

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION

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6 TRANSCRIPT OF PROCEEDINGS

7 Hearing

8 May 16, 2005
9 Jefferson City, Missouri
Volume 1

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12 In the Matter of Proposed Rule)
13 4 CSR 240-2.061, Applications for)
14 Expanded Local Calling Area Plans) Case No. TX-2005-0194
Within a Community of Interest)

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16 NANCY M. DIPPELL, Presiding,
SENIOR REGULATORY LAW JUDGE.

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18 CONNIE MURRAY,
LINWARD "LIN" APPLING,
COMMISSIONERS.

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22 REPORTED BY:

23 KELLENE K. FEDDERSEN, CSR, RPR, CCR
24 MIDWEST LITIGATION SERVICES

25

1 APPEARANCES:

2 MIMI MACDONALD, Attorney at Law
3 SBC Missouri
4 One SBC Center, Room 3520
St. Louis, MO 63101
(314)235-4300

5 FOR: Southwestern Bell Telephone, LP
d/b/a SBC Missouri.

6 LARRY W. DORITY, Attorney at Law
7 Fischer & DORITY
101 Madison, Suite 400
Jefferson City, MO 65101
8 (573)636-6758

9 FOR: CenturyTel of Missouri, LLC.
Spectra Communications Group, LLC,
10 D/b/a CenturyTel.
11 ALLTEL Missouri, Inc.

12 MICHAEL DANDINO, Senior Public Counsel
13 P.O. Box 2230
200 Madison Street, Suite 650
Jefferson City, MO 65102-2230
14 (573)751-4857

15 FOR: Office of the Public Counsel
and the Public.

16 MARC D. POSTON, Senior Counsel
17 P.O. Box 360
200 Madison Street
Jefferson City, MO 65102
18 (573)751-3234

19 FOR: Staff of the Missouri Public
20 Service Commission.

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23

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

2 JUDGE DIPPELL: This is Case
3 No. TX-2005-0194, in the matter of the proposed rule
4 4 CSR 240-2.01 -- or 061, applications for expanded local
5 calling area plans within a community of interest. My
6 name is Nancy Dippell. I'm the Regulatory Law Judge
7 assigned to this matter. And we are here today for public
8 comments on this proposed rule.

9 I'll begin by taking comments in support of
10 the rule and then asking for comments opposed to the rule.
11 If you have mixed comments, that's fine. We'll just work
12 you in as we go along. I will swear in everyone who comes
13 up to speak. I know some of you are lawyers representing
14 entities, but you're public commenters at this hearing.

15 We had some written comments filed on
16 Friday, and if there's additional comments, I'll take
17 those as well.

18 Who do I have in support of the rule? I
19 see Staff and Public Counsel. Is there any other comments
20 in support of the rule?

21 (No response.)

22 JUDGE DIPPELL: All right. Mr. Dandino,
23 would you like to begin, or do you prefer to go second?

24 MR. DANDINO: Certainly I'll be glad to
25 begin. Do you want me to go to the podium?

1 JUDGE DIPPELL: If you don't mind.

2 MR. DANDINO: I'll be glad to. Thank you,
3 your Honor.

4 JUDGE DIPPELL: Can you raise your right
5 hand, Mr. Dandino?

6 (Witness sworn.)

7 JUDGE DIPPELL: Thank you. Go ahead.

8 MR. DANDINO: Your Honor, and may it please
9 the Commission, my name is Michael Dandino, and I
10 represent the Office of Public Counsel, and the Office of
11 Public Counsel represents the public generally before the
12 Public Service Commission.

13 I would also like to say that we represent
14 more than -- in this specific instance, I'd like to say
15 that there are other people that I represent, and I've
16 brought them here today. They're right here in this chair
17 with me. I'm not in the chair, but they're right here in
18 this chair.

19 I have letters from, oh, probably about a
20 dozen letters from people in Rockaway Beach who want
21 expanded calling. I'd like to introduce you to
22 250 businesses and residents in the city of Lexington,
23 Missouri that want expanded calling and have asked for it
24 back in 2000 -- 2000. Also I'd like to introduce
25 120 Franklin County residents that complained to this

1 Commission and to the -- and to the Office of Public
2 Counsel when local plus was discontinued by Southwestern
3 Bell, and they felt that they needed expanded local
4 calling in the St. Louis -- into the St. Louis
5 metropolitan area.

6 And finally, I have 762 petitions -- signed
7 petitions or signatures from people in the Wright
8 City/Innsbrook area, who have asked since I believe it's
9 September of 2000 for expanded local calling in the
10 metropolitan St. Louis calling area into the St. Louis
11 area.

12 Your Honor, members of the Commission, I
13 think these people have waited long enough at least for a
14 process, and that's all we're talking about today. We're
15 talking about establishing a process. These people have
16 been denied even an opportunity to be heard before this
17 Commission. I say to you that if a process is denied long
18 enough -- is delayed long enough, it's denied. And I
19 think it's time to move forward.

20 This rule that the Staff has proposed is an
21 outcome of a study by the MCA task force which was done
22 last fall. Members of the General Assembly were on it,
23 the industry, Public Counsel. We even had an individual
24 that we appointed who was not a member of our office, just
25 a member of the public, to give more input.

1 Essentially this group came up -- this task
2 force came up with a process, and I think that was one of
3 the things that the Commissioners when they attended the
4 task force meeting had said to the task force, we'd like
5 to see a process, that's what we want you to decide on is
6 develop a process.

7 And that's what you have before us. I
8 think it's a simple, straightforward process. It has
9 fixed time tables for a decision to be made, and I think
10 that is very important, because we've seen that petitions
11 which are filed where there's no set process, where there
12 isn't a special -- a certain rule that we necessarily
13 apply to it, you know, there's a tendency for them to
14 languish. I think that's unfortunate, and I think it does
15 a disservice to not only this Commission but to the public
16 as a whole.

17 One of the essential rights of government
18 is to petition your government for grievances. These
19 people have done so. I think they need a process for them
20 to do -- to continue on, and I think people in the future
21 at least have a -- need a process for that. These people
22 have been sort of -- these groups have sort of been
23 grandfathered into the process, and there -- and petitions
24 are pending now, and meetings are, according to the rule,
25 are being -- are being processed now. It's kind of a dry

1 run for this rule.

2 Maybe we're -- probably we'll find some
3 tweaks that the rule needs to go -- to be developed and
4 finalize it. But I think the important thing is here that
5 this shouldn't turn into a debate on whether or not MCA or
6 expansion of the MCA is needed or not needed or whether
7 EAS is needed or not needed or whether we ought to go back
8 to the Upshaw calling area plans, community optional COS
9 plans. I don't think that's what this is about.

10 This is about process. This is about
11 developing a procedure where citizens can get their day in
12 court, their day before this Commission, an opportunity to
13 be heard. Thank you.

14 JUDGE DIPPELL: Thank you. Are there any
15 questions for Mr. Dandino, Commissioner Murray?

16 COMMISSIONER MURRAY: Mr. Dandino, the
17 petitions that you have, what were the dates of those
18 signatures?

19 MR. DANDINO: They're all back -- I
20 can't --

21 COMMISSIONER MURRAY: Just roughly, were
22 they back in 2000?

23 MR. DANDINO: 2000, 2001, early 2001.

24 COMMISSIONER MURRAY: Have you been in
25 contact with those people since then?

1 MR. DANDINO: For some of them, yes, I
2 have.

3 COMMISSIONER MURRAY: And when you are in
4 contact with people who are complaining about a calling
5 scope, are you visiting with them about the competitive
6 alternatives that are available today?

7 MR. DANDINO: I figure that's the job of
8 the telephone companies. I'm asking --

9 COMMISSIONER MURRAY: Is that no?

10 MR. DANDINO: Yes, that is no.

11 COMMISSIONER MURRAY: Thank you. Also, did
12 Public Counsel file comments for this rule?

13 MR. DANDINO: Not yet.

14 COMMISSIONER MURRAY: Why not?

15 MR. DANDINO: I think I have 'til the end
16 of today to file the written comments.

17 COMMISSIONER MURRAY: Are you planning to?

18 MR. DANDINO: Yes, I am.

19 COMMISSIONER MURRAY: Do you think that the
20 rule as written is clear how it will -- how it would be
21 implemented?

22 MR. DANDINO: Yes.

23 COMMISSIONER MURRAY: Okay. That's all.

24 Thank you.

25 JUDGE DIPPELL: Commissioner Appling, did

1 you have a question?

2 COMMISSIONER APPLING: Good morning, sir.

3 MR. DANDINO: Good morning, Commissioner.

4 How are you?

5 COMMISSIONER APPLING: Did you have a good
6 weekend?

7 MR. DANDINO: Of course.

8 COMMISSIONER APPLING: Look here, maybe you
9 can answer this question and maybe not, but who defines
10 the local calling scopes in the beginning? Say take Jeff
11 City for an example. Is it the company that defines that?
12 Who is all involved in defining the initial local calling
13 scope?

14 MR. DANDINO: I think traditionally it's
15 been the company.

16 COMMISSIONER APPLING: It's been the
17 company. I was looking over this weekend when I was
18 looking at trying to define who does that in the beginning
19 and what's causing that. This may not be the right time,
20 but sooner or later I will get back and ask you a question
21 on Section 3 of the proposed rule.

22 So would you take a look at that? Not
23 right now, but later on, sometime today, we'll talk about
24 Section 3. Because when I read the rule, I just -- I kind
25 of see that as being an area that is going to be tough to

1 work with. So I'll get back to you sometime today on
2 that. Okay.

3 MR. DANDINO: Yes, Commissioner. Just one
4 point also. If -- I think in Section 392.200, and I want
5 to say subsection 8 -- I forgot to bring the statute with
6 me -- it does give the Commission the power to establish
7 the calling scope for the local calling scope.

8 COMMISSIONER APPLING: It does?

9 MR. DANDINO: Yes, or for making local
10 calls without toll, I believe is how the statute reads.

11 COMMISSIONER APPLING: Would you give me
12 that number again?

13 MR. DANDINO: I believe it's 3 -- it's
14 392.200, and I want to say subsection 8. But it's toward
15 the end of that section.

16 COMMISSIONER APPLING: Thank you, sir.

17 MR. DANDINO: 7. Subsection 7.

18 COMMISSIONER APPLING: Subsection 7? Okay.

19 MR. DANDINO: Mr. Poston was glad to give
20 me a citation.

21 COMMISSIONER APPLING: Thank you.

22 JUDGE DIPPELL: Mr. Dandino -- oh, I'm
23 sorry. Commissioner Murray, go ahead.

24 COMMISSIONER MURRAY: Just ask a question
25 regarding that latest statement there. 392.200,

1 subsection 7 you're citing? Okay. I see which one you're
2 citing. But can you --

3 MR. DANDINO: Yes.

4 COMMISSIONER MURRAY: Can you square that
5 with subsection 9 that says, this act shall not be
6 construed to prohibit the Commission upon determining that
7 it is in the public interest from altering local exchange
8 boundaries, provided that the incumbent local exchange
9 telecommunications company or companies serving each
10 exchange for which the boundaries are altered provide
11 notice to the Commission that the companies approve of the
12 alteration of exchange boundaries.

13 MR. DANDINO: You can maintain the same
14 exchange boundaries and change the calling scopes.
15 Essentially we have that anywhere where you have a
16 two-exchange calling scope, that's where you have two
17 separate and distinct exchanges with separate and distinct
18 boundaries but you have a different calling scope. For
19 instance, in the City of St. Louis -- in the City of
20 St. Louis and I believe the first tier, that is really
21 considered one calling scope under the MCA, but yet there
22 are many exchanges in there.

23 COMMISSIONER MURRAY: And when those
24 calling scopes were established, were they by agreement,
25 were they mandated against the companies' wills?

1 MR. DANDINO: Well, I think it was a
2 settlement where they agreed to them and the Commission
3 approved it by order.

4 COMMISSIONER MURRAY: Okay. Thank you.

5 JUDGE DIPPELL: Thank you. Mr. Dandino, I
6 just want to let you know that the official comment period
7 ended at midnight, but for written comments, it was 30
8 days after publication on April 15.

9 MR. DANDINO: Your Honor, may I point out
10 that under the statutes, that any time the period required
11 by law ends on a Saturday, Sunday or holiday, it's by law,
12 by statute extended to the next business day.

13 JUDGE DIPPELL: Well, I was going to give
14 you the opportunity to file them today as part of this
15 hearing.

16 MR. DANDINO: But I just wanted to point
17 that out. I think we're still within that time.

18 JUDGE DIPPELL: I'll have to look that one
19 up.

20 MR. DANDINO: I believe it's section 1 of
21 the statutes, under definitions.

22 COMMISSIONER MURRAY: Ms. MacDonald, did
23 you have a statement?

24 MS. MacDONALD: On behalf of SBC Missouri,
25 if Public Counsel does file written comments today, we

1 would like the record to be kept open so that we could
2 respond to any written comments that they filed in the
3 fact that we won't be able to respond to them during the
4 oral part of our presentation today.

5 MR. DANDINO: I have no objection to that.

6 JUDGE DIPPELL: All right. Well, I hate to
7 drag out the record on the hearing for too long. Would
8 SBC be able to respond quickly?

9 MS. MacDONALD: Oh, absolutely.

10 JUDGE DIPPELL: All right. I will hold the
11 record open on the hearing until Public Counsel's comments
12 are received today and SBC or other parties have an
13 opportunity to respond by, I'd say the latest on Friday.

14 All right, Mr. Dandino, did you have
15 anything further?

16 MR. DANDINO: Nothing further.

17 JUDGE DIPPELL: Thank you very much.

18 Staff had some comments in support?

19 (Witness sworn.)

20 JUDGE DIPPELL: Thank you.

21 MR. VAN ESCHEN: For the record, my name is
22 John Van Eschen and I'm on the Missouri Public Service
23 Commission Staff as manager of the telecommunications
24 department. I also chaired the calling scope task force
25 which filed a report to the Commission in Case

1 No. TW-2004-0471 on September 29th, 2004. The proposed
2 rule attempts to incorporate the recommendations contained
3 in that task force report.

4 Specifically the task force recommends the
5 Commission establish a process for a means to consider and
6 address the demand for new toll-free expanded calling
7 plans within certain communities of interest, as well as
8 changes to existing calling plans. The Commission Staff
9 supports the proposed rule to the extent the Commission
10 agrees with the task force's conclusion that there is a
11 demand for new toll-free expanded calling plans and there
12 is a demand for changes to certain existing calling plans.

13 Admittedly, the task force failed to
14 address many of the questions and issues originally posed
15 by the Commission. The issues presented by the Commission
16 are very complex, and they are issues the Commission has
17 struggled with for years. In my opinion, the task force
18 made a good faith effort to try and address such issues.

19 The task force met on five separate
20 occasions and the task force subcommittee met on two
21 additional occasions. Although we had a limited amount of
22 time to meet, I doubt that this task force or any task
23 force could address all the calling scope issues
24 originally presented by the Commission if given an
25 unlimited amount of time.

1 In the end, 11 of the task force's 15
2 members voted in favor of the recommendations contained in
3 the task force report. Only two task force members voted
4 against the report, while two other members were absent.
5 The Commission Staff filed prefiled comments regarding the
6 proposed rulemaking. I do not intend to repeat those
7 comments. However, in general, Staff's comments attempt
8 to explain our understanding of the proposed process for
9 entertaining the extended calling scope requests.

10 In addition, portions of the proposed rule
11 deviate from the task force recommendation. We have tried
12 to identify and explain such deviations. Comments filed
13 by other parties in response to the proposed rulemaking
14 are somewhat critical of the proposed rule. However, I
15 believe some of these criticisms highlight some of the
16 questions the task force failed to address. The proposed
17 rulemaking is not perfect; however, it does present a
18 reasonable process for entertaining extended calling
19 requests.

20 If you have any questions, I'll try and
21 answer them.

22 JUDGE DIPPELL: Thank you. Commissioner
23 Murray, did you have any questions for Mr. Van Eschen?

24 COMMISSIONER MURRAY: Just a couple.
25 Mr. Van Eschen, I know you've come to many of these

1 meetings and have spent a long time on this issue. You
2 indicated that Staff is supportive of this rule if the
3 Commission determines that there's a demand. What measure
4 would you suggest that we use in determining whether there
5 is a demand for this kind of rulemaking at this time?

6 MR. VAN ESCHEN: I think one of the tools
7 that would really be helpful to measure demand would be
8 some sort of survey, which the task force did consider,
9 and the survey's purpose was to try to judge the demand
10 for people's requests for expanded calling plans, for new
11 expanded calling plans or changes to existing calling
12 plans. I think the survey would also try and gauge
13 people's knowledge about alternative plans, services that
14 are available, and unfortunately, we did not do that.

15 COMMISSIONER MURRAY: How would we survey
16 and get responses if we don't know the costs involved?

17 And let me clarify that a little. If you
18 send out a survey asking anybody anywhere would you like
19 to have a larger area in which you could call toll free,
20 I'm sure that almost everybody would say yes. But then if
21 they realize the reality of the situation, that there are
22 many other things involved, including higher costs for
23 those expanded calling scopes, their answers might well be
24 different.

25 And how would you provide any kind of a

1 survey that would get around that?

2 MR. VAN ESCHEN: What we were looking at
3 for the task force was to have an outside firm,
4 specifically we were looking at the University of
5 Missouri, to help with the survey, have it be a random
6 sample survey, and have it be sufficient so that some
7 conclusion could be drawn at least from a statistical
8 basis for any conclusions. There were costs associated
9 with the survey, and ultimately the task force decided
10 that wasn't what we ought to be doing.

11 COMMISSIONER MURRAY: I still don't see how
12 your answer, even if it were a random survey, though,
13 would help people determine whether the costs would -- or
14 the benefits would outweigh the costs for them of
15 receiving an expanded calling plan.

16 MR. VAN ESCHEN: I'd have to really look at
17 some of the questions that we were looking at, but I think
18 we were trying to also gauge the willingness of people to
19 pay for certain calling plans, get sort of some idea as to
20 the extent of their desire for expanded calling. Would
21 they be willing to -- say, for example, be willing to pay
22 an additional amount \$5, \$10, whatever that might be, in
23 order to have a wider calling plan?

24 COMMISSIONER MURRAY: And you've been
25 working in the telecommunications area for how many years

1 now?

2 MR. VAN ESCHEN: About 20.

3 COMMISSIONER MURRAY: Do you think it's
4 accurate to state that within the past three or four years
5 that people's choices have expanded greatly, and that
6 there are many competitive alternatives today that were
7 not available, say, ten years ago?

8 MR. VAN ESCHEN: I think there are some
9 alternatives that have developed that people have started
10 to use. Wireless service, for one, I think people have
11 started to use wireless service for some of their expanded
12 calling needs. I know that some people have found certain
13 prepaid calling cards to be beneficial.

14 Some of the plans that the companies have
15 offered on their own are plans that I think some consumers
16 might find very attractive. These are plans where
17 customers could pay so much a month and have unlimited
18 calling throughout the country.

19 COMMISSIONER MURRAY: Do you expect the
20 competitive alternatives to increase as time goes forward?

21 MR. VAN ESCHEN: I would hope so.

22 COMMISSIONER MURRAY: In looking at the
23 rule the way it is drafted, assuming that the Commission
24 gets over that, what I think is a tremendous hurdle and
25 determines that there is adequate demand and a legitimate

1 need to go forward in this manner, and as I say, I think
2 that's a huge hurdle, but assuming that hurdle is gotten
3 over, the implementation of this rule from your experience
4 working with telecommunications and previous rulemakings
5 and going through cases where rules are being applied and
6 that sort of thing, do you think this rule would be easily
7 implemented?

8 MR. VAN ESCHEN: I think it provides a
9 framework for the Commission to establish a process. I
10 think that there are certain aspects of the rule that --
11 they've been pointed out by some of the comments that have
12 already been filed that the rule lacks clarity on how
13 something might be done. For example, verification of the
14 15 percent threshold for petitions, the rule is silent on
15 how that might be verified, or even if it would be
16 verified.

17 Details like that, whether they're
18 appropriate in this sort of rulemaking or not I don't
19 know, but that subprocess will need to be discussed and
20 evaluated by the Commission.

21 COMMISSIONER MURRAY: And even if we were
22 to be able to verify an accurate percentage, do you really
23 think it's fair if only 15 percent of the people within a
24 calling scope desire a change, that the whole -- all of
25 the other 85 percent have to go through whatever changes

1 would be enforced?

2 MR. VAN ESCHEN: Well, I think 15 percent
3 is still a significant number, and if that many
4 subscribers do express an interest in expanded calling, I
5 think that that's noteworthy. I think from the task force
6 perspective, they wanted to set a reasonable number, a
7 number that was not insurmountable, and I don't -- I can't
8 say that there's a magic number to 15 percent, other than
9 the subcommittee came up with a recommendation for
10 15 percent. We discussed it as a task force, and
11 ultimately that was the number that was recommended by the
12 task force.

13 COMMISSIONER MURRAY: I think that's all I
14 have right now. Thank you.

15 JUDGE DIPPELL: Thank you. Commissioner
16 Appling, did you have questions for Mr. Van Eschen?

17 COMMISSIONER APPLING: Thanks, Judge. Good
18 morning, John.

19 MR. VAN ESCHEN: Good morning.

20 COMMISSIONER APPLING: The same question
21 that I asked Mr. Dandino, is the company that established
22 the initial calling scope, do the company themselves
23 establish that for local calls or do you --

24 MR. VAN ESCHEN: It depends on, I think,
25 the calling plan that you're talking about. For example,

1 the metropolitan calling area plan is a plan that the
2 Commission played a very instrumental, if not leading,
3 role in establishing. And so from that standpoint, I
4 think it was an effort on both the company's and the
5 Commission's effort in order to come up with a present
6 version of the MCA plan.

7 I think what Mr. Dandino talked about
8 earlier was primarily focusing on extended area service
9 arrangements, and currently I think we have about over 300
10 of those routes in Missouri where customers typically pay
11 an additional amount per month or maybe no additional
12 charge and have unlimited calling to another exchange.
13 Those I think were implemented a long time ago, 40, 50
14 years, if not longer, and it's a little bit unclear as to,
15 you know, what brought them about.

16 I'd say that the companies certainly were
17 an instrumental part in the formation of those original
18 EAS routes, and I think there was an economic incentive at
19 that time for them to establish those EAS routes. The
20 Commission did have a rulemaking for a number of years
21 where people could petition for extended area service.
22 That really did not prove to be a successful effort in
23 that very few, if any, new EAS routes were actually
24 implemented under that EAS rule.

25 COMMISSIONER APPLING: Second question. Do

1 the Staff support this rule?

2 MR. VAN ESCHEN: We're on record as
3 supporting it. I do think that the Commission needs to
4 consider really the basic conclusion that the task force
5 made, that there is a demand for new expanded calling
6 plans and that there is a demand for changes to existing
7 calling plans. I think the evidence that the task force
8 relied on in making those conclusions, in my opinion, I
9 wish it were stronger.

10 We did try and evaluate all the expanded
11 calling plans that were available on an exchange-specific
12 basis. However, to try and gauge consumers' input through
13 surveys or public hearings, the task force did not do
14 that. So I think that the Commission will need to
15 seriously consider that basic conclusion of the task
16 force.

17 COMMISSIONER APPLING: Third question. In
18 your knowledge, your research and your years of working in
19 this, what authority does this Commission have in
20 executing what we're talking about here this morning?
21 Does this Commission have the authority to do that or not?

22 MR. VAN ESCHEN: That's an issue that the
23 Commission originally presented to the task force, and I
24 have to admit the task force failed to address that
25 particular issue. I think the parties are divided on

1 whether the Commission does have the authority to
2 establish this sort of process. I think that -- well,
3 really the task force indicates at least on page 2 of the
4 task force reports that legislative action may be
5 necessary to address the needs that were expressed in the
6 task force report. I'm not an attorney, so I'm not the
7 best person to perhaps address that question.

8 COMMISSIONER APPLING: Last question. In
9 your discussion, what was said about cost? Take, for
10 example, if we took Rockaway Beach for an example and gave
11 them the calling scope, opened up the calling scope for
12 what they wanted. Was there any discussion on what the
13 cost would be in order to do that and who would pay for
14 that?

15 MR. VAN ESCHEN: Short answer is no. There
16 was not any discussion about cost. And certainly that is
17 a significant issue that would need to be addressed for
18 any expanded calling plan that would be under
19 consideration by the Commission.

20 COMMISSIONER APPLING: Thank you. Thanks,
21 Judge.

22 JUDGE DIPPELL: Mr. Van Eschen, I have just
23 a couple of questions on the comment -- the written
24 comments that were filed.

25 In Section 5, there's some talk about who

1 would get notice, and the IXC's were provided for in -- to
2 get electronic notice?

3 MR. VAN ESCHEN: Yes.

4 JUDGE DIPPELL: And did the task force
5 envision the interexchange telecommunications carriers,
6 the IXC's getting notice of this, of these petitions?

7 MR. VAN ESCHEN: I don't believe the task
8 force report specifically addressed that detail. I think
9 there was a -- there is a recognition that notice would
10 be -- need to go out to certain parties. However, the
11 extent of that notice I think is being debated by some of
12 the parties in this current rulemaking.

13 JUDGE DIPPELL: And Staff mentions that the
14 electronic filing and information system may not be an
15 adequate way to notify those IXC's.

16 MR. VAN ESCHEN: I think that when you have
17 maybe 600 IXC's certificated in the state of Missouri and
18 we're talking about sending written notice to, say, 600
19 IXC's, that can be fairly voluminous and burdensome not
20 only on this Commission but also the parties that might
21 receive it and have no interest in the proceeding. I
22 think that the rulemaking attempts to try and look at a
23 reasonable, streamlined process that would to the extent
24 possible be efficient for all parties concerned.

25 JUDGE DIPPELL: So is Staff then

1 recommending that the rule stay as it is with the
2 electronic notice?

3 MR. VAN ESCHEN: Yes. I think that all we
4 were pointing out is that some IXCs, their e-mail address
5 information and information contained in EFIS might be not
6 up to date. They may not actually receive the electronic
7 notification through EFIS.

8 JUDGE DIPPELL: And the rule as proposed in
9 Section 6 states that affected incumbent local exchange
10 carriers will automatically be a party to the case without
11 having to request intervention. How does the Commission
12 determine -- does the Commission have a way, does the
13 Commission Staff have a way to determine who the affected
14 ILECs are?

15 MR. VAN ESCHEN: Yes. That would be fairly
16 easy through maps and tariffs of the companies.

17 JUDGE DIPPELL: Okay. is there any way to
18 determine who the other affected carriers are, if they're
19 IXCs or CLECs or --

20 MR. VAN ESCHEN: I'd have to think about
21 that. I don't know if we could develop a list. I think
22 what you're asking on an exchange-specific basis, what
23 local exchange carriers operate within that exchange or
24 area, regardless of whether they're incumbent or local
25 exchange carriers. I don't know if we have that list

1 readily available.

2 JUDGE DIPPELL: At what point in the
3 process -- Section 13 contemplates that there might be --
4 public hearings might be available. At what point in the
5 process does Staff recommend that public hearings should
6 be held?

7 MR. VAN ESCHEN: I think public hearings
8 would only be beneficial once illustrative tariffs have
9 been filed, so that the Commission and all parties can
10 evaluate the true impact of the proposal that's being
11 considered. These illustrative tariffs would not only
12 attempt to identify or implement the proposal, but also
13 any other rate adjustments that the company feels is
14 necessary in order to accommodate the request.

15 JUDGE DIPPELL: And the task force report
16 itself hasn't been actually put in this official file, has
17 it?

18 MR. VAN ESCHEN: I do not believe so.

19 JUDGE DIPPELL: Would there be any reason
20 why that couldn't be filed?

21 MR. VAN ESCHEN: Sure. We could do that.

22 JUDGE DIPPELL: Okay. I'm going to mark
23 that as Exhibit 1 from this hearing today, and just ask
24 Staff if they could file that in the record. Just we've
25 referred to it several times, and I think it would be

1 helpful to have that.

2 I didn't have any other questions.

3 Commissioner Murray, you had another question?

4 COMMISSIONER MURRAY: Mr. Van Eschen,
5 without the Commission having good evidence before it that
6 there is a need for a process to entertain requests for
7 expanded local calling areas. Is it really in the public
8 interest to go forward and establish a plan?

9 MR. VAN ESCHEN: It would probably be
10 helpful for the Commission if they had greater evidence
11 before they would proceed, as well as an attempt to
12 determine the Commission's legal authority to do this. I
13 think those are basic questions that we talked about as a
14 task force on how to address, but we were unable to
15 resolve them.

16 I think the task force observed many of the
17 filings that Mr. Dandino had referenced earlier, and to a
18 certain degree some of the legislators on the task force
19 were conveying thoughts from some of their constituents as
20 to the demand for new expanded calling plans and changes
21 to existing calling plans.

22 To the extent that the Commission's
23 comfortable with evidence such as that, you know, the
24 Commission should seriously consider the rulemaking.

25 COMMISSIONER MURRAY: And in order to get

1 that better evidence before going forward with the
2 rulemaking that may not at all be necessary and could end
3 up being costly, how would you suggest -- you mentioned a
4 survey. Do you have any more specific suggestions as to
5 how to go about determining whether there is an actual
6 need?

7 MR. VAN ESCHEN: The survey is something
8 that I know my staff spent a lot of time on and tried to
9 come up with a survey that we thought might be beneficial
10 for all the parties. And I still believe that a survey
11 does have merit. I guess I question the merit of, say, a
12 public hearing, where you would simply go into a community
13 and ask people, would you like to have new expanded
14 calling plans?

15 I think if you have those sort of public
16 hearings, you're going to have people that show up and
17 say, yes, I want new expanded call plans, whether that's a
18 reliable source for making some significant decisions of
19 the Commission, my preference is to do a survey, but I
20 think that is really the only way that you could really
21 get some sort of gauge as to how the general public, as an
22 entire group, actually feels about the issue.

23 COMMISSIONER MURRAY: And this would be a
24 type of a random survey, did you say?

25 MR. VAN ESCHEN: Yes, a random sample.

1 COMMISSIONER MURRAY: And how would the
2 cost of the survey be covered?

3 MR. VAN ESCHEN: I would suspect that the
4 cost associated with the survey would come out of the
5 Commission's budget.

6 COMMISSIONER MURRAY: And would the
7 rulemaking itself be pulled for the time being, then, in
8 order to make that determination? It's sort of like going
9 back to square one and saying in order to find a necessity
10 for this rule, we need to have something that shows us
11 there's a necessity, right, but would it involve pulling
12 the rule? Would it involve -- do you know?

13 MR. VAN ESCHEN: Let me just say this: I
14 think if the survey were done, I certainly think it would
15 provide some insight and evidence as to the extent that
16 people want new expanded calling plans, and it would
17 certainly provide evidence as to whether the Commission
18 really wants to go forward with the rulemaking or not.

19 COMMISSIONER MURRAY: And it could also
20 provide some evidence regarding customers' knowledge of
21 competitive services and their use of them, could it not?

22 MR. VAN ESCHEN: Yes.

23 COMMISSIONER MURRAY: Do you think that --
24 do you think that would be a valuable exercise for us to
25 go through?

1 MR. VAN ESCHEN: I do. You know, I see in
2 some of these other proceedings where it's being brought
3 up as to whether the petitioners, since they filed the
4 petition several years ago, do they still want what's
5 being -- what was submitted in a petition. And so there's
6 that basic question. But there's also some other
7 questions as to, are you aware of certain things, certain
8 plans that might be a better plan than what you are
9 currently seeking, are you aware of those alternatives?

10 COMMISSIONER MURRAY: So the survey could
11 serve as an educational tool as well; is that your
12 understanding?

13 MR. VAN ESCHEN: Potentially, yes.

14 COMMISSIONER MURRAY: Thank you.

15 JUDGE DIPPELL: Thank you, Mr. Van Eschen.
16 Were there any other comments in support of the rule?

17 (No response.)

18 JUDGE DIPPELL: Seeing none, I will ask for
19 comment in opposition to the rule. Mr. Unruh?

20 (Witness sworn.)

21 JUDGE DIPPELL: Can you state your name and
22 spell it for the court reporter.

23 MR. UNRUH: My name is Craig Unruh,
24 C-r-a-i-g, U-n-r-u-h. Good morning, Commissioners, your
25 Honor. As I mentioned, I'm Craig Unruh. I'm here

1 representing Southwestern Bell Telephone, LP, doing
2 business as SBC Missouri. Thank you in advance for your
3 consideration of our comments.

4 We as consumers always want more for less,
5 generally more stuff for less money, and this certainly
6 holds true for our communications services. We want more
7 communications service and we'd rather pay less for them.
8 And this Commission is in perhaps the unenviable position
9 of being a convenient entity to complain to about
10 Consumers' wants for more service at less money.

11 And that's what brings us here today. Some
12 consumers have complained about what they have or don't
13 have, and this Commission may feel some pressure to try to
14 do something about that to address the concerns of a few
15 customers.

16 But I urge you to use caution as you
17 proceed, because you can't ignore parties' legal rights,
18 and you shouldn't be eager to try and tinker with natural
19 market outcomes. Today's communications marketplace is
20 rapidly evolving. Traditional differences between
21 companies are disappearing as traditional incumbent
22 landline companies, newer competitive landline companies,
23 cable companies providing more service using the language
24 of the internet, wireless companies and pure play voice
25 over IP providers are all competing to provide services to

1 consumers.

2 The lines between traditional local and
3 long distance calling are blurring as companies offer
4 services like unlimited calling plans that allow you to
5 call your next-door neighbor or grandmother across the
6 country for one fixed monthly price. For example, SBC
7 offers plans, several plans that offer different types of
8 unlimited calling. They have a package that bundles
9 together local service and a large number of vertical
10 services and unlimited long distance calling for 48.95.

11 We also have just a stand-alone unlimited
12 long distance plan for as low as \$30. You can even get
13 unlimited long distance calling for as low as \$15 when you
14 combine it with a couple of vertical services. These are
15 services that were not available more than just a few
16 years ago.

17 As Mr. Dandino mentioned, I believe he said
18 120 people complained about the elimination of local plus
19 in Franklin County. Well, we eliminated local plus, I
20 believe, almost four years ago and the market has changed
21 significantly since then. These plans that I just
22 mentioned weren't available when we eliminated local plus.

23 In fact, when we replaced local plus, we
24 immediately rolled out another plan that took care of the
25 needs of well over 80 percent of the customers who were

1 using local plus, at a price lower than what they were
2 paying for local plus. Obviously now as the marketplace
3 has continued to evolve, we have even better plans that
4 are better than what local plus was some four years ago.

5 Customers also routinely use their wireless
6 phones to make what can be considered a long distance call
7 from a traditional long distance company. So we should be
8 careful about trying to meddle in such an environment,
9 because it will distort the marketplace and potentially
10 favor one company over another.

11 I also mentioned that the Commission
12 cannot ignore parties' legal rights. As you know, I'm not
13 an attorney, but let me sound like one for a moment. SBC
14 Missouri's written comments spell out four arguments for
15 why we believe this rule is unlawful. Let me briefly
16 summarize them here, but you can review the arguments more
17 thoroughly in our written comments.

18 First, the proposed rule violates
19 companies' due process rights because it does not
20 guarantee a hearing before affecting the company's
21 property rights. Second, the proposed rule violates
22 Section 392.200.9 to the extent it effectively mandates a
23 change to an ex change boundary without consent of the
24 company. Third, the proposed rule violates 392.245.11,
25 which indicates that price cap companies propose their own

1 services at their own prices. Fourth, the proposed rule
2 is inconsistent with Missouri's case law, which holds that
3 the Commission's authority does not extend to dictate how
4 a company conducts its own business.

5 As you can see, the Commission's authority
6 over these matters is a key consideration. There are
7 several pending cases involving calling scope issues where
8 questions about the Commission's authority have been
9 raised. For example, in the generic MCA case, which is
10 TO-2001-391, questions regarding the Commission's
11 authority has been pending for over four years.

12 If the Commission resolves the issues
13 surrounding its authority and nonetheless decides to
14 proceed with formalizing a process to review calling scope
15 applications, our written comments offer specific changes
16 that we believe will improve the rule, improve the
17 contemplated process and lead to a more balanced and fair
18 consideration of the issues. I'll highlight some of our
19 comments -- our written comments to provide our full list
20 of suggestions.

21 The proposed rule requires that only
22 15 percent of the subscribers in an exchange can petition
23 the Commission for a calling scope change or plan.
24 Clearly such a low percentage does not reflect the
25 majority of customers. Since changes to the calling

1 scopes or calling plans available in the area can impact
2 all customers in the exchange, we recommend that
3 30 percent of the residential subscribers be the threshold
4 for bringing a petition before the Commission. This will
5 help ensure that a reasonable subset of people in the
6 community support what is being contemplated.

7 I will also point out, as Mr. Van Eschen
8 mentioned, there are a lot of details I think left
9 unanswered in this rule, and this is an area that
10 highlights one of those. It's not clear in the rule just
11 how the 15 percent, or the 30 percent as we would
12 recommend, would actually be checked and verified and what
13 exactly it would apply to. So we would urge the
14 Commission to give that more consideration.

15 We recommend the proposed rule be modified
16 to eliminate the provision permitting governing bodies and
17 school boards to bring an application before the
18 Commission. These entities may not adequately represent
19 the interests of the people living in that exchange.
20 Frequently school district boundaries and city/county
21 boundaries do not align with telephone company exchanges,
22 so you could have a couple of members of a school
23 district, for example, filing an application that would
24 impact customers not residing in that school district.

25 Since MCA service is a unique, complicated

1 and significant calling plan in Missouri, we urge extra
2 caution and believe it's prudent before considering
3 changes to MCA service.

4 We recommend that an application to make
5 an area have mandatory MCA service be supported by at
6 least 30 percent of the residential subscribers that don't
7 currently subscribe to MCA service. Those customers who
8 have MCA service and don't want to pay for it should not
9 be permitted to file an application that would result in
10 an increase in prices for those who don't have MCA service
11 without a more full support from the community at large.
12 SBC Missouri's written comments provide recommended
13 wording for this change.

14 Applications that contemplate a geographic
15 expansion of MCA service to include new exchanges, the
16 applicant should be required to show that customers
17 understand they will have to change their telephone number
18 in order to take MCA service.

19 As you may know, the way MCA works is you
20 have to have dedicated telephone numbers. If you don't
21 have MCA service today and you want it tomorrow, you will
22 have to change your telephone number. Typically I believe
23 we find that most consumers in outlying areas do not
24 understand that fact. Again, SBC Missouri's written
25 comments provide specific wording on recommendations for

1 that change.

2 Given the changing environment, including
3 converging market segments, changing calling habits,
4 evolving competitive choices, and continually changing
5 evolving calling plans, we recommend that the applicant
6 demonstrate that they have actually investigated their
7 competitive choices and explain why those options do not
8 meet their needs as a threshold requirement before asking
9 the Commission to consider market influencing actions and
10 before the Commission and companies expend considerable
11 time and resources on a case. SBC Missouri proposes
12 adding new provision to require this, what I'll call
13 options review in Section 3G of the proposed rule.

14 In a couple of sections, the proposed rule
15 contemplates the Commission limiting its actions to
16 certain regulated carriers, but not all impact the
17 regulated carriers. The proposed rule suggests that only
18 ILECs, for example, be automatically made parties to a
19 case created by an application under this rule. While it
20 is understandable the Commission may not be able to make
21 all competitors party to the case, such as wireless
22 providers and voice over IP providers, because they may
23 not be regulated by this Commission, it is unreasonable in
24 today's competitive marketplace to single out certain
25 companies, like ILECs, for possible action harmful to

1 these selected companies.

2 As a matter of good public policy, this
3 Commission should not isolate certain carriers from action
4 that could impact all carriers. Moreover, mandating a
5 change on one company could hurt that company relative to
6 its competitors. For example, let's say going through the
7 process a community identifies 15 percent of the
8 participants in that community and they sign a petition
9 and bring a case before the Commission. Now,
10 hypothetically the other 85 percent of the customers in
11 that exchange may actually oppose that calling plan, and
12 if this Commission were to proceed with that case and
13 force the ILEC, for example, that serves that exchange to
14 offer that mandatory plan to those customers in that
15 exchange, the ILEC may make 15 percent of the customers
16 happy, but now they've made 85 percent of the customers
17 unhappy, and those customers are likely to seek other
18 choices. So we, again, should be careful about tinkering
19 in a competitive marketplace.

20 The proposed rule makes a couple of
21 references to illustrative tariffs. The rule contemplates
22 that companies will provide illustrative tariffs once the
23 applicant recommends what I'll deem a final proposal. The
24 rule could be interpreted to require the companies to
25 simply provide an illustrative tariff that does nothing

1 more than restate the terms of the applicant's proposal.
2 If that is the intent in this provision, it's meaningless
3 and would be a waste of time.

4 I believe the intent of the rule is that
5 the companies are to file illustrative tariffs that show
6 what they would propose to offer in the event they were
7 forced to provide something that addresses the applicant's
8 concerns. The company's proposal could differ from the
9 specifics proposed by the applicant. The rule should be
10 clarified along these lines, and SBC Missouri's written
11 comments provide some specific recommendations.

12 We also recommend that a new provision be
13 added to the rule whereby the Commission would be required
14 to make a finding that the case should proceed before the
15 companies would be required to file illustrative tariffs.
16 An Order indicating such would be based on a finding that
17 the criteria required of the applicant was met, including
18 a finding that sufficient evidence existed and that there
19 are no competitive alternatives available to meet the
20 customers' calling needs.

21 Parties shouldn't be required to disclose
22 up front what they might intend to offer in the
23 marketplace for at least a couple of reasons. One might
24 be competitive implications. Competitors would love to
25 know what other competitors are thinking about offering in

1 the marketplace, and if we were to proceed with a case
2 that really had no merit, certain companies might be
3 disclosing information they would otherwise not want to
4 disclose.

5 We should also be concerned about giving
6 customers in those exchanges false hopes. If the case
7 really has no merit, but yet the Commission hasn't decided
8 that yet and we present all this information to the
9 community, then there may be false hope that that is
10 indeed what is going to occur, but in the end the
11 Commission may decide that it really shouldn't be meddling
12 with the marketplace and should allow the competitive
13 market forces to work.

14 Staff's written comments suggest that this
15 step requires the Commission to find that the applicant's
16 plan is acceptable, which Staff argues can't be
17 accomplished until after all the evidence is presented.
18 Our proposal, however, only asks the Commission to verify
19 that the requirements of the application have been met and
20 that there is sufficient evidence to proceed with a case,
21 something I think of akin to a grand jury process, not
22 necessarily enough evidence to present to convict in a
23 grand jury, but there's enough evidence presented in the
24 form of the case. I think the same thing should be
25 applied here.

1 The Commission would make some threshold
2 findings as to whether or not the application actually had
3 merit and should be pursued. At that point in time the
4 Commission and the parties would then expend more
5 resources to address the issue.

6 The proposed rule indicates that public
7 hearings are optional. Given the impact that a
8 government-imposed calling plan could have on consumers in
9 the community, we believe that public hearings should be
10 mandatory. The Commission should give those consumers who
11 may be opposed to what members of their communities are
12 trying to impose on them the opportunity to be heard.

13 The proposed rule also indicates that an
14 evidentiary hearing regarding a calling scope application
15 is optional. SBC Missouri believes this is unlawful as
16 SBC Missouri should have the right to a hearing in order
17 to meet its due process rights. Our legal arguments are
18 spelled out more in our -- in more detail in our written
19 comments.

20 The proposed rule identifies several items
21 for the Commission's consideration as it contemplates a
22 calling scope application, including such things as
23 competitive implications, revenue impacts and societal
24 cost. However, the rule misses an important consideration
25 and one that should be clearly spelled out.

1 The rule should include the fact that the
2 Commission must consider competitive options that are
3 available in the marketplace before it considers mandating
4 a particular plan on selected competitors. Our written
5 comments provide recommended wording to this effect.

6 SBC Missouri recommends that subpart 16 be
7 eliminated in its entirety because it contemplates
8 potentially unlawful action by the Commission. Subpart 16
9 indicates that the Commission can modify rates, terms and
10 conditions of a plan. Our written comments provide
11 several arguments on why such action could be unlawful,
12 including the general legal arguments I summarized
13 earlier.

14 In an earlier draft of this rule, there was
15 a provision that required applications to be filed by a
16 licensed Missouri attorney and that the application must
17 comply with the Commission's general filing requirements.
18 SBC Missouri recommends that this provision be added to
19 the rule. I believe this is also consistent with Staff's
20 view that the applicant must be represented by an attorney
21 because of concerns over OPC's role, given the potential
22 for conflict of interest between an applicant and the
23 public at large.

24 I also wish to highlight that the fiscal
25 note is inaccurate in that it states that private

1 companies would not incur costs of greater than \$500.
2 Clearly, SBC Missouri will expend more than \$500 if we are
3 required to go through the process contemplated by that
4 rule because we will expend considerable time and expense
5 doing things such as quantifying potential financial
6 impacts, spending time evaluating issues and developing
7 potential options, and potentially modifying operations
8 and billing systems.

9 There's been some questions about the EAS
10 rules and kind of how calling scopes were created
11 historically. But one thing, I think an overriding issue
12 that needs to be considered as we think about what's
13 happened historically is that the previous EAS rule and
14 previous efforts to, I guess, design or deal with calling
15 scope issues through cases before the Commission is that
16 it largely predated competition. A lot of things have
17 occurred since the EAS rules were in place and those types
18 of plans were created. Obviously we now have competition,
19 both from traditional landline companies that didn't exist
20 previously, but also from alternative technologies like
21 wireless and now voice over IP and cable companies
22 providing voice over IP.

23 Thank you for your time. We understand
24 this can be a difficult topic, and we appreciate your
25 consideration of our positions and recommendations.

1 JUDGE DIPPELL: Thank you. Commissioner
2 Murray, did you have questions?

3 COMMISSIONER MURRAY: Yes, thank you.
4 Mr. Unruh, regarding the customers within an exchange who
5 might be opposed to a proposed plan, it appears to me that
6 it would be reasonable for all of those customers to
7 receive written notice at the time a petition was filed.
8 Therefore, they would have adequate notice, they would
9 have an opportunity to attend a hearing, to object on
10 whatever way that they would find appropriate. Would you
11 agree with that?

12 MR. UNRUH: Yeah, I think that could be
13 appropriate. What we need to be careful about is kind of
14 the minority governing the silent majority. Typically you
15 can find at least a few people that would get energized
16 over this issue, and the majority who may be opposed to
17 what's going on simply don't know about it and would
18 otherwise oppose the plan if they knew about it.

19 COMMISSIONER MURRAY: And vocal minorities
20 can sometimes get legislators to speak for them.

21 MR. UNRUH: Yes.

22 COMMISSIONER MURRAY: And then they have a
23 real loud voice. But if we were to make notice to all
24 customers within the exchange a requirement, that would
25 be -- I know that would involve some cost, and I suppose

1 we could place that cost on either the applicants or the
2 Commission. Do you have any idea how we would -- how the
3 cost of that notice would be covered?

4 MR. UNRUH: I haven't given that any
5 thought, but I think you're probably right. Either one of
6 those entities could probably be responsible for
7 recovering that cost.

8 COMMISSIONER MURRAY: And what do you think
9 of the suggestions that Mr. Van Eschen made in terms of
10 determining, first of all, whether the premise that -- the
11 ground premise that we're going on here in establishing
12 this rule is even valid? I mean, do you agree that that's
13 an important threshold to cross before we determine that
14 we should go forward with this rule?

15 MR. UNRUH: Yeah, I do. I might actually
16 characterize it even a little differently than that in
17 terms of a threshold. I think there's clearly legality
18 issues associated with this rule and what it contemplates
19 doing. I think just as a threshold matter that those
20 legal issues ought to be resolved before moving forward
21 with something like this.

22 Then I would suggest that, even if the
23 Commission believes it has the authority to otherwise
24 mandate calling plans on selected carriers, I think then a
25 public policy threshold ought to be met in that the

1 Commission really needs to think about whether or not
2 that's the business it wants to be in, because by design
3 it will meddle with the marketplace, it will affect the
4 marketplace, it will change the marketplace, and it's not
5 always possible to understand how changes that would be
6 mandated on certain customers or certain carriers and not
7 other carriers would ultimately impact the marketplace.

8 So I think in today's competitive
9 marketplace, the Commission really needs to think long and
10 hard before taking steps to what I'll call meddle in the
11 outcome of what's occurring.

12 COMMISSIONER MURRAY: And certainly
13 anything that we do that mandates a particular service or
14 a particular rate or a calling scope, anything like that
15 would affect the marketplace, would it not?

16 MR. UNRUH: Yes, definitely.

17 COMMISSIONER MURRAY: And it would also
18 tend to either advantage or disadvantage players,
19 depending upon where they fit in that market, would it
20 not?

21 MR. UNRUH: That's definitely correct.

22 COMMISSIONER MURRAY: And do you hear --
23 does SBC hear from customers that you're not offering
24 plans that meet their calling scope needs?

25 MR. UNRUH: I suppose we receive people

1 complaining here and there, but I'm not aware of any real
2 ground swell of issues along those lines. I think
3 customers are finding the plans that we're offering in the
4 marketplace highly attractive, given the rate at which
5 they're signing up for things like the unlimited long
6 distance plan that I mentioned earlier.

7 SBC long distance is one of those. Again,
8 for 48.95 you are get your local line, all kinds of
9 vertical services and unlimited long distance calling.
10 People are finding -- that's something that didn't exist
11 in the marketplace more than a couple years ago, and
12 people are finding that type of plan very attractive.

13 COMMISSIONER MURRAY: Do you think the
14 competitiveness of the marketplace today is providing more
15 education to customers in terms of what's available?

16 MR. UNRUH: Yes. I think it can't help but
17 do that because the ultimate goal of companies is to try
18 to win customers and get them to purchase their services.
19 So if companies are out there marketing and doing things
20 to try to raise awareness of their products and services
21 and try to get people to buy their service, I believe that
22 that will. And it's an evolving process that will
23 continue to occur over time.

24 COMMISSIONER MURRAY: In a competitive
25 market, if a company did realize that there was a ground

1 swell for a certain service, would that company then look
2 at developing that service in order to stay competitive in
3 the marketplace?

4 MR. UNRUH: It better or it risks losing
5 those customers. Clearly competitors try to find plans
6 that best meet customers' needs, and if there is
7 considerable demand for a certain type of product at a
8 certain type of price, companies will be incented to try
9 to make that happen so they win those customers.

10 COMMISSIONER MURRAY: And if we were to go
11 forward with a rule like this that mandates an expanded
12 calling scope, say we have a petition and we enter an
13 Order in one of the areas that says, this plan shall be
14 offered at whatever rate and that would -- I'm trying to
15 think through how that would affect the various carriers
16 within the marketplace. In terms of IXC's, it would take
17 business away from the IXC's; is that correct?

18 MR. UNRUH: I think it depends on the
19 particulars of the plan. But let's just say, for example,
20 that the Commission were to create a mandatory local
21 calling scope between two communities. Let's just kind of
22 try to keep it simple. Today the calling between those
23 communities is probably provided by a diverse group of
24 providers, wireless carriers, long distance companies,
25 local companies, CLECs, ILECs, and they're all competing

1 to try to provide that calling between those two
2 communities. If the --

3 COMMISSIONER MURRAY: And it's the
4 customer's choice, isn't it?

5 MR. UNRUH: And it's the customer's choice
6 as to which product best meets their needs. If the
7 Commission were then to, say, mandate on ILECs, for
8 example, the ILECs serving those two exchanges that you
9 are hereby mandated to provide this service at some
10 potentially really inexpensive price, and it's mandatory,
11 for example, then all of the customers would tend to use
12 that service to the exclusion of everybody else's service.
13 So IXCs would lose calling, wireless carriers would lose
14 calling, CLECs would lose calling, to the extent they
15 didn't also provide the service. So it definitely would
16 impact the marketplace.

17 COMMISSIONER MURRAY: All right. I think
18 that's all the questions I have for you right now. Thank
19 you.

20 JUDGE DIPPELL: Commissioner Appling, did
21 you have questions?

22 COMMISSIONER APPLING: Craig, how are you
23 doing?

24 MR. UNRUH: Good morning. I'm doing fine,
25 thank you.

1 COMMISSIONER APPLING: Let's take a look at
2 an administrative area that you mentioned. On your filing
3 on page 18 -- John, would you take a look at this, too?

4 On SBC's late filing on I think it was
5 Friday or this morning, page 16, paragraph 18, and I think
6 you mentioned this in your comments, Craig, where you said
7 that -- a licensed attorney. Craig, if you go back to
8 Staff's filing on page 3, line 3, do you answer that
9 question there? Is that enough to satisfy that, first
10 paragraph starting on line 3, in drafting the proposed
11 rule, where you change the word from petitioner to
12 applicant?

13 Does that make any sense, what I'm saying?
14 Is that correct, that answer, Larry?

15 MR. UNRUH: I think I understand what
16 you're asking me. Just to confirm, you said page 3 of
17 Staff's filing?

18 COMMISSIONER APPLING: Right. Third line.
19 You were saying that it needed to be filed by a licensed
20 attorney. I think that paragraph answers that question
21 there, if I'm reading it correctly.

22 MR. UNRUH: I believe it certainly gets --
23 it's my understanding it gets to the same intent. Now,
24 what I don't know is --

25 COMMISSIONER APPLING: We don't have to

1 spend a lot of time. I just want to mention that. So
2 maybe we'll take a look at that.

3 MR. UNRUH: I think the intent of both our
4 comments and Staff's comment is the same, in that we
5 believe these should be represented by Missouri attorneys
6 under kind of a normal application process.

7 COMMISSIONER APPLING: Second question. At
8 any time during this -- during the during the task force
9 meeting, was there ever a time that you-all done any work
10 on cost? Just take for an example, expanding the cost
11 from the county to the city in St. Louis County. Is
12 there -- did you-all ever work on the cost of
13 approximately what that would cost you?

14 MR. UNRUH: The task force did not get to
15 that level of detail. The debate kind of centered around
16 authority and the -- whether or not it's good public
17 policy and those kind of things, discussion about what
18 existed in the marketplace, and really -- and then shifted
19 focus over time to creating more of a process for the
20 Commission to follow, and it didn't really get into
21 specifics of particular plans or changes to particular
22 plans.

23 Certainly I'll adjust in terms of your one
24 example about expanding the MCA to include Franklin
25 County, for example, in the western St. Louis area, the

1 Office of Public Counsel -- where there's no cost
2 developed or whatnot, the Office of Public Counsel has
3 proposed that the existing price -- prices that exist out
4 in what we call MCA-5, which is the outer tier today,
5 would apply to this new tier that we would add to
6 incorporate Franklin County. And those prices are roughly
7 \$36 for residential customers and about \$71 for business
8 customers. Obviously, we have plans that we believe
9 better meet those needs than expanding the MCA and at
10 those higher prices.

11 COMMISSIONER APPLING: Is there areas in
12 your territory that just make sense to expand the local
13 calling? It would just be better for your customer, it
14 would be better for everybody in that area involved; is
15 there areas that exist that it would just make sense to
16 expand?

17 MR. UNRUH: We think the market's evolving
18 differently than that. The market's evolving to where
19 calling scopes become irrelevant. With wireless plans and
20 voice over IP plans and unlimited long distance plans that
21 pretty much everybody's offering now, the concept of local
22 and long distance is just -- it's blurring and may go away
23 over time to just not be relevant. So the thought of
24 expanding local calling scope is kind of contrary to where
25 the marketplace is going. Your local calling scope's the

1 country, if you will.

2 COMMISSIONER APPLING: It just keeps
3 showing up on my bill, though, long distance and --

4 MR. UNRUH: You should talk to your service
5 provider about getting a better plan.

6 COMMISSIONER APPLING: Thank you very much,
7 Craig.

8 JUDGE DIPPELL: All right. I had just a
9 couple questions for you, Mr. Unruh.

10 At what point in the process -- supposing
11 this rule goes forward, at what point in the process does
12 SBC think that public hearings should be held?

13 MR. UNRUH: I think it probably makes sense
14 to do it after the applicant will bring forward its
15 proposal, the parties will meet and they'll sort through
16 details. The applicant then gives its -- kind of
17 considers whether or not to change. I think in that time
18 frame, again, we've suggested inserting a Commission
19 threshold process, where the Commission would make an
20 initial finding as to whether or not the applicant's
21 application is actually consistent with the rule and that
22 there's sufficient evidence to move forward. I think
23 doing something before then might not make sense, because
24 there isn't necessarily a lot of details around the plan
25 or what the companies might be willing to provide.

1 The -- and so then just to finish that
2 thought is, then, perhaps it's probably better to try to
3 get some -- you get through the threshold issue, and then
4 you get some solid plans and offers that's being proposed,
5 and then perhaps you take that to the public at large and
6 say, okay, here's what's being tossed around. What do you
7 think about it? It's kind -- there's kind of a tradeoff
8 which makes it a little tricky about when to decide when
9 to do this. Is it better to do it up front and just kind
10 of gauge just general interest in it when you really don't
11 have any specifics about what it is you might offer in
12 that community? So customers don't really get a lot of
13 information, and the information you may gain from that
14 may not be that relevant, you know, if you don't have
15 prices and that sort of thing.

16 Sure, they'll say, yeah, I want whatever at
17 no cost. That's a given. But at the same time, that
18 could allow you to at least get some sense of whether or
19 not there's really some overwhelming need for this or not.
20 But I think if we're really going to try to get good input
21 from the customers, you probably need to have more of the
22 facts and figures of the case, so later in the process.

23 JUDGE DIPPELL: Okay. Does SBC have any
24 suggestions for how signatures might be verified or how
25 strict that standard needs to be?

1 MR. UNRUH: No, we didn't -- we didn't
2 offer any specific recommendations. Again, we're kind of
3 coming at it from the standpoint that none of this makes
4 sense, so we didn't give a lot of operational detail
5 issues a lot of thought, but I think it is something
6 important that the Commission really should consider. We
7 should think about things like, well, there should be more
8 than just a customer signature required. Maybe the
9 customer needs to print their name, they need to sign
10 their name. Maybe they need to write down their address,
11 make sure those customers actually live in the exchange
12 that's in question, write down their phone number, things
13 like that, that would allow the Commission to have some
14 means to verify the accuracy of those signatures.

15 JUDGE DIPPELL: And with regard to notice
16 on page 7, SBC recommended that all carriers be made a
17 party to the case or not just the local -- not just the
18 incumbents, but some of the others that are affected also
19 be automatically made a party to the case. I was just
20 wondering if SBC also had any suggestions for how the
21 Commission could determine those party -- who those
22 parties are.

23 MR. UNRUH: I think certainly casting a
24 broad net would be one way just to try to make sure you
25 capture everybody, but I would also add that the

1 Commission Staff has tried to kind of keep track of where
2 CLECs have -- for example, have proposed to offer service
3 through their certification processes and their tariffs,
4 and I believe this is still available. The Commission
5 actually has on its website, you can put in a community
6 and the website will tell you what competitive carriers
7 serve that community.

8 Again, this is pursuant to their tariffs
9 where they say they serve. So to the extent they say
10 they're willing to serve there, we should assume they are
11 indeed willing to serve there and could be impacted by
12 this rule. I think while certainly Staff has pointed out
13 why there may be some difficulties in notifying certain
14 carriers, we shouldn't let difficulty with trying to do
15 something cloud the overriding public policy argument for
16 why all carriers should be included, and why you can't and
17 shouldn't isolate certain carriers to try to mandate
18 things on them.

19 JUDGE DIPPELL: Do you think that there
20 would be any problem if the Commission, instead of
21 automatically making carriers a party, made a provision
22 that said they would -- they wouldn't have to intervene,
23 but they would maybe have to notify the Commission that
24 they were interested.

25 MR. UNRUH: Well, again, I think to the

1 extent the rule contemplates an eventual order that would
2 mandate something on certain carriers, then we're opposed
3 to the concept of something being mandated on us that's
4 not mandated on others.

5 JUDGE DIPPELL: Okay. That's all the
6 questions I had for you. Thank you.

7 Commissioner Murray, you had one more
8 question?

9 COMMISSIONER MURRAY: Mr. Unruh, you
10 mentioned earlier that you -- that SBC had several plans
11 with unlimited calling. Would you go through those again?

12 MR. UNRUH: Sure. Some that come to mind,
13 that there's a product we call SBC long distance, which
14 combines local service, a package of vertical services,
15 quite a few vertical services, things like voicemail and
16 unlimited long distance calling, for 48.95. Again, that's
17 something that was unheard of more than a couple years
18 ago, to have that inexpensive of a plan offer that many
19 features and that much calling.

20 We also have just a stand-alone long
21 distance plan, so if you don't have to -- if you don't
22 want any vertical services, any of the extra stuff like
23 voicemail, you can just buy a stand-alone long distance
24 plan, unlimited long distance plan for \$30. Then we
25 actually have unlimited long distance plans as low as \$15,

1 if you buy the plan with -- with certain vertical
2 services.

3 COMMISSIONER MURRAY: And what's the most
4 expensive MCA plan that you have now?

5 MR. UNRUH: For business services, MCA-5
6 is -- i believe it's \$70.

7 COMMISSIONER MURRAY: I assume the plans
8 that you told me about, the unlimited calling plans, are
9 residential plans?

10 MR. UNRUH: Those are residential plans. We
11 offer an equivalent 48.95 plan to businesses for, I
12 believe, 58.95. I will -- let me also point out that the
13 \$70 price for business service would not include any
14 vertical services, would not include local services. It's
15 strictly to buy the optional MCA plan. The business would
16 then have to buy its local line plus whatever verticals it
17 would want, so the bill's probably over \$100.

18 COMMISSIONER MURRAY: Are there businesses
19 using that plan today?

20 MR. UNRUH: Yes, there are. I think to the
21 extent that that plan's been in the marketplace for a long
22 time, long before these unlimited long distance plans
23 existed, so businesses did subscribe to that service.

24 COMMISSIONER MURRAY: Do you know why they
25 wouldn't change to a 58.95 plan that would include more?

1 MR. UNRUH: I think many of them probably
2 have, and are doing so. Obviously while we try to market
3 our services to customers, they don't always see TV ads or
4 radio ads or whatever, so you miss them over time. So
5 there's certainly some customers that just may never take
6 the initiative to actually change.

7 COMMISSIONER MURRAY: Would they have to
8 change their telephone number?

9 MR. UNRUH: I have going to say, another
10 impediment would be the fact that if they really wanted to
11 drop MCA service, they would have to change their
12 telephone number.

13 COMMISSIONER MURRAY: So if we go to an
14 expanded calling plan, like we've got in this rule here,
15 in order to take advantage of it, customers would have to
16 change their telephone number. And then when a
17 competitive service comes along that's even cheaper,
18 they'd have to change their number again to take advantage
19 of that; is that correct?

20 MR. UNRUH: If it's involving a change to
21 the MCA plan, like a geographic expansion or something
22 like that, yes, that's correct.

23 COMMISSIONER MURRAY: What's the most
24 expensive residential MCA plan that's out there today?

25 MR. UNRUH: I believe it's a little over

1 \$36. And again, that would not include the local access
2 line or any verticals.

3 COMMISSIONER MURRAY: And a person could
4 purchase unlimited long distance by itself for \$30.

5 MR. UNRUH: Right.

6 COMMISSIONER MURRAY: Doesn't seem to make
7 much sense to me. None of this does.

8 MR. UNRUH: Yeah. Well, certainly I think
9 it's evidence of the marketplace evolving. The MCA plan's
10 been in existence for over a decade now, and a lot of
11 things have occurred since then that's changing the
12 marketplace.

13 COMMISSIONER MURRAY: Well, do you think
14 the reason that we still have a few people who make their
15 voices loudly heard regarding this -- and I'm not even
16 sure that's currently the case. I mean, we have anecdotal
17 evidence from several years ago, but if there are a few
18 customers who are making their voices heard and
19 complaining to their legislators that they don't have a
20 wide enough calling scope, is that that they are not
21 sufficiently educated as to what is available to them?

22 MR. UNRUH: I think that may be some of it.
23 I think also just people don't like paying certain things.
24 I don't like paying my house payment, but it's one of
25 those things we have to do. And interesting example from

1 the task force meetings, the very first meeting there was
2 a representative from the -- not a representative, just a
3 consumer from the Kansas City area, and she was
4 complaining about the fact that she had to pay for MCA
5 service, didn't think that was fair that she had to pay
6 for it.

7 And I think her next comment was very
8 telling. She said I don't like paying for MCA service, no
9 one likes paying for MCA service, in fact, everybody I
10 know just uses their cell phone. I thought that was
11 telling. Okay, so you're using a competitive alternative
12 and you don't have to pay for MCA service if you don't
13 want to. So I think some people will just naturally
14 complain about things, and if they can be heard and acted
15 upon, they can reduce some costs that they would rather
16 not pay.

17 COMMISSIONER MURRAY: Let's follow that
18 through a minute and assume that if we go forward with
19 this rulemaking and then there are some petitions that are
20 granted and there are some more MCA expanded calling
21 scopes established and customers change their telephone
22 numbers and they get that expanded calling scope, and then
23 later on, they determine, well, gosh, I could be spending
24 a whole lot less money if I just use my cell phone, but
25 they still wanted to maintain their landline for local.

1 At that point would they'd have to go back and change
2 their telephone number again?

3 MR. UNRUH: That's correct.

4 COMMISSIONER MURRAY: All right. Thank
5 you.

6 JUDGE DIPPELL: Thank you, Mr. Unruh. Are
7 there other comments in opposition?

8 (Witness sworn.)

9 JUDGE DIPPELL: Thank you. Would you
10 please state your name and spell it for the court
11 reporter.

12 MR. MARTINEZ: Yes. My name is Arthur
13 Martinez, A-r-t-h-u-r, M-a-r-t-i-n-e-z. I'm here
14 testifying on behalf of Spectra Communications Group, LLC,
15 d/b/a CenturyTel and CenturyTel of Missouri, LLC, both of
16 which I will -- for purposes of this hearing I will refer
17 to as CenturyTel. CenturyTel filed substantive comments
18 in this proceeding, and I will be briefly summarizing
19 those.

20 Our written comments focused on three main
21 areas, the first being the process envisioned by the task
22 force. The second would be the mechanics of the proposed
23 rule. And thirdly, the Commission's authority or, more
24 importantly from my perspective, our company's due process
25 rights. I participated on the task force as a task force

1 member on behalf of CenturyTel. And the task force did
2 give the Commission several recommendations for
3 establishing a process which Mr. Dandino has talked about
4 earlier today. However, the task force specifically
5 refrained from addressing issues like the type of calling
6 scopes, prices, and the types of plans that would be
7 involved.

8 They specifically declined to address any
9 changes to the MCA plan. They did not take or make any
10 suggestions as to expanded calling in rural areas, and
11 they did not -- they did in the address alternative forms
12 of communications or competitive alternatives. They did
13 not address local number portability, and its impact to
14 the existing MCA, and they did not address whether
15 legislation would be needed.

16 The proposed rule mechanically seems to go
17 beyond the scope of the simple process that the task force
18 envisioned. In particular, it establishes I believe it's
19 Section 3 that Mr. Appling mentioned earlier today, that
20 the applicant would list the rate and type of plan they
21 would desire. It's CenturyTel's position that these
22 applicants have little or no knowledge about the
23 operations of a telephone company and the cost of the
24 operations cost, let alone the regulatory costs of
25 implementing an expanded calling plan.

1 Further, the proposed rule establish -- the
2 only real time frame that we see in the proposed rule is
3 the 90 days that the company has to come up with
4 illustrative tariffs. The applicant does have some
5 obligation to meet with the -- with all interested
6 parties, but they have an opportunity to modify their
7 application, even while the company is well within that 90
8 days of establishing their proposed rates. So the company
9 may have little or no time to modify any -- any proposed
10 rate or plan by the time the applicant -- to address any
11 proposed changes by the applicant.

12 Thirdly, CenturyTel is certainly concerned
13 about our due process rights, and we believe that a public
14 hearing needs to be held so that we have an opportunity to
15 put forth our evidence that not only benefits the company,
16 but benefits the consumers who may not benefit by the
17 imposition of an expanded calling plan. That concludes my
18 comments.

19 JUDGE DIPPELL: Okay. Commissioner Murray,
20 did you have questions for Mr. Martinez?

21 COMMISSIONER MURRAY: Mr. Martinez, are you
22 aware of customers who are -- are you aware, I'll ask it
23 this way, of a ground swell of customers who are
24 complaining that their local calling scopes are
25 inadequate?

1 MR. MARTINEZ: We are aware. We're
2 currently involved in a petition by the community of
3 Rockaway Beach for calling into the Branson area.
4 However, I wouldn't call it a ground swell. There are
5 certainly the vocal minority, as Mr. Unruh pointed out,
6 who are interested in calling into Branson, but we have
7 yet to hear any comments or any interest by the community
8 of Branson, who, by the way, would probably pay the lion's
9 share of any proposed plan for calling into the Rockaway
10 Beach area.

11 COMMISSIONER MURRAY: And what other
12 services, what other options are available to those
13 consumers?

14 MR. MARTINEZ: There are long distance
15 plans and there are also wireless alternatives. For --
16 personally, Sprint today offers a plan that I can
17 subscribe to in Jefferson City that would give me a bundle
18 of minutes that I could use for in-state and out-state
19 calling for a certain price, along with vertical features,
20 which would provide me sufficient expanded calling to the
21 places that I would have interest in calling.

22 COMMISSIONER MURRAY: And those customers
23 in the Rockaway Beach area, do they have long distance
24 plans that are flat-rated long distance plans available to
25 them?

1 MR. MARTINEZ: I believe they do, yes.

2 COMMISSIONER MURRAY: Which would allow
3 them to call not only anywhere nearby beyond their local
4 calling scope, but anywhere in the country; is that right?

5 MR. MARTINEZ: That's correct. By example,
6 I currently subscribe to an AT&T unlimited plan and for
7 \$24, I can call anyone not only within Missouri but in the
8 nation, and as long as they're an AT&T customer, I pay no
9 more money. And if it is not an AT&T customer, I pay a
10 very small per-minute charge, and that suits my needs.

11 COMMISSIONER MURRAY: And there are calling
12 cards available; is that correct?

13 MR. MARTINEZ: That's correct. As well as
14 prepaid calling plans.

15 COMMISSIONER MURRAY: And do you think the
16 customers -- your customers are generally aware that if
17 there were to be an expanded calling scope developed, that
18 their telephone numbers would need to change to take
19 advantage of that?

20 MR. MARTINEZ: Yes, most people in the
21 existing MCAs are well aware that they would have to
22 change their number in order to take advantage.

23 COMMISSIONER MURRAY: How do they feel
24 about that, do you know?

25 MR. MARTINEZ: Many of them do not like

1 having to do that.

2 COMMISSIONER MURRAY: Now, if this rule
3 were adopted, and I don't know, but for the record I voted
4 against this rule, putting it forward to begin with, but
5 if this were to go forward and we were to grant an
6 expanded calling area, say, in one of the petitioning
7 areas, would that require everybody within the calling
8 scope to change their telephone number, or would that
9 be -- I guess it depends on whether it would be optional
10 or mandatory; is that your understanding?

11 MR. MARTINEZ: Yeah, it would depend on the
12 plan that would be structured.

13 COMMISSIONER MURRAY: But anybody who would
14 take advantage of any change resulting from granting of
15 the petition would have to change a telephone number?

16 MR. MARTINEZ: Yes, as MCA exists today,
17 they would have to change their telephone number.

18 COMMISSIONER MURRAY: And if for some
19 reason a customer went ahead and changed a telephone
20 number and paid for an additional calling scope and then
21 discovered that, gee, that wasn't the most cost-effective
22 thing to do, I could be making my calls a lot cheaper if I
23 went to wireless or I went to an unlimited long distance
24 calling plan or something like that, if that customer then
25 decided to take advantage of an alternative plan, would

1 that customer in order to keep his or -- to keep a local
2 landline, would that customer have to change his telephone
3 number again?

4 MR. MARTINEZ: Yes, if they're no longer
5 using the MCA, they would have to relinquish that number.

6 COMMISSIONER MURRAY: So even if we were to
7 go this route and meet everybody's due process rights and
8 determine that there's a ground swell of support for this
9 and it's in the public interest and we did this, do you
10 think it would really benefit customers?

11 MR. MARTINEZ: I don't think so in today's
12 marketplace. There are many alternatives out there. I
13 think the customers, if they look and become educated
14 about the various providers, they can probably find a plan
15 today that would meet their needs.

16 COMMISSIONER MURRAY: Thank you.

17 JUDGE DIPPELL: Commissioner Appling, did
18 you have questions?

19 COMMISSIONER APPLING: Good morning,
20 Arthur.

21 MR. MARTINEZ: Good morning, sir.

22 COMMISSIONER APPLING: Are you telling me
23 that all of those people that were sitting in that chair
24 over there that Mr. Dandino said this morning, they have
25 no idea what they are doing and don't have the

1 intellectual skills to go out and look for the cheapest
2 way to satisfy their long distance calling?

3 MR. MARTINEZ: I agree that may be a
4 problem, sir, but they also do not have the educational
5 skills potentially to understand when they're going to
6 subsidize a very vocal minority who wants this expanded
7 calling and may derive some value in paying an additive,
8 when these other individuals make few or little calls and
9 would be better off buying a low rate toll plan than being
10 forced to pay 5 or 10 or \$15 for expanded calling.

11 COMMISSIONER APPLING: It's a lot of plans
12 out there. You almost need a program just to tell which
13 plan you ought to be going with for the consumer out
14 there. There's a lot of plans out there for the consumer
15 to understand.

16 That's enough of that. Let's go back to
17 Section 3. Look at 3C. Do you have the rule?

18 MR. MARTINEZ: Yes, I do.

19 COMMISSIONER APPLING: Who would have that
20 information that is requested in 3rC, the proposed price
21 and terms of the plan, I don't have that as a consumer, do
22 I?

23 MR. MARTINEZ: No. And we wouldn't expect
24 the consumer to have that. That would be something that
25 the company would have. But again, that would only be my

1 company. It wouldn't necessarily be the plans and prices
2 of alternatives in the marketplace. So we would only be
3 able to speak on behalf of our company. And more
4 importantly, our company has to not only address consumer
5 impact, but competitive impact.

6 And let's take Rockaway Beach as an
7 example. Clearly, they have a petition for calling into
8 Branson, but what we may find out as a result of this is
9 that Branson may have little or no interest in calling
10 Rockaway Beach. So if we impose a plan, a mandatory plan
11 on Branson customers, they derive no benefit for that and
12 that puts the company at a competitive disadvantage,
13 because now we're mandated to provide a plan that has
14 little or no consumer benefit.

15 COMMISSIONER APPLING: So the proposed
16 application process in Section 3 could really be
17 problematic for the consumer?

18 MR. MARTINEZ: Yes, and I think it creates
19 false hopes and expectations, because they have nothing to
20 base the rate on except for what they may see out there,
21 but they have no idea what it costs to operate CenturyTel,
22 for instance. And especially a company like CenturyTel
23 that operates in rural areas. The other thing that the
24 consumer has no idea about is inter-carrier compensation
25 and the level of access rates in the state of Missouri.

1 And to be quite candid with you, sir, that's one of the
2 reasons why we don't see a lot of expanded calling plans,
3 because of the level of access rates.

4 But before we can talking about reducing
5 access rates, we have to talk about things like universal
6 service, revenue neutrality, and then we also have to take
7 into consideration the implications from any comprehensive
8 intercarrier compensation reform from the federal side. So
9 we may impose a calling plan today, the customer may have
10 to pay an additional fee for that plan, and then the
11 federal government does something that impact the entire
12 industry and now they're having to pay an additional fee
13 to cover that cost.

14 COMMISSIONER APPLING: Section 3 also calls
15 for, in order for the consumer to get the biggest bang for
16 their buck, they would need a licensed attorney to put all
17 this together for them. It just doesn't seem any licensed
18 attorney could put together a plan. It just seems to me
19 you have to have somebody that knows something about
20 telecommunication in order to file that they get the
21 biggest bang for the consumer buck. Maybe I'm wrong. It
22 just seems to me that that would be needed.

23 MR. MARTINEZ: Well, we agree with Staff.
24 We also agree with SBC that the applicant should be
25 represented by a Missouri attorney and not necessarily by

1 the Office of Public Counsel.

2 COMMISSIONER APPLING: Okay. Thank you.

3 JUDGE DIPPELL: Go ahead, Commissioner
4 Murray.

5 COMMISSIONER APPLING: My whole job here is
6 to get additional questions for Commissioner Murray.

7 COMMISSIONER MURRAY: That's one advantage
8 to being early in the process. I can think of more
9 questions while others ask theirs.

10 If a carrier objected to a plan that was
11 proposed and didn't want to participate, does that carrier
12 have any -- according to this rule the way it's written,
13 does that carrier have any ability to not participate?

14 MR. MARTINEZ: No, not the way -- we would
15 argue that we would retain whatever due process rights we
16 have. I'm not an attorney, so I can't answer that, but I
17 think it clearly spells out that we have to file an
18 illustrative tariff in the 90 days, whatever that is.

19 COMMISSIONER MURRAY: And no process, no
20 basis for -- within the rule for the carrier to put forth
21 objections, is that --

22 MR. MARTINEZ: No. Well, there is an
23 opportunity for a party to object to any modifications to
24 a pending petition, but at that point, it's very early in
25 the process and it may be premature for the company to

1 take a position at that time until it has an opportunity
2 to look at all the data. And, you know, depending on the
3 scope, the calling scope that's being sought after,
4 90 days may be woefully inadequate to evaluate.

5 COMMISSIONER MURRAY: And really, what
6 would be involved in filing illustrative tariff sheets
7 could become fairly complex, I would think, would it not,
8 in order to determine what the tariffs would have to
9 include, what the costs would be involved? And I'm
10 assuming that's not just a quick and easy job.

11 MR. MARTINEZ: No, it's not. It takes a
12 great deal of study, of various traffic studies and --

13 COMMISSIONER MURRAY: So even at any time
14 there's a petition filed, there would be significant costs
15 incurred by the carriers involved. Is that your
16 understanding?

17 MR. MARTINEZ: Yes.

18 COMMISSIONER MURRAY: Even if the tariff --
19 even if the plan is eventually not approved?

20 MR. MARTINEZ: Yes, even if the plan's not
21 approved. That's some cost, I guess.

22 COMMISSIONER MURRAY: Okay. Thank you.

23 JUDGE DIPPELL: Commissioner Appling, did
24 you have another question?

25 COMMISSIONER APPLING: Can I ask one more

1 question, please?

2 Arthur, you heard what Staff had to say
3 this morning. And also OPC. And, Craig, if you would
4 like to weigh in on this question, I would like to hear
5 what your thoughts are. Based on the draft rule at the
6 present time and what OPC said this morning and what Staff
7 has said, what is your recommendation to this
8 Commissioner? What direction should we take with this
9 rule?

10 MR. MARTINEZ: Well, clearly as we've said
11 in our comments, that the proposed rule is -- goes beyond
12 the simple process envisioned by the task force, so I
13 believe at a minimum we need to relook at the rule.

14 Also, the timelines that are contained in
15 the existing rule are somewhat conflicting, and I think
16 there needs to be a better, more -- there needs to be
17 more, I guess, logic to the process and how those time
18 frames are set out, and that the company should have an
19 opportunity to hear everyone's input and get a feel for
20 all changes that would be proposed to a petition or
21 application before it engages in the task of pulling out
22 that -- all the cost studies and the traffic studies
23 together to evaluate them.

24 And then, of course, at the end of all
25 this, we would expect a formal hearing process to take

1 place.

2 COMMISSIONER APPLING: You were a member of
3 the tax force, correct?

4 MR. MARTINEZ: That's correct.

5 COMMISSIONER APPLING: And you realize that
6 there was some strong interest from some of the
7 legislators who -- concerning the expanded calling scope?

8 MR. MARTINEZ: Yes, there was strong
9 interest, but they also expressed a concern about creating
10 a situation where the company could not -- would not be in
11 a position to recover their costs or, more importantly,
12 customers being imposed with a plan that doesn't provide
13 any real benefit to them.

14 COMMISSIONER APPLING: Craig, any comment?
15 This is your one shot.

16 MR. UNRUH: Thank you, Commissioner. I'll
17 try to answer briefly.

18 I think the Commission should stop this
19 rulemaking. It should then assess whether or not it has
20 the legal authority to engage in these kind of endeavors.
21 If it then finds that it does have the legal authority to
22 do so, then it should go through a public -- what I'll
23 call a public policy evaluation. Even though it thinks it
24 has the authority to do so, it should decide whether or
25 not it should do so as a matter of good public policy in

1 light of today's competitive marketplace and what all is
2 going on in the marketplace, whether it's right for this
3 Commission to try to dabble and tinker with the
4 marketplace without potentially understanding how that
5 might influence the market for the future, and ultimately
6 impact customers.

7 COMMISSIONER APPLING: Thank you. Judge,
8 were you going to offer an opportunity to the Staff and
9 OPC to say anything after we finish?

10 JUDGE DIPPELL: I'll offer the opportunity.
11 Mr. Martinez, could I ask you to come back for just a
12 moment?

13 MR. MARTINEZ: Yes.

14 JUDGE DIPPELL: I just had a couple of
15 little questions. If this rulemaking continues forward,
16 does CenturyTel have any suggestions as to what point in
17 the process public hearings should be held?

18 MR. MARTINEZ: Well, I would think at the
19 time that we've gathered as much information as we -- as
20 to the type, as to what the communities, what their
21 community of interest is, and find out if there's still an
22 interest in the calling, in the existing petitions.

23 JUDGE DIPPELL: And then on page 36
24 CenturyTel's communities, they mention that ten days to
25 file a responsive pleading after -- after the applicant

1 files their any changes, that they would propose is not
2 adequate. Is there a time period that CenturyTel thinks
3 would be adequate? Do you have a suggestion for change in
4 at that time period from ten days?

5 MR. MARTINEZ: I don't have a specific
6 suggestion. It may vary by company and by application.

7 JUDGE DIPPELL: And the same -- later on
8 that page, you say that there's no time period which the
9 Commission must make a decision regarding objections. Was
10 there any suggestion for specific time period for the
11 Commission?

12 MR. MARTINEZ: No, I don't have a specific
13 suggestion.

14 JUDGE DIPPELL: And then later on page 4 of
15 those comments, it mentions that there's a lack of
16 criteria for determining communities of interest, were
17 there any recommended changes there, any suggested
18 criteria?

19 MR. MARTINEZ: No, I don't have any
20 suggested criteria with me.

21 JUDGE DIPPELL: Okay. Thank you. Were
22 there other comments in opposition?

23 Mr. Dority?

24 (Witness sworn.)

25 JUDGE DIPPELL: Would you please state your

1 name and spell it for the court reporter.

2 MR. DORITY: Yes. Thank you, Judge. My
3 name is Larry DORITY. That's spelled D-o-r-i-t-y, with
4 the law firm of Fischer & DORITY PC. And I was involved
5 in filing written comments on behalf of CenturyTel of
6 Missouri, LLC, and Spectra Communications Group, LLC,
7 doing business as CenturyTel. Those comments were filed
8 Friday. Mr. Martinez has addressed those comments here
9 this morning and I do not intend to take a second bite at
10 the apple as far as the CenturyTel and Spectra companies
11 are concerned.

12 However, I also represent ALLTEL Missouri
13 Inc, another incumbent local exchange company authorized
14 to do business in Missouri, and ALLTEL would like to go on
15 record in concurrence with the comments filed by
16 CenturyTel and Spectra that were filed on Friday of last
17 week. And I would be happy to answer any questions that,
18 Judge, you or the Commissioners may have.

19 JUDGE DIPPELL: Commissioner Murray, do you
20 have any questions for Mr. DORITY?

21 COMMISSIONER MURRAY: Oh, I won't repeat
22 the questions I've been asking everybody else. But just
23 bottom line, do you think it's in the public interest to
24 go forward with this rule at this time?

25 MR. DORITY: Commissioner, I do not. And I

1 appreciate the task force work and the recommendations
2 that they made to this Commission. At the end of the day,
3 the task force felt that perhaps a process was needed, and
4 believe me, I understand and appreciate the predicament
5 that Mr. Dandino and the Office of the Public Counsel find
6 itself in from time to time, when they are forced to step
7 forward and actually file petitions that may have been
8 lodged with their office.

9 But as other commenters have indicated this
10 morning, that does put them in an inherent conflict
11 interest of where they appear to be representing what may
12 in fact be a very vocal minority and yet a silent majority
13 may indeed be opposed, and they are charged with
14 representing the interests of public as a whole.

15 So I appreciate the predicament that a
16 process perhaps would relieve them of, having that in
17 place, but having said that, you also heard from the two
18 parties that testified in favor of the proposed rule, and
19 then I don't want to put words in their mouth, but it
20 appeared to me that Mr. Dandino suggested that we may
21 need -- we may find a need to tweak some of the proposed
22 language in the rule.

23 I think Mr. Van Eschen said it would be
24 helpful if better evidence was before the Commission
25 before you decide to proceed. And given the fact that we

1 have four dockets right now underway, and I happen to be
2 involved in all four of those on behalf of different
3 clients, I think what they're telling you is that there
4 may be a laboratory out there, if you will, to look at
5 some of these issues. I know I don't want to get into an
6 ex parte situation here, because they are pending dockets
7 and they are live in front of you as we speak. But they
8 are raising many of the concerns and issues that you've
9 heard about this morning. And some of them will be
10 perhaps directly addressing the statutory considerations
11 that would address the Commission's authority in this
12 regard.

13 So given that, I think it's clearly
14 premature for the Commission to move forward with this
15 particular rule at this particular time, given the -- as
16 what we've heard, there may be some substantive holes in
17 the rule as far as the process would be concerned.

18 COMMISSIONER MURRAY: Do you think the --
19 the competition is better served by carriers developing
20 their own competitive responses to consumer demands than
21 by the Commission mandating certain types of services
22 and --

23 MR. DORITY: Yes, I think competition by
24 its very nature involves the providers themselves coming
25 forward and offering competitive responses, competitive

1 alternatives to the marketplace, as opposed to having the
2 regulator try to fashion responses and somewhat gain the
3 system, if you will, that may not be truly responsive to
4 the consumer needs.

5 COMMISSIONER MURRAY: When a regulator
6 fashions responses to certain segments of the market, does
7 that not give certain carriers a competitive advantage
8 over other carriers?

9 MR. DORITY: It may well not only give
10 certain carriers a competitive advantage, as you've heard
11 from both Mr. Unruh and Mr. Martinez, it may indeed give
12 other carriers a competitive disadvantage to which they
13 may not be able to react.

14 COMMISSIONER MURRAY: And do you think that
15 carriers in today's marketplace are responsive to their
16 consumers' wants and needs?

17 MR. DORITY: Yes, Commissioner, I do. I
18 mean, it's in their self interest to be responsive to
19 their consumers' wants and needs. Again, as I think
20 Mr. Unruh and Mr. Martinez explained to you, the world is
21 much different today in terms of the competitive landscape
22 and the service offerings that available to consumers than
23 as recently as when the petitions that Mr. Dandino
24 referred to were actually filed with this Commission, when
25 these different dockets were actually initiated. And I

1 think that speaks volumes of the responsiveness of the
2 carriers, not only the regulated carriers, but those that
3 are not regulated by this Commission.

4 COMMISSIONER MURRAY: And what is the
5 result of a carrier not being responsive to its customers.

6 MR. DORITY: Well, I think the result is
7 that those -- as has often been said in front of this
8 Commission, they vote with their feet and they will be
9 moving to another carrier to provide the services that
10 they're looking for.

11 COMMISSIONER MURRAY: Thank you.

12 MR. DORITY: Thank you.

13 JUDGE DIPPELL: Commissioner Appling, did
14 you have questions?

15 COMMISSIONER APPLING: No question, Larry.
16 Thanks for your comments.

17 MR. DORITY: Thank you.

18 JUDGE DIPPELL: Thank you, Mr. DORITY. Are
19 there any additional comments?

20 Mr. Dandino?

21 MR. DANDINO: Thank you, your Honor. The
22 Commission may have a hard time believing this, but really
23 Southwestern Bell and Public Counsel agree on at least two
24 points. One is, the Commission needs to decide up front
25 if you have the legal authority. You need to address this

1 question. This has been a question hanging over all this
2 stuff, all these proceedings since -- was it 2000? I
3 don't remember the case, the last large MCA docket case.
4 Those questions were unresolved. These petitions were
5 left unresolved, my clients -- or my clients because
6 they're members of the public.

7 And then the other question I think is, is
8 the Commission's going to have to decide as an up-front
9 question, let's decide it in this case, it's as good as
10 any others, is whether there is a public interest aspect
11 to this. As long as this Commission does not address
12 those questions, I have to stand here and say as long as
13 you leave expansion -- local calling expansion, local
14 calling MCA as a viable, as a possible relief for the
15 customers and they're asking for it, then you need to have
16 a process to consider it.

17 These -- these people have asked for it,
18 okay, it was in 2000 and things have changed. Perhaps, or
19 perhaps not. But, you know, I think it would be
20 unrealistic to say that nothing has changed. Of course,
21 wireless -- wireless is another option. Maybe there are
22 enough options. But I think we also do the ratepayers a
23 disservice by taking this rule and making it so difficult
24 that it's impossible for anyone to get any relief under
25 this rule. You burden them with 30 percent of the

1 customers and just add a number of requirements on it. I
2 think it would be better just to say, listen, times have
3 changed, and the public interest has changed. You know,
4 we have unregulated industries now, and expanded local
5 calling by this Commission is no longer going to be an
6 option.

7 Now, I still think that these petitions,
8 these hundreds of petitions and letters have done a
9 valuable public service. In fact, I think it has at least
10 brought question to a debate, and I think some of carriers
11 have gone to other long distance programs or plans in
12 order to beat these type of needs. If these people
13 wouldn't have been complaining back in 2000, they wouldn't
14 have been responding anyway. The question is, have they
15 responded sufficiently enough?

16 But I can't stand here in front of this
17 Commission, I can't respond to these clients, these
18 customers and say, nothing's been done on your petition,
19 they haven't decided one way or the other. I think you
20 just need to close this one way or the other. If you're
21 going to make this a remedy, then let's make it a remedy
22 and let's have a rule. If it's no longer a valid remedy
23 from a legal aspect or from a public policy aspect, then
24 this Commission needs to decide. It is simply that. It
25 has put, I think, the whole industry into a bind, and I

1 think those questions really need to be addressed.

2 I don't want to have to go through a
3 process on behalf of clients and then have them tell me,
4 well, that isn't what we wanted. That's exactly what --
5 we went back to the city of Lexington to discuss that
6 question, to see what's that group going to do, what's the
7 community going to do? When you have letters from all the
8 major players in the community, you can't ignore that.
9 You just can't ignore that. But yet our office and the
10 Commission's difficult to go out and do surveys. It's
11 expensive to do surveys and reinterview all these people.

12 You have to take the things at the face
13 value and bring them forward, and if there is going to be
14 a remedy here, then I -- you know, I think there should be
15 a reasonable remedy. But if this Commission feels that
16 things are different, well, then you need to decide that
17 and let all the parties know. Thank you.

18 JUDGE DIPPELL: Did you have anything
19 further, Commissioner Murray?

20 COMMISSIONER MURRAY: Mr. Dandino, you
21 presented an interesting viewpoint there, and I appreciate
22 that. In terms of the customers that have approached
23 Office of Public Counsel, how did they determine that an
24 expanded calling scope was an available remedy?

25 MR. DANDINO: Well, that's something that

1 they had -- that they were -- that they knew was available
2 under the -- under the current -- under the current
3 tariffs at the time.

4 COMMISSIONER MURRAY: And you're saying
5 that your office was kind of put in a situation where you
6 had -- the Commission provides for expanded calling
7 scopes, you have customers coming to you saying, our
8 calling scopes we think should be larger, and asking
9 Office of Public Counsel to petition us for expanding
10 their calling scopes; is that right?

11 MR. DANDINO: Well, the situation was, they
12 came to us during a time when we were talking about MCA,
13 expanding whether it was going to go forward with it, the
14 viability of it, and competitive nature. And we thought,
15 these people need to be heard. You know, let's get a
16 forum for them, because what they said is, give us -- we'd
17 like to have a hearing, you know, we'd like to be heard
18 about this, we want something else. And really, all I was
19 asking for up front was a public hearing for these people
20 to be heard. And when public hearings were always kept
21 being put off, put off, the people are feeling frustrated.

22 COMMISSIONER MURRAY: And I'm sure that you
23 understand that a public hearing, just asking people if
24 they'd like something more without having any indication
25 of what it would cost them might not be productive.

1 MR. DANDINO: Oh, certainly. And public
2 hearings and public meetings in a way also, its an
3 educational process, and it works both ways.

4 COMMISSIONER MURRAY: Are you working on
5 stale complaints now? I mean, are these are these -- are
6 these based on contacts from people several years ago?

7 MR. DANDINO: I will tell you, yes, but let
8 me explain. You know, these came from 2000, 2002, 2001,
9 but I did receive a letter from the city of Wright City
10 that said, we've been working on this thing for 20 years
11 and we're still interested. I mean, they are at least --
12 I'm saying, yes, there's -- you know, it may be a stale
13 complaint, but they're still interested in it.

14 COMMISSIONER MURRAY: I guess that's one
15 reason one of my first questions to you was, does the
16 Office of Public Counsel discuss with people who come to
17 you and ask for something that better meets their needs,
18 whether you feel any responsibility to share with them the
19 changing marketplace and that there are alternatives
20 available to them, and even indicate to them how they
21 might find out about flat-rated long distance plans or
22 whether they access wireless, and if they understand that
23 VOIP is available, all of these alternatives that are
24 available to them.

25 MR. DANDINO: Commissioner, let me tell

1 what we did when COS ended. We sent out a press release
2 saying the -- people, when COS ends, you need to go out
3 and find low-cost plans. And we had -- we listed
4 references on our website and in our press releases to
5 various sites or numbers that you could contact. See, we
6 were trying to do this educational aspect.

7 COMMISSIONER MURRAY: And that was in 1997?

8 MR. DANDINO: That was in 1997. We still
9 had -- you know, we had maintained on our website today
10 that you can contact track, where you can contact the
11 Staff's -- where you can go and try and find the most
12 reasonable plan. And, you know, that's when we tried.
13 You know, it's something where we tell them, you know, you
14 need to look at what your calling needs are.

15 COMMISSIONER MURRAY: How does Public
16 Counsel determine whether things that you're hearing from
17 customers, whether, you know, two or three or several
18 dozen or whatever, whether it is actually something that
19 merits bringing a petition to the PSC for?

20 MR. DANDINO: That goes on a case-by-case
21 basis. It -- you know, we make an evaluation, what's
22 going on that we hear is going on in the state, in the
23 industry, what's going on in other states, is that a
24 similar complaint? We try to file what's going on in the
25 media on it.

1 COMMISSIONER MURRAY: Now if we were to
2 make a determination that, as you say, times have changed
3 and the market place has changed and the types of
4 services, products and services that are available to
5 people has greatly changed, and that expanded local
6 calling is no longer an option, how would we do that?
7 What process would we use to do that?

8 MR. DANDINO: I think you can -- you could
9 make some finding in this rulemaking. Say, we're making
10 this findings of why we're not adopting this rulemaking.
11 We're finding that there's no longer, if you wanted to go
12 back to it, no longer a necessarily or the public interest
13 in no longer served in doing this. Perhaps in one of the
14 other of the those four cases we have pending on it.

15 You know, I -- you know, it's -- I've hoped
16 over the years we've been trying to give you a vehicle for
17 it. And, you know, and that's what we're trying to get
18 from you, you know, from the Commission is a -- you know,
19 a yes or no. I think I said in a pleading is, until you
20 tell me to go away and not come back, I'm going to be here
21 and I'm going to keep raising this issue. So that's what
22 I'm saying, either say approve this rule with some
23 modifications, if necessary, or tell me to go away and
24 don't come back because this isn't the route to go.

25 COMMISSIONER MURRAY: I appreciate hearing

1 this perspective, and I also think it probably points out
2 that ignoring a problem won't make it go away.

3 MR. DANDINO: That's exactly what I'm
4 trying get across, too.

5 COMMISSIONER MURRAY: But your position is
6 that if we -- if we were to -- if the Commission were to
7 make that determination, we could do it either in this
8 rule making or we could do it -- and let's stop there. If
9 we did it in this rulemaking, how would that affect
10 pending cases?

11 MR. DANDINO: I think you'd probably end up
12 mooting them out.

13 COMMISSIONER MURRAY: And if we didn't do
14 it in this rulemaking and we just didn't pass this rule,
15 for example, or we addressed one of those cases prior to
16 the effective date of this rule, assuming we did pass it,
17 we could make that determination in one of those
18 particular cases that would make the others set.

19 MR. DANDINO: It probably would. It
20 probably would, because it would give a clear direction of
21 which -- of where the Commission is going on this. That's
22 what we're looking for, is some predictability.

23 COMMISSIONER MURRAY: That's what I'm
24 hearing you say, is that you want us to tell you one way
25 or the other that that's more important, the clarity is

1 more important than saying, we're going to establish a
2 process whereby everybody that wants it can get expanded
3 calling.

4 MR. DANDINO: Certainly. If this
5 Commission's making a public policy, a decision that the
6 market -- that it's changed or that you don't have the
7 authority, either way and, you know, I would vote against
8 that. I think you have the authority. You know, as far
9 as the other alternatives, I still think there's room for
10 this but, you know, that's -- it appears to me that's my
11 minority opinion. But yet you need to make those -- you
12 need to make that decision.

13 And I wanted to be forthright with this
14 Commission to let them know that these are the essential
15 elements. There's no sense in us tinkering and tweaking
16 this rule. It's like rearranging deck chairs on the
17 Titanic. We don't need to do this, we don't need to spend
18 the time doing this. You know, let's fish or cut bait.

19 COMMISSIONER MURRAY: Thank you.

20 JUDGE DIPPELL: Commissioner Appling, did
21 you have questions?

22 COMMISSIONER APPLING: I don't think it's a
23 question, just a comment, I believe. I just want you to
24 know that I heard what you had to say, and thanks for your
25 comments. And hopefully there is, as Larry mentioned

1 earlier, a laboratory out there for us to get to some kind
2 of decision, because I truly feel you either vote it up or
3 you vote it down. And to me that's where we're at on this
4 rule. Let's go forward with something we should look to
5 for another route to get there. But I've heard what you
6 had to say.

7 MR. DANDINO: Commissioners, I think the
8 alternative is, we're not thinking of this abandons the
9 consumer. Consumers still have the right to complain if
10 there's inadequate service. You know, he's going to be
11 limited in coming to this Commission on inadequate service
12 if the provider is not regulated by this Commission, but
13 at least the consumer needs to have that option and needs
14 to have somewhere to go. So we're not saying just abandon
15 the consumer. We never want you to think that. Even
16 though if you don't go with the expanded calling, you're
17 telling them that, you know, we're going to take a
18 different role and we're going to make sure that you're
19 also not the people that are left on that can buy
20 stand-alone services at reasonable prices and can have
21 two-way calling or have something that meets their needs.

22 You know, there's lot of talk of what plans
23 are available. You need -- you need to be very -- ask
24 very specific questions, as Commissioner Murray was doing,
25 to find out what is available and are those the type of

1 things that are available in all areas, in all the rural
2 areas, in every exchange. They've got to be available for
3 this really be a fair. Thank you.

4 COMMISSIONER APPLING: Thank you. And I
5 would just like to add to that, that I think that's the
6 reason I was appointed to this job is to take it serious,
7 trying to reach a balance and to bridge the gap between
8 the consumer and the companies that serve us. So I do
9 take your comments seriously. Thank you.

10 MR. DANDINO: Thank you.

11 JUDGE DIPPELL: Commissioner Appling, you'd
12 mentioned earlier about something Mr. Dandino about
13 Section 3. Did you still have that question?

14 COMMISSIONER APPLING: No, I think we
15 discussed it adequately enough with the SBC. Thank you.

16 JUDGE DIPPELL: Thank you.

17 Thank you, Mr. Dandino.

18 Were there any additional comments?

19 (No response.)

20 JUDGE DIPPELL: If there are no additional
21 comments, then I will close this portion of the public
22 hearing. Mr. Dandino, did you still intend to file
23 written remarks today?

24 MR. DANDINO: Yes, your Honor. Very brief.

25 JUDGE DIPPELL: I will hold the hearing

1 record open for the remaining additional comments, and
2 until Friday for any responses.

3 Thank you. We can go off the record.

4 WHEREUPON, the rulemaking hearing was
5 concluded.

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