to respond to Commissioner Gaw about the consequence  
13 of competition -- I don't know if it was you or Commissioner  
14 Gaw that used the phrase "healthy competition." How does  
15 healthy competition compare to effective competition as  
16 compared to, as I used in the opening statement,  
17 honest-to-goodness competition?

18 A. What did you use?

19 Q. Honest-to-goodness competition.

20 A. Honest-to-goodness competition. Well, I  
21 haven't seen definitions of all of those before. Effective  
22 competition I think is -- is a significant threshold in terms  
23 of determining that there are competitors of -- of equal size,  
24 of equal likelihood for long-term success in markets really  
25 on -- on equal footing, if you will, and that there are enough

1 of them that, in fact, no one or few of them have the ability  
2 to implicitly or explicitly adjust prices upward unreasonably.

3 In --

4 Q. Go ahead.

5 A. Certainly there are other levels of  
6 competition. In -- in determining effective competition, I  
7 brought forth something that I think is used at the federal  
8 level in evaluating mergers and other things and it is -- it  
9 is based on a market share analysis. There are additional  
10 things you can look to in terms of competitive--  
11 competitiveness.

12 I don't know that healthy competition or  
13 honest-to-goodness competition require the same evaluation  
14 of -- of against thresholds that are generally recognized,  
15 say, by the Department of Justice or -- but they should  
16 constrain prices in a meaningful way. And I don't think that  
17 that's what's occurred here.

18 Q. You're not asking this Commission to solely  
19 apply the criteria that's in the statutory definition of  
20 effective competition in this case?

21 A. No, we did not ask that.

22 Q. Okay. Now, that's why I'm giving you  
23 different terms of art on whether it's healthy competition,  
24 robust competition or that well-known honest-to-goodness  
25 competition. In each one of those situations, what

1 competition -- you just stated competition means restraint on  
2 prices. It has a whole lot of other factors that are relevant  
3 for this Commission to consider; is that correct?

4 A. Yes.

5 Q. Okay. And the Commission ought to consider  
6 whatever they feel is relevant to their analysis?

7 A. Yes. And we've given them guidance on what we  
8 believe those factors are.

9 Q. And you've provided them with -- with public  
10 policy and economic guidelines or at least principles to look  
11 at to assist them in their public interest analysis of  
12 competition?

13 A. Yes, I have. And specifically I would direct  
14 them to page 8 and 9 of my Direct Testimony where I set out  
15 the goals and purposes of Missouri telecommunications law.

16 MR. DANDINO: Thank you, Ms. Meisenheimer.

17 That's all I have, your Honor.

18 JUDGE DIPPELL: Thank you.

19 I believe if Mr. Van Eschen is prepared, that  
20 we will return to him for Commission questions.

21 MR. DANDINO: Your Honor, is the witness  
22 dismissed?

23 JUDGE DIPPELL: Oh, yes. Ms. Meisenheimer,  
24 you may be excused.

25 MR. DANDINO: Thank you for excusing her.

1                   JUDGE DIPPELL: And, Mr. Van Eschen, you were  
2 also sworn in yesterday and remain under oath in your  
3 testimony today.

4                   Commissioner Murray, did you have any  
5 questions at this time for Mr. Van Eschen?

6                   COMMISSIONER MURRAY: I tell you what, I will  
7 pass right now. I probably will have some.

8                   JUDGE DIPPELL: Okay. Commissioner Gaw?

9                   COMMISSIONER GAW: Did Commissioner Appling  
10 want to --

11                  JUDGE DIPPELL: Commissioner Appling?

12                  COMMISSIONER GAW: -- ask him some questions?  
13 I just want to see what he brought.

14                  COMMISSIONER APPLING: I just think I have a  
15 quick question and I have an appointment so if you wouldn't  
16 mind --

17                  COMMISSIONER GAW: I don't mind.

18 JOHN VAN ESCHEN testified as follows:

19 QUESTIONS BY COMMISSIONER APPLING:

20                  Q.        Good morning, sir.

21                  A.        Good morning.

22                  Q.        How you be?

23                  A.        Good.

24                  Q.        Yesterday you expressed a concern that it was  
25 somewhat difficult to get the information sometimes in order

1 to make the proper analysis of what competitiveness or  
2 non-competitiveness was out there; is that correct?

3 A. That's true.

4 Q. Okay. Is AT&T one of those companies?

5 A. No.

6 Q. You don't have any prob--

7 A. No.

8 Q. You have no problems at all --

9 A. No.

10 Q. -- out of AT&T?

11 A. No. They've, in fact, been very helpful.

12 Q. Very helpful, huh?

13 A. Yeah.

14 Q. I was looking for some reason this morning  
15 to --

16 A. Where we -- where we have problem is the  
17 wireless side of it.

18 Q. Would you give me -- would you just share with  
19 me quickly some of the examples you're talking about?

20 A. Simply because we don't regulate wireless  
21 companies.

22 Q. Okay. That makes sense.

23 A. The contacts that we have with the wireless  
24 carriers, it's -- it's somewhat of a strained process to get  
25 them to do some checking for us. Actually, sign an affidavit

1 and send it to us that they verify that they are serving  
2 customers within these exchanges and -- and so on and so  
3 forth.

4 Q. But some of them, the wireless company, do get  
5 money from the Universal Fund, some of those same companies  
6 that you --

7 A. Some do, some don't.

8 Q. Okay. Thank you very much, sir. That's  
9 the -- I think that was the end of the questions, but -- one  
10 more. In the case that's before us, if you could share with  
11 me just quickly, what is Staff recommending?

12 A. Our recommendation is that the competitive  
13 status be retained for these exchanges.

14 Q. Can you say that competition exists out there  
15 in every one of the cases in which you're recommending?

16 A. I don't know if my testimony addresses that  
17 fact. I -- I think my testimony looked at the CLECs that were  
18 providing service within these exchanges, tried to compare  
19 that activity back in -- based on 2004 CLEC Annual Reports  
20 with more recent 2005 Annual Reports. And based on that, the  
21 conditions, in our view, were the same.

22 Q. And they was making -- they was doing what the  
23 statute was asking them to do?

24 A. When you say -- I'm not quite sure what you  
25 mean by that.

1 Q. Well, it's pretty simple. Is they meeting the  
2 requirement in which the statute calls for them to be  
3 competitive and rated competitive organization within the --

4 A. I guess I'll answer that by saying that based  
5 on the Commission's decision to grant competitive status to  
6 these exchanges, the same conditions continue to exist in  
7 our -- in Staff's opinion.

8 COMMISSIONER APPLING: Okay. Thank you, sir.

9 JUDGE DIPPELL: Thank you. Commissioner Gaw?

10 QUESTIONS BY COMMISSIONER GAW:

11 Q. Just to quickly follow on that, in other  
12 words, Mr. Van Eschen, your interpretation in this case is  
13 based upon the decision that was issued by the majority of the  
14 Commission and your attempt to be consistent with that  
15 decision?

16 A. Yes.

17 Q. It was not, however, the Staff's position in  
18 the cases that -- that -- that had previously come before the  
19 Commission --

20 A. Yes.

21 Q. -- at that point in time?

22 That was not your position?

23 A. That's true.

24 Q. Okay. Have you brought information in today  
25 as a result of my inquiry yesterday?



1           A.       I do have some information.  And, in  
2 particular, you had asked for rate changes associated with  
3 some vertical services over -- and we just looked at some of  
4 the features --

5           Q.       Yes.

6           A.       -- as going back 10 years or so.

7           Q.       Okay.

8           A.       I have some information on that.

9           Q.       Good.  Is it in some sort of exhibit form or  
10 what's the format?

11          A.       I'll let Mr. Haas --

12                   MR. HAAS:  Your Honor, we do have that in a  
13 chart if we could get that marked as an exhibit.

14                   JUDGE DIPPELL:  Okay.  We are up to Exhibit  
15 No. 14.

16                   (Exhibit No. 14 was marked for  
17 identification.)

18                   MR. HAAS:  Commissioner, did -- Commissioner,  
19 did you want me to ask the questions to lay the foundation  
20 or --

21                   COMMISSIONER GAW:  If you want to, that would  
22 be fine.

23                   MR. DANDINO:  If it could speed things up, I'd  
24 stipulate as to the foundation to this.

25                   JUDGE DIPPELL:  Mr. Bub?

1                   MR. BUB: Your Honor, all we'd ask for is some  
2 time so that we could look and just verify this. And as long  
3 as they're accurate, we don't have any problem with this  
4 coming in, but, you know, if you could give us a day to  
5 express an objection in writing. I don't expect we would, but  
6 we'd just like to verify that the numbers are correct.

7                   JUDGE DIPPELL: I will allow for time for  
8 verification of the numbers. I'll expect you to make any  
9 other objections you might have.

10                  MR. BUB: Okay. Thank you. It will only be  
11 to the accuracy of the numbers. That's all.

12                  JUDGE DIPPELL: Okay. In that case, it sounds  
13 like with that limited option for objection, that there's not  
14 any objection to this document coming into evidence, so I will  
15 admit it with that caveat that there is the opportunity to  
16 object to the actual accuracy of the numbers.

17                               (Exhibit No. 14 was received into evidence.)

18                  MR. BUB: And, your Honor, what I would expect  
19 is that if we found that one wasn't correct, we'd just supply  
20 the correct number.

21                  JUDGE DIPPELL: Thank you. Yes.

22                  MR. DANDINO: Is that Exhibit 14?

23                  JUDGE DIPPELL: It was 14, yes. Did you --

24                  COMMISSIONER GAW: I thought that counsel was  
25 going to lay some foundation, I thought he said. But maybe --

1 JUDGE DIPPELL: We went ahead and --

2 COMMISSIONER GAW: Did he already do that?

3 JUDGE DIPPELL: Nobody had any objections to  
4 it --

5 COMMISSIONER GAW: Okay. I'm sorry. I was  
6 waiting for him to go.

7 JUDGE DIPPELL: -- except AT&T is going to  
8 verify its accuracy, but otherwise --

9 COMMISSIONER GAW: Never mind.

10 BY COMMISSIONER GAW:

11 Q. All right. Let me ask -- let me ask, first of  
12 all, in regard to Exhibit 14, you have that in front of you  
13 right now, Mr. Van Eschen?

14 A. Yes.

15 Q. All right. Why is it that these are the  
16 particular vertical services that are on this exhibit?

17 A. Given the time constraint, those were just --  
18 I instructed my Staff to look at a few and specifically named  
19 Caller ID, Call Waiting, Call Forwarding, Speed Calling.  
20 Those were some of the main vertical features that we talked  
21 about yesterday.

22 Q. Okay. When it says, Caller Number Delivery,  
23 is that what's commonly referred to as Caller ID?

24 A. Yeah. I think both Calling Number Delivery,  
25 Calling Name Delivery are variations of Caller ID service.

1 Q. When you have Caller ID, do you also get  
2 Calling Name Delivery? Is the price -- I'm just trying to  
3 understand if those prices include both.

4 A. I'm -- I'm -- I'm not sure. I'm not sure.

5 Q. Because I'm not clear on whether Caller ID  
6 is -- as it's commonly known, would be according to this price  
7 of 9.50 for Caller Number Delivery and 9.50 for Caller Name  
8 Delivery be the total of the two or just the 9.50. You're not  
9 sure?

10 A. No, I'm not.

11 Q. Okay.

12 JUDGE DIPPELL: Is that something that  
13 Mr. Unruh would know the answer to?

14 COMMISSIONER GAW: Yeah, do you? I'm just  
15 looking for accuracy here.

16 MR. UNRUH: I believe -- pardon me. Sorry. I  
17 believe for -- hang on a second.

18 COMMISSIONER GAW: This must be a difficult  
19 question to answer.

20 MR. UNRUH: I have to choke this question  
21 down.

22 COMMISSIONER GAW: Yes, yes.

23 MR. UNRUH: I believe for -- at least for  
24 residential service, I believe when you get calling number and  
25 calling name together, there's a, call it a package price of

1 I'm going to guess \$9. So I think maybe a dollar higher, you  
2 get both together.

3 COMMISSIONER GAW: So, in essence, this is --  
4 these separately priced would be a total of, if you got both  
5 but not in a package, would be a total --

6 MR. UNRUH: Well, now, to clarify, you  
7 wouldn't buy both by themselves. If you want both, you get  
8 them for \$9.

9 COMMISSIONER GAW: But if you only want one of  
10 those --

11 MR. UNRUH: If you want one, it's \$8.

12 COMMISSIONER GAW: Why, I'm not sure, but you  
13 would -- it would be \$8 and not 9.50? No, excuse me, not  
14 7.99?

15 MR. UNRUH: I'm sorry? Well --

16 COMMISSIONER GAW: Current price on here, if  
17 I'm reading this correctly, says 7.99 for Calling Number  
18 Delivery and 7.99 for Calling Name Delivery.

19 MR. UNRUH: Yeah. So those are two different  
20 services.

21 COMMISSIONER GAW: Okay.

22 MR. UNRUH: You can just get a name if you  
23 want or you can just get a number if you want.

24 COMMISSIONER GAW: But if you want both --

25 MR. UNRUH: If you want both --

1 COMMISSIONER GAW: -- the package is how much?

2 MR. UNRUH: \$9, I believe.

3 COMMISSIONER GAW: Okay.

4 MR. UNRUH: A dollar higher you can get both.

5 It's not \$8 plus \$8 for both.

6 COMMISSIONER GAW: Right. Okay.

7 BY COMMISSIONER GAW:

8 Q. Mr. Van Eschen, with that clarification, you  
9 don't have any reason to disagree with that?

10 A. No, I do not.

11 Q. All right. Now, the prices on Calling Number  
12 Delivery and Calling Name Delivery for between '96 and 2006  
13 there appear to have risen. Correct?

14 A. That's correct.

15 Q. Now, up through what point in time would they  
16 have risen under a price cap scenario?

17 A. I believe AT&T or Southwestern Bell at that  
18 time became price cap regulated, and I'm guessing around 1997.

19 Q. Okay. Now, 1997?

20 A. Yes. That's --

21 Q. All right. And then --

22 A. -- my recollection.

23 Q. And then are these prices good for all  
24 exchanges?

25 A. Yes.

1 Q. Okay. So the same price whether they're --  
2 exchanges are price cap or competitively --

3 A. Yes.

4 Q. -- classified?

5 A. Yes.

6 Q. But is there any requirement that they be the  
7 same price in exchanges whether they're competitively  
8 classified or price capped?

9 A. I don't know if they necessarily have to, but  
10 that's something I'd want to talk to our legal counsel about,  
11 but we haven't observed that, any companies trying to  
12 differentiate prices based on competitive status.

13 Q. Just continue to price them exactly the same?

14 A. Yes.

15 Q. When did they get competitive classification  
16 in exchanges? What year?

17 A. I -- I don't have those dates in front of me,  
18 but based on the cases that we were referring to earlier, it  
19 was the fall of 2005.

20 Q. Okay. Okay. And there's not been any change  
21 since that time in the price one direction or the other.  
22 Correct?

23 A. No.

24 Q. That would --

25 A. Well--

1 Q. -- be true on residential anyway.

2 Now, that wouldn't be true necessarily of  
3 business. Correct?

4 A. Well, this is broken down by business and  
5 residential.

6 Q. Right.

7 A. And no, there hasn't been a change for the  
8 residential customers.

9 Q. Okay. And business though, there would have  
10 been some change in some of those categories?

11 A. Yes.

12 Q. And the prices would have gone up --

13 A. Yes.

14 Q. -- when they have changed. Correct?

15 A. Yes.

16 Q. All right. And in all of these services that  
17 you have on this chart, would they all be in the category that  
18 you described yesterday in regard to the cost of providing  
19 those services? Are there any -- any of these particular  
20 categories that would fall outside of your description of the  
21 costs of these services that -- as you deemed them yesterday?

22 A. No. Based on what we've seen, they've all  
23 been costed in similar fashion.

24 Q. Okay. And, again, you were in here when  
25 Ms. Meisenheimer testified earlier this morning?



1 A. Yes.

2 Q. Did you disagree with her in any of her  
3 testimony regarding cost?

4 A. I'm not quite sure --

5 Q. Regarding the cost of providing services,  
6 telecommunications services.

7 A. I don't have any information that would  
8 dispute what she said one way or another. We just simply  
9 haven't looked into issues about have the costs been declining  
10 or anything like that.

11 Q. Well, you've seen information regarding --  
12 regarding generally the cost of providing telecommunications  
13 services in other dockets, haven't you?

14 A. I -- I have. Frankly, a lot of the cost  
15 studies that I have seen are -- are becoming dated. I really  
16 haven't seen any recent cost studies in the past several  
17 years. And I really don't have any, I think, valid comparison  
18 that I would feel comfortable with making any --

19 Q. Well, do you -- excuse me. Do you have any  
20 reason to disagree with her in regard to the -- her analysis  
21 of productivity and labor costs as she outlined in her  
22 testimony?

23 A. I -- I don't.

24 Q. Okay. And in regard to her testimony  
25 regarding the general assumption that the costs of technology

1 have gone down, do you disagree with her on that?

2 A. I just -- I -- I don't know. We don't -- we  
3 haven't analyzed that particular point.

4 Q. All right. So you don't -- do you believe  
5 it's gone up?

6 A. I think that's quite possible for -- for some  
7 facilities.

8 Q. That the costs of technology have gone up for  
9 providing telecommunications services?

10 A. Again, I simply haven't looked at that  
11 particular point on --

12 Q. You're just saying you don't know?

13 A. That's correct.

14 Q. Do you know whether any of the vertical  
15 services that have been -- that are provided by AT&T have  
16 been -- well, let me ask you this. Are any of the non-basic  
17 services -- have any of the non-basic services that are  
18 provided by AT&T under price cap gone up at the maximum of  
19 what was 8 percent and now 5 percent since they were  
20 designated as price cap?

21 A. I'd have to answer that and say I don't know.  
22 We -- we haven't looked at all the rates. So I -- I'd have to  
23 answer that I don't know.

24 Q. Or we'd have to take notice of our tariffs in  
25 order to do it, I suppose?

1           A.       Yeah.  I mean, we could look at that and get  
2 that information.

3           Q.       And you're going to continue to do that, I  
4 assume?

5           A.       If directed.

6           Q.       How much information is that to try to track?  
7 Is it -- is it extremely difficult to do that or is it  
8 something that can be done just a in a matter of a couple of  
9 days?  I'm just trying to understand.

10          A.       I'm antici-- I'm anticipating that probably --  
11 well, when -- when we talk about increasing the rates for  
12 non-basic services, non-basic services covers a very large  
13 number of services.  And so you're asking, are there any  
14 services in that group of non-basic services -- have they gone  
15 up every time.  I don't know.

16                   I -- I -- I think we would want to start by --  
17 by looking at all the annual price cap filings that AT&T is --  
18 has done and see what rates were adjusted and -- and see if  
19 certain services were increased every time.

20          Q.       Well, I'm sort of interested in knowing  
21 whether or not those prices have performed the same -- first  
22 of all, what's happened with those prices?

23          A.       Okay.

24          Q.       And whether there has been a difference in any  
25 of those prices between those exchanges that were

1 competitively classified and those that remain under price  
2 cap. Was there a difference in how -- in the pricing of those  
3 services. And here on these that you've given me in this  
4 Exhibit 14, you're telling me that there isn't a difference,  
5 if I'm following you?

6 A. That's correct.

7 Q. So I'm wanting to know whether that's the case  
8 across the board or if there's a distinction in some of the  
9 other areas.

10 A. We can look into that and --

11 Q. Okay.

12 A. Your -- we can look into both -- both issues.

13 Q. This may be representative of all of them. I  
14 just don't -- I don't know. And I'm assuming that you can't  
15 tell me either, because you haven't had time.

16 A. That's correct.

17 COMMISSIONER GAW: Okay. Well, if it's  
18 possible to provide that exhibit more extensively, Judge, that  
19 would be helpful to me. And, again, I don't know what that  
20 does, if parties need to cross on it is what I'm worried about  
21 here. And I'm not intending to try to avoid that. Perhaps  
22 it's only possible to judge that after you see it too.

23 MR. BUB: Are we talking about a late-filed  
24 exhibit?

25 COMMISSIONER GAW: Yes.

1                   MR. BUB: I think as long as you give us an  
2 opportunity to object and perhaps supply something, you know,  
3 that would be our counter-evidence.

4                   COMMISSIONER GAW: Sure. I just don't want  
5 to -- I don't want to preclude you from being able to cross on  
6 something if it's something that's necessary. And --

7                   MR. BUB: I think as long as we get an  
8 opportunity to object and supply, you know, information that  
9 would counterbalance it, whatever we would deem appropriate,  
10 we'd be okay with handling it that way.

11                  COMMISSIONER GAW: That would be great.

12                  MR. DANDINO: Your Honor, Public Counsel has  
13 a -- this was an exhibit, I think what you're going to get at  
14 is -- if I recall right, it was a compare -- it was a listing  
15 of AT&T's services from I think a few years before price cap  
16 went in all the way to the current year.

17                         And I think that was an exhibit, and I want to  
18 say Exhibit 29, but I'm not sure, in Case 2000-201-467. And  
19 then I think in this last case there was -- it was updated to  
20 the current. And if -- and I believe it was prepared by SBC  
21 and the other part -- I don't know if it's in that other case,  
22 but it's a -- at least Public Counsel received it through a  
23 data request.

24                         And I would -- you know, Public Counsel would  
25 be more than happy to provide that to the Commission and to

1 counsel. They could take a look at it, whatever's your  
2 pleasure. Might help the Staff out.

3 COMMISSIONER GAW: Yeah, that would be helpful  
4 so it's not something that has to be done from scratch.

5 JUDGE DIPPELL: Mr. Dandino, why don't you get  
6 with Staff about that and I will request that Staff supplement  
7 Exhibit 14 either with that filing or further research. I'll  
8 give AT&T the opportunity to object and if one of those  
9 objections is, you know, it's just not fair to enter it  
10 without further cross, then we'll determine if we need to  
11 re-open the hearing record at that time.

12 MR. DANDINO: Certainly. I just want to make  
13 it available to the parties.

14 JUDGE DIPPELL: No, I appreciate that. Thank  
15 you. I think it's best if we just get the information, give  
16 everybody a chance to review it and object to it and then  
17 determine if we need to take more on the record. We just  
18 won't -- the hearing record will stay open until all of the  
19 evidence is in, so --

20 COMMISSIONER GAW: Thank you.

21 BY COMMISSIONER GAW:

22 Q. And I guess the other question I had,  
23 Mr. Van Eschen, is if you had any opportunity to do any more  
24 research on the costing question that I asked yesterday?

25 A. We did look back through the information that

1 we had. And I think there may be some cost studies that were  
2 done that might be relevant --

3 Q. Okay.

4 A. -- in our opinion.

5 And specifically we were looking at  
6 information that was provided in Case No. TO-2001-438. And  
7 the title of that case is, In the matter of determination of  
8 prices, terms and conditions of certain unbundled network  
9 elements. This particular case, Case TO-2001-438 is really --  
10 it was spun out of the SBC 271 case, which was Case No.  
11 TO-99-227.

12 But this particular case was established to  
13 determine unbundled network element rates that had previously  
14 not been reviewed by the -- the Public Service Commission.  
15 And in that case there were a couple of cost studies that we  
16 uncovered. And based on that, we were looking at the cost  
17 studies that specifically were looking at the costs of  
18 providing what's referred to as simple unbundled network  
19 element features.

20 And according to the cost study, that includes  
21 features such as Call Waiting, Call Forwarding, Three-Way  
22 Calling, Speed Call 8 and 30, Hunting Arrangements,  
23 Personalized Ring, Caller ID and so forth.

24 Q. Okay.

25 A. And those were the costs studies that we were

1 looking at. There was one that was done in May of 2001 and  
2 again in October of 2001.

3 Q. Okay.

4 MR. HAAS: Your Honor, if we're going to get  
5 into the actual numbers, we would ask to go into an in-camera  
6 session.

7 JUDGE DIPPELL: Okay. Thank you, Mr. Haas.

8 BY COMMISSIONER GAW:

9 Q. Is that information -- is that information  
10 available in certain exhibits in that case that were admitted  
11 into evidence or is it information that you would have to  
12 testify to here in order for us to see?

13 A. I don't know if it was in an exhibit or is  
14 just in the backup information that we have.

15 Q. Okay. Well, in that case, do you have  
16 those exhibits or something with you?

17 A. I do.

18 Q. Then I guess if I could see that and then  
19 maybe we could see whether it's necessary to actually talk  
20 about the numbers or not.

21 MR. BUB: Your Honor, could we suggest that  
22 maybe everyone get a copy so we could all look at it?

23 JUDGE DIPPELL: I think that's a good idea.

24 MR. BUB: As the Commissioner said, we  
25 probably need to make mark it HC to make sure it's protected



1 as Mr. Haas also suggested --

2 JUDGE DIPPELL: Okay.

3 MR. BUB: -- while we're making the copies.  
4 I'm not sure whether it's marked yet or not.

5 JUDGE DIPPELL: Commissioner, would it be  
6 appropriate just to take a little break right now and get some  
7 copies of that?

8 COMMISSIONER GAW: That would be great.

9 JUDGE DIPPELL: Okay. Well, let's take a  
10 short break, about 10 minutes, and we'll come back with  
11 further questions. Thank you. Let's go off the record.

12 (A recess was taken.)

13 JUDGE DIPPELL: Okay. We're back on the  
14 record. Mr. Haas has copies of -- and, Mr. Haas, tell me  
15 exactly what that is that you have copies of.

16 MR. HAAS: We have two cost studies. One is  
17 dated May 2nd, 2001 and the other one is dated October 29,  
18 2001.

19 JUDGE DIPPELL: Okay. I'm going to go ahead  
20 and mark those -- the first one, the May 2nd, 2001 as  
21 Exhibit 15 and we'll mark the October 29, 2001 as Exhibit 16.  
22 If you could go ahead and distribute copies. Oh, and those  
23 should be marked as HC. Correct? Is that correct?

24 MR. HAAS: Yes.

25 JUDGE DIPPELL: And then I'm going to give you

1 just a few minutes to kind of look it over and familiarize  
2 yourself with it.

3 MR. BUB: Just to get this straight, the  
4 May 2nd, 2001, that was 15?

5 JUDGE DIPPELL: Yes.

6 MR. BUB: Thank you.

7 JUDGE DIPPELL: 15-HC.

8 (Exhibit Nos. 15-HC and 16-HC were marked for  
9 identification.)

10 JUDGE DIPPELL: Okay. Is the date -- where is  
11 the date? Oh, there it is. Okay.

12 I'm kind of giving Mr. Bub a chance to  
13 familiarize --

14 MR. BUB: We're still looking at it, your  
15 Honor.

16 COMMISSIONER GAW: Oh, go ahead. I didn't  
17 realize that.

18 MR. BUB: Thank you. Your Honor, we're ready.

19 JUDGE DIPPELL: Okay. Commissioner Gaw, if --

20 COMMISSIONER GAW: If you want me to do it, I  
21 will.

22 JUDGE DIPPELL: I was going to say, do you  
23 want to ask questions or do you want --

24 COMMISSIONER GAW: I'm flexible, whatever you  
25 want. I do want to ask questions, but if counsel wants to lay

1 the foundation or I will. I don't care.

2 JUDGE DIPPELL: Did you want to say something,  
3 Mr. Bub?

4 MR. BUB: Thank you, your Honor. This has  
5 been represented to us as our document. As long as -- and it  
6 appears to us to be. We don't have any trouble with our own  
7 document coming in.

8 JUDGE DIPPELL: Okay.

9 MR. BUB: So I don't know if it's necessary to  
10 lay a foundation or if we just want to save some time.

11 MR. DANDINO: I don't have any objection for  
12 the foundation.

13 JUDGE DIPPELL: All right.

14 MR. DANDINO: I'll stipulate it will be  
15 admitted for whatever purpose it's worth.

16 JUDGE DIPPELL: All right. Thank you.

17 Mr. Haas, it sounds like there's no objection  
18 to these cost studies coming in, so we'll go ahead and admit  
19 15-HC and 16-HC into the record.

20 (Exhibit Nos. 15-HC and 16-HC were received  
21 into evidence.)

22 COMMISSIONER GAW: Did we admit 14 earlier,  
23 Judge?

24 JUDGE DIPPELL: I did with the caveat --

25 COMMISSIONER GAW: Yes.

1 JUDGE DIPPELL: -- that they could verify the  
2 numbers.

3 COMMISSIONER GAW: Yeah. I understand.  
4 Should we just go into HC to ask questions about this and into  
5 closed or --

6 MR. BUB: You're going to talk about the  
7 numbers inside the cost studies?

8 COMMISSIONER GAW: I'm going to try to avoid  
9 that at least up to a point just so I can get an explanation  
10 of what the numbers represent. But --

11 MR. BUB: I think the numbers are the only  
12 things --

13 COMMISSIONER GAW: That are a problem.

14 MR. BUB: -- that are highly confidential.

15 JUDGE DIPPELL: I was going to say, because  
16 each page is labeled as confidential. I don't know if  
17 those -- if the other items in there --

18 MR. BUB: Maybe to be safe, why don't we go  
19 into camera because I'm hearing from my folks that sometimes  
20 methodology, how we do it, how we calculate things. May also  
21 be highly confidential. So if we go into camera, then I don't  
22 think we have to worry about any constraints on your  
23 questioning, your Honor.

24 MR. DANDINO: With the caveat that after the  
25 questioning, if those parts of it that are not highly

1 confidential are made public.

2 MR. BUB: Sure. I just don't know where this  
3 will head up --

4 COMMISSIONER GAW: Well, and I wish I could  
5 give you better direction but --

6 MR. BUB: -- so I didn't want to any  
7 constraints on you.

8 COMMISSIONER GAW: If I could rely on Public  
9 Counsel to look at the subject after the fact on public nature  
10 of some of the testimony so that we could get what should be  
11 public declared public, that would be helpful to me.

12 MR. BUB: And we'd happy to work with them on  
13 that, your Honor.

14 MR. DANDINO: Sure.

15 JUDGE DIPPELL: Okay. Great. Then let's go  
16 ahead and we'll go in-camera. I don't believe there's anyone  
17 in the room who cannot participate, so I have muted the  
18 Internet transmission and so we should be safe to go ahead.

19 (REPORTER'S NOTE: At this time, an in-camera  
20 session was held, which is contained in Volume No. 4, pages  
21 271 through 286 of the transcript.)

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1                   JUDGE DIPPELL:  And Commissioner Murray had  
2 some questions for Mr. Van Eschen.

3 QUESTIONS BY COMMISSIONER MURRAY:

4           Q.       Good morning, Mr. Van Eschen.

5           A.       Good morning.

6           Q.       I think it's still morning.

7                   I just have a few questions for you.  First of  
8 all, is it accurate that in every exchange in which AT&T was  
9 granted competitive status under the 60-day provision, that  
10 there were at least three CLECs?

11          A.       Yes.

12          Q.       And is it also accurate that there continue to  
13 be at least three CLECs in every such exchange?

14          A.       Yes.

15          Q.       Now, that being the case, is there any reason  
16 to determine whether there is a wireless carrier providing  
17 service in any of those exchanges?

18          A.       In my opinion, no.

19          Q.       Okay.  Now, you were questioned earlier by  
20 Commissioner Appling about not getting the information you  
21 needed.  Do you recall that?

22          A.       Yes.

23          Q.       When you testified about not being able to get  
24 information from carriers, was that in reference to the  
25 information from wireless carriers?

1           A.       Primarily, although there was some follow-up  
2 information that we did request from CLECs that for one reason  
3 or another we were unable to fully resolve.

4           Q.       Okay. But you did testify that you were able  
5 to get all of the information that you needed from AT&T; is  
6 that correct?

7           A.       Yes.

8           Q.       Okay. I'm sorry.

9           A.       To the extent they had the information. They  
10 were -- I know I'd asked about type one connections that they  
11 had with wireless carriers, but they did not have that  
12 information readily available.

13          Q.       And how was that relevant to the determination  
14 here?

15          A.       That would attempt to address situations where  
16 AT&T is giving telephone numbers to wireless carriers.

17          Q.       But we don't need that to determine the  
18 competitive status; is that correct?

19          A.       Yeah, that's correct.

20          Q.       So were you able to obtain everything that you  
21 needed that was relevant to this case, in your opinion?

22          A.       Yes.

23          Q.       Okay. And in terms of public interest, since  
24 it was determined by this Commission to be in the public  
25 interest when competitive status was granted, do you have any

1 reason to believe that it is not in the public interest to  
2 continue with that competitive status?

3 A. We didn't present any evidence in that regard,  
4 no.

5 Q. In your opinion as an economist -- you are an  
6 economist; is that correct?

7 A. Yes.

8 Q. Is the presence of price increases compatible  
9 with competition?

10 A. As I testified yesterday, yes, I think it is.

11 Q. Okay. And didn't the statute say that we are  
12 to review those cases where prices have increased to determine  
13 if competitive status is still appropriate?

14 A. It basically says that. I -- I think there  
15 may be, you know whether there are competitive conditions  
16 continue to exist --

17 Q. Yes.

18 A. -- is the language that the statute uses.

19 Q. I think that's correct. But if price  
20 increases automatically refuted competition, wouldn't we just  
21 have been directed to remove competitive status as soon as a  
22 carrier increased local basic rates by any amount?

23 A. I think that would certainly make things more  
24 clear.

25 Q. Okay. And you've testified in your written



1 testimony that some rates have decreased since competitive  
2 classification was granted, did you not?

3 A. Yes.

4 Q. And is that still your testimony?

5 A. Yes.

6 COMMISSIONER MURRAY: Okay. All right. I  
7 think that's all I have. Thank you.

8 JUDGE DIPPELL: Thank you.

9 Now, is there further cross-examination based  
10 on the other questions from the Bench, both those previously  
11 asked that weren't in the in-camera session from AT&T?

12 MR. BUB: Yes, your Honor. We just have a  
13 few.

14 JUDGE DIPPELL: Go ahead.

15 RE-CROSS-EXAMINATION BY MR. BUB:

16 Q. Mr. Van Eschen, you've mentioned information  
17 that you were looking for but didn't get about type one  
18 wireless. And the concern you had there was that local  
19 numbers from an exchange wouldn't be available for wireless  
20 carrier to provide wireless service to somebody residing in  
21 that exchange; is that correct?

22 A. Yes.

23 Q. Isn't it also correct that local numbers are  
24 available to wireless carriers through porting?

25 A. That's true.

1 Q. Okay. So a wireless carrier could port a  
2 landline telephone number from a specific exchange to serve  
3 its customer on a wireless basis that it just captured?

4 A. That's correct.

5 Q. Okay. A while ago you had a discussion with  
6 Commissioner Gaw about prices of telecommunications  
7 technologies and equipment and about -- and specifically he  
8 was focusing on changes in the price of technology. Would you  
9 agree with me that copper facilities is one telecommunications  
10 technology that telephone companies use in providing telephone  
11 service?

12 A. Yes.

13 Q. All right. And would you agree with me that  
14 the price of copper has skyrocketed in recent -- the last  
15 couple years?

16 A. I've heard that.

17 Q. Commissioner Appling had asked you some  
18 questions about what you looked at and the difficulties you  
19 encountered in obtaining some of the information and what you  
20 based your recommendation on. It's correct that you looked at  
21 more than just CLEC Annual Reports; is that right?

22 A. Yes.

23 Q. Okay. You also looked at data that was  
24 provided by CLECs in addition to what they may have reported  
25 in an Annual Report? Made inquiries to CLECs and whatever

1 they gave you, you looked at?

2 A. That's true, yes.

3 Q. And you also looked at data provided by AT&T  
4 Missouri?

5 A. Yes.

6 Q. Okay. And your recommendation in this case to  
7 retain competitive classification is based on all that  
8 evidence, not just the Annual Report evidence that's in your  
9 testimony?

10 A. Yeah. Our recommendation is to retain  
11 competitive status in all the exchanges.

12 Q. And that was based on your review of all the  
13 evidence?

14 A. Yes.

15 MR. BUB: Okay. Thank you, your Honor. Those  
16 are all the questions we had.

17 JUDGE DIPPELL: Thank you.

18 Is there any further cross-examination from  
19 Public Counsel?

20 MR. DANDINO: Yes, your Honor.

21 RE-CROSS-EXAMINATION BY MR. DANDINO:

22 Q. Mr. Van Eschen, Commissioner Murray asked you  
23 about whether there was any evidence that continuation of the  
24 classification was consistent with the public interest or  
25 contrary to the public interest. You didn't examine the issue

1 of public interest in your analysis; isn't that correct?

2 A. That's true.

3 Q. You didn't do it in your -- you didn't provide  
4 any evidence in your --

5 A. We did not provide any evidence on -- on  
6 public interest considerations in my testimony.

7 Q. Also, I believe when you were talking with  
8 Commissioner Gaw, I want to make sure I get this accurate --  
9 you said that the -- that to see if a -- to check the  
10 reasonableness of rates, you must know the cost of providing  
11 the service. Is this a correct statement of what your  
12 testimony was?

13 A. We had a discussion something along those  
14 lines, yes.

15 Q. Was that a correct statement of your  
16 testimony?

17 A. Yeah.

18 Q. Commissioner Murray also asked you about  
19 whether some of the rates had decreased since competitive  
20 classification; is that correct?

21 A. Yes.

22 Q. Did basic local service rates decrease --

23 A. Yes.

24 Q. -- in those exchanges?

25 A. Yes.

1 Q. In what exchanges and what -- and I'm talking  
2 about basic local service.

3 A. That's correct.

4 Q. Okay. And other than in the restructuring  
5 of -- is it Class A or --

6 A. It was in rate group A.

7 Q. Rate group A? Other than that, was there any  
8 decrease?

9 A. Not that I'm aware of, no.

10 Q. So the decrease was limited to that  
11 restructuring?

12 A. Yeah. Rate group A adjustment, yes.

13 Q. Okay. And what Mr. Bub had asked concerning  
14 the -- that you relied on other data provided by the CLECs,  
15 you testified that you did?

16 A. Yes. We've done some follow up with some  
17 CLECs.

18 Q. Okay. Okay. Does the other data that you  
19 followed up with the CLECs, is that reflected in your report?

20 A. To the extent that that follow-up inquiry  
21 resulted in revised Annual Report pages being sent in to the  
22 Commission, yes.

23 Q. Okay. So, in fact, the data that -- other  
24 data that was reported by the CLECs, you didn't use it unless  
25 there was a revision to their Annual Reports; is that correct?

1           A.       That's correct.

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

3   Thank you.

4           JUDGE DIPPELL:   Thank you.

5           MR. BUB:   Excuse me, your Honor.   May I ask  
6   your indulgence to ask one more question?   There was one other  
7   area that I forgot to ask.

8           JUDGE DIPPELL:   You may.

9   RE-CROSS-EXAMINATION BY MR. BUB:

10          Q.       Mr. Van Eschen, you had an extensive  
11   discussion with Commissioner Gaw about vertical prices and  
12   their pricing.   I just have one follow-up clarification  
13   question there.   It's correct a customer can't just buy a  
14   vertical service by itself; is that right?   It also has to --  
15   the customer also has to buy a line?

16          A.       That's true.

17          MR. BUB:   Thank you.   Those are all we had.

18          JUDGE DIPPELL:   Mr. Dandino, did you have  
19   anything further?

20          MR. DANDINO:   Oh, no.   That's fine.   Thank  
21   you.

22          JUDGE DIPPELL:   Okay.   Is there redirect?

23          MR. HAAS:   No questions.

24          JUDGE DIPPELL:   All right then.   Mr. Van  
25   Eschen, I believe that concludes your testimony and you may be

1 excused.

2 Oh, wait a minute. You may not be excused. I  
3 forgot that I had one question I should have asked.

4 QUESTIONS BY JUDGE DIPPELL:

5 Q. On your Exhibit 14, which was the exhibit you  
6 provided in response to Commissioner Gaw, I was just a little  
7 confused by the dates. It says date, slash, service and then  
8 it has dates. Are those dates the date the price began?

9 A. Can I clarify that in a subsequent filing --

10 Q. You can --

11 A. -- just to make sure?

12 Q. -- maybe footnote that or something when you  
13 file your supplemental information --

14 A. That would be my preference.

15 Q. -- with Commissioner Gaw. Okay. Thank you.

16 JUDGE DIPPELL: Did anyone have any questions?

17 Okay. Thank you then, Mr. Van Eschen. You  
18 may be excused.

19 Now, were there any additional Commissioner  
20 questions for Mr. Unruh? All right then --

21 MR. BUB: Your Honor, we did have a little bit  
22 of redirect for Mr. Unruh that follows up on questions  
23 Mister -- Commissioner Gaw had asked --

24 JUDGE DIPPELL: Okay.

25 MR. BUB: -- him having to do with, I think it

1 was Caller ID, name, number, that kind of stuff.

2 JUDGE DIPPELL: And Mr. Unruh did sort of  
3 testify to that. We asked him kind of questions in the middle  
4 of Mr. Van Eschen's testimony, so I will let Mr. Van Eschen  
5 step down and I'll have Mr. Unruh come back to the --

6 MR. BUB: What I have is very brief.

7 JUDGE DIPPELL: -- witness stand. All right.

8 Thank you, Mr. Unruh. You're still under  
9 oath. You had some -- well, let me ask if there were any  
10 other recross questions based on the questions from the Bench  
11 from Staff?

12 MR. HAAS: No, your Honor.

13 MR. DANDINO: No, your Honor.

14 JUDGE DIPPELL: All right. Was there any  
15 further cross-examination based on those questions from Public  
16 Counsel?

17 MR. DANDINO: No, your Honor. Thank you.

18 JUDGE DIPPELL: All right. Redirect then.

19 MR. BUB: Thank you, your Honor.

20 CRAIG A. UNRUH testified as follows:

21 REDIRECT EXAMINATION BY MR. BUB:

22 Q. Mr. Unruh, you had a discussion with  
23 Commissioner Gaw about the price of Caller ID, specifically  
24 name -- Caller ID Name by itself, Caller ID Number by itself  
25 and then you also discussed them as a package together. The



1 question I have is, AT&T Missouri also offers Caller ID Name  
2 and Number as part of other packages, doesn't it?

3 A. That's correct.

4 Q. Okay. How are such packages priced?

5 A. Well, I guess it depends on the package.  
6 There's a large number of packages that we offer. For  
7 example, recently we've introduced -- pardon me, a package  
8 called, The Select Feature package, which is a 12-feature  
9 package that includes the line. And that's priced at \$28,  
10 which is a significant discount over the ala carte prices,  
11 which would probably be in the 60-dollar range or something.

12 Q. How have those package prices changed over the  
13 past couple years?

14 A. Yeah, well, just, you know, looking at that as  
15 an example, we used to offer a package called The Works, which  
16 had I guess 11 features. If you included the line with that,  
17 that package was somewhere in the 40-dollar range. We also  
18 used to offer a package called The Advantage, which had seven  
19 features so it was a few less features, but with the line that  
20 was in the 35-dollar range. We then offered a package called  
21 You Select 6, so it's one less vertical feature yet, but the  
22 price dropped to \$29.

23 Subsequent to all of that, we introduced the  
24 new package, which has 12 features, more than any of those old  
25 packages, at prices less than all of those prices I just

1 walked through. So the price is \$28 now.

2 MR. BUB: Thank you. That's all the questions  
3 I have.

4 MR. DANDINO: Your Honor, I believe the first  
5 question that Mr. Bub had asked him was, How do you -- how do  
6 you price those, and I don't think the witness answered that  
7 question.

8 MR. BUB: I was satisfied with the answer,  
9 your Honor.

10 MR. DANDINO: Well, your Honor, I think the  
11 witness -- I'm going to ask your Honor to direct the witness  
12 to answer the first question.

13 MR. BUB: I think he did. It was describing  
14 how we discounted them and that's all I was looking for, but  
15 if he wants him to elaborate, that's fine with me.

16 MR. DANDINO: Well, your Honor, then I move to  
17 strike all of his answer.

18 JUDGE DIPPELL: Well, I guess I'm --

19 MR. BUB: Your Honor, the whole discussion was  
20 how is Caller ID packaged by itself -- how is it priced when  
21 it was packaged and there are other ways we packaged Caller  
22 ID. So I think that whole area was open to the question.

23 MR. DANDINO: Your Honor, he asked the  
24 question and I think --

25 JUDGE DIPPELL: I guess I'm not sure what

1 you're looking for that's different, Mr. Dandino. I don't  
2 understand why you think he didn't answer the question.

3 MR. BUB: If it's non-responsive, we can give  
4 him another chance to answer and see if Mr. Dandino is  
5 satisfied with that. I was and it was my question so I think  
6 I'm entitled to make that call. But if he wasn't, if he  
7 thinks his answer was non-responsive, give him another shot.  
8 That's okay with me.

9 MR. DANDINO: Your Honor, he asked, how do you  
10 price the packages. And Mr. Unruh -- I mean, he went on and  
11 described the packages, the prices of them, but never answered  
12 the question of how do you price them. He just gave the  
13 prices. I thought -- I thought the question seemed that he  
14 was asking, you know, what was the method that you used to  
15 price these.

16 JUDGE DIPPELL: I don't believe that was  
17 Mr. Bub's question as evidenced by the fact that he's  
18 satisfied with the answer.

19 MR. DANDINO: Well, I'll move to strike the  
20 answer.

21 JUDGE DIPPELL: I'll overrule your objection.

22 MR. DANDINO: That's fine, your Honor.

23 MR. BUB: We have nothing further, your Honor.

24 JUDGE DIPPELL: All right then. Mr. Unruh, I  
25 believe that concludes your testimony and you may be excused.

1 So I believe that concludes all of the testimony to this  
2 point.

3 Like I say, we have those additional exhibits  
4 to come in and I will give you all an opportunity to file  
5 objections and whether you believe that we should re-open the  
6 hearing to take further testimony related to those exhibits.

7 Also, talk about a briefing schedule. Since  
8 we have those late-filed exhibits to come in, I will wait to  
9 actually maybe set a time for briefs, but I would expect that  
10 it would be within -- it would be 20 days following the  
11 receipt of objections to those exhibits and so forth. Because  
12 I don't believe you all are going to need a lot of time to  
13 brief this because you've already briefed it substantially.

14 MR. BUB: Although we do have to go through  
15 the record in the other two cases which are not part of the  
16 record here.

17 JUDGE DIPPELL: That is true.

18 MR. BUB: Do you expect, your Honor, to have a  
19 date scheduled for when the late files come in, another date  
20 for us to object and then 20 days after that?

21 JUDGE DIPPELL: Yes. Or if you believe you're  
22 going to need more time, you can --

23 MR. BUB: I was going to suggest 30.

24 JUDGE DIPPELL: Okay. Well, we'll see when  
25 those come in and then I will set out an order setting those

1 dates.

2 Commissioner Murray, you had something?

3 COMMISSIONER MURRAY: Yes. There's something  
4 that I'd like the parties to address in their briefs and that  
5 is who has the burden of proof for the proposition that the  
6 conditions for competitive classification no longer exists.

7 JUDGE DIPPELL: I actually had that -- a note  
8 myself to tell you to address that, who has the burden of  
9 proof, if anyone.

10 And there was in a filing -- I want to clarify  
11 something. In the joint motion to establish procedural  
12 schedule, paragraph 8, it says that, The parties stipulate  
13 that for purposes of this case, the Commission may consider in  
14 its review the verified Staff report filed in this case as  
15 evidence to determine if competitive conditions as defined and  
16 provided for in Section 392.245.5 RSMo for a 30-day petition  
17 continue to exist in the AT&T Missouri exchanges granted  
18 competitive classification under the 30-day tract in Case  
19 No. TO-2006-0093.

20 And then it goes on to say that Staff and AT&T  
21 stipulate that the report demonstrates that, but that OPC  
22 doesn't join in that, but that they're not going to provide  
23 evidence against that.

24 So my question for you is, is the Staff  
25 report -- is the Staff report stipulated to that that can be

1 considered as evidence?

2 MR. DANDINO: Yes. It can be considered as  
3 evidence and we're not challenging that as, you know, as the  
4 facts of it. And you can use it as evidence.

5 JUDGE DIPPELL: Okay.

6 MR. BUB: That's fine with us as well.

7 JUDGE DIPPELL: All right. I just wanted to  
8 clarify that because I was unclear so -- all right. I'll also  
9 ask -- and I'll set a date when the transcripts come in, I'll  
10 ask Public Counsel and AT&T to tell us which parts of the  
11 in-camera transcript can be made public. Okay?

12 Were there any other housekeeping matters that  
13 need to be taken care of?

14 MR. DANDINO: Nope.

15 JUDGE DIPPELL: All right then. I believe  
16 that concludes today's hearing and we are adjourned.

17 WHEREUPON, the hearing was concluded.

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