

1 BEFORE THE PUBLIC SERVICE COMMISSION
2 STATE OF MISSOURI
3 _____
4 TRANSCRIPT OF PROCEEDINGS
5 HEARING
6 July 11, 2007
7 Jefferson City, Missouri
8 Volume 2
9 _____
10 Socket Telecom, LLC,)
11)
12 Complainant,)
13)
14 v.) Case No.TC-2007-0341
15)
16 CenturyTel of Missouri, LLC)
17 d/b/a CenturyTel and Spectra)
18 Communications Group, LLC)
19 d/b/a CenturyTel,)
20)
21 Respondents.)
22)
23)
24)
25)

26 _____
27 RONALD D. PRIDGIN,
28 SENIOR REGULATORY LAW JUDGE.
29 CONNIE MURRAY,
30 ROBERT M. CLAYTON, III,
31 LINWARD "LIN" APPLING,
32 COMMISSIONERS.
33 _____
34 REPORTED BY:
35 TRACY L. THORPE TAYLOR, CCR
36 MIDWEST LITIGATION SERVICES

1 A P P E A R A N C E S

2 CARL J. LUMLEY, Attorney at Law
3 Curtis, Oetting, Heinz, Garrett & O'Keefe
4 130 S. Bemiston, Suite 200
5 Clayton, Missouri 63105-1913
6 314-725-8788
7 clumley@lawfirmemail.com

8 FOR: Socket Telecom, LLC

9 CHARLES BRENT STEWART, Attorney at Law
10 Stewart & Keevil
11 4603 John Garry Drive, Suite 11
12 Columbia, Missouri 65203
13 573-499-0635
14 stewart499@aol.com
15 FOR: CenturyTel of Missouri d/b/a CenturyTel and
16 Spectra Communications Group, LLC d/b/a CenturyTel

17 LARRY W. DORITY, Attorney at Law
18 Fischer & DORITY
19 101 Madison Street, Suite 400
20 Jefferson City, Missouri 65101
21 573-636-6758
22 lwdority@sprintmail.com
23 FOR: CenturyTel of Missouri d/b/a CenturyTel and
24 Spectra Communications Group, LLC d/b/a CenturyTel

25 WILLIAM K. HAAS, Deputy General Counsel
P.O. Box 360
Jefferson City, Missouri 65102
573-751-7510
william.haas@psc.mo.gov
FOR: Staff of the Missouri Public Service Commission

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

2 (Exhibit Nos. 1 through 10 and No. 12 were
3 marked for identification.)

4 JUDGE PRIDGIN: All right. Good morning. We
5 are on the record. This is the hearing in Case No.
6 TC-2007-0341, Socket Telecom, LLC, complainant versus
7 CenturyTel of Missouri, LLC d/b/a CenturyTel and Spectra
8 Communications Group, LLC d/b/a CenturyTel, Respondents.

9 I am Ron Pridgin. I am the Regulatory Law
10 Judge assigned to preside over this hearing. It's being held
11 beginning July 11th, 2007 in the Governor Office Building,
12 Jefferson City Missouri. The time is approximately 8:45 a.m.

13 I would like to get oral entries of appearance
14 from counsel, please, beginning with Socket Telecom, LLC.

15 MR. LUMLEY: Thank you, Judge. And good
16 morning. On behalf of Socket Telecom, LLC, Carl Lumley of the
17 law firm of Curtis, Hines, Garrett and O'Keefe. Our offices
18 are located at 130 South Bemiston, suite 200, Clayton,
19 Missouri 63105.

20 JUDGE PRIDGIN: Mr. Lumley, thank you.

21 On behalf of Staff of the Commission, please.

22 MR. HAAS: Good morning. William K. Haas
23 appearing on behalf of the Staff of the Missouri Public
24 Service Commission. My address is Post Office Box 360,
25 Jefferson City, Missouri 65102.

1 JUDGE PRIDGIN: Mr. Haas, thank you.

2 On behalf of CenturyTel and Spectra, please.

3 MR. STEWART: Yes. Charles Brent Stewart, the
4 law firm of Stewart and Keevil, LLC, 4603 John Garry Drive,
5 suite 11, Columbia, Missouri 65203 appearing on behalf of
6 Socket Te-- excuse me, on behalf of CenturyTel of Missouri,
7 LLC d/b/a CenturyTel and Spectra Communications Group, LLC
8 d/b/a CenturyTel.

9 I'll also let Mr. Dority introduce himself.

10 MR. DORITY: Good morning, Judge. Thank you.
11 Also appearing for the CenturyTel entries, Larry Dority with
12 the firm of Fischer and Dority, PC. Our address is 101
13 Madison, suite 400, Jefferson City, Missouri 65101.

14 JUDGE PRIDGIN: Thank you, Mr. Stewart. Thank
15 you, Mr. Dority.

16 Before we went on the record, we premarked
17 exhibits and we did so simply for identification purposes.
18 Nothing has been admitted and nothing has been offered.
19 Mr. Lumley, is that your understanding of what happened before
20 we went on the record?

21 MR. LUMLEY: Yes, Judge.

22 JUDGE PRIDGIN: Mr. Haas?

23 MR. HAAS: Yes, your Honor.

24 JUDGE PRIDGIN: Mr. Stewart and Mr. Dority?

25 MR. STEWART: Yes, your Honor.

1 JUDGE PRIDGIN: All right. Anything else that
2 counsel wants to bring to my attention before opening
3 statements?

4 All right. Hearing nothing, let me give some
5 brief opening remarks and remind the parties of the reason
6 that we have pre-filed testimony is to allow the witnesses the
7 chance to narrate. And the main purpose of this hearing is
8 cross-examination, be it either from counsel or examination
9 from the Bench.

10 Counsel should think very strongly about
11 asking questions that are not leading. I would suggest that
12 you lead the witnesses at all times. Their answers, of
13 course, should be brief. If you don't lead the witness, you
14 may be harming your case by asking the question.

15 And let me encourage the witnesses to remember
16 that when you are asked a leading question, your answer should
17 normally be quite brief, answers such yes or no or I don't
18 know or I don't remember. You're not entitled to answer a
19 question that you wish you were asked. You're supposed to
20 answer the question that you are asked. Your counsel will
21 have the chance to rehabilitate whatever damage he or she
22 thinks of done on redirect at which time you'll have a chance
23 to narrate somewhat.

24 If there's nothing further from counsel, are
25 you ready to begin opening statements?

1 All right. Mr. Lumley, when you're ready,
2 sir.

3 MR. LUMLEY: Thank you, Judge. Good morning,
4 Commissioners, Judge. And I'm Carl Lumley representing Socket
5 Telecom in this proceeding.

6 Socket Telecom is a Missouri CLEC and it seeks
7 confirmation from the Commission that it's entitled to port
8 the numbers at issue as described in the testimony, and also
9 in similar situations now and in the future, from CenturyTel
10 which is a Missouri ILEC under applicable law and the
11 interconnection agreement between the companies.

12 In support of its case, Socket presents the
13 testimony of Matt Kohly and Elizabeth Kistner, both of who
14 have extensive experience in the telecommunications industry
15 in general and also with regard to number portability
16 specifically as is described in their testimony.

17 First and foremost, number portability is
18 about customers. Congress and the FCC have made it clear from
19 the start that customers are only afforded a meaningful choice
20 in their providers if they can keep their telephone numbers
21 when making changes in providers. The FCC said so in its very
22 first rulemaking regarding number portability under the
23 Telecommunications Act of 1996 and in doing so, was
24 reiterating specific Congressional findings.

25 And the FCC has continued to say so, including

1 in their 2003 Fourth Report and Order at paragraph 9 where
2 they say, We re-emphasize our view that LNP, which stands for
3 local number portability, is still an important tool for
4 enhancing competition, promoting numbering resource
5 optimization and giving consumers greater choices.

6 With that in mind, it seems most appropriate
7 to start with the customers. The customers in question want
8 to use a form of FX service, also known as VNXX service, so
9 they can make and receive calls rated as local to a particular
10 exchange and they also want to change providers from
11 CenturyTel to Socket.

12 Now, such a customer could stay with
13 CenturyTel and buy such a service and retain their telephone
14 number. New customers could buy such a service from Socket if
15 it's available and tariffed. Socket has NXX codes in all the
16 exchanges and it could -- Socket could assign that new
17 customer a new telephone number.

18 You'll see from the testimony that companies
19 may provide these kind of services in different ways. They
20 may structure their networks differently, but the customer is
21 getting the same functionality. And under the interconnection
22 agreement that's been approved by the Commission, the
23 definitions of FX and VNXX service focus on the functionality
24 received by the customer and do not require any particular
25 network arrangement in the provision of that service. The

1 service allows the calls to be dialed and completed as local
2 using the local NXX code.

3 Pursuant to Commission order, the
4 interconnection agreement order acknowledges that such traffic
5 will be exchanged as local traffic over local interconnection
6 trunks but will be subject to bill and keep rather than
7 reciprocal compensation. And the specific provision is in
8 Article 5, Section 9.2.3 and the Commission ordered that in
9 TO-2006-299 at page 28 of its Report and Order.

10 Now, if a customer's already getting such a
11 service from CenturyTel, it can change to Socket and keep
12 their number, there's certainly no basis to have an argument
13 about changes in location under that circumstance. And, in
14 fact, the Commission has so ruled again in the arbitration
15 regarding remote call forwarding service at pages 55 to 57 of
16 the order where it observed that the number would continue to
17 be geographically assigned to the same rate center.

18 But the customers at issue today don't buy FX
19 service from CenturyTel. They want to change to Socket and
20 change to FX service at the same time and keep their telephone
21 number. And the FCC has made it clear that this is allowed
22 and has said so from the beginning at paragraph 183 of its
23 First Report and Order regarding the number portability rules.

24 The Commission said, Service provider
25 portability will naturally drive the provision of service

1 portability because if a user can receive a different service
2 and keep the same number simply by changing carriers, the
3 service provider will have an incentive to offer service
4 portability to keep these customers.

5 So even though the FCC declined to mandate
6 service portability, which involves being able to change
7 services with the same carrier and keep your number, which
8 becomes an issue in some isolated circumstances where -- for
9 example, if you change to ISDN service, you may need to be
10 assigned to a different switch in order to get those
11 capabilities and, therefore, you might have to change phone
12 numbers.

13 The FCC did not force companies to offer that
14 service portability, but the FCC did mandate that all carriers
15 provide service provider portability, which is the ability to
16 change carriers and keep your phone number, and made it clear
17 that it's perfectly acceptable for the customer to change
18 their services at the same time that they're changing carriers
19 and keep their telephone number.

20 And that's what these customers want to do.
21 Again, they could make the change and get the service they
22 want from Socket with a new telephone number, but they're
23 entitled to keep their current telephone number.

24 And the FCC has addressed this point in its
25 October 2003 order, paragraph 11. We interpret this language,

1 referring to the definition of number portability, to mean
2 that consumers must be able to change carriers while keeping
3 their telephone number as easily as they may change carriers
4 without taking their telephone number with them. There's not
5 supposed to be a difference.

6 So what's the problem? Why are we here? Is
7 it a technical problem? No. As Mr. Kohly testifies,
8 CenturyTel has provided such ports for Socket and others
9 before. There's really no debating that CenturyTel can do it.
10 Ms. Kistner testifies that such ports are routine and even
11 Ms. Smith from CenturyTel confirms that CenturyTel can do it.

12 Is it an interconnection problem? No.
13 Whether Socket assigns a new number, which it can do without
14 any cooperation whatsoever from CenturyTel, or Socket ports
15 the number from CenturyTel, there is no different impact on
16 interconnection. Either way, the companies will exchange the
17 traffic between their customers over the applicable point of
18 interconnection, which is also referred to as a P-O-I or a
19 POI. In short, porting the number has no impact on CenturyTel
20 whatsoever.

21 So the customer wants to keep their telephone
22 number, the porting of the number has no impact on CenturyTel.
23 So, again, what's the problem? Well, it comes down to
24 CenturyTel saying, You can't make us do it and we don't want
25 to.

1 When we started this case with our complaint,
2 CenturyTel refused ports for two customers, but since then, as
3 the evidence shows, more refusals have followed. And
4 Mr. Kohly provides the detail in his testimony.

5 And, in fact, as shown in the testimony now,
6 CenturyTel insists on a new certification form from Socket and
7 requires Socket to certify that -- and I'm quoting, The
8 physical termination point for the ported service will not be
9 moving, end quote. Which they orally state that they will
10 interpret as meaning not moving outside the exchange.

11 Now, the introduction of such a new policy is
12 a violation of the interconnection agreement as Mr. Kohly
13 outlines, but that's really another story for another day.

14 CenturyTel's refusal to port these numbers
15 brings us back to the FCC's rules and decisions. And as I
16 indicated, FCC has mandated that all carriers must provide
17 service provider portability which is defined by the FCC in
18 the same manner as number portability itself.

19 And that definition is, the ability of users
20 of telecommunications service to retain at the same location
21 existing telephone numbers without impairment of quality,
22 reliability or convenience when switching from one
23 telecommunications carrier to another.

24 Now, at least the times and the materials,
25 both the pleadings and the testimony, CenturyTel argues that

1 the rule as written is unambiguous. But every court that's
2 examined the matter disagrees, and that includes the United
3 States Circuit Courts for the District of Columbia and the
4 Seventh Circuit.

5 And CenturyTel's own witnesses acknowledge
6 that the key word at issue, the word "location" has not been
7 defined by the FCC in its rules. And the Socket witnesses
8 likewise testify.

9 How can it be that such a key concept to these
10 rules has never been precisely defined in the rules? Is it
11 just sloppy rulemaking? Or is it just that there hasn't been
12 a need because in large part the industry has worked these
13 things out?

14 As Ms. Kistner testifies, it's more the latter
15 case. Cooperation from the industry has made number
16 portability happen. But even though the FCC has not included
17 a definition of the word "location" in the number portability
18 rules, it has not left the question totally unanswered. And
19 while the courts have observed that location could mean the
20 rate center, the end of the loop or even the POI, the P-O-I,
21 the FCC, in fact, has done more.

22 In its November 2003 intermodal order, the FCC
23 held that if the rate center assignment does not change and if
24 the routing is the same as if you were assigning a new number
25 to this customer that you won, then there is no change in

1 location. The rate center, as the evidence shows, is the
2 geographic coordinates of the telephone number.

3 The evidence shows that the ports at issue in
4 this case meet this standard and, therefore, must be
5 fulfilled. These are not location ports where rating and
6 routing is changing and these ports don't raise the issues
7 that are presented by location port such as customer confusion
8 over the rating of calls, you know, looking at the NXX code is
9 it local or long distance or seven-digit dialing or ten-digit
10 dialing impacts. Nothing changes. These calls are placed as
11 local calls.

12 But can't one say that in some fashion, the
13 customers are not in the same location? Certainly CenturyTel
14 repeatedly says so. But the word "location" is not precise.
15 There's plenty of evidence that the spectrum of potential
16 meanings of the word "location" is infinite from the
17 microscopic to the universal.

18 The customers may or may not move office
19 furniture and telephone handsets. They may or may not move
20 modem sites. But none of that matters because under the FCC's
21 standards, if the rate center assignment remains the same,
22 they have not moved or relocated for the purpose of number
23 portability.

24 And if you study the FCC decisions and the
25 court opinions, there is no denying that the discussions of

1 number portability, the FCC focuses on the rate center. If we
2 look at wireline-to-wireline ports from the beginning in their
3 first order, paragraph 172, they focused on the fact that the
4 customer must be served from the same rate center. In the
5 intermodal order at paragraph 24, they explained further, This
6 is because there's an inability to receive numbers from a
7 foreign rate center.

8 If it's a wireline-to-wireless port, the
9 porting is mandated if the rate centers match up. And they're
10 still trying to resolve what to do if there's what they call
11 rate center disparity between the wireline and the wireless
12 carriers. But in the intermodal order they say perhaps the
13 wireline companies can solve this by using FX or VNXX service,
14 at paragraph 44. In the wireless to wireline, if the wireline
15 carrier matches the originating rate center, paragraph 22, the
16 intermodal order, the port must be provided.

17 And all service provider portability is based
18 on the LRN method, which is the location routing number
19 method, which focuses on the network address. It's the
20 location that matters. If you're assigned to the rate center,
21 you are within the rate center.

22 One might ask, isn't this intermodal decision
23 a wireless decision? No, it's not. By definition, every
24 intermodal port involves a wireline carrier. That's what an
25 intermodal port is. It's between wireline carrier and

1 wireless carriers. The decision is just as much about
2 wireline carriers as is it about the wireless. In fact, the
3 order contains several direct comments on wireline-to-wireline
4 portability, including the one I just referenced at
5 paragraph 24 that the rate center limitation on
6 wireline-to-wireline porting is based on the inability to
7 receive numbers assigned to a foreign rate center.

8 And at paragraph 41, the FCC says, Wireline
9 carriers are not able to port a number to another wireline
10 carrier if the rate center associated with the number does not
11 match the rate center associated with the customer's physical
12 location.

13 So again, it's the association to the rate
14 center. And FX and VNXX service preserves that association.
15 The customer remains associated with the rate center. And,
16 again, the Commission's already recognized this in the
17 arbitration order holding that it's not location porting when
18 remote call forwarding is involved because the number will
19 continue to be geographically assigned to the rate center.
20 That's a long way of explaining that this is not location
21 porting and it's just service provider portability as mandated
22 by the FCC.

23 But as they say in the commercial, wait,
24 there's more. Beyond FCC requirements in accordance with our
25 interconnection agreement, CenturyTel agreed to follow

1 industry agreed-upon practices and industry guidelines with
2 respect to porting and providing service provider portability.
3 And the article is Article 12 of the interconnection agreement
4 and the two specific references are Sections 3.2.1 and 6.4.4.

5 There is simply no merit to the assertion that
6 CenturyTel's duties under this interconnection agreement are
7 limited to specific legal mandates. That's contrary to the
8 vast amount of detail in these contracts. It's contrary to
9 the Commission's decisions. And as Mr. Voight testifies,
10 CenturyTel voluntarily agreed to the provisions regarding
11 adhering to industry guidelines.

12 The evidence shows that CenturyTel's refusal
13 to port these numbers is contrary to industry consensus.
14 Mr. Kohly testifies it's contrary to Socket's experience with
15 AT&T, Embarq and all the CLECs it deals with. And it's
16 contrary to its own practices in terms of porting numbers back
17 to those companies. And even CenturyTel was providing these
18 ports to Socket for a while.

19 Mr. Kohly and Ms. Kistner also testify that
20 CenturyTel's conduct is contrary to the direction of the local
21 number portability working group, a body that makes decisions
22 and recommendations on which the FCC actually bases its
23 decisions and that handles the interaction between companies
24 and disputes between companies in terms of implementing number
25 portability.

1 Mr. Voight describes this body as representing
2 and I, quote, The closest thing to a definite standards body
3 that one might expect to find in the area of number
4 portability. And he agrees that CenturyTel's refusal to port
5 these numbers is contrary to industry guidelines.

6 CenturyTel's recalcitrance seems beyond normal
7 understanding until it's seen for what it really is. What it
8 really is is continuing dissatisfaction with this Commission's
9 arbitration decision. And all we have to do is go to page 28
10 of the arbitration order to see what this is really all about.

11 At page 28, the Commission adopted
12 CenturyTel's proposal allowing for the exchange of VNXX
13 traffic over local interconnection trunks on a bill and keep
14 basis, but the Commission rejected CenturyTel's proposed
15 requirement that Socket have a point of interconnection at
16 every end-office. That one decision and CenturyTel's
17 dissatisfaction with it is why we're here today.

18 CenturyTel desperately wants Socket to have --
19 to establish more points of interconnection faster. In fact,
20 it's told Socket it would do the ports if Socket would do
21 that. And it used to do it for us and for others under such
22 circumstances.

23 But Article 5 starting at Section 4 of the
24 approved interconnection agreement sets up a different point
25 of interconnection process. It's totally independent from the

1 porting of numbers. It covers direct interconnection between
2 Socket and CenturyTel at Socket points of interconnection and
3 it covers indirect interconnection using points of
4 interconnection of third parties.

5 And Socket's direct points of interconnection
6 are to be established based on actual traffic experienced
7 over time, not projections of traffic that are created at the
8 time that a porting request is submitted. Socket will comply
9 with these requirements, but it certainly appears that another
10 dispute is on the way to the Commission in this area.

11 But porting is not about interconnection
12 capacity. CenturyTel's capacity arguments simply don't hold
13 water. The evidence shows that CenturyTel has to carry this
14 traffic to the point of interconnection whether the number is
15 ported or Socket simply assigns a new number to the customer.
16 CenturyTel cannot stop Socket from adding customers to its
17 customer base and assigning them numbers.

18 And that means traffic volumes grow, the
19 traffic is exchanged over the point of interconnection and
20 interconnection facilities have to be augmented. This is a
21 matter of routine everywhere else in the industry.

22 The agreement makes clear and CenturyTel
23 admits in their position statement each party's responsible
24 for the facilities on their side of the point of
25 interconnection.

1 Under Article 5, Section 2.5, there's not
2 supposed to be any delay in augmenting facilities. In
3 Section 11.1.1, CenturyTel agreed to provide sufficient
4 trunking capacity for interconnection. And it's responsible
5 for its own 911 arrangements.

6 And, in fact, CenturyTel has to make these
7 changes in order to keep meeting this Commission's standards
8 because if it doesn't, its customers won't be able to make
9 calls and receive calls according to your own quality of
10 Service provisions. It's CenturyTel's network. It's
11 responsible to keep up.

12 And as Mr. Kohly testifies, the parties are
13 supposed to work cooperatively in this area. We all know the
14 telecommunications network doesn't work unless everybody works
15 together. Everybody's customers have to be able to call
16 everybody else's.

17 But instead, the evidence shows that Socket's
18 request for interconnection augments are just ignored, even
19 though they're routinely addressed by other carriers.

20 CenturyTel's capacity objections have nothing
21 to do with porting and the FCC rules don't allow such
22 objections. Intermodal order, paragraph 11, No non-porting
23 restrictions, period. Note 75, Disputes over transport
24 arrangements are not germane. Paragraph 8, No refusal
25 unrelated to validating the customer's identity. So these

1 capacity issues have nothing to do with the right of the
2 customer to keep their phone number when they change
3 providers.

4 Finally, we have the numbering resource issue.
5 Yet another obstacle raised by CenturyTel in violation of the
6 interconnection agreement that says no new policies without
7 agreement. And there is no ruling from the FCC that NXX codes
8 are required. There's references to a document and when you
9 look at the document, it says no such thing.

10 But at bottom, we're talking about a pointless
11 waste of numbering resources. If a carrier at the beginning
12 is only serving customers by a ported number, by ported
13 numbers, they don't need an NXX code yet. Even the
14 interconnection agreement that's been approved recognizes that
15 porting alone constitutes the offering of service.

16 Now, Socket has obtained these resources to
17 remove this obstacle, but we wanted the Commission to know
18 that there's an opportunity here to end the waste of these
19 resources by authorizing Socket to return unnecessary NXX
20 codes.

21 And I want to come back to the beginning.
22 What the FCC sees from LNP is not just the porting of numbers.
23 They also see it as a means of alleviating numbering resource
24 shortages and they've said this in their third reconsideration
25 order and their fourth reconsideration order, which is the one

1 that I quoted earlier. So CenturyTel's opposition to ports
2 based on NXX codes just wastes resources.

3 In summary, we tried to resolve these issues
4 by various means and the testimony goes into that and we
5 couldn't, so we're here for the Commission to do it for us.

6 Mr. Kohly describes in detail how the number
7 portability process is supposed to work between the companies,
8 all the problems that Socket has encountered, all the new
9 obstacles illegally erected.

10 But beyond all that, under this case, Socket
11 is entitled to port these numbers for these customers so they
12 can switch carriers and have the service they want while still
13 being assigned to the same rate center.

14 We ask that the Commission rule that
15 CenturyTel is required by federal law and the interconnection
16 agreement to port these numbers, that it's not allowed to
17 reject a court request based on claims of lack of
18 interconnection capacity and allow Socket to return
19 unnecessary NXX codes to conserve resources. Thanks for your
20 patience.

21 JUDGE PRIDGIN: Mr. Lumley, thank you.

22 Mr. Haas, on behalf of Staff.

23 MR. HAAS: Good morning. The primary question
24 in this case is whether the CenturyTel companies are required
25 to port the two numbers in question to Socket Telecom given

1 that the two customers are moving to another rate center. The
2 parties' interconnection agreement leads to the answer yes.

3 Section 3.2.1 of Article 12 states that,
4 Number portability between Socket Telecom and CenturyTel will
5 be provided to each other as required by FCC orders or
6 industry agreed-upon practices.

7 Staff witness Mr. Voight testifies that
8 industry practice in Missouri is to port regardless of whether
9 the customer is staying in the same rate center or moving to
10 another rate center so long as the NPA NXX rating of the call
11 does not change.

12 With the port request at issue here, the NPA
13 NXX rating of the call will not change. Accordingly, the
14 Commission should order CenturyTel to port the two numbers in
15 question. Thank you.

16 Is this turned on?

17 JUDGE PRIDGIN: I believe so. We'll double
18 check.

19 COMMISSIONER CLAYTON: The volume's really
20 bad.

21 JUDGE PRIDGIN: Mr. Haas, thank you.

22 On behalf of CenturyTel, Mr. Dority or
23 Mr. Stewart.

24 Mr. Stewart, I think the volume on that mic is
25 a little low, so if you could just speak up so folks who are

1 listening online could hear it, I'd appreciate it.

2 MR. STEWART: I usually don't have a problem
3 with that.

4 JUDGE PRIDGIN: I understand.

5 COMMISSIONER CLAYTON: We know.

6 MR. STEWART: Let me start by saying I heard a
7 rumor -- I don't know if it's true -- that I now hold the
8 record for the longest title of any pleading ever filed at the
9 Missouri Commission.

10 And, Judge, I apologize for that. I wish I
11 could have figured out a way to make that shorter, but I
12 guess, frankly, that long title symbolizes or indicates just
13 how this case, which has at its core, just like Mr. Haas said,
14 two specific reporting requests for two Internet service
15 providers, one being the -- the Internet service provider
16 affiliate of Socket Internet.

17 This case is on an expedited procedural
18 schedule and it has now morphed, as you heard from Mr. Lumley,
19 into not only a weedy swamp of page after page of he said/she
20 said, but also into something that necessarily has major
21 policy and legal ramifications going far beyond merely Socket
22 and CenturyTel both at the state and at the federal level.

23 With respect to all of the nasty back and
24 forth between these two carriers and Socket's attempt to
25 portray itself as the innocent victim here suffering at the

1 hands of the evil Goliath, all I'm going to say for now is
2 that it takes two to tango and at least two punches to be
3 thrown before there's a fight.

4 During the course of the hearing you're going
5 to be hearing evidence, I hope, that strips away this
6 characterization that Socket has set forth in its testimony.

7 And I also want to take this opportunity to
8 admit to you right now and on the record just like we have in
9 our pre-filed testimony that we've made some mistakes, but
10 that we have in good faith attempted to resolve those mistakes
11 and move forward so they won't occur in the future.

12 Now, Socket, of course, wants you to believe
13 that out of this entire situation, their hands are sparkling
14 clean. I certainly can find nothing in their pre-filed
15 testimony or in opening statements or in any of the pleadings
16 that have been filed where Socket even hints that maybe,
17 perhaps they have done anything wrong.

18 Well, we can spend a lot of time flopping
19 around in the weeds of he said/she said or we can focus on the
20 real issue at hand.

21 To that end, I'm going to start by saying that
22 there's actually two things that Socket and CenturyTel agree
23 on. CenturyTel does not contest providing service provider
24 portability, that we have an obligation to do that. And we
25 will affirmatively state again and again that we do it all the

1 time. Customers under service provider portability can change
2 their numbers so long as they do not move or relocate outside
3 of their existing exchange.

4 Now, both Socket and CenturyTel also seem to
5 agree that this entire proceeding can be resolved summarily as
6 a matter of law. I'd just direct you to my Motion for Summary
7 Determination and to Mr. Lumley's Cross-motion for Summary
8 Determination.

9 Now, if you sort through all of Socket's
10 information about the crab nebula and some other things,
11 you'll find no basis, no -- you'll find nothing in any of his
12 arguments that will show you, other than the intermodal order,
13 which was issued in 2003, that there's any controlling federal
14 law that places an obligation under CenturyTel as a matter of
15 federal law to port these numbers in question.

16 Now, even the Staff doesn't agree with Socket
17 on that -- on its position and agrees with us that the FCC
18 order, the intermodal order, only applies and mandates
19 location portability in the context of wireline-to-wireless
20 situations.

21 Now, I should note, since Mr. Lumley has cited
22 considerably from the intermodal order, that even that order
23 does place a geographic requirement on the wireless carrier to
24 have service or some presence within or overlapping the LEC
25 exchange.

1 Now, the definition of location, we've -- I'm
2 not sure how to address this other than to say the two
3 customers in question are currently -- they currently have
4 physical facilities in place in Willow Springs, Missouri and
5 in Ellsinore. That's where they are. That's where they're
6 the CenturyTel customer today.

7 They're going to be leaving those exchanges
8 and not moving across town, not moving across to the next
9 county. They're moving to St. Louis. Is that the same
10 location?

11 Now, our argument, of course, is that there's
12 no currently applicable federal statute, FCC rule, regulation
13 or FCC decision that requires us to port the numbers at issue.
14 These numbers, which despite Socket's attempted definitional
15 gymnastics, still involve requests to port numbers when the
16 customer changes their physical location outside of their
17 existing exchange. This is what the federal law defines as
18 location portability.

19 Dr. Furchtgott-Roth, CenturyTel witness number
20 one, will show not only that, but that the FCC, which even
21 Socket admits has primary jurisdiction over issues of number
22 portability, has had many opportunities to mandate the type of
23 location portability sought by Socket in this case but has
24 consistently and specifically declined to do so as of today.

25 Now, while we'll be going into all the details

1 of that later, you might consider asking the Socket witnesses
2 to give you, beyond this wireless intermodal order, any
3 citation to any controlling federal requirement that requires
4 us to engage in location portability. They cannot. And even
5 Mr. Voight, who doesn't like our position on some other
6 things, agrees with us.

7 Bottom line here, there are some very good
8 reasons why what Socket would have you believe are outdated
9 regulatory policies or evolving policies have been put into
10 place in the first place. And they, frankly, should not be
11 precipitously thrown out and certainly not by just one State
12 Commission.

13 Now, turning to the interconnection agreement,
14 the two bases they've cited: Federal law, interconnection
15 agreement. Socket and now the Staff are arguing that the
16 ICAs, the interconnection agreements, are supporting Socket's
17 request to port these numbers and it's based upon two clauses.
18 One is industry agreed-upon practices and industry guidelines.

19 Now, our evidence will show that there are
20 serious and I believe obvious problems with this argument.
21 First, there are no currently legally binding industry
22 agreed-upon practices or industry guidelines that require
23 CenturyTel or any other ILEC to provide the type of number
24 porting requested here, let alone any requiring location
25 portability generally.

1 Number two, to the extent that there might be
2 some, these necessarily would have to be national in scope and
3 not limited to just one state. In other words, just because
4 Southwest -- or AT&T and Embarq might engage in it, that
5 doesn't make it an industry agreed-upon practice or industry
6 guideline.

7 Number three -- and this is a procedural
8 problem that's been raised in the motions -- there is and can
9 be no competent and substantial evidence offered in this case,
10 which Socket continues to characterize as merely a dispute
11 between two carriers, as to even what industry agreed-upon
12 practices are in Missouri.

13 Now, as pointed out in the various long titled
14 motions, the Commission needs to hear directly from other
15 Missouri carriers as to exactly what their location
16 portability practices are before it could possibly reach a
17 decision as to industry practices even in the state of
18 Missouri.

19 For example, were these completed geographic
20 porting requests claimed by Socket the result of specific
21 company policy or maybe just simply inadvertent? Well, we
22 don't have any way to know in this case because we can't ask
23 those carriers. All you can have before you in this case is
24 Socket's and Staff's second- and third-hand opinions and
25 speculations and, of course, our view with respect to our own

1 particular practices and there you are. That's what you'll
2 have on the record.

3 Number four, the interconnection agreements
4 clearly state that whatever obligations we might have, they
5 must be tied and -- be tied to and be consistent with federal
6 law. We've cited those citations and I know we will again in
7 our brief.

8 Now, there's a huge difference, huge
9 difference, between being legally obligated to do something as
10 opposed to voluntarily deciding to do something that may not
11 be required by federal law but would otherwise would not
12 violate federal law.

13 Finally, by the very terms of the
14 interconnection agreements, the phrase "industry agreed-upon
15 practices" if you'll look at the section, is limited only to
16 the use of local numbers and direct inward dialing, or I guess
17 local numbers being LRN that Mr. Lumley talked about. Now,
18 Socket's FX or FX-like or Staff's version of that being
19 virtual NXX service are neither of these. The evidence will
20 show that.

21 Now, Mr. Haas has suggested that this entire
22 case comes down to what Staff views as Socket's virtual NXX
23 service and whether it's an exchange local service or whether
24 it is an interexchange service. Well, on page 15 of its
25 rebuttal, Mr. Voight goes so far to say that if virtual NXX is

1 an interexchange service, Socket's complaints should be denied
2 and the case closed since the interconnection agreements only
3 cover local services.

4 Now, our evidence will show that while we
5 disagree with the Staff's characterization of what Socket is
6 doing here as being virtual NXX in that it -- it's an
7 interexchange service in any event simply by definition in the
8 interconnection agreement. For that, I'd cite you to the
9 definition, the virtual NXX in Article 5, Section 9.2.3 and it
10 says it's not local, if you read it carefully.

11 Now, as to our evidence, we'll be offering the
12 expert testimony of four witnesses, Dr. Furchtgott-Roth will
13 be testifying as to the development application of currently
14 applicable federal law with respect to, among other things,
15 location portability generally and as applied to Socket's
16 particular requested relief in this case.

17 As a former FCC Commissioner and someone who
18 was intimately involved in the development of the 1996 Federal
19 Telecommunications Act, I hope you'll take the opportunity to
20 avail yourself of his expertise, maybe ask him some questions
21 about the fall-out -- the policy fall-out should the
22 Commission end up granting Socket's request and maybe the
23 negative effects that that could have not only in Missouri but
24 nationally.

25 911 service. What's the impact of that when a

1 customer's number and a customer's rate center are severed?
2 How does that affect law enforcement? The broader industry
3 impacts on the existing intrastate transport compensation
4 system, existing HELA law enforcement requirements when the
5 customer's number and the customer's location is not at the
6 customer's NXX.

7 The incentives against facilities-based
8 competition and the development of further state
9 infrastructure. And how about what Socket is really doing
10 constituting toll bypass, results of all of that on the
11 general body of Missouri ratepayers.

12 Well, anyway, getting into the swamp here,
13 we've got some other witnesses. Susan Smith will be
14 testifying, among other things, about CenturyTel's internal
15 operations and procedures with respect to Socket's and the
16 other requests, all of the alphabet soup, FOCs, LSRs and
17 whatsoever and our -- the way we comply with the
18 interconnection agreement.

19 Joye Anderson will be testifying about our
20 traffic studies that Mr. Lumley was talking about,
21 specifically I believe with the Willow Springs exchange. And
22 Michael Penn will be testifying to what Mr. Lumley referred to
23 as the LNP working group and that process and how all of that
24 works and what's been going on specifically with Socket's
25 PIM 60 that he's referenced in -- Mr. Kohly's referenced in

1 his testimony.

2 Now, for the record, I'm going to here renew
3 my earlier motion to dispose of this case by summary
4 determination, which of course, I think you can still grant,
5 but since I can't recall the existing legal -- or lengthy
6 titles on those motions, I'll just say I here renew the
7 motions. Thank you.

8 JUDGE PRIDGIN: Mr. Stewart, thank you.

9 And I believe we will have some questions for
10 counsel from the Bench. Any questions?

11 COMMISSIONER CLAYTON: Thank you, Judge. I
12 have a few questions that I hope are going to stay legal in
13 nature, if the lawyers wouldn't mind helping.

14 First of all, I missed the very beginning of
15 Socket's opening and I wanted to be clear on the arrangement.
16 Characterization that -- that the telephone numbers -- the
17 numbering resources possessed by CenturyTel at this time are
18 serving a Socket affiliate and Socket seeks to transfer those
19 numbers to the Socket telephone company; is that correct?

20 MR. LUMLEY: In some instances, the customer
21 involved is an ISP that's affiliated with Socket Telecom. In
22 other instances, it's an independent customer.

23 COMMISSIONER CLAYTON: Okay. And we're
24 talking the same circumstance in Willow Springs and in
25 Ellsinore; is that correct?

1 MR. LUMLEY: And I don't have it straight in
2 my head, but in one of those instances it was the affiliate
3 and one it was not.

4 COMMISSIONER CLAYTON: Okay. Okay. Legally
5 what would be the arrangement pursuant to the interconnection
6 agreement if the number was ported and the geographic location
7 remained within the boundaries of the exchange? What would be
8 the financial relationship?

9 MR. LUMLEY: It would still be identical. The
10 traffic would be exchanged over the point of interconnection.

11 COMMISSIONER CLAYTON: It would just be
12 exchange bill and keep; is that --

13 MR. LUMLEY: Correct. Well, it might not be
14 provided on a VNXX basis on that circumstance so it might be
15 subject to reciprocal compensation. It depends on where the
16 customer is going to be. The exchange does not necessarily
17 match up to a rate center, but if you assume they're
18 identical, then you wouldn't need to use VNXX service and so
19 it would be exchange on a reciprocal --

20 COMMISSIONER CLAYTON: I'm trying to just get
21 the basic building blocks. If you remove the VNXX issue and
22 you're just porting from an ILEC to a CLEC, what would be
23 financial relationship be?

24 MR. LUMLEY: Then it's reciprocal
25 compensation.

1 COMMISSIONER CLAYTON: It's reciprocal
2 compensation. Thank you.

3 Okay. In this circumstance, the customer
4 would have the number ported to Socket Telecommunications and
5 then moves outside the exchange to St. Louis or whatever.
6 That is the circumstance in this case. Correct?

7 MR. LUMLEY: Well, it's happening
8 simultaneously, but it could also happen in two steps. Socket
9 could win the customer and later they could decide --

10 COMMISSIONER CLAYTON: Doesn't matter?

11 MR. LUMLEY: Right. Not from my perspective.

12 COMMISSIONER CLAYTON: So I mean, if, say, the
13 number got ported and stayed within the geographic boundaries
14 of the exchange for a year and then attempted to move, would
15 it make any difference in your case?

16 MR. LUMLEY: Well, the difference would be
17 that CenturyTel couldn't do anything about it because they
18 couldn't hold back the porting of the number. Socket would
19 already control the number.

20 COMMISSIONER CLAYTON: Socket would control
21 the number. So would there be the ability of Socket to move
22 the number to St. Louis?

23 MR. LUMLEY: Yes.

24 COMMISSIONER CLAYTON: And would the financial
25 relationship be the same or different under that circumstance?

1 MR. LUMLEY: At that point you'd be using the
2 VNXX service. And under the Commission's arbitration order,
3 it would then be bill and keep.

4 COMMISSIONER CLAYTON: Be bill and keep.
5 Okay.

6 Would the parties agree the issue is who's
7 going to carry the call to St. Louis? Is that the issue?

8 MR. LUMLEY: To the point of interconnection
9 in Branson.

10 COMMISSIONER CLAYTON: To the point of
11 interconnection in Branson.

12 MR. LUMLEY: Currently, but the opportunity
13 for more to develop over time.

14 COMMISSIONER CLAYTON: Do you agree with that,
15 Mr. Stewart?

16 MR. STEWART: Well, it's a little misleading
17 to say that when the existing CenturyTel customer inside the
18 CenturyTel exchange switches over to Socket within the
19 exchange -- I mean, that's service provider portability, that
20 happens. Those are local calls, it's my understanding.

21 It's when the customer moves to St. Louis and
22 then you involve the other car-- the toll network. Somebody's
23 got to be paying the freight. And Socket will not be.

24 COMMISSIONER CLAYTON: Somebody has to
25 transport the call.

1 MR. STEWART: Right.

2 COMMISSIONER CLAYTON: Mr. Stewart, does it
3 matter to you, to your client -- in the first instance it
4 happens simultaneously versus the number porting and then one
5 year later the customer moving to St. Louis? Is there any
6 difference?

7 MR. STEWART: I think you'd still have the
8 issue of the toll compensation, the access, who's paying.

9 COMMISSIONER CLAYTON: So if the customer
10 moved -- if a customer moved -- took the number to Socket and
11 stayed in their existing location for a year and then moved,
12 we'd still have the same problem?

13 MR. STEWART: At that point you'd have the
14 same problem.

15 COMMISSIONER CLAYTON: So the simultaneous
16 move doesn't really make any difference?

17 MR. STEWART: I don't think so.

18 MR. LUMLEY: Because it gets down to the
19 dispute is over the interconnection facilities, not the
20 porting.

21 MR. STEWART: And I might just add there is no
22 point of direct interconnection in Willow Springs or
23 Ellsinore. We have to go to Branson I believe for both of
24 those.

25 COMMISSIONER CLAYTON: So physically the

1 call -- if the Socket customer stays within the exchange, does
2 the call have to go to the point of interconnection? So it
3 goes to Branson and then back?

4 MR. STEWART: It goes to Branson and back.

5 MR. LUMLEY: CenturyTel calls a Socket
6 customer or vice-versa, right, that's where the traffic is
7 exchanged today.

8 COMMISSIONER CLAYTON: And that's recip comp.
9 It's not bill and keep.

10 MR. LUMLEY: In that circumstance.

11 MR. STEWART: Yeah, I'd agree with that.

12 COMMISSIONER CLAYTON: You'd agree with that.

13 And, Mr. Haas, if you want in on this, let me know.

14 This is a case of first impression in
15 Missouri?

16 MR. STEWART: As far as I know.

17 MR. LUMLEY: I believe so.

18 COMMISSIONER CLAYTON: Is it a case of first
19 impression in the country?

20 MR. LUMLEY: I can't answer that. I can't
21 identify another one for you, let me say it that way.

22 COMMISSIONER CLAYTON: You can't identify any
23 other circumstance going one way or the other throughout the
24 country?

25 MR. STEWART: I'm not aware of any.

1 COMMISSIONER CLAYTON: Oh, wow. Feel the
2 power. Great. Great. Thank you.

3 JUDGE PRIDGIN: Commissioner Appling?

4 COMMISSIONER APPLING: Carl, I just have a
5 question of clarification I think that the question will --
6 and I'm going to ask -- probably this is going to go to Larry
7 and Brent.

8 What I'm looking for here is that Mr. Kohly at
9 the end of his Direct Testimony had a Schedule MK-20 which
10 described the way the lines -- if you'll pull that out and
11 take a look at it. I just want to know in a yes or no answer
12 whether you have looked at this, CenturyTel, and is this
13 scenario one through five correct? That's all I need to know.
14 Because yesterday I spent some time trying to just see which
15 way the chart draws the line, who ports and who calls and
16 which way the line goes.

17 MR. STEWART: Is that 20?

18 COMMISSIONER APPLING: Yes. It's Schedule
19 MK-20. You can tell me later on. It doesn't have to be right
20 now but -- clear up one more thing for me, Carl. When the
21 number is transferred to St. Louis and it -- the call goes
22 back to Branson, describe for me who pays what on that line,
23 okay, under this proposed system of ported in Branson.

24 MR. LUMLEY: All right. There's two parts to
25 that. In terms of the facilities so that the traffic can

1 actually flow back and forth, each party is responsible for
2 its side of the point of interconnection and for the cost of
3 having those facilities there. Okay?

4 And as I've indicated and it's in the
5 testimony, over time as there's more traffic exchanged, you
6 can have more points of interconnection required. And again,
7 each party is responsible for its side, you know, and the
8 costs of the facilities.

9 In terms of the flow of traffic -- and this
10 gets back to Commissioner Clayton's questions -- pursuant to
11 the Commission's arbitration decision, if it's traffic that's
12 being exchanged within, you know, the exchange boundaries
13 where we don't have a dispute about the customer's location,
14 that's exchanged on a reciprocal compensation basis so the
15 originating carrier -- you know, the customer that's placing
16 the call, that carrier pays a terminating fee to the other
17 company.

18 But on the VNXX arrangement that the
19 Commission approved, which flows over the same trunks, by
20 Commission order, that's on a bill and keep basis. So neither
21 company charges the other.

22 COMMISSIONER APPLING: Okay. Thank you, sir.

23 JUDGE PRIDGIN: Commissioner Murray?

24 MR. STEWART: Judge, could I --

25 JUDGE PRIDGIN: I'm sorry.

1 MR. STEWART: I wanted to respond about MK-20.
2 No, we do not agree with the representations on that chart.
3 We have prepared our own and will be offering them later. I
4 just wanted to respond to that.

5 COMMISSIONER APPLING: Thank you.

6 JUDGE PRIDGIN: All right. Mr. Stewart, thank
7 you.

8 Commissioner Murray?

9 COMMISSIONER MURRAY: I seem to have forgotten
10 my question because I was thinking of another one then.

11 Mr. Stewart, if CenturyTel kept those two
12 customers, in other words, they were not trying to change
13 providers -- is my mic on?

14 MR. STEWART: I don't think so.

15 COMMISSIONER MURRAY: The light is on. Is
16 that better?

17 MR. STEWART: Yes.

18 COMMISSIONER MURRAY: If CenturyTel kept those
19 two customers, would CenturyTel allow those customers to keep
20 the same number that they currently have after they move to
21 St. Louis?

22 MR. STEWART: No. Because that would be what
23 we believe to be location portability.

24 COMMISSIONER MURRAY: So whether it's
25 CenturyTel's customer in the future or some other carrier's

1 customer, they cannot keep that number?

2 MR. STEWART: That's correct.

3 COMMISSIONER MURRAY: Thank you.

4 MR. STEWART: At least as of this time.

5 JUDGE PRIDGIN: Commissioner, thank you.

6 Mr. Lumley, thank you.

7 Anything further from the parties before we
8 proceed to the first witness?

9 All right. Hearing nothing, Mr. Kohly, if
10 you'll come forward to be sworn, please.

11 (Witness sworn.)

12 JUDGE PRIDGIN: Thank you, very much. If
13 you'll please have a seat, sir.

14 Mr. Lumley, when you're ready, sir.

15 MR. LUMLEY: Thank you, Judge.

16 R. MATTHEW KOHLY testified as follows:

17 DIRECT EXAMINATION BY MR. LUMLEY:

18 Q. Ready?

19 A. Yes.

20 Q. Can you state your name, please?

21 A. My name is Matthew Kohly.

22 Q. By whom are you employed?

23 A. I am employed by Socket Holdings Company
24 appearing today on behalf of Socket Telecom.

25 Q. What's your position with the company?

1 A. Director of carrier relations assigned to work
2 for Socket Telecom.

3 Q. And what is your place of business?

4 A. 2703 Clark Lane, Columbia, Missouri.

5 Q. Did you cause to be prepared and filed in this
6 case a piece of Direct Testimony that's been marked as
7 Exhibit 1?

8 A. Yes, I did.

9 Q. Do you have any corrections to that testimony?

10 A. Yes. To the Direct Testimony I have one
11 correction. If we'd turn to page 23 and page 24, on
12 line 21 -- on page 23 -- or page 23, line 21 delete the word
13 "and." following over to the next page, which would be
14 page 24, line 1 deleting "Shelbina, comma, customer in
15 Mississippi Valley Internet." And then delete all of
16 footnote 23.

17 MR. STEWART: I'm sorry. Mr. Lumley, was that
18 in the Direct?

19 MR. LUMLEY: Correct.

20 BY MR. LUMLEY:

21 Q. Any other corrections to your Direct
22 Testimony?

23 A. No.

24 Q. If I asked you the questions that are
25 contained in that testimony today, would your answers be the

1 same?

2 A. Yes, they would.

3 Q. Are those answers true and correct to the best
4 of your information, knowledge and belief?

5 A. Yes, they are.

6 Q. Did you also cause to be prepared and filed in
7 this case a piece of Surrebuttal Testimony that's been marked
8 as Exhibit 2?

9 A. Yes, I did.

10 Q. Do you have any corrections to that piece of
11 testimony?

12 A. Yes. I have four corrections. First one,
13 very minor. Page 14, line 11 change "traffic" -- the words
14 "traffic date" to "traffic data."

15 Do you want the next one?

16 Q. Go ahead.

17 A. On page 15, line 5 change the month from May
18 to April. And then on page 30, the LNPA working group met
19 yesterday and closed PIM 60, which was Socket PIMs and closed
20 it in Socket's favor. This same PIM will also be written up
21 in generic form and added to the LNPA working group industry
22 best practices document.

23 In doing this, they did change some of the
24 criteria -- or some of the wording in criteria 5. The first
25 change comes at page 5, line 25 where in recognition that not

1 all states require CLECs and possibly ILECs to file tariffs,
2 they wanted to add some additional language covering that
3 situation. So they added language to the effect of, After
4 tariffed or publicly posted as required by state regulation.
5 They would have added that at page 30, line 25.

6 MR. STEWART: Judge, I'm going to object.
7 Those minutes will speak for themselves when they are
8 available and I don't remember them being attached. Am I
9 wrong, Mr. Lumley?

10 MR. LUMLEY: He's not correcting the minutes.
11 He's correcting his recitation.

12 MR. STEWART: He's correcting his recitation
13 on --

14 MR. LUMLEY: No.

15 MR. STEWART: Page 5, what's he talking about?

16 MR. LUMLEY: No. Not page 5. Page 30, point
17 No. 5.

18 MR. STEWART: Well, again, he's referencing
19 something that's happened subsequent to his pre-filed
20 testimony. This is updating and supplementing his pre-filed
21 testimony and it's not correcting it. It's updating it and
22 changing it. And I would object on that basis.

23 Now, if on redirect or whatever he wants to go
24 into what happened yesterday, that's a different story, but
25 with his pre-filed testimony I don't think he can do that.

1 MR. LUMLEY: In response, your Honor,
2 circumstances have changed which cause the testimony to not be
3 entirely correct. Mr. Kohly's bringing that change to the
4 Commission's attention by correcting his testimony in terms of
5 what this group is requiring. It's evidence that's the basis
6 for his expert opinion. And as you understand, experts are
7 allowed to advise the deciding body what they're basing their
8 expert opinions upon.

9 MR. STEWART: Judge, it's his recollection,
10 not the document. That's what --

11 MR. LUMLEY: It doesn't purport to be the
12 document.

13 JUDGE PRIDGIN: I understand. I believe one
14 of the foundational questions that routinely would be asked
15 here is, Are all these answers true and accurate and if I
16 asked you these questions today, would your answers be the
17 same. And unless he makes these changes, whether we call them
18 corrections or updates, that answer would be no.

19 And so for him to truthfully answer that
20 question yes and lay the foundation, I'm going to overrule and
21 let him make those changes. And obviously CenturyTel is free
22 to talk about how this is a last-minute update and whatever
23 problems that might bring.

24 I'm sorry, you can continue.

25 BY MR. LUMLEY:

1 Q. Why don't you --

2 A. Again, to make -- I'm not sure exactly where
3 we were when the interruption. After the word "tariffed" on
4 page 30, line 25, language to the effect of, in quotations, Or
5 publicly posted as required by state regulation, end quote.
6 So that was the language that would be added.

7 And that same language would be added on page
8 31, line 2. So the customer would be served out the Socket FX
9 tariff or publicly posted as required -- publicly posted price
10 list as required by state regulation.

11 The additional change that they made and the
12 last change they made was to the words "foreign exchange." In
13 recognition that they did not want to omit certain types of
14 foreign exchange service, they changed the capitalization of
15 that word -- or those two words from capitalized to removing
16 the capitalization; therefore, making it a common noun. And
17 that was done in -- so that certain types of FX service would
18 not be omitted by this.

19 Q. So in line 25 it would be a lower case "f" and
20 a lower case "e" in foreign exchange?

21 A. Yes.

22 COMMISSIONER MURRAY: Mr. Lumley, excuse me.
23 Are you filing those minutes, attaching those minutes? That's
24 what Mr. Kohly is referring to; is that correct?

25 MR. LUMLEY: No. He's referring to his

1 testimony at page 30 where he describes the caveats that the
2 working group developed.

3 COMMISSIONER MURRAY: But they have been
4 developed in writing now?

5 MR. LUMLEY: I don't believe the minutes have
6 been released. The meeting was just held yesterday

7 MR. STEWART: Can I ask a question? The
8 changes as I'm reading his testimony, he says, On the May 12th
9 call, the issue was discussed again. Did I miss your change
10 there to change it to yesterday?

11 MR. LUMLEY: Well, he's testified in his seat
12 that there was a call yesterday, that it resolved PIM 60 in
13 Socket's favor and there was a decision to incorporate these
14 provisions in the company best practices document and that
15 he's correcting item No. 5 so that it matches his
16 understanding of what they're requiring.

17 MR. STEWART: Judge, I think I've got a
18 solution. If Mr. Kohly is making these modifications based on
19 his recollection of what happened yesterday to update his
20 testimony and we don't have documents of minutes, then I would
21 ask that our witness, Mr. Penn, be allowed to also at the time
22 he takes the stand, to give his recollection of what happened
23 at yesterday's call.

24 MR. LUMLEY: We'd certainly fully accept that.

25 JUDGE PRIDGIN: Fair enough. You may

1 continue.

2 BY MR. LUMLEY:

3 Q. Additional corrections to your Surrebuttal,
4 sir?

5 A. I have one last correction that will not raise
6 anyone's ire. Page 42, line 4, insert the word "date" between
7 the word "due" and "drives" so that it reads, Due date drives.
8 And that would be it.

9 Q. With those corrections and information you've
10 provided today, if I asked you the questions set forth in
11 Exhibit 2, would your answers be the same as corrected?

12 A. Yes, they would.

13 Q. Are those answers true and correct, to the
14 best of your knowledge, information and belief?

15 A. Yes, they are.

16 MR. LUMLEY: Your Honor, with that, I would
17 offer Exhibits 1 and 2 into the record and tender the witness
18 for cross-examination by the other parties.

19 MR. STEWART: Judge, I have just a question
20 before we get into cross.

21 JUDGE PRIDGIN: Yes, sir.

22 MR. LUMLEY: The lawyer in me, of course, goes
23 through all of this testimony and sometimes we run into the
24 issue here before the Commission about non-lawyers giving
25 legal opinions, what does a contract mean, what does federal

1 law require. And a lot of times the lawyers will get up and
2 make an objection on that basis.

3 On the practical side of me, I would rather
4 not make those objections on that basis and would be willing
5 to just on the record forego making those objections provided
6 Mr. Lumley is willing to make the same concession as well as
7 the Staff.

8 MR. LUMLEY: I agree that it's quite common in
9 Commission proceedings for the experts to talk about their
10 understanding of the rules that they're working within and I
11 think we all understand the difference between that and if a
12 lawyer's giving a legal opinion. So I concur that there's no
13 reason for us to have such objections. I think everyone
14 understands the circumstances.

15 JUDGE PRIDGIN: Mr. Haas?

16 MR. HAAS: I agree.

17 JUDGE PRIDGIN: Very well.

18 MR. STEWART: Thank you, Judge.

19 JUDGE PRIDGIN: That being the case, Exhibits
20 No. 1 and 2 have been offered. Any objections?

21 Hearing none, Exhibits 1 and 2 are admitted.

22 (Exhibit Nos. 1 and 2 were received into
23 evidence.)

24 JUDGE PRIDGIN: Mr. Haas, any cross?

25 CROSS-EXAMINATION BY MR. HAAS:

1 Q. Good morning, Mr. Kohly.

2 A. Good morning.

3 Q. At page 14 of your Surrebuttal Testimony, you
4 state that, Socket is in the process of analyzing its own
5 traffic data to determine whether a POI is warranted in Willow
6 Springs.

7 Has Socket completed its analysis?

8 A. Yes, we have. And we have responded to
9 CenturyTel that we do not agree a POI is required in the
10 Willow Springs exchange at this time.

11 Q. And what is the next step in this process if
12 CenturyTel believes that a POI is required?

13 A. Under our agreement, if there -- under the
14 interconnection agreement, if there is a disagreement about
15 whether or not a point of interconnection is required -- an
16 additional point of intersection is required to be
17 established, I believe it says the parties shall follow the
18 expedited dispute resolution process set forth in Article 3 of
19 that agreement.

20 That process will have the companies meet to
21 discuss the issue, try to resolve it. I think the
22 Commission's order also in the arbitration indicated seek the
23 help of Staff in resolving it if that would be helpful. If
24 that can't be done, the next step would be proceed to
25 arbitration either in front of the Commission or some other

1 body.

2 MR. HAAS: Thank you.

3 JUDGE PRIDGIN: Mr. Haas, thank you.

4 Cross on behalf of CenturyTel, Mr. Stewart?

5 MR. STEWART: Thank you, Judge.

6 CROSS-EXAMINATION BY MR. STEWART:

7 Q. Good morning, Mr. Kohly.

8 A. Good morning.

9 Q. Let's start with your Direct Testimony on
10 page 15. I just want to confirm something, that there are two
11 telephone numbers at issue in the Willow Springs exchange and
12 one of those customers -- excuse me, and that customer in the
13 Willow Springs exchange is Socket Internet; is that correct?

14 A. Yes.

15 Q. Like Mr. Lumley, I get confused with who's the
16 customer in Ellsinore and Willow Springs. But Willow Springs
17 would be the exchange where your affiliate currently has a
18 CenturyTel number; is that correct?

19 A. Yes.

20 Q. Could you explain the corporate relationship
21 between Cent-- or excuse me, between Socket Internet and
22 Socket Holdings and Socket, the CLEC?

23 A. Socket Holdings Company is a corporation that
24 is the parent of Socket Telecom, LLC. Socket Holdings also
25 has a d/b/a of Socket Internet and operates as an Internet

1 service provider.

2 Q. Thank you.

3 A. There was --

4 Q. Go ahead.

5 A. It has been -- it was previously looked at to
6 form more of a corporate shell like you would see CenturyTel
7 where you have the holdings companies with two affiliates.
8 And there were some issues with that and it would be rather
9 complicated to roll it up in that fashion so that's why they
10 don't have a corporate structure that would match that of
11 CenturyTel.

12 Q. And corporate structure can be kind of
13 complicated sometimes. On I believe page 3, line 18, you make
14 the statement that Socket uses its own switching and transport
15 facilities. Are there any switching and trans-- does Socket
16 have any switching and transport facilities in Willow Springs?

17 A. No, it does not.

18 Q. Does Socket have any switching or transport
19 facilities within the Ellsinore exchange?

20 A. No, it does not.

21 Q. On page 13 of your Direct, lines 20 and 21,
22 you're discussing the capacity concerns raised by CenturyTel.
23 And you state, I question whether CenturyTel's claims -- again
24 referring to the capacity issues -- are legitimate.

25 Is that still your position?

1 A. What page are you on?

2 Q. I think I had page 13, lines 20 and 21 of your
3 Direct.

4 A. That's not the subject of that page.

5 Q. Well, I may have the wrong -- do you remember
6 making -- I don't know if I can find it.

7 Do you remember making the statement with
8 respect to the capacity issues, that you didn't think our
9 concerns were legitimate?

10 A. I question some of them, yes.

11 Q. Okay. And that's still your position today?

12 A. Some of them, yes.

13 Q. Okay. Is Socket Telecom a wireless carrier?

14 A. No. However, it has employed wireless
15 solutions to provide point-to-point connections. So --

16 Q. Okay. We were having a little discussion when
17 you were correcting your testimony about the LNPA working
18 group. Paula Jordan was the co-chair of that working group
19 and she's with T-Mobile -- or what's the wireless company
20 she's with?

21 A. I believe it's T-Mobile.

22 Q. T-Mobile. Okay. I think I'll try on your
23 Surrebuttal -- I hope I've got the page citation. Page 13,
24 line 16, you say, Socket -- does Socket have any obligation to
25 install direct trunking, period? I'm not quite sure I

1 understand your statement?

2 A. Define what you mean by "direct trunking."

3 Q. Well, I think you were talking about direct
4 trunking just right above that. How do you define it?

5 A. Direct trunking is an arrangement where
6 essentially -- and this occurs regardless of where the point
7 of interconnection is, the parties agree to have a dedicated
8 trunk between one piece of switching equipment or one piece of
9 network equipment and the other.

10 And this is something we commonly do with
11 other incumbent LECs in the state of Missouri and we've
12 indicated our willingness to do direct trunking with
13 CenturyTel. To clarify -- and this is what my testimony
14 addresses -- that is the not the same as establishing a point
15 of interconnection. That's a different issue.

16 Q. Well --

17 A. But direct trunking --

18 Q. You've defined it. Now, my question is, does
19 Socket believe it has any obligation -- legal obligation to
20 install direct trunking?

21 A. I think that is addressed in our
22 interconnection agreement. And it says the par-- I don't have
23 the agreement with me. Something to the effect parties may
24 mutually agree to. And as I've said, Socket is willing to in
25 this case.

1 Q. But you're not required to do it?

2 A. No.

3 Q. Okay. And I guess because that's not really
4 part of the interconnection agreement, that traffic threshold
5 trigger does not exist with respect to direct trunking; is
6 that correct? I mean, that's not an issue with direct
7 trunking?

8 A. What do you mean?

9 Q. Well, if I understand your testimony -- and I
10 hate to paraphrase it because it speaks for itself, but on the
11 issue of the point of interconnection, as I understand your
12 testimony, you're saying you do not have to have a point of
13 interconnection unless under that provision -- with CenturyTel
14 under that provision of the traffic thresholds; is that
15 correct?

16 A. That would pertain to an additional POI and
17 yes, that is correct.

18 Q. It's a little different with Spectra though;
19 is that correct?

20 A. We operate under the same interconnection
21 agreement.

22 Q. But with Spectra are you not indirectly
23 connecting with --

24 A. Yes.

25 Q. Do you have any -- do you have any POIs with

1 Spectra?

2 A. No, we do not. We'll add that as a source of
3 dispute between the parties.

4 Q. So if the traffic studies with Spectra showed
5 that you triggered that provision under the interconnection
6 agreement, Socket's position would be you still don't have to
7 put in a POI?

8 A. Correct. And if you look at the contract
9 language --

10 Q. No. Yes or no?

11 A. Please rephrase your question.

12 Q. Okay. So if the traffic indicated in a
13 Spectra exchange that had it been a CenturyTel exchange you'd
14 be required to put in a POI, you were -- under the Spectra
15 situation, you don't have to put in the POI?

16 A. That is not a correct paraphrasing.

17 Q. What is your obligation to put in a POI under
18 the Spectra interconnection agreement?

19 A. For both companies, regardless of which
20 company --

21 Q. Well --

22 A. Let me just you the -- I mean, it's in the
23 contract. You establish -- if you -- if you establish a point
24 of interconnection, you then have to establish an additional
25 point of interconnection pursuant to the schedule set out in

1 Article 5, I believe it is Section 4.3. I'm not sure of the
2 exact section.

3 That only applies to where you already have
4 a -- a point of interconnection, a direct point of
5 interconnection. There is a separate section, I believe it is
6 Article 7, dealing with indirect interconnection. That is
7 where you do not have an initial POI to begin with. Instead,
8 there's a point of interconnection with third parties.

9 Q. Okay. Well, ICs speak for themselves, but as
10 to Spectra it's your position that -- well, you don't have
11 any POIs with Spectra at the current time; is that correct?

12 A. Yes.

13 Q. All right. So if I understand your answers
14 there, Socket is indirectly interconnected with Spectra
15 through a third-party carrier; is that correct?

16 A. Correct.

17 Q. Okay. Do you have any idea the total number
18 of Spectra exchanges in Missouri?

19 A. No, I don't. It's hundred and s--

20 Q. And since you don't have a POI, I would assume
21 you don't have any -- by definition, you don't have any direct
22 interconnection with Spectra?

23 A. No.

24 Q. Okay. And I don't want to get into the
25 dispute itself, just to confirm that Socket has given formal

1 notice that it wants to decommission any direct
2 interconnections you might have with Spectra; is that correct?

3 A. Subject to several caveats. We have an
4 ongoing dispute about the existing trunks that were in place
5 at the time the new agreement became effective and those need
6 to be transitioned to the new arrangement -- to the new
7 arrangement.

8 So setting aside our objections and our --
9 that we don't -- that these do not constitute points under the
10 new agreement and some other objections in that letter, we
11 have sent a notice to Spectra indicating that we want to
12 decommission these because if the traffic thresholds were to
13 be applied, which they do not apply, we do not meet the
14 criteria for establishing point of interconnection.

15 Q. So under Judge Pridgin's rule, the answer is
16 yes, you've sent the letter? You've sent the formal notice?

17 A. Yes. We sent a letter.

18 Q. When Socket submits a local service request to
19 CenturyTel, isn't it true that Socket shows the customer
20 service address as the customer's existing CenturyTel service
21 address?

22 A. Yes.

23 Q. And in that situation, such as with Socket
24 Internet in Willow Springs, that then would be Socket
25 Internet's Willow Springs service address wherever in Willow

1 Springs it has its modem bank; is that correct?

2 A. Yes.

3 Q. Okay. Is there any place on that local

4 service request that would indicate from that document that a

5 St. Louis service request -- or a St. Louis service address

6 for Socket Internet's new modem bank?

7 A. No, there is not. If the address does not

8 match --

9 Q. Yes, no. Just yes or no. There's not

10 anything on the document?

11 A. No, there's not.

12 Q. Okay. Okay. If the Commission were to order

13 CenturyTel to complete Socket's requested porting of Socket

14 Internet's Willow Springs numbers, will -- I hope I

15 understand -- Socket Internet will remove its existing Willow

16 Springs modem bank; is that correct?

17 A. After the port, it might.

18 Q. It might?

19 A. It -- yes.

20 Q. But you don't know whether it will or not?

21 A. No.

22 Q. But it could?

23 A. Could.

24 Q. Fair enough. Let's see. Hold on just a

25 second.

1 JUDGE PRIDGIN: Certainly.

2 MR. LUMLEY: I think I want to mark this as an
3 exhibit at least for identification.

4 (Exhibit No. 13 was marked for
5 identification.)

6 BY MR. LUMLEY:

7 Q. Mr. Kohly, in your Surrebuttal and again this
8 morning you were talking about recent activities of the LNPA
9 working group and your PIM 60. You've been actively involved
10 with all that, I assume?

11 A. Yes.

12 Q. At any time over the last three months were
13 there any Missouri small LECs represented in the discussions?

14 A. Embarq was present as --

15 Q. That's a small Missouri LEC?

16 A. Smaller than CenturyTel. CenturyTel was
17 present.

18 Q. But none of the other small companies?

19 A. Windstream I believe would be present at some
20 of the meetings.

21 Q. Is Windstream a -- is that the new Alltel?

22 A. Yes. It's the new landline company.

23 Q. But a lot of the smaller ILECs that we have
24 all over the state of Missouri, none of them were there?

25 A. Not that I recall.

1 Q. Do you know if any of the small ILECs tried to
2 register their opinion during this process?

3 A. No, I don't.

4 Q. I just handed you what's been marked for
5 purposes of identification a letter that purports to be from
6 the law firm of Brydon, Swearingen and England that shows you
7 being copied on that letter. And it's dated July 9th, it's
8 addressed to Paula Jordan, T-Mobile who I think you said was
9 the co-chair?

10 A. She is the co-chair along with Gary Sacra.

11 Q. He's with Verizon. Right?

12 A. Yes.

13 Q. You've never seen that letter?

14 A. Yes, I did see the letter. But what it is a
15 letter from is from Brian McCartney saying his law firm
16 represents a number of small rural LECs. Then it goes on to
17 say, I am concerned with the impacts. So this is nothing
18 but -- I mean, this is a letter from him not identifying any
19 small LECs, not identifying any small LEC groups. So I don't
20 know that he has a client that's a small LEC paying for this
21 letter.

22 Q. Well, the letter speaks for itself, but would
23 you generally characterize -- since you've seen the letter,
24 would you generally characterize it at as least Mr. McCartney,
25 as an attorney for whoever those small LECs might be, had some

1 problems with your PIM 60?

2 A. I would say Mr. McCartney as an individual may
3 have some concerns.

4 Q. Since he signed the letter, I'll just leave it
5 at that.

6 Now, do you happen to know whether Ms. Jordan
7 had that letter in front of her before they took action
8 yesterday?

9 A. She did.

10 Q. And isn't it true that she ruled that the
11 Missouri small LEC letter, Mr. McCartney's letter, none of
12 those entities or Mr. McCartney would have -- they wouldn't
13 let them vote. They wouldn't get them a vote on the end
14 product; is that right?

15 A. There was not a small LEC on the phone to
16 vote. Had they been, they would have been allowed to vote.
17 But this doesn't identify any small LECs.

18 MR. LUMLEY: Well, Judge, I'm going to go
19 ahead and move that letter into evidence based on his
20 identification of it. It speaks for itself as to what it
21 says.

22 JUDGE PRIDGIN: Exhibit 13 has been offered.
23 Any objections?

24 MR. LUMLEY: No, your Honor.

25 JUDGE PRIDGIN: Exhibit 13 is admitted.

1 (Exhibit No. 13 was received into evidence.)

2 MR. STEWART: Thank you, Mr. Kohly.

3 JUDGE PRIDGIN: Any questions from the Bench?
4 Commissioner Murray?

5 COMMISSIONER MURRAY: Thank you.

6 QUESTIONS BY COMMISSIONER MURRAY:

7 Q. Good morning, Mr. Kohly.

8 A. Good morning.

9 Q. In his opening statement, Mr. Lumley said
10 something to the effect that a new Socket customer could
11 purchase and be assigned a new number. Do you recall
12 something like that?

13 A. Yes.

14 Q. Now, would that new number -- or could that
15 new number for that St. Louis customer be in the Willow
16 Springs NXX?

17 A. Saying if the customer is -- has a place of
18 business or service address in St. Louis?

19 Q. Correct.

20 A. Yes, they could obtain foreign exchange
21 service from Socket and have a Willow Springs calling number.

22 Q. And what is involved in purchasing such a
23 number?

24 A. We have several tariff services that have that
25 as an option. It is an option for the ISDN PRI out of

1 service, which has an out-of-calling-scope option. It has
2 a -- there's a DS-3 service that as an out-of-calling-scope
3 option and then there is a -- a smaller service -- I believe
4 it's called integrated access service, I forget the actual
5 tariff name, that also has that out-of-calling-scope option.

6 Q. Okay. And how would the inter-carrier
7 compensation then between CenturyTel and Socket work with each
8 of those services?

9 A. Under all of them where you have an FX
10 arrangement, the inter-carrier compensation would be bill and
11 keep. And that was ordered by the Commission. Where it's not
12 an FX arrangement --

13 Q. And which one of those that you mentioned are
14 not FX arrangements? The ISDN, the DS-3 or the integrated
15 access?

16 A. All of those -- let me I guess back up. All
17 of those are services that are offered as a local exchange
18 service. You can also get the option of foreign exchange
19 service with each of those services as well.

20 Q. And what's involved in getting that option?
21 Is there a purchase price for it?

22 A. On the ISDN PRI and the DS-3 service, there is
23 not an extra price for that. It's included in the base rate.

24 Q. In other words, it would be the same price as
25 if -- all right. Let me phrase it this way. Would that price

1 differ from the cost to Socket if Socket obtained the customer
2 from CenturyTel and CenturyTel ported that customer's Willow
3 Springs number to the customer in St. Louis?

4 A. Would the cost be -- can I ask a clarifying
5 question? Are you asking if the rate would be the same
6 whether or not the customer was able to port a number or was
7 assigned a number by Socket?

8 Q. Yes. I'm asking if there is any difference in
9 the cost to Socket for providing that customer service or to
10 that customer for receiving that service.

11 A. The rate would be the same from a service
12 standpoint. The cost would be the same setting aside the --
13 the small charge for porting a number, but that's -- would not
14 matter.

15 Q. Now, you mentioned earlier in questioning --
16 in answer to a question that you didn't know if Socket
17 Internet would keep its modem bank in Willow Springs after
18 getting a ported number. What would be a potential reason for
19 keeping a modem bank there and also setting up a modem bank in
20 St. Louis?

21 A. I don't -- the potential reason for keeping a
22 modem bank there would be for future use if they thought it
23 was necessary. I don't know that that's what they will do,
24 but at the same time I don't know that they will take it out.

25 Q. How are you involved with Socket Internet, if

1 at all?

2 A. I work for Socket Holdings Corporation that
3 has a d/b/a of Socket Internet. I am assigned to work for
4 Socket Telecom. On some occasions -- and that's all of my
5 issues -- all the stuff I mainly work on are telecom related.
6 On an as-requested basis, I will do -- I will help with Socket
7 Internet or Socket Holdings' work.

8 Q. So there's no confidentiality between Socket
9 Internet and Socket Telecom? In other words, do you share
10 information?

11 A. So-- certainly if the information's given to
12 Socket Telecom as confidential information, it would not be
13 shared with Socket Internet. And I would assume -- and I
14 believe it would go the other way. If information was given
15 to Socket Internet that was confidential, that it would not be
16 given to Socket Telecom unless it was -- you know, in either
17 case would be subject to whatever restrictions were put on it.

18 Q. So if you, for example, were representing
19 Socket Telecom, you wouldn't share information in your role
20 with Socket Internet with Socket Internet? That was --

21 A. If it were given to me as confidential. So if
22 I learned something in testimony here, no, I could not share
23 it with Socket Internet.

24 Q. All right. Why is it that Socket takes a
25 position that even though an ILEC's customers who moved

1 from -- I'll be specific -- the Willow Springs exchange to
2 St. Louis exchange could not keep the same number, that if
3 Socket obtains that customer under the competitive carrier's
4 service, they should be able to keep their local Willow
5 Springs number? Why should it be different for the
6 competitor's customers versus the ILEC's customers?

7 A. I don't know -- CenturyTel has the ability --
8 or any ILEC has the ability to offer foreign exchange service.
9 Whether they will offer it as far as Willow Springs to
10 St. Louis, I don't know. Probably not. They've represented
11 they don't. But they do offer a foreign exchange service.

12 Q. And explain, if you would, in a little more
13 detail what exactly is foreign exchange service?

14 A. Foreign exchange service is an exchange -- is
15 an exchange service that allows a customer -- I guess in -- to
16 obtain numbering resources or a number in an exchange other
17 than the one in which its service address is.

18 So there's a lot of customers, for example,
19 that we have run into, voice customers in the St. Louis area
20 that are located further out in a Warrenton exchange, for
21 example. They've got a foreign exchange service that would
22 let them have a 314 phone number so that customers in the MCA
23 could dial them locally but then they could answer that phone
24 at their service location in Warrenton.

25 Q. And that costs more than a local connection, I

1 would assume; is that --

2 A. Their rate structure could charge extra for
3 that. Yeah, like rate structure would.

4 Q. And in terms of what Socket is requesting here
5 for being able to port the customer's number, how does the
6 rate structure differ? In other words, how would the rate
7 structure work between Socket's new -- the customer that would
8 be new to Socket, formerly CenturyTel's customer who would
9 have a ported number?

10 A. The rate structure would be the same. That's
11 a reflection of the fact that whether you assign them a new
12 number or port the number, the calls flow on the exact same
13 path. There's no cost difference associated with a ported
14 number versus a Socket-issued number. So there's no
15 difference in cost. Calls travel exactly the same path.

16 Q. And what service would that customer be
17 receiving? What would that be called?

18 A. It would be receiving the foreign exchange
19 or -- it's tariffed as the out-of-calling-scope service
20 option. That is an option available with several of the,
21 excuse me, Socket services I mentioned earlier.

22 Q. So is the only dispute here -- in other words,
23 I think what I'm hearing you say is that Socket could just
24 take that customer -- Socket could, for example, begin to
25 serve its affiliate Internet service provider and it could do

1 so in the St. Louis exchange through its own
2 out-of-calling-scope service tariff and allow that customer to
3 have a Willow Springs exchange NXX; is that correct?

4 A. Yes. The customer could have a Socket-issued
5 NP-- or phone number assigned to the Willow Springs exchange.

6 Q. And the only difference would be that the
7 customer would have a new telephone number?

8 A. The difference would be whether the customer
9 gets to keep their existing phone number or has to change
10 their phone number and go through the pain of doing that.

11 Q. And assuming that we determine that there is
12 no federal law that requires CenturyTel to port this number or
13 these numbers in question, then as for an example, Staff has
14 taken the position that there is no federal requirement to do
15 so, however, there is a requirement based upon the language of
16 the interconnection agreement that says industry standards or
17 industry guidelines -- agreed-upon industry standards or
18 industry guidelines shall be followed for number porting
19 requests --

20 A. Language to that effect. I think it says
21 industry agreed-upon practices.

22 Q. And specifically Socket -- is Socket
23 specifically relying upon these telephone conversations with
24 the working group -- is it the numbering working group?
25 I've --

1 A. The LNPA working group.

2 Q. LNP working group. Is that what Socket is
3 relying upon to say that there are accepted mutually -- or
4 agreed-upon industry practices?

5 A. Not -- not exclusively. And I don't want them
6 characterized as telephone conversations. The LNPA working
7 group is a standing working group. I traveled to Denver to
8 their meeting to make the initial presentation.

9 Q. Okay. Correction. The in-person meetings and
10 the updated telephone conversation from yesterday.

11 A. Well, and they're regularly scheduled
12 meetings. So they're not just me making random phone calls
13 around the industry.

14 Q. I didn't mean to imply that.

15 A. Okay. That's what I was afraid of. And with
16 that, I went to the industry -- or Socket went to the industry
17 to say what's -- what's -- what's the practice?

18 In addition to that though, I would also put
19 in my testimony this has been the practice that we have
20 experienced in dealing with other local exchange carriers,
21 both ILEC and CLEC in the state of Missouri which is the only
22 state where we operate. It has been our practice when we
23 outport numbers.

24 And at no point did I see the interconnection
25 issues that are kind of being rehashed linked to number

1 portability because that's the ability of an end-user to
2 change carriers. And so when it was suddenly linked
3 subsequent to the arbitration, I didn't see -- I mean, I just
4 did not see that one coming.

5 And so that's when we looked around, well, our
6 experience has been this, our experience with a number of
7 carriers has been they port the numbers in these situations.
8 In addition to that, we went to the LNPA working group.

9 Q. Okay. And it seems to me something that I
10 have not seen in the past, maybe it's something that I just
11 haven't observed, but that a customer would be able to keep a
12 local number if it moved outside of a rate center -- I mean,
13 I would be -- it would be surprising to me if customers can
14 expect to move across the state and be able to keep their same
15 telephone number. Now, are you saying that is what is common
16 today?

17 A. I would say with certain types of providers,
18 it is -- or with certain types of customers, it is. Socket
19 Internet as an ISP before Socket Telecom was around obtained
20 similar service from Sprint and a similar service from ASI,
21 which was SBC's CLEC affiliate. So this service to ISPs has
22 been around forever. Not forever. It's been around for quite
23 a while, since the Telecom Act.

24 And it was the same type of service that
25 Socket Telecom now provides was previously provided by Sprint

1 and by SBC's affiliate, ASI, as well as a number of other
2 CLECs.

3 Q. And are you saying they ported local numbers
4 to different rate centers --

5 A. Yes.

6 Q. -- for Socket customers?

7 A. Yes.

8 Q. And your experience is only in Missouri; is
9 that correct?

10 A. Correct.

11 Q. And do you have any knowledge or any evidence
12 as to industry practices nationwide?

13 A. Well, and I think that's where the LNPA
14 working group came in. They are -- and -- a body under NANCI,
15 which is under the FCC that looked at this situation. I will
16 say the -- you know, the -- so you've got that.

17 In addition, I don't think the porting
18 practices of AT&T, formerly SBC, are specific to Missouri.
19 The interconnection agreement we have, which is number
20 portability provisions, is the same as in their generic
21 agreement across many states.

22 Q. And the interconnection agreement you have
23 with -- did you say SBC; is that --

24 A. Yes. Now AT&T.

25 Q. All right. That interconnection agreement, is

1 the language in it similar to the language in the
2 interconnection agreement that we are looking at here between
3 Socket and CenturyTel?

4 A. In many respects, I bas-- when we put the base
5 document for the one that was negotiated, that came from the
6 SBC agreement in many cases, including the number portability
7 one.

8 Q. Is the language exact?

9 A. No, it's not.

10 Q. Do you have those agreements in evidence here
11 or the clauses from those agreements that are relevant?

12 A. No, I don't. They are in Commission records
13 though in file downstairs.

14 Q. And was there any arbitration regarding those
15 clauses in those agreements?

16 A. No, there was not.

17 COMMISSIONER MURRAY: Okay. I think that's
18 all I have at least right now. Thank you.

19 THE WITNESS: Thank you.

20 JUDGE PRIDGIN: Commissioner Murray, thank
21 you.

22 Commissioner Appling?

23 QUESTIONS BY COMMISSIONER APPLING:

24 Q. Good morning, sir.

25 A. Good morning.

1 Q. How are you doing?

2 A. All right.

3 Q. I think I have one question. I just wanted to
4 follow up on something that Commissioner Murray asked. The
5 LPN group, the working group that you participate in, describe
6 for me what power do they have? Do they have -- do they make
7 recommendations to the FCC of any changes that they recommend
8 or do they just have the power to say that we would like to
9 have this and that group can make a decision on it and tell
10 you that that is not a practice or is they just a working
11 board that make recommendations to the FCC based on --

12 A. They are a working group that's made of
13 industry representatives. And I would encourage you to ask
14 Ms. Kistner a similar question because she will probably
15 answer it more eloquently. But they make -- they come up with
16 recommendations that are then given to the Nanci, the North
17 American Numbering Council. So any recommendation they make
18 can then go to that group. And ultimately the FCC will look
19 to Nanci and the LNPA group in making their decisions. They
20 cannot adjudicate an issue of binding decision.

21 COMMISSIONER APPLING: Thank you very much.

22 JUDGE PRIDGIN: Commissioner Murray?

23 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

24 Q. I forgot to ask you about the requirements to
25 establish a POI That is set out in your interconnection

1 agreement as to what is the determining factor?

2 A. Yes, it is. It's in Article 5,
3 interconnection provisions.

4 Q. And what does determine that a POI required?

5 A. There is a sliding scale that is based upon
6 the size of the exchange. The minimum -- and so the size of
7 the exchange and the traffic exchange between the parties at
8 peak for three consecutive months.

9 And so the minimum -- the minimum threshold
10 would be a single T1 and that would be for an exchange of a
11 thousand access lines or less. If you exceed one DS1 of
12 traffic -- let's say you're exchanging traffic between an
13 exchange that has 900 access lines and your initial POI.

14 If the traffic threshold exceeds one DS1 for
15 three consecutive months, you must then establish an
16 additional point of interconnection in that small exchange or
17 as otherwise agreed upon by the parties.

18 The scale is sliding in that if that exchange
19 is 2,100 access lines, the threshold would be 2.1 T1's of
20 traffic exchanged between the parties at peak for three
21 consecutive months.

22 Q. All right. And if Socket is successful in
23 getting CenturyTel to port these numbers -- let's just look at
24 the Willow Springs exchange. Would it not be likely that
25 three months following that porting, that the exchange -- the

1 traffic would change between -- it would be the Willow Springs
2 exchange that we'd be looking at for establishing --

3 A. We'd be looking at the traffic exchange
4 between Willow Springs and Branson, which is where the initial
5 POI is.

6 Q. And would that traffic pattern change as a
7 result of the Willow Springs customer's number being ported?

8 A. Yes. Just as -- okay.

9 Q. Would it increase?

10 A. It would.

11 Q. Would it be likely to exceed the threshold?

12 A. In the Willow Springs example, it probably
13 would after three consecutive months. Assuming no dramatic
14 change for one reason or the other, it probably would.

15 Q. And could I ask why Socket and CenturyTel just
16 wouldn't agree that in order to establish that pattern of
17 calling, a new POI would be required and go ahead and do it?

18 A. Well, I mean, it -- we -- it -- that has been
19 raised between the parties and we have looked at it. We have
20 an interconnection agreement that says at peak after three
21 consecutive months.

22 In our view, we went to the expense of an
23 arbitration. That represented a major concession to
24 CenturyTel to have more than one POI per LATA. And so we
25 looked at it, we do not believe we are obligated to establish

1 a POI and are not willing to do that.

2 What we can do -- and this is what would be
3 common I think with companies where you have a similar
4 criteria. You go ahead and put in direct trunking. So you
5 establish the direct trunking between Willow Springs through
6 the first POI back to Socket's facility. At three months, if
7 you're still above the threshold, you would then establish the
8 POI and it would be an accounting change.

9 Q. Okay. Explain the difference between direct
10 trunking and a new POI.

11 A. Direct trunking -- direct trunking would be
12 where you establish a dedicated pathway from CenturyTel's
13 equipment in Willow Springs -- switching equipment in Willow
14 Springs' exchange back to Socket switching equipment. So you
15 have a dedicated path.

16 The point of interconnection comes in to who
17 pays for what parts of that. Socket is obligated to pay for
18 the parts of that path that are on its side of the POI.
19 CenturyTel is obligated to pay for its part of the path that
20 are on its side of the POI or point of interconnection. If
21 that POI changes and moves from Branson to Willow Springs,
22 then the financial obligations for that pathway would change
23 and they would move to Willow Springs.

24 Q. And with a dedicated path, who's responsible
25 for the cost of that?

1 A. Each party is responsible for the cost of the
2 dedicated path on their side of the point of interconnection.

3 Q. Now, in your opinion, how likely is it that
4 even with a dedicated path, that three months of data after
5 the number was ported would require the establishment of a new
6 POI?

7 A. If you had to dedicate a path, you would not
8 need to move any facilities around. That's why I said it
9 could simply be an accounting change. Where currently
10 there's -- there's this pathway, the point that denotes
11 financial responsibility is in Branson.

12 After three consecutive months, if you exceed
13 that threshold, that financial obligation can change, go to
14 Willow Springs and now CenturyTel would bill Socket for the
15 interconnection facilities from Branson to Willow Springs and
16 we'd be financially obligated for those facilities. We could
17 lease those from CenturyTel.

18 Q. That is under the dedicated -- having set up a
19 dedicated path first?

20 A. Yes.

21 Q. Run through that one more time.

22 A. Okay. You've got --

23 Q. Just to the -- to the extent that you've got a
24 dedicated path and then the traffic requires a new POI.

25 A. Yeah. If you have the dedicated pathway, what

1 you would be able to do, would be right now Branson, Missouri
2 denotes the point of financial responsibility. Once you
3 exceed that threshold, the pathway could remain the same. You
4 would just change the financial responsibility from Branson to
5 Willow Springs.

6 And so where before CenturyTel paid for the
7 cost of the pathway between Branson and Willow Springs because
8 it was on its side of the POI, they would not have to bear
9 that cost and instead if we used that same pathway, they could
10 bill Socket for the cost of that POI -- or for the cost of
11 that facility between Branson and Willow Springs.

12 Q. Okay. And then how would that differ from not
13 having established a dedicated path?

14 A. If you did not have the dedicated path and you
15 went to establish a POI and we were to do it by leasing
16 interconnection facilities from CenturyTel, we would then
17 establish the dedicated path at that time.

18 Q. And how would that create more financial
19 obligation for Socket than having done the dedicated path
20 initially, or would it?

21 A. No. The financial obligation would be the
22 same from that point going forward.

23 Q. So Socket is not refusing to do a new POI now
24 because to do so would be more expensive than to wait three
25 months after the ported number; is that correct?

1 A. Correct. To do so would mean there's three
2 months where the traffic is not above the threshold -- well,
3 would mean that the threshold has not been met because the
4 threshold requires three months of traffic.

5 Q. But you don't have any reason to believe that
6 three months will not indicate that a new POI is required?

7 A. In the case of Willow Springs, I don't have
8 anything to believe that.

9 COMMISSIONER MURRAY: All right. Thank you.

10 JUDGE PRIDGIN: All right. If there are no
11 further questions from the Bench, I don't have any questions.

12 I normally don't like to break in the middle
13 of a witness, but we've been going pretty strong for a couple
14 of hours. I think I would like to take a break and then we
15 will see what recross and redirect we have.

16 I show that the clock at the back of the wall
17 on the wall is at 10:40. Let's resume at 10:55, please.
18 Thank you. We're in recess.

19 (A recess was taken.)

20 JUDGE PRIDGIN: All right. We're back on the
21 record. Mr. Kohly is still on the stand and you're still
22 under oath, sir.

23 Let me see if we have any recross based on
24 Bench questions. Mr. Haas?

25 MR. HAAS: No, your Honor.

1 JUDGE PRIDGIN: Thank you.

2 Mr. Stewart or Mr. Dority?

3 MR. STEWART: No, your Honor.

4 JUDGE PRIDGIN: Then there's no need for any
5 redirect if there's nothing further. I'm sorry. Mr. Lumley?

6 MR. LUMLEY: I would have redirect based on
7 the cross.

8 JUDGE PRIDGIN: Excuse me. Yes, you're right.
9 I'm sorry.

10 REDIRECT EXAMINATION BY MR. LUMLEY:

11 Q. Mr. Kohly, Mr. Stewart asked you some
12 questions about the facilities in Willow Springs and Ellsinore
13 exchanges. Do you recall that?

14 A. Yes.

15 Q. Does Socket have NXX codes for both of those
16 exchanges?

17 A. Yes, it does.

18 Q. And you still have your testimony. If you
19 would look at your Schedule MK-2, the Direct, the
20 interconnection agreement.

21 A. Let me pause. It's on the table back there.

22 Q. And specifically, as you flip through it, if
23 you can go to page 14 of the interconnection agreement,
24 Section 1.93.

25 A. Yes.

1 Q. See the definition of offers service?

2 A. Yes, I do.

3 Q. Would you read that, please out loud?

4 A. Defines the term "offers service" as, At such
5 time as Socket opens and an NPA/NXX code, ports a number to
6 serve an end-user or pools a block of numbers to serve
7 end-users, period.

8 Q. Mr. Stewart asked you questions regarding
9 indirect interconnection. Do you recall those?

10 A. Yes.

11 Q. If you turn to Article 5, Section 7 of the
12 interconnection agreement.

13 A. Okay.

14 Q. And specifically Section 7.1, are those the
15 provisions concerning indirect interconnection?

16 A. Yes, they are.

17 Q. Would you just read that section out loud,
18 please?

19 A. Section 7.1, Where one party chooses to route
20 traffic through a third-party transit provider, the third
21 party must have a POI, point of interconnection, with the
22 originating and terminating carrier in the same LATA as the
23 originating and terminating party's local routing number, in
24 parenthesis, LRNs, closed parenthesis, as defined in the LERG.
25 Each party must have a connection to the third party.

1 Q. So in the instance where indirect
2 interconnection is used, there is still a point of
3 interconnection. Correct?

4 A. Each party has a point of interconnection with
5 the third party, yes.

6 Q. And in terms of the terms of conditions of
7 establishing those points of interconnection, those would be
8 governed by the applicable agreements between the parties and
9 the third party?

10 A. Yes.

11 Q. Mr. Stewart asked you questions regarding the
12 LSR form and the fact that it contains the current service
13 address of the customer desiring the change to Socket. Do you
14 recall that?

15 A. Yes.

16 Q. Why is that current address on that form, to
17 your understanding?

18 A. If that -- if the address on the local --
19 local service request does not match precisely the address of
20 the customer, the form will be rejected. It will not
21 validate. And by precisely it can rejected if it says Eighth
22 Street with an 8 and "th" versus "eight" spelled out or suite
23 versus s-t-e. So it has to match precisely and that's common
24 throughout the industry.

25 Q. And you said that's for validation purposes?

1 A. Yes. Validation purposes of the customer.

2 Q. You had some questions from both Mr. Stewart
3 and Commissioner Murray about whether or not the Willow
4 Springs -- the Socket Internet modem bank in Willow Springs
5 would be removed. Whether or not there's a change in service
6 address, whether or not the modem banks move, if the rate
7 center assignment remains the same, does it matter whether
8 those things are moving?

9 A. No, it does not.

10 Q. And why not?

11 A. Doesn't matter because the location of the
12 customer is defined by their NPA/NXX or rating points
13 associated with that. When the customer buys the FX service,
14 those change -- those rating points do not change. The
15 customer's phone number will always be rated as local to the
16 Willow Springs exchange. As long as that does not change, the
17 customer's location does not change.

18 Q. Commissioner Murray asked you some questions
19 along the lines of -- I want to make -- I don't mean this
20 despairingly, but I believe she was saying her lack of
21 familiarity with the concept that customers could move out of
22 the exchange and yet keep their number. But isn't that, by
23 definition, the nature of the FX or VNXX service?

24 A. Yes, it is.

25 Q. And when you say that the customer in that

1 instance maintains the Willow Springs calling scope, that
2 means that someone outside that calling scope, if there's
3 traffic, that's still toll traffic. Correct?

4 A. If they were to call --

5 Q. Calls back and forth between the NXX code
6 assigned to the Willow Springs exchange and codes assigned
7 elsewhere.

8 A. Yes. If that -- it will be toll to NPA/NXX
9 codes outside of that code's local calling area.

10 Q. So this is not a method of eliminating toll
11 traffic?

12 A. No.

13 Q. You had some questions from Commissioner
14 Murray about confidentiality between the two Socket entities
15 and I believe you touched on this, but just to clarify. If
16 Socket Telecom has customer proprietary network information
17 about other customers, for example, Socket Internet has no
18 access to that?

19 A. No.

20 Q. Commissioner Murray asked you some questions
21 about whether or not CenturyTel could win a customer from
22 Socket and offer FX service and keep the number. And they can
23 do that, can't they?

24 A. They can. They have a tariffed FX product.

25 Q. And in the Willow Springs example, in terms of

1 the flow of traffic through the point of interconnection,
2 that's going to occur whether there's a port of the number or
3 not. That's because Socket has won the customer. Correct?

4 A. Correct.

5 MR. LUMLEY: I don't have any further
6 questions.

7 JUDGE PRIDGIN: Mr. Lumley, thank you.

8 Anything further from --

9 COMMISSIONER CLAYTON: Is this redirect? Have
10 I missed the opportunity?

11 JUDGE PRIDGIN: You can ask questions.

12 COMMISSIONER CLAYTON: I'm sorry for not being
13 here. I'm probably delaying the proceedings.

14 QUESTIONS BY COMMISSIONER CLAYTON:

15 Q. Mr. Kohly, can you explain the -- is there a
16 difference between the FX product that you're referring to and
17 a VNXX product? Is there any difference?

18 A. It can be called a VNXX product and by our
19 interconnection -- well, it can be.

20 Q. I guess is there a difference? Let me ask it
21 that -- yes or no, is there a difference?

22 A. From what I am learning, there -- VNX means
23 very different things to many different people.

24 Q. To you, is VNXX the same as the FX product in
25 your vast years of experience and knowledge in the industry?

1 A. It would be, but I don't want it mixed up with
2 other VNXX such as nomadic type of services or services that
3 don't have a dedicated loop from the Socket switch to the
4 customer.

5 Q. So they're the same or they're different or it
6 depends?

7 A. I -- I'm not trying -- it really is going to
8 depend on how you define VNXX. Under our interconnection
9 agreement, the term "foreign exchange service" would go --
10 would be -- covers what Socket is offering. Would also cover
11 the type of FX service offered by CenturyTel.

12 Q. Okay. The product that Socket offers is --
13 what is the exact title of the service?

14 A. Out-of-calling-scope option.

15 Q. Okay. And what does that -- what does that
16 service offer, very briefly?

17 A. Let me get to my -- it offers the ability of
18 an end-user -- allows the ends user to obtain exchange service
19 from a mandatory local calling area other than the mandatory
20 local calling area where the customer physically resides.

21 Q. Don't read me the tariff sheet. Just tell me
22 what it is. If you're a salesman, you go out and you're
23 offering it to somebody, tell me what it is.

24 A. If you have an office in Columbia --

25 Q. Forget that I'm a regulator with vast years of

1 knowledge and experience.

2 A. If you are a business with an office in
3 Columbia and would like to have a local phone number to
4 Jefferson City, it would allow you to have that. And with
5 that number, you'd be able to receive locally dialed calls
6 from Jefferson City and make locally dialed calls out using
7 that number as well.

8 Q. Okay. Okay. Does it offer this service in
9 all of the exchanges in which it operates?

10 A. Yes.

11 Q. Okay. And how does the arrangement compare
12 between the arrangement in the exchanges at issue in this case
13 with other exchanges in Missouri?

14 A. It's the same.

15 Q. It's the same. What do you mean "it's the
16 same"?

17 A. Our network --

18 Q. How do you deal with the transport of the
19 phone call in other exchanges?

20 A. The transport is governed by your
21 interconnection provisions of each agreement. There's none
22 specific to FX service. So we have interconnection agreement
23 with AT&T. That tells you how we'll exchange all traffic with
24 them, including FX traffic.

25 Q. And do you have a dispute with AT&T on the

1 same provisions of the interconnection agreement or similar
2 provisions of that?

3 A. No, we don't. They port numbers in this
4 situation regularly.

5 Q. They do port numbers?

6 A. They do.

7 Q. And then they are responsible for transporting
8 the call outside the exchange?

9 A. Regardless of the numbers ported, they are
10 obligated to carry it to our point of interconnection.

11 Q. Yes.

12 A. And if --

13 Q. Do you have any other circumstances of other
14 ILECs carrying the calls to points of interconnection beyond
15 the exchange boundaries?

16 A. Embarq.

17 Q. Just one? I mean, that's an example?

18 A. That's another company. They do it in many
19 different situations.

20 Q. Embarq does it. You're not saying Embarq is
21 an ILEC?

22 A. Embarq -- yes, Socket has ported numbers in
23 that situation you're describing from Embarq on several
24 occasions, numerous occasions.

25 Q. Do you agree that this case -- this type of

1 case is the first of its kind in the state of Missouri? It
2 came up during the discussion earlier. Are you aware?

3 A. I'm not aware of similar cases, but likewise,
4 I'm not aware of situations where an ILEC has refused to port
5 numbers in this situation. The other large ILECs do.

6 Q. Is the issue the refusal to port or refusal to
7 comply with your interpretation of the interconnection
8 agreement? And I ask that question -- I'll try to clarify it.

9 If it wasn't done simultaneously -- in the
10 opening statement discussion, if the number was ported to
11 Socket, held it for a year and then the physical location
12 would be changed to a different location, we'd still have the
13 dispute here today on how the call would be transported in
14 interpreting the interconnection agreement, wouldn't we?

15 A. I don't think so. Currently today and with
16 the Willow Springs example, when the number port failed, the
17 customer was given a -- Willow Springs NPA/NXX code. Calls to
18 that new number route and there's no dispute over that. They
19 route to the point of interconnection. This dispute is only
20 rearing its head when you go to port the number.

21 Q. Well, work with me through on facts. That
22 if -- let's say the number was ported without the change in
23 any location, without the discussion about location beyond the
24 geographic borders of the exchange. Would the port have
25 occurred?

1 A. The port should have occurred. We are now
2 running into another issue where even though we've put in loop
3 facilities to reach a customer, therefore, there's no
4 geographic issue, the port is being denied on the grounds that
5 CenturyTel lacks the facilities to carry that call from that
6 exchange back to the point of interconnection.

7 Q. Has Socket successfully ported any numbers in
8 either of these exchanges for any customers?

9 A. No, we have not.

10 Q. None. Have there been any other attempts
11 other than the ones at issue in this case where there is a
12 geographic boundary issue?

13 A. In these two exchanges?

14 Q. Yes.

15 A. No, there's not.

16 Q. There haven't been any other requests for --

17 A. Not in these two exchanges.

18 Q. So are we for sure that a port of that
19 circumstance -- a traditional port without the VNXX issue, we
20 don't really know whether that would have worked or not?

21 A. I have a concern that in the Willow Springs
22 case, it would not have worked. Initially the port was denied
23 on capacity reasons. I don't know -- once we went to address
24 the capacity, we never got to that because we had the
25 geographic issue. So I don't know that once we work through

1 the layer of geographic we will not have the capacity issue
2 underneath it.

3 Q. Okay. Does the language in the
4 interconnection agreement between CenturyTel -- or is it
5 Spectra? I'm not sure. The ILEC and Socket, does the
6 interconnection agreement, the relevant terms, differ than the
7 interconnection agreement that Socket would have with Embarq
8 in the exchanges in which you've had numbers ported
9 successfully?

10 A. Yes. They have different language.

11 Q. They have different language. Okay. Is it
12 possible to quantify the cost of this Commission deciding this
13 case to one part or the other -- one party or the other? Is
14 it possible to quantify what this case will cost either Socket
15 or CenturyTel once we make the decision?

16 A. In my -- I'm -- each party -- well, to put a
17 dollar number on it?

18 Q. Is it possible -- yeah, is it possible to put
19 a dollar amount? I mean, this case -- I know that there are
20 very interesting policy issues here and I know -- but at the
21 end of the day we're talking about money. It's who's going to
22 be carrying the call beyond the point of interconnection.

23 A. I think, again, if we assign the customer a
24 new number, the calls are going to route exactly the same.
25 And there's not a dispute going about that. So the cost is

1 going to be for the customer having to change their phone
2 number after they have paid surcharges for LNP for years.
3 They will have to, if they want to go with Socket, change
4 their phone number in this case. That's a cost to the
5 customer that I don't know how to quantify because it's going
6 to matter on how many customers we successfully obtain.

7 Q. Well, I don't know -- would the customer
8 actually pay more if it's a local exchange, it's locally rate?
9 The customer's not going to have a change in cost. The cost
10 is going to be borne by the company, isn't it? If we side for
11 CenturyTel in this case, the product you are offering --
12 basically it would mean that Socket has to carry that call to
13 the other exchange, doesn't it?

14 A. No, it would not. Because the interconnection
15 agreements are separate, apart from this. If you decide in
16 favor of CenturyTel, we will -- Socket will offer the same
17 service. In SBC and Embarq territories, you'll be able to
18 port your number to it. In CenturyTel and Spectra, the
19 customer will have to change their phone number to get it.
20 But either way we're going -- we'll offer the service. We may
21 not get any takers if you have to change your phone number and
22 that's a dollar --

23 Q. Let me ask you this. Let me ask the question
24 this way. If a customer wants to get this service and just
25 starts fresh with Socket, so they do not hold a telephone

1 number, they don't want to port. They come to the Socket
2 salesperson say, I want a Willow Springs telephone number, and
3 they're going to purchase this product, you don't have a
4 porting issue. How does the phone call get transported if
5 they want to move, if they want to move to a different
6 location?

7 A. The traffic -- if the customer comes to us and
8 says, I want a Willow Springs phone number, the traffic is
9 going to be exchanged between Socket and CenturyTel in
10 Branson, Missouri. That's where the current POI is. That's
11 regardless of where the customer's building may be.

12 Down the road, if we cross certain thresholds
13 and we're required to establish a POI, there may be a POI in
14 Willow Springs. But today, that customer takes a Willow
15 Springs number, the traffic's going to be exchanged in
16 Branson.

17 Q. So it's exchanged in Branson. If you're
18 porting a number from CenturyTel to Socket rather than
19 beginning new service with a new number, where is the traffic
20 exchanged?

21 A. Branson.

22 Q. It's exchanged in exactly the same way?

23 A. Right. The call rides the same paths.

24 COMMISSIONER CLAYTON: Okay. Okay. Thank you
25 very much.

1 JUDGE PRIDGIN: Commissioner Murray?

2 COMMISSIONER MURRAY: We've opened this up
3 again.

4 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

5 Q. Back to the issue of establishing a POI. You
6 indicated that once a POI were established in Willow Springs,
7 that Socket would be financially responsible for the path
8 between Branson and Willow Springs; is that right?

9 A. Yes.

10 Q. And is that financial responsibility a
11 one-time cost or is that an ongoing expense?

12 A. It would be a monthly expense.

13 Q. Now, the way the traffic is currently handled,
14 if a customer -- a CenturyTel customer in Willow Springs calls
15 a Socket customer in Willow Springs, how is that call routed?
16 Does it go to Branson?

17 A. Yes. That's where the existing point of
18 interconnection is.

19 Q. So any interconnection between CenturyTel and
20 Socket goes through Branson?

21 A. In that LATA, yes.

22 Q. And the reason for establishing a new POI
23 would be that the traffic going through that one point of
24 interconnection becomes too heavy for that one point to
25 handle; is that right?

1 carrier that has a point of presence in Willow Springs. We
2 could use that as well. And in that case it may not go back
3 to Branson. But if we were going to lease interconnection
4 facilities from CenturyTel, we would have to go back to
5 Branson.

6 Q. And the establishment of a POI in Willow
7 Springs could create the necessity for you to lease facilities
8 from CenturyTel in Branson?

9 A. No. It -- we would -- we could either lease
10 interconnection facilities from CenturyTel between Branson and
11 Willow Springs. And then that would be -- you know, that
12 dedicated facility to carry it back to Branson to get on our
13 facilities at Branson.

14 Q. But that's the dedicated trunk you're talking
15 about or is that after a POI in Willow Springs is established?

16 A. No. One -- one thing you can do -- I'm trying
17 to think -- is you can establish the dedicated facility or
18 pathway between Branson -- I'm sorry, between Willow Springs
19 that would stay dedicated through Branson so it would not
20 required to be switched there and then that would go on on a
21 dedicated path to Socket's facilities.

22 And that's the dedicated path where traffic
23 flows, it doesn't go onto other trunk groups. It stays on
24 that -- you know, that small trunk group or that trunk group.
25 Once -- and the financial responsibility is defined by the

1 point of interconnection which would be in Branson. So each
2 party can have that half of that dedicated pathway that
3 they're responsible for.

4 Once we cross the POI threshold, we would
5 then -- we are financially responsible to set up a point of
6 interconnection in Willow Springs. We could do that by
7 leasing the interconnection facilities from them, which would
8 mean we're now responsible for the cost of that facility to
9 get into Willow Springs. We'll get it from CenturyTel and pay
10 them for the connection between Branson and CenturyTel -- and
11 Willow Springs.

12 Q. All right.

13 A. When I first started -- I'm trying to think of
14 the analogy. When I first started dealing with other carriers
15 on this, I had a hard time with this. It's pretty much the
16 facility is a pathway. Within that you can set up lanes of
17 traffic and these dedicated trunks are lanes. Who pays for
18 that highway is denoted by the county line or whatever, where
19 the point of interconnection. But the lanes are the trunks
20 within that facility, if that helps at all.

21 Q. And I'm assuming that it's to Socket's
22 financial -- it would be in Socket's financial favor to wait
23 as long as possible to establish a POI in Willow Springs?

24 A. Yes. But I guess let me add, we are obligated
25 to under the agreement at certain -- you know, after time

1 periods and stuff like that. So I'm not setting those aside
2 when I say yes. But within that criteria, yes, it would
3 benefit us to wait as long as possible.

4 Q. And it would be to CenturyTel's -- it would be
5 in their financial favor once one is established?

6 A. Yes.

7 Q. And in that, you as Century-- as Socket's
8 expert witness have said that you believe that once that
9 number is ported for that Socket ISP, that the traffic will
10 be -- will reach the threshold level that will require a new
11 POI in Willow Springs. In that you've said that, is it still
12 financially to Socket's benefit to go through this protracted
13 litigation to delay it for three months?

14 A. Well, that's -- you know, you're looking at
15 the isolated incidence. There will be other number -- this is
16 how we had to look at it. There will be other number ports
17 where you don't exceed the POI threshold with the number port.
18 So in other exchanges this is going -- this -- this is not
19 happening in isolation.

20 So we looked at it, there will be other number
21 ports that we want to do that don't exceed the POI threshold
22 where if you took the attitude of, well, let's just establish
23 the POI so they'll port the number, we would never have to.
24 So I would hesitate to just look at this example and say we're
25 being stubborn, because we had to consider all of the other

1 areas.

2 Q. I think I read in testimony somewhere that
3 CenturyTel had ported some numbers previously for Socket; is
4 that correct?

5 A. Yes. They have done it before the test, when
6 it was filed and some instances afterwards. And most recent
7 was Clark, Missouri.

8 Q. And were those instances in which the POI
9 threshold would not have been created by doing so?

10 A. I can't say for certain one way or the other.

11 Q. How long have those numbers been ported?

12 A. Some of them are ported in October. I just
13 have not looked at the POI threshold. Well, let me say this.
14 The numbers were ported, traffic is flowing over those so --
15 and I've not been notified in most of those instances -- in
16 any of those instances I'm aware of that a POI threshold has
17 been crossed.

18 Q. And would you expect CenturyTel to notify you
19 if that were the case?

20 A. Yes. They have notified me in -- well, I'm
21 sorry. They have notified me -- they have notified me in four
22 exchanges. I believe only one of those, the Ellsinore
23 exchange, is where the other port in this issue is being
24 addressed.

25 Q. So do you have any reason to believe that

1 CenturyTel would not port numbers -- continue to port numbers
2 where the POI threshold issue were not involved?

3 A. I have -- I believe they will not port
4 numbers.

5 Q. And what leads you to believe that?

6 A. Their position is that regardless of the --
7 that it's geographic porting. As has been conveyed to me and
8 my understanding of their position, is that unless we
9 establish a point of interconnection in that local calling
10 area, they will not port the number.

11 Q. And you don't believe it's related to the fact
12 that you're attempting to seek -- to get porting where it's
13 obvious that a new POI will be required?

14 A. No, I don't. I believe regardless of the POI
15 thresholds, they will refuse to port the number.

16 Q. In the future. But would that have happened
17 if Socket had been willing to go ahead and establish a POI, do
18 you think? I mean, it's just your opinion?

19 A. My opinion is, no, they would have wanted us
20 to enter into an agreement that said going forward, set the
21 POI thresholds aside and establish a point of interconnection,
22 then we'll port the number -- then we'll port the number,
23 regardless of what those thresholds may or may not be.

24 Q. For every request for a ported number?

25 A. Yes.

1 COMMISSIONER MURRAY: Okay. Thank you.

2 JUDGE PRIDGIN: Any recross, Mr. Haas?

3 MR. HAAS: No questions.

4 MR. STEWART: No questions.

5 JUDGE PRIDGIN: Redirect?

6 FURTHER REDIRECT EXAMINATION BY MR. LUMLEY:

7 Q. Mr. Kohly, I would like to follow up on some
8 of the questions Commissioner Clayton asked and bring this
9 back to the perspective of the customer. You alluded to the
10 cost that the customer incurs if they're forced to change
11 their number. Can you just expand on that?

12 A. The cost to the customer is going to be any
13 printed material that has their phone number, they would have
14 to throw that away replace that with new stationery, new
15 signage, new advertising in the yellow pages. They would have
16 to inform their customers that their phone number has now
17 changed, that -- and here's the new phone number. They would
18 have to hope those customers remembered that. And they would
19 probably have to -- well, they would be -- those kind of --
20 those kind of costs to convey to their existing customers
21 their phone number has changed.

22 Q. And with that goes the potential for just
23 losing business because the customer can't find you anymore?

24 A. Right. And I think that's particularly
25 important for an Internet service provider where you have

1 customers frequently dialing your phone number.

2 MR. LUMLEY: That's all I have.

3 JUDGE PRIDGIN: Mr. Lumley, thank you.

4 Nothing further?

5 Mr. Kohly, thank you very much, sir.

6 Show the next witness to be Elizabeth Kistner.

7 Ms. Kistner, if you'd come forward, please.

8 (Witness sworn.)

9 JUDGE PRIDGIN: Thank you very much.

10 Mr. Lumley, when you're ready, sir.

11 MR. LUMLEY: Thank you.

12 ELIZABETH KISTNER testified as follows:

13 DIRECT EXAMINATION BY MR. LUMLEY:

14 Q. Ready?

15 A. Yes.

16 Q. Please state your name for the record.

17 A. My name is Elizabeth Kistner.

18 Q. And what's your occupation?

19 A. I'm a consultant in private practice appearing

20 here on behalf of Socket Telecom.

21 Q. And by "in private practice," do you mean

22 you're self-employed?

23 A. Yes.

24 Q. And what's your business location?

25 A. 3 Spoede Ridge Lane, St. Louis, Missouri,

1 63141.

2 Q. Have you caused to be prepared and filed in
3 this matter a piece of Direct Testimony that's been marked as
4 Exhibit 3?

5 A. I have.

6 Q. Do you have any corrections to that testimony?

7 A. No.

8 Q. If I asked you the questions contained in that
9 testimony, Exhibit 3, today, would your answers be the same?

10 A. They would.

11 Q. And do you believe those answers to be true
12 and correct to the best of your knowledge, information and
13 belief?

14 A. I do.

15 Q. You also caused to be prepared and filed in
16 this case a piece of Surrebuttal Testimony marked as
17 Exhibit 4?

18 A. Yes.

19 Q. Do you have any corrections to that testimony?

20 A. Yes, I do. In two places. First on page 10,
21 line 7 after the comma, I would change the word "call" to
22 "port" so that the phrase would say, Based upon whether a port
23 was wireline to wireline.

24 Q. Go ahead and continue.

25 A. And on page 15, I have -- each --

1 Q. Are you looking at line 19?

2 A. I did not complete my -- I'm sorry. I did not
3 complete the changes on page 10. There were others. That
4 was -- I gave you the change on line 7. On line 12, I would
5 delete the words -- in the beginning of the line, delete "a
6 ported call" and insert "the porting of a number."

7 In line 13, I would delete the words "physical
8 location" and replace it with "service address."

9 In line 15 after the comma, I would delete the
10 words "a call" and replace it with "porting a number."

11 And in lines 16 and 17, I would delete the
12 words "as the physical location of the end-user customer
13 changes" and replace it with "though the end-user customer
14 could be constantly mobile."

15 Q. Your next correction?

16 A. On page 15, line 19, the word "carriers"
17 should be "carries."

18 Q. With those connections, if I asked you the
19 questions contained in Exhibit 4 today, would your answers be
20 the same?

21 A. Yes, they would.

22 Q. Do you believe those answers to be true and
23 correct to the best of your knowledge, information, and
24 belief?

25 A. Yes.

1 MR. LUMLEY: Your Honor, with that, I would
2 offer Exhibits 3 and 4 into the record and tender the witness
3 for cross-examination from the other parties.

4 JUDGE PRIDGIN: Mr. Lumley, thank you.

5 Exhibits and 4 have been offered. Any
6 objections?

7 Hearing none, Exhibits 3 and 4 are admitted.

8 (Exhibit Nos. 3 and 4 were received into
9 evidence.)

10 MR. LUMLEY: Thank you.

11 JUDGE PRIDGIN: Mr. Lumley, thank you.

12 Mr. Haas, any questions?

13 MR. HAAS: No questions, your Honor.

14 JUDGE PRIDGIN: CenturyTel, Mr. Stewart?

15 MR. STEWART: Thank you.

16 CROSS-EXAMINATION BY MR. STEWART:

17 Q. Good morning.

18 A. Good morning.

19 Q. Ms. Kistner, could you please cite me to a --
20 give me a citation in any federal court decision or FCC
21 decision that -- other than the intermodal order that has
22 changed since the first order.

23 A. I think by -- I --

24 Q. I may not have said that -- I mean other than
25 the intermodal order, can you point me to a citation as to the

1 definition of the word "location" at the federal level?

2 A. I don't think anywhere the FCC has defined --
3 I think it's been ported -- been pointed out by -- by other
4 courts as well. There is no definition of location.

5 Q. In your testimony quite a few places you speak
6 in terms of the intermodal order. That's the CC docket 95-116
7 released on November 30th, 2003 or -- yeah, November 10th,
8 2003.

9 A. Yes.

10 Q. And you're obviously familiar with this and
11 all of the federal decisions. Right?

12 A. Regarding number portability.

13 Q. I'm going to hand you -- I guess I could mark
14 this as an exhibit. I don't know if I want to offer it
15 because it's more of an official notice thing, but just for
16 purposes of identification, a copy of that intermodal order.

17 I'd like to direct your attention to page 2,
18 paragraph 1. By the way, is this what you've been referring
19 to as the intermodal order?

20 A. Yes, it is.

21 Q. Could I have you go ahead and read paragraph 1
22 into the record?

23 A. In this order, we provide guidance to the
24 industry on local number portability, LNP issues relating to
25 porting between wireless and wireline carriers, parents,

1 intermodal porting.

2 First, in response to a petition for
3 declaratory ruling filed on January 23, 2003 by the Cellular
4 Telecommunications and Internet Associations, CTIA, we clarify
5 that nothing in the Commission's rules limits porting between
6 wireline and wireless carriers to require the wireless carrier
7 to have a physical point of interconnection or numbering
8 resources in the rate center where the number is assigned.
9 I've omitted the footnote there.

10 We find that porting from a wireline carrier
11 to a wireless carrier is required when the requesting wireless
12 carrier's coverage area overlaps the geographic location in
13 which the customer's wireline number is provisioned provided
14 that the porting end-carrier maintain the number's originating
15 rate center designation following the port. The wireless
16 coverage area is the area in which wireless service can be
17 received from the wireless carrier.

18 In addition, in response to a subsequent CTIA
19 petition, we clarify that wireline carriers may not require
20 wireless carriers to enter into interconnection agreements as
21 a precondition of porting between the carriers. We also
22 decline to adopt a mandatory porting interval for
23 wireless-to-wireless ports at the present time but we seek
24 comment on the issue as noted below.

25 Q. Thank you. Let me ask you a question about

1 how that applies to a wireless carrier. Doesn't this order
2 require the wireless carrier to have a service area that
3 overlaps the wireline carrier's rate center before the
4 wireline carrier is required to port that number?

5 A. Yes.

6 Q. Okay. I want to direct your attention to
7 paragraph 22. And I'll be off of this order here in just a
8 second. But could you go ahead and read paragraph 22?

9 A. We conclude that as of November 24, 2003, LECs
10 must port numbers to wireless carriers where the requesting
11 wireless carrier's coverage area overlaps the geographic
12 location of the rate center in which the customer's wireline
13 number is provisioned, provided that the porting end-carrier
14 maintain the number's original rate center designation
15 following the port. Footnote omitted.

16 Permitting intermodal porting in this manner
17 is consistent with the requirement that carriers support their
18 customer's ability to port numbers while remaining in the same
19 location. For purposes of the -- this discussion, the
20 wireless coverage area is the area in which wireless service
21 can be received from the wireless carrier.

22 Permitting wireline-to-wireless porting under
23 these conditions will provide customers the option of porting
24 their wireline number to any wireless carrier that offers
25 service at the same location. We also re-affirm that wireless

1 carriers must port numbers to wireline carriers within the
2 number's originating rate center.

3 With respect to wireless-to-wireline porting,
4 however, because of the limitations on wireline's network
5 ability to port a number -- numbers from distant rate centers,
6 we will hold neither the wireline nor the wireless carriers
7 liable for failing to port under these conditions. Rather, we
8 seek comment on this issue in the further notice below.

9 Q. Thank you.

10 MR. STEWART: Judge, would you prefer to offer
11 it into evidence or just take official notice?

12 JUDGE PRIDGIN: This certainly appears to be
13 an order from the FCC. I believe that the Commission can
14 certainly take notice of this order.

15 MR. STEWART: That would be fine.

16 BY MR. STEWART:

17 Q. Let me ask you, that decision was 2003. Have
18 there been any further FCC decisions regarding location
19 portability since this wireless order?

20 A. In this wireless order, they made statements
21 about what is not location portability.

22 Q. Right.

23 A. But since then, they have not, not to my
24 knowledge, had any orders that would further elucidate that.

25 Q. Do you keep up with the FCC's orders regarding

1 portability? I think that's what I --

2 A. Yes. Actually, you know, when you just said
3 that, that reminded me that there was an order following
4 Hurricane Katrina which actually does discuss -- it was --

5 Q. You're right on track.

6 A. Okay. I think I omitted it because it was a
7 temporary situation.

8 MR. STEWART: Do we need to mark it for
9 identification or take official notice?

10 JUDGE PRIDGIN: I guess to be consistent since
11 we marked the first one, we'll mark the second one. We'll
12 call this Exhibit 15 for identification purposes.)

13 (Exhibit Nos. 14 and 15 were marked for
14 identification.)

15 BY MR. STEWART:

16 Q. I just handed you what purports to be an order
17 from the FCC dated September 1, 2005. And I believe you had
18 stated earlier that you were familiar with an order relating
19 to Hurricane Katrina --

20 A. Correct.

21 Q. -- is that correct?

22 A. Uh-huh.

23 Q. Is this that order?

24 A. Yes, this is.

25 Q. I'd like to direct you to paragraph 2 and 3.

1 Could I have you read paragraph 2 immediately after that
2 footnote -- immediately after the footnote 2 to the end of
3 paragraph 2?

4 A. Among other things, the Commission's numbering
5 rules require certain types of carriers to offer local number
6 portability, LNP. The Commission's number portability rules,
7 however, do not extend to location or service portability.

8 Due to the catastrophic damage to
9 telecommunication systems caused by Hurricane Katrina in the
10 gulf coast states, carriers may need to port numbers to
11 destinations outside the affected rate centers.

12 Section 1.3 of our rules authorizes the
13 Commission to suspend, revoke, amend or waive a Commission
14 rule for good cause shown. We recognize the
15 telecommunications services -- service must be restored to the
16 hurricane victims as quickly as possible and we find that
17 waiver of the Commission's local number portability and number
18 assignment rules as a reasonable and practical means for doing
19 so. Accordingly, we find that due to this natural disaster,
20 good cause exists for waiving these rules and such waiver is
21 in the public interest.

22 Paragraph 3, We, therefore, waive the
23 Commission's local number portability and number assignment
24 rules to the extent necessary to permit carriers to port
25 customers' numbers to remote locations on a temporary basis.

1 Q. That's fine. You don't need to read the rest
2 of it.

3 But this is a waiver -- purports to be a
4 waiver of the Commission's location portability rules to deal
5 with the unusual circumstance of Hurricane Katrina. Correct?

6 A. Yes. In this particular case, they were
7 acknowledging that numbers may have to move, you know, out of
8 state and that there would be no way to address, in this
9 temporary basis, the rating and routing because there would be
10 no -- you know, rate centers would be changed. There would
11 be -- there would be a breakage in the connection between the
12 called number and the rating -- and the rate center location,
13 and that's why it was on the temporary basis.

14 Q. Have there been any other FCC orders since the
15 Hurricane Katrina order that waived whatever existing local
16 number portability requirements that existed at the federal
17 level?

18 A. I don't believe so. Unless you're going to
19 show me another one.

20 Q. Actually I've got one dated June 29th, 2007.

21 JUDGE PRIDGIN: We'll label this Exhibit 16
22 for identification purposes.

23 (Exhibit No. 16 was marked for
24 identification.)

25 BY MR. STEWART:

1 Q. I just handed you what purports to be an order
2 from the FCC. Have you ever seen this order before?

3 A. No.

4 Q. It shows that it was adopted on June 29th,
5 2007; is that correct?

6 A. Last week or about 10 days ago.

7 Q. Taking a quick look at that, can you tell me
8 what the substance of that order deals with?

9 A. Initially I'm seeing that it's waiving the
10 requirement that allows carrier to age numbers previously
11 assigned to residential customers for no more than 90 days
12 before making them available for assignment to another
13 customer.

14 Q. Well, I guess I didn't ask that right. I
15 mean, let me direct your attention to paragraph 2. Doesn't it
16 say that there was some catastrophic nature of the damage of
17 telecommunications systems in Kansas? Like the other one
18 dealt with Hurricane Katrina, this looks like it deals with
19 some disasters in Kansas?

20 A. And how long a customer -- it's a numbering
21 resource issue. There had been requirements that would
22 require -- allow you to age a number for no more than 90 days.
23 And this would allow them to extend apparently the 90-day
24 requirement because it may take -- I presume because it would
25 take longer than 90 days -- customers may be terminating their

1 service but want to get it back again and presumably pick up
2 the same number.

3 Q. It actually waives more than that, doesn't it?

4 A. You just handed this to me.

5 Q. Let's do this. Could I have you read
6 paragraph 3 and the first line of paragraph 4 into the record?

7 A. We also recognize that customers in the
8 affected rate centers may need to port numbers to destinations
9 outside those rate centers. Therefore, we also grant, on our
10 motion, a waiver of Commission rules to allow for the porting
11 of telephone numbers geographically outside a rate center
12 during the period of service disruption.

13 This waiver applies to carriers to the extent
14 they provide service in areas of Kansas declared disaster
15 areas or to carriers assisting affected carriers in their
16 efforts to continue or restore service. This waiver also
17 applies to the numbering administrators to the extent
18 necessary to support carriers in the affected areas.

19 We find that waiver of the Commission's local
20 number portability rules in this instance is a reasonable and
21 practical means for assisting in disaster recovery, and
22 accordingly, it is in the public interest to grant it.

23 Based on the discussion above, we, therefore,
24 waive temporarily the Commission's rules for aging residential
25 numbers and geographic number porting to the extent necessary

1 to permit carriers to restore service in the affected areas
2 during this period of service disruption.

3 This waiver is in effect for nine months,
4 until March 28th, 2008. If carriers are unable to resume
5 service on a normal basis after this time period has lapsed,
6 they should request additional relief from the Wireline
7 Competition Bureau.

8 Q. Okay. So would you agree with me that, once
9 again, the FCC in the case of natural disaster here kind of
10 close to home in Kansas found it necessary to waive its local
11 number portability rules to allow number porting outside of
12 the geographic exchange?

13 A. I just want to be clear about the meaning of
14 porting them outside the geographic exchange. Because in this
15 Kansas situation as well as the Hurricane Katrina situation,
16 what they're talking about is having the calls -- actually the
17 rating and routing of those calls disrupted change.

18 There would be no -- in the case of the Socket
19 ports, the FX-like service, the rate center designations would
20 no longer remain -- so, for example, if a number to -- in the
21 Kansas situation was, you know, ported across the state, a
22 customer who was previously local to that dialing it, it would
23 still be a local call. And -- or it would become a toll call
24 in that situation.

25 And, likewise, a -- a -- you know, local --

1 local -- local and toll would be disrupted because there would
2 be no linkage any longer between that phone number and the
3 rate center in which it was assigned.

4 Q. Okay.

5 A. So that's -- in my understanding, that's what
6 was being waived was the requirement that those NXX --

7 Q. That's your understanding. But I guess maybe
8 I didn't state my question correctly or sufficiently in
9 detail. But I guess the answer to my question was no, you
10 don't agree with my characterization of that?

11 A. You have to remind me now. I want to make
12 sure I understood what your characterization was.

13 MR. STEWART: Could I have the court reporter
14 read back my last question? Not my last question but the one
15 right before that.

16 THE COURT REPORTER: "Question: Okay. So
17 would you agree with me that, once again, the FCC in the case
18 of natural disaster here kind of close to home in Kansas found
19 it necessary to waive its local number portability rules to
20 allow number porting outside of the geographic exchange?"

21 BY MR. STEWART:

22 Q. That's a yes or no. Do you agree with what I
23 said or not?

24 A. And my answer was --

25 Q. I know what your answer was.

1 A. -- according to my understanding of porting
2 outside the rate center, yes.

3 Q. Okay. That's fair enough. Thank you very
4 much.

5 MR. STEWART: That's all I have, Judge.

6 JUDGE PRIDGIN: Mr. Stewart, thank you.

7 Do we have any questions from the Bench?
8 Commissioner Murray?

9 COMMISSIONER MURRAY: Yes. Thank you.

10 QUESTIONS BY COMMISSIONER MURRAY:

11 Q. Good morning.

12 A. Good morning.

13 Q. It's still morning barely.

14 A. Just before.

15 MR. STEWART: Judge, I'm sorry. Should I move
16 those into evidence or are we going to take official notice?
17 I think official notice. Correct?

18 JUDGE PRIDGIN: Yeah. I plan to just take
19 official notice of those FCC orders. Thank you.

20 MR. LUMLEY: Just to clarify, your Honor, it's
21 my understanding that we're all free to cite from any FCC
22 orders. We don't have to mark them; is that fair?

23 JUDGE PRIDGIN: Yes.

24 I'm sorry, Commissioner Murray.

25 BY COMMISSIONER MURRAY:

1 Q. Ms. Kistner, the two FCC orders that you were
2 just shown and asked to read from where the FCC waived its
3 rules to allow the porting of numbers geographically outside
4 of rate centers, don't those orders demonstrate that the FCC
5 rules do not even allow porting geographically outside of a
6 rate center?

7 A. You have to have an understanding of, you
8 know, what is geographic porting. The -- the -- the
9 definition that I believe the industry commonly holds and that
10 the FCC was responding to, for example, in the very first
11 Report and Order when it declined to require geographic
12 portability was the type of portability where numbers no
13 longer would have any association with their actual location
14 so that a -- you know, 573, 321 number could be used, you
15 know, anywhere, you know, conceivably in any -- in any state
16 and it would no longer have an identity for any rating
17 purposes or routing purposes to that Jefferson City rate
18 center. And that is geographic portability.

19 It was discussed in terms of breaking the
20 linkage between the 10-digit number and the rate center and
21 would require to -- to really make it work and make it work in
22 a way that did not trigger -- they had a whole laundry list of
23 concerns. First and foremost was, you know, confusion among
24 customers about the local and toll rating of customers.

25 So, you know, in my mind and in my

1 understanding, based on my heavy involvement with the industry
2 groups that were discussing this, was that geographic
3 portability was about breaking that -- that connection between
4 the phone number and the rate center.

5 Q. So you --

6 A. In these two orders here, they are talking
7 about a waiver of that so that for a temporary period of time,
8 it would be permissible to have a breakage between, you know,
9 the rating and routing of phone numbers to their originally
10 assigned rate center. And that's the geographic portability
11 that they were -- the prohibition that they were waiving in
12 these two orders.

13 Q. So you have discussed those two orders with
14 people in the industry?

15 A. I had never --

16 Q. You looked at them?

17 A. -- the June 9 -- 29th, 2007 was new to me.
18 I'd never seen it. It is, on its face, similar to the Katrina
19 one, which I had seen.

20 Q. And how do you differentiate that definition
21 of geographically outside of a rate center from the
22 geographically outside of a rate center at issue in this
23 proceeding?

24 A. Well, and I think that's the fundamental --
25 that gets to the fundamental point because the numbers in this

1 proceeding are not being moved outside of the geographic --
2 their geographic location. They are remaining in the same
3 rate center that they are assigned to today.

4 The -- everything in -- from a network
5 standpoint, those numbers are still residing at the same --
6 you know, the same location that they do today and that will
7 not change.

8 There will be an additional service provided
9 by Socket on their side of the port that will allow a
10 connection to that location, which isn't changing, but the
11 numbers themselves in -- in network terms are not moving. And
12 that's a very important distinction.

13 And just as -- you know, FX service has
14 existed, you know, predated portability by a considerable
15 amount. I mean, we have had -- there is -- and I don't think
16 anybody would say that we've had location portability for the
17 last 20 or 30 years, but we've certainly had that ability to
18 have, you know, a local -- a local number -- being able to
19 dial a number on a local basis when, in fact, it was being
20 answered in some distant location.

21 I now dial some local numbers and they're
22 answered in India, but that number is still local and that NXX
23 is not geographically ported to India. It is still a local
24 number because it remains local in the network.

25 Q. So in order for the carriers to have ported

1 numbers under -- as was allowed by these two FCC orders, are
2 you saying that their facilities were destroyed or greatly
3 impaired and that they actually took -- and I can't picture in
4 my mind how this would work physically, but they actually were
5 able to connect an NXX that would have been local to some
6 place that was destroyed by Hurricane Katrina and move it to
7 another geographic location, the number itself?

8 A. Uh-huh.

9 Q. Now, how physically or technically does that
10 differ from porting the number to a customer who moves out of
11 the geographic location?

12 A. It is completely -- it is 100 percent
13 different. And I am not a -- an expert in how it would be
14 accomplished in these -- technical expert in how these would
15 be accomplished in the case of the disasters, but there would
16 have to be -- you know, those particular NXXs would have to
17 actually be, you know, reassigned in I guess the LERG.

18 And I don't know whether in the -- in the --
19 in the portability databases to give them some different
20 location, a different terminating address and would
21 essentially give them different VNH -- different -- a
22 different geographic identity than they held previously.

23 In the case of the -- these ports in question,
24 nothing like that happens. Nobody changes anything. Those
25 NPA/NXXs are -- are -- still have the absolute identical

1 identity in the network and for all the world as they did
2 prior to the port. And the only thing that changes is the
3 type of service on its side of the port that Socket provides
4 that makes it possible for an outside-of-the-exchange customer
5 to actually handle those calls.

6 Q. Okay. Thank you for that explanation and I'm
7 going to move onto something else now.

8 What is your knowledge of industry practices
9 regarding -- or industry guidelines regarding the porting of
10 numbers outside of -- or geographically outside of a rate
11 center?

12 A. Again, I don't -- I don't mean to be -- you
13 know, sound so hyper-technical about this, but if you are
14 asking what is the practice with porting numbers that are
15 associated with FX service -- and I would not classify that as
16 geographically porting numbers. So I just want to make that
17 clear in my response, that if you are asking about how does
18 the industry handle -- what is the industry practice regarding
19 porting numbers that are associated with an FX service --

20 Q. Well, I --

21 A. -- it is that it's routinely done.

22 Q. What I'm asking you is, what is the industry
23 practice with porting numbers to a customer who is outside of
24 the rate center where the number is located?

25 A. In those situations where the customer is

1 outside of the rate center but is maintaining the number in
2 its original rate center, it is my understanding that that is
3 commonly accomplished in the industry.

4 That was my understanding before it was
5 brought to the LNPA working group. It was that -- that
6 understanding was supported by the discussions in that group,
7 the fact that they accepted the -- the -- they accepted the
8 PIM, the issue that was brought forth by Socket. And not only
9 that, but they wrote it into their best practices.

10 Q. All right. And I think this is my last
11 question. Do you cite -- did you have something else?

12 A. Well, I just -- for clarification -- not for
13 clar-- but to add to that because I think it's important, I
14 think you would also find widespread agreement and practice
15 that the industry does not do what I would call true
16 geographic number portability; that is, porting a number
17 and -- in fact, you know, outside of some of these waiver
18 situations, they do not port a number in -- outside of an
19 exchange area where it is actually -- where they -- where they
20 are changing its original rate center designation.

21 Q. Okay. And, again, I think this will be my
22 last question. Do you cite anything that you think supports a
23 federal requirement that CenturyTel port the number to these
24 two customers in question here?

25 A. I do. I believe the directive to provide

1 service provider portability is applicable to this situation
2 because I -- I do not -- I think, you know, based on a full
3 reading of all of the FCC's discussion and most clearly the
4 intermodal order, it is not considered location portability
5 where the rating of the call remains in the original rate
6 center and the routing of the call is no different than if a
7 new number had been assigned.

8 Q. So you are taking that expanded definition of
9 location and --

10 A. I don't think that's -- I'm sorry. Excuse me,
11 but I don't think that's an expanded definition of location.
12 I think it's a clarification that location was always meant to
13 encompass location at the original rate center and it's
14 moving -- the NXX association with that rate center
15 constitutes a change in location.

16 I don't think they ever did order it. I think
17 they confirmed that in their -- or clarified that in the
18 intermodal order. And I -- and I -- but I think they, you
19 know, continue to -- there has been no movements from that
20 very first Report and Order into dealing with or trying to
21 create the ability to break that connection and offer a true
22 location portability.

23 Q. All right. And the reference to that
24 intermodal order that Mr. Stewart had you read from earlier in
25 paragraph 22 where the FCC said, With respect to

1 wireless/wireline porting, however, because of the limitations
2 on wireline carriers networks' ability to port N numbers from
3 distant rate centers, we will hold neither the wireline nor
4 the wireless carriers liable for failing to port under these
5 conditions, how do you interpret wireline carriers networks'
6 ability to port N numbers from distant rate centers? What do
7 you think they mean by that?

8 A. Well, that would be, for example, if
9 somebody -- a -- somebody asked a Jefferson City carrier to
10 port in a 314 St. Louis area number and actually provide dial
11 tone, 314 -- that 314 -- to -- or 314-222 and make that number
12 a -- a number associated with a Jefferson City rate center,
13 that would be porting in -- if -- a porting in a 314-222
14 number into a Jefferson City rate center and make that number
15 a local number to that Jefferson City rate center. That would
16 be -- that would be an example of porting in from a distant
17 rate center.

18 Q. So do you distinguish porting in from porting?

19 A. I mean, there's porting in and porting out.

20 Q. And this order refers to porting in?

21 A. Well, I was focusing on the distant rate
22 center that -- that was an example -- I mean, they're
23 recognizing that you -- there is no -- there is no impediment
24 to porting in or porting out if it's from the same -- if
25 they're within the same rate center. If you're not mixing

1 numbers from different rate centers.

2 And that's the distinction they're making here
3 is that, you know, there still is no way to -- to mix numbers
4 from different rate centers, but where the numbers -- but
5 where the numbers are from the rate center -- or, you know, in
6 the same rate center, there is no technical limitation to
7 porting in and out even though in the case of a wireless
8 carrier, a customer who has a number, you know, in that same
9 rate center may use it external to that rate center, may use
10 it in other exchanges. As long as that number is, you know,
11 local to that rate center, there's the ability to port back
12 and forth between wireline and wireless in this case.

13 Q. And the difficulty that the FCC was
14 referencing here, the limitation on wireline carriers
15 networks' ability to port in numbers from distant rate
16 centers, you are saying only references if they're taking a
17 number from a distant rate center -- say taking a St. Louis
18 number to the Willow Springs exchange and making it local to
19 everybody in the Willow Springs exchange. Would that be
20 accurate?

21 A. Right. And think about it this way. The --
22 we used to -- early on we used to refer to it as sort of a
23 donut problem with a single rate center being the hole and
24 like a wireless carrier with a much larger serving area
25 covering the hole, you know, the entire -- the larger area.

1 If -- that wireless carrier may have numbers
2 in both -- on the outside as well as inside the hole. If one
3 of the wireless carrier's numbers are inside that central rate
4 center area, you could easily port those numbers between
5 wireline and wireless.

6 If you are a wireless carrier, the -- the
7 wireline numbers represented by the hole, you could port
8 easily to the wireless carrier because they serve the whole --
9 they serve all of it.

10 The problem would be in some of those, you
11 know, outer areas, the wireless numbers associated with some
12 of those other rate centers were not equally portable into
13 that -- you know, the smaller rate center area. So there was
14 a mismatch.

15 So that's -- that particular reference there
16 about porting in from distant rate centers, that's what they
17 were saying they had not worked out a -- the best way to do
18 it, although it was suggested -- one example was suggested
19 that, you know, you could still have a port with -- by using
20 FX service or something like that FX service.

21 But none of that's a problem if you -- if
22 the -- if the rate centers -- if the number is staying within
23 the rate center, you don't have an issue. If you're porting a
24 number within a rate center and it's not -- it's not changing
25 its rate center designation, there is no technical limitation

1 and the FCC, you know, recognized that here. That's not the
2 problem.

3 The problem comes when you try to, you know,
4 mix numbers, when you try to port numbers between rate
5 centers. You try to mix -- take the number from one rate
6 center and try and create it, make it local in another rate
7 center or vice-versa.

8 Q. And you don't believe that's what Socket wants
9 to do with its ISP?

10 A. It's not at all. In fact, it's the opposite
11 of what -- of what it wants to do. The whole point for its --
12 its customer is that they want a local number. They -- they
13 want to have the ability for Willow Springs customers to be --
14 to be served, to have Internet access.

15 Q. Call St. Louis without --

16 A. Well, not to call St. Louis. The Willow
17 Springs customers, they simply want to be able -- they want to
18 be able to get on the Internet without making a toll call,
19 which is, you know, obviously a desirable thing to have
20 Internet access especially in smaller areas and rural areas.
21 So it's important for that service to have the ability to dial
22 a local number.

23 So it's equally important to Socket in serving
24 them that they give the ability to have local service for
25 those customers. So it's -- they are not -- you know, the

1 whole point is to have a local call in Willow Springs, to have
2 a Willow Springs phone number so that it is local for them.

3 Anybody calling, you know, from St. Louis it
4 would actually be a toll call because it's a Willow Springs
5 phone number. For all intents and purposes, that number and
6 that service is staying right in Willow Springs.

7 COMMISSIONER MURRAY: Okay. I think I'll
8 stop. Thank you.

9 JUDGE PRIDGIN: Commissioner Murray, thank
10 you.

11 Commissioner Appling?

12 QUESTIONS BY COMMISSIONER APPLING:

13 Q. You're losing me.

14 A. I'm sorry.

15 Q. The Internet -- let's just take an example.

16 My home is in St. Louis and I have a condo down in Branson and
17 every weekend I drive down to Branson.

18 A. Lucky you.

19 Q. Well, I never go to Branson because I can't
20 afford it. But anyway, I wanted my kid to be able to watch
21 24-hour cartoons, but Willow Springs don't have the Internet
22 service or the Internet provider, I have to get that out of
23 St. Louis, which is a 314 area code. How do I get -- how do I
24 get that information from St. Louis to Willow Springs where I
25 can dial up -- or maybe not dial up, but use a local number in

1 order to get that where they can see that? Am I completely
2 wrong on my way of thinking?

3 A. Well --

4 Q. You understand what I'm saying?

5 A. You or your --

6 Q. How --

7 A. If you're talking about you for telephone
8 purposes or you for Internet access purposes -- do we want to
9 go with the Internet access as the example?

10 Q. Either one.

11 A. If you wanted to be able to dial toll-free
12 between St. Louis and Branson, you would have to, as a
13 customer -- if it was for you personally, your phone number,
14 you would -- you know, could look for a service provider who
15 offered an FX-type service that you could pay for that
16 would -- I mean this -- you know, most individual customers,
17 you know, for just personal calling reasons don't opt for
18 services like this, but technically you could -- you might be
19 able to find a provider that offers that.

20 Or you could find -- you might have an
21 Internet service provider that would offer you, if they had
22 reason to, you know, if they had a market for that service, a
23 local dialing number in Branson that, in fact, would get them
24 to -- if their modems -- let's say their modems are in
25 St. Louis. If that were done, it would be provided in such a

1 way that that local phone number, that NXX, would stay local,
2 it would stay a --

3 Q. But that would be an extra cost to me as a
4 customer though, wouldn't it?

5 A. That's -- that's a service option issue.

6 Q. Okay.

7 A. It would -- it sounds like a premium service
8 so, you know, you would think that there would be some premium
9 cost for that.

10 Q. It just seemed to me there's a catch here that
11 I'm missing in the portability of Socket to this location.
12 Something is here that I'm missing and I don't know what it
13 is, but it -- you know, it's something that's missing here.
14 And maybe I don't -- I'm not smart enough to ask the right
15 question to get an answer that I can use, but --

16 A. Well, the -- I guess -- you know, one of the
17 hang-ups seems to be that it's a portability issue. And I
18 think that that actually is clouding -- is making it more
19 difficult.

20 Because it -- in a -- in technical and network
21 terms, it's a very simple plain vanilla port in the way that
22 all ports are provided. And then there's this service that
23 Socket is going to offer on the other end of it. What Socket
24 is offering is not changing the nature of that number, it's
25 not changing anything about -- the number is not being ported

1 away from Willow Springs. It is staying a Willow Springs
2 telephone number.

3 And then there is this -- this service. And
4 that service is governed by their tariffs and those
5 interconnection agreements that -- that govern -- that talk to
6 it, but it's not a portability issue.

7 And, you know, across the industry -- and the
8 whole reason -- the judge asked in the beginning if this were
9 an issue of first impression. And it seems strange that it
10 would be but the fact is that it's done, nobody has made it an
11 issue. Not because it's not a common enough practice, but
12 because no one's made it an issue.

13 But, you know, that -- that service could be
14 provided today without changing carriers -- I mean, if
15 CenturyTel wanted to, they could offer that same number. It's
16 not a portability issue. You could have that same service
17 arrangement without there ever being a port, either because
18 CenturyTel offers it or because Socket offers it and assigns a
19 new number to it.

20 The port is not really a -- is not really
21 relevant to the end result of the service. It is a
22 convenience. And when you look at the Telecommunications Act,
23 one of the key words is that it provide the ability to change
24 service providers without hindrance of various things,
25 including convenience. And it's certainly a convenience to

1 the customer not to have change numbers and re-educate all
2 their customers to call them at the new number. But the
3 service they're trying to get is not -- you know, the port is
4 simply allowing it to be done -- allowing this service to be
5 provided by Socket instead of by Century Telephone.

6 COMMISSIONER APPLING: Thank you.

7 JUDGE PRIDGIN: Commissioner Appling, thank
8 you.

9 Commissioner Clayton?

10 QUESTIONS BY COMMISSIONER CLAYTON:

11 Q. When you say it's not a port issue, what is
12 the issue then? You said it's not a porting issue just in
13 your last comment. What is the issue then?

14 A. I think it's -- I think the geographic -- my
15 personal opinion, the geographic portability issue is sort of
16 a red herring for -- you know, this is why we have regulators
17 and we had to legislate competition because incumbent
18 providers did not welcome competition with open arms.

19 And, you know, initially when I -- when I
20 personally first started appearing at State Commissions, this
21 is before the Telecommunications Act, the very idea of having
22 competition and that number portability might be an important
23 component was -- was -- was vigorously objected to by
24 incumbent carriers as totally unnecessary.

25 I think we've moved along to a point that

1 everybody understands that having the ability to keep phone
2 numbers is an integral part of it. But that doesn't mean
3 that -- you know, having that phone number is leverage.

4 And it sounds to me, as I got involved in this
5 case, that there are other issues that are, you know,
6 disputes -- ongoing disputes between the companies, but the
7 fact is the leverage that Century Telephone has to hold onto
8 right now is the telephone numbers and you can use some
9 unclear language in the FCC order to, you know, hang your hat
10 on to say, well, I don't have to do it.

11 But if you ask the question, you know, can you
12 do it, is there any technical limitation, the answer is no,
13 and in fact, it's -- it's done as a matter of practice.

14 Q. Well, but the fact of the matter is -- and you
15 correct me if I'm wrong, that if we were not dealing with the
16 geographic issue, if we were not dealing with these numbers
17 physically being dropped in St. Louis, we wouldn't have an
18 issue in terms of porting numbers from within the exchange,
19 would we?

20 A. Well, it wouldn't have come to you as a
21 geographic portability issue.

22 Q. It would have come to us as a different issue,
23 you're suggesting?

24 A. I understand Mr. Kohly spoke to this so he's
25 more familiar with this, but that other roadblocks have been

1 thrown up at different times, capacity issues, POI issues,
2 things that are interconnection agreement issues disputes.
3 But this is -- the geographic porting is the one that this has
4 come forward on.

5 Q. Is there a difference -- and you may not know
6 the answer to this. Is there a difference in cost to the ILEC
7 when comparing a 60-minute phone call to a ported number that
8 remains physically within the given exchange versus a
9 60-minute phone call that is ported and is in St. Louis as in
10 this ISP example? Do you know is there a difference in cost
11 faced by the ILEC?

12 A. With the -- with the caveat that I understand
13 through this interconnection agreement that there would be a
14 change between bill and keep and reciprocal compensation, in
15 terms of what the -- the network service that would be
16 provided by the ILEC, the answer is no.

17 Q. There's not a difference in cost to the ILEC?

18 A. In the sense that it -- the call is going to
19 go -- there -- the -- the ILEC portion of the call is to take
20 it to Branson no matter what, whether it stays --

21 Q. It's going to go to Branson regardless of the
22 end-user?

23 A. Exactly.

24 Q. Okay. So you're saying that the ILEC's cost
25 is not going to change regardless of whether the number is a

1 VNXX going to St. Louis versus a number that stays at the
2 pizza parlor in Willow Springs?

3 A. To the extent -- based on that -- that portion
4 of it that it's going to go to Branson regardless, that's what
5 I'm focusing on.

6 Q. Okay. There's not a difference in cost. Is
7 there any obligation on the ILEC beyond getting it to Branson
8 that would incur costs for the ILEC to move it on to St. Louis
9 versus just going to the pizza parlor?

10 A. I'm not aware of any.

11 Q. You're not. So it is your testimony that it
12 is a zero dollar difference in terms of cost to the ILEC?

13 A. Again, with the caveats that I gave.

14 Q. Okay. Let me ask about Socket. From Socket's
15 perspective, is there any difference in cost to Socket whether
16 it is a number that stays in Willow Springs versus a number
17 that is moved to St. Louis?

18 A. I -- Mr. Kohly would have to answer that.

19 Q. Well, I'm a little late for that so I can't
20 ask.

21 COMMISSIONER CLAYTON: Okay. Thank you.

22 COMMISSIONER MURRAY: Judge --

23 JUDGE PRIDGIN: Commissioner Murray.

24 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

25 Q. I forgot to ask you something earlier about

1 your testimony on page 4 of your Direct Testimony at the top
2 of the page. Beginning on line 1 you say, In establishing
3 requirements for number portability, Congress and the FCC
4 recognized that as a practical matter, the benefits of
5 competition would not be realized if new entrant local
6 exchange service providers were unable to win customers from
7 incumbent providers due to economic or operational barriers.

8 Now, that is not the situation we're looking
9 at here. Would you agree? Where a new entrant local exchange
10 service provider would be unable to win the customer from the
11 incumbent?

12 A. Well, I -- I think if CenturyTel refuses to
13 port the numbers to Socket, I think this would definitely be
14 an uneconomic barrier that would be -- I mean, it was -- the
15 failure to port would be a barrier.

16 Q. Okay. Well, let's look at the situation.
17 Because we've heard today that CenturyTel has the customer
18 currently.

19 A. Uh-huh.

20 Q. And that customer's planning to move to
21 St. Louis. And if CenturyTel keeps that customer, that
22 customer will have to change telephone numbers. So how is it
23 anti-competitive if the customer also would have to change
24 telephone numbers if they change carriers? How would that
25 influence them to stay with CenturyTel one way or the other?

1 A. Well, when you say they would have to change
2 carriers, I mean --

3 Q. Change numbers.

4 A. Well, but the -- the premise that if they want
5 to move to St. Louis, they have to change carriers --

6 Q. No. The premise is that if they move to
7 St. Louis and remain a CenturyTel customer, they have to
8 change their telephone number.

9 A. It is not -- I don't understand why if they
10 were to move to St. Louis and change to CenturyTel, if they --
11 if CenturyTel were to --

12 Q. They're with CenturyTel now.

13 A. I know. And they offered an FX-type service,
14 they would, in fact, be able to keep their number. So I'm not
15 sure I --

16 Q. Well, CenturyTel stated today that they would
17 not keep their number.

18 A. And I didn't understand why that would be.
19 I -- the -- they weren't asked why. I heard them give that
20 answer and that didn't really make any sense to me.

21 Q. Well, we'll pursue that with some of the
22 CenturyTel witnesses then.

23 But if that is the case and really -- you're
24 really not looking at a new local exchange entrant -- new
25 entrant local exchange service provider --

1 A. Socket would be --

2 Q. -- in this situation?

3 A. -- in this situation the new entrant.

4 Q. But they're really not providing local

5 exchange service in the traditional sense if the issue is

6 they're going to have the customer moving to another rate

7 center but be able to provide them with the same number that

8 they had when they were a CenturyTel customer. Would you

9 agree to that?

10 A. Well, even before these words were written,

11 you could do that. I mean, that kind of service was

12 available. That's not a new service that was --

13 Q. That's not what I'm asking you.

14 A. I'm sorry.

15 Q. You're indicating -- you're talking here about

16 established -- when the requirements were established for

17 number portability. And you're saying Congress and the FCC

18 really was looking at new entrant local exchange service

19 providers being unable to win customers from incumbent

20 providers due to economic or operational barriers.

21 Now, that's not the kind of situation that

22 we're addressing here, is it where there would be --

23 A. I think it is.

24 Q. -- economic or operational barrier to winning

25 the customer; and if so, what is it?

1 A. Well, I think it's -- as I think Mr. Kohly
2 said, it's the customer that loses in that. The customer that
3 loses out on, you know, the convenience and the ability, the
4 right even to -- you know, keep in mind numbers are not
5 supposed to be proprietary pieces of -- of real estate owned
6 by any one carrier. They're -- they're universally owned,
7 they're resource for everybody. And that customer's ability
8 to use that resource is impaired if they -- if the port does
9 not take place.

10 Q. But we're looking at a customer who, if they
11 remain with their carrier, is going to have to change their
12 telephone number. Now, if they --

13 A. I don't --

14 Q. -- want to change carriers and the -- by
15 changing carriers they can keep their same telephone number,
16 is that not anti-competitive in the reverse? Would that not
17 be an incentive to change carriers?

18 A. Well, I think the -- the whole point of
19 competition was to, you know, bring in carriers that will
20 provide a greater range of service at a greater range of cost
21 and to the extent that they do impel the existing providers to
22 match and beat those.

23 So, you know, I think if you have at any
24 particular point in time an opportunity for a customer to
25 choose a service that suits them better at a better cost, they

1 are going to want to do that. And to say that for that -- for
2 the privilege of doing that, they should be willing to give up
3 their number, I don't think that's necessarily in the spirit
4 of the act or these words.

5 Q. Okay. But the point I'm trying to make is if
6 they have to give up their number anyway if they move to
7 St. Louis, and they -- they would have to give up their number
8 if they changed carriers, there's no competitive advantage to
9 staying with the incumbent -- with their current carrier if
10 they would have to give up their number with the current
11 carrier. Would you agree with that, if that is the
12 situation --

13 A. If that's the --

14 Q. -- where they have to give up their number?

15 A. If that's the situation, then for -- for no --
16 you know, technical or operational reason, they would have to
17 give up something important to them.

18 COMMISSIONER MURRAY: Okay. Thank you.

19 JUDGE PRIDGIN: All right. If there are no
20 further Bench questions, before I decide whether to continue
21 with this witness or break for lunch, let me see what sort of
22 recross or redirect we might anticipate.

23 Mr. Haas, would you have any recross?

24 MR. HAAS: No questions, your Honor.

25 JUDGE PRIDGIN: All right. Mr. Stewart?

1 Mr. Dority?

2 MR. DORITY: Mr. Stewart had to step out for a
3 moment. I anticipate he may have some and it may be
4 appropriate if we could go ahead and break for lunch and then
5 take it up.

6 JUDGE PRIDGIN: That's fine.

7 MR. DORITY: I did have a procedural question
8 I would like to ask the Bench while the Commissioners are
9 here.

10 JUDGE PRIDGIN: Certainly.

11 MR. DORITY: We may be going in with
12 Ms. Kistner after lunch and then we have Mr. Voight and some
13 of our other witnesses. To the extent that the Commission has
14 a previously scheduled Missouri USF board meeting beginning at
15 4:00 p.m. this afternoon -- is that not the case? Oh, I'm
16 sorry. I misunderstood.

17 COMMISSIONER APPLING: We completed that
18 meeting, Larry, yesterday.

19 MR. DORITY: I'm sorry?

20 COMMISSIONER APPLING: We done that meeting
21 yesterday.

22 MR. DORITY: Oh, it was yesterday. Okay. I
23 retract. Thank you.

24 COMMISSIONER APPLING: You can feel free to
25 stay until 9:00 tonight, if you'd like.

1 JUDGE PRIDGIN: Anticipating that we'll have
2 some recross and then Mr. Lumley, you'll have some redirect, I
3 assume --

4 MR. LUMLEY: Yes, sir.

5 JUDGE PRIDGIN: -- this seems to be as
6 convenient time as any to break for lunch. The clock at the
7 back of the room shows about 12:35. Let's try to resume about
8 1:45, if there's nothing further from counsel.

9 All right. Thank you very much. We stand in
10 recess.

11 (A recess was taken.)

12 JUDGE PRIDGIN: We're back on the record.

13 Before we resume examination of Ms. Kistner,
14 just a couple of housekeeping matters that I've thought of. I
15 believe tomorrow afternoon Laclede Gas has an on-the-record
16 presentation scheduled and I think we have double booked this
17 room, which is not a problem since we have another room. The
18 problem is who moves.

19 And so my guess is that we're still going to
20 be going tomorrow afternoon and that we move, because I expect
21 there will be several more parties interested in that Laclede
22 Gas stipulation hearing and I think that the Commissioners
23 would prefer to hear it in here rather than be in 305, which
24 is a little more crowded.

25 And so if we're still going tomorrow at

1 lunchtime, we'll simply have to move to 305, which is just a
2 few feet away. Just a heads-up about that.

3 And I think I did remind folks to turn
4 wireless devices off just a few moments ago so it doesn't
5 interfere with our broadcast.

6 Is there anything else from counsel before we
7 resume cross-examination?

8 All right. Hearing nothing, I believe we had
9 finished Bench questions and we were back to recross, if I
10 remember correctly. Mr. Haas, any questions from Staff?

11 MR. HAAS: No, your Honor.

12 JUDGE PRIDGIN: Mr. Dority or Mr. Stewart, any
13 questions?

14 MR. STEWART: No questions.

15 JUDGE PRIDGIN: All right. No CenturyTel
16 questions.

17 Redirect, Mr. Lumley?

18 REDIRECT EXAMINATION BY MR. LUMLEY:

19 Q. Ms. Kistner, during questions from
20 Commissioner Murray, there were some references to porting in
21 and porting out. Do you remember that?

22 A. Yes.

23 Q. Is it fair to say that in any port, there's a
24 company porting in and a company porting out?

25 A. Yes. That's true.

1 Q. So it's not different kinds of ports, it's
2 just ways of looking at the participants in the porting
3 process?

4 A. Right. And I think in her questions she was
5 specifically pointing to some language in the order that
6 talked about porting in from an outside rate center.

7 Q. And that's really mixing concepts, isn't it?

8 A. Right.

9 Q. Do you still have exhibit -- what was marked
10 as Exhibit 14, the intermodal order, available to you?

11 A. Yes.

12 Q. Would you turn to paragraph 24, please?

13 A. Okay.

14 Q. First, as a background question, by
15 intermodal, the FCC is referring to porting between wireless
16 and wireline carriers. Correct?

17 A. Correct.

18 Q. So in every intermodal port, there's a
19 wireline carrier involved. Correct?

20 A. Absolutely.

21 Q. So you can't refer to this as a wireless
22 porting order accurately, can you?

23 A. No. It has --

24 Q. It's an intermodal --

25 A. -- as much to do with wireline as well.

1 Q. Okay. Would you read the last two sentences
2 of paragraph 24, please, into the record?

3 A. In this context, the Commission adopted the
4 Nanci recommendations concerning the boundaries applicable to
5 wireline-to-wireline porting. Specifically, the Commission
6 adopted Nanci recommendations limiting the scope of ports to
7 wireline carriers based on wireline carriers' inability to
8 receive numbers from foreign rate centers.

9 Q. And that's an explicit statement about
10 wireline-to-wireline porting. Correct?

11 A. Correct.

12 Q. And if you turn to paragraph 43 -- and I would
13 note for the record I believe I inadvertently referred to this
14 section as paragraph 41 in my opening statement but I meant
15 paragraph 43. I apologize for that error.

16 And at the bottom of page 18 in paragraph 43,
17 if you would read the carryover sentence that's starting on 18
18 and carries to the top of 19?

19 A. We note that wireline carriers are not able to
20 port a number to another wireline carrier if the rate center
21 associated with the number does not match the rate center
22 associated with the customer's physical location.

23 Q. So, again, we have a direct statement about
24 wireline-to-wireline porting. Correct?

25 A. Correct.

1 Q. And if VNXX or FX service is used, that
2 service preserves the association of the rate center with the
3 customer. Correct?

4 A. Exactly.

5 Q. And their physical location?

6 A. Exactly.

7 Q. You were asked questions by Mr. Stewart about
8 the two disaster relief orders having to do with Hurricane
9 Katrina and severe storms in Kansas. Do you recall those
10 questions?

11 A. Yes.

12 Q. Those waivers allowed for porting of numbers
13 in connection with all services. Correct?

14 A. Yes.

15 Q. And involved the assignment of numbers to new
16 switches?

17 A. Yes. Effectively in those areas the existing
18 switches either no longer existed or were completely
19 dysfunctional and would be for some time so literally the
20 numbers had to -- had to be moved to, you know, some alternate
21 switch -- new switch locations.

22 Q. In the case of FX and VNXX service, the
23 association with the rate center and the switch remains.
24 Correct?

25 A. Yes. That's essentially the whole point of

1 them.

2 Q. And you're still in the rate center. Correct?

3 A. Correct. The physical -- the location has not
4 moved.

5 Q. Commissioner Clayton asked you questions
6 relating to cost differences between the carriers. And I want
7 to take you back to the questions having to do with Socket and
8 we'll use the Willow Springs example. If Socket is providing
9 service to a customer whose home is in Willow Springs and they
10 have a Willow Springs NXX code and there's calls back and
11 forth between that customer and CenturyTel customers of the
12 Willow Springs exchange, it's Socket responsibility to get the
13 traffic back and forth to the Branson POI. Correct?

14 A. From -- if the -- if the call -- if -- if a
15 ported --

16 Q. We're not talking about porting.

17 A. A call originated by --

18 Q. There's a --

19 A. -- Socket and terminated to a Socket -- sorry.

20 Q. Let me restate my example. Socket's got a
21 customer with a home in Willow Springs with a Willow Springs
22 NXX code.

23 A. Uh-huh.

24 Q. And that customer's making and receiving calls
25 from CenturyTel customers in the Willow Springs exchange.

1 Socket's responsible for getting the traffic back and forth to
2 the Branson point of interconnection. Correct?

3 A. You said back and forth to --

4 Q. Well, depending on the direction of the
5 traffic.

6 A. Yes.

7 Q. In the instance of the modems in St. Louis,
8 the same CenturyTel customers placing the call, Socket's
9 responsible for getting the traffic from Branson to St. Louis.
10 Correct?

11 A. Correct.

12 Q. So wouldn't you agree that it would only be by
13 happenstance or coincidence that the cost to Socket would be
14 identical with two different call paths?

15 A. It's more likely -- most likely to be
16 different.

17 Q. So getting back to Commissioner Clayton's
18 question, is there a difference in cost for Socket, there
19 would almost have to be?

20 A. Exactly.

21 Q. Commissioner Murray was asking you questions
22 comparing what CenturyTel might be able to do with customers
23 versus what Socket could do with customers. You recall that
24 line of questions?

25 A. Yes.

1 Q. CenturyTel does offer FX service. Correct?

2 A. Yes.

3 Q. In the specific instance of St. Louis,

4 St. Louis happens to be outside of CenturyTel's service area.

5 Correct?

6 A. That's correct.

7 Q. However, in other areas where Socket was

8 proposing FX service to a customer where the customer was

9 going to be in another CenturyTel exchange, CenturyTel could

10 equally offer FX service to that customer. Correct?

11 A. Correct.

12 Q. And the customer would not have to change

13 their phone number?

14 A. Correct.

15 Q. And if CenturyTel wanted to, they could seek

16 to expand their service authority to provide St. Louis

17 service?

18 A. That's my understanding.

19 Q. Commissioner Murray in her questions made

20 reference to a customer moving to another rate center. Would

21 you agree with me that it's numbers that are associated with

22 rate centers and the numbers that are assigned to customers?

23 A. Correct.

24 Q. The customer may move to another exchange.

25 Correct?

1 A. Yes. But their number does not move.

2 Q. But if their number doesn't change, they

3 haven't changed rate centers?

4 A. Correct.

5 MR. LUMLEY: That's all my questions.

6 JUDGE PRIDGIN: Mr. Lumley, thank you.

7 Nothing further?

8 All right. Ms. Kistner, thank you very much.

9 You may step down

10 MR. LUMLEY: Your Honor, is Ms. Kistner

11 excused at this time?

12 JUDGE PRIDGIN: I see no reason if the

13 parties -- she may be released. Thank you.

14 THE WITNESS: Thank you.

15 JUDGE PRIDGIN: Are we ready for Mr. Voight?

16 Mr. Voight, if you'll come forward and be

17 sworn, please.

18 (Witness sworn.)

19 JUDGE PRIDGIN: Thank you very much.

20 Mr. Haas, when you're ready, sir.

21 WILLIAM VOIGHT testified as follows:

22 DIRECT EXAMINATION BY MR. HAAS:

23 Q. Good afternoon, Mr. Voight.

24 A. Good afternoon.

25 Q. Are you the William L. Voight who prepared the

1 Rebuttal Testimony that's been marked as Exhibit No. 5 in this
2 case?

3 A. Yes.

4 Q. And do you have any additions or corrections
5 to make to that testimony?

6 A. No.

7 Q. And if the questions that are posed in there
8 were asked to you again today, would your answers be the same?

9 A. Yes.

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

12 A. Yes.

13 MR. HAAS: Your Honor, I would move for the
14 admission of Exhibit No. 5, the Rebuttal Testimony of William
15 Voight.

16 JUDGE PRIDGIN: Any objections?

17 Hearing none, Exhibit No. 5 is admitted.

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

19 MR. HAAS: I tender the witness for
20 cross-examination.

21 JUDGE PRIDGIN: Mr. Haas, thank you.

22 Any cross from Socket, Mr. Lumley?

23 MR. LUMLEY: Thank you, your Honor.

24 CROSS-EXAMINATION BY MR. LUMLEY:

25 Q. Good afternoon, Mr. Voight.

1 A. Good afternoon, counsel.

2 Q. Do you have your testimony with you?

3 A. Yes, sir.

4 Q. I forgot one thing.

5 At page 7, line 7, you refer to Section 9.2.3
6 of Article 5 of the parties' interconnection agreement and the
7 fact that VNXX traffic is to be exchanged. Do you see that?

8 A. Yes.

9 Q. In fact, that was a provision that the
10 Commission addressed in its arbitration order. Would you see
11 agree with that?

12 A. At the moment, I honestly don't recall if it
13 was the Commission address-- I mean, it's addressed. Whether
14 or not the parties, you know, volunteered to the wording or --
15 I don't recall that -- those details.

16 Q. If I showed you the Commission's order, would
17 that refresh your recollection?

18 A. Oh, yes.

19 Yes, the Commission addressed that issue.
20 That's clearly shown in this order.

21 Q. And in doing so, they approved a portion of
22 language proposed by CenturyTel regarding the exchange of VNXX
23 traffic but they rejected the company language that would have
24 required a POI in every end-office; is that right?

25 A. Yes. That's -- that's correct.

1 Q. Towards the bottom of the page, in contrast,
2 you note that the language of the agreement having to do with
3 abiding by industry agreed-upon practices and industry
4 guidelines was, in fact, language voluntarily negotiated by
5 the parties?

6 A. Yes.

7 Q. And do you agree that in the event of a
8 dispute between the parties over the meaning of that language,
9 the Commission is a body that can resolve such a dispute?

10 A. Yes.

11 Q. Would you agree with me that in accordance
12 with FCC requirements, service provider portability is
13 provided by all carriers pursuant to the LRN method?

14 A. Yes.

15 Q. So when the agreement refers to providing LRN
16 pursuant to industry guidelines and practices, they're talking
17 about number portability?

18 A. Yes. Location routing number portability.

19 Q. You're discussing it on page 11, but you
20 actually attach the contract pages as your Schedule 3 in terms
21 of the definitions of VNXX service and foreign exchange
22 service or FX service. Correct?

23 A. Yes. Yes. Schedule 3 shows attachments of
24 definitions from the CenturyTel/Socket interconnection
25 agreement.

1 Q. And if you'd just take a moment and review the
2 definitions -- those two definitions just to refresh your
3 recollection.

4 A. Virtual NXX traffic and the other definition
5 was foreign exchange traffic?

6 Q. Yes, sir. Do you see both of those in your
7 schedule?

8 A. I guess I'm not following the foreign exchange
9 definition in Schedule 3.

10 Q. You actually have the pages out of order.

11 A. Oh, I'm sorry.

12 Q. It's Schedule 3-2 at the bottom,
13 Section 1.4.6.

14 A. Okay.

15 Q. It carries over to the next page.

16 A. Oh, I'm sorry.

17 Q. It's just not in alphabetical order.

18 A. Okay. Yes, those definitions are there.

19 Q. Okay. And looking at those two definitions,
20 would you agree with me that in both instances the definitions
21 are looking at what the customer gets, not how the company
22 goes about providing it? In terms of net-- it doesn't refer
23 to network arrangements, it looks at what the customer gets?

24 A. Yes. I agree. It's looking at it from the
25 standpoint I believe of the end-user.

1 Q. At page 13, you're looking at an FX
2 arrangement between Jefferson City and Freeburg. Correct?

3 A. Yes.

4 Q. And you conclude that the calls were deemed
5 local because of the rating points being the same. Correct?

6 A. Yes.

7 Q. And you're familiar with Mr. Kohly's testimony
8 in terms of how Socket provides VNXX service?

9 A. Yes.

10 Q. And do you agree with me, likewise, in that
11 instance, the calls in the local calling scopes are rated
12 local because they have the same rate center assignment?

13 A. Yes.

14 Q. Do you recall in the arbitration case there
15 was a similar issue having to do with the porting of numbers
16 where the customer was already receiving service by means of
17 remote call forwarding?

18 A. Yes. I somewhat recall that.

19 Q. And do you recall that the Commission made
20 note that the number would continue to be assigned to the rate
21 center as part of that finding?

22 A. Yes, I believe that's the case.

23 Q. By the nature of the VNXX service, the way
24 local calls are placed to and from that number, it's by
25 seven-digit local dialing. Correct?

1 A. Yes.

2 Q. And it's going to go back and forth between
3 interconnected companies over local interconnection trunks
4 along with other calls that are placed by seven-digit dialing.
5 Correct?

6 A. Yes.

7 Q. But the Commission decided that -- in the
8 arbitration that in the instance of VNXX service, it would be
9 deemed not to be local for compensation purposes and instead
10 would be bill and keep. Correct?

11 A. Exactly, yes.

12 Q. On page 19 at the bottom, I don't mean to be
13 knit-picky about it, but sometimes we need to be fairly
14 precise about things. And you're referring to the definition
15 of number portability. Do you see that at the bottom of the
16 page?

17 A. Yes.

18 Q. Would you agree with me that the statutory and
19 FCC definition of number portability refers to the same
20 location and does not use the word "physical"?

21 A. Yes, I agree with that.

22 Q. And the word "physical" refers in the
23 definition of location portability. Correct?

24 A. Exactly.

25 Q. So to be precise in your testimony, we'd

1 delete the word "physical" there?

2 A. I'm sorry. Could you restate that?

3 Q. Where your testimony is referring to
4 Congress's definition of number portability, to be precise,
5 you would not use the word -- if you were quoting the
6 definition, the word "physical" would not appear?

7 A. Yes. I would agree with that.

8 Q. At page 20, lines 5 to 8, you're indicating on
9 this point that Staff is in agreement with CenturyTel about
10 the rules of the FCC having not changed. Do you see that?

11 A. Yes. In particular Dr. Furchtgott-Roth's
12 Direct Testimony -- Direct Testimony and statements.

13 Q. Are you familiar with the district -- the
14 United States Circuit Court for the District of Columbia's
15 decision in 2005 about the intermodal order?

16 A. Perhaps. There might be parts of it that I'm
17 familiar with.

18 Q. Would you agree with me that the court
19 concluded that the FCC needed to follow some additional
20 procedures because, in fact, it had substantively changed its
21 rules by that decision?

22 A. I would certainly have no reason to disagree
23 with that. It's my understanding the intermodal order is --
24 it's far from -- does not represent settled law at this point.

25 Q. Page 21, you're referring to the FCC website.

1 Would you agree with me that that's more of a FAQ or
2 frequently asked questions document as opposed to a legal FCC
3 mandate in the form of a Report and Order?

4 A. I'm not sure what that website is supposed to
5 stand for when it comes to number portability, but it's
6 certainly not a legal document.

7 Q. You were present during my opening statement,
8 weren't you?

9 A. Yes.

10 Q. Do you recall me making reference to
11 provisions of the FCC's First Report and Order on number
12 portability where the FCC confirmed that it was perfectly
13 legitimate for a subscriber to actually change their service
14 arrangements in conjunction with changing providers?

15 A. I recall you saying that, yes.

16 Q. And do you agree with me that that is
17 acceptable, that customers don't have to maintain identical
18 service when they change providers?

19 A. Yes, I would agree with that.

20 Q. Do you recall me making reference to the FCC's
21 October 2003 order where they indicated that they expect it to
22 be as easy for customers to change providers and keep their
23 number as it would be for them to change providers and get a
24 new number?

25 A. Yes. I recall your opening statements, yes.

1 Q. And is that consistent with your understanding
2 of the FCC's requirements?

3 A. Yes, it would be.

4 Q. Page 23, lines 11 to 14 indicate that Staff
5 has sent Data Request 34, 35 and 36 to CenturyTel seeking
6 further information about the company's policy regarding its
7 insistence on showing of loop facilities before porting
8 numbers. Do you see that?

9 A. Yes, I see that.

10 Q. Did you, in fact, get responses from those
11 questions?

12 A. Yes, I did. I -- I don't -- I would like to
13 look at those responses if you're going to ask me to comment
14 on them. I honestly don't recall the specifics.

15 Q. Well, and I'm happy to show them to you if you
16 need to see them, but I don't know if you'd need to.

17 A. Okay.

18 Q. You had those responses before taking the
19 stand today?

20 A. Yes.

21 Q. And you didn't see any reason to change your
22 testimony based on those responses. Correct?

23 A. Correct.

24 Q. In your preparation for creating your
25 testimony and being here today, I'm assuming you reviewed at

1 least some FCC materials along the way. Correct?

2 A. Yes.

3 Q. Did you run across statements to the effect
4 that in the wireline situation, it's expected that the company
5 either have facilities or numbering resources in the exchange?

6 A. In particular, what I reviewed was the FCC's
7 rule on the matter and I don't recall seeing that in there.

8 Q. So that's not something you remember running
9 across?

10 A. No. And the reason I hesitate somewhat on my
11 answer is I believe there's been some testimony in this case
12 about that. And perhaps I'm getting confused between
13 testimony I've read and -- and some FCC documents that I may
14 have read. But I don't recall the FCC's rule having any
15 requirements to have telephone numbers or loop facilities
16 before the incumbent in this case would have to port
17 telephone -- the telephone number.

18 Q. And where I was going with my question -- and
19 I think you've confirmed the answer, but just to be clear, so
20 you've not done an investigation into the source of those
21 statements. Correct?

22 A. No. I don't believe I have.

23 MR. LUMLEY: May I approach the witness?

24 JUDGE PRIDGIN: You may.

25 BY MR. LUMLEY:

1 Q. I'll lay this in front of you. Is that all
2 right?

3 MR. LUMLEY: I'd also like to mark an exhibit.

4 JUDGE PRIDGIN: This will be No. 17.

5 (Exhibit No. 17 was marked for
6 identification.)

7 BY MR. LUMLEY:

8 Q. In the course of your discovery for Staff to
9 CenturyTel, you sent them Question No. 31. And in response,
10 they provided you with some North American Numbering Council
11 documents; is that correct?

12 A. Yes.

13 Q. The April 1997?

14 A. Yes.

15 Q. Okay. And that document, if you flip through
16 it, includes Exhibit D towards the back of it. Don't look at
17 the Exhibit 17 yet. I'm referring you to your -- to the
18 CenturyTel discovery response. I think if you flip towards
19 the --

20 A. I'm not sure what Exhibit D is.

21 Q. Do you see that the document that they
22 produced includes North American Numbering Council
23 Architecture and Administrative Plan for Local Number
24 Portability?

25 A. Yes.

1 Q. Issue 1, revision 3, April 23rd, 1997?

2 A. Yes.

3 Q. And if you kind of flip back and forth, are
4 you satisfied that what I've copied as Exhibit 17 is that same
5 portion of what they produced in response to your question?

6 A. Yes.

7 Q. And what was Question 31 or data request?

8 A. We asked CenturyTel -- I asked CenturyTel to
9 provide us copies of industry documents and guidelines to
10 support some representations, I think. Bear with me just a
11 moment.

12 Industry guidelines porting numbers from
13 one -- one network to another.

14 Q. Okay. All right.

15 MR. LUMLEY: I move admission of Exhibit 17.

16 JUDGE PRIDGIN: 17 has been offered. Any
17 objections?

18 MR. STEWART: No objection.

19 JUDGE PRIDGIN: 17 is admitted without
20 objection.

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

22 JUDGE PRIDGIN: Mr. Lumley?

23 BY MR. LUMLEY:

24 Q. In the course of your review of FCC materials
25 or based on that review, do you agree with me that, among

1 other things, the FCC has seen that number portability is a
2 means of conserving numbering resources?

3 A. Yes.

4 Q. At page 26 of your testimony, lines 3 to 5,
5 you refer to your Data Request No. 8 to Socket. Do you see
6 that?

7 A. Yes. I see that.

8 Q. Did you get a response to that data request?

9 A. I believe we did.

10 Q. Any need to change your testimony based on
11 that response?

12 A. No. There's no need.

13 Q. At the bottom of page 26, you're commenting on
14 the FCC's conclusions on wireless number portability. Do you
15 see that?

16 A. Yes.

17 Q. And, in fact, you're referring to Socket's
18 discussion of the intermodal order. Correct?

19 A. Yes.

20 Q. Would you agree with me that in every
21 intermodal port there's a wireline carrier involved?

22 A. Yes.

23 Q. And so an intermodal decision is just that.
24 It's not a wireless decision or wireline decision, it's an
25 intermodal decision?

1 A. That's correct.

2 Q. Do you agree with me that FX and VNXX service
3 preserves the association of the number with the rate center?

4 A. With one qualifier. As Socket proposes to use
5 VNXX, the answer is definitely yes. There may be other
6 applications not really at issue in this case.

7 Q. Thank you for that clarification. I
8 appreciate that.

9 Page 28, at the top you're referring to -- you
10 made reference to two significant complaints made to the
11 Commission's customer service department?

12 A. Yes.

13 Q. Can you expand on that? And before you
14 answer, you know, if it involves, you know, confidential
15 information, we need to take that into account. I'm not
16 trying to trick you into doing that, but --

17 A. Sure. I don't believe it involves
18 confidential information. And I'll answer as best I can.

19 There was the -- I believe the account
20 involving Computer Magic I believe made a complaint to the
21 Commission. And there was one other -- I've forgotten the
22 other one at our -- that came into our consumer services
23 department. Just yesterday I received a telephone call from
24 another gentleman representing -- oh, and I've forgotten the
25 company's name, Mr. Lumley. And that's the best I can expand

1 on it at the moment.

2 Q. Is it fair to say that customers aren't happy
3 about the problems between CenturyTel and Socket?

4 A. That's very fair to say.

5 Q. Still on page 28, lines 11 to 14, on behalf of
6 Staff you exhort the parties to redouble their efforts to get
7 back to a more cooperative arrangement. Do you see that?

8 A. Yes.

9 Q. Do you feel Staff would be in the position to
10 perhaps help that process?

11 A. Oh, yes. I certainly would offer up anything
12 that we can do to -- certainly within reason to facilitate
13 better communications.

14 Q. Page 32 at the top of the page you're
15 continuing your discussion about point of interconnection
16 issues. Do you see that?

17 A. Yes.

18 Q. You agree with me that pursuant to the
19 parties' interconnection agreement, CenturyTel's responsible
20 for the facilities on its side of the point of interconnection
21 and Socket's equally responsible for its side of the point of
22 interconnection?

23 A. Yes.

24 Q. In the situation where a new customer comes to
25 town, chooses Socket, wants VNXX service, Socket gives it a

1 new number out of its resources, that traffic's going to flow
2 over the interconnection facilities, be exchanged at the point
3 of interconnection and then the -- CenturyTel's responsibility
4 on its side when there's calls between that customer and
5 CenturyTel customers serving that local calling area?

6 A. Yes. If I understand your question properly,
7 each party's responsible for facilities on its side of the
8 POI, point of interconnection.

9 Q. And the impact on CenturyTel of that
10 arrangement is exactly the same as if the customer had ported
11 a number from CenturyTel, it's the same flow of traffic?

12 A. Yes. That's correct.

13 Q. And if CenturyTel serves a customer by FX or
14 VNXX service and that customer makes and receives calls from
15 Socket customers, Socket has the same responsibilities?

16 A. Yes.

17 MR. LUMLEY: That's all the questions I have,
18 Judge.

19 JUDGE PRIDGIN: Mr. Lumley, thank you.

20 Mr. Stewart or Mr. Dority, cross?

21 CROSS-EXAMINATION BY MR. STEWART:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. Mr. Voight, were you here in the hearing room
25 when Ms. Kistner read into the record I believe it was

1 paragraph 7 of the intermodal order?

2 A. I was here.

3 Q. And do you remember that saying that the -- in
4 '97, the local number portability second order -- Second
5 Report and Order, that the Commission adopted recommendations
6 from NANCI, the North American Numbering Council, for
7 implementation of wireline-to-wireline portability?

8 A. I'm certain that was said.

9 Q. I believe Exhibit 17 that Mr. Lumley just
10 offered, Appendix D, this is Appendix D to those
11 recommendations, is it not?

12 A. I would expect so, yeah.

13 Q. I'm going to hand you something and have you
14 read it real quick. Mr. Voight, could you please read
15 Section 7.3?

16 A. Section 7.3, location -- excuse me, LNP
17 portability boundary. If location portability is ordered by a
18 State Commission in the context of phase 1, implementation of
19 LRN, location portability is technically limited to rate
20 center, slash, rate district boundaries of the incumbent LEC
21 due to rating, slash, routing concerns.

22 Additional boundary limitations such as the
23 wire center boundaries of the incumbent LEC may be required
24 due to enhanced 911 or NPA serving restrictions and/or
25 regulatory decisions.

1 Q. Thank you. I'd like to turn to your
2 testimony. On pages 9 through 11, you discussed the
3 differences -- generally the differences between FX service
4 and virtual NXX service. And on page 11, let's see, lines 8
5 through 14, that's the part of your discussion where you
6 concur with CenturyTel; namely, that traditional FX service is
7 paid for by end-users in a manner that requires the end-user
8 to purchase a facility. And you emphasize, All the way to the
9 distant or foreign central office.

10 And in the second piece, Traditional FX
11 service usually contemplated that the purchaser would make
12 outgoing calls as well as receiving incoming calls. And I'll
13 skip the parenthetical because I just said it two ways there.
14 Whereas, the two customers who are the focus of this instant
15 complaint only wish to receive incoming telephone calls in the
16 form of dial-up Internet service.

17 A. Yes.

18 Q. So those were the two things we agreed on --
19 or CenturyTel and Staff agreed on as to some differences in
20 between the two?

21 A. Well, in particular those are two things, yes.

22 Q. Let me ask you this. Isn't it also true with
23 FX service, generally speaking, unless I guess you would
24 purchase additional bandwidth or capacity, that you can only
25 have one call at a time on the dedicated FX line?

1 A. Yes. That's -- that's also true.

2 Q. Are you aware of any instance with FX service
3 where it is provisioned over common toll facilities?

4 A. No.

5 Q. It's a dedicated line?

6 A. Correct.

7 Q. With respect to Staff's DR No. 5, which I
8 believe you attached to your testimony, and I don't remember
9 which schedule, that's the -- if I'm not mistaken, that's the
10 question you asked is where else in Missouri has Socket been
11 allowed to do this geographic porting or whatever, depending
12 on who you're talking to how you define it. And in that
13 response, they listed some exchanges.

14 My question is, in response to Staff's DR, did
15 Socket quantify or give you any idea as to the total of how
16 many specific instances of this type of porting has occurred?
17 Could you tell from that response?

18 A. I believe it's Schedule 10.

19 Q. I'm sorry.

20 A. They -- each carrier lists -- excuse me,
21 Socket's DR response indicated some carriers, in particular
22 Embarq and AT&T, but also Big River, I believe and CD Telecom
23 and they listed specific exchanges. So if by your question
24 you mean instances of specific exchanges or quantity of
25 customers per exchange, it wasn't that detailed, but it did

1 list exchanges of the various carriers.

2 Q. And that was my recollection. But from that
3 information that they provided, we have no way of knowing how
4 many instances. It could be one instance with regard to one
5 of the exchanges, it could be ten. We just can't tell from
6 that information?

7 A. That's correct.

8 Q. Okay. In your testimony you suggest that the
9 FCC's website, and I think that was referenced by Mr. Lumley,
10 page 20, line 20 or somewhere close to that. With respect to
11 the FCC's website, specifically the section on number
12 portability, you think -- the Staff thinks, you think that
13 that website should be updated; is that correct?

14 A. I believe that's my testimony, yes.

15 Q. Okay. Well, as part of Staff's review, did
16 you check the websites of any ILECs to see what they might
17 have posted with respect to number portability?

18 A. No. I -- I personally did not. Staff
19 discussed -- some other Staff members may have, but I'm not
20 aware of it.

21 MR. LUMLEY: Okay. Judge, with your
22 permission, I'd like to go to two of them. And I'm not sure
23 how they've got this set up. Does Mr. Voight have to type it
24 in on that laptop or is there -- is that how that works?

25 JUDGE PRIDGIN: Do you have a laptop there,

1 Mr. Voight?

2 THE WITNESS: Yes. And I believe I can
3 operate it. Give me a minute, if you can give me the address.

4 BY MR. LUMLEY:

5 Q. If you wait just a second, I'm going to have
6 him come up and give you the website to punch in. Well, I
7 hope you can read this. Here's the first one.

8 A. You may end up having to do this for me here.
9 Well, I'm not able to get into typing mode.

10 Q. It won't let you up at that address bar? It
11 won't let you clear it and type anything up?

12 JUDGE PRIDGIN: As a fall-back, the Bench
13 could always look at those addresses.

14 MR. STEWART: Let's just do that. Let's just
15 do that. I'm not sure how to mark this or what we need to do.
16 Why don't I just read them into the record. Would that work?

17 JUDGE PRIDGIN: That's fine.

18 MR. STEWART: The website that we have are
19 aware for AT&T is
20 <http://wholesale.ATT.com/productsandservices/wireless/WL> --
21 looks like PP/FAQS.html. I hope that's correct.

22 JUDGE PRIDGIN: In typing that in, I just
23 get -- it is an AT&T site, but it's an error message.

24 MR. STEWART: Did I say WLPP? I'm having
25 trouble reading that. Excuse me. Do you have a -- yeah, but

1 does it have the web address on it? I apologize.

2 JUDGE PRIDGIN: That's all right.

3 MR. STEWART: I thought we were going to be
4 able to try something electronic. No, this isn't any better
5 than the other one.

6 I tell you what, let's do this. I will --
7 with your permission, I will go back and provide the
8 Commission tomorrow morning with the appropriate website.

9 JUDGE PRIDGIN: That's fine. Thank you.

10 BY MR. STEWART:

11 Q. If I would represent to you, Mr. Voight, that
12 had we been able to get to the websites, that the language
13 that both AT&T and Qwest have on their website is
14 substantially the same as the FCC, would you have the same
15 opinion, that maybe they should update their website as well?

16 A. I think I probably would. But Mr. Stewart, I
17 don't necessarily object to what's on the website. My concern
18 is it may be being taken out of context.

19 Q. But it wouldn't surprise you that maybe AT&T
20 and Qwest on their national website would have the similar
21 language that the FCC uses?

22 A. No, that wouldn't surprise me, no.

23 Q. Okay. I've just got a few more here. As part
24 of Staff's investigation of industry agreed-upon practices,
25 did Staff send any written inquiries to AT&T or Embarq asking

1 about their particular practices regarding geographic or
2 extra-exchange portability?

3 A. No. They were not parties to the case and we
4 did not make those inquiries.

5 Q. Okay. Let me ask you this. Have you reviewed
6 Susan Smith's Surrebuttal Testimony?

7 A. Yes.

8 Q. Did you review the schedule attached to it?

9 A. I don't recall. I honestly don't recall. I
10 have her testimony at my desk. I'll be happy to look at it
11 and see if my memory can be refreshed. I just don't recall.

12 MR. STEWART: Counsel, could you --

13 THE WITNESS: It's in that pile right there.
14 Just bring me the whole pile.

15 And I'm sorry, Mr. Stewart. It's Ms. Smith's
16 Surrebuttal?

17 BY MR. STEWART:

18 Q. Yes. I believe.

19 A. And which schedule were you referring to?

20 Q. I think it's only one -- I think there's only
21 one schedule.

22 A. I'm sorry. My particular version I didn't
23 print the schedule off. Just her written testimony. I
24 honestly don't recall if I read it or not.

25 Q. Excuse me just a second.

1 A. I don't recall what it is.

2 Q. Do you remember seeing that?

3 A. I remember seeing this. I've not read every
4 word of it.

5 Q. Schedule SS-1 on the front says Direct
6 Testimony of James M. (Mike) Maples of behalf of United
7 Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania.
8 I recognize the difficulty about this document so I'm going to
9 ask it this way.

10 Assuming that what that schedule purports to
11 say is true and was filed by who it purports to be filed by,
12 Embarq in front of the Pennsylvania PSC, wouldn't that
13 indicate to you that perhaps Embarq has not adopted geographic
14 porting as part of its company practices?

15 A. I don't know.

16 Q. Would it indicate to you that Embarq has
17 adopted geographic porting as part of its company practice
18 under the same assumption?

19 A. I don't know.

20 Q. Okay. Fair enough.

21 MR. STEWART: Thank you very much.

22 JUDGE PRIDGIN: Mr. Stewart, thank you.

23 Questions from the Bench, Commissioner Murray?

24 COMMISSIONER MURRAY: Just a few. Thank you.

25 QUESTIONS BY COMMISSIONER MURRAY:

1 Q. Good afternoon, Mr. Voight.

2 A. Hi.

3 Q. I'm just going to turn directly to your
4 Rebuttal Testimony on page 35, the Staff recommendation
5 ordered paragraphs. In your first recommendation you say to
6 order to port the telephone numbers from one to the other so
7 long as the NPA/NXX rating of the number does not change.

8 What would cause the NPA/NXX rating of the
9 number to change?

10 A. If Socket attempted -- well, the examples that
11 were offered today of Hurricane Katrina or the events that
12 recently occurred in Kansas are examples where the NPA/NXX
13 might change.

14 Q. All right.

15 A. Or the rating would change. I'm not certain
16 of other BNX arrangements such as that by perhaps Vonage or
17 some -- or Scipe or someone. That might also be an example
18 when the rating would change.

19 Q. And technically what would cause that would be
20 a situation where the number itself were moved from the
21 location to another NXX location; is that right?

22 A. Yes.

23 Q. Number two of Staff's recommendation to
24 immediate -- order them to immediately confer on the trunking
25 arrangements for all pending Socket requests to port and

1 promptly confer on all future court orders which either party
2 predicts to result in the addition of trunking capacity.

3 Do you think that the parties have conferred
4 at all on trunking arrangements for the pending orders in
5 question here, these two customers?

6 A. And just to be clear, I think we're talking
7 about Willow Springs and Ellsinore.

8 Q. Yes.

9 A. The question, do I think they've conferred on
10 those trunking arrangements? I think they probably have.

11 Q. And in your opinion, what should be those
12 trunking arrangements?

13 A. It would depend on the -- CenturyTel has a
14 witness -- a traffic studies witness and it would depend on
15 the results of those traffic studies, in particular. I would
16 say that would probably be the best indicator.

17 Q. And the threshold being met for establishment
18 of a new POI; is that correct?

19 A. Well, that's certainly an issue, yeah, whether
20 or not the threshold -- the real issue is -- the first issue
21 is if CenturyTel chooses to use the common network on its side
22 of the POI, is the ported number going to jeopardize the --
23 you know, the current traffic situation. That would be the
24 first question.

25 For example, in my testimony we -- I pointed

1 out the Boss, Missouri port request required six telephone
2 lines. That may be able to be accommodated under the common
3 trunks as they currently exist without any facility additions.
4 It's contrasted with the situation in Willow Springs where it
5 may require something initially that even exceeds the
6 threshold. So I -- all I'm suggesting here in my testimony is
7 that the parties confer -- as part of the porting request,
8 confer on the trunking requirements.

9 Q. And you heard Mr. Kohly today. I believe you
10 were in the room when he indicated that he didn't have any
11 reason to believe that if these numbers were ported, that the
12 Willow Springs exchange would not require an additional POI
13 after three months of traffic were studied. Do you agree with
14 that?

15 A. Yes. If I'm understanding everything, and I
16 believe I am, I think just initially the -- the traffic in
17 Willow Springs might exceed the threshold, except that the
18 threshold is to be determined only after demonstrating for
19 three months what the traffic is.

20 Q. Okay. And I understand that you're drawing
21 that from the interconnection agreement -- in terms of the
22 interconnection agreement; is that correct?

23 A. Yes.

24 Q. And if those terms weren't in there, would the
25 establishment of a new POI provide for this number porting

1 without dispute?

2 A. From what I'm able to understand about this
3 case -- and I certainly don't mean to speak for them. From
4 what I'm able to understand of CenturyTel's position, if
5 Socket or any carrier were to maintain a point of
6 interconnection at every end-office, I will say such as Willow
7 Springs, then they would port the number.

8 It's -- from what I understand, it's --
9 it's -- the single point of interconnection example we're
10 using in Branson and the -- the cost of getting the calls from
11 Willow Springs to Branson in this example is a significant
12 impediment to porting of the number.

13 Q. And that cost is now borne by CenturyTel?

14 A. Under the terms of the interconnection
15 agreement, it -- CenturyTel would be responsible for getting
16 these calls to Branson at least until the threshold is
17 determined, if I understood your question properly.

18 Q. And then if the threshold is exceeded and
19 there is a new POI established in Willow Springs, then the
20 transport from -- and I'm not sure if "transport" is the
21 proper term but getting calls from Willow Springs to the
22 Branson -- and I'm still not sure why they would even have to
23 go to Branson any longer.

24 A. And I can -- I can --

25 Q. Explain --

1 A. -- answer that.

2 Q. -- to me why they would still have to go to
3 Branson.

4 A. If they -- I think the question might be if --
5 if an additional POI was required in Willow Springs and Socket
6 were required to establish the additional POI in Willow
7 Springs, why would the traffic still have to get over to
8 Branson?

9 And I believe the answer is very likely that
10 we're talking about Branson serving as a tandem for Willow
11 Springs. Willow Springs subtends to Branson's tandem. In
12 almost all instances in Missouri there's really only one
13 route -- one fiberoptic cable route from an end-office and
14 that's to the nearest tandem.

15 So irrespective of whether or not Socket is
16 required to establish the point of interconnection in Willow
17 Springs or Branson, they're still going to have to find it
18 most econ-- economically feasible to route the traffic back
19 over to Branson because that's simply where I'll call them the
20 back-haul facilities are located. They go right down
21 Interstate 44 from St. Louis to Springfield down Highway 65
22 to Branson is what I would expect.

23 Q. All right. And then at that point, the cost
24 from Willow Springs to Branson would be borne by Socket; is
25 that correct?

1 A. That is correct. If I might add, just --
2 today the cost from Branson all the way to St. Louis is borne
3 by Socket.

4 Q. All right. So if this number is ported or
5 even if there's a new number for the customer, Socket bears
6 the cost between St. Louis and Branson?

7 A. Yes. And it crosses a LATA boundary and, yes,
8 Socket bears that cost.

9 Q. Okay. Your No. 3 recommendation for ordered
10 paragraphs is that, A request be accompanied with the addition
11 of dedicated trunks and shall be made a part of the firm order
12 commitment process.

13 So in this instance, would that have required
14 Socket to add dedicated trunks prior to making the request or
15 is this something that both parties have to agree and jointly
16 do to establish a dedicated trunk is what I'm --

17 A. Both parties would have to work cooperatively
18 to establish -- well, excuse me. Let me -- let me retract --
19 let me restate that. Dedicated trunks from Willow Springs to
20 Branson to the point of interconnection in Branson would be
21 the sole responsibility of CenturyTel.

22 And Mr. Kohly alluded to what really I suppose
23 should happen, and that's the dedicated trunks are set up --
24 and there was a question about what does it cost to do that,
25 was it a one-time cost or an ongoing monthly recurring cost to

1 CenturyTel.

2 And I would have answered that question by
3 saying there's both really. There's an initial installation
4 cost and there is the -- which I would expect to be somewhat
5 high compared to the monthly recurring cost. And so there
6 would be both. And that would be the responsibility of
7 CenturyTel in this example that we're using.

8 Q. The initial cost would be?

9 A. Yes. And -- and the ongoing cost, monthly
10 recurring costs for the first three months, frankly, would be
11 CenturyTel. Thereafter, it would be an accounting change.
12 And Staff thought about the possibility of stranded resources
13 and we did -- do not foresee that. There's nothing in the
14 testimony about that. But after three months, there would be
15 an accounting change and the monthly recurring cost would be
16 borne by Socket.

17 Q. And that would be because of the threshold
18 being achieved?

19 A. Yes.

20 Q. All right. Now, is your position that there
21 is no federal requirement that CenturyTel port these numbers,
22 but that the interconnection agreement itself -- the language
23 in the interconnection agreement is what requires them, in
24 your opinion, to do so?

25 A. Yes. That's certainly our testimony. And

1 what -- what happened is Staff read the Direct Testimony of
2 both parties and we felt CenturyTel's testimony was more
3 persuasive certainly at that point in time.

4 Q. Do you feel that there's any prohibition
5 against -- any federal prohibition against porting numbers
6 this way?

7 A. Oh, no.

8 Q. And in terms of the language of the
9 interconnection agreement, what do you think indicate
10 industry -- agreed-upon industry -- what was the wording?

11 A. Practices --

12 Q. Practices.

13 A. -- or standards.

14 Q. Yes.

15 A. Guidelines.

16 Q. And industry guidelines.

17 A. Most significant item is the PIM 60. Local
18 Number Portability Administration working group's most recent
19 events on that that occurred yesterday morning where that
20 group voted to incorporate this practice into its best
21 practices document, recommend that to the full North American
22 Numbering Council and ultimately I suppose to the FCC.

23 Q. And were you on that call?

24 A. No, ma'am, I was not.

25 Q. Do you have anything that indicates an exact

1 quote of what was said that would -- that we could rely upon
2 that the working group has decided that?

3 A. Do I have anything in the way of an exact
4 quote?

5 Q. I mean --

6 A. I -- well, I suppose the short answer might be
7 no; however, Mr. Kohly did state under oath this morning what
8 was decided, significant items that were decided. Mr. Penn
9 will testify later about some other things that were decided.

10 Q. Okay. But there's no written document that
11 you know of in which that was recorded?

12 A. The minutes -- it would be my understanding
13 the minutes will not be voted on for -- until next month.

14 Q. Okay.

15 A. And they won't be released until they're voted
16 on and approved.

17 Q. Then in your words would you state what you
18 think the working group decided?

19 A. Well, we -- we had -- we sent out a data
20 request on that just yesterday -- just late yesterday
21 afternoon. CenturyTel was kind enough to update their
22 response to our data request on that in terms of what was
23 decided.

24 Based on that response, based on some very
25 brief conversations I had with Mr. Kohly and -- and

1 CenturyTel's updated data response, I would answer your
2 question by stating the significant things that were decided,
3 the things that are significant to this case are the items
4 that are referenced in Mr. Kohly's testimony that he updated
5 this morning.

6 I believe there's four or five items that as
7 long as those criteria are met, the LNP working group believes
8 that this type of port should take place. And -- and, in
9 particular, the -- Mr. Kohly pointed out that the -- the
10 criteria talks about foreign exchange number porting. Foreign
11 exchange used to be a particular thing, a proper noun.
12 It meant certain things and -- as defined in tariffs.

13 Because of virtual -- the use of virtual NXX,
14 the term "foreign exchange" in my view, has taken on a more
15 generic meaning to where it -- there are so many flavors of
16 it, it should no longer be a proper noun, it should be a
17 common noun. And the working group recognized that, voted to
18 no longer capitalize the words "foreign exchange."

19 Q. Now, in your opinion, is the local number
20 portability working group a body that sets industry
21 guidelines?

22 A. Yes. I mean, I would know of -- if you were
23 to -- to have asked me before this case, Is there a standard
24 setting body, and I would have -- I would have answered by
25 saying, Well, there's no standard setting body that can hold

1 its members to -- you know, they're not a tribunal. They
2 can't order people, even its members, to do things.

3 But it's certainly the one body that I'm
4 familiar with, the only one who would be empowered to make
5 recommendations and indeed whose recommendations are routinely
6 acknowledged by the Federal Communications Commission.

7 Q. So it would be something akin to an industry
8 voluntary standard board. Would that be a reasonable way to
9 describe it?

10 A. Yes. I think it would. And there's been -- I
11 don't know. There's been some critique of the Staff's
12 testimony in terms of what is meant by this. And I would
13 simply note that the -- the interconnection agreement talks
14 about industry -- I've forgotten if it's standards, guidelines
15 or what -- what precise term is used, but if this is not the
16 type of industry standard setting body that the authors of the
17 interconnection agreement had in mind, I'm not sure what --
18 what would be.

19 Q. Now, can you possibly break this issue down
20 that we are addressing here in terms of the financial impact
21 on the two parties? You know, we're told on the one hand that
22 it makes no difference at all to CenturyTel. We're told that
23 by Socket, that it shouldn't have any impact at all on
24 CenturyTel. But that's kind of difficult to believe when you
25 have two parties fighting so strongly over this issue. It's

1 got to have some impact on each party, I would think.

2 Can you quantify that financially or at least
3 give us some idea of what impact that would be on each party?

4 A. The answer is yes, the Staff has thought about
5 that a lot. And I -- I think it would help me to answer the
6 question if I could understand if by that you meant their --
7 their telephone company or their Internet subsidiary
8 companies, either one, because there's -- there's financial
9 impacts on both.

10 We might remember that CenturyTel and Spectra
11 have roughly a little over I believe 200 telephone exchanges
12 in the state of Missouri. The Staff has the data on how many
13 competitive Internet service providers there are in those
14 200 exchanges. I won't say that on the record.

15 But it does raise the question of what is the
16 real issue here? Is it cost of getting telephone calls from
17 Willow Springs to Branson, cost of regrading our network or
18 establishing separate trunk groups or is what we're really
19 concerned about here is Internet revenue?

20 And I honestly don't know. The question would
21 be what -- how much -- one question would be how much choice
22 do we want to have in these rural areas for people who want to
23 utilize dial-up Internet service. That's some areas where
24 they don't have a whole lot of choices.

25 I'm very happy that CenturyTel and Spectra,

1 when they took over these properties, made commitments I
2 believe to this Commission that they would provide dial-up
3 Internet service in these rural outlying areas. And I'm happy
4 that, to my knowledge, all citizens in Missouri have access to
5 the Internet at least via dial-up, as far as I know.

6 So in order to answer your question about
7 revenue impacts, I think we should consider the -- and cost,
8 we should consider both the telephone aspects and the Internet
9 aspects.

10 Q. If the ISP were located physically in Willow
11 Springs, there would be no question that either CenturyTel or
12 Socket could provide them the ISP with a local number for the
13 Willow Springs customers to call; is that correct?

14 A. I'm not certain I followed the first part.

15 Q. All right. Assume the ISP remained located in
16 Willow Springs --

17 A. Okay.

18 Q. -- the modem or whatever it is that --

19 A. Right. Today Socket, the Internet company,
20 has -- provides dial-up service to citizens in Willow Springs.
21 And Socket, the Internet company, uses CenturyTel, the
22 telephone company, to do that.

23 Q. Through a local telephone number?

24 A. Yes.

25 Q. And regardless of whether that ISP were

1 Socket's customer or CenturyTel customer -- CenturyTel's
2 customer, that would be the same, would it not? It would
3 still be a local telephone number for dial-up Internet
4 service?

5 A. Oh, yes. Yes.

6 Q. And if the ISP -- I mean, if we were just
7 concerned about the customers having local service --

8 A. Like local Internet service?

9 Q. I guess we'd be wondering why the ISP would be
10 moving out of the location it already established.

11 A. Oh, well, it's very -- one of the reasons we
12 went for a number of years in Missouri where citizens in
13 outlying areas did not have dial-up Internet service was
14 because the Internet companies simply at that time had not
15 deployed modem banks to all of those rural isolated areas
16 simply because it's very expensive to do so.

17 And Socket, the Internet company, made a
18 business decision at some point in time to go down to Willow
19 Springs, put in some modem -- you know, rent some building
20 space somewhere and buy -- or lease Internet backbone lines to
21 back haul the Internet traffic out of Willow Springs.

22 Yeah, they made a business decision to put
23 modems in Willow Springs and it's very costly to do that. And
24 I believe they -- probably looking at some economics of --
25 some economies to centralize that modem bank in someplace like

1 St. Louis.

2 The concept is no different than deploying any
3 type of facilities such as wireless service. I would note
4 there -- wireless central offices where that switching
5 actually takes place primarily occurs in St. Louis and Kansas
6 City. When you want to offer wireless telephone service in
7 someplace like Willow Springs, you do not put a central office
8 wireless switch in Willow Springs. You establish some type of
9 interconnection point of presence and you haul everything to
10 St. Louis or Kansas City and switch it and haul it all the way
11 back down to southern Missouri and put it off on a cell tower
12 somewhere.

13 So it's economy. It's more cost effective to
14 deploy the modem bank in St. Louis and serve, for example, all
15 of the 417 area code then it is to deploy modem banks in each
16 and every individual community.

17 Q. And I realize this isn't your area of
18 expertise, but would you assume that that's the case even
19 though the ISP had already established a modem bank in Willow
20 Springs, that it would still be more cost effective to abandon
21 that one or move it or whatever they're going to do with it
22 and operate from one centralized location in St. Louis?

23 A. I would expect that to be the case, yes.

24 COMMISSIONER MURRAY: I think I'm going to
25 pass to the other Commissioners. Thank you.

1 THE WITNESS: Sure. You're welcome.

2 JUDGE PRIDGIN: Commissioner Murray, thank
3 you.

4 Commissioner Clayton?

5 QUESTIONS BY COMMISSIONER CLAYTON:

6 Q. Mr. Voight, good afternoon.

7 A. Good afternoon.

8 Q. I want to further try to clarify my
9 understanding, because I think it becomes clear that I
10 misunderstood the practical effects of our decision depending
11 on which way we decide this case. The practical effect is who
12 transports the call in the Willow Springs example from Willow
13 Springs to Branson. That's where the cost is incurred --

14 A. Yes.

15 Q. -- correct?

16 A. Yes.

17 Q. Now, that cost would be incurred
18 regardless of whether the ISP was physically located in
19 St. Louis or if it was located in Willow Springs, wouldn't it?
20 If Socket -- if the numbers are ported, even if they're
21 physically located in Willow Springs, doesn't the same cost
22 get incurred one way or the other?

23 A. Yes. I don't -- the cost is CenturyTel -- the
24 costs borne by CenturyTel is to get the call over to Branson
25 to the point of interconnection irrespective of whether the

1 number is ported or not.

2 Q. Okay. So if you remove the component of the
3 physical location of the ISP being in St. Louis, the same
4 practical effect would occur if we had an attempted port from
5 CenturyTel to Socket with the physical location being within
6 Willow Springs?

7 A. Yes. Because the -- where they
8 interconnect -- and I don't discount this, but where they
9 sometimes literally twist the wires together occurs in Branson
10 irrespective of anything else.

11 Q. Now, is it your understanding of the positions
12 of the parties, if Socket attempted to port Willow Springs
13 numbers from CenturyTel to Socket to an ISP located in Willow
14 Springs, would we still be here today?

15 A. I think there's a possibility that -- that we
16 might because of the Commission's decision to establish --
17 force the establishment of a single point of interconnection
18 over, in this case, Branson. It becomes a capacity issue
19 irrespective of -- it becomes a capacity issue of getting the
20 traffic from Willow Springs to Branson irrespective of whether
21 or not the ISP remains located in Willow Springs or they move
22 to St. Louis.

23 Q. So potentially there's a dispute regardless of
24 the geography or the physical location of the ISP?

25 A. I would suggest that there is, yes.

1 Q. Okay. That is helpful.

2 Is it fair to say that the Commission has, in
3 part, caused this problem because of that decision --

4 A. No.

5 Q. -- whether it's right or wrong?

6 A. No. I honestly don't think so. I think this
7 notion of a single point of interconnection within a LATA is
8 something that came straight from the FCC if not the Congress.
9 And the details of how to sort all of that out come right down
10 to the individual State Commissions. And you all have made
11 your decision and Staff, for one, does not take issue with it.
12 There's just -- there are 700 or so telephone
13 exchanges in the state of Missouri. The notion that
14 competitors should have to duplicate facilities in each and
15 every one in order to bring choice to people, I don't -- I
16 don't believe that's what the federal policymakers had in
17 mind.

18 Q. Would you agree or disagree with the assertion
19 that a dispute of this type is a case of first impression in
20 Missouri?

21 A. I would agree.

22 Q. Agree. You've suggested earlier either
23 through attachment of your testimony or responsive data
24 requests that there are other companies and other
25 relationships -- business relationships existing among other

1 carriers that address this issue that we're dealing with
2 today?

3 A. Yes. Voight Schedule 10 is intended to show
4 that, in particular, among the large exchange carriers in
5 Missouri, in particular, among those who tend to provide
6 service in our two MSAs, major statistical areas, those
7 carriers routinely engage in this type of porting, have no
8 reason to doubt Mr. Kohly's sworn testimony in that regard and
9 only CenturyTel is refusing to do it.

10 Q. How would you compare other ILECs in terms of
11 numbers of points of interconnection -- number of POIs? Are
12 they similarly situated as CenturyTel is in this area, this
13 MSA?

14 A. I believe Mr. Kohly may have addressed that
15 somewhat. When you look at Socket's -- if I understand your
16 question correctly, if you were to look at Socket's
17 interconnection agreements with Embarq and Southwestern Bell
18 now doing business as AT&T Missouri, you would note some
19 differences. But the concept, I believe, would be the same, a
20 single point of interconnection.

21 I believe Mr. Kohly would state that Socket's
22 in the process of renegotiating their agreement with Embarq,
23 but -- but essentially it's the same. And let me state it
24 also -- in no case with either Embarq or Cen-- excuse me,
25 Embarq or AT&T do either one of those carriers -- as I

1 understand it, neither one requires Socket to establish a
2 point of interconnection in each and every individual
3 end-office. It's more concentrated or aggregated around
4 tandems.

5 Q. Okay. But how many POIs do entities have
6 aside from CenturyTel, Spectra? How POIs would you have
7 associated with Embarq or AT&T? Would it be a single -- would
8 it be a single POI in each MSA?

9 A. No. I think it would -- with -- if -- if we
10 were to ask Socket how many POIs they had with Embarq, I would
11 expect them to say, well, we have one in where -- generally
12 where Embarq's tandems are, Warrensburg, Rolla, Maryville,
13 some answer like that.

14 Q. Is that the same circumstance with CenturyTel?
15 POIs are near the tandems?

16 A. Well, the only -- well, yes, I think it
17 would -- I would -- I think it would be essentially the same.

18 Q. I'm trying to just -- is there something
19 unique with this region with these carriers? You know, are
20 there a certain number of trunks, certain number of POIs when
21 you compare them to Embarq and AT&T? Is there anything unique
22 in this circumstance that suggests different treatment than
23 the other arrangements?

24 A. Only one possible thing --

25 Q. Okay.

1 A. -- that I can think of. The other
2 arrangements I believe tend to involve direct interconnection
3 in most -- most cases. And I mentioned Warrensburg, Rolla
4 with Embarq. I would say St. Louis, Kansas City and so forth
5 with Southwestern Bell.

6 However, with Spectra, there is no direct --
7 there would be no direct interconnection with Socket because
8 Spectra, as I understand it, does not have any of their own
9 tandems. They rely on primarily AT&T Missouri. So in terms
10 of uniqueness here between Socket and CenturyTel, it would be
11 especially in the Spectra exchanges where there is no direct
12 interconnection, it would all be what's called meet point.

13 Q. The Spectra exchanges would all be formerly --
14 is it fair to say they would have all have been formerly rural
15 LECs?

16 A. Yes.

17 Q. Okay. Okay. That's helpful.

18 Mr. Voight, are there any implications one way
19 or the other as we decide this case, since it is a first
20 impression -- there were suggestions of problems in 911
21 service, problems in interstate transport service, law
22 enforcement issues. Do you believe there are any implications
23 that the Commission should be aware of on how we rule this
24 case aside from the individual business relationship between
25 these two entities?

1 A. Is there anything you should be aware of?

2 Well, I would suggest that however you decide, that you -- you
3 make it well known that your decision is unique to these
4 parties and this circumstance, because there are other ways of
5 using virtual NXX numbers irrespective of how you decide.
6 Make it unique to the circumstances of this case. That's --

7 Q. Can you give me an example or elaborate what
8 you mean by that? Because I did ask earlier whether there's
9 anything unique to the circumstance or business relationship
10 between the entities right now and I think you said no, there
11 was nothing unique other than maybe direct interconnection
12 with Spectra. But now you say we need to be careful, that
13 this decision needs to be focused on these facts, these
14 carriers. Give me an example of how it could carry over and
15 be I suppose mischaracterized or taken --

16 A. It could be --

17 Q. -- out of context.

18 A. I think it could be picked up to -- my concern
19 would be that the criterion or the criteria of the LNP working
20 group would not be followed. They have -- as I understand it,
21 they have set forth certain criteria and, in particular, four,
22 five bullet points that must occur -- that must exist --
23 situations that must exist for them -- the industry standards
24 body to bless this sort of an arrangement. And I think
25 they're being very careful, from what I understand of it, to

1 qualify their recommendation on these four or five bullet
2 points that are in Mr. Kohly's testimony.

3 My concern would be that if something like
4 that were not followed, that other parties and other
5 circumstances could pick up on the Commission's order in this
6 case and use it as justification one way or another in some
7 other situation such as nomadic VoIP, Vonage and so forth.
8 And it could be some entirely different circumstances.

9 That would be my concern where the -- the --
10 the rate center -- even though the physical location was
11 outside of the rate center, the rating of the call did not
12 change, in this case is not proposed to change. My concern
13 would be that someone would use the Commission's order in this
14 case and try to use it as justification when the rating would
15 change.

16 Q. If we were not dealing with an ISP in this
17 circumstance, do you think we'd be here today? If we were
18 just dealing with a straight customer, straight business or
19 residential service.

20 A. I think -- I honestly think we would be
21 because of the capacity issue. If it was large --

22 Q. I understand the capacity issue with an ISP.
23 I understand -- I mean, you could have significant capacity
24 issues associated with that.

25 A. Well, they are -- some of -- some of the rural

1 communities might employ an insurance company call center,
2 some -- some -- I'm -- a poultry manufacturing plant. I don't
3 know what it might be, but there -- there are customers in
4 some of these outlying areas with large quantities of lines
5 that could cause a traffic congestion.

6 Q. Did you say a poultry manufacturer?

7 A. Or a -- well, a chicken plant down in the
8 Ozarks.

9 Q. I think I'm going to stop right there.

10 A. You would have to be there to know what I'm
11 talking about.

12 COMMISSIONER MURRAY: Rubber chickens.

13 COMMISSIONER CLAYTON: Thank you.

14 JUDGE PRIDGIN: No further questions from the
15 Bench. See if we have any recross, Mr. Lumley?

16 RE-CROSS-EXAMINATION BY MR. LUMLEY:

17 Q. You had some discussion regarding the revenue
18 impacts. I'm talking about ISP revenues. And just to kind of
19 bring it to the point, are you talking about the impact on
20 CenturyTel losing ISP customers and those dollars?

21 A. Yes.

22 Q. You talked about the origins of the Spectra
23 exchanges. Would you agree with me that those are all former
24 GTE exchanges that were acquired through the GTE and Verizon
25 transition out of the state?

1 A. Yes.

2 Q. And I'm sure everybody wants me to jump off a
3 cliff so I'll go ahead and do it not knowing the answer. You
4 stated that you had found that CenturyTel testimony persuasive
5 at that time, so I'll just jump in. Have you heard other
6 information that's caused you to be re-thinking that position?

7 A. We're not going to change our position in
8 terms of FCC rules. When I read Dr. Furchtgott-Roth's Direct
9 Testimony, it was very persuasive in terms of the dictionary
10 definition of location I believe was his -- his quote. Since
11 then, I've seen that expanded to possibly communities. People
12 have pointed out that location can mean things like
13 communities, rate centers, exchanges. Indeed the crab nebula
14 so -- it has occurred to us that the FCC possibly meant
15 something other than physical location.

16 Q. So you have an open mind?

17 A. Yes.

18 Q. Fair enough.

19 JUDGE PRIDGIN: Mr. Lumley, thank you.

20 Mr. Stewart?

21 MR. STEWART: I'm not going to follow chicken
22 and crab nebula. No questions.

23 JUDGE PRIDGIN: I have a joke I'm dying to
24 tell now, but I won't.

25 Mr. Haas?

1 MR. HAAS: No questions.

2 JUDGE PRIDGIN: Very good. Thank you.

3 Mr. Voight, thank you very much.

4 This looks to be a convenient time to break.

5 It's 3:30 according to the clock on the back of the wall.

6 Let's reconvene in 15 minutes, about quarter to 4:00. Thank
7 you very much. We're in recess.

8 I'm sorry. The next witness would be
9 Dr. Furchtgott-Roth; is that correct?

10 MR. STEWART: Yes.

11 JUDGE PRIDGIN: Thank you very much.

12 (A recess was taken.)

13 JUDGE PRIDGIN: Anything further from counsel
14 before we go on to the next witness?

15 MR. HAAS: Your Honor, I would request leave
16 to recall Mr. Voight. There was a question from Mr. Stewart
17 to him along the lines of could he tell from Data Request
18 No. 5 or from Socket's response to that data request how many
19 of these ports had taken place, and I would like to recall
20 Mr. Voight and ask him if he could give us those numbers from
21 some other source.

22 JUDGE PRIDGIN: Are there any objections from
23 counsel?

24 MR. STEWART: Absolutely. The question I
25 asked with respect to Data Request No. 5, the reason I asked

1 it was because it was attached to Mr. Voight's testimony. And
2 I think -- we could re-read the question back, but what I was
3 asked was as part of Staff's investigation of industry
4 agreed-upon practices, did Staff send any written inquiries to
5 AT&T and Embarq asking about their geographic extra-exchange
6 portability practice. That was one that could -- that
7 Mr. Haas may be thinking of.

8 The other one I think about specifically
9 DR No. 5, very limited question. With respect to Staff's
10 DR No. 5 to Socket, did Socket provide the Staff or quantify
11 or give a total on how many instances of this type of porting
12 has occurred. And that was clearly prefaced on DR No. 5. So
13 I would -- Mr. Voight has testified, he said no from that
14 document and that was all I was asking. So I would object to
15 having him recalled even if he does have some other DR that's
16 not part of the record to respond to that.

17 JUDGE PRIDGIN: So if I'm understanding you
18 correctly, Mr. Stewart, you said you asked him some narrow
19 questions, he answered the narrow questions you asked and that
20 was the extent of your cross?

21 MR. STEWART: Yeah. I specifically limited my
22 question to what does that DR No. 5 show that's attached to
23 your testimony.

24 JUDGE PRIDGIN: All right. Mr. Haas?

25 MR. HAAS: In his answer if allowed to

1 testify, Mr. Voight would be referring to the response to Data
2 Request No. 7. And in part of that answer it begins, Assuming
3 the question refers to the same testimony as DR 5.

4 MR. STEWART: But, again, you didn't attach
5 that DR to your testimony.

6 JUDGE PRIDGIN: I'm going to -- I mean, I'm
7 going to sustain the objection. He's had the chance to ask
8 whatever cross he wanted and already had the chance to ask
9 redirect. I think -- I mean the party asking
10 cross-examination has the chance to ask narrow questions as it
11 wants and if it gets the answer that it wants and then it's
12 not followed up on redirect, we're done. So I'm going to
13 sustain that objection.

14 Anything further before we move onto the next
15 witness?

16 All right. Seeing nothing further, is
17 Dr. Furchtgott-Roth, if I'm pronouncing that correctly, is he
18 available?

19 MR. STEWART: Yes.

20 JUDGE PRIDGIN: All right. If you'd come
21 forward and be sworn, sir.

22 (Witness sworn.)

23 JUDGE PRIDGIN: Thank you very much, sir.

24 Mr. Stewart, when you're ready.

25 MR. STEWART: Thank you, Judge.

1 HAROLD W. FURCHTGOTT-ROTH testified as follows:

2 DIRECT EXAMINATION BY MR. STEWART:

3 Q. Would you please state your full name for the
4 record?

5 A. My name is Harold Furchtgott-Roth.

6 Q. Are you the same Harold Furchtgott-Roth who
7 prepared and caused to be filed in this proceeding what has
8 been marked for identification as Exhibit No. 6, which would
9 be your Rebuttal Testimony and Exhibit No. 7, which would be
10 your Surrebuttal Testimony?

11 A. Yes.

12 Q. Do you have any changes, corrections updates
13 to that testimony?

14 A. No.

15 Q. If I would here ask you the same questions
16 that are contained in your Rebuttal and Surrebuttal, would
17 your answers be the same?

18 A. Yes.

19 MR. STEWART: With that, Judge, I will tender
20 the witness for cross and move the admission of Exhibits 6 and
21 7.

22 JUDGE PRIDGIN: Mr. Stewart, thank you.

23 Exhibits 6 and 7 have been offered. Any
24 objections?

25 Hearing none, Exhibits 6 and 7 are admitted.

1 (Exhibit Nos. 6 and 7 were received into
2 evidence.)

3 JUDGE PRIDGIN: Cross-examination, Mr. Haas?

4 CROSS-EXAMINATION BY MR. HAAS:

5 Q. Good afternoon.

6 A. Good afternoon.

7 Q. In your Rebuttal Testimony on page 7, you set
8 forth four regulatory definitions of portability: Location
9 portability, number portability, service portability and
10 service provider portability. Am I correct that of these four
11 terms, you would use location portability to describe the
12 issues in this case?

13 A. The movement of a number from Willow Springs
14 to St. Louis, yes, would be location portability.

15 Q. Does the Federal Telecommunications Act
16 mandate location portability?

17 A. No.

18 Q. Does the FCC mandate location portability?

19 A. No.

20 Q. Does the Federal Telecommunications Act forbid
21 location portability?

22 A. It does not directly address it.

23 Q. Does the FCC forbid location portability?

24 A. The Commission has specifically reviewed,
25 considered and decided not to -- not to require location

1 portability.

2 Q. Does that mean to you that the FCC has forbid
3 location portability?

4 A. No.

5 MR. HAAS: No other questions.

6 JUDGE PRIDGIN: Mr. Haas, thank you.

7 Mr. Lumley?

8 MR. LUMLEY: No questions, your Honor.

9 JUDGE PRIDGIN: Thank you. Let me see if we
10 have any questions from the Bench. Commissioner Murray?

11 QUESTIONS BY COMMISSIONER MURRAY:

12 Q. Just a couple. Good afternoon.

13 A. Good afternoon.

14 Q. I understand your testimony to be that there
15 is no federal requirement for porting of this type of number;
16 is that correct?

17 A. Commissioner, that's correct.

18 Q. And that is because of the fact that it is not
19 a local number porting situation, it is a porting from one --
20 and it's referred to by the parties as from one rate center to
21 another, but I recall in your testimony you said there's no
22 definition of a rate center and I got sidetracked there. I
23 was going to review that real quickly during the break and
24 didn't get to, but what was the point you were making about
25 rate center and there not being a definition of rate center,

1 do you recall?

2 A. Rate center is not a defined term under the
3 act. The -- and it isn't a defined term so I had some
4 discussion about rate center not being a defined term under
5 the act.

6 Q. Okay. In this case that we're looking at
7 here, if we determined that there is no federal requirement
8 for CenturyTel to port these numbers but we looked at the
9 interconnection agreement and said that the language in the
10 interconnection agreement requires them to if that is what is
11 done by agreed-upon industry practice or industry guidelines,
12 there's no prohibition from the -- at any federal level to
13 allow number port-- that type of number porting, is there?

14 A. I believe that's correct.

15 Q. And in terms of agreed-upon industry practices
16 or industry guidelines, how would you go about determining
17 what an industry practice would be or an industry guideline
18 would be?

19 A. Commissioner, let me first begin by
20 stipulating that -- that I'm not an expert on the
21 interconnection agreement. I've read it, but I think the
22 parties to this can probably address some of the details more
23 clearly.

24 In my personal review of the interconnection
25 agreement, I was struck by a couple things. One is that

1 the -- the introduction of the concept of industry practices
2 was preceded by a clause that made reference back to the
3 Commission rules so it somehow is in the context of Commission
4 rules that I'm not sure it has an independent status. And the
5 Commission rules do -- the '97 Commission rules do refer back
6 to the '97 Nanci findings, which could be one form of industry
7 standards, if you will.

8 Q. And what were those findings that are relevant
9 here?

10 A. Well, I believe they were introduced earlier
11 today, the '97 Commission rules and then the Local Number
12 Portability Administration -- the working group documents that
13 are from 1997 that are incorporated in the rules.

14 Q. All right. And do you think that there's any
15 reason to believe that that has changed since 1997?

16 A. Well, I would try to distinguish two things,
17 Commissioner. One is what the Commission rules are, I think
18 those have not changed except as where elsewhere noted.

19 What -- the North American Numbering Council
20 and the LNPA within it, they constantly are reviewing issues
21 that arise. Whether those constitute an industry standard, I
22 think Mr. Voight addressed this earlier, it is -- it certainly
23 is one form, but there's -- a lot of the decisions of the LNPA
24 are much more granular, if you will. And I believe that it --
25 Mr. Penn will be addressing this later on.

1 Q. In terms of the status of the local number
2 portability working group, that is a group that is a subgroup
3 of Nanci; is that correct?

4 A. Yes.

5 Q. And does the working group itself rise to the
6 level of setting voluntary industry standards?

7 A. I believe that Mr. Penn will be addressing
8 this probably in more detail with greater personal familiarity
9 since he sits on the working group.

10 My understanding from the FCC is that it is
11 a -- it is a working group, it reviews issues that come before
12 it, but it definitely does not set federal rules. It does not
13 set -- its decisions are subject to -- to normal review
14 processes and it sort of is, you know, whoever is there.

15 There can be different concepts of industry
16 practices, which is -- you might find industry practices that
17 are just common practices that you find between carriers. You
18 may find common language that universally applies in
19 inter-carrier agreements that might not be as formalized or --
20 actually I'm not even sure I'd call it formalized, but there
21 are a lot of different ways to come up with what may be titled
22 industry standards, industry practices.

23 Q. If the working group were to establish
24 something that was -- there was consensus that certain
25 practices should be followed, would that be likely then to go

1 to the full Nanci board to be voted on, or do we know?

2 A. I think there's a specific administrative
3 procedure for review of working group decisions that can be
4 appealed up to the full Nanci. And then those decisions can
5 be appealed to the wire-- the Wireline Bureau, which can then
6 be appealed to the full FCC. So there's a lot of steps.
7 Unless there is true unanimity, you know, unless no one
8 objects to anything.

9 Q. All right. What years were you on the FCC?

10 A. 1997 to 2001. But I came on the Commission
11 after the local number portability orders came out. I came on
12 beginning of November.

13 COMMISSIONER MURRAY: All right. I think
14 that's -- that's all the questions I have for you. Thank you
15 for being here.

16 THE WITNESS: My pleasure.

17 JUDGE PRIDGIN: Commissioner, thank you.

18 I have no questions. Let me see if I have any
19 recross based on these questions. Mr. Haas?

20 MR. HAAS: No.

21 JUDGE PRIDGIN: Okay. Thank you.

22 Mr. Lumley?

23 RE-CROSS-EXAMINATION BY MR. LUMLEY:

24 Q. Good afternoon, sir.

25 A. Good afternoon.

1 Q. Some questions from Commissioner Murray
2 regarding rate centers. You would agree with me that in
3 various of the FCC's number portability orders they use the
4 phrase "rate centers"?

5 A. Yes.

6 MR. LUMLEY: Thank you.

7 JUDGE PRIDGIN: Mr. Lumley, thank you.

8 Redirect, Mr. Stewart?

9 MR. STEWART: I have no redirect.

10 I just have a question, Judge. I'm not sure
11 about our witness's travel schedule, but should he -- is he
12 going to be excused or would the other Commissioners want him
13 to stick around for questions, do we know?

14 JUDGE PRIDGIN: I do not know. I mean, I'm
15 keeping them up to date as we go as to what witnesses are
16 coming on, when we're going to be back on the Bench. I see no
17 reason that this witness needs to stay.

18 MR. STEWART: Well, we'll leave it up to him.
19 I didn't know his travel schedule.

20 JUDGE PRIDGIN: I understand. Thank you very
21 much, sir.

22 THE WITNESS: Okay.

23 JUDGE PRIDGIN: Let me poll the parties
24 briefly on Mr. Penn's testimony. I'm perfectly willing to
25 keep going or to break depending on I guess somewhat the

1 parties' preference or at least their estimate as to how long
2 his cross-examination might take.

3 I mean, obviously this witness didn't take
4 very long. If these witnesses are just going to continue to
5 only be up for a few minutes, we may as well keep going. if
6 you expect extensive cross, this may be a good time to break.
7 If you need a few minutes to talk, you can certainly do so.

8 MR. STEWART: Judge, it looks like we can keep
9 going. And I guess other next witness would be Michael Penn.

10 JUDGE PRIDGIN: All right. If Mr. Penn's
11 available, come forward and be sworn.

12 (Witness sworn.)

13 JUDGE PRIDGIN: Thank you very much, sir.

14 Mr. Stewart, when you're ready, sir.

15 MR. STEWART: Thank you, Judge.

16 MICHAEL PENN testified as follows:

17 DIRECT EXAMINATION BY MR. STEWART:

18 Q. Would you please state your full name for the
19 record?

20 A. Michael Alan Penn.

21 Q. Mr. Penn, are you the same Michael Penn who
22 prepared and caused to be filed in this proceeding what has
23 been marked for identification as Exhibit No. 8, which is your
24 Rebuttal Testimony, Exhibit No. 9, which is your Surrebuttal
25 Testimony?

1 A. Yes, sir.

2 Q. Do you have any changes, updates or
3 corrections to that testimony?

4 A. Yes, sir. I would like to make some changes
5 to my Surrebuttal Testimony, if I could see it, please.

6 MR. STEWART: Judge, I might just -- before he
7 starts into that, earlier this morning when Mr. Kohly was
8 testifying and updated his testimony with respect to PIM 60,
9 it was my understanding that at this point we could have him
10 as well before we actually got into the cross to say whatever
11 he wanted to because he was on the call as well. But --

12 JUDGE PRIDGIN: That was my anticipation as
13 well. That's fine.

14 MR. LUMLEY: There is going to be a question
15 asked, isn't there?

16 MR. STEWART: What?

17 MR. LUMLEY: You are going to actually ask him
18 a question, aren't you?

19 MR. STEWART: No. I'm just going to ask him,
20 you know, do you want to update us on PIM 60.

21 MR. LUMLEY: That's a question.

22 MR. STEWART: Well, then I guess I am going to
23 ask a question.

24 BY MR. STEWART:

25 Q. But that is the question.

1 A. I do apologize for my hesitation. I honestly
2 thought I'd have a little more time.

3 Q. Not a problem.

4 A. I'm sorry. First of all, I would like to make
5 the correction -- the same corrections that Mr. Kohly made
6 mirroring the -- the exact same language where the LNP working
7 group did change the wording of the caveats.

8 One was -- and like I said, I don't have it
9 right in front of me, I apologize but one -- to the FX caveat
10 there was a -- there were two changes made. One was -- and
11 I'm just repeating Mr. Kohly, that foreign exchange would be
12 spelled -- spelled out with a lower case "f" and lower case
13 "e" and furthermore if it was spelled fx, it would also be
14 spelled with lower case "f" and lower case "x."

15 The other was that this would be -- this could
16 be a tariffed FX or a publicly available FX. I believe that's
17 correct. I'm -- I may not be precise.

18 Q. I'm looking for where you set those out. We
19 probably ought to at least identify the page. Mr. Penn, was
20 that possibly in your Rebuttal Testimony rather than your
21 Surrebuttal?

22 A. Yes, sir, it might be.

23 Q. Because I'm not finding it.

24 A. The other -- in the Surrebuttal on page 4,
25 line 21, it says, In the main meeting. That should read, At

1 the June meeting. Not May, but June.

2 Q. Okay.

3 MR. LUMLEY: Which line was that?

4 THE WITNESS: Page 4 of my Surrebuttal,
5 line 21.

6 BY MR. STEWART:

7 Q. Do you need a copy of your Rebuttal as well?

8 A. Yes, sir. And hopefully I haven't overlooked
9 another place where I stated that this discussion that I
10 participated in was in May, when in actuality it was in June.

11 Q. I think we've just discovered where you have
12 your caveats. It is in your Surrebuttal, I missed it too.
13 Pages 3 and 4 starting at the bottom of 3. So if you would,
14 could you turn there and just -- let's make the specific
15 changes that you want to make.

16 A. Yes, sir. And the way that I state it on
17 page 4, line 1, FX should be in lower case.

18 Q. And that was the only change?

19 A. Oh, and the fact that it's -- it has a
20 tariffed FX. That should read, Has a tariffed FX or a
21 publicly -- publicly published available FX. I'm -- again, I
22 apologize. I can't remember the exact word. Perhaps if -- if
23 we could read back the same correction that Mr. Kohly made, I
24 would be fine with --

25 MR. STEWART: Judge, is that sufficient?

1 JUDGE PRIDGIN: That's fine with me. I think
2 we can find that in the record.

3 BY MR. STEWART:

4 Q. Were there any other changes to your --

5 A. No, sir. Just that.

6 Q. None to your Rebuttal?

7 A. No, sir.

8 Q. You were here when you heard Mr. Kohly update
9 his testimony and make certain comments about yesterday's
10 PIM 60 phone call?

11 A. Yes, sir.

12 Q. Would you like to say anything about that?

13 A. Mr. Kohly mentioned that the LNP working group
14 decided in his favor. To -- to -- to his credit, he may have
15 meant that in his opinion they decided in his favor. I would
16 have thought that that would mean the LNP working group did
17 agree that the port requests he made were legitimate port
18 requests according to the six caveats mentioned.

19 The LNPA working group specifically declined
20 to state whether or not the port request did meet the six
21 caveats. They said that was a -- that was an issue not to be
22 discussed in this forum. And by this "forum" I mean the LNPA
23 working group, not the Commission.

24 MR. STEWART: With that, Judge, I will tender
25 the witness for cross and move the admission of Exhibits 8 and

1 9.

2 JUDGE PRIDGIN: Mr. Stewart, thank you.

3 Exhibits 8 and 9 have been offered. Any
4 objections?

5 Hearing none, 8 and 9 are admitted.

6 (Exhibit Nos. 8 and 9 were received into
7 evidence.)

8 JUDGE PRIDGIN: Proceed to cross-examination.

9 Mr. Haas?

10 CROSS-EXAMINATION BY MR. HAAS:

11 Q. Hello, Mr. Penn.

12 A. Hello, sir.

13 Q. Please turn to page 1 of your Surrebuttal
14 Testimony.

15 MR. STEWART: Excuse me, Judge, and Mr. Haas.

16 Can I bring him his copy of his testimony?

17 MR. HAAS: Sure. Certainly.

18 MR. STEWART: That's yours.

19 THE WITNESS: I'm sorry. Please continue,

20 Mr. Haas.

21 BY MR. HAAS:

22 Q. Near the bottom of page under paragraph 5,
23 subpart 1 you state, CenturyTel cannot know what other
24 Missouri ILECs do or do not do. And that's in your discussion
25 of what is the Missouri industry practice.

1 Did you or anyone at CenturyTel ask other
2 Missouri ILECs whether they would port number in a similar
3 situation?

4 A. I asked associates from Embarq on -- on my own
5 time, a companion that also works in LNP. He told me he did
6 not have that answer. I'm sorry. I didn't research further.

7 Q. Did you or any other CenturyTel employee ask
8 the other Missouri ILECs to file testimony as
9 CenturyTel-sponsored witness in this proceeding?

10 A. I believe we did, yes, sir. I apologize I
11 can't answer more positively. It was our -- our lawyers who
12 may have made that arrangement -- or tried to make the
13 arrangement.

14 Q. Did CenturyTel take depositions of other -- of
15 employees of other Missouri ILECs to determine what the
16 Missouri practices were?

17 A. I don't know. I apologize. I'm unfamiliar
18 with the language.

19 MR. HAAS: I don't have any other questions.
20 Thank you.

21 JUDGE PRIDGIN: Mr. Haas, thank you.
22 Mr. Lumley?

23 MR. LUMLEY: No questions, your Honor.

24 JUDGE PRIDGIN: Questions from the Bench,
25 Commissioner Murray?

1 QUESTIONS BY COMMISSIONER MURRAY:

2 Q. Good afternoon, Mr. Penn.

3 A. Good afternoon, ma'am.

4 Q. So you were on the call yesterday, the local
5 number portability working group; is that correct?

6 A. Yes, ma'am.

7 Q. And you don't disagree with the statements
8 that Mr. Kohly made in regard to specifically what was decided
9 by that group, but you do disagree with the interpretation
10 that it was in Socket's favor; is that correct?

11 A. Yes, ma'am.

12 Q. And that is because -- are you saying that the
13 working group specifically stated that they were not deciding
14 whether the Socket porting request met the six criteria?

15 A. That's correct.

16 Q. And they actually stated that yesterday in the
17 working group --

18 A. Yes, ma'am. Early -- early on.

19 Q. -- call?

20 In your opinion, is that working group a
21 voluntary industry standards setting body or is it just a
22 working group of the NANCI that would be the standard sitting
23 body? How would you describe the function of the LNP working
24 group?

25 A. The LNP working group was a -- was established

1 early on, about the same time that LNP was in 1997. And it
2 was established in order to give carriers a place to meet and
3 discuss issues that arise regarding portability.

4 It was established with the -- with the
5 knowledge that the LNP working group itself could not impose
6 its decisions on its members. This was just, in essence, a
7 meeting place to bring up and discuss issues so that entities
8 that do make those rules such as the FCC and NANCY have a
9 one -- kind of a one-stop shop, one place to go to see what
10 the industry has discussed in their opinion.

11 Q. Okay. And the fact that the industry is
12 discussing an issue, would that indicate to you that there is
13 a -- that there is or is not an agreed-upon industry practice
14 regarding the issue?

15 A. I would have to disagree with that, ma'am.

16 Q. You would say that it would indicate there's
17 not an agreed-upon industry practice?

18 A. Correct. In the LNPA working group's own
19 definition, the -- what -- what constitutes consensus is very
20 subjective, as stated in earlier testimony filed by Mr. Kohly
21 himself.

22 It's -- it's consensus based on the members of
23 the LNPA working group that happen to be attending the call at
24 the time that it's discussed. So it's not indicative of all
25 industry -- all industry providers. And greater weight may be

1 given to the votes of some providers than others depending on
2 how often they attend meetings or how specifically the issue
3 being discussed affects that particular provider.

4 Also, it is at the discretion of the co-chairs
5 of the LNPA working group whether or not consensus has or has
6 not been reached and in the end, it is their subjective
7 decision.

8 Q. And has the issue regarding porting of the
9 types of -- of the type that Socket is requesting be ported
10 here, has that gotten to that level?

11 A. What -- it was -- it was the express concern
12 of the LNP working group to make sure that no names were
13 attached to this issue before it is -- before it is amended to
14 the best practices document of the LNP working group. So to
15 say that the specific ports that Socket is talking about
16 definitely meet the criteria was very much -- that decision
17 was very much opposed to be made by the LNP working group.

18 They -- we were -- we were in agreement that
19 that was not the forum to make the decision if the specific
20 ports mentioned by Socket met the caveats, only that the
21 caveats do support whether the LNP working group believes that
22 a port similar in nature to what Socket has brought up would
23 be considered legitimate port requests.

24 Q. So would it be your position that there has
25 been established no agreed-upon industry practice regarding

1 this type of number porting to date?

2 A. Well, again, that's -- that's a subjective
3 matter. To the LNP working group, the LNP working group
4 co-chair, Paula Jordan, would say there is consensus on this
5 issue, that as long as the six caveats spelled out by the LNPA
6 working group are met, that ports such as the ones that Socket
7 is suggesting should be considered legitimate port requests.

8 That's -- that is not, in my opinion, agreed
9 upon by the entire industry. That's just the consensus,
10 quote/unquote, of the LNPA working group.

11 Q. All right. Do you have an opinion as to
12 whether the six caveats have been met?

13 A. I do not. I apologize. I don't have quite
14 enough information to make that decision myself.

15 COMMISSIONER MURRAY: Thank you.

16 THE WITNESS: Yes, ma'am.

17 JUDGE PRIDGIN: Anything else? Thank you. I
18 don't believe I have any questions.

19 Any recross based on Bench questions,
20 Mr. Haas?

21 MR. HAAS: No questions.

22 JUDGE PRIDGIN: Thank you.

23 Mr. Lumley?

24 MR. LUMLEY: No, sir.

25 JUDGE PRIDGIN: If there's nothing further

1 from counsel -- I'm sorry. Redirect?

2 REDIRECT EXAMINATION BY MR. STEWART:

3 Q. Just very briefly. Mr. Penn, Commissioner
4 Murray was asking you questions about what was decided and
5 what wasn't decided at the Tuesday working group session. Did
6 the working group specifically decline to address whether FX
7 included virtual NXX?

8 A. They did, sir. They said that was not the
9 forum for that to be discussed.

10 Q. With respect to the meeting on Tuesday, were
11 any dissents lodged?

12 A. Yes, sir.

13 Q. Mr. Penn, you've been around this a long time.
14 Are appeals expected?

15 A. Yes, sir, they are.

16 Q. In your expert opinion, do you see that this
17 subject is in process of further discussion and is at some
18 point likely to involve more carriers than were at Tuesday's
19 meeting?

20 A. Very obviously, sir.

21 MR. STEWART: That's all I have, Judge. Thank
22 you.

23 JUDGE PRIDGIN: Mr. Stewart, thank you.

24 Mr. Penn, thank you very much. You may step
25 down.

1 This looks like a convenient time to break for
2 the day. Am I correct we will have Ms. Anderson and Ms. Smith
3 left as the two witnesses?

4 All right. Is there anything further from
5 counsel before we adjourn for the day?

6 MR. STEWART: Just a moment.

7 That's fine. Yeah. We're fine.

8 JUDGE PRIDGIN: If there's nothing further
9 from counsel, all right, thank you very much. We will go off
10 the record. We will re-adjourn in the morning at 8:30. Thank
11 you very much. We're in recess.

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Tracy L. Thorpe Taylor, CSR, CCR

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