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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Preliminary Hearing
July 14, 2000
Jefferson City, Missouri
Volume 1

Southwestern Bell Telephone)
Company's Complaint Against)
Mid-Missouri Telephone Company) Case No. TC-2001-20
Concerning its Plan to Disconnect)
the LEC-to-LEC Common Trunk)
Groups and Request for an Order)
Prohibiting Mid-Missouri from)
Disrupting Customer Traffic.)

DALE H. ROBERTS, Presiding,
CHIEF REGULATORY LAW JUDGE.

ROBERT G. SCHEMENAUER,
KELVIN SIMMONS,
M. DIANNE DRAINER, Vice-Chair
COMMISSIONERS.

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR
ASSOCIATED COURT REPORTERS, INC.

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22 FOR: Staff of the Missouri Public
23 Service Commission.

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

2 JUDGE ROBERTS: On the record, please.

3 Good morning, ladies and gentlemen. We're
4 here this morning for what is basically a preliminary
5 hearing in Case No. TC-2001-20, which is Southwestern
6 Bell Telephone Company's complaint against
7 Mid-Missouri Telephone Company concerning its plan to
8 disconnect the LEC-to-LEC common trunk groups and
9 request for order prohibiting Mid-Missouri from
10 disrupting customer traffic.

11 The Commission issued an Order to Show Cause
12 in Support of the Request for Extraordinary Relief
13 yesterday, I believe, July 13th, 2000, and set the
14 hearing for this morning, short notice for good cause
15 shown.

16 Before we proceed, we'll take entries of
17 appearance, and as we take entries of appearance I'm
18 going to try to identify who your witnesses are. If
19 you've been with the Commission before, when we're
20 doing basically a hearing on a Stip and Agreement or
21 other hearings of that sort of variation, we don't
22 necessarily usually need to call witnesses to the
23 witness stand. If it's just a quick Q and A we may
24 call on the witness from wherever he or she is
25 located. So I'm going to swear them in before we

1 start.

2 So with that, we'll take entries of
3 appearance first from the complainant Southwestern
4 Bell Telephone Company, please.

5 MR. BUB: Thank you, your Honor. Leo Bub
6 and Paul Lane for Southwestern Bell Telephone Company.
7 Our address is One Bell Center, St. Louis, Missouri
8 63101. And the people we brought with us today are
9 Paul Cooper, Al Peters, Tom Hughes, Joyce Dunlap and
10 Sharon Sadlon, S-a-d-l-o-n.

11 Thank you.

12 JUDGE ROBERTS: Thank you. And at this time
13 would -- Paul, do you anticipate any one of those
14 witnesses being able to support your petition?

15 MR. LANE: I guess it depends on what the
16 particular question is, your Honor.

17 JUDGE ROBERTS: I'll go ahead and swear them
18 all in. Once we get going, we won't have to stop and
19 deal with that. It's a variation of what we do, but I
20 think it's appropriate for this morning.

21 Paul Cooper, would you please stand.

22 (Witness sworn.)

23 JUDGE ROBERTS: Thank you, sir. You may be
24 seated. Is the next one Al Peters? Would you please
25 stand.

1 (Witness sworn.)
2 JUDGE ROBERTS: Thank you, sir. You may be
3 seated. Tom Hughes.
4 (Witness sworn.)
5 JUDGE ROBERTS: Thank you. You may be
6 seated. Joyce Dunlap.
7 (Witness sworn.)
8 JUDGE ROBERTS: Thank you. You may be
9 seated. And the last name was Sadler, and I'm afraid
10 I didn't get --
11 MS. SADLON: Sadlon.
12 JUDGE ROBERTS: Sadlon.
13 MS. SADLON: It's Sharon Sadlon.
14 JUDGE ROBERTS: Thank you.
15 (Witness sworn.)
16 JUDGE ROBERTS: Thank you. You may be
17 seated.
18 The next entry of appearance should be the
19 Respondent, which I believe is Mid-Missouri Telephone
20 Company.
21 MR. JOHNSON: Thank you, your Honor. Craig
22 Johnson, Andereck, Evans, Milne, Peace & Johnson,
23 700 East Capitol, Jefferson City, Missouri 65102,
24 appearing today on behalf of Mid-Missouri Telephone
25 Company, and I have the president of the company,

1 David Jones.

2 JUDGE ROBERTS: Anyone else with you from
3 your company?

4 MR. JOHNSON: No, your Honor.

5 JUDGE ROBERTS: All right. Mr. Jones.

6 (Witness sworn.)

7 JUDGE ROBERTS: Thank you. You may be
8 seated.

9 Staff of the Missouri Public Service
10 Commission?

11 MR. HAAS: Yes, your Honor. The Staff
12 appears by William K. Haas. My address is Post Office
13 Box 360, Jefferson City, Missouri 65102. The Staff
14 witnesses that we have present today are John Van
15 Eschen and Wes Henderson.

16 JUDGE ROBERTS: Mr. Van Eschen.

17 (Witness sworn.)

18 JUDGE ROBERTS: Thank you. You may be
19 seated. Mr. Henderson.

20 (Witness sworn.)

21 JUDGE ROBERTS: Thank you. You may be
22 seated. Office of the Public Counsel?

23 MR. DANDINO: Thank you, your Honor.
24 Michael Dandino, Office of the Public Counsel, Post
25 Office Box 7800, Jefferson City, Missouri 65102,

1 representing the Office of the Public Counsel and the
2 Public. Your Honor, the Office of the Public Counsel
3 does not intend to offer a witness at this hearing.

4 Thank you.

5 JUDGE ROBERTS: Thank you, sir. Those of
6 you who received copies of the Order or otherwise got
7 notice of this hearing are undoubtedly aware of the
8 fact that we made it clear that other parties might
9 have an interest in this proceeding, and the
10 Commission is certainly willing to hear from those
11 parties even though they have not had the opportunity
12 to request or be granted formal intervention.

13 I will allow any appearance for the special
14 purpose of this hearing this morning to any party that
15 wishes to be heard. Is there any such party here?
16 Yes, sir?

17 MR. MOLTENI: Your Honor, Ron Molteni,
18 Assistant Attorney General on the behalf of the State
19 of Missouri, Attorney General's Office, P.O. Box 899,
20 Jefferson City, Missouri 65102.

21 JUDGE ROBERTS: And do you have any
22 witnesses with you this morning?

23 MR. MOLTENI: No witnesses, your Honor.

24 JUDGE ROBERTS: Thank you very much. Any
25 other party? Mr. Fischer?

1 MR. FISCHER: Yes, your Honor. James M.
2 Fischer appearing on behalf of GTE Midwest,
3 Incorporated, soon to be know as Verizon Midwest. I
4 don't have a witness that I intend to offer today,
5 although Carolyn Little is in the room and, if
6 necessary, we can call her at a later time.

7 JUDGE ROBERTS: I'd like to go ahead and
8 swear her, if I may, just so we can call her as the
9 need arises.

10 (Witness sworn.)

11 JUDGE ROBERTS: Thank you. Is there any
12 other party that wishes to be heard this morning? I
13 know there were allegations that this might affect
14 another entity. Hearing none. Vice Chair Drainer,
15 before we --

16 COMMISSIONER DRAINER: No, but I'll want to
17 talk today. Can I be heard?

18 JUDGE ROBERTS: Now or later?

19 COMMISSIONER DRAINER: Later.

20 JUDGE ROBERTS: All right. At this point
21 I'll go off the record and ask the other Commissioners
22 to join us. As some of you may know, there's another
23 hearing going on next door, and as is often the case,
24 we're juggling appearances from one location to
25 another.

1 With that, we'll go off the record for about
2 ten minutes.

3 (Discussion off the record.)

4 JUDGE ROBERTS: On the record, please.

5 When we were on the record previously, we
6 took entries of appearance and swore in the witnesses
7 so that we can call on them from their locations. I'm
8 not sure we'll be taking any statement from any
9 particular witness long enough to require calling them
10 to the witness stand. And for the purposes of this
11 hearing this morning, I think the questions are going
12 to come back and forth quite a bit.

13 As I stated earlier, the Order issued
14 yesterday was an Order to Show Cause in Support of
15 Request for Extraordinary Relief. Southwestern Bell
16 filed a Complaint in this matter on July 11th, which
17 meant it could not get on the agenda before the
18 Commissioners until yesterday, July 13th.

19 As I read the complaint, it was not clear on
20 its face as to at least two things; one, the date by
21 which the Commission needed to act, and secondly,
22 there was no specific authority made as to -- no
23 specific reference made as to the authority for which
24 relief was sought.

25 Of course, 4 CSR 240-2.080(3) requires the

1 parties in an application to include a specific
2 reference to the statutory provision or other
3 authority under which relief is granted. And the lack
4 of that reference is the reason that requirement was
5 reiterated in the Order that was issued yesterday.

6 As we reviewed the complaint and the
7 request, it would appear that the authority sought
8 comes from Section 386.310 of the Commission's
9 statutes, which comes as close as an administrative
10 agency can get to some sort of injunctive relief,
11 authority to issue an injunction, which is certainly
12 an extraordinary relief for this agency.

13 And it appeared on its face that the company
14 was asking for some type of pendente lite order, a
15 preliminary injunction pending the outcome of the
16 complaint.

17 So the procedure this morning will be for
18 Southwestern Bell to go first and state its
19 justification in support of its request. Certainly
20 thereafter Mid-Missouri will have the opportunity to
21 respond, and then if the Staff, Public Counsel and
22 other intervenors for this morning's hearing wish to
23 be heard, they will, and then, of course, there will
24 be questions from the Bench.

25 Are there any questions about that

1 procedure? Hearing none, then Southwestern Bell, you
2 may proceed.

3 MR. BUB: Thank you, your Honor.

4 First of all, we'd like to thank you for
5 hearing this case. We know we brought it to you on
6 very short notice, and we appreciate your making time
7 for us here this morning for the hearing to take
8 place.

9 But obviously we wouldn't have filed this
10 complaint unless something very serious was at stake.
11 Now, this case goes beyond the usual carrier disputes
12 that we bring for you to handle. The actions being
13 threatened here by Mid-Missouri will have a direct,
14 immediate and potentially severe impact on a large
15 number of customers.

16 What Mid-Missouri plans to do is to block
17 all traffic that goes between the interconnection
18 between Southwestern Bell and Mid-Missouri. What I
19 need to point out is that it's not just Southwestern
20 Bell customer traffic that would be blocked.

21 If I can reference the Missouri Telephone
22 Industry Association map, Mid-Missouri is in the
23 center of the state. We have a tandem in Kansas City,
24 Missouri called our McGee tandem. You'll probably
25 hear references during the day to the McGee tandem.

1 Well, into that McGee tandem interconnect a
2 number of carriers, GTE, Sprint United, the local
3 exchange carrier, Alltel, a host of wireless carriers
4 and CLEC carriers. All those carriers' calls go
5 through our McGee tandem, cross Southwestern Bell
6 facilities, and they're taken to Pilot Grove, Missouri
7 where Mid-Missouri has its own tandem.

8 And what Mid-Missouri plans to do is
9 disconnect that common trunk group, called common
10 because all of us use it commonly, disconnect it at
11 their tandem so that those calls wouldn't be
12 completed.

13 So what will happen is if a Southwestern
14 Bell customer, toll customer in Kansas City, Missouri
15 wants to call someone in any of Mid-Missouri exchanges
16 by dialing 1+ like they normally do, that call
17 wouldn't complete. Most likely what would happen is
18 they'd get some type of a message saying that the call
19 can't be completed as dialed, please check the number,
20 something like that. The same will happen to calls
21 that come from Sprint United territory.

22 And on this map, Southwestern Bell is light
23 blue. Sprint, I believe, is purple. I'm a little
24 color blind.

25 MR. LANE: Yes.

1 MR. BUB: Purple. Alltel here is in light
2 green, and GTE is in the red. So there's calls from
3 all over the Kansas City LATA that would go through
4 our McGee tandem to Mid-Missouri that would be
5 blocked. So customers in Alltel, GTE, Sprint United,
6 not to mention customers of the wireless carriers or
7 CLECs wouldn't be able to complete those calls like
8 they normally do. They'd have to find another way to
9 do it.

10 The impact here to customers is real, and
11 this traffic is scheduled, we've been led to believe,
12 to be cut this Sunday, the 16th.

13 What's going to happen is customers needing
14 to make important phone calls, perhaps it might be a
15 medical emergency, a doctor or a hospital in Kansas
16 City needing to call back to a Mid-Missouri customer,
17 wanting to know test results or family emergencies or
18 whatever, they're not going to be able to make calls
19 like they normally do.

20 They're going to have to find a way to make
21 them. Some might be able to figure out that they can
22 use a calling card to place that call. Others won't.

23 We believe that what Mid-Missouri plans to
24 do here is improper. And to address the Commission's
25 question about the authority for what we're asking for

1 here, and we did cite it in our complaint and perhaps
2 I failed to highlight or give enough importance to it.

3 But you'll find in paragraph 7 we reference
4 statute 392.240 subsection 3, and that section of the
5 Missouri statute says that whenever the Commission
6 after hearing had upon its own motion or upon a
7 complaint shall find that physical connection can
8 reasonably be made between the lines of two or more
9 telecommunications companies who facilities can be
10 made to form a continuous link of communication by the
11 construction and maintenance of suitable connections
12 for the transfer of messages or conversations, and
13 that the public interest and necessity will be
14 subserved thereby, skipping a little bit, the
15 Commission may by its Order require that such
16 connection be made. It goes on, Except where the
17 purpose of such connection is primarily to secure the
18 transmission of local telecommunication service.

19 Primarily the traffic here is intraLATA toll
20 traffic. There's been no allegation or no claim that
21 we've ever heard that the calls that Southwestern Bell
22 customers make, the calls that Sprint United customers
23 make, calls that GTE or Alltel customers make aren't
24 being paid for, and we're presenting this traffic to
25 Mid-Missouri in accordance with their access tariff.

1 We're lawfully presenting it. We're willing to pay
2 and have been paying their lawful tariff rates.
3 We think they have an obligation under their access
4 tariff and as the common carrier to terminate it.

5 I think at the end of the day, whether it's
6 today or at the end of this test that the industry's
7 been conducting, what we'll find is that most, if
8 not -- that much if not most of the traffic going over
9 these facilities is being paid for by Southwestern
10 Bell, Sprint, GTE and Alltel.

11 And we think it's clear that Mid-Missouri,
12 what it plans to do would be violating its own access
13 tariff which requires it to terminate traffic when
14 it's lawfully presented. We don't believe
15 Mid-Missouri's access tariff gives it any authority to
16 block calls of carriers that are willing to pay for it
17 to be terminated.

18 And as I explained earlier, what
19 Mid-Missouri plans to do is going to have a
20 significant adverse impact on customers, and just from
21 a customer standpoint alone, what Mid-Missouri plans
22 to do is inappropriate and it shouldn't be permitted.

23 But I want to make real clear, what we're
24 trying to tell you here is that the traffic should
25 flow, should be given a chance to be -- any concerns

1 that Mid-Missouri has to resolve in the context of the
2 Commission dockets that have been created for that
3 purpose.

4 What I want to be clear is that we're not
5 telling you that Mid-Missouri doesn't have a
6 legitimate right to be paid for the traffic that's
7 terminated. It does, and we've never disagreed with
8 that. We agree that appropriate steps need to be
9 taken to ensure that proper payments are made, and the
10 fact is that those steps are being taken now.

11 The entire LEC industry in Missouri, all the
12 former PTCs, former secondary carriers along with some
13 CLECs, the Commission Staff and a host of consultants
14 have spent considerable amount of effort and time to
15 design a network test to analyze the very problem that
16 Mid-Missouri has. The purpose of this test is to
17 learn the volume of unaccounted for traffic and to
18 find out who exactly is sending it.

19 But ironically, Mid-Missouri plans to cut
20 this traffic the very same day that this test is
21 scheduled to begin.

22 What we've been told by Mid-Missouri and
23 what we expect them to tell you here is that if we
24 want this traffic to flow, to continue to flow, that
25 tandem companies like Southwestern Bell Telephone

1 Company or GTE or Sprint United should have to pay for
2 all of it, even if it wasn't their customers that
3 placed that call.

4 While from Mid-Missouri's perspective that
5 might be the easiest thing, we think the Commission
6 has recognized in a series of decisions over the last
7 few years that it's not the right thing. In the first
8 CLEC certification case, which was DialUS, the
9 arbitrations with AT&T, the primary toll carrier case
10 which you heard twice, our wireless interconnection
11 carrier case and all CLEC and wireless interconnection
12 tariff cases and interconnection cases in between, in
13 those cases you've recognized that it's the carrier
14 whose customer placed the call that is responsible for
15 paying all other carriers down the line that are
16 involved in seeing that call to its completion.

17 I believe that you recognize under
18 Section 251 of the Telecommunications Act that other
19 carriers are permitted to use the facilities of tandem
20 companies like Southwestern Bell, GTE, Sprint United,
21 and that we're required to let them use those portions
22 of our network as if they were their own.

23 The reality here is that CLECs and wireless
24 carriers want to use the networks of the larger
25 carriers like Southwestern Bell, GTE and Sprint, and

1 we simply don't have any choice about it. We're
2 required under the Telecommunications Act to let them
3 use that.

4 With respect to Mid-Missouri's demand that
5 we pay for all traffic, we don't believe there's any
6 authority for that. We don't believe there's any
7 authority to order us to pay for other carriers'
8 traffic. Under our tariffs and under all of our
9 interconnection agreements, you know, our -- what
10 we've held ourselves out to do is not to terminate the
11 traffic at the end to Mid-Missouri, for example.

12 All we've offered to do is what we're
13 required to do under the law, and that's let other
14 people use our network for their calls to go across or
15 to transit our network. At no time have we held
16 ourselves out under the current tariffs and
17 interconnection agreements that are in force now to
18 actually terminate a call any place within the LATA in
19 a territory that doesn't belong to us.

20 Now, it may be some other carriers may be
21 sending traffic over our network, over the network of
22 other tandem companies and not paying for it. We
23 wholeheartedly agree that needs to be addressed. But
24 at no time has anyone claimed that Southwestern Bell,
25 GTE, Sprint United or Alltel haven't been paying for

1 their own customers' traffic.

2 And what we shouldn't have here is a
3 situation where these calls aren't going through
4 simply because another carrier might not be paying for
5 its customers' traffic.

6 While Mid-Missouri may be out some money in
7 terminating traffic or carriers not paying for it, we
8 need to realize that Mid-Missouri isn't completely
9 without fault here. I think you'll find that some
10 part of the traffic that's not being paid for is
11 wireless traffic.

12 From prior cases, and most recently the Alma
13 tariff case, you know that the reason Mid-Missouri
14 doesn't have an interconnection agreements with
15 wireless carriers and isn't being paid by wireless
16 carriers is because they have refused to negotiate in
17 good faith with the wireless carriers.

18 I think you recall in that case that several
19 wireless carriers, including Sprint PCS and
20 Southwestern Bell Wireless, sought to negotiate
21 terminating compensation arrangements with
22 Mid-Missouri, and they were told that they wouldn't
23 negotiate unless they brought direct facilities into
24 Pilot Grove, Mid-Missouri's tandem, and agreed to pay
25 full access.

1 Both of those positions are unlawful under
2 the FCC requirements, and the Commission has held in
3 the Alma access tariff case that it's unlawful for any
4 LEC to charge access rates to terminate wireless
5 traffic that originates or terminates within the MTA,
6 and that's what a lot of that wireless traffic is,
7 probably most of it is.

8 You have addressed this wireless traffic on
9 several occasions. You directed us and other tandem
10 companies to identify the wireless carriers that are
11 sending the traffic and to provide the terminating
12 companies with reports that would detail the number of
13 minutes each wireless carrier is sending to each
14 terminating LEC, and we've all done that.

15 We've all given the names of the wireless
16 carriers, the contacts, and we've also been giving
17 them reports, the amount of traffic that's coming
18 through our respective tandems to the terminating
19 carriers.

20 JUDGE ROBERTS: Mr. Bub, I'm sorry to
21 interrupt, but if I may, you may be getting beyond the
22 scope of this hearing. I mean, if that's -- if you
23 believe all these issues are relevant to the immediate
24 matter and whether or not the Commission's going to
25 issue what might be considered a preliminary order for

1 30 days or not at all, go ahead and proceed, but I
2 just want to make sure you keep the issues to the
3 hearing this morning.

4 MR. BUB: Okay.

5 JUDGE ROBERTS: The alleged interruption of
6 traffic.

7 MR. BUB: Okay. I believe it is relevant
8 because the wireless carrier traffic is flowing and it
9 is part of that unidentified traffic that Mid-Missouri
10 claims that we should be paying for in order to keep
11 it flowing. So I believe the wireless traffic does
12 have relevance here, and I'll -- I think I'm finished
13 with the wireless traffic issue.

14 The only other point on the wireless traffic
15 issue that I want to cover that issue, as you saw in
16 the Alma case, it is possible to negotiate a
17 terminating arrangement with wireless carriers.

18 You've seen the testimony in that case that
19 Alltel, GTE, Southwestern Bell, Sprint United and even
20 some small companies like Orchard Farm, New London and
21 Stoutland have entered into terminating compensation
22 agreements with at least Southwestern Bell and Sprint
23 PCS. You saw that testimony in the Alltel case, and
24 you've seen those interconnection agreements and have
25 approved them. So it is possible. There is

1 compensation to be acquired by Mid-Missouri for
2 termination of the wireless traffic.

3 But today I don't think the record has shown
4 that Mid-Missouri is willing to go forth and negotiate
5 in good faith. If they would, there's an avenue for
6 relief there for that portion of traffic.

7 Now, shifting gears to another type of
8 traffic that also is in that unaccounted for, I guess,
9 category that Mid-Missouri's claiming we should either
10 pay for or disconnect is actually a large portion, and
11 that's interstate intraLATA traffic. That would be
12 traffic that would go from the Kansas City, Kansas
13 portion of the Kansas LATA to Mid-Missouri.

14 As a little bit of background, the state of
15 Missouri's divided up into various LATAs. There's one
16 for St. Louis. There's one for Springfield, and
17 there's one for Kansas City, for the Kansas area, and
18 that includes the northwest portion of the state.
19 That LATA also includes a portion of Kansas City -- of
20 Kansas, and that Kansas/Missouri LATA is called the
21 Kansas City LATA, but not just Missouri but also
22 includes Kansas City, Kansas.

23 So calls in this category would be those
24 that would be coming from the Kansas portion of that
25 Kansas City LATA to Mid-Missouri. It would be an

1 interstate because it crosses the state line, but
2 still within that same Kansas City LATA.

3 Okay. Historically that traffic has been
4 treated as bill and keep ever since divestiture,
5 probably 17, 18 years. What that means is that we
6 would exchange that traffic between carriers and not
7 charge each other. We charge our own customer for
8 making that call, but we keep that revenue and
9 wouldn't share anything with each other for
10 terminating, and the idea was that that would balance
11 out.

12 Well, when the primary toll carrier plan
13 ended, we entered into discussions with carriers in
14 Missouri and recently had a meeting that was sponsored
15 by the Missouri Telephone Association, and at that
16 meeting it was agreed by all carriers that that
17 traffic should be compensated at interstate access
18 rates, at the rate that's in our federal tariffs.

19 And that's something that we actually have
20 been doing for probably around two years on the
21 St. Louis side of the state. We entered into
22 agreements and offered that same agreement to all the
23 small LECs in the state, including Mid-Missouri, but
24 at that time we were in the midst of litigating the
25 PTC plan case and they didn't want to enter into any

1 agreement that would have impacted their position in
2 the PTC plan case.

3 COMMISSIONER DRAINER: First PTC case or
4 second?

5 MR. BUB: I believe second.

6 COMMISSIONER DRAINER: Thank you.

7 MR. BUB: So what we've agreed to is that
8 that traffic should be compensable at interstate
9 access rates, and what we're right now working on
10 trying to do is to develop an appropriate record of
11 exchange between the companies so that traffic can be
12 billed.

13 What we're doing internally in Southwestern
14 Bell so that traffic can be billed is to develop a
15 paper record on an interim basis so that companies
16 that terminate traffic like Mid-Missouri would know
17 how much traffic is coming to them from our company
18 that's in Kansas so that they could bill us and that
19 traffic could be paid for.

20 And that would leave us with some amount of
21 traffic that really at this point isn't identified.
22 As mentioned earlier, that too is being worked and
23 it's being worked diligently in the context of
24 Commission Case 99-593 which is the case the
25 Commission set up to address signaling protocols, call

1 records, trunking, traffic management.

2 A lot of effort has gone into that test, and
3 that test is scheduled to begin this Sunday. Some of
4 the work that's been done to engineer this test is to
5 try and determine the appropriate period to study. We
6 wanted a period that would be representative of normal
7 traffic flows. What was agreed to was a Sunday, which
8 would be a weekend type of day, and Monday, a regular
9 weekday. And with that 48-hour period, that would be
10 representative.

11 That test was going to be conducted earlier,
12 but it was decided by the industry to wait a little
13 bit so that the CLECs could participate in that test
14 as well. So that test got pushed back to this
15 July 16th date, this Sunday.

16 We had to select the appropriate -- not only
17 appropriate period, but also the appropriate
18 companies, because we want a representative sample of
19 the type of companies that operate in the state. We
20 needed to decide what type of information that needed
21 to be captured, not only on the terminating end by
22 companies like Mid-Missouri, but also on the
23 originating end, when things come to us from other
24 carriers, what type of information we would need to
25 capture.

1 We had to figure out a way to encapsulate
2 that in some type of an electronic record so that we
3 could send it to a group that's been established to
4 analyze that data so that they could receive it
5 electronically and analyze it with computers on a
6 mechanized basis, because you have to remember that
7 this amount of traffic that we're talking about is
8 very, very large. It's 48 hours worth of traffic from
9 all points coming to 12 different companies that have
10 been selected to participate in the test over that
11 48-hour period. All these calls are going to be
12 studied.

13 These companies that are the subject of the
14 study, not only Mid-Missouri is one of them, but
15 they're companies from the various LATAs. They're
16 companies that are behind different companies'
17 tandems. Like, some of them -- most of them are
18 actually behind Southwestern Bell that are going to be
19 in the study. Some are behind Sprint. Some are
20 behind GTE.

21 We wanted to get a cross section of all the
22 different types of companies. Some are small single
23 exchange companies. Some are multiple exchange
24 companies. Some have their own tandems, like
25 Mid-Missouri, and others don't.

1 A lot of good and experienced people are
2 being brought forward for this test. There's Bob
3 Schoonmaker and the resources of GVNW, the national
4 consulting firm. Phyllis Callahan of the Warner CPA
5 firm is involved in the test, as well as staff and the
6 internal experts from Southwestern Bell, Sprint United
7 and GTE.

8 The Commission needs to be aware that this
9 test most likely will find that some CLECs are passing
10 traffic but failing to also pass an appropriate record
11 so that they can be billed for that traffic. To the
12 extent the company's found not to be paying
13 Mid-Missouri and other companies, that should be
14 brought to the Commission's attention, and I expect it
15 will, in Case 99-593.

16 We believe it would be appropriate for the
17 Commission to direct that company in that situation to
18 remedy it immediately, to either begin paying for the
19 traffic, flowing appropriate records or face loss of
20 their certificate of operating authority.

21 Such an approach would address the root
22 cause of Mid-Missouri's complaint and it would not
23 punish the customers of other carriers who are simply
24 in the middle who are paying to have their traffic
25 terminated.

1 No other carrier in the industry except for
2 Mid-Missouri is threatening to cut the traffic.
3 Rather, they're all cooperating in this test that
4 we're all conducting that's scheduled to begin this
5 Sunday.

6 We would ask that you consider the merits of
7 the industry approach that's being taken by all
8 carriers in the state, and we would ask that you
9 direct Mid-Missouri to refrain from disrupting current
10 traffic so that the traffic can be studied and that it
11 would be appropriately addressed in Case 99-593
12 without any harm to customers.

13 COMMISSIONER DRAINER: Mr. Bub?

14 MR. BUB: Yes, ma'am.

15 COMMISSIONER DRAINER: Your last statement
16 of what you're asking this Commission to do in your
17 complaint where you ask the Commission to find that
18 Mid-Missouri's plans to disconnect the LEC-to-LEC
19 common trunk groups is unlawful and to refrain from
20 disrupting customer traffic currently flowing over
21 these groups, and you've just restated that, when you
22 filed this on Wednesday --

23 MR. BUB: Tuesday, I believe, but not a big
24 difference.

25 COMMISSIONER DRAINER: Tuesday. Did you

1 intend for this Commission to make this finding this
2 week?

3 MR. BUB: We had hoped the Commission would
4 take some action.

5 COMMISSIONER DRAINER: This week? Please
6 answer me.

7 MR. BUB: Yes, your Honor.

8 COMMISSIONER DRAINER: Is that what you
9 intended?

10 MR. BUB: We had hoped. We didn't know what
11 to expect offhand, to be real honest. In hindsight,
12 we would have filed this complaint much sooner.

13 COMMISSIONER DRAINER: We'll get to that,
14 but for right now I just want to understand what --
15 you filed this on Tuesday. You didn't say in this
16 relief requested that you were asking us to do it by
17 any time line.

18 MR. BUB: No. We were hoping to get the
19 Commission involved.

20 COMMISSIONER DRAINER: But were you hoping
21 to have us involved, and are you asking us to do this
22 relief this week?

23 MR. BUB: We're asking that the traffic --
24 that some type of an Order, whether it be on a
25 preliminary basis so that it can be studied further

1 later, that some preliminary Order, even if it's
2 temporary, be issued before Sunday, yes.

3 COMMISSIONER DRAINER: So that's what you
4 were asking?

5 MR. BUB: Yes, ma'am.

6 COMMISSIONER DRAINER: And that was your
7 intent, that the Commission would have some type of
8 Order come out?

9 MR. BUB: If possible.

10 COMMISSIONER DRAINER: Okay. I will have
11 more questions later, but that clarifies that point.
12 Thank you.

13 JUDGE ROBERTS: Mid-Missouri?

14 MR. JOHNSON: Thank you, your Honor.

15 If during today's hearing I get a little
16 exercised, please let me know and I'll try to temper
17 myself down.

18 Mid-Missouri resents being called in here on
19 this motion on this kind of notice. We've been
20 working with Southwestern Bell for months to try to
21 solve this problem. They had at least two months'
22 worth of notice that we planned this July
23 disconnection date. The last two weeks we were
24 getting close to working out a solution with Bell.
25 They dropped the ball and ran to the Commission by

1 filing this complaint at the last minute.

2 Mid-Missouri Telephone Company is suffering
3 irreparable financial harm because of Southwestern
4 Bell's conduct. And what you just heard Mr. Bub say,
5 90 percent of that is a smoke screen, 10 percent of
6 it's true, and 10 percent of it's pertinent to what
7 they're asking you to do today.

8 Before the PTC plan ended, Bell was giving
9 Mid-Missouri Telephone Company about 900,000 minutes
10 of terminating use per month. Now -- and that
11 included GTE, Sprint, any other incumbent LEC. And by
12 the way, this case is not about wireless traffic that
13 Bell is sending us a CTUSR form pursuant to the
14 Commission's order. It's not about GTE's traffic
15 that's coming over that trunk.

16 JUDGE ROBERTS: I'm sorry. CTUSR form, for
17 the record stands for?

18 MR. JOHNSON: Cellular Terminating Usage
19 Summary Report.

20 JUDGE ROBERTS: Thank you.

21 MR. JOHNSON: It's not about any traffic
22 that's coming from Sprint United, the local exchange
23 company, GTE, or today, since the end of the PTC plan,
24 coming from that LATA from Alltel.

25 What this -- we agree that at this stage of

1 the transition from the PTC plan to the end of
2 TO-99-593 that case, that traffic is appropriately
3 coming to us. What this case is about is other kinds
4 of traffic that Bell has put on that common trunk
5 group to us which we can't keep them from putting on
6 it. We can't block it without blocking Bell's
7 traffic, but it's unlawful and improper traffic.

8 The first kind of traffic that Bell's
9 putting on there that's illegal is they're putting
10 on -- they're transporting over that trunk group
11 interLATA traffic in violation of their own MFJ
12 restrictions.

13 The second kind of traffic they're putting
14 on that trunk group that's illegal is they're putting
15 IXC interLATA traffic, not intrastate interLATA. It's
16 interLATA traffic. We've got the reports and the
17 records here, and we can show you that they're putting
18 traffic on that network that's coming from Jefferson
19 City. It's coming from New York. It's coming from
20 California. Some of it's wireless traffic that
21 belongs to a wireless carrier back in New York.

22 This isn't about the traffic that we agree
23 is appropriate to be coming over that trunk group at
24 this point in time. Today or the last month, the most
25 recent month's worth of information that's available,

1 the traffic reports we're getting -- by the way,
2 Mid-Missouri has turned on its switch. It can now
3 identify this traffic by originating NPA and NXX.

4 And we've got the runs. We've got a couple
5 of them. But the most recent one shows that instead
6 of 900,000 minutes, and this is including GTE,
7 Southwestern Bell, Contel, Alltel, Sprint and the
8 CTUSR traffic, we're only being reported 350,000. And
9 of that 350,000, Bell's only paying us for 160,000.
10 So 55 percent of this greatly reduced amount of
11 traffic they're not giving us any records for and
12 they're not willing to pay for.

13 We asked them not to put CLEC or wireless
14 traffic on that network for termination until we had
15 an interconnection agreement with those carriers that
16 were putting that traffic on there. And again, I'm
17 not talking about wireless traffic for which we're
18 already receiving the terminating usage reports from
19 Southwestern Bell. They refused to do that.

20 The next thing we do is we said, Okay, if
21 you're not going to at least prevent the traffic that
22 we can't collect for or identify or distinguish from
23 your traffic, if you're not going to prevent it from
24 coming over that connection, at least give us the
25 records so that we can identify the carriers and we

1 can bill them for it. They refused to do that.

2 So finally, and I think we started
3 negotiations with Southwestern Bell in October or
4 November of 1999 to try to rectify this problem. We
5 worked with them for about six months.

6 COMMISSIONER DRAINER: Excuse me. Would you
7 repeat the date you began negotiating?

8 MR. JOHNSON: We've been in constant
9 communication with them, but we really started working
10 with them to rectify this discrepancy in October or
11 November of 1999. November of 1999. And we've got
12 documents here that I can show you if you need to see
13 them.

14 Six months goes by, they're doing nothing.
15 They're not preventing this traffic that we'd
16 identified and they agreed was inappropriate, they're
17 not doing anything to stop it from coming over the
18 network.

19 The problem is that this inappropriate
20 traffic is unlawful traffic because they're putting it
21 on the common trunk group, which we never consented
22 to, which we don't believe is appropriate under our
23 tariffs. It's coming over the same trunks that the
24 Bell traffic, the GTE traffic, the appropriate
25 wireless traffic is coming over.

1 We can't shut off the inappropriate traffic
2 today without also shutting off Southwestern Bell's
3 traffic. And under their position to keep waiting
4 forever for the Commission to address issues that were
5 never designed -- to address a docket that was never
6 designed to address interstate interLATA IXC traffic,
7 it was never designed to address a CLEC traffic,
8 TO-99-593 was only designed to address incumbent
9 LEC-to-LEC terminating traffic, intraLATA traffic.

10 If you keep doing what Bell wants you to do,
11 they keep putting this traffic on the network without
12 anybody's say so, then they keep stringing out the
13 reckoning date to come up with any resolution of these
14 issues.

15 After we sent this notice that we're going
16 to disconnect these trunks, we started having some
17 meaningful discussions for a change with Southwestern
18 Bell, and we discussed two solutions that we're here
19 today to ask the Commission to consider that are less
20 intrusive and that protect Mid-Missouri Telephone
21 Company and still allow the lawful and appropriate
22 traffic to terminate.

23 Mid-Missouri Telephone Company shouldn't
24 have to sit there and take any kind of traffic Bell or
25 any other carrier wants to put on the network without

1 getting compensated for it forever. The solution to
2 that is to get this inappropriate traffic off these
3 common trunks.

4 Two ways to do it. You can order
5 Southwestern Bell to block or not put on this trunk
6 group traffic that's IXC traffic, traffic from CLECs
7 that do not have an interconnection agreement with us,
8 interLATA traffic. They can recognize that and they
9 shouldn't be sending that to us. They shouldn't be
10 sending it on those trunks. They have the ability to
11 do that. Mid-Missouri has no interconnection
12 agreements with CLECs.

13 The other way you can do that is you can
14 put -- you can prevent this inappropriate traffic from
15 being combined on the trunk group with the appropriate
16 traffic, is you can order Bell to put this
17 inappropriate or unlawful traffic on a separate trunk.
18 There's plenty of capacity.

19 Bell and Mid-Missouri have discussed both of
20 these concepts. Both can be done. If you enter an
21 Order directing Southwestern Bell to do either, then
22 the problem is solved. Mid-Missouri can go ahead and
23 disconnect and prevent the traffic that's
24 inappropriately coming to them without their agreement
25 in violation of their tariffs and without any

1 compensation of records, they can prevent that traffic
2 from continuing.

3 Once they block that traffic, then those
4 carriers can do what they're supposed to do under the
5 law and under their orders, and it's come to
6 Mid-Missouri that they want to terminate that traffic
7 or they can hire an underlying carrier who will get
8 that traffic to there for them.

9 And what we're asking you to do today is to
10 order Bell to do one of those two things. If that's
11 done, the Bell traffic, the GTE traffic, the Alltel
12 traffic, the Sprint traffic, the GTE traffic, the
13 wireless traffic that the CTUSRs are being reported,
14 that can all go on one trunk group and we won't
15 disconnect it and we'll get paid for it.

16 But all the other stuff that's being
17 inappropriately delivered to us by Southwestern Bell
18 on a separate trunk, when we don't get paid for that,
19 we can disconnect it.

20 Thank you.

21 COMMISSIONER DRAINER: Mr. Johnson?

22 MR. JOHNSON: Yes, your Honor.

23 COMMISSIONER DRAINER: You've given us two
24 solutions. Can you cite the authority in which you
25 believe the Commission can order Southwestern Bell to

1 do either?

2 MR. JOHNSON: Our tariffs. Our tariffs have
3 restrictions in there about anyone making unlawful or
4 improper or abusive use of our network or they make it
5 unlawful for anyone to assist another carrier in that
6 area, in that effort. There's state tariffs. There's
7 federal tariffs.

8 And there's separate legal authorities here,
9 your Honor. I think the MFJ makes the interLATA
10 that's being transported by Southwestern Bell to us,
11 that's unlawful under the terms of the consent decree.

12 The tandem -- and Mid-Missouri Telephone
13 Company has a tandem, and it's inappropriate and
14 unlawful under the whole state and interstate regimen
15 for any carrier sending Feature Group D IXC traffic to
16 not send that to Mid-Missouri Telephone Company's
17 Pilot Grove access tandem.

18 That's what the tandem is for.
19 Mid-Missouri's spent a lot of money to become a tandem
20 provider, and it's inappropriate for Southwestern Bell
21 to assist or allow any traffic like that to come to
22 its tandem instead and then get sucked into
23 Mid-Missouri through that common trunk group. That's
24 another source of authority.

25 COMMISSIONER DRAINER: Thank you.

1 JUDGE ROBERTS: Commissioner Schemenauer,
2 did you have any questions for the attorney before we
3 proceed?

4 COMMISSIONER SCHEMENAUER: I did. You
5 mentioned that you had two proposed solutions. I only
6 heard one, and that one was that Southwestern Bell
7 should be ordered to block the inappropriate traffic
8 from being passed on this trunk and to put that
9 inappropriate traffic on a separate trunk. What was
10 the other solution?

11 MR. JOHNSON: And again, these things have
12 been discussed and got close to agreement in recent
13 weeks. The first one was for just Southwestern Bell,
14 since it knows -- it knows the proper traffic from the
15 improper traffic, just block the improper traffic
16 until there's an interconnection agreement with
17 Mid-Missouri that authorizes that traffic to come.

18 The second solution, your Honor, will be,
19 instead of just blocking it, configure their network
20 to put it on a separate trunk. This common trunk
21 group consists of approximately 80 to 100 different
22 individual trunks.

23 MR. JONES: 120.

24 MR. JOHNSON: 120 individual trunks. And
25 there's been some discussions recently about how much

1 trunking capacity is actually required. There's
2 sufficient trunking capacity to put the proper traffic
3 on one group of trunks and put the improper traffic on
4 another group of trunks.

5 Then, without Southwestern Bell having to
6 block anything, we can turn the improper trunk group
7 off at our end.

8 COMMISSIONER SCHEMENAUER: So they can do
9 one or the other?

10 MR. JOHNSON: Yes, sir.

11 COMMISSIONER SCHEMENAUER: Thank you.

12 JUDGE ROBERTS: We've heard from the
13 Complainant and the Respondent. As indicated earlier,
14 we'll also hear perhaps briefly from any other
15 interested party.

16 I will notice before we proceed, in order to
17 keep this matter focused, the appearance of the
18 complaint and the request from Southwestern Bell and
19 the reason I cited the statutory authority I did, the
20 392.240 cited by Bell appears to provide for future
21 implementation of service, but the Petition filed by
22 Bell appears to ask for the Commission to enjoin
23 Mid-Mo from doing something, to order them to
24 basically cease and desist, which is a form of
25 injunctive relief that is only available under 386.310

1 and is, I think, a little more extraordinary form of
2 relief than asking somebody to do something in the
3 future.

4 And I think, Mr. Johnson, Mid-Mo, if you're
5 asking the Commission to order Bell to do something,
6 that probably would come under the 392.240 statute in
7 terms of implementing something in the future, whether
8 it's tomorrow or next year. But those seem to be the
9 issues or at least the way I am framing the issues so
10 far. If I see this incorrectly, please correct me.

11 MR. JOHNSON: Well, I don't mean to
12 interrupt, your Honor, but we're here today -- we
13 recognize the Commission's jurisdiction. We don't
14 want traffic to be unnecessarily blocked, but we need
15 to resolve this problem.

16 392.240 talks about the Commission's
17 authority to establish a connection. The connection's
18 already there. I'm not sure that statute's
19 applicable.

20 What we're really trying to do here today is
21 find, with the Commission's assistance, a solution
22 that would satisfy both the parties concerned.
23 There's nobody here today saying I don't want my
24 unlawful and improper traffic to continue to
25 terminate.

1 JUDGE ROBERTS: And I think I -- then I will
2 turn to the other parties. I think I can tell you,
3 the Commissioners' primary concern as I heard it
4 discussed was more than Southwestern Bell and more
5 than what's happening to Mid-Missouri, is what's
6 happening to the public, what's going to happen to
7 people who try and make telephone calls.

8 And to -- for the Commission to issue an
9 Order to basically enjoin a party from doing
10 something, I think the parties are going to have to
11 demonstrate the irreparable harm standard, that
12 there's not an equal or more substantial harm to
13 Mid-Mo from the Commission issuing an Order.

14 The law requires some demonstration of harm
15 to the public, and the likelihood that the
16 complainant, which would be Southwestern Bell, would
17 prevail on a complaint, and that's a rather
18 substantial standard to proceed with.

19 So I think that's -- as I said, try and keep
20 this focused on those issues. With that, the next
21 party which the Commission will hear is the Staff.

22 MR. HAAS: Thank you, your Honor. Very
23 briefly.

24 Because of the disruption to persons
25 attempting to make calls to and to receive calls in

1 Mid-Missouri exchanges if this trunk is disconnected,
2 Staff asks the Commission to order Mid-Missouri to
3 refrain from disconnecting this trunk.

4 Additional authority to that already
5 mentioned for the Commission to issue this Order is
6 Section 392.240.2 which states that, Whenever the
7 Commission shall be of the opinion after hearing that
8 the practices of any telecommunications company are
9 unjust or unreasonable or that the equipment or
10 service of any telecommunications company is
11 inadequate, insufficient, improper or inefficient, the
12 Commission shall determine that just, reasonable,
13 adequate, efficient and proper practices and service
14 be installed and observed and used thereafter.

15 But I realize that doesn't address the
16 long-term problem, and the Staff would also ask the
17 Commission to order Southwestern Bell to submit a plan
18 within 30 days in which Bell would describe how they
19 will either block these improper calls for which
20 Mid-Missouri is not being compensated, or under which
21 Bell would make arrangements to have Mid-Missouri
22 receive compensation for these calls.

23 And as I mentioned earlier, I do have
24 Mr. Van Eschen and Mr. Henderson here to explain these
25 positions and provide additional information.

1 Thank you.

2 JUDGE ROBERTS: Thank you. Office of the
3 Public Counsel, Mr. Dandino?

4 MR. DANDINO: Thank you, your Honor. May it
5 please the Commission?

6 Public Counsel above all wants to avoid
7 interruption of service, telephone service to any
8 consumer. That's the -- I think that's the bottom
9 line for our concern, and I think that's the
10 Commission's concern.

11 I think what we're looking at today is a --
12 the complaint case is a symptom of a much larger
13 problem, and the Commission's here today to solve the
14 symptom, which is to prevent disconnection of
15 telephone service. But I think the Commission has to
16 look a little bit beyond on trying to come up with
17 some way to address the problem.

18 And I'm -- I'm looking at the protection of
19 the public in terms of I do not think there's any way
20 that this Commission can allow the service to be
21 disconnected as proposed in the -- in Mr. Jones'
22 letter to Southwestern Bell as of Sunday. We just
23 cannot have that service cut off.

24 However, I do think that Mid-Missouri Group
25 has presented an option for the Commission which makes

1 a lot of sense, that they'll refrain from terminating
2 all the service provided that -- or not provided, but
3 they're also asking that, to maintain the status quo,
4 that they not be harmed, that they'll have some way to
5 track this compensation so between -- after July 16th
6 going forward, they're not going to lose the ability
7 to receive compensation.

8 I do have a little bit of trouble, and I
9 think I need to point out to the Commission, on
10 probably enforcement. If the Commission orders
11 Mid-Missouri not to disconnect it, you know, in
12 absence of an agreement by them not to disconnect it
13 and to be sure that the public, absolutely sure that
14 the public is protected, the Commission may have to
15 direct its General Counsel to go to court to obtain a
16 temporary restraining order.

17 However, I would think that the company
18 would agree to that, and -- but in absence of that, I
19 did want to -- I believe I did want to point that out
20 to you.

21 The same way with Southwestern Bell, that I
22 think the Commission can direct them to do something,
23 but in order to make sure that they do it, that you
24 may want to include that in the same type of order
25 just to be sure that it is done in the short term.

1 I think the basis of all this is that
2 what -- until it is absolutely -- until it is shown
3 that the traffic is illegal, I don't think that
4 Mid-Missouri should have authority to block it.
5 And then there's also a question of is the traffic --
6 is Southwestern Bell letting illegal traffic go across
7 their network?

8 And I think the Commission needs to resolve
9 those and from that fashion remedy, but I think you
10 need to keep the status quo, but at the same time is
11 protect the interests of Mid-Missouri and to receive
12 the compensation that they're due. And I think
13 perhaps there's a reasonable remedy here.

14 Thank you.

15 JUDGE ROBERTS: Thank you.

16 COMMISSIONER DRAINER: And I need to find it
17 and do it?

18 MR. DANDINO: That's why you get the bucks.

19 COMMISSIONER DRAINER: Thank you.

20 JUDGE ROBERTS: State of Missouri by and
21 through the Attorney General, Mr. Molteni?

22 MR. MOLTENI: Thank you, Judge Roberts.

23 This situation reminds me of when I was in
24 high school in gym class and two people would act up
25 in class and Coach Stellnicki would have 40 of us

1 kneel on the hardwood floor for an hour. And I
2 imagine you might have had that experience in boot
3 camp, Judge, given your military background.

4 This is not about just two parties having a
5 squabble. There's a third party here, and that's the
6 public. Part of that public is the State of Missouri.
7 The State of Missouri has facilities in the
8 originating area, that traffic into the Department of
9 Social Services who's going to have facilities in
10 Mid-Missouri's area. There's no telling -- we can't
11 tell what kind of -- whether there's going to be
12 emergency calls or not, but I think we can reasonably
13 assume that.

14 This problem didn't arise on July 11th. It
15 didn't spring up overnight. And candidly, I don't
16 know exactly what the traffic that's being carried on
17 these trunks is and whether it's being paid for
18 properly or not, but it's a problem that's existed for
19 a while, and it could have been brought earlier and it
20 should have been brought earlier.

21 And it's a solution -- the Commission is
22 really pinned into a position now, into a difficult
23 position because of the inability of Southwestern Bell
24 and Mid-Missouri to come up with a solution or to tee
25 this matter up before the Commission at an earlier

1 time.

2 That being said, I agree with Mr. Dandino,
3 that the public cannot suffer because of the dispute
4 of these parties about money. The provision of
5 telecommunications service in this millennium is
6 really, it's a basic necessity. I think everybody
7 agrees with that.

8 I don't know what legal authority the
9 Commission has to issue an Order the likes of which
10 Bell is asking for, particularly the temporary
11 restraining order nature of it.

12 But I do think the Commission has an order
13 to -- has the authority certainly to issue an Order to
14 Mid-Missouri saying that disconnecting the trunk
15 service is unlawful, and the Commission can certainly
16 order the Staff to file a TRO, which maybe is the
17 remedy that Southwestern Bell should have taken in
18 this matter.

19 Thank you.

20 JUDGE ROBERTS: And you say you didn't have
21 any witnesses. Coach Stellnicki is not here?

22 MR. MOLTENI: No, sir. Coach Stellnicki
23 unfortunately has passed away.

24 JUDGE ROBERTS: Mr. Fischer, I believe, on
25 behalf of GTE?

1 MR. FISCHER: Thank you, your Honor. Just
2 very briefly.

3 GTE believes that the disconnection of the
4 common group as described in the complaint could
5 adversely affect some of GTE's customers trying to
6 call into the Mid-Missouri area, and as I understand
7 the opening discussion from Mid-Missouri, it's not
8 GTE's traffic that's the issue here today. We would
9 not want our customers as a result to be affected by a
10 disconnection.

11 We've been participating, as has most of the
12 rest of the industry, in the recording test that was
13 scheduled to begin on Sunday, and we were hopeful
14 that, in the context of those discussions, that the
15 quantification of any measurement problems would be
16 identified and hopefully resolved. And we are not
17 pleased to have to come to the Commission today to ask
18 that this be resolved in this kind of context.

19 Thank you.

20 JUDGE ROBERTS: Thank you. Questions from
21 the Bench, Vice Chair Drainer?

22 COMMISSIONER DRAINER: Oh, yeah. First,
23 speaking for myself, but I'm sure the Commission as a
24 group feels the same way about this, we take this very
25 serious. I would like to say I've got questions first

1 about the procedure in which this was brought to us.

2 Ms. Dunlap, in the letter that you sent back
3 to Mr. Jones on May 30th, you said you were shocked
4 that he was going to disconnect?

5 MS. DUNLAP: Yes.

6 COMMISSIONER DRAINER: How could you be
7 shocked when you had been having discussions for some
8 time?

9 MS. DUNLAP: Yes, we have, and I was truly
10 under the impression that Mr. Jones or Mid-Missouri
11 Telephone was participating in the records test. We
12 were hopeful that within the context of that test we
13 would be able to determine who, what entity, what kind
14 of traffic was coming over the network, and that we
15 could reconcile that, not only with Mr. Jones but with
16 all the other companies in the test.

17 COMMISSIONER DRAINER: But isn't it true
18 that you had been having discussions due to a dispute,
19 on Mr. Johnson's statement that since November
20 Mid-Missouri had been having discussions?

21 MS. DUNLAP: On various aspects of this,
22 that is a correct statement.

23 COMMISSIONER DRAINER: So by May 30th, you
24 must have sensed there was a great deal of frustration
25 on behalf of Mid-Missouri to get this issue resolved?

1 MS. DUNLAP: Yes.

2 COMMISSIONER DRAINER: You also state in
3 your letter that you want assurances that they will
4 not disconnect, and you said, If we do not receive
5 such assurances by June 15th, 2000, we will have to
6 take appropriate actions.

7 What appropriate actions did you believe you
8 needed to take on June 15th?

9 MS. DUNLAP: I don't know. I think we
10 probably were thinking, bring it to the Commission.

11 COMMISSIONER DRAINER: Mr. Bub, do you know
12 about the doctrine of laches?

13 MR. BUB: Yes, your Honor.

14 COMMISSIONER DRAINER: Isn't laches the
15 neglect or an unreasonable and unexplained length of
16 time under circumstances pertaining to diligence to do
17 what in law should have been done?

18 MR. BUB: Basically in layman's terms, I
19 agree with your Honor. Basically, it means one party
20 sits on its hands and does nothing, and I think --

21 COMMISSIONER DRAINER: Now, please. Your
22 letter said on June 15th your company sent a letter
23 that said we'll take appropriate action. Now, you
24 waited until we had one agenda day late, based on your
25 complaint only, without the parties having ten days to

1 have their due process to reply to your complaint.

2 You see, until I talk to Mr. Jones, I still
3 don't know if he really is going to cut that on
4 July 16th. I don't know that. I know what the letter
5 said. I don't know what other discussions you-all
6 have had and if you would have been agreeable to
7 something else. I don't know, and you gave me no
8 opportunity to know, or this Commission, without
9 coming into this room today.

10 Did you sit on your hands by getting this to
11 the Commission not 'til July 11th?

12 MR. BUB: No, your Honor, we did not sit on
13 our hands. I think in hindsight we would --

14 COMMISSIONER DRAINER: Well, you did sit on
15 your hands in bringing it to the Commission. I don't
16 know what other conversations you've had, but if
17 you -- there comes a point where the Commission has to
18 have time and there has to be due process for other
19 parties to respond.

20 MR. BUB: Your Honor, in hindsight, if I had
21 it over to do, I would have filed the complaint as
22 soon as we got that letter to do exactly what you
23 said. In our wildest dreams -- and the reason Joyce
24 and the rest of us were shocked was that, in all the
25 experience we've had with other carriers in other

1 states in how we operate in 13 other states, in
2 negotiations with another carrier we have never been
3 faced with a situation they were going to cut the
4 traffic over a dispute over interconnection or terms
5 or money. Customer traffic has always been --

6 COMMISSIONER DRAINER: No. You'll get your
7 chance.

8 MR. BUB: -- special. We thought when we
9 sent that letter that we'd be able to work it out.
10 And as Mr. Johnson explained, we did have a lot of
11 very extensive discussion, and only -- we didn't think
12 we'd ever have to come here, because in our view what
13 they're planning to do is unlawful. It's not
14 authorized by the tariffs. It's unlawful under
15 various statutes. We didn't think it would come to
16 this point.

17 In hindsight, we should have brought it to
18 you earlier, and for that I apologize. We should have
19 done it sooner. We had no -- it was only until it was
20 apparent to us that they actually were going to cut
21 the traffic that we felt compelled to.

22 COMMISSIONER DRAINER: They gave you a
23 letter the middle of May that said they were going to
24 cut the traffic. You sent them a letter back the end
25 of May saying, If we don't get assurances from you by

1 June 15th, then, as Ms. Dunlap said, you're going to
2 come to the Commission.

3 Did you get any letters, anything in writing
4 from Mid-Missouri that assured you that they were not
5 going to cut the traffic on July 16th?

6 MR. BUB: No, your Honor.

7 COMMISSIONER DRAINER: Then after June 15th,
8 since you did not get those assurances, you could have
9 come to the Commission and you could have said, We've
10 got a complaint. We're going to continue to work on
11 it, but you need to know this is out there and that
12 consumers may not be able to transmit calls. You
13 could have done that?

14 MR. BUB: We could have filed a complaint,
15 but your Honor, if you will recall, during our 800
16 complaint case that we did bring, during the hearing
17 we offered that letter to the Commission and it was
18 rejected in evidence. I realize it's a separate case
19 and the Commission wanted to --

20 COMMISSIONER DRAINER: The burden is on you
21 to have brought this to us sooner, but we are here now
22 and we're going to have to deal with this.

23 MR. BUB: I don't disagree, your Honor.

24 COMMISSIONER DRAINER: Thank you. It's nice
25 to have you not disagree.

1 Now, Mr. Henderson, has the Staff been
2 involved in the discussions with Southwestern Bell and
3 Mid-Missouri?

4 MR. HENDERSON: Yes, we have, since around
5 the first of April.

6 COMMISSIONER DRAINER: Mr. Jones, did you
7 call me the first of April and tell me that you
8 thought you had a problem that you needed help with
9 Southwestern Bell?

10 MR. JONES: Yes, I did, and that was after
11 much discussion with Southwestern Bell. I was very
12 frustrated because I couldn't seem to make progress.

13 COMMISSIONER DRAINER: And didn't I tell you
14 that it seemed that these issues became contested and
15 I ought not get involved in the specifics, but that I
16 would have Staff call you and they could work with you
17 and Southwestern Bell?

18 MR. JONES: That is correct.

19 COMMISSIONER DRAINER: And that was our last
20 communication about this issue, correct?

21 MR. JONES: What's that?

22 COMMISSIONER DRAINER: That was our last
23 communication about this issue?

24 MR. JONES: I think you had asked me at the
25 MTIA spring meeting how we were getting along. I said

1 slow, or something to that effect.

2 COMMISSIONER DRAINER: And I don't recall
3 that, but that could have happened if I asked that in
4 general. I do want Southwestern Bell to be aware that
5 I was given that information that there was a problem.

6 Then, Mr. Henderson, I passed that over to
7 you?

8 MR. HENDERSON: Correct.

9 COMMISSIONER DRAINER: Now, what I'd like to
10 know is if you have been involved since April, was
11 Staff aware that this was going to be cut off on
12 July 16th?

13 MR. HENDERSON: Yes.

14 COMMISSIONER DRAINER: Did they believe that
15 that would happen?

16 MR. HENDERSON: Did I believe that myself?

17 COMMISSIONER DRAINER: Yes.

18 MR. HENDERSON: In conversations with
19 Mr. Jones, no, I didn't.

20 COMMISSIONER DRAINER: Because that brings
21 me to, I really want to know why we did not -- if you
22 did not believe that, then you didn't believe you had
23 to come to the Commission and tell us?

24 MR. HENDERSON: That's correct.

25 COMMISSIONER DRAINER: Okay. Thank you.

1 Then Mr. Jones, is it your intent that, without a
2 Commission Order today, that you will cut the traffic
3 this Sunday?

4 MR. JONES: The intent would be to
5 disconnect that trunk group if we don't have some
6 assurance or some solution that we know that there's
7 an ultimate end to the bleeding we're suffering. And,
8 you know, I think I owe that to my own customers
9 because ultimately they're the ratepayers that are
10 going to make up the difference if we can't collect
11 that revenue.

12 As long as that revenue or that traffic
13 continues to flow, there's no assurance we can ever
14 bill it to anyone, and it is significant for our
15 company.

16 COMMISSIONER DRAINER: Staff has proposed
17 today that the Commission ask you -- order you to not
18 cut the traffic and that they order Southwestern Bell
19 to in 30 days come up with a solution. I believe what
20 they're really asking is there be a stip and agreement
21 between the two of you in 30 days to resolve this
22 issue.

23 If Southwestern Bell were willing to work
24 with you over the next 30 days diligently to get this
25 resolved, would you not cut the traffic?

1 MR. JONES: I would be willing to not
2 suspend the traffic providing there's a known end to
3 the problem, I mean there's some certainty as to when
4 we'll get resolution.

5 The thing I wouldn't want to find out is at
6 the end of 30 days we just suffered another 30 or
7 \$40,000 of lost revenue only to be back where we are
8 today. But if there's a known certain end, I mean,
9 the last thing I want to do is shut that trunk group
10 off. It's an absolute last resort to get to that
11 point, and --

12 COMMISSIONER DRAINER: Mr. Bub?

13 MR. BUB: Yes, your Honor.

14 COMMISSIONER DRAINER: You heard Staff's
15 suggestion that the Commission order Southwestern Bell
16 to come up with a solution in 30 days. We've also
17 heard from Mr. Johnson that they have two solutions
18 and that you were all working on one of the two.

19 Does your company believe that in 30 days it
20 could work out something with one or two of those
21 solutions to resolve this issue?

22 MR. BUB: Your Honor, we are always ready to
23 work with another carrier, Mid-Missouri, and have been
24 and are willing to continue working to reach a
25 solution. I'd see several things that we think we

1 would need to work on cooperatively together; one, not
2 to suspend the traffic, to continue this test that we
3 believe is -- a lot of effort's been invested by
4 companies across the state to try and get at the root
5 problems that various parties referenced today.

6 As far as those two solutions Mid-Missouri
7 has asked be imposed, the blocking at our tandem or
8 segregation of trunk groups, certainly we're willing
9 to work, see if something can't be done in that area.

10 COMMISSIONER DRAINER: Let me --

11 MR. BUB: But I want to tell you that those
12 types of solutions while from Mid-Missouri's end may
13 not be very hard to do or time consuming on their end,
14 it is on ours. It would take a lot of time to set up.

15 COMMISSIONER DRAINER: That's my next
16 question. Who's your witness here that can speak to
17 that? Is that Ms. Dunlap?

18 MR. BUB: No. It would probably be a
19 combination of witnesses. It wouldn't be Ms. Dunlap,
20 no.

21 COMMISSIONER DRAINER: Then if you have a
22 witness that could answer for me, how long would it
23 take, even if it were on an interim basis, to put in a
24 solution that either separates out the trunk of the
25 other traffic from the traffic that we know is

1 measured or to have you deal with the unlawful
2 traffic?

3 MS. SADLON: That would be me, your Honor.

4 COMMISSIONER DRAINER: Please stand up and
5 state your name.

6 MS. SADLON: I'm Sharon Sadlon.

7 COMMISSIONER DRAINER: Thank you.

8 MS. SADLON: The position that would be
9 required of us would be to institute new screening in
10 our network to segregate on the originator of traffic,
11 which is not really a function of a tandem in most
12 respects today. We don't do that type of screening in
13 the normal standard translations.

14 We look at our network as a transit, and so
15 our path is to receive an incoming call and by the NPA
16 NXX route that call to the appropriate terminating end
17 office over a trunk group, which is, in fact, the
18 common trunk group that we send all our traffic to
19 Mid-Missouri on.

20 In order to stop that traffic or block that
21 traffic, the screening would be very similar. We
22 would have to identify the traffic designated as not
23 desired by Mid-Missouri or not allowed by the
24 Commission, and then we would have to set the screen
25 up to block that traffic and then assign that blocking

1 to all of the incoming trunk groups that that applied
2 to.

3 And also, if we were ordered to do the
4 trunk, separate trunk group issue, we would also then
5 have to create secondary routing and translations to
6 establish that trunk group and assign that information
7 to Mid-Missouri's codes.

8 COMMISSIONER DRAINER: Have you done these
9 types of functions before?

10 MS. SADLON: Yes. Well, I personally was a
11 com tech for many years and did type the actual work
12 in, but at this point in my career I am a translations
13 methods and procedures writer, and I'm on staff in
14 San Antonio.

15 COMMISSIONER DRAINER: How long would it
16 take to put some method in place to deal with the
17 issues that Mid-Missouri has brought to us?

18 MS. SADLON: By my estimates, and I was
19 asked to look into that before I came today, it would
20 be between 150 and 200 hours.

21 COMMISSIONER DRAINER: Five weeks?

22 MS. SADLON: Yes, your Honor.

23 COMMISSIONER DRAINER: If in order to keep
24 the traffic flowing the Commission were to order on an
25 interim basis that Southwestern Bell take such an

1 action until such time that the case could be heard
2 and resolved on a permanent basis, would Southwestern
3 Bell over the next 30 days work to have that done?
4 Well, or five weeks or six weeks, let's say. Let's
5 really try to be --

6 MR. BUB: Your Honor, five, six weeks,
7 whatever it is, with an Order from the Commission, we
8 would do that.

9 Your Honor, of those two solutions, what
10 Mrs. Sandlon was talking about was establishing the
11 translations that would be associated with each
12 incoming trunk into our McGee tandem so it would know
13 where to send those calls, either to block it,
14 blocking, or to send it to the -- to a trunk group
15 that, if Mid-Missouri chose to block, essentially it
16 wouldn't be using.

17 From our perspective, of those two options,
18 the blocking would probably be the most appropriate
19 because in that situation you wouldn't be requiring us
20 to set up a trunk that is just there to be blocked and
21 it would be most efficient. So the blocking would
22 probably be the most --

23 COMMISSIONER DRAINER: If we left that to
24 your discretion, that you worked at those differences
25 with Mr. Jones and made it interim and put this case

1 forward on a more reasonable track of time?

2 MR. BUB: Your Honor, with a Commission
3 Order, we would do that.

4 COMMISSIONER DRAINER: Okay. Now,
5 Mr. Jones, you've just -- you've just got to talk, so
6 please do, or Johnson.

7 MR. JOHNSON: No. I was -- while we were on
8 that topic, I was going to ask the Commission -- you
9 wanted to talk to?

10 MR. JONES: I want to talk.

11 COMMISSIONER DRAINER: Yeah, he wants to
12 talk.

13 MR. JOHNSON: I'm sorry. A lawyer never
14 lets anybody talk first, but I'll make an exception.

15 MR. JONES: Can I clear up just a little bit
16 of smoke that was offered by my attorney this morning?
17 He'll probably fire me as a client. I fired him once
18 before, so he'll probably fire me as a client.

19 COMMISSIONER DRAINER: I think I remember
20 that.

21 MR. JONES: Yeah. Bell is reporting the
22 wireless terminating minutes to us. I think a comment
23 that Craig made this morning indicated that they
24 aren't reporting those CTUSR minutes to us. They are,
25 in fact, reporting the wireless minutes to us, and I

1 didn't want that misunderstanding to exist.

2 And the traffic that we're talking about
3 today, I've got a little handout I've prepared that
4 will clear up a lot of the smoke if I could offer it,
5 and maybe this isn't the appropriate time. I don't
6 know.

7 COMMISSIONER DRAINER: Well, I guess what I
8 want to know is, we have a very specific thing to deal
9 with today. I think if you have issues in the long
10 run, we're going to have to resolve those and then
11 you'll be a witness if your attorney will still have
12 you, but --

13 MR. JONES: Have to find a new one.

14 COMMISSIONER DRAINER: But I guess what I
15 wanted to know was if, based on what you've heard,
16 that Southwestern Bell is willing over the next 30
17 days to put a plan together with you that on an
18 interim basis they will take one of your solutions
19 until such time that we can have a hearing on those
20 issues, would you be agreeable to not terminating?

21 MR. JONES: I would be agreeable to that,
22 and, frankly, their preference of blocking the traffic
23 at their tandem is my first choice. So I don't know
24 that we're in disagreement there. That is the proper
25 method that should be taking place.

1 I would agree to let this be an interim
2 solution 'til the terminating docket is finished and
3 that's resolved. That to me makes a lot of sense.
4 The thing that I want to do is protect my customers
5 and my shareholders from the continued bleeding that
6 we're seeing today, and, you know, 30 or 40 days is a
7 long time.

8 If there's anything Southwestern Bell could
9 do to put two people working on the translations to
10 cut the time in half, because remember we're the ones
11 bleeding, and I just need to get the bloodshed
12 stopped.

13 COMMISSIONER DRAINER: Okay. But let me
14 now -- I made Mr. Bub bleed a little bit. Now I need
15 to take a little from you-all, too. I really would
16 like to find that hardwood floor. If I had my choice,
17 speaking only for myself, you would all be kneeling on
18 it, because I really don't understand, if you really
19 have this intent of cutting off traffic, why you
20 didn't come to the Commission in a formal sense.

21 And I wanted to be very honest with that
22 with Southwestern Bell that I've been aware. It
23 hasn't been a case. It's not been brought to us as a
24 case number, but I didn't have any detailed
25 information. I had only the information back in April

1 there was a problem.

2 And I think the Office of the Public
3 Counsel, I think our Staff, I think the State of
4 Missouri really wanted to know before July 11th. And
5 if you didn't think you were getting there with
6 Southwestern Bell, why didn't you come to the -- why
7 didn't you come to the Commission the middle of June
8 and say, This is what we're going to have to do?

9 MR. JONES: In hindsight, I probably should
10 have filed a complaint back in April, and I was
11 hopeful that we could avoid the length of time that a
12 complaint case takes, you know. I was hoping that we
13 could solve the problem sooner than a complaint case
14 just because of the bleeding.

15 I was hopeful all along the process that we
16 were going to get close to a solution. And, you know,
17 hindsight's 20/20, and I should have brought a
18 complaint and I didn't.

19 COMMISSIONER DRAINER: Mr. Johnson, why
20 didn't you advise your client to come to us sooner?

21 MR. JOHNSON: I've been in touch with
22 Mr. Jones and his Washington, D.C. counsel and a lot
23 of this traffic is interstate, and the disconnection
24 letter that Mr. Jones sent was modeled after forms and
25 procedures that had been used in the interstate

1 jurisdiction, and the purpose is to notify carriers
2 and give them two months to come and make the
3 appropriate arrangements.

4 It has been successful to a certain extent,
5 I believe, but we thought we were following a lawful
6 procedure under both our state and federal tariffs.

7 COMMISSIONER DRAINER: Well, I know my
8 fellow Commissioners have questions. I think I see a
9 temporary route that we might be able to do.

10 JUDGE ROBERTS: Commissioner Schemenauer?

11 COMMISSIONER SCHEMENAUER: Thank you, your
12 Honor.

13 Ms. Sadlon, 150 to 200 hours of translation
14 work that you said it would take, does that have to be
15 done by one person or can more than person do that to
16 reduce the time?

17 MS. SADLON: That would be limiting it to
18 one person, and that's the total time it would take.
19 It wouldn't be my inclination that only one person
20 would be working a project such as this.

21 COMMISSIONER SCHEMENAUER: So five people
22 could do it in one week?

23 MS. SADLON: Well, we do have -- we would
24 have some overlap. I mean, there are considerations
25 as to who could be working at one time in the switch,

1 but, I mean, logically yes, we could put more people
2 on it if it's available in the network at that point.
3 I can't speak for the local field operations there in
4 Kansas City to tell you that they'll have those five
5 people, but yes, certainly multiple people can --

6 COMMISSIONER SCHEMENAUER: It can be done in
7 two weeks instead of five weeks?

8 MS. SADLON: It would depend on how many
9 people we could assign, but yes, I would agree it
10 could probably be done working all three shifts on the
11 project.

12 COMMISSIONER SCHEMENAUER: And what would
13 you estimate the cost of that to be?

14 MS. SADLON: In my -- I have to say I can't
15 answer that because in my capacity I don't deal in
16 labor rates and times. I mean, I only provide time
17 estimates of the work, not the cost.

18 COMMISSIONER SCHEMENAUER: It would be
19 something less than a hundred dollars an hour? We're
20 talking about labor and no equipment, right?

21 MS. SADLON: It would be labor, yes. It
22 would be Group 1 craft, and I'm not sure what the
23 labor rate is right now on Group 1 craft. I'm sorry.
24 I can't answer that. I would say less than a hundred
25 dollars an hour, but we would have to factor in some

1 overtime potentially. So that would be my fear is
2 that I wouldn't cover all the costs.

3 COMMISSIONER SCHEMENAUER: Do you know an
4 exact amount, Mr. Hughes?

5 MR. HUGHES: I don't know an exact amount,
6 Commissioner, but I do know when we've researched this
7 that we've been instructed that it would be
8 approximately \$70 an hour.

9 COMMISSIONER SCHEMENAUER: Mr. Bub, the
10 traffic Bell has been terminating to Mid-Mo prior to
11 PTC was about 900,000 a month, is that Mr. Johnson's
12 testimony?

13 MR. BUB: I don't know, your Honor.

14 COMMISSIONER SCHEMENAUER: And I think
15 Mr. Johnson indicated it dropped to 150,000 a month.
16 Is that -- I mean, does anybody monitor that? Who
17 pays those bills to Mid-Mo? Do they look for some
18 sanity checks there to see if these things fluctuate
19 there's something wrong?

20 MR. BUB: I don't do that job, but I would
21 expect that, if there was a difference, it wouldn't
22 have been specifically looked at, because if you
23 recall during the primary toll carrier plan, what we
24 paid on the terminating traffic was a ratio of the
25 originating.

1 So nobody looked at how many minutes are
2 coming in to a particular carrier like Mid-Missouri
3 because what we looked at was how many calls and
4 minutes from those calls the Mid-Missouri customers
5 and then multiply by their T/O factor, and that would
6 be the amount we would owe them for terminating
7 compensation.

8 So I don't know if we would have noticed the
9 jump. We could certainly research that and look to
10 see if there's a different trend, but standing before
11 you today, I don't know the answer to your question.

12 COMMISSIONER SCHEMENAUER: Mr. Jones, your
13 letter to Bell, May 15th letter, you offered that
14 you'd accept \$189,000 in payment for access payments
15 due no later than June 20th. Would that have paid the
16 total arrearage that you estimate in your traffic up
17 until June?

18 MR. JONES: The 189,000, as I recall, was
19 the lost revenue from the beginning of the year
20 through April 15th, because, see, the data or the
21 traffic periods are always 45 days behind the current
22 date. So I didn't have usage any more current than
23 April 15th.

24 COMMISSIONER SCHEMENAUER: And this amount
25 of money would have been what everybody owed you? I

1 mean, Southwestern Bell said they paid you what they
2 owed you, but these unknown minutes you would expect
3 Bell to pay for?

4 MR. JONES: I was asking Bell to pay for
5 those, yes.

6 COMMISSIONER SCHEMENAUER: Once this is
7 resolved and you can identify the minutes and who's
8 transiting them or terminating them in your exchange,
9 can you go back and bill them for the months that they
10 haven't been paying you based on the records that you
11 establish?

12 MR. JONES: Well, that's one of the issues
13 that in the meeting with Staff, where Southwestern
14 Bell and us both met with Staff, I think April 12th,
15 we discussed that, and Joyce Dunlap was going to
16 research and see if they could find records in their
17 system that showed where this traffic had come from,
18 who the responsible party was.

19 To my knowledge, up to this point, we have
20 never learned and they have been unable to provide us
21 any records telling who was the responsible carrier on
22 that traffic. So I really don't know that I've got a
23 party to bill except for Southwestern Bell merely as
24 the party that delivered the traffic. And it may not
25 be their traffic. I just don't know.

1 COMMISSIONER SCHEMENAUER: But if they give
2 you the information, then you could bill the correct
3 parties. So it's -- it's just trying to identify and
4 pick up the compensation that has been due you since
5 November?

6 MR. JONES: Certainly if I could find the
7 party that that traffic belonged to, or parties, I
8 would love to go back and try to recapture that lost
9 revenue.

10 COMMISSIONER SCHEMENAUER: I mean, when did
11 you ask Bell for those records?

12 MR. JONES: We began -- we began discussing
13 it, like I say, in November and December, trying to
14 determine what the discrepancy, because we had a
15 growing discrepancy.

16 COMMISSIONER SCHEMENAUER: But when did they
17 specifically tell you that they would research that
18 and try to give you some information on who to bill?

19 MR. JONES: Looks like we asked for it
20 October 19th of '99.

21 COMMISSIONER SCHEMENAUER: Okay. That's
22 roughly eight months plus ago. Do you think Bell will
23 be any more expedient in the next 30 days to solve
24 this problem with you than they have been in the past
25 eight months?

1 MR. JONES: The only thing I can judge that
2 by is history, and history would indicate that we're
3 not going to get there any time soon. They may have
4 additional information they can share with us today
5 that I haven't been party to. At this point I have no
6 indication that they've been able to identify who the
7 virtual carrier is that's delivering this traffic.

8 COMMISSIONER SCHEMENAUER: So even with no
9 faith, you would go ahead and agree to a 30-day
10 moratorium to try to resolve this?

11 MR. JONES: I would agree to an extension of
12 30 days, preferably shorter, providing there was a
13 known end, that there was a certainty to it, because
14 the last thing I want to do is see the traffic flow
15 disrupted and the problems it would create to the
16 customers trying to call my customers.

17 COMMISSIONER SCHEMENAUER: Have any of the
18 other carriers that you know of that you know are
19 terminating calls in your area, are they making access
20 payments to you, GTE, Sprint, Alltel?

21 MR. JONES: Yeah. I have a schedule that I
22 was prepared to hand out today that shows how much
23 traffic is being reported by GTE, Sprint, Alltel,
24 including the wireless traffic, including the
25 intraLATA interstate traffic, and all that's being

1 accounted for and I believe is being paid. The thing
2 that we're disputing is outside of those forms of
3 traffic.

4 Now, the cellular traffic -- let me back up.
5 Some of that's been paid for, but by and large those
6 minutes haven't been compensated for, but that's not
7 subject of -- the discrepancy I've given you doesn't
8 include wireless. We're not -- this process was never
9 intended to try and resolve the problems we have
10 related to wireless traffic.

11 And frankly, wireless traffic is
12 significant, but it's like 8,500 minutes a month. So
13 compared to this other, it doesn't even show up.

14 COMMISSIONER SCHEMENAUER: I'm trying to
15 reconcile the 900,000 minutes versus you only getting
16 paid for 150,000. Does that include -- I mean, are
17 you -- does that include what you're getting from GTE,
18 Sprint?

19 MR. JONES: Let me -- this is highly
20 confidential information.

21 COMMISSIONER SCHEMENAUER: Well, you don't
22 have to divulge anything highly confidential. I just
23 didn't know if Bell was -- if 150,000 minutes was just
24 what Bell was paying for but, in addition to that,
25 you're getting minutes from GTE, Sprint, Alltel and

1 some other carriers?

2 MR. JONES: Right. The total minutes
3 includes minutes from Southwestern Bell for interstate
4 intraLATA, the wireless terminating from all the
5 various wireless carriers, minutes reported by Alltel
6 for their traffic, the minutes reported by Sprint, the
7 minutes reported by GTE, and also the minutes reported
8 by Contel.

9 And then you take those out and you subtract
10 out the minutes reported by Southwestern Bell for
11 their services. The discrepancy is what's left.

12 COMMISSIONER SCHEMENAUER: And that's less
13 than 750,000 minutes?

14 MR. JONES: The minutes that Southwestern --
15 yes. The total that's being reported -- well, the
16 lion's share of it, Bell's reporting 161,000 minutes
17 that they're terminating. I don't have it summarized.
18 If I had an adding machine I could give it to you in
19 the way you want it. It's just not on my page.

20 But basically, the minutes that we don't
21 know who the carrier is for for the period through
22 June 15th, the billing period of May 16th to June 15th
23 was approximately 192,000 minutes. Does that answer
24 the question? That's a back door approach.

25 COMMISSIONER SCHEMENAUER: Yeah, it does.

1 Then I repeat that you're willing to do the 30-day
2 moratorium as Commissioner Drainer --

3 MR. JONES: I'm sorry. I was --

4 COMMISSIONER SCHEMENAUER: The 30-day
5 moratorium that Bell is willing to work on to resolve
6 the problem, you're willing to wait the 30 days before
7 you cut any trunks?

8 MR. JONES: If I know there's a certain end
9 to the bleeding, yes. If the Commission orders them
10 to block that traffic via the translations and a
11 period of time to make those translations in, I'm
12 willing to wait and not sever the intraLATA trunk
13 group. I'd like it to be a lot less than 30 days,
14 though.

15 COMMISSIONER SCHEMENAUER: And I assume you
16 believe you have the authority to cut that trunk?

17 MR. JONES: Yes. The authority comes from
18 our tariff under the abuse or fraudulent use of
19 service provisions, and I can read that for you or I
20 can refer you to it.

21 COMMISSIONER SCHEMENAUER: No. I can read
22 your tariffs. But you don't have any statutory
23 tariffs or any statutes that protect the public
24 interest and the welfare of the people that would
25 override your tariffs?

1 MR. JONES: It's always been my impression
2 that tariffs have the force and effect of law and that
3 we have to -- as a carrier we have to abide by our
4 tariffs. It is the law that governs the services that
5 we operate under, and I believe under the terms of our
6 tariff we do have the right to disconnect that trunk
7 given the usage that we see and the inappropriate
8 usage that's on it, and the tariff has specific
9 provisions relating to the discontinuance of the
10 service.

11 COMMISSIONER SCHEMENAUER: Counsel for
12 Attorney General for the State of Missouri --

13 MR. MOLTENI: Yes?

14 COMMISSIONER SCHEMENAUER: -- do you believe
15 the tariffs would be the dominant ruling authority on
16 this or do you think the statutes regarding public
17 good would override?

18 MR. MOLTENI: I definitively think the
19 statutes, your Honor. I think the tariffs have the
20 authority of contract. I'm not sure that they have
21 the authority of law, and to the extent that they
22 would have the authority of law, I think it would be
23 definitively subordinate to the statute.

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

1 JUDGE ROBERTS: Commissioner Simmons?

2 COMMISSIONER SIMMONS: Thank you, your
3 Honor.

4 At this point in time, most of the questions
5 and most of the issues that I would probably raise I
6 think that my fellow Commissioners have already raised
7 those. However, I will say that as I go back to what
8 was said about the gym class example, I do feel that
9 I'm probably involved in that same example.

10 I wish we would have had an opportunity, I
11 wish the parties would have had an opportunity to deal
12 with this in a manner before coming to us on today,
13 but I understand that there will be those times when
14 we have to make these types of decisions.

15 I thought I heard that with Commissioner
16 Drainer's examples to Southwestern Bell, that you
17 would be willing to at least adhere to some of those
18 solutions offered by the opposing party and that you
19 would be agreeable if the Commission would so order
20 some of those things. Is that correct?

21 MR. BUB: Yes, your Honor. We would be
22 willing in the context of a Commission Order to pursue
23 those, negotiate with Mid-Missouri. And I need to
24 make clear that, you know, whichever of those
25 solutions is deemed to be appropriate by the parties,

1 it would mean a significant amount of time and expense
2 on Southwestern Bell's part, you know.

3 If they were to identify certain carriers,
4 we would build those screening tables that Ms. Sadlon
5 described, and then if for some reason they would come
6 into an agreement with another carrier, say, Okay, now
7 you can put that carrier's traffic on the common trunk
8 group, we'd have to go back and redo those tables
9 again. So you'd have that same amount of work.

10 So not only would there be a large expense
11 up front to create those tables and associate them
12 with all the trunks that go through the tandem, but
13 also ongoing maintenance.

14 So as part of our discussions, just to make
15 sure there's no misunderstanding, I would expect that
16 there would be some discussion about who should bear
17 the cost. And if we can't make any resolution between
18 the parties of who should pay for it whenever they
19 would want a carrier placed on the common trunk group
20 or taken off of the common trunk group, then as part
21 of the, I guess, ultimate case that you would hear you
22 could make the determination of who should pay for it.
23 We'd be willing to do the work and set aside the cost.

24 COMMISSIONER SIMMONS: At that point in
25 time, it sounds like we've now changed to a

1 stipulation that now has a condition on it.

2 MR. BUB: No. I didn't want to, you know,
3 back away from our commitment. We'll do that. I
4 understood us to be asked would we be willing to talk
5 to Mid-Missouri and try to establish a type of either
6 blocking or segregating trunk, and we would -- if
7 ordered by the Commission, we will do that.

8 One thing that we would need to discuss with
9 Mid-Missouri is who should pay for it, not only this
10 first time, but on an ongoing basis. If they would
11 decide, Okay, let wireless carrier one on and take off
12 two, each time that's going to be a significant amount
13 of expense on Southwestern Bell's part.

14 If we can't work it out, we'll bring that
15 dispute over who should pay to you. But in the
16 meantime, even if we don't decide or agree on who
17 should pay for it, we will, with an Order, either do
18 the blocking or the trunk segregation. The cost and
19 who should pay for it won't prevent us from
20 implementing blocking or separate trunk groups if
21 you-all order us to do that.

22 COMMISSIONER SIMMONS: Now, if precedent is
23 an indicator of anything, then the example that you
24 just gave me, what would make me conclude that we
25 wouldn't be right back here again at some other point

1 in time if you could not work things out?

2 MR. BUB: Well, what I understood is that
3 this interim period would be for 30 days until we
4 could work out how we could get the blocking done,
5 we'd put the blocking on, and then there would be a
6 hearing before the Commission on whether that blocking
7 should be permanent, whether it should be temporary,
8 you know, whether it should be worked out in the
9 Commission case that's already established, 99-593.

10 I don't know if we would have a preference
11 of where it would be. But in your-all's decision of
12 whether that would be a permanent thing that would be
13 available, cost would also be a thing to decide.

14 But in the meantime we would do the blocking
15 if ordered to do so, even if we couldn't come to an
16 agreement about the cost. We would set that issue
17 aside for your decision on, I guess in conjunction of
18 whether that was an appropriate long-term solution.

19 COMMISSIONER SIMMONS: And I can't speak for
20 my other colleagues, but we would understand that I
21 would hope that you would not be back here again still
22 trying to, I guess, try to deal with the subject
23 matter that's before us. If we have the opportunity,
24 we'd probably like to deal with this in such a way so
25 that we do not harm the public, and at the same time I

1 do recognize that you would not want to harm the
2 interests of the other parties, which gets me to my
3 next question, which is for Mid-Missouri.

4 And I think it's been repeated twice, so I
5 don't want to probably go over it again, but you are
6 at least willing to come to some kind of agreement
7 that would offer potential opportunity for a 30-day
8 period to hopefully resolve this issue?

9 MR. JONES: Yes. I would refrain from
10 shutting the trunks off provided there's a known end
11 to the problem.

12 COMMISSIONER SIMMONS: And you would be
13 looking for some kind of Order from this Commission to
14 help along with that?

15 MR. JONES: You know, based on what I'm
16 hearing from Southwestern Bell, they're saying short
17 of an Order from the Commission they're not willing to
18 block the traffic. So given that, I think we would
19 need an Order from the Commission authorizing them to
20 block the traffic.

21 I don't need an Order from the Commission.
22 If Southwestern Bell will block the traffic, I'm
23 happy. Now I've got to work on my past revenues and
24 see if I can find out who the carrier was.

25 COMMISSIONER SIMMONS: Thank you.

1 COMMISSIONER DRAINER: Let me follow up, if
2 I may, because I do want to be clear, I think, that
3 Southwestern Bell heard me. The way I envision this,
4 so I'm going to summarize it, on an interim basis, if
5 we break, come back in and you-all tell us that you
6 will work out on an interim basis a method to block
7 the traffic, Southwestern Bell will agree to do that
8 if the Commission orders them to do it on an interim
9 basis to give time for the due process of a hearing on
10 this case that allows for testimony, allows for
11 costing and any other issues that you-all have.

12 And Mr. Jones has said we don't need to
13 order him to not cut the traffic, and I have nothing
14 in writing that says he was going to cut it other than
15 the letter, and I don't know that I need to order him
16 not to cut it if we get an agreement today that you
17 will work out this interim solution and allow the case
18 to move forward, to allow all the testimony and issues
19 to be brought forward to us.

20 Is that how you see this coming down,
21 Mr. Bub?

22 MR. BUB: Yes, your Honor.

23 COMMISSIONER DRAINER: And is that how you
24 see this working, Mr. Jones?

25 MR. JONES: That would be fine with me. The

1 other thing I might add is, you know, if you wanted to
2 wait and resolve it at the same time we're doing the
3 terminating record docket that Southwestern Bell's
4 asked for, I don't have a problem with that as long as
5 the traffic flow is stopped.

6 COMMISSIONER DRAINER: Well, I think that
7 that's -- I can leave that to my Law Judge to discuss
8 further, but I think that is something you would have
9 to file that you wanted it, how you wanted it moved
10 from this case to another case.

11 I believe what my colleague, Commissioner
12 Simmons, was saying is hope springs eternal. It would
13 always be nice to see a Stipulation and Agreement.
14 But in the interim, let's secure that traffic can flow
15 to all customers and that we can resolve the loss of
16 revenues that Mid-Missouri felt so compelled to bring
17 to us today.

18 Could we take a break?

19 JUDGE ROBERTS: Yes. I'll ask the parties
20 to remain. We'll be back with you probably in 10
21 minutes, maybe 15, with some kind of closure on this
22 issue, at least for the time being, but for now we
23 certainly need to take a break. I appreciate the fact
24 that the court reporter is the one in here doing the
25 work that needs to break more than any of us.

1 COMMISSIONER DRAINER: Before you go off the
2 record, based on what we've said here, it would really
3 be helpful when we come back in this room if you have
4 language of how that Order should go, at least the
5 ordered parts of what you-all could live with to get
6 us into a weekend where I can just cut grass and not
7 worry about a switch being cut.

8 JUDGE ROBERTS: Mr. Molteni?

9 MR. MOLTENI: If I may, and I don't mean to
10 keep us any longer, but your last statement about if
11 an Order is necessary, I'm concerned about what I'm
12 hearing is the parties are asking -- they're still
13 asking or stating that they'll do X if the Commission
14 orders themselves to do X or if the Commission orders
15 the other party to do Y.

16 And I still think that puts the Commission
17 in a very precarious position in terms of ultimately
18 the decision of the Commission may end up being
19 challenged on the basis of the statutory authority of
20 the Order that it's going to issue today.

21 And it sounds to me like we have very
22 reasonable parties and reasonable counsel, and these
23 are established, well-respected companies, that they
24 should just stipulate to what they're saying they're
25 going to do and be held to the value of their word on

1 the record that they're going to undertake these
2 actions on their own volition, and the only Order
3 that's going to be necessary is a procedural Order on
4 the parties that will keep their feet to the fire
5 because there will be procedural mechanisms to be
6 heard afterwards, and that's --

7 COMMISSIONER DRAINER: I appreciate that.

8 JUDGE ROBERTS: Sounds like Coach Stellnicki
9 again, doesn't it?

10 COMMISSIONER DRAINER: I appreciate those
11 comments, but I don't believe Southwestern Bell is
12 going to do that without an Order, and maybe I'm
13 wrong. It'd be a nice surprise if I were.

14 MR. LANE: You are correct. We do not
15 believe we have the authority to block the transiting
16 traffic that's being presented to us by wireless
17 carriers and by CLECs as Mr. Jones is asking be done
18 on this interim basis, but we have said we're willing
19 to do that if we get an Order from the Commission to
20 tell us, Yes, you're required to block that traffic,
21 and we will.

22 COMMISSIONER DRAINER: So you believe that
23 it would be unlawful for us to order you to do that?

24 MR. LANE: No.

25 COMMISSIONER DRAINER: I do want to know

1 that. Do you believe that we would be violating any
2 laws if we asked you to do that?

3 MR. LANE: No, I do not.

4 COMMISSIONER DRAINER: Let me --

5 MR. LANE: The difference is we don't have
6 the authority to do that. You can order us to.

7 COMMISSIONER DRAINER: Let me also ask, do
8 you see any -- do you see yourselves or, Mr. Johnson
9 see, as an interim solution 'til we get the final
10 solution of the case, that you're going to challenge
11 this Order?

12 MR. LANE: No.

13 MR. JOHNSON: We're not going to challenge
14 this Order.

15 JUDGE ROBERTS: Thank you. With that, we'll
16 go off the record and take about a 15-minute break.

17 (A recess was taken.)

18 JUDGE ROBERTS: Back on the record, please.

19 COMMISSIONER DRAINER: It just hit me,
20 Mr. Molteni, if we get this interim Order out, until
21 they have their due process, you or Mr. Dandino or no
22 one else plans on challenging the Order, do you?

23 MR. DANDINO: Well, I can't speak for any
24 other company. I don't intend to challenge the Order.

25 COMMISSIONER DRAINER: I'm just asking you

1 folks that are here today.

2 MR. MOLTENI: Commissioner, I can't tell you
3 that I definitively won't. I don't plan on it. I
4 guess a lot depends on what the Order says. If I
5 think that the Order will ultimately have some harm or
6 will result in the public loss of service, which I'm
7 confident that it hopefully won't --

8 COMMISSIONER DRAINER: What the Order is
9 going to do is keep service in place until we have due
10 process and go through the procedure to get to a final
11 Order.

12 MR. MOLTENI: I don't anticipate challenging
13 the Order, Commissioner.

14 COMMISSIONER DRAINER: Thank you. And
15 Mr. Fischer's just going to be happy that his client's
16 happy.

17 MR. FISCHER: That's our concern, your
18 Honor.

19 JUDGE ROBERTS: That having been said --

20 COMMISSIONER DRAINER: I really want to ask
21 Ms. Little, does that give you a comfort level?

22 MS. LITTLE: As long as our customers will
23 not be adversely affected, yes.

24 COMMISSIONER DRAINER: I just had to ask
25 that.

1 JUDGE ROBERTS: She hadn't been called on
2 yet today. I know she was waiting for that.

3 Based upon the conversation that took place
4 at the end of the hearing immediately prior to going
5 off the record, it does not appear that there's the
6 need for a written Order to be issued today, and it
7 seems clear that the parties are -- well, let me add
8 this.

9 It's the intention of the Commissioners, and
10 Commissioner Schemenauer and I believe Commissioner
11 Murray are in the hearing next door or attending to
12 such details, but the Commissioners are prepared to
13 issue an Order in their next regularly scheduled
14 agenda meeting, which will be Tuesday, I believe the
15 18th of July, but it will certainly be Tuesday.

16 So that from the Tuesday agenda the
17 Commission can issue an Order to set in writing its
18 requirements, and those would be and we -- it's our
19 understanding -- and by all means correct me if I'm
20 wrong. It's our understanding that the parties will
21 be comfortable with this from now 'til then, that the
22 Order will order Southwestern Bell to curtail or block
23 any unauthorized traffic.

24 And I don't -- based upon what
25 Mid-Missouri's told us, it doesn't appear that we need

1 to order -- that the Commission needs to order them
2 not to disconnect the trunk. I believe they have
3 agreed on the record not to do so pending further
4 developments in this case.

5 So what I would request is that -- you
6 nodded your head yes. I know the record didn't pick
7 that up, Mr. Jones.

8 MR. JONES: Yes.

9 JUDGE ROBERTS: It is the agreement on
10 behalf of your company, and maybe I should address
11 this to your attorney, that you will not disconnect
12 the trunk this weekend?

13 MR. JONES: That's correct.

14 JUDGE ROBERTS: Thank you.

15 And Bell, I don't know if you can --
16 Southwestern Bell, Mr. Lane, Mr. Bub, I don't know if
17 you will start your employees working on this project
18 when you get back this afternoon, but certainly the
19 Commission will issue an Order for you to stop the
20 inappropriate traffic, and it's our understanding that
21 you will have your employees start working on the
22 project discussed previously, which may take anywhere
23 from two days to five or six weeks, depending on how
24 you're able to put your manpower, your personpower on
25 it. Certainly six weeks is certainly a bad --

1 COMMISSIONER DRAINER: No. Excuse me. We
2 want this done in 30 days.

3 JUDGE ROBERTS: Okay.

4 COMMISSIONER DRAINER: That was very clear
5 from Commissioner Schemenauer, that what you're
6 agreeing to is in 30 days having in place a procedure,
7 and it will be one that Mr. Jones seemed to agree with
8 you on the technique. And I don't mean to interrupt
9 you.

10 JUDGE ROBERTS: No, please, by all means. I
11 want to make sure the parties are clear.

12 COMMISSIONER DRAINER: And I would greatly
13 appreciate, because you're dealing with complex
14 issues, that you work with our Chief Law Judge on the
15 appropriate language for this Order so that it's --
16 that both attorneys have seen it, that it's an interim
17 relief that would be in place in 30 days, and then we
18 will be able to move forward with the normal notices
19 to all folks and all intervenors and so all other
20 issues can be dealt with.

21 JUDGE ROBERTS: And to that end, I don't
22 know that it's necessary -- well, as with all cases
23 now at the Commission, any party who wishes to submit
24 Proposed Findings and Conclusions is certainly
25 encouraged to do so.

1 My primary concern is going to be that the
2 parties provide me with any proposed language they
3 would have for the ordered paragraph, the Order that
4 you require for your sake, Southwestern Bell, language
5 that I'm confident Mid-Missouri and the other parties
6 will be comfortable with.

7 But Bell, you are the ones who said you
8 believe you require an Order before you take this
9 action, so I'm offering you the opportunity to offer
10 the recommended language. And as I said, that Order
11 will be placed on the Commission's agenda for Tuesday.

12 I would also say that this case, TC-2001-20,
13 is filed as a complaint case. I know that my support
14 staff has already drafted the normal paperwork which
15 is a Notice of Complaint to be sent by certified mail
16 return receipt requested to the respondent. That will
17 go out today. The respondent will have 30 days to
18 answer the complaint, although if you want to file a
19 motion for some different time line, I'm certain the
20 Commission would entertain that in that this case may
21 not proceed in the form of a regular complaint case.

22 I would also encourage you and remind you
23 that the Commission provides mediation service through
24 a mediation clinic which is rated the No. 1 clinic in
25 the country, and they certainly do commercial disputes

1 and I know they would be delighted to sit down with
2 you if that's necessary.

3 In any event, I'm confident that our staff
4 will be working with you on this, so that if you need
5 a neutral third party, State of Missouri, Office of
6 the Public Counsel, whoever else is involved,
7 certainly we have the resources.

8 That having been said, I'm confident that
9 after today's discussion Mid-Missouri and Southwestern
10 Bell will be able to work this issue out.

11 Mr. Dandino, you have a question?

12 MR. DANDINO: Yes, your Honor. Just for a
13 point of clarification for the record, when you said
14 that Southwestern Bell will curtail or block the
15 calls, the unknown calls, I guess, or the illegal
16 calls at their tandem, it's my understanding, then,
17 that those calls are blocked and will not be completed
18 to the end.

19 Is that a correct understanding, or will
20 they be sent then to Mid-Missouri's tandem? What's
21 the -- what happens to those calls?

22 MR. LANE: If they're blocked at the tandem,
23 they would be turned away and not completed.

24 MR. DANDINO: So even if Southwestern Bell
25 does that, there's going to be calls that are not

1 completed.

2 JUDGE ROBERTS: And those are calls whose
3 carriers have not -- as I understand it, those are
4 calls for which their carrier has not made the
5 appropriate arrangements for those calls to be
6 completed and billing arrangements have not been made,
7 and perhaps when those come to light those will be
8 resolved.

9 MR. DANDINO: Will those carriers be
10 notified that this is going to happen or --

11 MR. JOHNSON: They already have been.

12 COMMISSIONER DRAINER: They were notified
13 back in May?

14 MR. JOHNSON: Yes.

15 MR. LANE: We think the Commission's order
16 in this case ought to be published and sent to all of
17 the telecommunications providers in the state so that
18 they're aware that this action is going to take place.

19 JUDGE ROBERTS: All right. That's fine.
20 We've published many of our orders electronically.
21 Mr. Haas?

22 MR. HAAS: The Staff would also like to
23 propose some suggested language for the Order. What's
24 the procedure for us to do that?

25 JUDGE ROBERTS: I would ask, as with any

1 proposed Findings of Fact and Conclusions of Law or
2 any other such issues, ordered paragraphs, submit them
3 to the case file, to the case number as with any other
4 filing, and simultaneously copy the parties to the
5 case. Now, in light of the time line, that means
6 you're going to e-mail or hopefully send by fax that
7 information to the other parties.

8 COMMISSIONER DRAINER: And Mr. Haas, based
9 on the questions from Mr. Dandino, too, this
10 suggestion really generated out of Staff's suggestion
11 that we have Mid-Missouri not block the traffic on its
12 end and that we order Southwestern Bell in 30 days to
13 come up with a solution.

14 Is it Staff's position that this is an
15 acceptable interim solution until such time as the
16 case can be resolved?

17 MR. HAAS: Yes, your Honor.

18 COMMISSIONER DRAINER: Then this is a
19 solution that Staff supports and believes is in the
20 public interest?

21 MR. HAAS: Yes, your Honor.

22 COMMISSIONER DRAINER: Thank you.

23 JUDGE ROBERTS: Are there any other
24 questions from the Bench or comments?

25 COMMISSIONER DRAINER: Yes. My final

1 comments are only that I want to reiterate that in the
2 future I would ask all parties, including our staff,
3 that when there's something this serious that
4 threatens the reliability of the system, that it be
5 brought to us in a fashion that would have allowed
6 more time.

7 I think we've come up with a resolution on
8 an interim basis that is the best that we can do, and
9 that doesn't give me a lot of comfort. And I know
10 that there are a lot of complexities to these issues,
11 and whether you keep them in this complaint case or
12 ask us to roll it into one of the other cases, with
13 the workload that the Commission has, and we have
14 another hearing going on in the other room right now
15 that I really needed to be in, I really do ask if not
16 just because it's the right thing, it's the courteous
17 thing, to make sure that we all come up with the best
18 solutions and I think we'll do that better when we
19 have time.

20 Finally, we will have the Order out on
21 Tuesday. I appreciate, Mr. Jones, your commitment to
22 not do anything this week. I appreciate Southwestern
23 Bell's cooperative spirit in putting together language
24 that will resolve this on an interim basis.

25 I hope that any party that is now going to

1 be affected, that another letter should go out to
2 them, if you know who those folks are, telling them
3 they need to have something in place, because we
4 really do want calls to go through. And just give us
5 time in the future, please.

6 Thank you.

7 JUDGE ROBERTS: I will ask the court
8 reporter to expedite the transcript. I'm not sure if
9 it will be available to us Monday or not. That's
10 really pushing it. It might be available Tuesday
11 morning if that's necessary. I think you probably
12 already know the type of language you'll propose for
13 the Order.

14 I will also be more than willing to arrange
15 for a telephone conference with any interested party
16 Monday afternoon if you want to discuss proposed
17 language for the Order or any other procedural
18 requirements that you would like to see in the Order
19 so we can have a procedure in place so you can all
20 move forward. And I'll talk to you briefly about that
21 after the hearing's over.

22 Any other requests from the parties?

23 COMMISSIONER DRAINER: I do want to ask, as
24 Mr. Molteni's here on behalf of the State and the
25 State that uses these facilities, to the best of your

1 knowledge, Southwestern Bell, or with GTE, there is no
2 traffic that is in any way going to be jeopardized
3 that the State uses in these facilities?

4 MR. LANE: I could not make that
5 representation, your Honor. We don't know.

6 COMMISSIONER DRAINER: Mr. Jones?

7 MR. JONES: I don't know of anything. As
8 far as you talked about emergency and stuff, we have
9 911, and none of those facilities are used for
10 emergency services that I know. We don't have doctors
11 and hospitals in our area, unfortunately. So I
12 don't -- I don't see there's a problem there.

13 I wouldn't know how the State would be using
14 those facilities unless they have an agreement with
15 Southwestern Bell or one of the other PTCs to use
16 them.

17 MR. LANE: Your Honor, just to be clear, if
18 the State of Missouri has an agreement with a CLEC
19 that presents traffic to us for termination to
20 Mid-Missouri Telephone, the effect of the Commission's
21 Order that we talked about in this case would be that
22 those calls will be blocked.

23 MR. MOLTENI: And, your Honor, I don't know
24 whether the State has an agreement with a CLEC. I
25 imagine the State's going to be served by Southwestern

1 Bell or someone else in that area. Certainly the
2 State doesn't have agreements with CLECs that are out
3 of state that will ultimately be blocked should those
4 out of state calls be transmitted.

5 I'm mainly concerned about the calls that
6 originate in the McGee area that are going to
7 Mid-Missouri because there are going to be state
8 calls, law enforcement, Social Services, those kinds
9 of calls that we consider to be very important.

10 COMMISSIONER DRAINER: All right. I would
11 understand that those calls go through, and any CLEC
12 that they're using would be noticed that they have to
13 have the appropriate arrangements so that they're not
14 using facilities that there are no agreements.

15 MR. MOLTENI: Thank you, Commissioner.

16 JUDGE ROBERTS: Any other questions or
17 requests?

18 (No response.)

19 Hearing none, the matter is submitted.
20 We'll go off the record.

21 WHEREUPON, the preliminary hearing was
22 concluded.

23

24

25