

COMMONWEALTH OF PENNSYLVANIA

289

PUBLIC UTILITY COMMISSION

ORIGINAL

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Investigation Regarding Intrastate Access :
Charges and IntraLATA Toll Rates of :
Rural Carriers and the Pennsylvania :
Universal Service Fund :
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AT&T Communications of PA, LLC v. :
Armstrong Telephone Co. - Pennsylvania. :
 :
 Further Hearing :
 ----- x

Docket No.
I-00040105

Docket No.
C-2009-2098380

Pages 289 through 565

Hearing Room 2
Commonwealth Keystone Building
Harrisburg, Pennsylvania

Thursday, April 15, 2010

Met, pursuant to adjournment, at 9:00 a.m.

BEFORE:

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WITNESS INDEX

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Mark D. Harper and Jeffrey L. Lindsey				
By Ms. Benedek	301	--	404	--
By Ms. Painter	--	308	--	--
By Mr. Aron	--	332	--	405
By Ms. Paiva	--	389	--	--
By Mr. Dodge	--	397	--	--
David F. Bonsick				
By Ms. Benedek	406	--	467	--
By Ms. Painter	--	414	--	470
	--	465	--	--
By Mr. Gruin	--	429	--	472
By Mr. Povilaitis	--	462	--	--
Robert Loube				
By Mr. Cheskis	473	--	--	--
By Mr. Metropoulos	--	477	--	--
	--	520	--	--
By Mr. Gruin	--	496	--	--
By Ms. Paiva	--	504	--	--
By Mr. Kennard	--	519	--	--
Joseph Kubas				
By Ms. Kaster	526	--	--	--
By Mr. Metropoulos	--	529	--	--
By Mr. Aron	--	537	--	--
	--	561	--	--
By Ms. Paiva	--	550	--	--
By Ms. Benedek	--	555	--	--

EXHIBIT INDEX

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
<u>CenturyLink Statement</u>		
1.0 (Panel Direct, with CTL-Panel 1 and 2)	304	308
1.1 (Panel Surrebuttal, with CTL-Panel 3 through 7 and Attachments A, B, C)	306	308
1.2 (Panel Rejoinder, with CTL-Panel 8)	306	308
2.0 (Harper Direct - was Staihr Direct, with BKS-1 through BKS-3)	305	403
3.0 (Bonsick Direct, with DFB-2)	407	414
3.1 (Bonsick Surrebuttal, with DFB-3 through 11)	408	414
3.2 (Bonsick Rejoinder)	413	414
<u>OCA Statement</u>		
1 (Loube Direct, with RL-1 through RL-12 and Appendix A)	475	477
1-S (Loube Surrebuttal)	475	477
<u>OTS Statement</u>		
1 (Kubas Direct)	527	529
1-SR (Kubas Surrebuttal)	527	529
<u>OTS Exhibit</u>		
1 (Kubas)	527	529

EXHIBIT INDEX (Continued)

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
<u>AT&T Cross-Examination Exhibit</u>		
1	(Sprint-Embarq-I-17)	310 331
2	(Sprint-Embarq-I-10 and 11)	320 331
3	(excerpt, main brief of Joint Applicants and CenturyTel, Inc.)	329 331
<u>Sprint Cross-Examination Exhibit</u>		
1	(Sprint-CTL-II-1)	333 388
2	(Sprint-CTL-II-2)	333 388
3	(Sprint-CTL-III-3)	369 388
4	(screen shot, http://www.mywireless.org/issues/pennsylvania)	386 388
5	(Sprint-Embarq-I-20)	436 461
6	(Sprint-CTL-II-8)	437 461
7	(52 Pa. Code, 63.58)	459 461
8	(CTIA Semi-Annual Wireless Industry Survey)	498 (not received)

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P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE KANDACE F. MELILLO: Let's
3 go on the record.

4 This is the time and place for a further hearing in
5 the following consolidated cases: Investigation regarding
6 intrastate access charges and intraLATA toll rates of rural
7 carriers and the Pennsylvania Universal Service Fund. The
8 docket number is I-00040105; and also, AT&T Communications
9 of Pennsylvania, LLC, TCG New Jersey, Incorporated and TCG
10 Pittsburgh, Incorporated, collectively AT&T, complainants,
11 versus Armstrong Telephone Company PA, et al., respondents.
12 The lead docket number is C-2009-2098380, et al.

13 I am Administrative Law Judge Kandace F. Melillo,
14 assigned by the Commission to preside in this matter. I
15 note the appearances this morning of Demetrios Metropoulos,
16 Esquire on behalf of AT&T; Philip S. Shapiro, Esquire on
17 behalf of AT&T; Benjamin J. Aron, Esquire on behalf of
18 Sprint; John F. Povilaitis, Esquire on behalf of Qwest
19 Communications Company; Sue Benedek, Esquire on behalf of
20 CenturyLink; Michelle Painter, Esquire on behalf of AT&T;
21 Michael Gruin, Esquire on behalf of Sprint; John Dodge,
22 Esquire on behalf of Comcast; Joel Cheskis, Esquire and
23 Darryl Lawrence, Esquire on behalf of the Office of Consumer
24 Advocate; Allison Kaster, Esquire and Adelou Bakare, Esquire
25 on behalf of the Office of Trial Staff; Norman J. Kennard,

1 Esquire and Regina L. Matz, Esquire on behalf of the
2 Pennsylvania Telephone Association; Suzan Paiva, Esquire on
3 behalf of Verizon. Is there anyone else present in the
4 hearing room who has not signed in? Yes?

5 MR. GRAY: I'll sign in at the break, Your Honor.

6 JUDGE MELILLO: And we'll note that Steven Gray,
7 Esquire on behalf of the Office of Small Business Advocate
8 is here also. Would you like to sign in, please?

9 (Pause.)

10 JUDGE MELILLO: Good morning, all.

11 My plan for conducting the hearing today is
12 essentially the same as indicated yesterday. I plan to take
13 a mid-morning and mid-afternoon break with a lunch break.
14 Today, since we started at 9:00, I'll try to have a lunch
15 break at approximately noon.

16 I'm not sure how long we're going to be going today,
17 but the same procedure will be in place with respect to
18 moving of cars. If we look like we're going into the
19 evening, we'll make sure we break about 5:00 so parties can
20 move their cars out of the Seventh Street Garage, because
21 that closes at seven and we want to allow for parties to get
22 back into this building because this building is secure at
23 6:00. After 6:00, if you leave the building, you can't
24 reenter.

25 Yesterday there was a question about whether the

1 record from the proceeding before Judge Colwell would be
2 available to the parties in this phase of the case. Ms.
3 Paiva astutely pointed out that the Commission had addressed
4 this matter in a prior order. She is correct. The
5 Commission did address this matter in their consolidation
6 order which was entered August 5, 2009 at the I-docket,
7 I-00040105. And the Commission stated as follows: "The
8 recommended decision by ALJ Susan Colwell entered on July
9 23, 2009 as well as the evidentiary record in that limited
10 investigation will assist us in resolving the full
11 investigation."

12 Also, we had a matter yesterday involving the
13 complaints filed against Citizens of New York, Citizens
14 Telephone Company of New York. There were three complaints,
15 one filed by each of the three AT&T entities, and while they
16 were listed in the initial complaint filed in March, 2009,
17 they somehow dropped out of subsequent pleadings and I asked
18 counsel for AT&T to check into that matter, and she did, and
19 she will report this morning. Yes, Ms. Painter?

20 MS. PAINTER: Yes, Your Honor. AT&T will file a
21 motion to withdraw the complaint with respect to that entity
22 and would request, if any party has an objection, to let us
23 know on the record.

24 JUDGE MELILLO: Is any party going to object to the
25 petition that will be filed by AT&T to withdraw those three

1 complaints? That would leave us with 93 complaints. That
2 would be complaints that were filed against Citizens
3 Telephone Company of New York.

4 (No response.)

5 JUDGE MELILLO: Hearing nothing, then you can report
6 that there was no objection to that petition.

7 MS. PAINTER: Thank you.

8 JUDGE MELILLO: As a reminder, there will need to be
9 an identification of the exhibits that are to be stricken
10 from the AT&T rejoinder testimony as a result of the
11 granting of a motion to strike yesterday.

12 MS. BENEDEK: Yes, Your Honor. We'd like to note
13 that subject to the motion to strike yesterday, Attachment 1
14 to the Nurse-Oyefusi rejoinder testimony of April 8 --

15 JUDGE MELILLO: Let's wait a moment until I retrieve
16 that.

17 (Pause.)

18 MS. BENEDEK: I'm going to identify each one. We
19 used the e-mail version of the rejoinder which has, the
20 printout copy has the attachments marked and clearly AT&T
21 has marked it, but the e-mail somehow didn't have this
22 little page designation, and so that's the issue. So I'm
23 going to identify each of the attachments just to make sure.

24 The first attachment is marked as Attachment 1 in the
25 rejoinder testimony and it has "AT&T Review: PTA elasticity

1 data, price increases are not associated with line losses,
2 and it's a chart.

3 JUDGE MELILLO: And that would be stricken?

4 MS. BENEDEK: Yes. That starts with 3 percent on the
5 x axis, and then the next chart is a similar one but it's
6 labeled, "Demonstrates relative insensitivity to price
7 increases," and that starts at 35 percent.

8 JUDGE MELILLO: And that also would be stricken?

9 MS. BENEDEK: Yes. Then there are a series of pages:
10 one, two, three, four, five, six, seven, eight, nine pages
11 of what is marked as "Correlation matrix illustrating lines
12 are declining over time," and --

13 JUDGE MELILLO: Is that the balance of Attachment 1
14 or is there something left in --

15 MS. BENEDEK: That is the balance of Attachment 1.

16 JUDGE MELILLO: Then why don't we just take out
17 Attachment 1 in total?

18 MS. BENEDEK: Okay, yes. Just wanted to make sure we
19 had the right attachments.

20 JUDGE MELILLO: All right. Then Attachment 1 would
21 be stricken from the rejoinder of AT&T.

22 MS. BENEDEK: And Attachment 2 consists of three
23 pages and that also would be stricken. It's marked, it's
24 Run 4/6/10, and it's the method, least squares -- I don't
25 even know how to begin to describe it. It's Attachment 2.

1 JUDGE MELILLO: All right. So the entirety of
2 Attachment 2 will be stricken. Anything else?

3 MS. BENEDEK: Attachment 3, which stays in, says,
4 "AT&T consumer state to state direct dial basic and value."
5 That's the header on that and that stays in.

6 JUDGE MELILLO: So that particular sheet should be
7 stricken as well?

8 MS. BENEDEK: No.

9 JUDGE MELILLO: No?

10 MS. BENEDEK: No, that stays in. We just wanted to
11 get a demarcation point.

12 JUDGE MELILLO: All right. So nothing in Attachment
13 3 or Attachment 4 is stricken; is that correct?

14 MS. PAINTER: That's correct.

15 MS. BENEDEK: Correct.

16 JUDGE MELILLO: So we are striking Attachments 1 and
17 2 to the rejoinder of AT&T.

18 Ms. Painter, is it possible to file a conforming
19 corrected rejoinder so that the Commission is aware of
20 exactly what was admitted in this case?

21 MS. PAINTER: Yes, Your Honor. That would be fine.

22 JUDGE MELILLO: Thank you.

23 Is there anything else that anyone wants to mention
24 of a preliminary nature?

25 (No response.)

1 JUDGE MELILLO: All right. Hearing nothing, we'll go
2 to the witness list. The first witnesses scheduled for
3 today are witnesses of CenturyLink, a panel. Ms. Benedek,
4 do you want to call your witnesses?

5 MS. BENEDEK: Yes, Your Honor. CenturyLink calls
6 Mark D. Harper and Jeffrey L. Lindsey to the stand who are
7 seated there.

8 JUDGE MELILLO: Mr. Harper and Mr. Lindsey, please
9 stand and raise your right hand.

10 Whereupon,

11 MARK D. HARPER and JEFFREY L. LINDSEY
12 having been duly sworn, testified as follows:

13 JUDGE MELILLO: Please be seated. Proceed, counsel.

14 MS. BENEDEK: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MS. BENEDEK:

17 Q. Could you please separately state your name and
18 provide your business address for the record?

19 A. (Lindsey) Yes. My name is Jeffrey L. Lindsey.
20 My business address is 5454 West 110th Street, Overland
21 Park, Kansas, 66211.

22 A. (Harper) Yes. I'm Mark D. Harper. My address
23 is 100 CenturyLink Drive, Monroe, Louisiana, 71203.

24 Q. And are you the same Jeffrey Lindsey and Mark
25 Harper that presented direct, surrebuttal and rejoinder

1 testimony in this matter?

2 A. (Lindsey) Yes.

3 A. (Harper) Yes.

4 Q. And you presented those testimonies as a panel,
5 correct?

6 A. (Lindsey) Yes.

7 A. (Harper) Correct.

8 Q. Let's start with your direct. First of all,
9 were the testimonies prepared by you or under your direct
10 supervision and control?

11 A. (Harper) Yes.

12 A. (Lindsey) Yes.

13 Q. Can we start with your direct testimony, panel
14 direct, please? Are there any changes, corrections,
15 additions, deletions to that?

16 A. (Harper) Yes. We have one change. On page 16
17 of the direct, line nine --

18 Q. Give us a moment.

19 (Pause.)

20 A. (Harper) The word "consumers" should be
21 stricken.

22 Q. Okay. And with that change, is the remainder of
23 the panel direct testimony true and correct to the best of
24 your knowledge, information and belief?

25 A. (Harper) Yes, it is.

1 MS. BENEDEK: Your Honor, before we go on to the
2 remainder of it, I'd like to do the Dr. Staihr direct
3 testimony and run through that. There will be some changes
4 to this as Dr. Staihr is no longer employed with the
5 company, and we sent the letter April 1, I believe it was,
6 indicating as such, and indicating that Mark Harper would be
7 adopting the testimony of Dr. Staihr.

8 BY MS. BENEDEK:

9 Q. Mr. Harper, could you please turn to what has
10 been pre-filed as the direct testimony of Dr. Brian Staihr,
11 and are there any changes, corrections, additions or
12 deletions with respect to this testimony?

13 A. (Harper) None, except that it's now my
14 testimony.

15 Q. Correct.

16 MS. BENEDEK: And in that regard, Your Honor, can we
17 turn to page one of the testimony which has been marked as
18 Statement 2.0 and starting at line 18, we will delete
19 through -- page one, line 18, page two, through page three,
20 line 11, as those provisions relate to Dr. Staihr's work
21 experience and background and are not relevant at this point
22 in this.

23 In lieu of that, since Mr. Harper has presented
24 testimony, panel direct testimony identifying his work
25 history, we felt no need to produce another document but

1 would request that his work experience and expertise from
2 the panel direct be imputed or recognized pursuant to this
3 testimony.

4 JUDGE MELILLO: All right. We'll do that. We do
5 have the credentials of Mr. Harper on the record.

6 MS. PAINTER: Were you also going to strike the name
7 and title, so starting at line two through 11?

8 MS. BENEDEK: Oh, yes, yes, we can, yes.

9 JUDGE MELILLO: I'm sorry, what else are we striking?

10 MS. BENEDEK: Page one, line two through 11. I
11 apologize. I inadvertently missed his address and name.

12 Your Honor, we'd like to have marked -- let's just go
13 to the surrebuttal and then go do the end piece and
14 everything.

15 JUDGE MELILLO: Let's make sure we have everything --
16 you're marking the panel direct testimony of Messrs. Lindsey
17 and Harper as Statement, I guess CenturyLink Statement 1.0?

18 MS. BENEDEK: 1.0, Your Honor.

19 (Whereupon, the document was marked
20 as CenturyLink Statement No. 1.0
21 for identification.)

22 JUDGE MELILLO: And then Dr. Staihr's, which is now
23 being adopted by Mr. Harper, is CenturyLink Statement 2.0?

24 MS. BENEDEK: Correct, and the panel direct consists
25 of 50 pages and two attachments.

1 (Whereupon, the document was marked
2 as CenturyLink Statement No. 2.0
3 for identification.)

4 JUDGE MELILLO: All right.

5 MS. BENEDEK: The adopted testimony of Mr. Harper,
6 which has been marked as Statement 2.0, consists of 12 pages
7 and three attachments, and that's a public only version.
8 There's no confidential version of that.

9 JUDGE MELILLO: All right. You've taken care of
10 providing, if there's any confidential material, you've
11 taken care of then also supplying a public version to the
12 court reporter?

13 MS. BENEDEK: Correct, two copies.

14 JUDGE MELILLO: Very well.

15 BY MS. BENEDEK:

16 Q. Now, Mr. Harper and Mr. Lindsey, you also have
17 submitted panel surrebuttal testimony consisting of 58 pages
18 and exhibits, panel exhibits marked Panel 3 through and
19 including 7, and Panel Attachment A and Panel Attachment B
20 and C. Do you have any changes, corrections or additions to
21 your panel surrebuttal?

22 A. (Harper) Just one. On page 26, line 13, just
23 for the sake of clarity, insert a "D" after "use." It
24 should be "used."

25 Q. Now let's turn to the rejoinder.

1 MS. BENEDEK: And that, Your Honor, just for clarity,
2 has been marked Statement 1.1. There is a confidential
3 version and a public version, copies of which have been
4 provided to the court reporter.

5 JUDGE MELILLO: Rather than specifying a piece of
6 testimony as simply "Statements," we need to also designate
7 them as CenturyLink.

8 MS. BENEDEK: Yes, CenturyLink.

9 JUDGE MELILLO: CenturyLink Statement 1.1, all right.
10 That's the panel surrebuttal testimony.

11 (Whereupon, the document was marked
12 as CenturyLink Statement No. 1.1
13 for identification.)

14 BY MS. BENEDEK:

15 Q. Finally, you have prepared panel rejoinder
16 testimony on behalf of CenturyLink, and that has been
17 identified as CenturyLink Statement 1.2.

18 (Whereupon, the document was marked
19 as CenturyLink Statement No. 1.2
20 for identification.)

21 Q. Do you have any changes, corrections, additions
22 or deletions to that testimony?

23 A. (Harper) Just one small change. On page two,
24 line 11, insert the word "case" after "rate cap/USF."

25 JUDGE MELILLO: What page are we on again?

1 WITNESS HARPER: Page two, line 11, the word "case"
2 there, "rate cap/USF case."

3 MS. BENEDEK: And just for the record, it has been
4 pre-marked as CenturyLink Statement 1.2, consisting of seven
5 pages and one exhibit marked CTL Panel-8, and it consists of
6 various testimonies from other jurisdictions that have been
7 cited by AT&T.

8 BY MS. BENEDEK:

9 Q. Now, Mr. Harper, if I were to ask you the
10 questions set forth in the panel direct, the panel
11 surrebuttal and panel rejoinder today, would your answers be
12 the same?

13 A. (Harper) Yes.

14 A. (Lindsey) Yes.

15 Q. And Mr. Lindsey, the same for you?

16 A. (Lindsey) Yes.

17 Q. Are the panel direct, panel surrebuttal and
18 panel rejoinder testimonies true and correct to the best of
19 your knowledge, information and belief?

20 A. (Lindsey) Yes.

21 A. (Harper) Yes.

22 MS. BENEDEK: Your Honor, we would offer the pre-
23 marked testimony into evidence subject to any motions and
24 cross-examination relative to these two witnesses.

25 JUDGE MELILLO: Any objection?

1 MS. PAINTER: Your Honor, I would like to ask that we
2 reserve the admission of the testimony that was previously
3 marked by Dr. Staihr that has been adopted by Mr. Harper. I
4 did not hear much foundation about the adoption of that and
5 I have some questions of Mr. Harper, but really I cannot
6 move to strike it yet. I would like to ask those questions
7 before I determine if Mr. Harper knows about the information
8 in that testimony, before I move to strike.

9 JUDGE MELILLO: All right. We'll reserve the
10 admission of what has been marked CenturyLink Statement 2.0
11 then, and we'll admit the other identified statements for
12 Messrs. Lindsey and Harper at this time, subject to cross-
13 examination and timely motions.

14 (Whereupon, the documents marked as
15 CenturyLink Statements Nos. 1.0,
16 1.1 and 1.2 were received in
17 evidence.)

18 MS. BENEDEK: Subject to that caveat, Your Honor, the
19 witnesses are available for cross-examination.

20 JUDGE MELILLO: The first party listed as having
21 cross-examination for the panel is AT&T.

22 MS. PAINTER: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. PAINTER:

25 Q. Good morning.

1 A. (Harper) Good morning.

2 A. (Lindsey) Good morning.

3 Q. My name is Michelle Painter. I'm representing
4 AT&T in this case. I'm going to start out, Mr. Harper, with
5 you. When did you first learn that you would be taking over
6 Dr. Staihr's testimony?

7 A. (Harper) Throughout the process of the
8 development of the case and development of the testimony --
9 actually, originally I was going to file the testimony. Dr.
10 Staihr was part of the team. As we got closer to the time
11 period, after the study was done, he thought he would have
12 availability so he filed the testimony. He made his
13 decision subsequent to that to leave the company and I have
14 now since adopted the testimony.

15 Q. And when did you first learn that you would be
16 doing that?

17 A. (Harper) My recollection was sometime around
18 March 20th or so.

19 MS. PAINTER: I'd like to have marked as AT&T Cross
20 Exhibit 1, Your Honor, a document.

21 JUDGE MELILLO: All right. The document being
22 distributed by counsel for AT&T will be marked as AT&T
23 Cross-Examination Exhibit 1.

24 (Whereupon, the document was marked
25 as AT&T Cross-Examination Exhibit

No. 1 for identification.)

BY MS. PAINTER:

Q. Mr. Harper, you see this is Embarq -- at the time it was Embarq -- CenturyLink's response to Sprint Set I, 17, and you had sponsored that?

A. (Harper) Yes.

Q. And this question is specifically asking for elasticity studies; is that correct?

A. (Harper) Yes, it is. That's what it reads.

Q. And if you look, there are several attachments which consist of e-mails that were provided in response to this. If you look through those, those e-mails are a series of e-mails between Jason Grant, who I guess was a market research for CenturyLink; is that right?

A. (Harper) He works in the marketing area, yes.

Q. Okay. And John Bekier?

A. (Harper) John Bekier.

Q. Okay. And he is the chief operating officer of the survey company?

A. (Harper) Yes, he is. He was our contact at Marketing Research and Resources.

Q. And Brian Staihr and then Sue Benedek; do you see that?

A. (Harper) Yes.

Q. Okay. And there are a series of these. Are you

1 on any of these e-mails?

2 A. (Harper) No. No, I'm not. As the answer to
3 the response also indicated, we had a number of oral
4 discussions. We had weekly conference calls on this
5 specific case and the development of the case. Brian was
6 part of that. I was part of that. I lead a team that
7 effectively is developing the strategy and the direction for
8 the case, so I worked with Brian.

9 Q. Okay. Let me turn you to page three of -- well,
10 I guess I call it CenturyLink Statement 2.0.

11 A. (Harper) Page three?

12 Q. Yes, which would be the direct testimony of Mark
13 Harper.

14 JUDGE MELILLO: You understand, we haven't put this
15 into evidence yet.

16 MS. PAINTER: I understand, Your Honor.

17 BY MS. PAINTER:

18 Q. Do you see there on line 15, it says, "The
19 purpose of my testimony in this proceeding is to discuss the
20 economic implications of a very short survey"? Do you see
21 that?

22 A. (Harper) Yes.

23 Q. You are not an economist; is that correct?

24 A. (Harper) No.

25 Q. And I understand that it's not in the record

1 anymore or in the testimony anymore, but Dr. Staihr did list
2 in his responsibilities that they include forecasting demand
3 and producing elasticity studies and you don't have that
4 similar experience, do you?

5 A. (Harper) I worked on new development of
6 products and pricing with the marketing team. I have not
7 developed specifically an elasticity study before, but I
8 reviewed them in conjunction with those teams.

9 Q. Okay. Let's turn to this survey. Who decided
10 on the number of people that would be called in the survey?

11 A. (Harper) It was a function of the number of
12 customers that are residential customers in Pennsylvania,
13 and a 95 percent confidence interval, so 800 was the number
14 that we were shooting for. We got 810 --

15 Q. I'm sorry, who decided on that number? Who
16 decided that -- you said it was 800 people who were called?

17 A. (Harper) Yes.

18 Q. And who decided on that?

19 A. (Harper) Who decided on that?

20 Q. Right.

21 A. (Harper) It was part of our discussions of what
22 would be necessary to get a statistically valid sample.

23 Q. You were involved in the decision to determine
24 how many customers would be called?

25 A. (Harper) It was discussed on our conference

1 calls, yes.

2 Q. And who determined what numbers would be called?

3 A. (Harper) That was done, we pulled a
4 statistically valid random sample of numbers, 10,000 of
5 those numbers, submitted to the marketing firm. They began
6 calling the numbers until they reached 810 and stopped.

7 Q. Who determined the day that the survey would be
8 conducted?

9 A. (Harper) The day the survey was conducted was
10 essentially a result of when we were done the collaborative
11 process of survey question development, reached the final
12 decision and moved forward.

13 Q. Were you involved in that decision?

14 A. (Harper) That the survey questions were
15 adequate?

16 Q. To determine the date of the survey.

17 A. (Harper) Yeah, I was part of the final
18 conference calls when we had the discussion around, are the
19 survey questions ready to go, is the process ready to go.

20 Q. And who determined the time of day that the
21 calls would be made?

22 A. (Harper) The time of day?

23 Q. Yes, when customers would be called.

24 A. (Harper) I believe the time of day was up to
25 the survey firm. I don't think we dictated when they call

1 customers. They probably have a normal practice and
2 procedure associated with that.

3 Q. The survey was conducted between December 21st
4 and 23rd; is that correct?

5 A. (Harper) Yes.

6 Q. And was there any consideration into whether
7 consumers' reactions to a question asking them if they were
8 willing to spend more money may have been influenced by the
9 fact that it was three or four days before Christmas?

10 A. (Harper) Not specifically, no.

11 Q. How many customers responded to the survey?

12 A. (Harper) Eight hundred and ten.

13 Q. There were 800 numbers picked and there were 810
14 responses?

15 A. (Harper) No. There were 10,000 numbers picked.
16 Eight hundred ten valid responses were received.

17 Q. How many calls were made?

18 A. (Harper) I don't know. It may be in some of
19 the documentation.

20 Q. Do you know where?

21 A. (Harper) I said it may be. I don't know. I
22 assume that number is in something that we received, but to
23 me it's not necessarily a valid answer. The people, if they
24 weren't the primary decision maker, then the call was
25 terminated and someone else called. If they didn't answer,

1 they moved to the next number. So I don't know how many
2 numbers they had to go through. It was less than the 10,000
3 sample, that's for sure.

4 Q. The survey takers, the people who were making
5 the calls, they had before them the amount of their average
6 bill for the particular customer they were calling; is that
7 correct?

8 A. (Harper) Yes, they did.

9 Q. Okay. And what was the average bill of the
10 respondents?

11 A. (Harper) What was the average bill of the
12 respondents?

13 Q. Yes.

14 A. (Harper) It varied based on the services they
15 purchased from us. Are you asking, did I compute a total
16 average?

17 Q. Yes. I'm asking, in the survey results, is
18 there anywhere that shows what the average bill of the
19 respondents was?

20 A. (Harper) Specifically, yes. In the attachment
21 to the testimony, BTS-2, the customer's average bill is
22 reflected in the second column labeled "revenue."

23 Q. Okay, so the 18, where it starts out 18?

24 A. (Harper) Yeah, and the next one is 63. The
25 next one is 69.

1 JUDGE MELILLO: Can I just ask a clarifying question?
2 So in other words, the revenue number is -- the revenue
3 doesn't match up. It's a little bit over to the left, if
4 you look at that exhibit, so you want to move all the
5 numbers underneath revenue?

6 WITNESS HARPER: On mine, it's a little bit to the
7 right.

8 JUDGE MELILLO: On mine, revenue is to the left.

9 WITNESS HARPER: No, it should say 18 for the first
10 line, just to be clear.

11 JUDGE MELILLO: Right, but the caption --

12 WITNESS HARPER: Oh, the caption is to the left, I'm
13 sorry. I thought you were referring to the number.

14 JUDGE MELILLO: -- is over to the left, all right.
15 So we're placing all the numbers beginning with No. 18
16 underneath the revenue column?

17 WITNESS HARPER: Correct.

18 JUDGE MELILLO: All right.

19 BY MS. PAINTER:

20 Q. What was the average income of the respondents?

21 A. (Harper) I don't know.

22 Q. That question was asked?

23 A. (Harper) It was asked, but it was not something
24 that I looked at and analyzed in the data response to how
25 likely would you be to change your service.

1 Q. So in terms of determining how many of the
2 customers that responded to the survey for purchasing
3 CenturyLink's \$18 a month stand-alone rate, we would then
4 look at this revenue column that you were talking about?

5 A. (Harper) I don't think I understood your
6 question.

7 Q. I'm trying to figure out how many of the
8 respondents are purchasing CenturyLink's \$18 a month stand-
9 alone local rate?

10 A. (Harper) That alone?

11 Q. Yes. We would look at the revenue column?

12 A. (Harper) Yes.

13 Q. And just to be clear, there was no attempt to
14 determine if any of the respondents had competitive options
15 or how much those competitors might be charging; is that
16 correct?

17 A. (Harper) They were asked if they had a wireless
18 phone and who that was from. They were asked if they had
19 cable TV service, but specifically we didn't ask them if
20 they were aware who the competitive options were beyond
21 those.

22 Q. And whose decision was it not to find that
23 information out?

24 A. (Harper) It just wasn't relevant to the
25 question of, what would you do in response to a price

1 increase from me, from CenturyLink.

2 Q. All right, let's turn to a different issue.
3 Let's look at your direct, and this is the panel direct.
4 I'm looking in particular at page 18, line 10. You can see
5 there a sentence starts at line nine, "The proposals these
6 parties advance pits vulnerable rural Pennsylvanians, many
7 without competitive options, against AT&T, Verizon, Sprint,
8 and Comcast." How many of these rural Pennsylvanians do not
9 have competitive options?

10 A. (Lindsey) We do not know the precise number and
11 I don't know that any party in this room knows the precise
12 number. We do know it remains a significant percentage.
13 Some may say as many as half. Some may say it's 10 percent
14 company-wide. But in rural areas, particularly the smaller,
15 less dense exchanges, there can be a very high percentage of
16 number of customers that don't have competitive options. So
17 it's a highly variable number based off an exchange or
18 sub-exchange.

19 Q. So you don't know, when you're saying it could
20 be, you don't actually know how many of those customers do
21 not have competitive options?

22 A. (Lindsey) That is correct. We did try to go
23 down this path with some DRs of asking the other carriers
24 for service area maps or where they serve, and struck out in
25 that area, so I don't know that any party in this case knows

1 the exact number.

2 Q. Would be fair to say that you have characterized
3 CenturyLink's territory as hyper-competitive?

4 A. (Lindsey) In some areas, yes.

5 Q. And so when you were talking about these rural
6 Pennsylvanians without competitive options, were you talking
7 about CenturyLink's territory or all of rural Pennsylvania?

8 A. (Lindsey) When we talk about CenturyLink's
9 territory, I think we have to work under the operating
10 impression that some areas are hyper-competitive, some are
11 less competitive and some are uncompetitive, which is what
12 makes a lot of the policy implications rather difficult and
13 maybe why we're here today.

14 Q. I guess I was asking about, when you were
15 talking about, on line ten, there are customers, many
16 without competitive options, were you talking about
17 CenturyLink's territory only?

18 A. (Lindsey) No. We were talking about rural
19 Pennsylvania generally, which would include CenturyLink
20 areas without competitive options, but I think it's a
21 reasonable belief or extrapolation that there are other
22 areas of rural Pennsylvania without competitive options as
23 well, probably in all ILEC serving areas.

24 MS. PAINTER: Your Honor, I'd like to have marked an
25 exhibit, AT&T Cross Exhibit 2.

1 JUDGE MELILLO: Yes. The document that AT&T counsel
2 is distributing will be marked as AT&T Cross-Examination
3 Exhibit 2.

4 (Whereupon, the document was marked
5 as AT&T Cross-Examination Exhibit
6 No. 2 for identification.)

7 MS. PAINTER: Your Honor, this is a proprietary
8 document which I have marked on the top.

9 JUDGE MELILLO: It will be marked as proprietary. If
10 there are any proprietary questions, we'll go on the
11 proprietary record. You'll have to notify me.

12 BY MS. PAINTER:

13 Q. What has been marked as AT&T Cross Exhibit 2
14 consists of two different data request responses. The first
15 is the response to Sprint Set I, No. 10, and the second is
16 the response to Sprint Set I, No. 11. Do you see that?

17 A. (Harper) Yes, we see that.

18 MS. BENEDEK: Your Honor, may I ask a question? To
19 the extent we may get into confidential, has --

20 JUDGE MELILLO: Please speak into the mic.

21 MS. BENEDEK: Has anyone in the room not signed the
22 confidentiality agreement? I don't think we've asked. I
23 just wanted to make sure.

24 JUDGE MELILLO: Certainly. Has anyone in the room
25 not signed the confidentiality agreement in these cases?

1 (No response.)

2 JUDGE MELILLO: Hearing no response, we'll assume
3 they have all signed.

4 BY MS. PAINTER:

5 Q. Now, this document asks about the percentage of
6 residential customers on a bundle, specifically No. 10, and
7 then No. 11 asked on their purchasing basic local service,
8 correct?

9 A. (Harper) Yes.

10 Q. Were you here yesterday?

11 A. (Lindsey) Yes, we were here yesterday.

12 A. (Harper) Yes.

13 Q. Okay. I don't know if you recall, but there was
14 an exhibit that AT&T witnesses corrected which was, it was a
15 CenturyLink response, and I can show it to you. It was the
16 response to AT&T --

17 A. (Harper) III-2?

18 Q. III-19.

19 A. (Harper) Oh, III-19?

20 Q. Yes.

21 A. (Harper) The one I received in the room was
22 from III-2.

23 JUDGE MELILLO: CenturyLink Cross-Examination Exhibit
24 No. 4 has to do with III-2. That's Verizon's.

25 BY MS. PAINTER:

1 Q. Do you have that corrected version?

2 A. (Harper) I have the corrected version of III-2.

3 Q. Okay. Let me show you III-19. This is in the
4 record.

5 MS. PAINTER: May I approach, Your Honor?

6 JUDGE MELILLO: Yes, you may.

7 BY MS. PAINTER:

8 Q. And this also has an identification of stand-
9 alone lines; is that correct?

10 A. (Harper) Right.

11 MS. PAINTER: Is the percentage proprietary?

12 MS. BENEDEK: Probably. The percentage --

13 WITNESS HARPER: Pardon me?

14 MS. BENEDEK: The percentage of stand-alone lines
15 relative to bundles?

16 MS. PAINTER: Yes. Is that proprietary?

17 MS. BENEDEK: I don't know if we --

18 WITNESS HARPER: I think the percentage is fine.

19 It's the raw numbers that we don't want to talk about. We
20 often talk about percentages in financial releases.

21 BY MS. PAINTER:

22 Q. Okay. Well, then, in response to Sprint Set I,
23 No. 11, percentage of stand-alone residential lines was 20
24 percent in year-end 2008; do you see that?

25 A. (Harper) Based on the definition of those

1 purchasing only basic local service.

2 Q. Okay. And if you look at the last page or
3 actually the second to last page of the attachment to ATT-
4 CTL-III-19?

5 A. (Harper) Right.

6 Q. It looks like there's a 12/2008 proportion
7 stand-alone, it says, 47.6 percent.

8 A. (Harper) Right.

9 Q. Can you just explain that discrepancy?

10 A. (Harper) The difference is the way the question
11 is asked. The Sprint-Embarq 11 is asking for those that
12 purchased only basic local service. By definition, we only
13 pulled lines that purchased nothing except basic local
14 service. The AT&T-III-19, we interpreted as asking, who
15 purchases the \$18 rate, which would include people buying
16 just the \$18 rate, or \$18 plus call waiting features but not
17 a bundle, versus people that purchase bundles. It's a
18 different definition.

19 Q. Okay. So when you have in III-19 stand-alone,
20 and you have in Sprint-11 it says residential stand-alone,
21 your definition of stand-alone is different?

22 A. (Harper) Well, it's responding to the question.
23 The question that Sprint asked was, purchase only basic
24 local service, and I think the way the AT&T question was
25 asked, "How CenturyLink customers purchase CenturyLink's \$18

1 per month service?" Whether we got clarified through
2 conference with counsel or whatever, but somehow we
3 interpreted that to be, anybody buying the \$18 service plus
4 anything else. In that case, the same words are used to
5 describe two different things.

6 Q. What would be included in bundled lines in
7 response to AT&T-III-19?

8 A. (Harper) The bundle line numbers should be
9 consistent and should be the same definition. It's
10 customers buying packages of services that are combined into
11 a single price which we commonly call bundles. I think what
12 you're asking about is the other issue, which is stand-
13 alone.

14 Q. You're saying that the stand-alone on III-19 is
15 not just the \$18 per month service but includes something
16 else?

17 A. (Harper) It's everybody purchasing \$18 service
18 from us. It could include those that are purchasing \$18
19 plus Caller ID, \$18 plus toll blocking, \$18 plus something
20 else.

21 Q. Okay. So the bottom line is that in terms of
22 the customers that are purchasing only the \$18 a month
23 service, it's 20 percent as of year end 2008?

24 A. (Harper) Yes.

25 Q. Now, you discuss in your surrebuttal testimony

1 at page 25, beginning at line 16, that question and answer
2 that goes into page 26, line nine?

3 A. (Lindsey) Yes, we've got it.

4 Q. And your discussion there is about the caller or
5 carrier of last resort obligation, and essentially if the
6 COLR costs don't exist, Commissions could just remove the
7 obligation to bring the ILECs into parity. Is that a fair
8 assessment of that question and answer?

9 A. (Lindsey) Yes, that's what the testimony says.

10 Q. Okay. And you also state on line eight of page
11 26, you say there, "The fact that states and the federal
12 government have not taken these steps" -- and I think you
13 mean by "these steps," just to remove the COLR obligations,
14 right?

15 A. (Lindsey) Correct.

16 Q. So you say, "The fact that the states have not
17 taken these steps speaks volumes about such claims of 'no
18 cost.'" Are you aware of the fact that in Florida, the COLR
19 obligations have been eliminated, including for CenturyLink?

20 A. (Lindsey) We are aware that in Florida, some
21 COLR obligations have been removed. We don't believe
22 they've been fully removed.

23 Q. Okay. What was removed?

24 A. (Lindsey) Our understanding is green field
25 investment, and by that we mean investment to new premises

1 where there is an alternative provider, things that we would
2 include in a COLR definition such as price averaging -- for
3 example, if a rural customer has an \$80 loop, we don't have
4 the flexibility to charge that customer \$80. We're still
5 price averaged.

6 There are still service obligations, reporting --
7 things that COLR ILECs have traditionally held that were not
8 addressed in that legislation.

9 Q. Did retail rates increase in Florida increase by
10 many multiples as a result of the legislation in Florida?

11 A. (Lindsey) My understanding is retail rates have
12 not been permitted to increase, that that COLR obligation
13 did not address the pricing question.

14 Q. Has CenturyLink stopped serving any customers in
15 Florida?

16 A. (Lindsey) Can you clarify the question, please?

17 Q. Are there any customers that CenturyLink has
18 stopped serving as a result of the legislation?

19 A. (Lindsey) To my knowledge, no carriers,
20 including AT&T where it's a large carrier, despite the
21 statutory language, the feeling is that, similar to our
22 discussion of Pennsylvania yesterday, that the practical
23 duty may very well exist and nobody has tested those waters,
24 to my knowledge.

25 Q. Well, let me ask you about Pennsylvania. How

1 would this Commission relieve CenturyLink of its COLR
2 obligations? What exactly would that entail?

3 A. (Lindsey) To be relieved of obligations in our
4 view would move to establish regulatory parity among all
5 providers, so the regulation would look a lot like say what
6 the CLECs may have. So as I mentioned with Florida, it
7 would be a removal of pricing regulation, both in terms of
8 ability to increase price to current customers and what
9 prices would be offered to potential customers.

10 There would be relief of service obligations and
11 reporting. It would be the ability to discontinue service
12 in an easier manner.

13 I think, as AT&T Witness Nurse admitted yesterday,
14 ILECs are assumed to have a higher bar to discontinue
15 service, and certainly where areas are unprofitable or cost
16 prohibitive and other carriers today have the luxury of not
17 serving certain areas, we would have to look at that
18 question as to whether ILECs should be required to serve in
19 an unprofitable manner. That just seems to be fair from a
20 competitive parity aspect.

21 Q. Well, Mr. Nurse was talking about the
22 abandonment requirements for a CLEC. Do you recall that?

23 A. (Lindsey) Yes, I do. And that's what I'm
24 referring to in terms of competitive parity, that if we're
25 talking about removing COLR obligations and establishing a

1 fair playing field, then the ILEC would have that same
2 opportunity.

3 Q. So you're saying today that CenturyLink would
4 not be able to come in and request abandonment under the
5 Commission's abandonment rules?

6 A. (Lindsey) I don't know that that's been tested
7 or if I can answer that specifically. What I'm saying is,
8 it's generally understood that ILECs would face a much
9 higher bar to achieve that objective, and to my knowledge no
10 states or the feds have permitted that. That's really
11 something that would break down the decades old compact of
12 universal service.

13 Q. What reporting requirements does CenturyLink
14 have that the CLECs don't have?

15 MS. BENEDEK: Your Honor, Mr. Bonsick is available
16 for cross-examination. He does talk about reporting
17 requirements and parity, so feel free to ask the question.
18 It's just, this witness may not be the particular witness
19 knowledgeable about the particular regulatory scheme and he
20 can answer generally, but particulars about PA would be Mr.
21 Bonsick.

22 MS. PAINTER: That's fine, but he did mention that
23 and I'd like to follow up.

24 JUDGE MELILLO: Certainly. Go ahead, Ms. Painter.

25 WITNESS LINDSEY: Yes, and I was going to speak

1 generally, and as Ms. Benedek said, Witness Bonsick can
2 speak to Pennsylvania. But I think it's generally
3 recognized at the federal level and in many states that
4 ILECs have more burdensome reporting obligations in terms
5 of, for example, repair service, financial metrics, those
6 types of obligations that other providers traditionally
7 enjoy freedom from.

8 BY MS. PAINTER:

9 Q. CenturyLink has not come into the Commission and
10 requested that its local service be deemed competitive; is
11 that correct?

12 A. (Harper) Witness Bonsick is probably better
13 prepared to answer that question. I have no specific
14 knowledge.

15 Q. Let's look at your surrebuttal, page eight. You
16 say there at line 20 that, "The current residential
17 benchmark of \$18 a month meets the reasonable viability
18 standard;" is that correct?

19 A. (Lindsey) That's correct.

20 MS. PAINTER: I'd like to have marked a document,
21 AT&T Cross-Examination Exhibit 3, Your Honor.

22 JUDGE MELILLO: Yes. That document you're
23 distributing may be marked as AT&T Cross-Examination Exhibit
24 3.

25 (Whereupon, the document was marked

1 as AT&T Cross-Examination Exhibit
2 No. 3 for identification.)

3 BY MS. PAINTER:

4 Q. What has been marked as AT&T Cross Exhibit 3 is
5 an excerpt from the main brief of Joint Applicants and
6 CenturyTel, Inc. of March 13, 2009. Do you see that?

7 A. (Lindsey) Yes.

8 Q. If you would turn to page 38, really the second
9 page of the exhibit, you see there the last sentence, the
10 proposed \$18 per month rate cap is unreasonable and
11 burdensome; is that correct?

12 A. (Lindsey) Yes, I see that.

13 MS. PAINTER: Can I have just one moment, Your Honor?

14 (Pause.)

15 MS. PAINTER: I have nothing further, Your Honor.

16 I'd like to move for the admission of AT&T Cross Exhibits 1
17 through 3.

18 JUDGE MELILLO: Any objection?

19 MS. BENEDEK: No objections. One request. OCA's
20 Witness, Dr. Roycroft, I think, had a series of
21 recommendations, the \$18 and the lack of billing to the USF
22 if I recall, one of many --

23 JUDGE MELILLO: Could you speak into the microphone,
24 please?

25 MS. BENEDEK: Yes, Your Honor. And I would only

1 request that the entire main brief be included into the
2 record. I think, if I recall the main brief, addresses Dr.
3 Roycroft's recommendations, and I would request that the
4 entire main brief of CenturyLink be included in the record
5 rather than just these three pages of it.

6 JUDGE MELILLO: So you're asking for recognition of
7 the entire brief as a public document?

8 MS. BENEDEK: I would be okay with that.

9 MS. PAINTER: Yes, that would be fine.

10 JUDGE MELILLO: All right. We'll admit that brief,
11 the entire brief into the record as a public document under
12 Commission regulations. I would like to have a copy of
13 that. If CenturyLink could provide that to me, I would
14 appreciate it, as well as provide a copy to any party that
15 requests it.

16 All right. With that, the AT&T Cross-Examination
17 Exhibits are admitted, 1 through 3.

18 (Whereupon, the documents marked as
19 AT&T Cross-Examination Exhibits
20 Nos. 1, 2 and 3 were received in
21 evidence.)

22 JUDGE MELILLO: The next party indicating that they
23 had cross-examination for this panel is, I believe we have
24 Sprint next in the order. Let's go off the record for a
25 moment.

1 (Discussion off the record.)

2 JUDGE MELILLO: Back on the record.

3 CROSS-EXAMINATION

4 BY MR. ARON:

5 Q. Good morning. How are you doing? I'm Benjamin
6 Aron. I represent Sprint Nextel.

7 A. (Harper) Good morning.

8 A. (Lindsey) Good morning.

9 Q. I thought we'd begin by just establishing with a
10 few questions what the record does reflect, so my first
11 question is, just to clarify, CenturyLink has not
12 established its COLR costs on this docket, correct?

13 A. (Lindsey) That is correct.

14 Q. And CenturyLink has also not established its
15 cost for access services, correct?

16 A. (Lindsey) That is correct.

17 MR. ARON: Your Honor, may I approach?

18 JUDGE MELILLO: Yes, you may.

19 (Pause.)

20 JUDGE MELILLO: This document that's being
21 distributed will be marked as Sprint Cross-Examination --

22 MR. ARON: I handed them to you in reverse, so it's
23 supposed to be 1 and 2.

24 JUDGE MELILLO: We actually have two documents,
25 Sprint Cross-Examination Exhibits 1 and 2. Those documents

1 will be marked.

2 (Whereupon, the documents were
3 marked as Sprint Cross-Examination
4 Exhibits Nos. 1 and 2 for
5 identification.)

6 (Pause.)

7 BY MR. ARON:

8 Q. Sorry about that. So, just to verify here,
9 looking at what is Sprint Cross Exhibit 1, and we asked
10 CenturyLink what its cost of providing basic local service
11 is, and here we've got an answer from CenturyLink but
12 there's no quantification by CenturyLink of its own costs;
13 is that correct?

14 A. (Harper) That's correct in relation to that
15 question.

16 Q. Thank you. The next one, which is Sprint Cross
17 2, we asked CenturyLink its cost of providing switched --
18 I'm sorry, I'm doing this in reverse, aren't I? Sorry.
19 II-2 asks for access, and we just went over that. II-1,
20 which is Sprint Cross 1, asks whether you've established
21 your cost of providing basic local service, and my question
22 is, has CenturyLink quantified its cost of providing basic
23 local service?

24 A. (Harper) You asked me about that one the first
25 time, basic local service, I thought. Did I answer the

1 wrong question?

2 Q. The answer is going to be the same. CenturyLink
3 has not -- let's do it this way. CenturyLink has not
4 quantified its cost for access or basic local, correct?

5 A. (Harper) Similar to all the previous Commission
6 cases, no, we did not submit a cost study to establish
7 access or the cost of basic local service.

8 Q. Okay. Sorry for the confusion. I had the
9 documents sorted wrong in front of me. CenturyLink is a
10 rural carrier; is that right?

11 A. (Harper) I would call us a rural carrier, yes.

12 Q. And CenturyLink believes that if its retail
13 rates rise, it may see increase in the number of customers
14 that leave CenturyLink for its competitors, correct?

15 A. (Lindsey) Correct. I think it's a near
16 certainty.

17 Q. And if CenturyLink's customers leave for
18 competitors, it follows that its competitors are providing
19 service in a rural territory; is that correct?

20 A. (Lindsey) As I mentioned in the prior
21 questioning, there are areas of no competition and areas of
22 heavy competition, so in areas of more competition, that is
23 where we will see customers leave. Obviously, customers
24 without options, competitive options, would not be able to
25 exercise that option.

1 It's also obvious that the competition is going to
2 focus on the lower cost areas, and when those customers
3 leave, they take their revenues, including the portion of
4 the revenues that may be supporting the higher cost areas
5 within our own territory.

6 Q. Can you guys answer the question? I'd
7 appreciate that.

8 A. (Lindsey) I'm sorry. Can you repeat that,
9 please?

10 Q. Sure. If a CenturyLink customer leaves
11 CenturyLink for a competitor, it follows that the
12 competitor is providing service in a rural area, correct?

13 A. (Lindsey) In the part of the area they serve,
14 yes.

15 Q. And if a competitive carrier is providing
16 service in that rural area, does it follow that a
17 competitive carrier has made investments to be able to
18 provide service in that rural area?

19 A. (Harper) Again, maybe we're stumbling over
20 definitional issues. CenturyLink is deemed a rural carrier.
21 CenturyLink has areas that are more and less rural. It has
22 areas that are higher and lower cost, and it has areas of
23 more and less competition and no competition. So it's hard
24 to answer this question regarding our entire territory when
25 the answer may vary by subset in that territory. Granted,

1 in areas where a competitor has invested, yes.

2 Q. Is there an area of CenturyLink's territory it
3 considers not to be rural?

4 A. (Lindsey) In the state of Pennsylvania, I
5 believe that's no.

6 Q. Okay. So your entire -- not your, but
7 CenturyLink's entire service territory in the state of
8 Pennsylvania is --

9 MR. ARON: Sue, I hate to ask you this, but I'm
10 looking right behind -- I apologize, I'm trying to bob
11 around your head and it's not working. I apologize.

12 (Pause.)

13 BY MR. ARON:

14 Q. Where was I? CenturyLink's entire service
15 territory is rural?

16 A. (Lindsey) Is designated rural for regulatory
17 purposes, yes.

18 Q. Okay. Thank you. So a competitive carrier
19 providing service in CenturyLink's territory has invested in
20 facilities in a rural area; has it not?

21 A. (Lindsey) Again, in a portion of our rural
22 area, yes.

23 Q. Do you agree that there may be some rate higher
24 than \$18 that is an appropriate rate for local service?

25 A. (Lindsey) Given the current regulatory

1 construct and universal service objectives, current
2 benchmarks, caps, etcetera, no. Theoretically, if there
3 were no universal service objectives and rates went to cost,
4 then the answer may be different, but that's pure theory.

5 Q. I'm not sure I understand the answer. You said
6 rates went to cost.

7 A. (Lindsey) For rural high cost areas where costs
8 could be, let's say, \$80, \$90, \$100 a month for example
9 purposes, absent universal service constraints, if we were
10 all operating under a pure free-market theory, that would
11 suggest the rates would need to go to that level to cover
12 costs. Again, I am just providing you an example.

13 In today's construct, no, it's not appropriate for
14 rates to go above that \$18 mark. That's the construct in
15 which we operate today.

16 Q. Assuming that there is some other recovery
17 allowed, okay, assuming that something else changes as well,
18 how have you proposed that the Commission identify what an
19 appropriate higher rate is? Is that in your testimony
20 anywhere?

21 A. (Lindsey) I believe in our testimony we speak
22 to the concepts of affordability and rate comparability, and
23 certainly competitive price governors. We haven't done a
24 quantification. That's spoken of subjectively or
25 qualitatively, but those are very important concepts or

1 governors we have to consider as we make policy.

2 MS. BENEDEK: Try to keep your voice up.

3 WITNESS LINDSEY: Okay.

4 BY MR. ARON:

5 Q. I know AT&T has suggested a rate, Sprint
6 suggested a rate. I believe Verizon, I believe Qwest, I
7 believe OSBA, I believe OCA have all suggested rates. Have
8 you?

9 A. (Lindsey) We have suggested that the \$18 rate
10 is sufficient. We have in testimony that shows, at least
11 for the states that Century serves, the rate is higher than
12 average, that Pennsylvania has done a lot of good work
13 historically to move to that rate, and the rate of \$18 is
14 fairly aggressive and above average.

15 I believe you heard the Verizon witness yesterday
16 indicate that they've taken rate increases up to the level
17 of inflation and they believe that other carriers can so
18 that, and I would differ with that. I think that's relative
19 to your current price level. If you're at \$8.00 or \$10.00,
20 then you probably can, but as rates have walked up to \$18,
21 that's a different question.

22 Q. I see. So there is nothing on the record that
23 indicates any methodology CenturyLink would recommend the
24 Commission follow to determine any rate other than \$18,
25 correct?

1 A. (Lindsey) We recognize it's a very difficult
2 policy question. It's going to be subjective. And to
3 directly answer your question, no, we have not prescribed a
4 methodology.

5 Q. Thank you. Do you admit that the current system
6 of Pennsylvania universal service fund and access charges is
7 an inefficient system?

8 A. (Lindsey) I think our testimony reflects that
9 universal service by design is inefficient. If we operated
10 just by free market economics, there would not be universal
11 service policy and there would be customers left off the
12 network. So we are all agreeing historically, industry and
13 policy makers, agreeing to some level of inefficiency to
14 deliver service to all.

15 Q. Do you agree that if the Commission determines a
16 system for ensuring universal service that is effective and
17 more efficient than the current system, implementing that
18 more efficient and effective system would be good for the
19 market and for consumers?

20 A. (Lindsey) Well, there's a trade-off there.
21 That's assuming that the objectives could be maintained, and
22 obviously if we can maintain the objective and be more
23 efficient, I think we would all support that. But
24 generally, options are presented with a series of trade-
25 offs, and it may be a trade-off of less effectiveness for

1 more efficiency or vice versa. So that's what we must
2 consider.

3 Q. Okay. But the question specifically was, if the
4 Commission figures out a way -- I'm not saying necessarily
5 anybody can -- but hypothetically, if the Commission figures
6 out a way of ensuring universal service and it is an
7 effective methodology and it is a more efficient system than
8 the current system, is that something that CenturyLink would
9 be in support of?

10 A. (Lindsey) I grant that's a hypothetical, but
11 yes, if we could achieve that hypothetical.

12 Q. Do you believe that the proliferation of
13 wireless service to all Pennsylvanians is a goal of the
14 state?

15 A. (Lindsey) I do not know the answer to that
16 specifically. It would not surprise me if it was. I mean,
17 similarly to the goals to advance wire line historically, I
18 think the advancement of wireless is a good thing as well.

19 Q. I'm going to read you a passage, and this is
20 from 3011, declaration of policy, this is 66 Pennsylvania
21 Consolidated Statutes, 3011, subsection five. And it reads
22 -- the preamble is, "The General Assembly finds and declares
23 that it is the policy of this Commonwealth to," and then
24 section five specifically reads, "Provide diversity in the
25 supply of existing and future telecommunications services

1 and products in telecommunications markets throughout this
2 Commonwealth by ensuring that rates, terms and conditions
3 for protected services are reasonable and do not impede the
4 development of competition."

5 Do you think that it is a reasonable conclusion that
6 the spread of the proliferation of wireless service would
7 fall into the ambit of that statutory goal?

8 MS. BENEDEK: Objection, Your Honor. They are not
9 attorneys. He's established no foundation that they are
10 familiar even with the statement of policy. He can
11 certainly ask those questions, and again, I reiterate that
12 Mr. Bonsick is available who is more knowledgeable about PA
13 requirements and PA matters. So I object to the question on
14 those grounds.

15 JUDGE MELILLO: Your response, Mr. Aron?

16 MR. ARON: Give me one moment.

17 (Pause.)

18 MS. BENEDEK: He's essentially asking what the
19 Legislature intended by that provision, and I don't think
20 these witnesses --

21 MR. ARON: Your Honor, on page 14 of the panel
22 surrebuttal, lines 22 --

23 JUDGE MELILLO: Hold on just a minute until I follow
24 you.

25 MR. ARON: Certainly.

1 JUDGE MELILLO: Page 14 of the surrebuttal, and what
2 line?

3 MR. ARON: Line 22 through the following page, 15,
4 line six. There's a discussion here about the primary
5 purpose of universal service policy, and I think it's
6 undeniable that the witnesses are talking about policy of
7 the state. I believe that the statute that I'm reading from
8 is an expression of the policy of the state, and I'm really
9 trying to get after what they believe the universal service
10 policy is or is not. They clearly testified about it. I'm
11 not asking them for their legal opinion about the import or
12 effectiveness, impact of the statute. I'm just curious to
13 find out what they believe universal service policy is.
14 It's there in the testimony. I believe I'm free to question
15 them about it.

16 JUDGE MELILLO: The objection is overruled. The
17 witness may answer the question.

18 MR. ARON: Thank you.

19 JUDGE MELILLO: As policy witnesses.

20 BY MR. ARON:

21 Q. Would you like me to repeat the question?

22 A. (Lindsey) I think I understand. I just have to
23 clarify. I can answer from a policy perspective, but in
24 regard to that statute or that act specifically, I don't
25 think Mr. Harper or I are qualified to answer in that

1 regard, but from a policy perspective, we can answer the
2 question, and I would answer as follows.

3 When we look at universal service policy, that tenet
4 is for customers who would have no service to have a service
5 option. So I would contend that availability, meaning one,
6 is the main purpose of universal service.

7 Having a second or third or other providers certainly
8 may be an admirable policy objective. Our position is that
9 has to be secondary to ensuring that we have an effective
10 policy that at least gets one provider to make service
11 available.

12 Q. You don't believe that the proliferation of
13 wireless service could in any way effectuate the goal of
14 universal service?

15 A. (Lindsey) I'm not saying that. I'm not saying
16 the mode or the provider. I'm saying that universal service
17 policy is to get one, and certainly states or the federal
18 government is free to determine who is chosen for that one
19 or how they incent that one to come about.

20 Q. Okay. So if a new house is built in
21 CenturyLink's territory and there is no CenturyLink line
22 that goes to that house, it's a new subdivision, whatever
23 the case may be, and it's within a wireless carrier's, let's
24 say Sprint's, service territory, has the universal service
25 goal been satisfied by one carrier, Sprint's providing

1 service to that location? Isn't that universal service?

2 A. (Lindsey) Under the current rules, I would say
3 no because the ILEC, CenturyLink in this case, would have
4 that obligation to serve and has to stand ready to serve, so
5 it would have to deploy network and service capabilities to
6 be ready to serve. So that's one example or a piece of the
7 COLR obligation.

8 If that obligation were not there, that may change
9 the policy or the question, but given today's rules where
10 any other carrier other than the ILEC has the opportunity to
11 choose to serve or not serve and where the ILEC has the
12 responsibility, the requirement to serve, that's a
13 fundamental issue that we think goes to universal service
14 funding to cover that obligation.

15 Q. So in your response, if I understand, you said
16 that you have to stand ready to serve, right?

17 A. (Lindsey) Correct.

18 Q. In the hypothetical that we just drew out, brief
19 as it may have been, we've indicated that there's no line
20 that goes to the house at this point, right?

21 A. (Lindsey) Correct.

22 Q. So what I am curious about now is, you don't
23 build out unless you're requested to; is that correct? You
24 don't actually walk in, get a line crew out there and drag
25 that line out to that house and connect that house without a

1 request; isn't that correct?

2 A. (Lindsey) For our operations in Pennsylvania,
3 I'm not sure of the answer. Irrespective of the final drop
4 to the customer's house, there are investments further back
5 in the network that have to build capacity to prepare for
6 that likelihood.

7 And again, given the fact, even if Sprint serves that
8 customer today, they may opt not to serve that customer
9 tomorrow, in which case I need to be ready on short notice,
10 you know, within my regulatory constraints, to be able to
11 serve that customer.

12 Q. The revenue that's at risk for CenturyLink in
13 this docket is CenturyLink's carrier charge revenue only.
14 You already mirrored your --

15 MR. ARON: And Sue, the rates are confidential, not
16 the fact of -- okay, thanks.

17 BY MR. ARON:

18 Q. The carrier charge revenue is at risk. The
19 rates, the traffic sensitive rates already mirror; is that
20 correct?

21 A. (Harper) At a granular detail, there are some
22 different details, because traffic sensitive rates were
23 mirrored a number of years ago. There have been some
24 changes in the interstate rates and some introductions of
25 some de-averaging, so there may be a small additional

1 impact, but I would agree that the vast majority of the
2 impact is the carrier charge.

3 Q. That's the vast majority. There might be a
4 little bit here, little bit there, okay. And the carrier
5 charge per line per month is --

6 MR. ARON: That number is not confidential, is it?

7 MS. BENEDEK: No. It's tariffed.

8 MR. ARON: It's tariffed, right, yeah, okay.

9 BY MR. ARON:

10 Q. That number is \$7.00, right, per line per month,
11 \$7.19, I think?

12 A. (Harper) Yeah, that's what I thought. Yes.

13 Q. Now, yesterday there was some discussion of a
14 certain set of calculations performed by Mr. Appleby. Are
15 you aware that Mr. Appleby calculated CenturyLink's dividend
16 payout as a per line, per month amount?

17 A. (Harper) The dividend payout? I saw that in
18 his testimony, yes.

19 Q. You saw that, okay. And you're aware then that
20 he calculated the per line, per month dividend payout to be
21 \$10.28 per line for CenturyLink, correct?

22 A. (Harper) I don't have in front of us the
23 testimony, but I'll accept it subject to check.

24 Q. Okay. And do you have any reason to disagree
25 with the arithmetic and the equation?

1 A. (Harper) No.

2 Q. Okay. And Mr. Appleby's equation, taking the
3 \$10.28, juxtaposing it with the \$7.19, it's greater than
4 \$3.00 than the carrier charge, right? It's more than \$3.00
5 over the carrier charge?

6 A. (Harper) I can see the math. I don't
7 necessarily understand the connection or relevance.

8 Q. I'm not asking you to. I appreciate that. But
9 the \$10.28 per line per month is more than \$3.00 over the
10 \$7.19; is it not?

11 A. (Harper) Yes, it is.

12 Q. Okay. Thank you. You claim in your testimony
13 that the Pennsylvania universal service fund and access
14 charge revenue is used to fund CenturyLink's compliance with
15 universal service obligations and COLR obligations, correct?

16 A. (Harper) Did you understand what he said?

17 A. (Lindsey) I was going to ask the same thing.
18 Can you clarify the question, please?

19 Q. I'll re-read it. If it's still unclear, I'll
20 try again. You claim in your testimony that Pennsylvania
21 universal service fund and access charge revenue is used to
22 fund CenturyLink's compliance with universal service
23 obligations and COLR obligations, correct?

24 A. (Lindsey) I believe that's correct.

25 Q. We've already established that those have not

1 been quantified, neither the universal service obligations,
2 COLR obligations, there's no quantification from CenturyLink
3 on the record, right?

4 A. (Lindsey) As we indicated, I'm not aware that
5 any ILEC anywhere in the country has done such a difficult
6 question. No, we have not done so.

7 Q. Okay. Can you turn to page 15 of your
8 surrebuttal?

9 A. (Lindsey) Yes.

10 Q. Lines 18 through 20, you testified that as the
11 primary instruments of the state and federal universal
12 service/COLR policy, ILECs must be fairly compensated for
13 the cost of fulfilling this social compact. Do you see
14 that?

15 A. (Lindsey) Yes, I see it.

16 Q. Okay. I'm curious. Since you haven't
17 quantified any of the costs, how in the world do you
18 determine whether there's a shortfall against those alleged
19 costs? How do you determine that?

20 A. (Lindsey) That's a good question. Again, I do
21 not know that any carrier has quantified that, although
22 there are very likely shortfalls. ILECs do, for explicit
23 receipts -- to step back, there's a combination of
24 historical implicit funding, where I go back decades where
25 business rates subsidized residential and urban subsidized

1 business and toll subsidized -- you know, those historical
2 implicit subsidies that have largely eroded away through
3 competition. Those would have to be part of the
4 calculation, and I don't know that any of us would agree on
5 exactly what those numbers are if we tried to quantify.

6 But there's also explicit federal and state USF
7 funding, and ILECs do file officer level certifications that
8 the funding is used for the intended purpose. But to answer
9 you question specifically, no, we haven't, nor has any ILEC
10 to my knowledge, quantified any shortfall, if it did exist.

11 Q. So when you say "fairly compensated," you don't
12 know what that means, what that amount would be, not what it
13 means, but the amount? You don't know what fairly
14 compensated, that would quantify out to?

15 A. (Lindsey) Again, an exact to the dollar or
16 penny calculation, no.

17 Q. Thank you. Can you turn to page 16 of your
18 testimony?

19 A. (Lindsey) Yes.

20 Q. At line two through three, you say, "Failure to
21 fully fund also may result in non-ILECs not paying their
22 fair share of this burden of this social obligation."
23 What's that fair share? How much is that?

24 A. (Lindsey) Again, I don't know that there's been
25 an exact quantification. It is, again, just the policy or

1 the concept that if policymakers want to have universal
2 service and it creates obligations, the burden of funding
3 those obligations should be shared by all, and there's a
4 risk that if it's not done appropriately, the burden could
5 fall on the ILEC as the primary instrument of implementing
6 that policy.

7 Go back to that line drop example we mentioned in
8 rural Pennsylvania earlier. That's an example of a cost
9 that an ILEC would bear that others don't. If it's not
10 compensated, the ILEC would bear that full cost and others
11 who should pay their, I'll say fair share again -- that's
12 still kind of a relative concept -- that would leave them
13 off the hook.

14 Q. So going back to the question, you can't
15 quantify that fair share or you haven't on the record,
16 right?

17 A. (Lindsey) That's correct.

18 Q. Do you think that makes it difficult for the
19 Commission to figure out what to do in this docket?

20 A. (Lindsey) I think it's a difficult question for
21 all policymakers at the federal level and at the states, and
22 I think we all agree there are many, many open dockets.
23 This issue has been discussed for many, many years. It's
24 obviously a difficult question.

25 Q. So we have OCA who has made a recommendation on

1 rates and access. Sprint has made a recommendation on rates
2 and access. Verizon has made a recommendation on rates and
3 access. AT&T has made a recommendation on rates and access.
4 OSBA has made a recommendation on rates and access. I
5 believe every party except for CenturyLink and PTA has made
6 a recommendation on rates and access. You're telling the
7 Commission, I need my fair share, okay, I have to be fairly
8 compensated, and there's no recommendation on what that is,
9 how to calculate it, how to quantify it, correct?

10 MS. BENEDEK: Objection, Your Honor. Number one,
11 it's argumentative. Number two, he has asked this question
12 and it's been answered.

13 JUDGE MELILLO: I agree. It's argumentative and the
14 question's been answered.

15 MR. ARON: I'll move on, Your Honor.

16 JUDGE MELILLO: I imagine I'll see that statement
17 again.

18 MR. ARON: Very possible.

19 (Laughter.)

20 THE REPORTER: One second, please.

21 (Discussion off the record.)

22 JUDGE MELILLO: Back on the record. We'll take a ten
23 minute break. Off the record.

24 (Recess.)

25 JUDGE MELILLO: Back on the record.

1 We will continue with cross-examination by Mr. Aron
2 of the CenturyLink panel.

3 MR. ARON: Certainly. Thank you, Your Honor.

4 BY MR. ARON:

5 Q. On page 19 of your testimony, you --

6 JUDGE MELILLO: Which testimony, Mr. Aron?

7 MR. ARON: I'm sorry, Your Honor. Surrebuttal, the
8 surrebuttal testimony.

9 BY MR. ARON:

10 Q. Page 19 of the surrebuttal testimony, you talk
11 there about a heavy regulatory burden, lines 18 through 19.
12 Have you quantified that?

13 A. (Harper) Similar to the question regarding the
14 COLR obligation, no, we cannot provide an exact
15 quantification of these sometimes nebulous regulatory
16 burdens, but I think it's generally and clearly accepted
17 that the ILEC burden are far heavier than those of non-
18 ILECs.

19 Q. Okay. At lines 14 and 15, you state that you're
20 forced to serve areas which other carriers don't want to
21 serve. Do you see that?

22 A. (Lindsey) Yes. On line 14?

23 Q. Yes.

24 A. (Lindsey) Yes, I see it.

25 Q. It spills over, 14 to 15. And I'm curious. A

1 page earlier, you claim that competition in your area
2 constrains pricing; do you not?

3 A. (Lindsey) Yes. I don't believe they're
4 mutually exclusive. There's a significant presence of
5 competition which will constrain prices for the majority of
6 customers, but again, due to the unique ILEC burden -- say
7 for example, even though a cable competitor is in a city,
8 they can choose. Say there's a five acre farm that has been
9 built up by development. They can choose to bypass that
10 home and we would still have to serve it. Or even an area
11 they serve today, a customer, they can opt not to and we
12 have to obligation to serve them. So despite competition,
13 as I mentioned earlier, we still have that obligation to
14 serve all.

15 Q. I think Ms. Painter earlier had asked you, and
16 the answer was that you have not been able to, quantify how
17 much of your customer base has competitive alternatives.

18 A. (Lindsey) That is correct. We believe it to be
19 a fairly significant number, but can't put an exact
20 quantification on it.

21 Q. And you said you believe it is a fairly
22 significant number?

23 A. (Lindsey) Well, let me put some parameters
24 around it. There are some, I guess some national studies
25 out there. I think we would agree it's likely higher than

1 10 percent, but probably less than 50 percent. And that's a
2 huge window, but that's probably a fair assessment of
3 CenturyLink's territory in Pennsylvania, although again,
4 it's highly variable.

5 On an exchange-by-exchange basis, we could have areas
6 with practically no competition and we could have exchanges
7 that have near complete competitive coverage. So it's
8 highly variable.

9 Q. Do you agree that the trend of line loss that
10 CenturyLink has experienced in the last few years that's
11 reflected on the record, do you agree that that tends to
12 indicate that there is a fair number of your customers that
13 have competitive alternatives?

14 A. (Lindsey) In parts of our serving area, yes.
15 And again, I think we would find that higher cost, lower
16 density areas would experience less line loss than the
17 bigger, more suburban type communities such as Carlisle in
18 our Pennsylvania district would show.

19 Q. Is there anywhere on the record we can find how
20 many of your customers are in dense areas versus how many
21 are in lightly populated areas?

22 A. (Lindsey) In the regression study that we
23 provided on Attachment C, we have a list of our exchanges
24 and their density, but that's the extent of that type of
25 information on the record.

1 Q. Can you tell me, what charges are due from
2 Sprint to CenturyLink when Sprint terminates a non-local
3 wireless call to a CenturyLink customer? So it's a non-
4 local wireless call terminated to a CenturyLink customer.
5 That's an access call, right?

6 A. (Harper) A non-local wireless call to a
7 CenturyLink customer, that's what you're asking about?

8 Q. Yes, Sprint customer, Sprint wireless customer
9 places a non-local, which would be interMTA, right?

10 A. (Harper) Now, okay, local -- that's where I was
11 confused, whether in your local is MTA or our local --

12 Q. That would be --

13 A. (Harper) -- which is a different measure --

14 Q. -- wireless termination, we'd be paying access
15 on that call.

16 A. (Harper) Yes, you would be paying access
17 charges, terminating access charges.

18 Q. And you're obviously aware that Sprint advocates
19 mirroring of interstate rates for such call termination,
20 right? That's our position in this case, okay?

21 A. (Harper) Yes.

22 Q. And you agree with the characterization of
23 Sprint's proposal as seeking a free ride; is that right?

24 A. (Harper) I agree to that characterization?

25 Q. I believe in your testimony -- you guys weren't

1 the one that said it. I think OCA might have been the
2 proponent of that, but in your testimony, you say that you
3 agree with the characterization. I could locate it.

4 A. (Harper) Yeah, I don't remember the exact spot.

5 JUDGE MELILLO: It may be in the Office of Trial
6 Staff testimony, the "free ride" language.

7 MR. ARON: That's where it originated, and I believe
8 these gentlemen did say that they agree.

9 BY MR. ARON:

10 Q. Can you turn to page 20, please?

11 A. (Lindsey) Of the surrebuttal testimony?

12 Q. Yeah, I'm sorry, surrebuttal. On page 20, line
13 six, you say, "The 'free ride' noted by OTS Witness Kubas is
14 absolutely correct." So you agree that we're proposing to
15 get a free ride, right? That's what you say here?

16 A. (Lindsey) If we understand Sprint's proposal
17 that the rates, the access rates would be reduced and would
18 mirror without additional Pennsylvania USF and without a
19 viable opportunity to recover through retail rates, then,
20 yes. If we understand that properly, then to the extent
21 that some of those revenues are supporting the universal
22 service and COLR obligation, we would get back into that
23 paying less than a fair share and equate it to a free ride.

24 So a hundred percent free, I grant could be an
25 overstatement. The point is, paying less than fair share is

1 certainly a potential outcome of such a policy.

2 Q. Okay. But you would agree, right, that a
3 hundred percent free, that's certainly a free ride, right?
4 To pay nothing, that's a free ride? I think I just heard
5 you say that.

6 A. (Lindsey) Yes, a hundred percent free is a free
7 ride, if that's what you're asking.

8 Q. Right. CenturyLink terminates a call, long
9 distance call to a Sprint wireless customer, what
10 compensation does CenturyLink pay to Sprint?

11 A. (Lindsey) I believe reciprocal compensation is
12 paid, if I understand the question.

13 Q. Non-local. This is a long distance call, not
14 local.

15 A. (Harper) For a non-local, I believe wireless
16 carriers do not collect access charges, so I think it's
17 zero.

18 Q. So you pay us nothing? Your customer calls
19 ours, it's non-local, you pay us nothing; is that correct?

20 A. (Harper) We pay you what the FCC has determined
21 is appropriate in that regime of compensation.

22 Q. And what did they determine?

23 A. (Harper) They determined that no compensation
24 was due, no access charge was due.

25 Q. Okay. So CenturyLink pays us nothing, correct?

1 A. (Harper) I think we answered it. Yes.

2 Q. Is that a free ride?

3 MS. BENEDEK: Objection, Your Honor. We're back into
4 the argumentative nature. He's asked and answered these
5 questions. I don't want to get into the flow, but he's over
6 the top and out of bounds.

7 MR. ARON: Your Honor, we just established what they
8 believe a free ride is as they've testified over here and
9 then it's their testimony they've adopted as -- I believe
10 the language was "absolutely correct," right? They followed
11 that up by saying that if you don't pay anything, you're
12 getting a free ride. I'm curious, where are these free
13 rides?

14 JUDGE MELILLO: I think it's an appropriate question.
15 The witness may answer.

16 WITNESS HARPER: I see it as two different things.
17 In the one case, we're following established industry
18 procedures and appropriate procedures. In this case, you're
19 advocating for changing how the costs are shared and how the
20 costs are recovered.

21 BY MR. ARON:

22 Q. Okay. Has the FCC ever said that access cannot
23 be charged by a wireless carrier for termination of that
24 kind of a call, the kind we're talking about, that kind of a
25 call? Have they ever said that?

1 A. (Lindsey) I'm not clear what the FCC has said.
2 I'm just familiar with the industry practice and I believe
3 there was a court decision, if I'm not mistaken, that had
4 indicated that wireless can collect if they can reach an
5 agreement but not allowed to file access tariffs.

6 Q. If they can reach an agreement; is that right?

7 A. (Lindsey) That's correct.

8 Q. CenturyLink's reached such an agreement with
9 Sprint, haven't they? You guys wouldn't want a free ride
10 now, would you?

11 A. (Lindsey) I do not believe that any carrier has
12 reached an agreement with Sprint on that aspect or any
13 wireless carrier, for that matter.

14 Q. That's a lot of free rides.

15 (Pause.)

16 Q. Are you aware of whether there's any statute in
17 Pennsylvania that prohibits a CLEC from charging access
18 rates above the ILEC rate?

19 A. (Harper) I don't know if it's the statute or
20 not, but I understand that there is a statute or rule that
21 says that CLEC rates have to be no higher than the ILEC
22 level.

23 Q. So, a CLEC that is currently mirroring the
24 ILEC's rates, would it make sense for them to perform a cost
25 study to submit in this case to show what their costs are?

1 A. (Harper) For the CLEC to file a cost study?

2 Q. Yes.

3 A. (Lindsey) I don't believe so. I don't see the
4 relevance. I believe the policy established was one of
5 competitive parity between ILECs and CLECs operating in the
6 same territory, and it established similar rate caps.

7 Q. Can you turn to page 20 in the surrebuttal and
8 look at lines 10 through 12? I'll just go ahead and read
9 it. "And of course, the costing theories they resort to
10 apply to ILECs only. See Exhibit CTL Panel-7, responses to
11 discovery by several parties indicating (sic) that they have
12 not undertaken any cost analysis to determine their costs of
13 providing intrastate switched access services."

14 So you seem to testify here that cost studies should
15 have been submitted by other carriers, don't you, to show
16 what their costs are in this case? Isn't that what your
17 testimony says?

18 A. (Harper) It's responding to the criticisms put
19 forth that we did not file a cost study, simply saying no
20 one else did in this case. If it was an issue, other people
21 would have.

22 Q. Okay. So in a state where mirroring is the rule
23 and a carrier like Sprint is mirroring the largest
24 intrastate carrier, right, why would Sprint submit a cost
25 study, if it's just mirroring?

1 (No response.)

2 Q. Now, you said we should, but we mirror, so we're
3 not actually using our costs as any indicator at all. What
4 sense does that make?

5 A. (Harper) I don't know that that was
6 highlighting you as the CLEC in this case. I mean, if you
7 had information about what the cost of access were, you as
8 Sprint in your role or on behalf of cable companies or role
9 as an IXC, the information might have been informative to
10 the Commission.

11 Q. Okay. Let's move away from the CLECs and go
12 back to Sprint. So we just established, right, that you
13 guys get a free ride on Sprint's network. You don't pay us
14 any access charges, right, for non-local traffic, okay? So
15 I'm curious, based on this sentence here where you're
16 criticizing other carriers -- and that would include Sprint,
17 right?

18 A. (Harper) When you say "Sprint," Sprint has many
19 entities.

20 Q. Right.

21 A. (Harper) You're referring to the wireless
22 traffic only --

23 Q. That's right.

24 A. (Harper) -- which is not a large percentage of
25 the traffic.

1 Q. That's right. So right now I want to talk about
2 that large wireless percentage of the traffic. So Sprint
3 the wireless carrier, okay, we've just established that
4 CenturyLink gets a free ride, you don't pay us for your
5 local -- non-local calls on our network, right? So -- and
6 we said you could, right, you could do it. It's not
7 prohibited. You could do it by agreement, but you haven't.
8 We haven't reached that agreement, right? Why would Sprint
9 submit a cost study for its rates, access -- first of all,
10 we don't charge access, but you say that we need to provide
11 a study of the cost of access. We don't even charge access,
12 right? We don't have such agreements. You said you're
13 aware of no carrier that has. Why would we have submitted a
14 study of our non-existent access costs in this docket?

15 A. (Lindsey) I believe counsel may be reading the
16 question too narrowly. If Sprint has an idea of the cost
17 structure of ILEC access rates, it would have been free to
18 introduce that into the record, not necessarily its own CLEC
19 access costs, and our point is that that hasn't been done.

20 A. (Harper) And the main point of the question is
21 in the next sentence, which is, to the best of our
22 knowledge, the Commission has never done one of these
23 proceedings using cost studies. Therefore, the criticism
24 from Sprint that cost studies should have been filed, that's
25 all we're responding to.

1 Q. Can you look at Footnote 4 on page 20,
2 surrebuttal? Bear with me one minute. I have to shuffle
3 some papers.

4 (Pause.)

5 MR. ARON: May I approach, Your Honor?

6 JUDGE MELILLO: Yes, you may. Are you going to have
7 something marked as another Cross-Examination Exhibit?

8 MR. ARON: Yes.

9 JUDGE MELILLO: All right. The document is
10 distributing will be marked as Sprint Cross-Examination
11 Exhibit No. 3.

12 (Pause.)

13 MR. ARON: What I've just handed out is a question.
14 III-16 -- wait a minute. It's the wrong one. Hold on one
15 minute.

16 (Pause.)

17 MR. ARON: Your Honor, I apologize for the delay. We
18 pulled, amongst the quite large record, we pulled the wrong
19 III-16, so what we've handed out can be disregarded. It's
20 not going to be Sprint 3.

21 JUDGE MELILLO: Is what was distributed not going to
22 be a Cross-Examination Exhibit at some point?

23 MR. ARON: I don't think we have copies.

24 MR. GRUIN: What we've distributed will be a Cross-
25 Examination Exhibit.

1 JUDGE MELILLO: Just not No. 3?

2 MR. GRUIN: Correct.

3 JUDGE MELILLO: All right. So everyone can remove
4 the designation No. 3 and we'll go forward with another
5 Cross-Examination Exhibit.

6 (Inaudible discussion.)

7 JUDGE MELILLO: So you don't wish to make this
8 particular cross-examination --

9 MR. ARON: We don't have copies.

10 JUDGE MELILLO: -- exhibit an exhibit, all right, or
11 interrogatory response an exhibit?

12 MR. ARON: Yeah. Just for reference purposes --

13 (Pause.)

14 MR. ARON: Again, I apologize for the delay.

15 BY MR. ARON:

16 Q. The documents I handed out are discovery
17 responses, and III-16 asks about Sprint's cost to provide
18 long distance in Pennsylvania; is that correct?

19 A. (Lindsey) That's correct.

20 Q. Okay. And does that have anything to do with
21 Sprint's cost of providing access?

22 A. (Lindsey) Does Sprint's own long distance costs
23 have anything to do with providing access?

24 Q. Yes.

25 A. (Lindsey) Is that the question?

1 Q. Cost of providing access.

2 A. (Lindsey) I'm not sure that it does.

3 Q. What about III-17, which I handed you, that asks
4 Sprint's costs to provide toll service in Pennsylvania; is
5 that correct?

6 A. (Lindsey) Yes.

7 Q. That also doesn't have anything to do with cost
8 of providing access; is that correct?

9 A. (Lindsey) Well, Sprint specific costs. I mean,
10 obviously, access would be a cost component in your toll
11 rate, but --

12 Q. Right, I agree. So on page 20, lines 10 through
13 12, I've already read those in, right, and over --

14 JUDGE MELILLO: Now, you're on, still on the
15 surrebuttal testimony?

16 MR. ARON: Yes, that's right.

17 BY MR. ARON:

18 Q. So surrebuttal, page 10, lines 10 through 12,
19 you critique other carriers for not having established their
20 cost of providing access, and you cite to these two exhibits
21 as proof that Sprint didn't provide its cost of providing
22 access. These two -- not exhibits, excuse me, discovery
23 responses. But these two discovery responses actually have
24 nothing whatsoever to do with the cost of providing access,
25 do they?

1 A. (Lindsey) That appears to be the case.

2 Q. Okay. And so long distance carriers, they're
3 payers of access, right?

4 (No response.)

5 Q. You know what, I'm going to strike that question
6 and I'm just going to move right along. Don't even worry
7 about it. So is it the case that the Commission always set
8 ILEC rates under price caps and alternative regulation
9 plans? Has that always been the case?

10 A. (Lindsey) In Pennsylvania, Witness Bonsick is
11 probably better prepared to answer that question.

12 Q. Can you look at your testimony, surrebuttal,
13 page 20, lines 12 through 14?

14 JUDGE MELILLO: What page are we on? I'm sorry. I
15 didn't catch it.

16 MR. ARON: That was page 20, lines 12 through 14,
17 surrebuttal.

18 JUDGE MELILLO: Thank you.

19 BY MR. ARON:

20 Q. So here you say, "To the best of our knowledge,
21 the Commission has never made pricing decisions for
22 intrastate switched access rates solely based upon costing
23 theories as Sprint and others advocate." So I'm trying to
24 figure out what -- you seem to know what they've done. Have
25 they always relied on price caps and alternative regulation

1 plans, are you aware?

2 A. (Lindsey) Always is a long time, but in the
3 history of which I'm familiar, say back to the Global Order,
4 go back 10 or 12 years, it's been pricing. It has not been
5 costing that has been the debate and the basis for decision
6 making.

7 Q. Okay. And I guess the question remains. Did
8 they always set rates for ILECs under price caps and
9 alternative regulation plans or --

10 MS. BENEDEK: Objection.

11 MR. ARON: -- is that a modern advent?

12 MS. BENEDEK: Objection, Your Honor, asked and
13 answered. He said Bonsick would be better. He's already
14 done the cross on him as to his knowledge of what things
15 are, and the "always" has been properly qualified by the
16 witness.

17 JUDGE MELILLO: I agree that the witnesses have
18 qualified their responses as being, in essence, a post-
19 Global Order response.

20 MR. ARON: Okay.

21 JUDGE MELILLO: The parties can add that to the
22 statement, to qualify it.

23 MR. ARON: Maybe I'll try one other question just out
24 of curiosity and I'll move along if they're not familiar.
25 I'll tell you what. I can see that you're not comfortable

1 with that. I will hand this question off to my capable
2 compatriot and we'll ask Mr. Bonsick. How about that? I'll
3 move along, Your Honor.

4 JUDGE MELILLO: Thank you.

5 MR. ARON: No problem.

6 BY MR. ARON:

7 Q. Can you gentlemen please turn to page 25 and
8 look at lines 1 through 11, surrebuttal testimony? I
9 enjoyed your surrebuttal so much, virtually all of my cross
10 is --

11 JUDGE MELILLO: We all do.

12 (Laughter.)

13 BY MR. ARON:

14 Q. In this section of your testimony, you discuss
15 certain costs about which you allege that Mr. Appleby has
16 made inaccurate assumptions; is that correct?

17 A. (Harper) Yes.

18 Q. Can you point me to CenturyLink's calculation of
19 the costs it alleges that Mr. Appleby got wrong?

20 A. (Harper) At the risk of oversimplifying his
21 testimony, he was saying there was none or very little sunk
22 costs when a customer leaves our network. Cost goes away or
23 we are able to reuse a portion of our network. I'm
24 responding to that to say that based on our knowledge of our
25 network, there is a small component that might be reusable,

1 particularly the more rural we get, but there's much more of
2 it that tends to be sunk when a customer leaves.

3 MR. ARON: Your Honor, we're going to hand out what
4 we promise this time will be Sprint Cross-Examination No. 3.

5 JUDGE MELILLO: What's being distributed now will be
6 marked then as Sprint Cross-Examination Exhibit No. 3.

7 (Whereupon, the document was marked
8 as Sprint Cross-Examination Exhibit
9 No. 3 for identification.)

10 BY MR. ARON:

11 Q. And you were asked in discovery, were you not,
12 to quantify costs? We've already distributed Sprint Cross-
13 Examination Exhibits 1 and 2 that talk about costs, that
14 requested that we get information along those lines?

15 A. (Harper) It asked about the cost of basic
16 service and cost of access, yes.

17 Q. That's right. And here in three, we've asked
18 you for total revenues earned from and total expenses
19 incurred to provide retail services to residential
20 customers, and you guys don't maintain your records
21 apparently in that manner?

22 A. (Harper) That is true.

23 MR. ARON: There's a supplemental response that's
24 confidential, so I just note that for the record, Your
25 Honor, that this would be a proprietary, the exhibit would

1 be proprietary.

2 JUDGE MELILLO: Yes, that's true. Why don't we then
3 mark Sprint Cross-Examination Exhibit 3 confidential on the
4 top margin of the first page. Just a moment, let's go off
5 the record to clarify something.

6 (Discussion off the record.)

7 JUDGE MELILLO: We're back on the record.

8 What we're going to do then with respect to Sprint
9 Cross-Examination Exhibit No. 3 is we're going to label that
10 on the first page as proprietary, and that will be placed in
11 the proprietary record in total.

12 Please continue, Mr. Aron.

13 MR. ARON: Thank you, Your Honor.

14 BY MR. ARON:

15 Q. So in the passage here, you critique Mr. Appleby
16 but you didn't quantify the cost of establishing new
17 service; is that correct?

18 A. (Harper) The cost of -- if you're referring to
19 this discovery, I don't see it asking for the cost of
20 establishing new service.

21 Q. I'm talking about the critique here, in the
22 critique here, back to the testimony. Specifically, you
23 didn't quantify the cost of establishing new service, did
24 you?

25 A. (Harper) No.

1 Q. How about the cost of re-establishing service?

2 A. (Harper) No.

3 Q. Cost of meeting repair standards? You didn't
4 quantify that one either, right?

5 A. (Harper) No.

6 Q. And in discovery, we've just handed you III-3 --
7 I'm sorry, Sprint Cross-Examination Exhibit 3. Amongst the
8 information that would have been sought within the question
9 is broadband, cost and expenses for broadband services; is
10 that correct?

11 A. (Harper) III-3, you're asking me -- I guess by
12 definition of total revenues earned from residential
13 customer, it would include or could include broadband, yes.

14 Q. And it also asks for the total expenses incurred
15 to provide retail services to residential customers, right?

16 A. (Harper) At some divisions, res/bus,
17 residential and business, retail/wholesale, competitive and
18 non-competitive.

19 Q. That's right. And you would agree that total
20 expenses incurred to provide retail services would include
21 broadband, right? Broadband is a retail service?

22 A. (Harper) Didn't define regulated and non-
23 regulated and it said total, so it could include those
24 expenses, yes.

25 Q. And there's nothing in the record that

1 calculates the broadband cost and expenses, is there?

2 A. (Harper) No. We don't submit any of that
3 information, no.

4 Q. Can you turn to page 26, lines 19 through 22 of
5 the rebuttal -- I'm sorry, surrebuttal testimony?

6 MS. BENEDEK: I'm sorry, could you repeat that?

7 MR. ARON: That's surrebuttal, page six, 19 through
8 22.

9 JUDGE MELILLO: Did you say page six or 26?

10 MR. ARON: Twenty-six. Sorry, Your Honor.

11 JUDGE MELILLO: There's not a line 22 on that page.

12 MR. ARON: Trying to stay on top of the microphone
13 and shuffle around the table here.

14 BY MR. ARON:

15 Q. So in this section you say, "Mr. Appleby paints
16 the picture that CenturyLink has provided this wide variety
17 of new services without any related costs, which is
18 obviously not true." And the question that it's responding
19 to is, "Sprint Witness Appleby contends that the RLECs are
20 now offering a wide variety of services over the same local
21 network used historically to provide basic local exchange
22 service." So you do agree that that wide variety of
23 services, that includes broadband, right? As you guys used
24 it in this question, that question would encompass broadband
25 provided over your legacy network, correct?

1 A. (Harper) Yes.

2 Q. Okay. And you critique Mr. Appleby for talking
3 about this without any cost information; is that correct?

4 A. (Harper) You're interpreting it differently
5 than it was intended. The point is, he's saying we've
6 introduced new services, which obviously include new
7 revenues, and therefore we need less access revenues. Just
8 by virtue of the assumption, he's not including in his
9 thought process that there were costs associated with those
10 new services.

11 Q. So the same costs that we would have asked for
12 in Sprint Cross Exhibit 3 here, those same costs, those are
13 the costs that you're critiquing him for not having
14 included, correct?

15 A. (Harper) Well, there's a large leap from the
16 request here and the cost of broadband services.

17 Q. I see. So what more should we have done? What
18 did we not ask?

19 A. (Harper) Pardon me?

20 Q. Were we not after broadband cost information?

21 A. (Harper) The way you've asked it wouldn't have
22 brought it out, but either way, we would not have provided
23 our broadband cost information because it's not relevant.

24 Q. I appreciate that. Thank you. So when you
25 state at page 26 that we have not presented the costs of

1 broadband information, you wouldn't have provided it, like
2 you said, no matter what we did, and the question I have is,
3 did you calculate it? We don't know your costs, but do you
4 know them?

5 A. (Harper) Okay. Again, what I'm referring to is
6 costs not as any specific number, and a generic assumption
7 that because we offer new services that that new revenue can
8 be used to lower or should go towards, don't worry about it,
9 just lower access. He's doing that without even considering
10 whether there were costs associated with it, whatever that
11 specific level of costs were. It's just a disconnect.

12 Q. Okay. You agree that we sought the information.
13 You guys agree that you don't know what a fair share of
14 contribution is. You don't know what the right proportion
15 is. It seems like there's a lot of vagary in the numbers.

16 MR. ARON: Objection, Your Honor.

17 JUDGE MELILLO: Sustained.

18 MR. ARON: I'll strike it, Your Honor.

19 JUDGE MELILLO: That's argumentative, and I guess
20 I'll see that again.

21 MS. BENEDEK: He can save that for his brief.

22 BY MR. ARON:

23 Q. Do you account for broadband investments on your
24 corporate books?

25 A. (Harper) Could you restate that?

1 Q. Broadband costs and investments, are those
2 accounted for on your corporate books?

3 A. (Harper) What do you mean by "corporate books?"

4 Q. Let's talk about just FCC corporate, you know --
5 I'm sorry, not corporate, but FCC system of accounting.

6 A. (Harper) The costs, the revenues, I mean the
7 costs as an expense incurs, investment made for any service
8 that we provide is going to be recorded on our financial
9 statements, yes.

10 Q. Okay. And I believe in discovery you
11 acknowledge that some of those costs and investments and
12 expenses are allocated to intrastate accounts in various
13 percentages.

14 A. (Harper) I mean, allocations are somewhat of an
15 arcane practice, but when there's a rule or procedure or a
16 process that requires allocations, if you're talking about
17 separations as in --

18 Q. I forget the -- it's in Mr. Appleby's testimony.
19 I'm not sure --

20 A. (Harper) Part 36 separations procedures.

21 Q. Yeah.

22 A. (Harper) Yeah. I mean, every company does, you
23 know, follow those procedures when it's required by a
24 regulatory process. It's not often used, but it still
25 remains.

1 Q. Right. And you allocate certain percentages of
2 those costs, expenses and investment for broadband to the
3 intrastate accounts, right?

4 A. (Harper) Right, pursuant to, as the testimony
5 says, pursuant to the frozen separations factors that the
6 FCC has put in place until they --

7 Q. Long frozen --

8 A. (Harper) -- decide what else to do.

9 Q. Long frozen, correct?

10 (No response.)

11 Q. And those costs, expenses and investments that
12 are allocated into the intrastate accounts, are those also
13 in turn reported in CenturyLink's annual reports that are
14 submitted to the Pennsylvania Commission?

15 A. (Harper) The annual reports are total revenues.
16 State, interstate, non-regulated is on that. It's the total
17 revenues for the state of Pennsylvania, so there's no
18 separations necessary. Our annual report is not an
19 intrastate-only report.

20 Q. Okay. So those investments, costs and expenses
21 of broadband that are put into the intrastate account, those
22 do show up in the annual report, right?

23 A. (Harper) We're kind of mixing things. There is
24 no need to do separations to produce a financial statement.
25 That's two different issues.

1 Q. I'll just simplify it. Investments, costs,
2 expenses for broadband, are they reported in the annual
3 report submitted to the Pennsylvania Commission?

4 A. (Harper) Yeah, the costs are included in there,
5 yes.

6 Q. Okay. Can you tell me where you report the
7 revenue from broadband, retail broadband?

8 A. (Harper) I don't know if I have -- we gave a
9 financial report to you in discovery, if you can --

10 Q. I have copies, and if you want I can --

11 A. (Harper) I found it.

12 Q. Eighteen, Sprint-Embarq 18. Make sure I'm at
13 the right one.

14 (Pause.)

15 Q. And just to clarify, it is retail broadband that
16 we're inquiring about right now.

17 (Pause.)

18 A. (Harper) I think I provided you -- I'm pausing
19 because we provided something that further split out those
20 top five lines, but I believe the DSL revenue would be
21 included in line four, the miscellaneous revenue line.

22 MS. BENEDEK: I think that was --

23 MR. ARON: I know the one he's talking about. I
24 don't remember off the top of my head which -- we had asked
25 them what --

1 (Pause.)

2 WITNESS HARPER: It would be the update to Sprint-
3 CTL-II-7, and it does show that.

4 (Witness Harper perusing document.)

5 WITNESS HARPER: Yes, it would be included in that
6 miscellaneous revenue line.

7 BY MR. ARON:

8 Q. And just to be clear, we're referring to retail
9 revenues to broadband service, not wholesale revenues from
10 broadband service and neither are we talking about a special
11 access type line. We're talking about --

12 A. (Harper) I understand, yeah. We did not, we
13 don't -- Century or Embarq at the time of that financial
14 statement did not offer its HSI product through a separate
15 subsidiary.

16 Q. Do you offer it that way now?

17 A. (Harper) My understanding is they've changed
18 the procedures, yes.

19 Q. Okay. So that the annual reports for 2007 and
20 2008, would those include in that line, that miscellaneous
21 revenue line, would those include retail revenues from
22 broadband?

23 A. (Harper) That would be one of the components.

24 Q. When did you change the practice of how you're
25 offering it?

1 A. (Harper) Post-merger. Beyond that, I can't
2 give you much more specifics.

3 Q. I see. Going forward post-merger -- I'm clear.
4 Thank you. Is it illegal under Pennsylvania law for non-
5 competitive services like access to subsidize a competitive
6 service?

7 MS. BENEDEK: Objection, Your Honor, clearly a legal
8 question.

9 JUDGE MELILLO: That's sustained.

10 BY MR. ARON:

11 Q. Can you please tell me CenturyLink's remaining
12 non-competitive services as you understand them?

13 A. (Harper) Do you want a description of the
14 services, a listing of the service? I believe we provided
15 that in discovery.

16 Q. At the broadest level, what non-competitive
17 services do you provide?

18 A. (Harper) By, defined by the Pennsylvania alt.
19 reg. plan, effectively the access line, stand-alone access
20 line services, residential/business, PBX trunks, certain
21 directory listing services, certain custom calling features.
22 I mean, there's a wholesale -- I mean, a long list.
23 "Wholesale" is the wrong word to use there." There is a
24 long list of services.

25 Q. And do you separately account for your revenues

1 from those services?

2 A. (Harper) No.

3 Q. Do you provide any reports to the Commission
4 that indicate that you spend those revenues only on
5 competitive -- I'm sorry, non-competitive services?

6 A. (Harper) I'm not aware of any report that
7 requires that.

8 Q. Neither am I. I agree. What is the total
9 charge on a customer bill for pure broadband at the
10 introductory rate? I believe it's \$29.95.

11 A. (Harper) That's one of the promotions, but
12 there are other promotions. The retail rate is \$49.95 or
13 49, whatever I said in there, it's either 99 or 95. I don't
14 know off the top of my head. There's a \$25 off, a \$10 off
15 and a \$20 off promotion.

16 Q. Okay. Does the bill to a pure broadband
17 customer indicate to the customer that the charge includes
18 an amount for a federal subscriber line charge?

19 A. (Harper) The bill just shows the pure broadband
20 rate and service.

21 Q. I see. And at page 56 of your testimony, lines
22 five through 11 --

23 JUDGE MELILLO: You're on the surrebuttal?

24 MR. ARON: I am. Sorry, Your Honor.

25 BY MR. ARON:

1 Q. In the event an in-bound call is terminated to a
2 pure broadband DSL customer's line, you testified that
3 access could apply to that call, right?

4 A. (Harper) Yes.

5 Q. Do you tell your pure broadband customers what
6 their telephone number is to receive such an inbound call?

7 A. (Harper) They are made aware of their telephone
8 number, yes.

9 Q. And do you indicate to those customers that your
10 pure broadband offering is in fact also a -- do you clarify
11 for them it's also an inbound call line?

12 A. (Harper) I don't recall the complete script.
13 They are told that they're getting a telephone number. They
14 are told that it has outbound call blocking but they can use
15 it for 911. Beyond that, I don't remember all the details
16 of the scripts.

17 Q. And you testified that this pure broadband
18 access line would be counted lines for federal universal
19 service fund purposes, correct?

20 A. (Harper) It's considered an access line, yes.

21 Q. And you count it for the calculation of carrier
22 charge lines, right?

23 A. (Harper) Didn't say that there, but I assume we
24 do.

25 Q. I'm sorry, I didn't hear the answer.

1 A. (Harper) I think we do.

2 Q. Okay. Is it generally CenturyLink's position
3 that high access rates are not hindering competition?

4 (No response.)

5 Q. Let me rephrase the question. That's not the
6 best way to put it. Is it generally CenturyLink's position
7 that its access rates are not hindering competition?

8 MS. BENEDEK: Competition in what market or what
9 geographic -- (inaudible) --

10 MR. ARON: Geographic market is CenturyLink's service
11 territory.

12 WITNESS HARPER: The local service?

13 MS. BENEDEK: And the product market?

14 MR. ARON: And the product market is local service.

15 WITNESS HARPER: I mean, we've talked before that the
16 competition is there, it's growing. The competitors have,
17 as you pointed out, can charge the same access rate that we
18 do.

19 BY MR. ARON:

20 Q. And you're not opposed to that competition?
21 You're in favor of carriers coming in and competing, right?

22 A. (Lindsey) Absolutely. I mean, part of the
23 issue here is, the competition isn't universal. I mean,
24 that might change some of the question as it relates to
25 universal service, but there's a lot of places where, 14

1 years post-Telecom Act, competition doesn't exist, and those
2 tend to be the higher-cost locations where the ILECs must
3 serve. So there's some of the inequity in that I'll say
4 uneven competition versus the universal service obligation.

5 But no, we don't believe the high access costs have
6 hindered competition. We have evidence in our testimony to
7 show that the growth in wireless, for example, the
8 prevalence of CLECs, it doesn't appear that Pennsylvania
9 access rates have hindered competition here and certainly
10 relative to other states.

11 Q. Okay. And your access rates provide a
12 contribution to basic local, correct? That's your position?

13 A. (Lindsey) Yes. I believe we've stated that in
14 testimony.

15 Q. Okay. If access rates drop and you have to
16 raise your rates, you testified that you'll see customer
17 losses. I think before you said it's a certainty.

18 A. (Lindsey) Yeah, I think that's a given.

19 Q. So if CenturyLink's current access rates are
20 necessary to maintain artificially low basic local rates and
21 prevent customers from leaving for competitive offerings,
22 you contend that those rates aren't hindering competition?

23 A. (Lindsey) You mischaracterize our testimony.
24 What the contribution is doing is taking -- go back to the
25 example of where there's an \$80 cost in an area where nobody

1 else serves. We're required to offer the service for \$18,
2 so it is contributing to universal service policy.

3 I think it would be a stretch to assume that it's
4 hindering competition in competitive areas when you look at
5 where competition is and what the rate of line loss has been
6 over, you know, go back as far as 10 or 12 years.

7 Obviously, wireless is flourishing. Cable VoIP is
8 flourishing. The bigger question, as I said, why is
9 competition not expanding further? If it's such a good
10 thing with a great promise, why hasn't it gone everywhere?

11 Q. So is it your position that whether an access
12 rate is appropriately priced is a function of whether the
13 market is competition?

14 A. (Lindsey) I think access pricing is a
15 complicated question with many factors, and certainly the
16 universal service aspect is one, and that's probably why the
17 record is so long in this docket and other proceedings. So
18 I don't know that I can directly answer your question.

19 Q. Fair enough. Does CenturyLink get a lot of
20 requests for telephone service that is limited to placing
21 and receiving calls only within the CenturyLink network?

22 A. (Lindsey) I don't know the answer to that
23 question.

24 Q. Do you think the service I described, do you
25 think that'd be popular, you can't call outside the

1 CenturyLink territory at all?

2 A. (Lindsey) Likely not.

3 Q. Likely not, I agree. And you must agree, right,
4 that it would be unpopular because every telephone customer
5 wants access to every other telephone customer in the
6 country and vice versa, right, and that's part of the
7 service, it's ubiquitous connection to everyone?

8 A. (Lindsey) I don't know that we can say that.
9 That might be a little far. But certainly there's time
10 tested theories of, the value of the network grows as more
11 customers are added to it, so certainly it's logical that
12 the more people that can call other people on the network,
13 there's a value enhancement there.

14 Q. And how does CenturyLink connect its calls
15 outside of its local calling area? Let's say you guys want
16 to call Texas, not you guys but your customers, a customer
17 wants to call Texas. How do you get that call there?

18 A. (Lindsey) My understanding is we would do the
19 same as any other ILEC, that we would use an IXC to complete
20 that call through an ILEC or wireless carrier on the other
21 end.

22 Q. Okay. So we agree that the more customers that
23 are added to the network, the value of the network grows,
24 right? And we agree that to get calls farther away, you
25 need to use an IXC, correct?

1 A. (Lindsey) I believe that's true, yes.

2 Q. Do you agree that IXCs play an important role in
3 making the telephone network ubiquitous?

4 A. (Lindsey) They appear to, yes, be that entity
5 that provides the long haul function to connect the two
6 ends.

7 Q. Thank you.

8 MR. ARON: Your Honor, I'm going to hand out Sprint
9 Cross 4.

10 JUDGE MELILLO: All right. The document that's being
11 distributed may be marked as Sprint Cross-Examination
12 Exhibit 4.

13 (Whereupon, the document was marked
14 as Sprint Cross-Examination Exhibit
15 No. 4 for identification.)

16 MR. ARON: There is nothing proprietary about this.

17 JUDGE MELILLO: Very well.

18 MR. ARON: Bear with us just for a second.

19 (Pause.)

20 BY MR. ARON:

21 Q. Gentlemen, can you turn to page 28? And I am
22 deviating from surrebuttal, believe it or not. We're going
23 to the direct testimony, if for no other reason than to
24 prove to you that I read it. Page 28, there's a footnote
25 there, Footnote 5, and you cite to a web site. The web site

1 is <http://www.mywireless.org/issues/pennsylvania>. Do you
2 see that indicated at the bottom? This is a screen shot we
3 printed on the 12th, which was three days ago. This looks
4 like that same web site you visited in support of your
5 testimony.

6 A. (Lindsey) Correct.

7 Q. Okay. And you cited to some of the numbers in
8 here. I just wanted to verify. So this particular web site
9 also provides data that 4,915 wireless employees are
10 employed by the wireless industry in the state of
11 Pennsylvania; is that correct?

12 A. (Lindsey) That's what the page shows, yes.

13 Q. And just to double-check, you cited to this, so
14 you believe this a fairly accurate representation, this web
15 site? You cited to it in your testimony, right?

16 A. (Lindsey) I believe we're reasonably
17 comfortable with it, yes.

18 Q. And the average annual wireless payroll from the
19 wireless industry, that's \$304,799,000 every year, correct?

20 A. (Lindsey) Again, that's what the report shows.
21 The purpose of my cite as I've shown in my testimony is to
22 show the number of wireless customers. That was my main
23 area of consideration.

24 Q. Certainly. It shows that 11 percent of
25 households are wireless only, shows that the average annual

1 wireless employee wage is \$62,000. Do you think that these
2 numbers tend to indicate that the wireless industry is a
3 fairly strong contributor to the Pennsylvania economy?

4 MS. BENEDEK: If you know. Your Honor, if he knows.

5 MR. ARON: \$304 million --

6 JUDGE MELILLO: If you know, panel.

7 MR. ARON: I think they should be able to handle that
8 one.

9 WITNESS LINDSEY: All I'd say is that the numbers are
10 what they are, and it would be speculative without
11 additional research and information to answer that question.

12 MR. ARON: Thank you. That's all I have. I
13 appreciate it, gentlemen.

14 JUDGE MELILLO: Did you want to move into evidence
15 Sprint Cross-Examination Exhibits 1 through 4?

16 MR. ARON: Yes, Your Honor, we do. We want to move 1
17 through 4.

18 JUDGE MELILLO: Any objection?

19 MS. BENEDEK: No objection.

20 JUDGE MELILLO: They are admitted.

21 (Whereupon, the documents marked as
22 Sprint Cross-Examination Exhibits
23 Nos. 1 through 4 were received in
24 evidence.)

25 JUDGE MELILLO: Let's go off the record for a moment.

1 (Discussion off the record.)

2 JUDGE MELILLO: Back on the record.

3 We're going to conclude cross-examination of the
4 CenturyLink panel before breaking for lunch, and then we'll
5 break for lunch. Do the parties want about an hour for
6 lunch today or less?

7 MR. POVILAITIS: An hour.

8 JUDGE MELILLO: An hour? All right. We'll break for
9 an hour and we'll see where we go with the rest of the day.
10 All right. The next party indicating they have cross-
11 examination is Verizon.

12 MS. PAIVA: Yes, Your Honor. Can you hear me with
13 the microphone?

14 JUDGE MELILLO: I can. Thank you. Just speak up as
15 much as you can.

16 CROSS-EXAMINATION

17 BY MS. PAIVA:

18 Q. Hello. I'm Suzan Paiva from Verizon.

19 A. (Lindsey) Good morning.

20 Q. I have a couple questions for you. You remember
21 discussing with Ms. Painter this morning that some portions
22 of CenturyLink's territory have competitive options while
23 other portions of the territory do not?

24 A. (Lindsey) Yes.

25 Q. And I believe you testified that you don't know

1 the exact percentage.

2 A. (Lindsey) That's correct.

3 Q. And I thought I heard you say that you tried to
4 issue discovery requests to the other RLECs to try to
5 determine the percentage, but you were not successful. Did
6 I understand that correctly?

7 A. (Lindsey) No. Perhaps I was unclear. Not to
8 the other RLECs, to the competitive carriers in this
9 proceeding, so that we could look at degree of competition
10 at a pretty granular level.

11 Q. But of course, there are competitors in your
12 territory that are not actually participating in this
13 proceeding, correct?

14 A. (Lindsey) That's likely correct.

15 Q. Other than effort, did you do anything else to
16 try to undertake a study of the percentage of the territory
17 that has competitive options?

18 A. (Lindsey) No, we have not.

19 Q. You had some testimony regarding line loss,
20 overall line loss for CenturyLink in its territory. Are you
21 able to determine line loss by exchange?

22 A. (Lindsey) I'm sure that can be done. I don't
23 believe, subject to check, that we've done that. Are you
24 aware of --

25 A. (Harper) No. No, but you may want to ask Mr.

1 Bonsick, and on your first question, as well, with the
2 competition.

3 Q. But as far as the two of you know, you have not
4 done that analysis?

5 A. (Harper) I don't think we did an analysis at an
6 exchange level, no.

7 A. (Lindsey) Correct.

8 Q. Now, do you still have up there -- I know there
9 was a lot of paper handed out -- there was the one document
10 that Sprint was going to mark as Cross Exhibit 3 but didn't
11 mark, and it was --

12 JUDGE MELILLO: We took away the designation. It was
13 never admitted, yes. Do you want to refer to it?

14 MS. PAIVA: I'm going to refer to it but I don't
15 think I need to mark it as -- or enter it into the record,
16 but if they can find it, it might make it easier. It was
17 AT&T-CTL-III-16.

18 WITNESS LINDSEY: Yes, we have that.

19 BY MS. PAIVA:

20 Q. Did you find that? The question, subpart (d) of
21 that question asks CenturyLink to identify each CenturyLink
22 exchange where all CenturyLink customers have no competitive
23 options. And if you think that's difficult to understand,
24 your answer says, "To the best of CenturyLink's knowledge,
25 there are no CenturyLink exchanges where no customers have

1 zero competitive options."

2 I think you're saying there, and I want to ask you,
3 are you saying that in all CenturyLink exchanges, there are
4 some competitive options?

5 A. (Lindsey) That's probably a fair way to say it,
6 that in every exchange, there's likely at least one customer
7 who has a competitive option, but in all exchanges, there
8 are customers without competitive options. And I think
9 given the example I mentioned before, even in larger, highly
10 competitive areas, the competitors are free to pick and
11 choose or bypass, and we have the obligation to serve
12 everyone.

13 So we're not trying to be difficult, but it's just a
14 very highly detailed, granular question as to where
15 competition is and isn't and our obligation in that regard.
16 Did that clarify it?

17 Q. That did answer my question. Later on in the
18 same paragraph in the answer (d) there, you say -- I think
19 it's what you just said -- that in order to determine where
20 there is competition or there is not competition, you would
21 have to go street by street and house by house. Is that
22 what you believe would have to be done?

23 A. (Lindsey) Yes. For example, we're all aware
24 that a wireless carrier may be certified, franchised, have a
25 tower in the area but maybe there's a dead spot or something

1 prohibiting a customer from actually receiving service, or
2 maybe a cable company sees a neighborhood that for whatever
3 reason is undesirable, doesn't run facilities there and
4 bypasses it. So it's a very granular type of analysis that
5 would be required.

6 Q. And so I take it it's your testimony that the
7 Commission should allow CenturyLink to continue to charge
8 its present access rates and not reduce those rates because
9 CenturyLink needs to maintain the \$18 rate for everyone so
10 that those occasional houses and streets that don't have
11 competition can continue to have an \$18 rate?

12 A. (Lindsey) Two points in response. One, I mean,
13 yes, for the, I'll say "occasional." I think it's probably
14 bigger than just occasional, but even where there is
15 competition -- and remember a competitor can opt not to
16 serve there and we have to stand ready for all.

17 And my second point went right out the window. I
18 can't recall so I'll let the answer stand at that.

19 Q. I think you answered it. On a similar subject,
20 the \$18 rate, I think you testified pretty completely in
21 your testimony that you believe that you cannot increase
22 that \$18 rate right now. But my question for you is, if
23 there were no competition in any of CenturyLink's territory,
24 then you could increase the \$18 rate, correct?

25 A. (Lindsey) Well, let's step back in time, say

1 pre-'96, pre-compensation. The alternatives you're
2 considering are whether the customer will choose to have
3 service or not have service if you have a price increase, so
4 now we've introduced this additional question of, the
5 customer may choose to have service or not have service, but
6 they also may choose to have it with a competitor and just
7 not you.

8 And that's the concern, that based off of the
9 regulatory fiat here, that it could I'll say artificially
10 move market share to competitive carriers. So that's the
11 concern and that would be the factor that would constrain
12 pricing.

13 And it's the same phenomena that witnesses mentioned
14 yesterday when they talked about flow-through and the market
15 automatically handling flow-through so that commitments
16 wouldn't be necessary. That same competitive phenomena is
17 what would eat into proposed RLEC rate increases.

18 So that's a very real consideration we face,
19 particularly when rates are already at \$18. At eight or ten
20 dollars, it might be a different question, but \$18, we've
21 moved up the ladder pretty far.

22 Q. I guess my question was more of a hypothetical.
23 Assuming that we're here today in 2010 and there's no
24 competition in CenturyLink territory, then you could raise
25 that rate to \$19 or \$20, could you not?

1 A. (Lindsey) It would be easier, again, subject to
2 universal service considerations as to what people may drop
3 altogether, so that that would be a constraining factor or a
4 policy consideration. But certainly this would be a much
5 easier question if competitive factors weren't at play.

6 Q. So in other words, the only constraining factor
7 in that case would be affordability?

8 A. (Lindsey) I wouldn't say "the only," but to the
9 extent that competition is a large factor today, that factor
10 would be removed. I mean, I think we've got testimony by
11 multiple parties that pricing decisions and whether you buy
12 a product is a host of many considerations.

13 Q. Now I wanted to look at your surrebuttal
14 testimony, page 16.

15 A. (Lindsey) Okay.

16 Q. Up at lines two and three, this is actually a
17 sentence that Mr. Aron was asking you about. Failure to
18 fully fund also may result in non-ILECs not paying their
19 fair share of the burden of this social obligation. So
20 you're talking about the fair share of non-ILECs. What
21 about the Verizon ILECs? Do you believe that they have a
22 fair share of CenturyLink's costs that they are obligated to
23 pay?

24 A. (Lindsey) Well, we recognize that Verizon ILEC
25 has its own COLR/universal service obligation to bear, so I

1 wasn't looking at answering the question in the context of
2 one ILEC versus a neighboring ILEC. I was looking just more
3 in the context of, in every ILEC area, knowing that there
4 are competitors, that the concept should be that there's
5 equal distribution of the funding obligation among all
6 players in that area. So I don't know that I can answer
7 your question directly.

8 Q. Well, when you're talking about all players in
9 that area, you're talking about companies that are using
10 CenturyLink's network?

11 A. (Lindsey) Yes. I'm not aware that Verizon ILEC
12 uses CenturyLink ILEC's network, other than maybe for some
13 small residual intraLATA toll, kind of ILEC to ILEC.
14 Otherwise, they're just more similarly situated in terms of
15 having an obligation. It's obvious that with CenturyLink
16 having a lower population density and being more rural, its
17 obligation per customer is higher than Verizon ILEC would
18 be. I think that's pretty intuitive. But I can't answer
19 your question specifically.

20 Q. Are you aware that the Verizon ILECs pay more
21 than 50 percent of the contributions to the state universal
22 service fund?

23 A. (Lindsey) I'm aware that Verizon is a large
24 contributor. As to which affiliate or which wing of the
25 company, I was unaware.

1 Q. So you don't know that?

2 A. (Lindsey) I'm sorry?

3 Q. You don't know that, then?

4 A. (Lindsey) Correct.

5 MS. PAIVA: I don't have any other questions. Thank
6 you.

7 JUDGE MELILLO: Thank you. Comcast has some
8 questions.

9 (Pause.)

10 MR. DODGE: Is it still morning?

11 JUDGE MELILLO: No.

12 CROSS-EXAMINATION

13 BY MR. DODGE:

14 Q. Gentlemen, good afternoon. My name is John
15 Dodge. I'm here on behalf of Comcast. Start the stopwatch.
16 I know I stand between you and lunch, and I won't take much
17 of your time.

18 Like Mr. Aron, I liked your surrebuttal testimony so
19 my questions today will focus on that, if you have that
20 available to you. Let's look at page 30 of that surrebuttal
21 testimony, please, specifically line eight, the first
22 sentence, "Yes, I can." Who is the "I" in that testimony?

23 A. (Lindsey) That would be me.

24 Q. All right. So Mr. Lindsey, I think these
25 questions are for you, but if Mr. Harper wants to jump in,

1 obviously that's fine.

2 Sticking on page 30 and moving down to lines 12 and
3 13, you refer to, and I hope I quote correctly, "other
4 regression analyses by Dr. Pelcovits that were claimed to
5 have been undertaken"; is that correct?

6 A. (Lindsey) Yes. That was referring to the
7 information submitted where he had run more than one. He
8 had run several regressions.

9 Q. Is it your understanding that he did in fact
10 prepare and offer into his testimony more than one
11 regression analysis?

12 A. (Lindsey) I can't recall if more than one was
13 offered in the testimony. It's subject to check. I do know
14 his workpapers had multiples.

15 Q. Thank you. Moving on to a slightly different
16 topic, is it your impression that Dr. Pelcovits in his
17 rebuttal testimony was attempting to analyze only the lack
18 of correlation between local rates and density?

19 A. (Lindsey) I think he was at the company level
20 for the PTA companies. He was trying to analyze the amount
21 of I'll say displaced switched access from proposed rate
22 reductions on the local rates and showing practically zero
23 correlation, which I think all parties agree that that's the
24 case, there is little correlation.

25 Q. Thank you. If you're comfortable, I'd like you

1 to listen to a summary that I drew up of Dr. Pelcovits'
2 testimony, rebuttal testimony to see if you agree with.

3 Dr. Pelcovits examined whether setting intrastate
4 switched access rates at parity would lead to a local rate
5 impact that was correlated to density. Would you agree with
6 that?

7 A. (Lindsey) Could you repeat that, please? I'm
8 sorry.

9 Q. I'll try to read it exactly as I just did. Dr.
10 Pelcovits examined whether setting intrastate switched
11 access rates at parity would lead to a local rate impact
12 that was correlated to density.

13 A. (Lindsey) Again, at the company level for PTA
14 companies, I think, yes, that's what he was attempting to
15 do.

16 Q. Thank you. Do you believe that setting
17 intrastate access rates at parity would lead to a local rate
18 impact that is correlated to density?

19 A. (Lindsey) I think we have stated in our
20 testimony that that is a likely or a very possible outcome,
21 depending on how other questions or matters are resolved in
22 this proceeding, so it may or may not, is the specific
23 answer to your question.

24 Q. Thank you. Let's turn to page 32 of the
25 surrebuttal, please. I believe on this page you point out

1 that you believe that cost is the relevant variable for the
2 purposes of the discussion here, looking at line two, for
3 example.

4 A. (Lindsey) In terms of correlating, yes, the
5 need for USF and cost, that certainly, and we will say at a
6 more granular level, such as the exchange, so not
7 necessarily company costs but exchange. In the federal
8 jurisdiction, you see a lot of talk going to a new cost
9 model. In the national broadband plan, they talk about wire
10 centers, they talk about census blocks, so they are moving
11 in that direction as well.

12 Q. Am I correct, sir, that your regression analysis
13 concludes that density and cost are correlated?

14 A. (Lindsey) Yes, at the exchange level, and
15 that's probably the big distinction between Dr. Pelcovits'
16 work and hours, is that the company level masks a lot of
17 averages, I think as we've shown here. There's areas of
18 high competition, areas of no competition, and there's a lot
19 of cost correlation there, so as we might expect,
20 competition naturally goes where costs are lower and then
21 avoids where costs are high, so it's important from a policy
22 perspective to try to account for some of that variability
23 and be more granular.

24 Q. Am I also correct that your analysis shows a high
25 correlation and a good regression fit? Have I captured

1 those technical terms correctly?

2 A. (Lindsey) Certainly much higher than the
3 regression run by Dr. Pelcovits, so it's a relative term,
4 but yes.

5 Q. And again, I'm not a regression expert and I'm
6 trying to put this in layman's terms for more myself than
7 anyone else. Your study shows that cost is correlated with
8 density, and Dr. Pelcovits' studies show that high access
9 rates are not correlated with density; is that a fair
10 summation?

11 A. (Lindsey) That's a fair summation and to be
12 expected. Again, access, I'll say access rates historically
13 have been a residual pricing mechanism looked at in the
14 context with local rates, with universal service, either
15 federal, state or both, and it produced more of a residual,
16 so the correlation there, maybe there really isn't one. It
17 was just kind of the leftover, if you will.

18 Q. Thank you. I'm going to take you back to your
19 SAT days. I've got a mathematical proof for you, and I hope
20 I've gotten this right. It's not Mr. Brown lived in the
21 white house with a yellow car, I promise that. Isn't it
22 true as a fundamental mathematical truth or proof that if
23 cost is correlated to density, but access rates are not
24 correlated with density, access rates cannot be correlated
25 with cost?

1 A. (Lindsey) I think that's a fair assessment. I
2 think that's why we've said in our testimony, and prior
3 proceedings have looked at price and not cost in terms of
4 analyzing these questions of access rates and how it
5 interacts with local rates and USF.

6 MR. DODGE: Mr. Lindsey, enjoy your lunch. That's
7 all I have. Thank you, Your Honor.

8 JUDGE MELILLO: At this point, we're going to take an
9 hour break for lunch. When we come back, there's still the
10 matter of CTL Statement 2.0 --

11 MS. BENEDEK: Are we going to do redirect?

12 JUDGE MELILLO: I guess we would do redirect when we
13 come back. I had said we would break after cross-
14 examination. There's the matter of the CenturyLink 2.0
15 which is still not in the record.

16 MS. BENEDEK: I'd like to move that into the record
17 so I just don't forget. Do we have any issue with its
18 admission?

19 MS. PAINTER: No, that's fine.

20 JUDGE MELILLO: All right. Then let's go ahead and
21 do that as a housekeeping matter, to be sure we've done
22 that. We're going to admit into the record CenturyLink
23 Statement 2.0, which has now been adopted by Mr. Harper.

24 (Whereupon, the document marked as
25 CenturyLink Statement No. 2.0 was

1 received in evidence.)

2 JUDGE MELILLO: And then also with respect to the
3 AT&T revised rejoinder and attachments, Ms. Painter, you had
4 agreed that you would supply revised copies to the court
5 reporter, and then can you also provide them to myself and
6 the parties?

7 MS. PAINTER: Yes, Your Honor.

8 JUDGE MELILLO: And specifically by what date would
9 you agree to provide them by?

10 MS. PAINTER: We're going to attempt to have it sent
11 out tomorrow.

12 JUDGE MELILLO: Tomorrow?

13 MR. METROPOULOS: (Inaudible).

14 JUDGE MELILLO: I'm sorry, I can't hear you.

15 MR. METROPOULOS: I said by e-mail tomorrow, and then
16 hard copy Monday.

17 JUDGE MELILLO: Monday. All right. Thank you. And
18 we're off the record.

19 (Witnesses temporarily excused.)

20 (Whereupon, at 12:10 p.m., the hearing was adjourned,
21 to be reconvened at 1:10 p.m., this same day.)
22
23
24
25

AFTERNOON SESSION

(1:10 p.m.)

JUDGE MELILLO: Back on the record.

When we broke for lunch, we were just ready for redirect of the CenturyLink panel witnesses.

Whereupon,

MARK D. HARPER and JEFFREY L. LINDSEY

having previously been duly sworn, testified further as follows:

Yes, Ms. Benedek?

MS. BENEDEK: Yes. I have one redirect question, Your Honor, directed to Mr. Harper.

REDIRECT EXAMINATION

BY MS. BENEDEK:

Q. Mr. Harper, you were asked a couple questions by counsel for Sprint regarding the intraMTA traffic and free rides, discussion of free rides. Do you know what percentage of CenturyLink's intrastate access traffic, cellular originating in our MTA?

A. (Harper) Based on our answers to AT&T-I-14, which was recently updated in Set IV-3, the access we bill to wireless originated traffic that's in our MTA is approximately five percent of the total intrastate access revenues.

MS. BENEDEK: No further questions, Your Honor.

1 JUDGE MELILLO: Would there be any recross-
2 examination based on that redirect?

3 MR. ARON: Yes, Your Honor.

4 JUDGE MELILLO: Mr. Aron.

5 RECCROSS-EXAMINATION

6 BY MR. ARON:

7 Q. Have you reviewed Mr. Appleby's rejoinder
8 testimony?

9 A. (Harper) I read it.

10 Q. Do you recall a passage in the rejoinder
11 testimony where Mr. Appleby describes the manner in which
12 the wireless carriers' interMTA traffic is delivered to the
13 RLEC?

14 A. (Harper) Yes, I do.

15 Q. And do you remember Mr. Appleby's testimony
16 indicating that the wireless interMTA traffic is handed off
17 to the IXC affiliate for delivery to the RLEC?

18 A. (Harper) I understand that. That data reflects
19 the fact, when you terminate, when Sprint terminates traffic
20 to us, they populate the ACNA code with a different --
21 excuse me, A-C-N-A code with a different factor that
22 identifies that it is wireless versus your traditional long
23 distance. Our billing systems are able to see that and
24 separate it.

25 Q. And what percentage of the traffic did you say

1 was wireless originating?

2 A. (Harper) Five percent.

3 MR. ARON: I have nothing further, Your Honor.

4 JUDGE MELILLO: All right. If there's nothing
5 further then for the witnesses, the witnesses are excused.
6 Thank you very much.

7 (Witnesses excused.)

8 JUDGE MELILLO: CenturyLink, do you have another
9 witness?

10 MS. BENEDEK: Yes, we do. CenturyLink calls David F.
11 Bonsick to the stand.

12 JUDGE MELILLO: Mr. Bonsick, would you stand and
13 raise your right hand?

14 Whereupon,

15 DAVID F. BONSICK
16 having been duly sworn, testified as follows:

17 JUDGE MELILLO: Please be seated.

18 Proceed, counsel.

19 MS. BENEDEK: All right. Yes, Your Honor. Thank
20 you.

21 DIRECT EXAMINATION

22 BY MS. BENEDEK:

23 Q. Mr. Bonsick, could you state your name and
24 provide your business address for the record?

25 A. David F. Bonsick, 240 North Third Street, Suite

1 201, Harrisburg, Pennsylvania, 17101.

2 Q. And are you the same David F. Bonsick that filed
3 direct, surrebuttal and rejoinder testimony in this matter?

4 A. Yes, I am.

5 Q. Now, could you please turn to your direct
6 testimony --

7 MS. BENEDEK: which has been marked Statement 3.0,
8 Your Honor?

9 JUDGE MELILLO: Yes, CenturyLink Statement 3.0. It
10 will be marked as such.

11 (Whereupon, the document was marked
12 as CenturyLink Statement No. 3.0
13 for identification.)

14 MS. BENEDEK: Yes. CenturyLink 3.0 consists of 23
15 pages and two exhibits.

16 BY MS. BENEDEK:

17 Q. Mr. Bonsick, do you have any changes,
18 corrections or deletions to what has been marked as 3.0?

19 A. No, I do not.

20 Q. If I were to ask you the questions contained
21 therein, would your answers be the same?

22 A. Yes, they would.

23 Q. Are the answers true and correct to the best of
24 your knowledge, information and belief?

25 A. Yes, they are.

1 Q. Now, turning to your surrebuttal testimony,
2 which consists of CenturyTel, what's been identified as
3 CenturyTel Statement 3.1 --

4 JUDGE MELILLO: Would that be CenturyLink?

5 MS. BENEDEK: I'm sorry, CenturyLink, and it consists
6 of 28 pages and a series of exhibits which have been marked
7 all the way through to Exhibit DFB-11, seven, I believe,
8 exhibits. There is one change to this portion of the
9 testimony, the inadvertent omission of a percentage alleged
10 by Sprint to be proprietary was inadvertently not designated
11 as confidential.

12 So what we have done is, for the court reporter copy,
13 presented a new page that tracks with the existing page,
14 gave a copy to Your Honor. And if you don't mind, we'd like
15 to go on the confidential record to clarify this for the
16 other parties in the room.

17 (Whereupon, the document was marked
18 as CenturyLink Statement No. 3.1
19 for identification.)

20 JUDGE MELILLO: Certainly.

21 (Whereupon, the following pages 409 through 410 were
22 sealed and bound separately.)
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BY MS. BENEDEK:

Q. Do you have any other changes, corrections to CenturyLink Statement 3.1?

A. Yes, I do. Stating on page 17, beginning on line 11 and ending on line 12, the sentence beginning with "And" and ending in "itself" should be stricken.

JUDGE MELILLO: That entire sentence?

THE WITNESS: It is duplicative to the sentence following.

JUDGE MELILLO: Yes, it is. Thank you.

BY MS. BENEDEK:

Q. Any other changes?

A. Yes, a few more. On page four, line 12, at the end of that line, the words "access reductions" are missing and should be inserted.

Q. So, after "sizeable?"

A. After "sizeable."

(Pause.)

MS. BENEDEK: Do you have it, Your Honor?

JUDGE MELILLO: Yes, I have the change that he just gave, yes.

MS. BENEDEK: Thank you.

BY MS. BENEDEK:

Q. Any other changes?

A. Yes. Continuing on page five at line 18,

FORM 1

1 following the word "competition," there is a phrase missing
2 there. It should be, colon, "in fact, per unit costs
3 increase."

4 Q. Can you repeat that?

5 A. Sure.

6 Q. Page five?

7 A. On page five, line 18, following the word
8 "competition" where there is currently a period, there
9 should a colon, "in fact, per unit costs increase." That
10 phrase is missing.

11 Q. Any other changes?

12 A. No. That completes the changes.

13 Q. With those changes, if I were to ask you the
14 questions contained in what has been marked CenturyLink
15 Statement 3.1, would your answers be the same?

16 A. Yes.

17 Q. Are the answers therein true and correct to the
18 best of your knowledge, information and belief?

19 A. Yes, they are.

20 Q. Now, finally, please turn to your rejoinder
21 testimony.

22 JUDGE MELILLO: Counsel, would you happen to have
23 another copy of that? That's what I was looking for, the
24 rejoinder testimony. I don't seem to have that with all the
25 papers I brought today.

1 MS. BENEDEK: I don't believe I do.

2 (Pause.)

3 MS. BENEDEK: Counsel for PTA has --

4 JUDGE MELILLO: Wait a minute. It's very small. I
5 just didn't find it. I apologize. All right. Go ahead.
6 It's only a few, like, what is it, three pages?

7 MS. BENEDEK: Yes, correct, Your Honor, three pages,
8 public version, no attachments.

9 BY MS. BENEDEK:

10 Q. Mr. Bonsick, do you have any changes or
11 corrections to your rejoinder testimony, which has been
12 premarked as CenturyLink Statement 3.2?

13 (Whereupon, the document was marked
14 as CenturyLink Statement No. 3.2
15 for identification.)

16 A. No, I do not.

17 Q. If I were to ask you the questions contained
18 therein, would your answers be the same?

19 A. Yes.

20 Q. Are the answers true and correct to the best of
21 your knowledge, information and belief?

22 A. Yes, they are.

23 MS. BENEDEK: Your Honor, Mr. Bonsick is available
24 for cross-examination subject to any motions that may be
25 raised.

1 JUDGE MELILLO: Did you want to move the statements
2 into evidence at this time?

3 MS. BENEDEK: I would like to move them into
4 evidence.

5 JUDGE MELILLO: Any objection?

6 (No response.)

7 JUDGE MELILLO: Hearing none, those documents are
8 admitted. That will be, for purposes of the record,
9 CenturyLink Statements 3.0, 3.1 and 3.2 and attachments,
10 exhibits.

(Whereupon, the documents marked as
CenturyLink Statements Nos. 3.0,
3.1 and 3.2 were received in
evidence.)

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15 JUDGE MELILLO: Mr. Bonsick is available for cross-
16 examination. AT&T, first.

17 MS. PAINTER: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. PAINTER:

20 Q. Good afternoon, Mr. Bonsick.

21 A. Good afternoon.

22 Q. My name is Michelle Painter. I'm representing
23 AT&T. I'd like to turn to your surrebuttal testimony, page
24 eight. Looking there starting at line 13 you state, "As
25 part of any reform of access rates, CenturyLink would

FORM 1

1 support regulatory changes that truly ensure that the level
2 playing field results in parity." And then starting on line
3 17, you state that, "As part of the outcome of this
4 proceeding, additional steps to achieve real regulatory
5 parity between incumbent carriers and their intermodal
6 competitors should be taken." What exactly are you
7 proposing that the Commission do here?

8 A. The statement is very much in response to claims
9 by, the statement in my testimony, AT&T, Sprint and Comcast
10 that the playing field is skewed toward RLECs, in this case
11 CenturyLink, and our access charges that we charge other
12 carriers.

13 This is a response to that, claiming that in fact we
14 believe the playing field in a competitive market is skewed
15 in favor of those that don't bear the regulatory burdens
16 that we bear in the market here in Pennsylvania and in other
17 states, but specifically here in Pennsylvania.

18 Q. Okay. You testify that additional steps should
19 be taken. What are those steps?

20 A. I think to achieve real regulatory parity, first
21 and foremost, two of the main items in this case are
22 obviously universal service and carrier of last resort
23 obligations. Those are obligations that we view as
24 CenturyLink as obligations that we have that other carriers
25 that compete against us don't have.

1 In addition to that, there are various reporting
2 requirements, service standards, a variety of regulatory
3 obligations that we have that others don't. So our --

4 Q. Okay. And I'm asking you, Mr. Bonsick,
5 specifically, what are those obligations that you would like
6 to be changed as part of this case?

7 A. We would certainly like to see parity in the
8 ability to price services. We would like to see parity in
9 the amount of reporting requirements that we have versus our
10 non-regulated competitors.

11 Q. What specific reporting requirements would you
12 ask that the Commission change?

13 A. We have reporting requirements on any number of
14 activities: service quality, repair/restored time frames,
15 our appointment time frames that we must meet. In addition,
16 as a result of Act 183, we have the requirements of filing
17 NMP reports, broadband deployment reports. Specifically,
18 CenturyLink, because of our obligation under Act 183 to
19 offer the bona fide retail request program, we have BFRR
20 reports that are required. And that's all-inclusive. I am
21 sure I'm missing some there, but that is just a sampling of
22 some of those obligations that we have that carriers don't.

23 Q. Okay. And so you're asking the Commission as
24 part of this proceeding to eliminate some of those filing
25 requirements?

1 A. I think as we look at achieving real regulatory
2 parity, that would be a goal of ours.

3 Q. Well, speaking of this regulatory parity, you're
4 familiar with Chapter 30, aren't you?

5 A. Correct.

6 Q. Okay. And there's a provision in there under
7 the declaration of policy, Section 3011, subsection 13,
8 which says, "It's the policy of this Commission to recognize
9 that the regulatory obligations -- or of the Commonwealth to
10 recognize that the regulatory obligations imposed upon the
11 incumbent local exchange telecommunications companies should
12 be reduced to levels more consistent with those imposed upon
13 competitive alternative service providers." Are you
14 familiar with that?

15 A. Yes.

16 Q. Okay. What has the Commission not done to be
17 consistent with this section?

18 A. I think the Commission -- well, first of all,
19 the Legislature has taken steps to help achieve regulatory
20 parity. The Commission has taken obviously its charge from
21 the statute. But I think the key phrase there is -- I can't
22 recite the exact phrase -- the term "more consistent basis."
23 It is not completely consistent.

24 Q. You also talked about some pricing flexibility;
25 is that right, that that would be one of the issues?

1 A. Correct.

2 Q. Okay. And has CenturyLink ever come in to the
3 Commission and petitioned to have its locals services
4 declared competitive?

5 A. I'm sorry, its local services?

6 Q. Yes.

7 A. No, we have not. By statute, it is defined as
8 protected.

9 Q. Okay. But by statute, you can come in and have
10 your protected services declared competitive; isn't that
11 right?

12 A. Correct.

13 Q. And CenturyLink has not done that?

14 A. We have not done that, no.

15 Q. And would you agree, if CenturyLink did do that,
16 it would give CenturyLink the pricing flexibility it's
17 requesting?

18 A. If we filed to have them deemed competitive?
19 Only if it was approved, which there's a very high
20 unlikelihood of that happening.

21 MR. KENNARD: There's not a very high likelihood?

22 THE WITNESS: A high unlikelihood of that happening.

23 BY MS. PAINTER:

24 Q. Well, you present in your testimony that
25 CenturyLink's marketplace is hyper-competitive; isn't that

1 right?

2 A. Correct.

3 Q. Now, turning again, I'm going to stay at page
4 eight of your surrebuttal testimony, you state there, lines
5 six through eight, you state that, AT&T's initial proposed
6 benchmark rate of \$21.97 as set forth in our direct
7 testimony, and you have a cite there, demonstrates the
8 unreasonableness of AT&T's \$25 benchmark. Do you see that?

9 A. Yes.

10 Q. Now, just to be clear, AT&T's benchmark proposal
11 is in fact \$22 in the first year, right?

12 A. Under the revised proposal?

13 Q. Correct.

14 A. That was submitted in rebuttal testimony?

15 Q. Correct.

16 A. Yes.

17 Q. Okay. And it is not until the fourth year that
18 it gets to a \$25 benchmark, correct?

19 A. That's correct. And in citing an initial
20 proposed benchmark, I was referring to the benchmark that
21 was I believe identified in direct testimony.

22 Q. Well, let's turn to that. Do you have that
23 testimony?

24 A. AT&T's direct testimony?

25 Q. Yes.

1 A. No, I do not.

2 (Pause.)

3 (Document handed to the witness.)

4 BY MS. PAINTER:

5 Q. Now, let's be clear. AT&T's benchmark, the \$22
6 benchmark in its rebuttal testimony is based on taking the
7 \$18 rate cap and raising it by inflation; is that correct?

8 A. I believe that is the formula that was used,
9 correct.

10 Q. Okay. And are you somehow claiming in this
11 surrebuttal testimony that AT&T has changed its position?

12 A. My understanding was that the initial statement
13 in the direct testimony was a benchmark of \$21.97, and if I
14 use \$22 in subsequent statements, then maybe I was just
15 rounding up in my own mind.

16 Q. Well, AT&T's proposal is \$22. Let's look at the
17 testimony at page 59, and actually this starts at page 58.
18 It starts at page 58, line 15. Wouldn't you agree that this
19 testimony is not proposing a benchmark but is simply stating
20 that if the Commission had allowed the \$18 rate cap to
21 increase with inflation, by the end of 2009 that rate would
22 have been \$21.97?

23 A. I'm sorry, my -- that is not consistent with
24 what I'm seeing here.

25 Q. Do you have your direct testimony, the direct --

1 A. You're talking about my direct testimony?

2 Q. No, AT&T's direct testimony.

3 A. I think that's what I'm looking at.

4 MS. PAINTER: Your Honor, if I can approach?

5 JUDGE MELILLO: Yes. Please show the witness a copy
6 of the testimony.

7 THE WITNESS: I'm sorry, I do have it. I do have it.
8 Thank you.

9 BY MS. PAINTER:

10 Q. Wouldn't you agree that AT&T's testimony that
11 you cited is not proposing a benchmark but is simply stating
12 that the \$18 rate cap, raised by inflation, leads to \$21.97?

13 A. Yes.

14 Q. Looking at page 25 of your surrebuttal
15 testimony, and I'm looking in particular on line six, you
16 have a statement there that says, "Even though Verizon PA
17 mirrored its interstate rates several years ago." Is it
18 your testimony that Verizon's intrastate access rates mirror
19 their interstate rates?

20 A. No. Verizon's interstate access rates do not
21 their -- intrastate rates do not mirror their interstate
22 rates.

23 Q. Okay.

24 A. Verizon North, as part of the merger with -- the
25 GTE-Verizon merger, was ordered to mirror Verizon PA's

1 intrastate rates.

2 Q. Okay. So the two Verizon companies mirror their
3 rates, but the intrastate rates are not mirrored with their
4 interstate rates?

5 A. I believe that to be correct.

6 Q. Okay. Now, I believe it's a safe summary of
7 CenturyLink's position in this case that they cannot raise
8 rates because customers will leave and go to a competitor;
9 is that right?

10 A. That is certainly a risk in this case, and I
11 think it's been fleshed out by the consumer study that we
12 performed.

13 Q. Okay. Now, you're the state executive for
14 Pennsylvania and New Jersey; is that correct?

15 A. That's correct.

16 Q. And you're aware that in New Jersey, that
17 CenturyLink has argued for the ability to increase local
18 rates in the last couple of years?

19 A. We have advocated as part of a proceeding that
20 began I believe in 2007, was completed in 2008, for pricing
21 flexibility. A result of that case was a settlement that
22 included additional price increases for basic local service.
23 However, our rate had not been increased in New Jersey since
24 1991 and that rate was below the national average, and was
25 quite frankly only \$7.90.

1 The increases that we received in New Jersey, even if
2 fully implemented, would still be below the rate that we
3 currently have of \$18 here in Pennsylvania for local
4 residential.

5 Q. Well, as part of your case to obtain regulatory
6 flexibility, wouldn't you agree that one of CenturyLink's
7 arguments was that there was competition in CenturyLink's
8 territory?

9 A. I believe that's accurate. I believe that was
10 in that record.

11 Q. Okay. And after CenturyLink, the settlement
12 occurred and CenturyLink obtained additional pricing
13 flexibility, CenturyLink did in fact increase its local
14 rates in New Jersey; isn't that correct?

15 A. That's correct.

16 Q. Now, was any type of customer survey conducted
17 prior to the implementation of that local rate increase?

18 A. Customer survey or analysis?

19 Q. No, a customer survey to determine whether
20 customers would --

21 A. No.

22 Q. -- leave CenturyLink?

23 A. No, there was not.

24 Q. And was any type of analysis or survey done
25 after the local rate increases went into effect to determine

1 whether in fact customers left as a result of those rate
2 increases?

3 A. Because we looked at additional pricing
4 flexibility, whether we could utilize the headroom granted
5 to us, yes, we looked at, analyzed the effect of those
6 pricing increases on consumers.

7 Q. Okay. And CenturyLink, as part of that case,
8 had the ability to take three rate increases; is that right?

9 A. That's correct.

10 Q. And the first one was in 2008; is that correct?

11 A. Yes.

12 Q. And CenturyLink did in fact raise its rates at
13 that time, correct?

14 A. That is correct.

15 Q. And the next one was I believe toward the end of
16 last year; is that correct?

17 A. We actually did not implement rate increases in
18 2009. However, we did implement, under that opportunity,
19 increased those rates in 2010.

20 Q. And another aspect -- well, actually, I want to
21 ask you if this is part of your proposal in this case. Is
22 it your proposal that if any access reductions are
23 implemented in this case, that those revenue reductions must
24 be made up from the universal service fund?

25 A. I think in response to the initial positions by

1 most of the parties, our opposition was to a flash cut to
2 mirroring of intrastate rates with interstate rates, and
3 that if in fact the Commission did go down that road, that
4 the increase or the lost revenue should be made up by the
5 USF. What I have stated in my surrebuttal testimony is that
6 we believe there are opportunities to create reasonable
7 benchmarks only if you look at the access reductions that
8 may occur in this case in conjunction with the USF and a
9 restructured USF that would take a holistic approach to
10 covering our responsibilities under carrier of last resort
11 and universal service.

12 Q. Okay. But let's say hypothetically that the
13 Commission does decide to reduce access rates in this case.
14 Is it your position that any revenue lost from those access
15 reductions should come from the universal service fund?

16 A. I think we would be in favor of a reasonable
17 benchmark, looking at a reasonable benchmark. I don't know
18 what a reasonable benchmark would be. That would be
19 incumbent upon a lot of factors. We have not done that
20 analysis. And then the remainder, if there was an increase
21 in the benchmark rate or rate cap, the remainder certainly
22 should come from the USF. As our survey demonstrates, the
23 risk for pushing the entire revenue recovery to local rates
24 is borne by not only CenturyLink but our customers in the
25 most rural, high-cost areas of the Commonwealth.

1 Q. Okay. Well, it's currently your position that
2 there shouldn't be a benchmark above the \$18; is that right?

3 A. As I stated in my surrebuttal testimony, we are
4 willing to consider a reasonable benchmark.

5 Q. And would that be something higher than \$18?

6 A. We have not taken a number to that, a value to
7 that, but again, if this case was viewed holistically with a
8 restructuring of the USF, identifying the appropriate
9 resources to satisfy our universal service obligations and
10 carrier of last resort obligations, that could be something
11 above \$18.

12 Q. Okay. And to the extent that once you get to
13 the benchmark, there are any additional reductions, that
14 would come from the universal service fund; is that right?

15 A. Absolutely correct, yes.

16 Q. Okay. And you just talked about the fact that
17 if in fact the benchmark is higher, the revenue reductions
18 would have to come from CenturyLink's customers, correct?

19 A. I'm sorry, can you repeat that?

20 Q. If the benchmark was higher for instance than
21 CenturyLink's current rate of \$18, then any revenue
22 reductions would have to come CenturyLink's customers?

23 MR. KENNARD: First?

24 THE WITNESS: No, that's --

25 BY MS. PAINTER:

1 Q. Before going to the benchmark.

2 A. That structure has not been put together, has
3 not been formulated, but historically the structure has been
4 that you go to your local rates up to the benchmark rate
5 first and then beyond that, funds are received from the USF.

6 Q. You expressed a concern that if the benchmark is
7 too high, that CenturyLink's customers would have to pay
8 higher rates, and you were concerned about that, right?

9 A. If the benchmark is too high, again, as borne
10 out by our survey, if the benchmark is too high and those
11 revenue recoveries are pushed solely to local rates or an
12 unfair portion of that, significant portion of that is
13 pushed toward local rates, then certainly there is risk
14 there for us from a competitive standpoint and risk to those
15 consumers who don't have competitive options that will be
16 paying a significantly higher rate and bearing more of that
17 burden.

18 Q. Okay. Who pays for the universal service fund?

19 A. There are a number of carriers who pay for the
20 universal service fund, including CenturyLink.

21 Q. Okay. And would you agree that Verizon pays, I
22 think Ms. Paiva said today over 50 percent?

23 A. I don't know the exact number, but the formula
24 used to derive revenues into the USF is based on I believe
25 revenues of various companies, and so certainly as the

1 largest ILEC in the state, Verizon would bear the lion's
2 share of that.

3 Q. So is it your position that Verizon's customers
4 should have to pay to keep CenturyLink's rates at \$18?

5 A. It's not an issue of keeping our rates at \$18.
6 It's keeping the rates affordable and it's satisfying the
7 universal service and carrier of last resort obligations.
8 The policy tenet that this state and this Commission looks
9 to the ILECs, CenturyLink, as the instrument to carry out in
10 this state, historically has been the construct, that urban
11 rates subsidize rural rates, business rates subsidize
12 residential rates. That is the classic compact that exists
13 in telecommunications policy.

14 Q. Do you think that the customers in Verizon's
15 territory know they're helping pay to keep CenturyLink
16 customers' rates at \$18?

17 A. I could not answer that.

18 MS. PAINTER: I have nothing further, Your Honor.

19 JUDGE MELILLO: The next party on the schedule is
20 Verizon -- oh, Sprint, I'm sorry. We switched that one as
21 well. We switched Lindsey/Harper's cross-examination. I
22 apologize. Then do we also switch -- well, we'll deal with
23 it. I've got a lot of arrows on my sheet.

24 We'll go off the record.

25 (Discussion off the record.)

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JUDGE MELILLO: Back on the record.

The cross-examination will continue, and the next party is actually Sprint.

MR. GRUIN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. GRUIN:

Q. Hello, Mr. Bonsick.

A. Good afternoon.

Q. I'm Mike Gruin and I'm here on behalf of Sprint. Were you here in the hearing room earlier when the panel was testifying?

A. For the majority of that, yes.

Q. And as you are probably aware, they deferred to you for some Pennsylvania specific questions; is that correct?

A. That's correct.

Q. So I want to start by following up on some of the items that Mr. Aron touched on with the panel that have been referred to you.

First of all, Mr. Aron asked the panel about their statement that the Pennsylvania Commission has never relied upon costs to determine rates in the past. Do you agree with that statement?

A. I agree with that statement certainly relative to access rates, and I really cannot comment as to local

FORM 1

1 rates or other services, rates for services where the
2 Commission had jurisdiction. But when looking at access
3 rates specifically, the Commission has historically looked
4 at price, and I believe that's also the case for other
5 services as well. They've looked more at price and the cost
6 to the end user and how that pricing satisfies the
7 regulatory obligations as opposed to looking at strictly a
8 cost structure.

9 Q. Isn't it correct that the Commission did not
10 always set rates for ILECs under price caps or alt. reg.
11 plans?

12 A. Absolutely. Up until I believe -- well, 1993
13 was when the original alternative regulation statute was
14 passed -- it was rate base/rate of return.

15 Q. Right. So in that rate base/rate of return,
16 they looked at assets, costs, revenue, basically cost plus a
17 given net return; is that correct?

18 A. I was not involved in any of those rate cases,
19 but those are some of the facts I'm sure that were
20 considered. There may be more.

21 Q. Okay. Thank you. Were you in the hearing room
22 when Mr. I believe it was Lindsey said that CenturyLink has
23 never done a cost study to determine their cost of providing
24 local service?

25 A. I don't recall that statement.

1 Q. But would you be willing to agree that that is
2 the case, that CenturyLink has never done a cost study for
3 Pennsylvania to determine the cost of local service?

4 A. I could not state that definitively.

5 Q. How about a cost study to determine the cost of
6 providing access service in Pennsylvania?

7 A. I don't know specifically what CenturyLink or
8 our predecessor companies did, but I do know that as part of
9 an earlier case in the last 1990s that ended up resulting in
10 the Global Order, in the global settlement conference, there
11 were cost studies submitted as part of that access case.

12 However, one of the reasons it ultimately ended up
13 going to a settlement was the fact that none of the parties,
14 including the Commission, could agree on the cost structure
15 to utilize to determine that. So it was ultimately never
16 based on cost.

17 Q. That really wasn't my question. I really just
18 wanted to bring Mr. Lindsey's statement that CenturyLink had
19 never done a cost study to determine the cost of providing
20 switched access, and make it Pennsylvania specific if we
21 could. Are you aware of --

22 A. I am not aware of any study.

23 Q. Okay. And last question again following up on
24 their previous testimony, for Pennsylvania only, has
25 CenturyLink ever done a study to determine the cost of COLR

1 in Pennsylvania?

2 A. Certainly we have not, and I don't believe any
3 other carrier has, either.

4 Q. Okay. Turning to page nine of your direct
5 testimony?

6 A. Direct testimony?

7 Q. Direct, yes. Do you have it?

8 A. Yes.

9 Q. Line 14, you say that the Pennsylvania USF is
10 absolutely critical and more important than ever to
11 CenturyLink and RLECs because of the competitive market
12 that's developed in your territories; is that correct?

13 A. That's partially correct. That's a little bit
14 misconstrued.

15 Q. Clarify that for me.

16 A. The reason why I state that the PAUSF, the
17 function or the importance of the USF has increased is the
18 fact that much of the competition we see, and we see
19 competition from a number of different carriers, much of
20 that, the majority of that occurs in the lower cost areas.

21 So ultimately what CenturyLink is left with when we
22 lose those consumers in the lower cost areas and lose their
23 revenue, including access support, we end up with a higher
24 per unit cost for those customers who are left on the
25 network. So there's less revenues to cover our total cost

1 for the carrier of last resort/universal service
2 obligations.

3 Q. Right. And then further down on that page, you
4 actually make a statement that's confidential, so I won't
5 state it here, but you reveal what you believe to be the
6 percentage and numbers of access lines that CenturyLink has
7 lost since 2005; is that correct?

8 A. That's correct. And on the following page,
9 there's a footnote to the total number of res. and bus.
10 lines as of September 30, 2009. That's the figure I'm
11 using.

12 Q. Right. So you talk about access line loss, and
13 then later in your testimony, I believe it was your
14 surrebuttal, you made a statement that that access line loss
15 is continuing at a rate of I believe 7 or 8 percent per
16 year; is that correct?

17 A. That has been historically both in Pennsylvania
18 and I think nationwide for CenturyLink.

19 Q. But isn't it true that CenturyLink generates
20 much more revenue per access line than it has in the past?

21 A. I don't know that definitively. I can't say yes
22 or no.

23 Q. Well, would you agree that there is a greater
24 demand for other services offered over the local network
25 such as broadband and television as well, as compared to

1 2005?

2 A. Broadband and --

3 Q. Television.

4 A. We do not offer a video product over our
5 network, directly over our network.

6 Q. Right. You may not offer it --

7 A. But is there an increased demand for broadband?
8 Absolutely. Is that provided over the local loop? To the
9 end user, yes.

10 Q. Right. So doesn't this greater demand for
11 broadband and other services provide you and other RLECs
12 with more opportunities to generate revenue off of existing
13 access lines?

14 A. An opportunity? Potentially. Is there any
15 guarantee of that? No. I think there was a discovery
16 response where we identified the line loss versus the, I
17 think it was introduced yesterday, line loss versus the
18 increase in bundled services and the percentages are still
19 upside down.

20 Q. Right. On the issue of opportunities for
21 revenue, I'm going to pass out a discovery response that
22 CenturyLink provided. This is a confidential document, so
23 it should be made part of the confidential record.

24 JUDGE MELILLO: Will you be asking proprietary
25 questions regarding this document?

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MR. GRUIN: Yes.

JUDGE MELILLO: All right. Very well.

(Whereupon, the following pages 436 through 437 were sealed and bound separately.)

FORM 1

1 BY MR. GRUIN:

2 Q. Mr. Bonsick, the document that's been marked
3 Sprint Cross Exhibit 6 is a discovery response to Sprint-
4 CenturyLink-II-8, and this one was sponsored by you; is that
5 correct?

6 A. Correct.

7 THE WITNESS: There is an additional copy here that I
8 was handed, so if you need it.

9 JUDGE MELILLO: Could we go off the record just a
10 moment?

11 (Discussion off the record.)

12 JUDGE MELILLO: Back on the record.

13 (Pause.)

14 MR. GRUIN: Are we on the record, Your Honor?

15 JUDGE MELILLO: Yes, we are. We're back on the
16 record.

17 MR. GRUIN: Okay. Thank you.

18 BY MR. GRUIN:

19 Q. Mr. Bonsick, you sponsored this discovery
20 response; is that correct?

21 A. Yes, I did.

22 Q. And if you turn to the second page of the
23 document, and you'll see there's a cover letter indicating
24 that it's enclosing the 2008 biennial network modernization
25 plan report of CenturyLink and at that time Embarq, and this

1 was signed by you; is that correct?

2 A. That is correct.

3 Q. And if you would flip to the sixth page of the
4 document, that is a heading sheet showing that the portion
5 of the report to follow is the DSL status portion of the
6 report; is that correct?

7 A. Correct.

8 Q. Flipping further, two more pages, there's a
9 chart, and this shows the number of customers receiving DSL
10 service from at the time Embarq as of the end of 2008; is
11 that correct?

12 A. That is correct.

13 JUDGE MELILLO: Mr. Gruin, out of an abundance of
14 caution, because I think this particular cross-examination
15 exhibit is confusing since it still says "proprietary
16 information" in this document, would everyone please cross
17 that out so that we're not confused? And I ask the court
18 reporter to please delete any reference to proprietary.

19 MR. GRUIN: Thank you, Your Honor.

20 JUDGE MELILLO: Because the document does state that
21 it contains proprietary information. All right.

22 MR. GRUIN: Thank you, Your Honor.

23 BY MR. GRUIN:

24 Q. Mr. Bonsick, the figures reflected on this chart
25 here, can you confirm that they are public figures that are

1 not proprietary?

2 A. That they are public figures, they're not --

3 Q. Yes, they are public.

4 A. Yes, yes.

5 Q. Okay. And the document speaks for itself, but
6 just for the record, this does show that there is a
7 breakdown provided here of DSL service to residents, DSL
8 service to business and a total; is that correct?

9 A. You're looking at, above the table, it says page
10 four of six; is that the table you're referencing?

11 Q. No, I was referencing a page that says
12 Attachment 3 -- yes, page four of six, you're right.

13 A. Okay. And I'm sorry, what was the question
14 again?

15 Q. If you can just confirm, this chart reflects the
16 number of -- the amount of DSL service provided by Embarq to
17 residents, residences, businesses, and then the total of all
18 DSL service in the Embarq territory as of 2008; is that
19 correct?

20 A. That is correct.

21 Q. And then the smaller chart below that first
22 chart shows a breakdown of DSL sales to resellers or
23 wholesalers; is that correct?

24 A. Correct.

25 Q. Okay. Thank you very much. Now, again, with

1 respect to line losses, you indicated that the rate that
2 CenturyLink is experiencing in Pennsylvania is about seven
3 to eight percent per year?

4 A. I think based on 2009 data, that is the
5 approximately range.

6 Q. So does that mean that you'll be completely out
7 of customers in ten years?

8 A. No, because again, I have to restate sort of the
9 mischaracterization of competition in our service
10 territories. Much of that competition is occurring in and
11 around sort of the more populated town centers, if you will.
12 I think I actually use that term in my testimony.

13 There are areas of our service territory that do not
14 have competition, they do not have a viable competitive
15 alternative.

16 Q. But CenturyLink has been aware of this trend of
17 line losses for many years now; is that correct?

18 A. I can't give you an exact date of when lines
19 began to trend downward, access line losses began, but
20 certainly for the better part of this decade, the previous
21 decade.

22 Q. And as a successful company, CenturyLink has
23 taken steps to address this issue of line loss, access line
24 loss; is that correct?

25 A. I would hope so.

1 Q. And so what are some of the steps that
2 CenturyLink has taken to address this issue of access line
3 loss?

4 A. This is not going to be an answer that obviously
5 addresses everything, because I don't know of all the steps
6 that we've taken, but certainly different marketing
7 strategies, different pricing strategies, different bundled
8 strategies for various services.

9 Q. Is it fair to say that a part of the strategy
10 has been seeking to increase the amount of revenue you earn
11 from each remaining customer?

12 A. I think that's certainly something that any
13 company, any service provider would be looking for, is
14 increased share of wallet.

15 Q. And you mentioned as bundling as one of the ways
16 you would do that, adding broadband to voice service; is
17 that correct?

18 A. As one aspect of a bundle, yes.

19 Q. What are other aspects of a bundle?

20 A. Vertical features.

21 Q. Such as?

22 A. Call waiting, caller ID, various directory
23 assistance, etcetera, video services. We don't offer them
24 over our network, over our local loop, but offering a
25 package with another provider, Dish Network.

1 Q. And all these vertical services you call it or
2 vertical features, I believe, you do receive revenue for
3 those services over and above the basic local service rate
4 caps; is that right?

5 MS. BENEDEK: I'm sorry, what's -- I'm unclear about
6 the question. You receive revenue above the local rate cap?

7 MR. GRUIN: I'll restate the question.

8 BY MR. GRUIN:

9 Q. For all of these vertical features, and you gave
10 us examples of call waiting, directory assistance, video,
11 broadband, you receive revenues from those services that are
12 separate and apart from the revenue received for just
13 providing stand-alone basic local service; is that correct?

14 A. Yes, I believe so.

15 Q. Okay. Staying on page nine of your direct
16 testimony, you talk about competition being fierce in your
17 territory. I think you might use the word "intense."

18 A. I actually the phrase intense in the more dense
19 areas, not throughout our territory.

20 Q. So you are saying that there are other carriers
21 competing for both voice and data customers in your
22 territory, correct?

23 A. Correct.

24 Q. By competition, you're referring to wireless
25 carriers, correct?

1 A. Referring to a whole host of carriers, including
2 wireless, CLECs, cable telephony, voice over Internet.

3 Q. Putting aside VoIP carriers, because as I
4 understand it there's no VoIP carriers in this case, let's
5 stick to wireless, cable telephony and facilities based
6 CLECs. Do you acknowledge that those carriers do have costs
7 to provide service in your territory?

8 A. I would assume they do have some costs, yes.

9 Q. For instance, wireless carriers need to build
10 towers, infrastructure, they have to apply for spectrum,
11 correct?

12 A. I would agree with that.

13 Q. And CLECs need to buy trunks and install loops
14 and have other standard telecommunications equipment
15 installed?

16 A. Whatever their needs would be based on the way
17 they're looking to provide the service to the end user, they
18 would have costs, absolutely.

19 Q. And cable telephony providers would have cable
20 plant, correct?

21 A. Assuming so, yes.

22 Q. And so your position is that the current access
23 rates are needed to provide reliable service to end users in
24 your territory; is that correct?

25 A. Can you repeat that question? I'm sorry.

1 Q. That the current level of access rates are
2 necessary to maintain reliable telephone service in the
3 territory?

4 A. No, that's not a complete characterization. The
5 current access rates as approved by the Commission are
6 necessary to carry out the obligation that we have as an
7 incumbent local exchange carrier to be the instrument of
8 universal service and carrier of last resort.

9 So the access charges go to support the provisioning
10 of service in areas where our local rates, the \$18 rate cap
11 is below water. That is -- again, I'll defer back to the
12 historic compact in the telecommunications industry.

13 Q. Could you flip to page six of your surrebuttal?
14 Line 14, you state that the continuance of robust
15 infrastructure investment in rural Pennsylvania is what is
16 at stake in this proceeding; is that correct?

17 A. That's correct.

18 Q. So you're saying that the construction of
19 infrastructure, telecommunication infrastructure in the
20 rural territories is of paramount importance to the
21 Commission or should be?

22 A. I believe the ability to continue to provide, as
23 we are required, reliable, affordable telecommunications
24 services, yes, is of paramount interest to the Commission in
25 this proceeding and, quite frankly, other proceedings.

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FORM 1

Q. If there is such a concern with telecommunication infrastructure in the rural territories to provide telephone service, why should the Commission limit their policy to just subsidizing the infrastructure of rural carriers? Why not subsidize construction of cell towers?

A. Because those competitors, wireless, cable, don't have the same regulatory compact that we have, i.e. they are not required to serve every consumer in every part of their service territory, even the most high cost, less dense areas of the Commonwealth.

I point to, as evidence of that, the fact that despite Sprint's claim of being committed to rural Pennsylvania, there are significant areas of the state where Sprint does not have wireless coverage.

So the regulatory construct is what creates the need for access rates that have historically been priced above cost and for the universal service fund.

Q. So you have, I think it's pretty safe to say that you believe the COLR obligations are a real burden to CenturyLink; is that correct?

A. They create, by its very nature, create inefficiencies and they create an imbalanced marketplace, which is why we continue to defer to the fact that the current access rate levels as well as a viable universal service fund are absolutely necessary.

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Q. I believe you say on page 13 of your direct testimony that if the proposals put forth by AT&T, Sprint and the other parties in this case were adopted, it would significantly impact your company's ability to continue to meet its regulatory obligations in Pennsylvania.

A. Yes, and regulatory obligations, not just carrier of last resort and universal service. Vis-a-vis Act of 183 of 2004 ILECs, including CenturyLink, are required to deploy broadband to 100 percent of our access lines. That is a regulatory obligation.

Q. So if these proposals are adopted, again, significantly impact your ability to even meet those basic regulatory obligations that the Commission has imposed on your company? Those are very strong words.

A. I believe the necessary support mechanisms that are in place today continue to be necessary, and if those support mechanisms are taken away, then yes, it is going to have a significant impact on our ability to continue to meet standards that we're required to meet.

Q. But again, you've never even quantified the costs of your COLR obligations.

A. I don't think it's necessary to quantify the costs to know that it is a burden that we have that is required of us and only us. That increase -- by the very nature, we talked earlier in these testimonies about

FORM 1

1 competitive markets, and I think it was yesterday that
2 either the AT&T or Sprint witness testified to the fact that
3 the very nature of competitive markets means that costs
4 savings are going to be flowed through to consumers.

5 When you don't have competition in those markets and
6 the economies of scale in those markets are upside down, I
7 would qualify that as a burden. Can I put a dollar figure
8 on it? No, we haven't done that. But it's undoubtedly a
9 burden.

10 Q. Okay. You mentioned something about,
11 competitors can pick and choose where they serve while
12 you're forced to serve everybody; is that correct?

13 A. Correct.

14 Q. But isn't it true that CenturyLink has admitted
15 in this case that it does not even track the areas in its
16 territory where no competitor provides voice services?

17 A. That's true.

18 Q. And isn't it true that CenturyLink was asked how
19 much it had to spend each year to extend basic local service
20 to customers who reside in areas in which voice services
21 were not available from any other provider, and CenturyLink
22 was simply not able to answer that, provide a figure?

23 A. Not broken down on that basis, no, by where
24 competition exists and where it does not. No, we do not do
25 that type of analysis.

1 Q. And again, you've admitted that you do not know
2 the number and locations of customers with no competitive
3 options?

4 A. We haven't done that analysis, no.

5 Q. But based on this non-quantified, unknown COLR
6 burden that has never been produced or analyzed, you believe
7 that the Commission should take your word for it and agree
8 to continue these subsidies for the indefinite future?

9 A. I don't believe the Commission has to take our
10 word for it. I think the Commission has already admitted or
11 recognized that fact in its previous decisions regarding the
12 pricing of basic local service, the construct of the
13 universal service fund and the setting of access rates prior
14 to this proceeding. All of those factors were the basis
15 from which the Commission has made previous decisions
16 regarding access rates prior to this proceeding.

17 Q. Okay. Let's move on to page 15 of your direct
18 testimony, and this is more of a clarification than
19 anything. Page 15, line 19, you state, Sprint is primarily
20 a wireless provider, correct?

21 A. Correct.

22 Q. Predominantly a wireless provider?

23 A. Correct.

24 Q. On the next page, first line, you say Sprint
25 only serves 64,091 customers in the Commonwealth.

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A. Correct.

Q. Where did you get that figure from?

A. I believe it was a response to an interrogatory propounded upon Sprint. I don't have cite available.

Q. But upon reflection, you do not believe that number reflects the number of Sprint wireless customers in Pennsylvania, do you?

A. No. I believe that is the number of Sprint IXC customers that you identified. But again, without seeing the discovery request in front of me, I can't cite specifically.

Q. But subject to check, you will agree that that number, 64,091, was not meant to refer to the number of Sprint wireless customers, but to Sprint interexchange customers?

A. I believe it's the IXC number of customers served.

Q. Thank you. Flipping to page 17 of your direct, line 19, you say that virtually all consumers benefit from a robust telecommunications network, correct?

A. Correct.

Q. Next page, page 18, you state that building and maintaining a local network is capital intensive, first line; is that correct?

A. Building and maintaining a local network,

FORM 1

1 especially in rural, high-cost areas, is capital intensive,
2 yes.

3 Q. Right. Would you agree that providing wireless
4 service is also capital intensive?

5 A. I have no point of reference on that.

6 Q. But as an executive in the telecom industry for
7 the past, I don't know, decade or so, you're at least
8 nominally familiar with the capital requirements of
9 providing wireless service; is that a fair statement?

10 MS. BENEDEK: Objection, asked and answered. He said
11 he's unfamiliar with their network costs.

12 MR. GRUIN: I said as an executive, he should be
13 generally familiar with high level capital requirements of
14 providing wireless service.

15 JUDGE MELILLO: I'll allow the witness to answer on a
16 general basis as to his knowledge. If he doesn't have
17 general knowledge, he can so state.

18 THE WITNESS: I couldn't tell you whether it was
19 capital intensive or not. Is there capital required?
20 Absolutely. Is that capital to provide services in center
21 city Philadelphia different than the capital required to
22 provide it in Mercer County, Pennsylvania? I don't know
23 that, either.

24 BY MR. GRUIN:

25 Q. But you do admit that to serve a rural area, you

1 need to invest capital for things such as cell towers?

2 A. You would need to do that in Philadelphia
3 County, as well.

4 Q. And special access -- (inaudible) -- you would
5 need to invest in that, too, right?

6 A. Again, not -- to the best of my knowledge, not
7 differentiated between rural and urban areas. Those
8 requirements exist.

9 Q. So going back to your testimony, page 18 where
10 you say the IXCs don't do it but local providers do spend
11 money to build networks, would you want to rephrase that and
12 agree that wireless providers also spend capital to build
13 networks in rural areas?

14 A. No, because I wasn't referring to general
15 networks. I was referring to our local network over which
16 IXCs provide their services, CLECs provide their services,
17 the network, the public switched telephone network that is
18 necessary for wireless carriers to complete the calls. That
19 is the network I was referring to.

20 Q. Right. You say that IXCs and wireless companies
21 benefit from the use of your network; is that correct?

22 A. Absolutely.

23 Q. Isn't the reverse also true? Don't you benefit
24 from having the ubiquitous public switched telephone network
25 and IXCs to deliver calls across long distances and wireless

1 companies to serve customers who can receive calls from your
2 customers?

3 A. I think that has -- I believe Mr. Lindsey stated
4 previously, yes, that is a function of telecommunications
5 policy that everyone benefits from a complete network.

6 Q. And when a CenturyLink customer calls a Sprint
7 wireless customer, a portion of that call depends upon the
8 wireless network; is that correct?

9 A. When a CenturyLink customer calls a wireless
10 customer?

11 Q. Right.

12 A. Yes.

13 Q. Couple quick questions on pages 21 and 22 of
14 your testimony.

15 A. Direct?

16 Q. Direct, yes. This is about revenue neutrality,
17 Section 1309. Understanding you're not an attorney, do you
18 consider IXCs as customers of CenturyLink for access
19 services?

20 A. Yes.

21 Q. If your access rates are reduced, what
22 percentage of your access customers will be affected by that
23 reduction?

24 A. I don't know that. I have not done that
25 calculation.

1 Q. Isn't it true that if your access rates are
2 reduced, that that rate reduction would affect 100 percent
3 of your access customers?

4 A. I thought you were specifically asking about
5 IXCs.

6 Q. No, just access customers in general.

7 A. If that was the way it was implemented, those
8 reductions, I believe so.

9 Q. Okay. Turning now to your surrebuttal, just a
10 few more questions. Page ten, first question, you talk
11 about the timeline, timeframe for access reform, and I
12 believe you say four years is too short; is that correct?

13 A. We explicitly disagree with the four-year phase-
14 in proposed by AT&T, yes.

15 Q. So what's an appropriate timeframe? Ten years?
16 Fifteen years?

17 A. Again, I think it's hard to answer that question
18 in a vacuum, understanding what the -- we talk about access
19 reform. We do not, I do not in that Q and A in my
20 surrebuttal testimony talk about mirroring. So the amount
21 of the access reduction needs to be determined first, what
22 the phase-in is, how under Section 3017 of Title 66 we are
23 able to recover those revenues. Those are all factors that
24 go into determining the timeline.

25 Q. Okay. So the timeline, you say four years is

1 too short. Let's say, would ten years sound reasonable from
2 today to phase in the access reform, if necessary?

3 A. Again, it would depend on what that reform
4 constitutes, or what constitutes that reform, I should say.

5 Q. Okay. So four years is too short. You say that
6 clearly. Can we say five years, would that sound more
7 reasonable?

8 A. Again, I can't answer that without knowing what
9 the amount of reduction is and how revenue recovery is going
10 to occur and what effect it's going to have on CenturyLink's
11 local rates.

12 Q. Okay.

13 A. Because ultimately, in that paragraph, what I'm
14 stating is that a measurable reform, if it's going to take
15 place, it's necessary, a measured reform, if it's going to
16 take place, it's necessary to protect ratepayers against
17 significant short-term increases in their local rates,
18 thereby incurring rate shock.

19 Q. Okay. And further on in that paragraph -- I'll
20 move on from that because obviously you don't want to state
21 a specific year, and I understand that. Later in that
22 paragraph, you say another factor to consider is given the
23 activity at the FCC. Is that a typo? Did you mean
24 inactivity at the FCC? I'm curious as to what activity
25 you're referring to.

1 A. I mean the recent activity surrounding the
2 national broadband plan, efforts to reform the federal
3 universal service fund to more appropriately gauge support
4 for, lack of a better word, universal broadband
5 availability.

6 Q. But I'm still curious as to what specific
7 activity, and the broadband plan is a plan that's going to
8 kick off a number of rulemakings and NPRMs, etcetera. Has
9 there been any activity at the federal level recently, in
10 recent memory, that would impact access reform?

11 A. Absolutely. There were efforts last year under
12 Chairman Martin -- I'm sorry, two years ago under Chairman
13 Martin, and yes, the national broadband plan, albeit not
14 fully developed through the rulemaking process, is
15 significant activity that needs to be watched by this
16 Commission in determining what it's going to do in this
17 proceeding.

18 Q. Okay. Moving on, page 17 and 18 of your
19 surrebuttal, beginning on line 17, you talk about a little
20 research you did regarding the availability of Sprint
21 wireless service in your territory, correct?

22 A. Correct.

23 Q. Now, how many exchanges does CenturyLink have in
24 Pennsylvania?

25 A. There are 92 exchanges.

1 Q. Ninety-two, okay. And the research you
2 performed, I believe you chose, is it six exchanges?

3 A. That's correct.

4 Q. Okay. And you determined whether or not Sprint
5 wireless service was available in those six exchanges?

6 A. Correct.

7 Q. Now, this wasn't any kind of a formal study with
8 sampling protocols or anything along those lines, was it?

9 A. No, it was not.

10 Q. And you're not a statistician, are you?

11 A. No.

12 Q. And there was no sampling methodology that you
13 used when you chose these six; is that correct?

14 A. That's correct.

15 Q. So you're not saying that the results of this
16 example can be extrapolated to the entire CenturyLink
17 territory; is that correct?

18 A. No. The purpose of performing that research was
19 to refute the claims by Sprint of being "committed to rural
20 Pennsylvania." Clearly, we called six exchanges, two of
21 those do not have service, comes -- questions the statement.

22 Q. I'm more interested in what we can draw from
23 that. Were those six randomly sampled? Were they just
24 picked out of a hat, those six exchanges?

25 A. I don't think there was any specific reason why

1 we picked those. We just looked at a map and picked out six
2 exchanges.

3 Q. But again, you're not saying that the results
4 from that little exercise can be extrapolated over the
5 entire CenturyLink territory?

6 A. No, not at all, not at all. That was not the
7 purpose, either.

8 Q. Okay, great. I think one last line of questions
9 and we'll be done. You talked earlier today about, I think
10 Ms. Painter asked you about quantifying or articulating what
11 the reporting requirements were that ILECs have and CLECs
12 don't; do you remember that?

13 A. Yes.

14 Q. And you went through some of those for us?

15 A. Yes.

16 Q. I think one of the things you mentioned was, the
17 ILECs have service, installation, timeline reports they have
18 to do -- I'm sorry, strike that. They have requirements for
19 completing service orders that CLECs do not?

20 A. Again, I think as I stated then, I don't know
21 all of the requirements that CLECs have, but those are a
22 list of the requirements that we have that some of our
23 competitors do not. I'm not saying it's all the
24 competitors. I don't know that. But certainly a VoIP
25 provider or cable telephony provider do not have those

1 requirements nor do wireless providers.

2 Q. On page 21 of your surrebuttal, I believe you
3 also go into this service installation requirement. You
4 talk about the requirement -- I guess it was important
5 enough to mention in your testimony that you have, 95
6 percent of your primary service orders must be completed
7 within five working days, and 90 percent of your non-primary
8 orders must be completed within 20 days; is that correct?

9 A. Yes.

10 Q. And you reference a Pennsylvania Code section
11 there, 52 Pa. Code 6358; is that correct?

12 A. That is correct.

13 Q. I've passed out a copy of that, and I just want
14 you to confirm, isn't it true that that code section
15 requires the same installation standards for all public
16 utilities?

17 JUDGE MELILLO: By the way, that document you just
18 circulated, you want that identified?

19 MR. GRUIN: Let's mark that as Sprint Cross Exhibit
20 7.

21 JUDGE MELILLO: All right. That will be so marked as
22 Sprint Cross-Examination Exhibit 7.

23 (Whereupon, the document was marked
24 as Sprint Cross-Examination Exhibit
25 No. 7 for identification.)

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BY MR. GRUIN:

Q. Isn't it true that that requirement you reference in your testimony does not apply solely to ILECs?

A. It's required of all public utilities.

Q. Okay. Thank you.

A. However, if I could, in that section of the testimony where I talk about these requirements, I am not talking about regulatory parity in that sense. I'm actually trying to refute the statement made by Mr. Appleby that an obligation as carrier of last resort is only triggered when no other provider has facilities to serve a customer. So I was simply trying to refute the fact that that is not the case under a carrier of last resort obligation.

Q. I don't want to get into an argument with you, but I will say, isn't it correct that the sentence preceding the service installation requirements, you talk about, CenturyLink and other RLECs need to upgrade and maintain their facilities for customers?

A. Yes.

Q. You don't mention CLECs or other public utilities; is that right?

A. Because I'm not representing CLECs or other public utilities.

Q. On reporting, are you familiar with Chapter 30? I think earlier you said you were.

FORM 1

1 A. Yes, absolutely.

2 Q. Isn't it true that 3015 of Chapter 30,
3 subsection (f) puts limits on the number of reports that can
4 be required by the Commission regarding compliance with
5 Chapter 30?

6 A. I believe that's the section, yes.

7 (Pause.)

8 MR. GRUIN: Nothing further at this time, Your Honor.

9 JUDGE MELILLO: All right. Thank you. The next
10 party that has --

11 MR. GRUIN: Oh, Your Honor?

12 JUDGE MELILLO: Yes.

13 MR. GRUIN: I'd like to move for admission of my
14 exhibits.

15 JUDGE MELILLO: Certainly.

16 MR. GRUIN: Cross Exhibits, I believe it was 4, 5, 6
17 and 7.

18 JUDGE MELILLO: Five through seven.

19 MR. GRUIN: Five through seven.

20 JUDGE MELILLO: Yes. Any objection?

21 (No response.)

22 JUDGE MELILLO: They're admitted.

23 (Whereupon, the documents marked as
24 Sprint Cross-Examination Exhibits
25 Nos. 5 through 7 were received in

FORM 1

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evidence.)

JUDGE MELILLO: All right. Now, Verizon, do you have any cross-examination?

MS. PAIVA: Your Honor, I don't have any questions for this witness.

JUDGE MELILLO: All right. Does Qwest have any questions?

MR. POVILAITIS: Yes.

JUDGE MELILLO: Please continue.

CROSS-EXAMINATION

BY MR. POVILAITIS:

Q. Good afternoon, Mr. Bonsick.

A. Good afternoon.

Q. I'm John Povilaitis, appearing for Qwest here today. Mr. Bonsick, am I correct that as state executive for the Pennsylvania jurisdiction, you're at least generally familiar with the tariffs that CenturyLink has on file with this Commission?

A. Generally, yes.

Q. Is it correct that among those tariff provisions, there are provisions that allow the company to require customer contribution towards extension of service that are over a certain distance or dollar amount?

A. Yes, and I believe I do address that in my testimony.

FORM 1

1 Q. And these help mitigate the out-of-pocket
2 investment that the company would otherwise have to make to
3 extend service in response to a service request; is that
4 correct?

5 A. Well, to a certain extent, yes.

6 MR. POVILAITIS: Thank you.

7 (Pause.)

8 MR. KENNARD: Is that it?

9 MR. POVILAITIS: He answered my question.

10 JUDGE MELILLO: All right. Comcast, do you have any
11 questions?

12 (Pause.)

13 MR. DODGE: It's a long walk to say, we don't have
14 any questions.

15 (Laughter.)

16 THE WITNESS: John, very much appreciated. Thank
17 you.

18 JUDGE MELILLO: All right.

19 MR. DODGE: I would also like to say, we don't have
20 any questions for Mr. Zingaretti, either. One housekeeping
21 matter: we, the huddled masses in the back, have not
22 received all cross exhibits, so I would ask counsel for all
23 parties perhaps to circulate them electronically, and we can
24 complete our records and binders in the back as well.

25 JUDGE MELILLO: The parties will do that.

1 MS. PAINTER: Your Honor, I do have a follow-up based
2 on --

3 MR. POVILAITIS: Your Honor --

4 JUDGE MELILLO: Certainly. Let's just check. Does
5 any other party, for example the Office of Trial Staff or
6 anyone else have any questions for Mr. Bonsick?

7 (No response.)

8 JUDGE MELILLO: All right. Go ahead, Ms. Painter --
9 oh, I'm sorry.

10 MR. POVILAITIS: Your Honor, I don't know if this is
11 necessary, but if you think administrative notice is
12 necessary to apply to provisions of CenturyLink's tariff
13 that address contributions in service extension situations,
14 I'd ask that that notice be taken.

15 JUDGE MELILLO: Anyone have an objection to that?

16 (No response.)

17 JUDGE MELILLO: Do you have the citation for the
18 tariff?

19 MR. POVILAITIS: I don't, Your Honor.

20 THE WITNESS: Your Honor, my surrebuttal testimony at
21 page 22, there's a Footnote 3 that cites the supplement
22 number and the section.

23 MR. POVILAITIS: I accept that, Your Honor. If there
24 are any other provisions that address different categories
25 of customers or what have you, I don't think -- it is the

1 Commission's document.

2 JUDGE MELILLO: Yes, it is. We'll basically treat
3 that as -- it's probably considered a public document, but
4 we can take notice of it as well, so that will be part of
5 the record.

6 MR. POVILAITIS: Thank you.

7 JUDGE MELILLO: Yes, Ms. Benedek, you're looking as
8 if you want to say something.

9 MS. BENEDEK: If we could break, and then we'd like
10 to do redirect.

11 JUDGE MELILLO: Well, I wanted to get completed with
12 the cross-examination and then have redirect. All right.

13 FURTHER CROSS-EXAMINATION

14 BY MS. PAINTER:

15 Q. Mr. Bonsick, in response to I think some of the
16 questions by Sprint, you talked about your concerns in terms
17 of your ability to meet some of your regulatory obligations.
18 Do you remember that?

19 (No response.)

20 Q. If access reform were implemented in
21 Pennsylvania.

22 A. Not if access reform were implemented in
23 Pennsylvania.

24 Q. How about AT&T's proposal?

25 A. Correct, yes.

FORM 1

1 Q. Okay. And is it your position that if access
2 rates were reduced as AT&T proposes in this case,
3 CenturyLink will not be able to meet its broadband
4 commitments under Act 183?

5 A. No, I never said that, but clearly if the
6 appropriate revenue replacement is not completed by this
7 Commission, that is obviously going to put pressure on
8 CenturyLink to take dollars from other areas to meet its
9 regulatory obligations under carrier of last resort and
10 universal service.

11 It doesn't obviate that regulatory obligation to get
12 to a hundred percent deployment, so we're going to do
13 everything we can to get there, but it obviously does put
14 downward pressure on our capital availability if we now have
15 to cover the cost of our local service as per carrier of
16 last resort in those high cost areas without the necessary
17 support.

18 MS. PAINTER: I have nothing further, Your Honor.

19 JUDGE MELILLO: All right. If there's no further
20 cross-examination, then we'll take a ten minute recess at
21 this time. We're off the record.

22 (Discussion off the record.)

23 JUDGE MELILLO: Back on the record.

24 I understand that we may have some redirect --

25 MS. BENEDEK: Limited, yes.

1 JUDGE MELILLO: -- for Mr. Bonsick. Please continue.

2 REDIRECT EXAMINATION

3 BY MS. BENEDEK:

4 Q. Mr. Bonsick, do you recall a line of questioning
5 by counsel for Qwest concerning CenturyLink's line extension
6 tariff?

7 A. Yes.

8 Q. Could you further clarify your response
9 concerning that line of questioning? You were about to add
10 something and counsel cut you off.

11 MR. POVILAITIS: Your Honor, my question was fully
12 answered. I asked if there was a mitigation effect and he
13 said yes.

14 MS. BENEDEK: He was about to say something else.

15 JUDGE MELILLO: It's proper in redirect to see if had
16 continued his answer, to see if he had any further
17 qualification or clarification of that question. Yes, go
18 ahead.

19 (Pause.)

20 BY MS. BENEDEK:

21 Q. Yes, please continue.

22 A. That line extension policy is addressed in my
23 testimony, my surrebuttal testimony, as I stated. And
24 again, it was in response to testimony by Mr. Appleby who
25 refers to the ability of CenturyLink to charge a line

FORM 1

1 extension fee for new service as a cost, COLR cost
2 retrieving opportunity.

3 What I wanted to qualify was that there is no charge
4 to the customer for the first 1,000 feet of construction,
5 and that it is the company's responsibility to construct,
6 maintain and own the facilities between the public road
7 facilities and the applicant's main service location.

8 So there is an ability to charge the customer but it
9 is not for all of that service necessary to meet that
10 customer's service needs, and all of the infrastructure
11 construction costs to meet that customer's need. There are
12 limitations to what we can and can't do under that tariff
13 provision.

14 Q. Now, you were asked a question by counsel for
15 Sprint regarding 1309, the revenue neutrality provision,
16 which I believe was stated as -- I'm sorry, the retroactive
17 provision which was stated as revenue neutrality, and we had
18 a little debate in the hall, but we think the question was
19 asked of you, do all access customers benefit from access
20 reductions. Do you have any further response in light of
21 that question directed to you?

22 A. Yeah, I'd actually like to qualify that based on
23 my direct testimony on page 22. I clearly state there that
24 only the 47 IXCs and other access users would benefit from
25 any reduction sought in this proceeding. So when I

1 responded to counsel for Sprint, I was referring to those
2 access users, not all customers who pay access.

3 Q. Meaning local --

4 A. So in essence, those carriers who we bill for
5 access would benefit, not all customers who pay access.

6 Q. You had also been asked a couple questions by
7 counsel for Sprint regarding DSL revenue, broadband revenue.
8 What happens -- let's compare the two -- what happens when
9 we gain a DSL customer? What does CenturyLink gain?

10 A. If we gain a DSL customer, it's only a DSL
11 customer. We only get the revenue for that DSL product. We
12 don't get revenue for local service, vertical services or
13 any other part of a bundle. If it is simply just a DSL
14 product, then we get revenue for that.

15 Under the same vein, when we lose a bundled customer,
16 we lose all of those revenues, not just the local revenue or
17 one aspect of it. We lose all of those revenues including
18 local DSL, etcetera.

19 Q. And access, too?

20 A. And access, yes, absolutely.

21 Q. You were asked a couple questions by counsel for
22 AT&T regarding New Jersey and rate increases that
23 CenturyLink has implemented in New Jersey. Can you please
24 give us the numeric value of the rate increases that you
25 were asked to identify?

1 New Jersey, you did state earlier in response to my question
2 about whether you had looked at line loss in respect to
3 those increases, that you had looked at that. Did you see a
4 certain percentage of line loss that was associated with the
5 rate increase?

6 MS. BENEDEK: Objection, Your Honor. We asked about
7 the numerical value to clarify that and she is now going
8 back to something she asked on cross. I don't think the
9 question having to do with the actual increase levels, the
10 actual amounts has anything to do with line losses.

11 MS. PAINTER: She's trying to make a point that the
12 rate increases, that the rates there are much lower, and
13 presumably will then say that that's not comparable, and I'm
14 trying to ask if there were line losses.

15 JUDGE MELILLO: I'll allow the question. I know
16 there was some questioning about line losses and whether a
17 study had been done, etcetera, but I'll allow it to clarify.
18 Go ahead. Can you answer the question?

19 THE WITNESS: I can answer the question to this
20 extent. Have there been line losses in New Jersey for
21 CenturyLink? Yes. Were they directly attributable to
22 increases in our local rate? I was not involved in that
23 discussion, not involved in that analysis, so I'm not aware
24 of what those line losses are attributable to other than the
25 fact that there are competitors there. The churn, I don't

1 know what it is a result of.

2 MS. PAINTER: Thank you. I have nothing further.

3 JUDGE MELILLO: If there's nothing further --

4 MR. GRUIN: Your Honor, I have one recross.

5 JUDGE MELILLO: All right. So this would be,
6 wherever we are in this, re-redirect, I guess it is.

7 MR. GRUIN: Recross.

8 JUDGE MELILLO: Or recross. That's right. You're
9 following. That's fine. Go ahead.

10 MR. GRUIN: Thank you.

11 RECCROSS-EXAMINATION

12 BY MR. GRUIN:

13 Q. Mr. Bonsick, following up on Ms. Benedek's
14 question about, you said that when you lose a customer with
15 a service bundle, you lose all that revenue associated with
16 that bundle; is that correct?

17 A. That's correct.

18 Q. Has CenturyLink ever performed a study to try to
19 correlate or demonstrate a correlation between its access
20 line losses correlated to its areas, high-cost/low-cost,
21 high-density/low-density? Does any such study exist?

22 A. I could not answer that with definition to say
23 that no study exists. Not that I'm aware of.

24 MR. GRUIN: Okay. Thank you.

25 JUDGE MELILLO: All right. Now, are there any

1 further questions?

2 (No response.)

3 JUDGE MELILLO: Very well, then Mr. Bonsick, you are
4 excused. Thank you.

5 THE WITNESS: Thank you, Your Honor.

6 (Witness excused.)

7 JUDGE MELILLO: The next witness is the Office of
8 Consumer Advocate's witness, Dr. Loube. Do you want to call
9 your witness?

10 MR. CHESKIS: Thank you, Your Honor. The Office of
11 Consumer Advocate calls Dr. Robert Loube to the stand.

12 JUDGE MELILLO: Dr. Loube, please raise your right
13 hand.

14 Whereupon,

15 ROBERT LOUBE
16 having been duly sworn, testified as follows:

17 JUDGE MELILLO: Please be seated.

18 Please proceed, counsel.

19 MR. CHESKIS: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. CHESKIS:

22 Q. Good afternoon, Dr. Loube. Can you please state
23 your name, business address and business title for the
24 record, please?

25 A. My name is Dr. Robert Loube. My --

FORM 1

1 Q. I think you might have to push the button on so
2 the green light's --

3 A. Is it on now?

4 Q. Thank you.

5 A. My name is Dr. Robert Loube. My business
6 address is 1061 Cavalier Drive, Silver Spring, Maryland. I
7 am vice president and principal owner of the firm, Rolka
8 Loube Saltzer Associates.

9 Q. And do you have your direct and surrebuttal
10 testimonies in front of you in this proceeding?

11 A. I do.

12 Q. They were filed on behalf of the Office of
13 Consumer Advocate and dated January 20, 2010 and April 1,
14 2010 respectively?

15 A. I do.

16 Q. And your direct testimony consists of 76 pages
17 and Exhibits RL-1 to RL-12, which includes your
18 qualifications as well as Appendix A; is that correct?

19 A. That is correct.

20 Q. And your surrebuttal testimony consists of 31
21 pages and no exhibits; is that correct?

22 A. That is correct.

23 Q. I will note as well that your direct testimony
24 comes in both proprietary and public form.

25 MR. CHESKIS: Your Honor, the Office of Consumer

1 Advocate has previously distributed copies of these
2 statements to all parties and would like to have these
3 statements marked as OCA Statements 1 and 1-S for the
4 record.

5 JUDGE MELILLO: Yes, those statements may be so
6 marked.

7 (Whereupon, the documents were
8 marked as OCA Statements Nos. 1
9 and 1-S for identification.)

10 MR. CHESKIS: I have also previously presented two
11 copies of each of these statements to the court reporter for
12 inclusion into the official record, again noting that
13 there's both a public and a proprietary version of the
14 direct testimony.

15 BY MR. CHESKIS:

16 Q. Dr. Loube, would you like to make any
17 corrections to either pieces of this testimony at this time?

18 A. Yes. There are a number of minor editorial
19 changes that have to be made. I apologize. My professional
20 copyreader did not have the opportunity to read the text.
21 She was busy.

22 On page six of my direct testimony, line 12, "basic
23 services" should read "basic service rates."

24 On page 15, line one, at the end of the line, "no
25 higher than" and the word "the" should be put in, "\$18."

1 On page 62, line six, the sentence reads at the end,
2 "by the wireless and ILECs." It should be, "by the wireless
3 carriers and ILECs."

4 And then page 64, line 13, in the middle of the
5 sentence it says, "price cap carrier common charge." It
6 should be "carrier common line charge." Those are the
7 corrections in the direct.

8 In the surrebuttal, page one, line 18, please strike
9 the last word, so instead of "should be" it's just "should."

10 Page 11, line one, again, the last word, please
11 strike the word "the."

12 Page 11, line five, the last part of the line reads,
13 "on offset of 3 percent," and it should read, "an offset of
14 3 percent."

15 And then finally, page 26, line two, obviously the
16 word "RLECs" is misspelled. Please strike the "I." Thank
17 you. That's all of them.

18 Q. And with those changes in mind, would your
19 answers be the same if I were to ask you the questions in
20 those statements today?

21 A. Yes.

22 Q. Was everything contained in OCA Statements 1 and
23 1-S prepared by you or under your supervision?

24 A. Yes.

25 Q. And are these documents true and correct to the

1 best of your knowledge, belief and understanding?

2 A. They are.

3 MR. CHESKIS: Your Honor, subject to cross-
4 examination and timely motion, the OCA moves that OCA
5 Statements 1 and 1S and the accompanying exhibits be
6 admitted into the record, and Dr. Loube is not available for
7 cross-examination.

8 JUDGE MELILLO: Any objection to admission of the
9 documents?

10 (No response.)

11 JUDGE MELILLO: Hearing none, they're admitted.

12 (Whereupon, the documents marked as
13 OCA Statements Nos. 1 and 1-S were
14 received in evidence.)

15 JUDGE MELILLO: AT&T, you have questions, Mr.
16 Metropoulos?

17 MR. METROPOULOS: Yes, I do, Your Honor.

18 JUDGE MELILLO: Please proceed.

19 MR. METROPOULOS: Thank you.

20 CROSS-EXAMINATION

21 BY MR. METROPOULOS:

22 Q. Good afternoon, Dr. Loube. My name is Jim
23 Metropoulos and I'm representing AT&T. Before I start, I'd
24 like to thank you for making the arrangements to come up
25 here and join us today.

1 A. You're welcome.

2 Q. Thanks. I'd like to turn to your direct
3 testimony, page 10.

4 A. Yes, I'm there.

5 Q. We'll be kind of going back and forth to this
6 page a few times. Right now I'm looking at line five. Do
7 you see where it says, "OCA's recommended plan consists of
8 four parts"?

9 A. That is correct.

10 Q. I'd like to walk through that plan with you.
11 Part one of your plan is that RLEC intrastate switched
12 access rates should be set equal to their respective
13 interstate rates, correct?

14 A. That is correct.

15 Q. And that would include the elimination of the
16 common carrier line charge, correct?

17 A. That's our recommendation.

18 Q. And on page 12 of your direct testimony, looking
19 at lines one to two, you explain that eliminating the common
20 carrier line charge creates greater fairness because not all
21 long distance providers pay that charge.

22 A. That's correct.

23 Q. As you understand AT&T's proposal in this case,
24 AT&T also agrees that RLEC intrastate switched access rates
25 should be set equal to their respective interstate rates?

1 A. Yes. We agree on that part and only that part.

2 Q. Okay, recognizing that there will be other parts
3 that we'll be discussing later. And AT&T agrees that the
4 common carrier line charge should be eliminated?

5 A. Yes.

6 Q. Okay. Now let's go to part two of your plan,
7 back on page ten of your direct. RLEC residential basic
8 local service rates that are below 120 percent of Verizon's
9 weighted average basic residential rate should be increased
10 to that level, while RLEC rates that are more than 120
11 percent of Verizon's basic rate would stay where they are;
12 is that right?

13 A. That's correct.

14 Q. And you describe this 120 percent target
15 elsewhere as a benchmark for basic local rates?

16 A. That is correct.

17 Q. And today, your benchmark as you calculate it
18 based on 120 percent of Verizon's basic local rate would be
19 \$17.09?

20 A. That's correct.

21 Q. And as you understand AT&T's proposal, AT&T is
22 also proposing a benchmark for residential local --

23 A. A benchmark that is substantially higher.

24 Q. Right, but a benchmark.

25 A. Yes. In principle, they both have benchmarks.

1 It's just, they're different, and there's a lot of money in
2 the difference.

3 Q. And you anticipated my next question. AT&T's
4 proposed benchmark would be \$22 for the first year of AT&T's
5 plan, correct?

6 A. That's correct, and it would increase by one
7 dollar for each of the next three years to get up to \$25.

8 Q. Patience. We will get there.

9 A. Okay.

10 Q. Okay. Let's talk about the benchmark over time.
11 You also understand, as we just discussed, I think, that
12 AT&T proposes to increase that benchmark one dollar per year
13 for the next three years of its plan.

14 A. Correct.

15 Q. Now, under OCA's plan, OCA's set roughly \$17
16 benchmark will change in every year in which Verizon changes
17 its basic residential rate?

18 A. That's correct.

19 Q. Is it also fair to say that if Verizon does not
20 change its basic residential rate, OCA's benchmark will not
21 change?

22 A. That is correct.

23 Q. And that's because OCA's benchmark is tied to
24 120 percent of Verizon's basic rate?

25 A. It is the comparability standard, and that's how

1 it works.

2 Q. Okay. It's fair to say, isn't it, that today
3 not all of Verizon's customers pay a basic rate? Would that
4 be correct?

5 A. That is correct.

6 Q. Would you agree with me that some of Verizon's
7 customers buy local service as part of a package and they
8 pay something more than the basic rate?

9 A. Yes, but I believe that Verizon, when it
10 allocates, allocates a portion of that bundle on the basis
11 of the basic rate that they charge.

12 Q. Okay. But the bundle itself would be more than
13 the \$18 rate?

14 A. The bundle which includes a lot of different
15 things and different issues. I mean, some bundles are \$99
16 or \$114 with -- Verizon has FIOS service.

17 Q. Okay. Is it fair to say that under your
18 proposal, no matter what happens to Verizon's package price,
19 your benchmark would stay the same so long as Verizon
20 doesn't change its basic rate that's within that package?

21 A. That's correct, but as far as I've been able to
22 tell, Verizon does change it every year.

23 Q. Okay. But again, assuming that Verizon does not
24 change its basic rates, whatever they do with the package
25 rates does not affect your benchmark, correct?

1 A. Assuming that they do not change their basic
2 rate, the benchmark does not change, but I do not agree that
3 that assumption will be a likely outcome.

4 Q. Okay. Right now I'm just trying to focus on how
5 the different pieces work together. I just want to isolate
6 the package prices, and as I understand it, they do not
7 affect the benchmark.

8 A. That is correct. The package prices do not
9 affect the benchmark.

10 Q. Okay. Is it also fair to say that your
11 benchmark stays the same so long as Verizon doesn't change
12 its basic rates no matter what happens with the number or
13 percentage of customers who pay the package prices?

14 A. I think I've already said that.

15 Q. Okay. My earlier question dealt with the price
16 of packages. Now we're talking about the number or
17 percentage of customers who buy packages.

18 A. That is correct. The benchmark is tied to the
19 basic rate of Verizon.

20 Q. Okay. So if over time all of Verizon's
21 customers moved off of basic local service as a stand-alone
22 deal and bought packages, OCA's benchmark would stay at that
23 same \$17 level so long as Verizon doesn't change its basic
24 rate, correct?

25 A. That outcome would be extremely unusual, but in

1 logic, you are correct.

2 Q. Thank you. Now, I'd like to move on to part
3 three of OCA's plan, if you wanted to go back to page ten of
4 your direct. Part three of the plan is that after the RLECs
5 go to the benchmark rate, any remaining revenue increase
6 that would be required to offset the access rate reductions
7 in part one of the plan would be recovered from the
8 Pennsylvania universal service fund, correct?

9 A. That is correct.

10 Q. Am I correct that under OCA's plan, a given RLEC
11 must raise its local rate to the \$17.09 benchmark in order
12 to take support from the fund? It'd be required to make
13 that increase?

14 A. That's not clear. I can see where you might be
15 confused in reading what I said. Their universal service
16 fund take would be calculated as if they did. So if they
17 kept their rates lower, they couldn't have any benefit from
18 a revenue from --

19 Q. Okay.

20 A. PAUSF funds would be calculated as if they
21 raised their rates to the benchmark, so if the benchmark is
22 \$17 and they kept their rates at \$16, that would have no
23 effect on the amount of money that they got from the USF
24 funds because it would be calculated as if their rate was
25 \$17.

1 Q. Okay. So your plan does not require anyone to
2 raise their rates up to the benchmark?

3 A. No. They're not required, but their take from
4 the USF fund is based as if they did raise to the benchmark.

5 Q. And as you understand AT&T's plan, taking apart
6 the differences in the benchmark amounts, AT&T works the
7 same way, correct? No one is required to increase their
8 rates, their support is calculated as if they had?

9 A. Correct.

10 Q. As you calculate, based on your calculation of
11 the benchmark, is it your understanding that this would
12 increase the universal service fund payout from about \$33
13 million as it stands today to \$97.3 million?

14 A. Yes.

15 Q. Okay. And that would be \$97.3 million per year?

16 A. That is correct. And I noted that under the
17 responsibility of the state, that most of this money is to
18 replace the common line charge, and the state's
19 responsibility under the common line charge is 75 percent of
20 the loop facilities. And I also noted that the support that
21 the state fund would be paying out is less than or fairly
22 close to three times the money that the federal universal
23 service fund is paying out, so it is a reasonable, even
24 though it is a large increase as you noted, it is reasonable
25 given the responsibilities and the separation factors that

1 are in the current rates.

2 Q. Okay. But based on that calculation, we are
3 talking about \$97.3 million?

4 A. Yes, we are counting -- right.

5 Q. And so long as Verizon does not increase its
6 basic local rate, the fund payout would be \$97.3 million
7 every year?

8 A. That is correct.

9 Q. Okay. And that \$97.3 million would all go to
10 the RLECS?

11 A. Yes.

12 Q. Now, would you agree with me that some RLEC
13 customers don't buy basic local phone service by itself but
14 they buy packages of services just like the Verizon
15 customers do?

16 A. That's correct.

17 Q. Is it also fair to say that prices for these
18 packages are not limited to any cap as a whole?

19 A. No, but the telephone company does not get the
20 entire package. Some of it goes to the affiliates, and I
21 would caution this Commission to rely on the profits of the
22 affiliates to support an underlying network because if you
23 rely on the profits of the affiliates, then you might also
24 have to cover their losses when there are losses. So I
25 don't think it's a good idea to go after that money.

1 Q. Understood, just making sure that it's fair to
2 say that those prices are not today limited by the cap.

3 A. They're not limited by the cap, no.

4 Q. So the RLEC can charge for the package whatever
5 the customer is willing to pay?

6 A. That is correct. But the RLEC as an RLEC does
7 not get all of that money. Some of that money goes to the
8 affiliates. We have not had the opportunity to look at the
9 affiliates' costs and revenues and we don't know how much
10 profits there are. And again, I caution very sharply
11 anybody relying on that because I don't think this
12 Commission wants the liability of losses of those
13 affiliates.

14 Q. I have a feeling I'm not going there, but we'll
15 see where the questions lead us. I'm not going to be making
16 that kind of suggestion here. But if a customer is buying a
17 package from an RLEC and the customer is paying the price
18 that he or she is willing to pay, is it your opinion that
19 the RLEC should still receive support from the universal
20 service fund to serve that customer over and above the
21 uncapped package price?

22 A. Well, the question then is, what is -- part of
23 that money from the bundle is assigned to local service.
24 Part of that money is for local services. Part of the money
25 received comes from the payment of special access from DSL.

1 There are all these interactive parts that are moving along.
2 However, the whole network has to be supported. It is the
3 network that is supported, not any individual service,
4 because all the individual services are greater than their
5 incremental costs. So what's coming here is replacement of
6 revenue required to support the network.

7 Q. Okay. Based on your testimony that we're here
8 to support a network, am I correct then that you believe
9 that the RLEC should receive support from the universal fund
10 to serve that package customer --

11 A. Yes.

12 Q. -- over and above whatever they get from the
13 package?

14 A. I don't know what they get from the package and
15 I don't know what percentage of the package goes to the
16 affiliate, and therefore I haven't done that analysis nor do
17 I think that that revenue is something that you can grab
18 after.

19 Q. Under the plan you're proposing for the
20 Commission, if the number of RLEC customers buying packages
21 goes up, the RLECs still get the same \$97.3 million in
22 universal service payments so long as Verizon's basic rates
23 stay the same, correct?

24 A. Correct.

25 Q. And under the plan you're proposing for the

1 Commission, if the price for RLEC packages goes up, the
2 RLECs would still get \$97.3 million in universal service
3 payments every year so long as Verizon's basic rate stays
4 the same?

5 A. That is because under Chapter 30, they are
6 allowed to have revenue replacement opportunity, and that's
7 what this case is about. This case is not about a rate of
8 return calculation and that's the problem here. I don't and
9 you don't have the ability to change the law in the middle
10 of a case.

11 Q. Understanding the rationale for why your plan
12 works a certain way, I'm just trying to figure out and make
13 sure I understand that it does work a certain way. Under
14 your plan, if an RLEC loses all of its customers to
15 competitors, they would still get the universal service
16 support?

17 A. If we get anywhere near close to that, I believe
18 there will probably be another hearing, so I don't think
19 that's a legitimate assumption. But given the assumption
20 you made, yes.

21 Q. Okay. So under the plan you're proposing for
22 the Commission, if every one of the RLEC customers goes to a
23 package plan and if every one of those customers pays say, I
24 think you mentioned \$150 per month as one example for that
25 package, the RLECs would still get \$97.3 million in

1 universal service payments every year so long as Verizon's
2 basic rate stays the same?

3 A. Again, they are allowed an opportunity by this
4 Commission, when it lowers one rate, to give them an
5 opportunity to get another revenue increase.

6 Q. So the answer would be yes.

7 A. Yes.

8 Q. Okay, for that reason. Now, let's go back to
9 AT&T plan, and just to set the table back up, you understand
10 AT&T's proposing a benchmark for local service that begins
11 at \$22 per month rather than \$17.

12 A. That's correct.

13 Q. Because AT&T's benchmark for local service
14 prices is higher than OCA's benchmark, you would agree that
15 under AT&T's plan, the amount the universal service fund
16 would pay out to RLECs in year one would be lower than the
17 \$97.3 million under OCA's plan?

18 A. Yes.

19 Q. And from reviewing the testimony, would you
20 agree that AT&T's witnesses have calculated that AT&T's plan
21 would result in an increase of \$19.6 million in universal
22 service payments as compared to the \$63 million increase
23 under OCA's plan?

24 A. I will accept that subject to check, but I
25 believe at the end of three years it's down to a very small

1 number.

2 Q. Okay. And I will get to what happens at the end
3 of three years shortly. Am I also correct, though, that you
4 have not calculated a different figure for AT&T's plan?
5 You're not disputing the calculation?

6 A. Is that part of the rebuttal testimony? Because
7 I think AT&T's plan did change from the beginning to the
8 second piece.

9 Q. From the direct and the rebuttal that followed
10 your direct testimony.

11 A. Right. I made calculations on the direct but I
12 don't believe I made a calculation on their second rebuttal
13 testimony, so I accept your position as far as what the
14 rebuttal testimony says.

15 Q. Okay. And moving on to the subsequent years of
16 AT&T's plan, AT&T's benchmark would go up by a dollar each
17 year?

18 A. Yeah, significantly higher than inflation.

19 Q. Well, but a dollar each year?

20 A. A dollar is double the inflation rate.

21 Q. But setting aside however a dollar would compare
22 to whatever the inflation rate may turn out to be, the --

23 A. Well, I believe it was AT&T's position that
24 rates should go up along with inflation, and now they're
25 suggesting that double the rate of inflation is reasonable,

1 and I disagree with inflation and double the rate of
2 inflation.

3 Q. Okay. Understanding that we have some areas of
4 disagreement, I'm just trying to make sure I understand.
5 We're just setting the table for a couple of questions that
6 are to come.

7 A. Okay.

8 Q. AT&T's plan, the benchmark increases by a dollar
9 per year, correct?

10 A. Correct.

11 Q. And by the fourth year of AT&T's plan or the end
12 of year four, the additional universal service payments
13 under AT&T's plan would be about \$1 million per year; does
14 that sound right?

15 A. I'll accept subject to check.

16 Q. Okay. Under OCA's plan, universal service
17 payments to the RLECs would stay at \$97.3 million unless
18 Verizon increases its basic local rate, correct?

19 A. That's correct, and from noticing what Verizon
20 does on a year-to-year basis, I believe that there would
21 probably be some rate increases.

22 Q. Okay. Have you calculated how far Verizon would
23 have to increase its basic local rates before universal
24 service payments under OCA's plan go down to zero?

25 A. No.

1 Q. Okay. We've talked about access charge
2 reductions, benchmarks and universal service payments. That
3 brings us to the fourth piece of your plan. Under that
4 fourth part of the plan, the revenue base of the
5 Pennsylvania universal service fund would be enlarged to
6 include any service provider that uses the public switched
7 telephone network at any point in providing their service,
8 correct?

9 A. That is correct.

10 Q. And that would include wireless providers who
11 currently don't contribute to the fund, correct?

12 A. That would -- yes.

13 Q. As you're proposing. So under your plan, all
14 those service providers would have to contribute some
15 percentage or factor of their revenues to the fund, correct?

16 A. Correct, their intrastate end user revenues.

17 Q. In Pennsylvania?

18 A. In Pennsylvania.

19 Q. Good clarification, thank you. Please turn to
20 page 17 of your direct testimony, and I'm looking at lines
21 15 through 16.

22 A. Yes.

23 Q. The current contribution factor is 1.165
24 percent; am I right?

25 A. That's correct.

1 Q. And under your plan, the fund revenue base would
2 increase by adding these new service providers from \$2.9
3 billion to \$7.3 billion?

4 A. That is correct.

5 Q. So more than double?

6 A. Uh-huh.

7 Q. And if the Commission adopts parts one through
8 three of your proposal and increases the fund payout to
9 \$97.3 million and if they then increase the fund revenue
10 base as you suggest, the contribution factor would increase
11 to 1.331 percent, correct?

12 A. Correct.

13 Q. Have you calculated what would happen to the
14 contribution factor if the Commission increased the fund
15 payout to \$97.3 million but did not increase the fund
16 revenue base?

17 A. Well, it would probably increase by
18 approximately three, three times.

19 Q. Okay. Just to see if we can work that out, if
20 we divided the payout of \$97.3 million by the current fund
21 revenue base of \$2.9 billion, would you accept subject to
22 check that we come up with a contribution percentage of
23 3.355 percent?

24 A. Sure.

25 Q. And would that be about 2.87 times the current

1 contribution percentage?

2 A. Yes.

3 Q. Okay. So you were way ahead of me on three
4 times. It took me a calculator. What would have to happen
5 for this Commission to expand the base of contributors to
6 the fund as you suggest? Just a brief series of steps is
7 all I'm looking for.

8 A. I'm not sure what the legal requirements are.
9 I'm not a lawyer.

10 Q. Okay. You haven't figured out what the process
11 would be or --

12 A. Whether or not they have to go through another
13 rulemaking proceeding, what the process is, I'm not
14 familiar.

15 Q. Okay. Another rulemaking proceeding is
16 certainly one possible thing that might have to happen?
17 You're not ruling that out?

18 A. No. That could easily be a part of the process,
19 yes.

20 Q. And would you consider that to be a likely part
21 of the process?

22 A. Most likely, yes.

23 Q. And your proposal is that nothing should happen
24 on access reform until that process is concluded, whatever
25 all the steps are?

1 A. That is correct.

2 Q. Would you agree that it would likely take at
3 least a year and maybe more to finish the process and
4 implement access reform under your plan?

5 A. It could possibly take less. I'm not sure.

6 Q. But it could also take more, as far as you know?

7 A. I don't set the calendar for the state of
8 Pennsylvania.

9 Q. And as it currently stands, you don't know all
10 the steps that would need to be taken anyway?

11 A. That is correct.

12 MR. METROPOULOS: Thank you for your time and for
13 coming up here. I have no further questions.

14 JUDGE MELILLO: Sprint, do you have any questions?

15 MR. GRUIN: Could we have one moment, Your Honor?

16 JUDGE MELILLO: Yes. All right. Let's be off the
17 record for about two minutes.

18 (Discussion off the record.)

19 JUDGE MELILLO: Back on the record.

20 MR. GRUIN: We have no questions for Dr. Loube. One
21 issue we'd like to address, and this picks up where AT&T's
22 counsel left off. He was referring to the Loube testimony
23 at page 17, I believe; is that correct?

24 JUDGE MELILLO: Page 17.

25 MR. METROPOULOS: Yes.

1 MR. GRUIN: There's a footnote there, Footnote 9,
2 that represents the CTIA Semi-Annual Wireless Industry
3 Survey. As long as all the parties can stipulate that that
4 is part of the record and can be referenced for briefing
5 purposes, I believe it is a publicly available document.

6 MR. KENNARD: PTA won't agree to that. The document
7 is represented for a single fact, and I have no idea how
8 thick this thing is and what you're going to use it for.

9 JUDGE MELILLO: And I don't know if I have ready
10 availability of that, and I don't know if every party has
11 availability. I don't know how much we're talking about,
12 how big a document we're talking about.

13 MR. ARON: I believe -- (inaudible) -- requested
14 that, I'm trying to find --

15 MR. CHESKIS: I'm sorry, I'm having a hard time
16 hearing you.

17 JUDGE MELILLO: Let's go off the record.

18 (Discussion off the record.)

19 JUDGE MELILLO: Back on the record.

20 All right. We had some discussion about a document
21 that was referenced in Mr. Loube's testimony. Mr. Gruin,
22 please proceed.

23 MR. GRUIN: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. GRUIN:

1 Q. Dr. Loube, again, referring to page 17 of your
2 direct testimony, Footnote 9, you reference the CTIA Semi-
3 Annual Wireless Industry Survey?

4 A. That is correct.

5 Q. Can you explain what CTIA stands for?

6 A. Well, it's an industry association of the
7 wireless companies. I don't remember exactly what they call
8 themselves.

9 Q. Okay.

10 A. Cellular Telecommunications Industry
11 Association.

12 Q. And this organization performs a semi-annual
13 wireless industry survey; is that correct?

14 A. Correct.

15 Q. And did you review such a survey in preparing
16 your direct testimony in this matter?

17 A. I did.

18 Q. And in fact, you cited to that survey in support
19 of a proposition that wireless monthly revenue was \$49.57
20 per customer as of June, 2009; is that correct?

21 A. That is correct.

22 Q. And while we were off the record, did you have
23 time to review some discovery responses that were served in
24 this case?

25 A. I was shown one, yes.

1 Q. And the one you were shown, was that actually a
2 copy of the Semi-Annual Wireless Industry Survey that you in
3 fact did rely upon --

4 A. Yes.

5 Q. -- for your statements on page 17 of your
6 testimony?

7 A. Yes.

8 MR. GRUIN: Your Honor, I'd like to mark the Semi-
9 Annual Wireless Industry Survey that Dr. Loube relied upon
10 as Sprint Cross-Exam 8.

11 JUDGE MELILLO: Yes. That document may be so marked.

12 (Whereupon, the document was marked
13 as Sprint Cross-Examination Exhibit
14 No. 8 for identification.)

15 MR. GRUIN: I only have one copy with me today. I
16 will need to follow up with the court reporter with
17 additional copies and certainly copies to all the parties,
18 and I will do that electronically as requested by Mr. Dodge
19 earlier today.

20 JUDGE MELILLO: All right. Very well. The court
21 reporter needs to have the copies first.

22 MR. KENNARD: Once it's moved for introduction, we
23 will object.

24 JUDGE MELILLO: I understand. It's marked at this
25 point.

1 MR. KENNARD: Exactly.

2 JUDGE MELILLO: Process-wise, we want to make sure
3 the court reporter has the copies if in fact it's admitted.

4 Now, you have one copy for the court reporter; is
5 that correct?

6 MR. GRUIN: That's correct, for now. By tomorrow
7 I'll have --

8 JUDGE MELILLO: It might be a good idea, if there's
9 going to be an objection, to provide me a copy.

10 MR. GRUIN: And with that, I'd like to move for the
11 admission of --

12 (Inaudible discussion.)

13 JUDGE MELILLO: Any objection?

14 MR. GRUIN: Your Honor, would you mind using the
15 court reporter's current copy --

16 JUDGE MELILLO: Not at all.

17 MR. GRUIN: -- for review during the inevitable
18 objection?

19 JUDGE MELILLO: I haven't heard any objection yet.

20 MR. KENNARD: We do object.

21 JUDGE MELILLO: What's the basis for your objection?

22 MR. KENNARD: There's no contest that the number Dr.
23 Loube relied upon is in this document. There's many other
24 pages, many other identifications of connections, revenues,
25 cell towers, monthly bills, cell sites, which are not -- the

1 document was not used by this witness for that purpose.

2 The information was presented in his direct testimony
3 on one point which is not contested by Sprint. They're now
4 trying to use it to convert it, to get the whole document in
5 not through their witness to rely upon in brief for facts
6 not presented by their witness.

7 This could have been developed a long time ago, and
8 this back door means of saying, well, you relied upon one
9 fact in the document, therefore let us convert the whole
10 document into an on-the-record piece of evidence so that we
11 can rely upon everything else in it is transparent.

12 There's no contest about the number being in there.
13 It's not offered to impeach the witness. It was not
14 prepared by the witness. It's simply being put in because
15 now Sprint can use CTIA information to make its case which
16 its witness have done a long time ago.

17 JUDGE MELILLO: Mr. Gruin?

18 MR. GRUIN: Yes, Your Honor. The witness
19 authenticated the report. He indicated he relied upon it in
20 his testimony. He cites one number. I think the report is
21 relevant to the case because he cited to a number in it.
22 For purposes of context, other parties should be able to
23 refer to that same report that he referred to.

24 MS. BENEDEK: I would like --

25 (Pause.)

1 MR. GRUIN: It was properly authenticated in cross-
2 examination. We waived all other cross of this witness. We
3 thought that for matters of efficiency, simply referring to
4 the document, admitting it into the record and waiving
5 further cross would be the most efficient.

6 I guess we could go through the entire report with
7 him and spend an hour going question by question, column by
8 column, to compare his local revenue, per customer revenue
9 with all the other data in that report to elicit the
10 information. Why not just submit the report and allow the
11 parties to cite to it? It's a ten page report. All the
12 parties have been served copies of it in discovery.

13 JUDGE MELILLO: Except for me, of course.

14 MR. GRUIN: Except for you, of course.

15 JUDGE MELILLO: I haven't seen it before.

16 MR. KENNARD: If that's the purpose, Your Honor, I
17 don't object. If the purpose is on the revenue number that
18 Dr. Loube relies on, I don't have a problem. But there's
19 much more evidence in there that then becomes record
20 evidence.

21 If counsel will stipulate it's only being used for
22 the purpose of that revenue figure, we'll withdraw our
23 objection, but that's not our understanding of what's going
24 on.

25 MS. BENEDEK: That's what I was going to do. I was

1 going to say there hasn't been an appropriate offer of proof
2 made for the admission that they're seeking, and only until
3 the end of this argument here does he actually say it's the
4 revenue number that he uses. I mean, I'm sure if he spent
5 an hour of cross on every number, Dr. Loube is going to say,
6 well, no, I didn't cite to it. So there has to be a proper
7 offer of proof. If he's limiting the offer of proof to the
8 revenue number, then I would agree with PTA.

9 JUDGE MELILLO: Admission of this type of document is
10 fraught with difficulty, because it is correct, we don't
11 know for what purpose it might eventually end up being used
12 for, for example computations in a brief. The parties would
13 not have the opportunity to present a witness in opposition
14 to that.

15 I'm wondering whether there just couldn't be a
16 stipulation reached as to this revenue number. Is Sprint
17 contesting it? Is Sprint saying that the number is wrong,
18 and what number is Sprint saying should be used? And this
19 really could have been done earlier, much earlier.

20 MR. GRUIN: We're not contesting that the number is
21 necessarily wrong, but we just want it acknowledged that he
22 is citing to this report and he picked one number out of
23 hundreds of data entries, and we just think it's a cite in
24 the record relied upon by an expert witness in the case
25 subject to cross-examination. Why wouldn't the entire

1 report be allowed in?

2 MR. KENNARD: I think this should be crossed then if
3 that's the case, because the other numbers on this page are
4 estimated connections, cell sites, employees, average call
5 length, has nothing to do with the revenue numbers at issue.
6 And that's the danger of this document. It has all this
7 extraneous information.

8 JUDGE MELILLO: I agree. I don't see the point of
9 putting the whole document in the record, frankly,
10 especially since Sprint just said they're not really
11 contesting the number. The \$49.57 revenue per customer,
12 wireless monthly revenue per customer is not being
13 contested, I don't think. And you didn't present a witness
14 that I recall that said otherwise. Did your witness say
15 otherwise for 2008?

16 MR. GRUIN: No, he did not dispute that number.

17 JUDGE MELILLO: Unless Sprint can come up with some
18 compelling reason to put this report in the record when
19 you're not saying clearly that you contest the number, I
20 think we should move on.

21 MR. GRUIN: That's fine, Your Honor.

22 JUDGE MELILLO: All right. Very well. Then we're
23 not admitting Sprint Cross-Examination Exhibit No. 8.

24 Do you have anything further, Mr. Gruin, of Dr.
25 Loubé?

1 MR. GRUIN: Nothing further, Your Honor.

2 JUDGE MELILLO: Verizon, do you have any cross-
3 examination?

4 MS. PAIVA: Yes, I do.

5 JUDGE MELILLO: Very well. Please proceed.

6 CROSS-EXAMINATION

7 BY MS. PAIVA:

8 Q. Good afternoon, Dr. Loube.

9 A. Good afternoon. Take a look at your direct at
10 page 20, line five.

11 JUDGE MELILLO: I'm sorry. Could you speak up,
12 please, and give that citation?

13 MS. PAIVA: Page 20 of his direct, line five.

14 JUDGE MELILLO: Thank you.

15 THE WITNESS: That is correct. Okay, I'm there.

16 BY MS. PAIVA:

17 Q. In that line, you refer to a \$32 affordable
18 bill. Do you see that?

19 A. Yes.

20 Q. Now, that \$32 figure, you took that from the
21 testimony and evidence submitted by Mr. Colton in the first
22 phase of this proceeding, correct?

23 A. That is correct.

24 Q. And you did not conduct any separate independent
25 affordability analysis other than what Mr. Colton did,

1 correct?

2 A. Yes. That came straight from Roger Colton's
3 testimony.

4 Q. Now, do you recall that Mr. Colton in that
5 testimony and in the analysis that he did, he calculated
6 that \$32 affordability level by assuming that the average
7 family would spend .75 percent of its average monthly income
8 on basic local service, and using the median income, it came
9 to \$32. Do you recall that?

10 A. I'll accept that subject to check. It was his
11 testimony, not mine.

12 Q. So you're not really that familiar with the
13 underlying details?

14 A. I've read it. I don't know if the number was
15 7.5 (sic), 1.9, whatever. I'll accept that you're not
16 trying to distort his testimony.

17 Q. Well, it's in the record, anyway.

18 A. Yes. I think we put it in as an appendix.

19 Q. Look at the next line there, line six.

20 A. Yes.

21 Q. You say the \$32 affordable bill would be the
22 equivalent of a \$20.15 rate. Do you see that?

23 A. Yes.

24 Q. And am I correct that you get to \$20.15 because
25 you are subtracting from \$32 taxes and fees that the average

1 customer would pay?

2 A. That is correct.

3 Q. So if we're looking at our benchmark that we've
4 been discussing, for example the \$18 benchmark, that number
5 does not include taxes and fees, correct?

6 A. That's correct.

7 Q. So if we want to look at an affordable bill, we
8 need to also consider the taxes and fees to see how the
9 total bill compares to \$32, correct?

10 A. We're talking bill and rate, and they're
11 separate things.

12 Q. I'm actually trying to understand the interplay
13 between the benchmark and the affordability level, and so my
14 understanding is you need to consider the benchmark plus
15 taxes and fees when you look at the affordability level. Am
16 I understanding that correctly?

17 A. When we're comparing the affordability level, he
18 said, yes, comparing the median family income to what they
19 paid in a bill, and then we subtract taxes and fees to get
20 to rate, to a benchmark rate.

21 Q. Now, can you take a look at your Exhibit RL-6 to
22 that direct testimony?

23 A. Yes.

24 Q. That RL-6 is actually a copy of Schedule RGC-4
25 which was Mr. Colton's schedule from his testimony, correct?

1 A. Correct.

2 Q. And RL-6 shows the taxes and fees and subscriber
3 line charge for the various RLECs in this case, correct?

4 A. That is correct.

5 Q. So am I correct that from the \$32, you would
6 subtract the subscriber line charge, the E-911 charge, the
7 federal universal service charge, the Pennsylvania relay
8 charge, those would be the kind of taxes and fees that you
9 would subtract?

10 A. Then there's another column called "other."

11 Q. That's what I wanted to understand. Now, to get
12 down to \$20.15 from \$32, you would have had to subtract
13 \$11.85; does that sound right?

14 A. That's correct.

15 Q. Okay. Now, looking at the taxes and the fees
16 that you would subtract, the first one is the subscriber
17 line charge. The highest subscriber line charge is \$6.50,
18 correct?

19 A. That's correct.

20 Q. The E-911 charge, the highest of those is \$1.50,
21 correct?

22 A. That's correct.

23 Q. The federal universal service charge, the
24 highest of those is 78 cents, correct?

25 A. Correct.

1 Q. And the PA relay charge, they're all eight
2 cents, correct?

3 A. Yes.

4 Q. Now, I added up those four columns and it comes
5 out to \$8.86.

6 A. And if you add the others, it's about \$9.00.
7 And I will agree with you that I made a mistake in my
8 testimony, that the affordable rate is somewhere around \$22
9 to \$23. Instead of taking the 33 percent, I should have
10 taken the absolute amount.

11 Q. You just short-circuited all my questions.

12 A. I thought I could, and we could shorten the
13 hearing.

14 (Laughter.)

15 A. But I also said that the benchmark is the lower
16 of the comparability standard and the affordability standard
17 and thus, whether the affordability standard is what I say
18 in my testimony or what I've now agreed to does not affect
19 what my current benchmark is.

20 Q. I understand that. I was only asking about the
21 affordability part which you discussed on those specific
22 lines on page 20.

23 A. Yes. I'm willing to agree, stipulate that your
24 arithmetic is better than mine at this point.

25 Q. Under my arithmetic, it would be \$23.14. Would

1 you agree with that?

2 A. I don't think you added the extra 26 cents for
3 the others, so it's slightly lower, but it's not a big deal.

4 Q. Okay.

5 MR. CHESKIS: Can I interject here for a second? I
6 apologize.

7 JUDGE MELILLO: Yes, Mr. Cheskis.

8 MR. CHESKIS: I'm not sure if what you're suggesting
9 is actually correct.

10 MS. PAIVA: Well, Joel, I'm asking the witness, not
11 you.

12 THE WITNESS: That's okay, Joel. It doesn't matter.

13 JUDGE MELILLO: You can go back in redirect and
14 clarify.

15 MR. CHESKIS: Thank you.

16 JUDGE MELILLO: Go ahead, Ms. Paiva.

17 BY MS. PAIVA:

18 Q. So we're in agreement that it's around \$23?

19 A. Twenty-two, twenty-three, yeah, somewhere in
20 that range.

21 Q. All right. And can you take a look at your
22 rebuttal testimony, page 10, or surrebuttal, sorry.

23 A. That's okay.

24 Q. On page 10 and 11, there's a general discussion
25 there and you're talking about productivity and the

1 interplay between costs and productivity.

2 A. That's correct.

3 Q. And the general theory behind the discussion is
4 that costs for a telecommunications company would decrease
5 over time based on improvements in productivity, correct?

6 A. Correct.

7 Q. And in this particular discussion, you're
8 talking about that concept with regard to Verizon, but would
9 that concept also hold true for the RLECs?

10 A. If they -- yeah, if their productivity, which we
11 haven't studied, would move -- if their costs went down with
12 productivity increases, and if they have productivity
13 increases, then the rates should go down.

14 Q. And you also have not studied Verizon's
15 productivity, correct?

16 A. I have reviewed the productivity studies that
17 have been made that supported the FCC's numbers that I quote
18 in the next page.

19 Q. And at least based on those studies, you saw
20 cost improvements based on productivity?

21 A. That's correct.

22 Q. Now, if you could go back to your direct
23 testimony, page 58, at line four, you say all users of that
24 network have a responsibility to support the network. That
25 support can be provided either through the payment of access

1 charges, contributions to a universal service fund or local
2 rates. So my question for you is, the responsibility for
3 users of the network to pay for the cost, is that part of
4 the justification for the state universal service fund?

5 A. Yes.

6 Q. But you understand that the Pennsylvania state
7 universal service fund is based on a percentage of
8 intrastate revenues of --

9 A. That is the way the arithmetic works, but that's
10 not the policy. The policy is to support universal service
11 and to support the network, and that's where it comes from.

12 Q. But say there was a telecommunications company
13 that had operations in Pennsylvania, generated intrastate
14 revenue, but never used the RLECs' networks, never
15 terminated calls to the RLECs' networks. That company would
16 still pay towards the universal service fund, correct?

17 A. Their customers have the opportunity to use that
18 network, and it's part of the general fees, and there are
19 very few companies that don't touch and use any -- that are
20 sort of like isolated in a little bubble.

21 Q. Well, I mean, what if theoretically a company
22 offered only local calling within Verizon's territory and
23 did not allow calls to go through to the RLECs. That
24 company would still pay to the universal service fund,
25 wouldn't it?

1 A. If you find one like that, we might make an
2 exception.

3 Q. But to follow on in that concept, though, the
4 amount of money that the carriers contribute to the
5 universal service fund has no relationship to the amount of
6 use that they put to the RLECs' network, does it?

7 A. It has a relationship to their use of the public
8 switched network, and that is the contribution base that has
9 been decided as the way in which this fund should be
10 supported.

11 Q. So it has a relation to how much revenue,
12 intrastate revenue they earn in Pennsylvania, regardless of
13 how they earned it, correct?

14 A. That is correct. They do pay on that basis, and
15 that is the basis in the rules of this Commission, but it
16 supports the public switched network and that's what the
17 Commission ruled.

18 Q. But it's not necessarily based on their
19 responsibility as users of the network to support it, is it?

20 A. That's why they're charged.

21 Q. Whether they use the network or not?

22 A. They use the network.

23 Q. You're presuming that everyone uses the network?

24 A. I haven't seen anybody who doesn't.

25 Q. Now, other your proposal, the state universal

1 service fund would -- I think you already discussed this
2 with Mr. Metropoulos -- it would increase by \$63 million,
3 correct?

4 A. That is correct.

5 Q. So the total then would be about \$97 million,
6 correct?

7 A. Given the data that I used, yes. I'm sure when
8 the process is finalized, we will have a time definitive and
9 everyone will have to put in a new round of numbers, but
10 yes, given my data available, yes, that is the right number.

11 Q. Did you read Mr. Price's testimony, his
12 surrebuttal testimony where he discussed the fact that the
13 Verizon ILECs pay over 50 percent of the investments to the
14 state universal service fund?

15 A. I read his surrebuttal testimony. I assume that
16 that's a correct number. I believe I have reviewed PA NECA
17 reports to the Public Service Commission and I notice that
18 Verizon is probably the largest payer into the fund.

19 Q. So if you accept approximately 50 percent, then
20 of your \$63 million additional dollars, the Verizon ILECs
21 would be paying about \$32 million of that?

22 A. No, absolutely not, because I also say that the
23 fund contribution base should expand, so that if we get the
24 increase in the fund, the contribution base will expand and
25 the access rates drop. It is a comprehensive plan. I never

1 said that the fund should increase without an increase in
2 the base and I never said that access charge should decrease
3 without an increase in the fund. It is a four point plan
4 and thus Verizon will not get that kind of increase, and at
5 the end of the day, Verizon ILECs will be responsible for
6 probably no increase of what they're -- a very small
7 increase over what they're paying today, and probably their
8 percent -- I can't figure it out on the stand, but it will
9 drop substantially.

10 Q. In fact, you do correct me, but let me ask it to
11 you in two parts, then. First of all, I do want to ask you
12 about expanding the fund to other contributors, but assume
13 that the Commission rejects that part of your proposal and
14 does not seek to expand the fund to other contributors. Are
15 you saying then, if the Commission does not adopt that part
16 of it, then you would not advocate increasing the universal
17 service fund?

18 A. And I would not -- yes, and I would not advocate
19 reducing the access rates.

20 Q. Fair enough. Now, if the Commission nonetheless
21 forged ahead and adopted your proposal without increasing
22 the contributing base and then the Verizon ILECs ended up
23 contributing an additional \$30 million to the fund, that
24 contribution would not be revenue neutral, would it? The
25 revenue would come out of Verizon, there would be no

1 replacement source for Verizon, would there?

2 A. Their access rates weren't reduced. The only
3 part of the law that says there has to be revenue neutrality
4 is with an access rate reduction.

5 Q. So there would not be revenue neutrality, then?

6 A. There's no revenue neutrality in the law
7 regarding that.

8 Q. Well, is there anything in Chapter 30 regarding
9 the state universal service fund?

10 A. All it says as far as I know, and I'm sure my
11 lawyer will write in the brief more extensively, and I'm not
12 a legal expert, but I was advised that if access revenues
13 are ordered to go down, the Commission has to provide an
14 alternative opportunity to increase the revenues to offset
15 in a revenue neutral fashion, and that's my understanding.

16 Q. I do understand that part of your plan is to
17 expand the state universal service fund contributors. I
18 wanted to ask you a question about that.

19 MR. GRUIN: Your Honor, before she does that, I've
20 been listening to this. Hasn't that issue been excluded
21 from the case, the issue of expansion of USF contributors?

22 JUDGE MELILLO: Well, I'm surprised that it wasn't
23 raised heretofore. Yes, it was excluded, but it is part of
24 Dr. Loube's testimony. It's a four part plan. It's number
25 four. You can't separate the parts, I guess, in Dr. Loube's

1 opinion. He's presented his testimony, and so the parties,
2 because it's presented, the parties are entitled to explore
3 what that means.

4 But yes, it is true, the Commission in its order on
5 the scope of the proceeding clearly stated that expansion of
6 the contributor base will be part of the proceeding which
7 was assigned to Judge Colwell. As it goes forward, that
8 will be where it will be decided, and take notice that there
9 is a law in effect, as well, on the books.

10 MR. GRUIN: Thank you. With that clarification, that
11 notation for the record, we're fine.

12 JUDGE MELILLO: All right. Please continue.

13 MS. PAIVA: I don't disagree with any of that. I
14 only wanted to ask him about something he said in his
15 testimony.

16 JUDGE MELILLO: Certainly. It's in the record.

17 BY MS. PAIVA:

18 Q. Your surrebuttal on page 19 -- let me know when
19 you have it.

20 A. Where on page 19?

21 Q. Line six. You said, "With regard to VoIP and
22 wireless providers, the intrastate retail telecommunications
23 revenue would be determined using one minus the interstate
24 safe harbor that the FCC has established for those
25 carriers." What does that mean?

1 A. The FCC has determined that there's a particular
2 percentage of total revenue that is interstate. It said
3 that, and if you read the footnote combined with that
4 answer, it said that if any carrier, whether wireless or
5 VoIP, did not want to do any kind of statistical or in-depth
6 study of its revenues, it could use a particular percentage
7 of its revenues as interstate, and therefore what is
8 determined to be interstate, one minus what is determined to
9 be interstate would be the state revenues.

10 Now, as I note in my footnote, many carriers provide
11 their own number using a basis of a statistical study of
12 their revenue, so a carrier doesn't have to accept the safe
13 harbor if it doesn't want to. But it's whatever the company
14 puts in as its percentage of interstate revenues or the safe
15 harbor. And I requested the wireless carriers to give me
16 that percentage, and they refused, so I didn't know what it
17 was.

18 Q. You would be extrapolating what their intrastate
19 revenue is based on something they filed with the FCC
20 regarding their interstate revenue?

21 A. That is correct.

22 Q. Now, I guess you just heard the discussion with
23 the Judge and Sprint's counsel that whether this happens at
24 all would be a subject for the other phase of the
25 proceeding.

1 A. Yes, I'm aware.

2 Q. In addition to that, based on what you've seen
3 in this case, would you expect the wireless carriers to
4 challenge any attempt to expand the universal service fund?

5 A. I'm sure they would.

6 Q. And that could lead to delay and complexity in
7 resolving the issues of this proceeding; could it not?

8 A. Not necessarily.

9 Q. Why not?

10 A. Not necessarily, that it wouldn't delay it
11 substantially. In other words, I was asked by the counsel
12 for AT&T, would it go on for multiple years, and I said I
13 don't control the calendar. I don't know how this
14 Commission adopts its calendar, and it could be a very fast
15 track if it wanted to.

16 Q. Do you know how long a Commonwealth Court appeal
17 lasts?

18 A. Any way this case comes down, it could be
19 appealed. I'm not going to put in an opinion about how long
20 any part of this case will last.

21 MS. PAIVA: Fair enough. I don't have any more
22 questions for you.

23 JUDGE MELILLO: Are there any other parties that have
24 cross-examination before I ask a few questions? Yes, Mr.
25 Kennard.

1 MR. KENNARD: I have a couple of questions.

2 JUDGE MELILLO: Yes.

3 CROSS-EXAMINATION

4 BY MR. KENNARD:

5 Q. Dr. Loube, you were asked questions by counsel
6 for AT&T regarding the contribution rate. And the federal
7 USF, does that include wireless and VoIP carriers as
8 contributors?

9 A. Yes, it does.

10 Q. And do you know offhand what the contribution
11 rate is at the federal level?

12 A. I know it passed about 11 percent. It might be
13 a little bit higher now. I think recently it's gone up
14 because of Tracfone.

15 Q. And that would be comparable to the one plus
16 percent rate that you would recommend at the end of the case
17 were phase two or recommendation number four --

18 A. Yes --

19 Q. -- accommodated. There was a colloquy with
20 counsel for Verizon regarding FCC price cap regulation, and
21 you said it would apply to the RLECs. It would apply
22 specifically to the RLECs that are regulated by the FCC
23 under a price cap form of regulation?

24 A. That's correct.

25 Q. It would not apply to the RLECs that are either

1 cost companies or average schedule company regulated?

2 A. That's correct, and I believe I put in there
3 somewhere in my testimony which ones are price caps and
4 which ones are rate of return.

5 MR. KENNARD: Yes, okay, thank you.

6 That's all, Judge.

7 JUDGE MELILLO: All right. Anyone else before I ask
8 a few questions to clarify?

9 MR. METROPOULOS: Your Honor?

10 JUDGE MELILLO: Yes?

11 MR. METROPOULOS: I do have a quick follow-up based
12 on the question PTA just asked.

13 JUDGE MELILLO: Yes. Go ahead.

14 FURTHER CROSS-EXAMINATION

15 BY MR. METROPOULOS:

16 Q. Following up on the question that Mr. Kennard
17 just asked you where you pointed out the contribution rate
18 of the federal fund is 11 percent, 11 percent of what?

19 A. Of the interstate revenue base.

20 Q. As contrasted to the intrastate revenue base
21 that's used for the Pennsylvania fund?

22 A. Correct.

23 MR. METROPOULOS: That's all I have.

24 JUDGE MELILLO: All right. Anyone else?

25 (No response.)

1 JUDGE MELILLO: All right. Dr. Loube, I just have a
2 few questions for you. If you would look at your
3 surrebuttal testimony, page 23, line 13, you state therein,
4 "the entire loop is no longer traffic sensitive." Did you
5 mean non-traffic sensitive in the context of your answer?

6 THE WITNESS: Yes, no longer -- the entire loop is no
7 longer non-traffic sensitive.

8 JUDGE MELILLO: So should we add "non" there to
9 "traffic?"

10 THE WITNESS: Yeah, prior, it's no longer non-traffic
11 sensitive. That you for that correction.

12 JUDGE MELILLO: That's all right. Please note the
13 correction, everyone.

14 On page 17 of your surrebuttal testimony at line 20,
15 you mention an attempt to match anticipated FCC mandates.
16 What anticipated FCC mandates are you referring to?

17 THE WITNESS: While I have not read the entire
18 broadband plan, I've read just synopses of it to date, there
19 is anticipation that the FCC wishes to move forward in its
20 intercarrier compensation case which could lead to
21 reductions in access charges. And again, I will not
22 speculate on how long that will take to accomplish.

23 MS. BENEDEK: Your Honor, could I ask a question, a
24 procedural one? That plan, could we take administrative
25 notice of that? It is a lengthy document. We have had Mr.

1 Nurse attach a portion of it to his testimony. I guess,
2 pursuant to 5.406, it is a public document by an agency.

3 JUDGE MELILLO: Yes, it is. Yes. We'll take notice
4 of that, and in fact, we'll admit it into the record as a
5 public document. However, since you are wanting the entire
6 document to be in essence in the record, I may need to ask
7 for a full copy. I know you say it's very thick and there's
8 only a portion in the record, but in the event someone
9 mentions it in the brief --

10 MS. BENEDEK: We'll get you a copy.

11 JUDGE MELILLO: All right, thank you. And the same
12 goes for any other party, since there is a provision for
13 providing that, and it's not available I don't think at the
14 Commission.

15 I just have one more clarifying question. You did
16 some computations on page 15 of your surrebuttal. You did
17 computations which would show I guess a decrease in the take
18 from or the increment in the Pennsylvania universal service
19 fund, and you used lines. If lines decrease, is your
20 computation sensitive to that? In other words, would the
21 support decrease also be reduced if lines are reduced?

22 (No response.)

23 JUDGE MELILLO: Line 15 -- oh, I'm sorry, page 15,
24 line 14.

25 THE WITNESS: No. I made the calculation on the

1 basis of the change in the benchmark rate, not the lines.

2 JUDGE MELILLO: The computation, though, where you
3 take 41 cents times 10,000 lines times 12 months, in other
4 words, if the lines, if that was the computation for a
5 certain year, if in another year the lines are reduced,
6 would the computation then change --

7 THE WITNESS: Yes.

8 JUDGE MELILLO: -- to reflect the reduced lines?
9 That's what I meant.

10 THE WITNESS: Yes.

11 JUDGE MELILLO: The computation is line --

12 THE WITNESS: Is dependent upon the revenue change.

13 JUDGE MELILLO: All right. Thank you. That's all I
14 have. Does anyone have any questions based on my questions?

15 (No response.)

16 JUDGE MELILLO: Will there be any redirect, Mr.
17 Cheskis?

18 MR. CHESKIS: We have no redirect, Your Honor.

19 JUDGE MELILLO: All right. Hearing nothing further
20 -- I'm sorry, Mr. Aron?

21 MR. ARON: Not by way of a question, Your Honor, more
22 of an administrative point. Sprint has the utmost respect
23 for OCA, Mr. Cheskis and Dr. Loube. We do regret the manner
24 in which they've chosen to proceed by interweaving a
25 precluded issue throughout the testimony --

1 JUDGE MELILLO: I'm sorry, a what? I'm having
2 trouble. Can you speak directly into the microphone? The
3 acoustics up here aren't the best.

4 (Pause.)

5 MR. ARON: To reiterate, Your Honor, Sprint has the
6 utmost respect for OCA and Mr. Cheskis and Dr. Loube, but we
7 do regret the manner in which they've chosen to proceed in
8 this case, which is to interlace and interweave a precluded
9 issue throughout the testimony in such a manner that going
10 through the effort of moving to strike the affected portions
11 would render the entire testimony incomprehensible. I mean,
12 to take a four part test and reduce it to three, it would no
13 longer make sense.

14 We don't wish to strike the testimony. Cross-
15 examination has been taken. Notice has been taken of it. I
16 do caution that --

17 MR. CHESKIS: Your Honor, if I could just
18 interject --

19 JUDGE MELILLO: I'm sorry. Mr. Aron was speaking.

20 MR. CHESKIS: I really apologize, but this sounds
21 like something that may be appropriate for their brief as
22 opposed to here on the record.

23 JUDGE MELILLO: Could we simply wait until Mr. Aron
24 is finished? He was right in the middle of a sentence.

25 Please continue, Mr. Aron.

1 MR. ARON: Thank you, Your Honor.

2 What we are simply pointing out is that when we talk
3 later on about briefs, we are going to stress to Your Honor
4 that we have every intention of striking portions of
5 anything that comes in on brief that addresses any precluded
6 issues. So to the extent the testimony is in, it's in.
7 We're not going to fight over that. We don't want to go
8 through the rigmarole.

9 But I caution in advance, we will take every effort
10 and take every step to ensure that precluded issues do not
11 cloud the waters in the briefing process. And with that, I
12 rest, and Mr. Cheskis, if you have any follow-up, by all
13 means.

14 JUDGE MELILLO: Mr. Cheskis?

15 MR. CHESKIS: I guess my only follow-up is that he
16 has every right to file whatever motions he would like to
17 file, and we have every right to file an answer to that
18 motion, and certainly appreciate the heads-up, and look
19 forward to your motion.

20 JUDGE MELILLO: All right. Well, thank you for at
21 least giving the parties heads-up on that. I'm sure there
22 will be many positions taken in briefs, and we'll be
23 discussing that later. We definitely need a common briefing
24 outline, or it's going to be unmanageable for me.

25 All right. With that, hearing nothing further, Dr.

1 Loube, thank you very much. You're excused.

2 (Witness excused.)

3 JUDGE MELILLO: Let's go off the record for a moment.

4 (Discussion off the record.)

5 JUDGE MELILLO: Back on the record.

6 The next party to have a witness is the Office of
7 Trial Staff. Do you have a witness to call, Ms. Kaster?

8 MS. KASTER: Yes, Your Honor. The Office of Trial
9 Staff calls Joseph Kubas to the stand.

10 JUDGE MELILLO: Mr. Kubas, please stand, raise your
11 right hand.

12 Whereupon,

13 JOSEPH KUBAS

14 having been duly sworn, testified as follows:

15 JUDGE MELILLO: Thank you. Please be seated.

16 Go ahead, counsel.

17 DIRECT EXAMINATION

18 BY MS. KASTER:

19 Q. Mr. Kubas, have you prepared written testimony
20 and exhibits for this proceeding?

21 A. Yes, I have.

22 MS. KASTER: Your Honor, I have previously
23 distributed to the parties, the court reporter and to you
24 documents that have been preliminarily identified as OTS
25 Statement No. 1, the direct testimony of Joseph Kubas; OTS

1 Exhibit No. 1, the exhibit to accompany Mr. Kubas's direct
2 testimony; and OTS Statement No. 1-SR, the surrebuttal
3 testimony of Joseph Kubas, and I ask that they be marked for
4 identification at this time.

5 JUDGE MELILLO: Yes. Those documents so identified
6 are so marked.

7 (Whereupon, the documents were
8 marked as OTS Statements Nos. 1
9 and 1-SR and OTS Exhibit No. 1
10 for identification.)

11 BY MS. KASTER:

12 Q. Mr. Kubas, do you have the documents that I
13 requested be marked for identification in front of you?

14 A. Yes, I do.

15 Q. And do these documents contain your direct
16 testimony and exhibit as well as your surrebuttal testimony?

17 A. Yes, they do.

18 Q. And were these documents prepared by you or
19 under your supervision?

20 A. Yes.

21 Q. Do you have any changes or corrections to the
22 documents?

23 A. Yes, I do. This will be in the direct
24 testimony, OTS Statement No. 1. On page 26, line five, the
25 word "Comcast," cross that out and write in "Sprint."

1 JUDGE MELILLO: Is that line three? It's line three
2 on mine.

3 THE WITNESS: No, line five.

4 MS. PAINTER: Line three on mine.

5 THE WITNESS: Did I say page 26? I meant page 25,
6 I'm sorry.

7 JUDGE MELILLO: Oh, all right.

8 THE WITNESS: Page 25, line five, cross out the word
9 "Comcast" and replace that with "Sprint."

10 BY MS. KASTER:

11 Q. And with that change, if I were to ask you the
12 questions contained in your direct testimony and surrebuttal
13 testimony again today, would your answers be the same?

14 A. Yes.

15 Q. And would those answers be true and correct to
16 the best of your knowledge, information and belief?

17 A. Yes.

18 MS. KASTER: Your Honor, at this time, the Office of
19 Trial Staff requests that the documents marked for
20 identification be admitted into the record subject to timely
21 motions and cross-examination.

22 JUDGE MELILLO: Any objection?

23 (No response.)

24 JUDGE MELILLO: Hearing none, those documents so
25 identified are admitted into the record.

1 (Whereupon, the documents marked as
2 OTS Statements Nos. 1 and 1-SR and
3 OTS Exhibit No. 1 were received
4 in evidence.)

5 MS. KASTER: Thank you, Your Honor. At this time,
6 Mr. Kubas is available for cross-examination.

7 JUDGE MELILLO: AT&T, do you have any questions for
8 Mr. Kubas?

9 MR. METROPOULOS: Yes, we do, Your Honor.

10 JUDGE MELILLO: Please continue.

11 MR. METROPOULOS: Thank you.

12 CROSS-EXAMINATION

13 BY MR. METROPOULOS:

14 Q. Good afternoon, Mr. Kubas. How are you doing?

15 A. Good afternoon.

16 Q. My name is Jim Metropoulos, representing AT&T.

17 As with Dr. Loube, I'd like to thank you for rearranging
18 your schedule to accommodate all of the twists and turns
19 that our proceedings have taken. Thank you.

20 I'd like you to turn to page three of your
21 surrebuttal testimony, please.

22 A. I have it.

23 Q. Okay. And you refer there to an order by the
24 New Jersey Board of Public Utilities conducting a review of
25 intrastate switched access charges; am I right?

- 1 A. Yes.
- 2 Q. Have you reviewed that decision?
- 3 A. No.
- 4 Q. You have not read the order?
- 5 A. No.
- 6 Q. Okay. Would you accept subject to check that
7 the date of the order was in January, 2010?
- 8 A. Sure.
- 9 Q. Okay. Looking down at lines 12 to 13, still on
10 page three of your surrebuttal, you aware that as part of
11 its order the Board rejected cost studies that were prepared
12 by incumbent local exchange companies?
- 13 A. That's what I read.
- 14 Q. Okay. And were you aware that one of those
15 incumbent local exchange companies was CenturyLink?
- 16 A. That's my understanding.
- 17 Q. Now, on lines 16 through 17, still on page
18 three, you say that different cost studies could support
19 different results in Pennsylvania; do you see that?
- 20 A. Yes, I do.
- 21 Q. CenturyLink has not submitted any cost study for
22 switched access costs in this case, correct?
- 23 A. That is correct.
- 24 Q. And would you also agree that CenturyLink has
25 not provided any calculation showing how its costs might be

1 any different in Pennsylvania than in New Jersey?

2 A. That's correct.

3 Q. And would you agree with me that none of the
4 other local exchange companies in this proceeding submitted
5 an access cost study?

6 A. That's correct.

7 Q. Did you ask any of the local exchange companies
8 what their costs of switched access services are in
9 Pennsylvania?

10 A. I did not.

11 Q. Did you ask any of the local exchange companies
12 what their costs of local services are in Pennsylvania?

13 A. No.

14 Q. And did you ask any of the local exchange
15 companies how much of their common carrier line charge
16 actually goes towards the cost of their local loops?

17 A. No, I did not.

18 Q. Okay. I'd like to move to page five of your
19 surrebuttal testimony, and I'm looking at lines eight and
20 nine.

21 A. I see it.

22 Q. Do you see where you say that AT&T provided no
23 cost support for the claim that RLEC basic local service
24 rates are below cost?

25 A. That's right.

1 Q. Are you familiar with the basic local exchange
2 rates of the RLECs in this proceeding?

3 A. I'm generally familiar, yes.

4 Q. Okay. I think that will do. Have you looked
5 through the parties' testimony in this case to see what the
6 RLECs' local rates are?

7 A. Yes. I reviewed the OCA schedules just a little
8 bit ago.

9 Q. Okay. It's clear that those are part of the
10 record of the proceeding?

11 A. Yes, they are.

12 Q. We won't be doing a pop quiz.

13 MR. METROPOULOS: I would like to approach the
14 witness, Your Honor. May I?

15 JUDGE MELILLO: Yes, you may.

16 MR. METROPOULOS: I'd like to show the witness what
17 is going to be marked as PTA Attachment GMZ-7, which is
18 going to be an attachment to Mr. Zingaretti's testimony.
19 With the change in the order of the witnesses, I did not
20 make all the extra copies and I don't anticipate marking
21 this as a cross exhibit.

22 JUDGE MELILLO: All right. So in other words, Mr.
23 Zingaretti is going to have an attachment? I want to make
24 sure I understand.

25 MS. BENEDEK: I missed that as well, I'm sorry.

1 JUDGE MELILLO: Mr. Zingaretti, who has not yet been
2 presented and is to be presented tomorrow now, you're saying
3 this is an attachment --

4 MR. METROPOULOS: To his prefiled --

5 MR. KENNARD: It's an exhibit.

6 MR. METROPOULOS: An exhibit to his prefiled
7 testimony.

8 MR. KENNARD: What number is it?

9 MR. METROPOULOS: GMZ-7.

10 JUDGE MELILLO: All right. But it was provided to
11 the parties?

12 MR. METROPOULOS: It has been provided to the
13 parties.

14 JUDGE MELILLO: All right. Very well.

15 MR. METROPOULOS: I will give, for convenience, I do
16 have a couple of extra copies for Your Honor and for the
17 witness and his attorney.

18 JUDGE MELILLO: I believe I have it. GMZ-7, did you
19 say?

20 MR. METROPOULOS: GMZ-7.

21 (Pause.)

22 JUDGE MELILLO: I have that. That one hasn't been
23 changed. There have been some updates to some of these
24 schedules of Mr. Zingaretti's. All right. Go ahead.

25 MR. METROPOULOS: May I approach the witness?

1 JUDGE MELILLO: Yes, you may.

2 MR. METROPOULOS: Thank you.

3 BY MR. METROPOULOS:

4 Q. Mr. Kubas, I just handed you what's going to be
5 marked as PTA Exhibit GMZ-7 entitled, "Local Rate Increases
6 Implemented In the Global Order." After you have a chance
7 to look that over, I'll ask you a few questions. Just let
8 me know when you're ready.

9 MR. KENNARD: I don't know if it's germane, but we
10 are going to make a correction in the title, replacing the
11 word "In" with the word "Since." I don't know if that
12 changes the scope.

13 MR. METROPOULOS: It won't affect the question, but I
14 appreciate you're pointing that out so that the record is
15 clear when we go back and refer to things.

16 JUDGE MELILLO: All right. So in other words, these
17 rates set forth in PTA Exhibit GMZ-7 are current? Are they
18 current rates right now?

19 THE WITNESS: Yes.

20 MR. KENNARD: Yes. There's a second column that
21 says, in fact, "current."

22 JUDGE MELILLO: Very well.

23 BY MR. METROPOULOS:

24 Q. Are you ready?

25 A. I'm ready.

1 Q. Thank you. You notice that the title of the
2 document with the correction we just noted refers to a
3 Global Order. Are you familiar with what the Global Order
4 is?

5 A. Yes.

6 Q. And you understand that local carriers
7 implemented local rate increases as a result of that order?

8 A. Yes.

9 Q. Okay. You'll be relieved to know that's the
10 last I'm going to ask you about the Global Order. On the
11 left hand column of this exhibit, GMZ-7, we see a list of
12 PTA members; is that correct?

13 A. I see that.

14 Q. Okay. And do you see the third column from the
15 left labeled "current?"

16 A. Yes.

17 Q. Okay. Based on your knowledge of the RLECs'
18 local rates, do you understand that third column to show
19 each carrier's current basic local exchange rate for
20 residential service, third column from the left?

21 A. Yes, I do. I just don't know what the second
22 column, where it says, "pre-global," if that is the rate as
23 a result of the Global Order or the pre-global local rates
24 before the Global Order.

25 Q. Fortunately, I won't be asking you any questions

1 about that second column.

2 A. But it flows into the increase and the
3 percentage increase, so if you go any farther, it's going to
4 make a difference.

5 Q. I'm not going to even go to the other columns.
6 We'll stick on that third column, so I think we're good.
7 I'd like you to look down the chart at the line for Citizens
8 of Kecksburg. Do you see that?

9 A. I see it.

10 Q. And you are familiar with that phone company?

11 A. As part of the RLEC companies, yes, I've heard
12 of them.

13 Q. And do you see there on Exhibit GMZ-7 it shows
14 their local rate currently as \$11.00 per month?

15 A. I see that.

16 Q. Is it your testimony in this case that Citizens
17 of Kecksburg's \$11.00 rate is higher than its cost of
18 providing local exchange service?

19 A. I haven't made that determination.

20 Q. One way or the other?

21 A. Right, one way or the other.

22 MR. METROPOULOS: Thank you. I have no further
23 questions.

24 JUDGE MELILLO: Sprint, do you have any questions?

25 MR. ARON: We do, Your Honor.

1 (Pause.)

2 CROSS-EXAMINATION

3 BY MR. ARON:

4 Q. Good afternoon. I'm Benjamin Aron with Sprint
5 Nextel.

6 A. Good afternoon.

7 Q. I want to ask you a few questions. All of these
8 questions will pertain to your direct testimony. Do you
9 agree that the Commission has an obligation to fulfill the
10 goals in Chapter 30?

11 A. Which part of my testimony are you referring to?
12 Do you have a page you can cite to?

13 Q. For this particular question, actually, I'm
14 sorry, I don't have a page reference. I was just inquiring
15 about your opinion.

16 A. If I understand your question, I believe, yes,
17 the Commission has a general policy and obligation to follow
18 Chapter 30.

19 Q. Thank you. Does this include encouraging the
20 proliferation of all manner of telecommunications services
21 throughout Pennsylvania? Is that part of the goal for
22 Chapter 30?

23 A. I don't know that, if it's all or not.

24 Q. I read earlier into the record, I'll read this
25 again. It's a section from Chapter 30. It's subsection

1 five. The preamble of Chapter 30 says, "The General
2 Assembly finds and declares that it is the policy of this
3 Commonwealth to," and now section five specifically says,
4 "Provide diversity in the supply of existing and future
5 telecommunications services and products in
6 telecommunications markets throughout this Commonwealth by
7 ensuring that rates, terms and conditions for protected
8 services are reasonable and do not impede the development of
9 competition." Do you think it's reasonable, a reasonable
10 reading of that section that it is the policy of the state
11 to encourage the proliferation of all manner of
12 telecommunications services throughout the Commonwealth?

13 MS. KASTER: Your Honor, I'm going to have to object
14 at this time. That is a legal question and Mr. Kubas is not
15 an attorney.

16 MR. ARON: I think Mr. Kubas has put in quite a bit
17 of policy testimony regarding what should and should not
18 happen, the ambit of the Commission's authority and so on.

19 JUDGE MELILLO: I'll allow the question on the basis
20 of policy.

21 MR. ARON: Thank you, Your Honor.

22 THE WITNESS: Well, the Public Utility Code describes
23 that. You have to remember that the Commission only has
24 jurisdiction over certain types of carriers, so therefore,
25 to the extent they have jurisdiction over a carrier, the

1 answer would be yes. But the Commission has no jurisdiction
2 over providers that they don't regulate or have no
3 jurisdiction over.

4 BY MR. ARON:

5 Q. Understanding that the Commission does not have
6 jurisdiction, and agreeing, I might add, that the Commission
7 does not have jurisdiction over wireless carriers, you feel
8 in that case that the Commission can take no actions to
9 encourage the proliferation of all manner of
10 telecommunications services throughout the Commonwealth,
11 that it requires that they have jurisdiction over a carrier
12 to encourage the proliferation of services?

13 A. No, I wouldn't say they should take no action.
14 I mean, they should do the actions that they believe are
15 proper for the customers of Pennsylvania that complies with
16 Chapter 30 concerning the telephone companies that they do
17 regulate.

18 Q. To make sure I understand the answer, they
19 should take such actions over the companies that they do
20 regulate that would effectuate the purposes of Chapter 30?

21 A. Yes, that's correct, and also the opposite would
22 also be true, to take action that does not harm the other
23 companies in Pennsylvania.

24 Q. Certainly. And do you agree that access is a
25 protected service, that the reference in the statute is to

1 rates, terms and conditions for protected services? Would
2 that include access?

3 A. Yes, it does.

4 Q. Okay. Moving beyond the "all manner of
5 telecommunications services," do you believe that -- what
6 we've just discussed, that would include wireless carriers,
7 right? So in other words, the statute as applied to
8 wireless carriers, it would be the goal of the state to
9 encourage the proliferation of wireless service throughout
10 the state, would it not?

11 A. I'm not testifying as to what the state goal is.
12 I know what, I can testify to the Commission's goal, which I
13 said before should be to regulate the companies that operate
14 in the state that it has jurisdiction over.

15 Q. In such a way, to go back to the earlier
16 summary, in such a way as to encourage the goals set forth
17 in the statute, correct?

18 A. Right, to promote competition and to not harm
19 the incumbent local exchange providers that it does
20 regulate.

21 Q. I see. And all of the incumbent carriers that
22 the Commission -- incumbent local exchange carriers, mind
23 you, that the Commission regulates, all of them charge
24 access rates; is that correct?

25 A. There are some companies that charge zero access

1 rate for certain functions, but generally if you look
2 through the tariffs and the information provided in this
3 case, there are none that provide totally free access.

4 Q. Okay. So would you agree that the Commission
5 should regulate the incumbent local exchange carriers'
6 access rates in such a way as not to hinder competition?

7 A. Generally that's true, yes, but you have to look
8 at other factors, too.

9 Q. Does the current regulatory system that the
10 Commission oversees and has crafted, does that system
11 affirmatively encourage the spread of cellular service to
12 all Pennsylvanians?

13 A. I haven't made that determination, so I don't
14 know.

15 Q. You don't know?

16 (No response.)

17 Q. Okay. When a wireless carrier builds out a cell
18 site in a new area that they don't currently have coverage
19 in, what subsidy can the wireless carrier rely on to recover
20 its expenses?

21 A. I don't know.

22 Q. Do you believe there are any such subsidies?

23 A. Again, I don't know.

24 Q. Okay. Are there any available in Pennsylvania
25 from the state of Pennsylvania?

1 A. None that I'm aware of.

2 Q. When a wireless carrier terminates a non-local
3 call at this new cell site, does it receive access charges
4 for that non-local call termination?

5 A. I'm not sure.

6 Q. You don't know?

7 A. Right.

8 Q. Were you here earlier today when the panel for
9 CenturyLink testified?

10 A. For most of it, yes.

11 Q. Were you here when the panel for CenturyLink
12 testified that they are aware that wireless carriers are
13 allowed by agreement to charge access but not by tariff? Do
14 you recall that?

15 A. I recall them saying that, yes.

16 Q. If that is accurate -- do you have any reason to
17 believe that not to be accurate?

18 A. I don't know whether it's accurate or not.

19 Q. All right. Fair enough. I'll move along.

20 You state in your testimony, and again this is the
21 direct testimony, you state that you are unaware of any FCC
22 requirement that intrastate access rates be equal to
23 interstate access rates, correct?

24 A. That's right.

25 Q. Okay. And are you also aware that the FCC has

1 recently released, it's been discussed not long ago, the
2 broadband plan? Are you aware that they released that?

3 A. No, I'm not.

4 Q. Okay. Can you direct me to any statements by
5 the Pennsylvania Commission that indicates that the
6 Commission Pennsylvania is opposed to mirroring interstate
7 access rates?

8 A. Yes. I'm looking in my testimony. For example,
9 in page 13 of my direct testimony, the Commission ordered
10 that Verizon's common carrier line charge should not go to
11 zero, which would mirror the interstate common carrier line
12 charge, so there's one example.

13 Q. I'm sorry, can you give me the references?

14 A. Yes. It begins on line three. Well, actually,
15 the question starts on line one and continues through line
16 six.

17 Q. I see. And it's your position that the
18 Commission's rationale in that decision was that it should
19 not mirror? Is that what I'm understanding, or is this a
20 result-oriented conclusion reaching?

21 A. Could you repeat that question?

22 Q. Let me break that down for you. Did the
23 Commission inside that order state that they oppose
24 interstate mirroring?

25 A. I don't recall.

1 Q. You don't recall?

2 A. All I know is what they did, which was what I
3 stated here.

4 Q. And you don't remember the rationale for the
5 Commission's decision?

6 A. I wasn't in their discussions. All I know is
7 what I read in the order.

8 Q. And again, in the order, does it say that they
9 reject interstate mirroring?

10 A. I don't remember that part.

11 Q. You don't remember. Can you tell me what
12 percentage of the local loop the carrier charge recovers?

13 A. No, I can't.

14 Q. Why can't you tell me that?

15 A. I haven't done any cost studies or evaluated it
16 recently.

17 Q. I see. So you have no data that establishes
18 that the cost of the common line isn't recovered from basic
19 local service and per-minute access rates?

20 A. I'm sorry, could you repeat that again?

21 Q. You have no data that establishes that the
22 common line, the cost of the common line is not recovered
23 through per-minute access rates and basic local service
24 rates?

25 A. I have no data, that's correct.

1 Q. You have no data, okay. Do you have any data
2 that supports your statement -- here I've written down
3 surrebuttal. I apologize. I earlier said there wouldn't
4 be. Do you have any data that supports your statement in
5 the surrebuttal testimony, page 11, lines 11 to 12, that the
6 customer is paying a large part of the cost of the local
7 loop in their basis local exchange rates?

8 A. That statement is just based on my general
9 knowledge of the telephone industry and the cases I've been
10 involved with, so the answer is no, I don't have any
11 specific data on that.

12 Q. No data, okay. What percentage of the local
13 loop do you believe it is appropriate to allocate to
14 competitive carriers?

15 A. I haven't made that determination.

16 Q. You haven't, okay. Do you agree that the
17 Commission has an obligation to ensure that the rates for
18 protected services are reasonable?

19 A. Yes.

20 Q. If the rates for protected services must be
21 reasonable, then I suppose it goes without saying that the
22 rates for protected services can be too high; is that
23 correct?

24 A. That can occur, yes.

25 Q. Do you believe that the generation of excessive

1 returns on protected services is an indication, could be an
2 indication that rates are too high?

3 A. No, not necessarily.

4 Q. And the Commission does have an obligation to
5 ensure that revenue from protected services are not
6 subsidizing competitive services, correct?

7 A. That's generally accepted, yes.

8 Q. Okay. Does the Commission require reports to be
9 submitted that illustrates that there's no cross-
10 subsidization occurring?

11 A. I don't think they do require that as a general
12 premise.

13 Q. Okay. Does the Commission actually take any
14 steps whatsoever that you're aware of to ensure that the
15 RLECs are not engaging in cross-subsidization?

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

17 Q. Okay. You state in your testimony that access
18 rates and basic local service rates should be based on cost;
19 is that correct?

20 A. Yes, that's correct.

21 Q. Are the current rates cost-based?

22 A. I don't know that.

23 Q. And you don't know the cost of any of the
24 services that are at issue here, basic local or access,
25 right?

1 A. That's correct.

2 Q. Okay.

3 A. If they match -- I don't know if they exactly
4 match the cost to provide that service.

5 Q. And you also state that basic local service does
6 not need subsidization; is that correct?

7 A. It may not. I haven't just made that
8 determination.

9 Q. I see at lines 16 through 17 you say, "Sprint's
10 recommendation is based on the claim that basic local
11 exchange service needs to be subsidized. As described
12 above, there is no support for this claim. Therefore, there
13 is no reason to conclude that the revenue from other
14 services should be used to subsidize basic local exchange
15 service."

16 MS. KASTER: Excuse me, can counsel give a page
17 number?

18 MR. ARON: I'm sorry, I thought I did. Page 22,
19 lines 16 -- well, I said 17. I read through 19, however.
20 It's page 22, 16 through 19.

21 BY MR. ARON:

22 Q. So you state here that there's no reason to
23 conclude that the revenue from other services should be used
24 to subsidize basic local exchange service, right?

25 A. Right, yeah.

1 Q. And you actually -- you don't have the data to
2 support the premise one way or the other?

3 A. Right. I was just answering Sprint's claim in
4 their testimony, I was addressing their claim.

5 Q. Now, Mr. Kubas, is it your position that the
6 Commission lacks the authority to take broadband and other
7 competitive revenues into account when setting rates? Do
8 they lack that authority?

9 A. I have not made that determination.

10 Q. Mr. Kubas, on page 21, lines 13 through 18, you
11 summarize a portion of Sprint's recommendation. There you
12 indicate that, "Sprint recommends that the Commission
13 include the revenue opportunities the RLECs have received or
14 will potentially generate for all other services the RLECs
15 provide their customers on the local switched network as
16 part of any rate rebalancing." Do you see that?

17 A. Yes, I do.

18 Q. And on the next page, you say, "Should this
19 recommendation be approved?" or the question on the next
20 page at line seven, "Should this recommendation be
21 approved?" And the answer is, "No. As described above, if
22 a provider of a service uses the local switched network,
23 they should contribute to the cost of each and every part of
24 the network that it uses," correct?

25 A. Right, that's correct.

1 Q. But you take no opinion about whether the
2 Commission has the authority to take into account revenues
3 from other services provided over the network?

4 A. That's right.

5 Q. Okay. In the context of setting rates for
6 regulated services, are you aware of whether the Commission
7 has ever taken into account revenues from non-regulated
8 services which are dependent upon the use of ratepayer
9 supported public utility facilities?

10 A. I am not aware of any time where they have done
11 that.

12 Q. No, okay. But the RLEC DSL service is provided
13 over the network that was constructed from ratepayer derived
14 revenues; is that correct?

15 A. Could you repeat that?

16 Q. Certainly. The RLEC DSL service is provided
17 over the network that was constructed from ratepayer derived
18 revenues?

19 A. That's my understanding, yes.

20 Q. At page 22, lines eight through ten, you state
21 that if a provider uses the local network, that provider
22 should pay for each part of the network it uses, correct?

23 A. That's right.

24 Q. Okay. Would it follow your logic that when
25 broadband uses the network, broadband should pay for the use

1 of the local loop as well?

2 A. Yes. That's a cost recovery question as opposed
3 to the revenue questions that you were asking me before.

4 Q. But you agree that broadband should contribute
5 to its fair share, I suppose you could say, of using the
6 loop?

7 A. Yes, that's correct.

8 Q. And I'm going to apologize. I might have
9 already asked you this. When a rural carrier terminates a
10 non-local call to a wireless carrier -- in fact, I know we
11 asked you this. I'm going to skip that, sir.

12 MR. ARON: And I'm done, Your Honor. That's all I
13 have.

14 JUDGE MELILLO: Very well.

15 MR. ARON: Thank you, Mr. Kubas.

16 THE WITNESS: Thank you.

17 JUDGE MELILLO: I also have Verizon down as a
18 possible cross-examiner. Yes?

19 MS. PAIVA: I have a few questions.

20 CROSS-EXAMINATION

21 BY MS. PAIVA:

22 Q. Good afternoon, Mr. Kubas.

23 A. Good afternoon.

24 Q. Could you turn to page eight of your direct
25 testimony?

1 A. I have it.

2 Q. Okay. And there on lines 20 and 21, you say
3 that you were advised by counsel that AT&T has the burden of
4 proof. Do you see that?

5 A. Yes.

6 Q. And then if you go over to the next page, on
7 page nine, starting at line 19, you say, "Since AT&T and the
8 other IXCs have failed to provide a current cost of service
9 study to support these claims, they have not shown that the
10 RLEC intrastate access rates are excessive or subsidy
11 laden." Now, are you basing this sentence on your opinion
12 that AT&T had the burden of proof so it should have
13 submitted a cost study?

14 A. Well, yes, but it's also just a matter of
15 fairness and logic that if a party wants something changed,
16 they should provide some support for that change.

17 Q. But if the Commission were to hold that AT&T
18 didn't have the burden of proof and that the RLECs had the
19 burden of proof, would your opinion on what AT&T should have
20 submitted be different?

21 MS. KASTER: Your Honor, I'm going to have to object
22 at this point. Again, Mr. Kubas is not an attorney. I
23 understand that this is in his testimony, and it is
24 something that we put in there so that we can preserve that
25 issue and discuss it in brief. I'm just very uncomfortable

1 with where this line of questioning is going.

2 MS. PAIVA: Well, I'm not asking him to say who has
3 the burden of proof, because that would be a legal
4 conclusion. I'm just asking him if his opinion would be
5 different if the answer were different.

6 JUDGE MELILLO: Well, he basically provided a
7 disclaimer, so to speak, on the testimony, saying that he
8 was advised by counsel, so I guess counsel isn't there to
9 advise him as to how that would be answered, so I really
10 can't allow the question and the objection is sustained.

11 MS. PAIVA: Could I ask him this?

12 JUDGE MELILLO: You can try another way to phrase it,
13 I guess, see if it works.

14 BY MS. PAIVA:

15 Q. In formulating your testimony, did you rely on
16 an assumption of who had the burden of proof?

17 A. Well, yes, to some extent, but not entirely.

18 Q. I'll leave that subject. Turn over to page 12
19 of your direct, and starting on line 17, you cite the
20 Commission order, Commission versus North Pittsburgh
21 Telephone Company at Docket No. R-00038087, entered April
22 10, 2003, and you're citing that order for the proposition
23 that the Commission has determined that the CCLC does have a
24 cost basis by defining the CCLC as an access charge designed
25 to recover a portion of the cost of the local loop that the

1 IXCs use in the origination and termination of long distance
2 calls. Do you see that discussion?

3 A. Yes.

4 Q. Did you read that entire North Pittsburgh order?

5 A. Not recently, no. This case has been going on
6 for quite some time, so not recently.

7 Q. I'm going to show you a copy of the order.

8 A. All right.

9 Q. I'm going to ask you if you agree with something
10 in it.

11 JUDGE MELILLO: Do you have a copy to show to counsel
12 for OTS?

13 MS. PAIVA: I'm not going to mark this.

14 JUDGE MELILLO: That's all right, but yes, please
15 supply a copy to counsel for OTS.

16 (Document handed to the Court.)

17 JUDGE MELILLO: All right. Thank you.

18 (Pause.)

19 MS. PAIVA: I'm just waiting for the witness to have
20 a chance to look at the order.

21 (Pause.)

22 THE WITNESS: Okay.

23 BY MS. PAIVA:

24 Q. Now, in this order or in the proceeding leading
25 up to this order, North Pittsburgh had proposed a revenue

1 neutral rebalancing where it would reduce access rates and
2 increase local service rates, and some customers complained
3 about the filing, correct?

4 A. Okay.

5 Q. I'd like to direct your attention to page four,
6 down at the bottom, starting at about the bottom.

7 A. Okay.

8 Q. You see where it starts, "With regard to the
9 twelve complaints"?

10 A. Yes.

11 Q. The Commission dismissed the twelve complaints
12 against the rebalancing and it says, "With regard to the
13 twelve complaints, we are of the opinion that the
14 residential complainants may misunderstand the purpose of a
15 revenue neutral rate rebalancing filing, which is to bring
16 rates in line with costs. Historically, the company's local
17 exchange service rates have been set below the cost to
18 provide that service, while its access rates have been set
19 above the cost of service. The new competitive market place
20 requires telecommunications providers to move their rates
21 closer to the cost of providing service. The instant filing
22 continues the process of eliminating the subsidization of
23 local exchange service rates that has been provided by
24 inflated access rates.

25 "NPTC's cost studies demonstrate that its residential

1 local exchange service rates will remain well below cost,
2 even after implementation of the proposed increases;
3 therefore, the proposed rate changes represent a reasonable
4 step in the gradual process of moving rates closer to the
5 cost of providing service."

6 Now, my question for you is, do you disagree with the
7 Commission's conclusion in this order?

8 A. Disagree with the Commission order? No, the
9 Commission order says what it says. I don't know what facts
10 they used to reach that conclusion, so it's hard to say now
11 whether it's still accurate or not.

12 Q. But in general, you're not saying that you
13 disagree with it?

14 A. No, huh-uh.

15 MS. PAIVA: You know, actually, that's all the
16 questions I have for you. Thank you.

17 JUDGE MELILLO: Thank you. Does anyone else have any
18 cross-examination? Yes, Ms. Benedek?

19 CROSS-EXAMINATION

20 BY MS. BENEDEK:

21 Q. Follow-up to a couple questions from counsel for
22 Sprint concerning cross-subsidization. Do you recall where
23 you were asked a question whether the Commission requires
24 reports for cross-subsidization? Do you recall that line of
25 cross?

1 A. That's right. Yes, I do.

2 Q. Now, am I correct that the Commission also has,
3 or that there's a requirement on RLECs to file annual price
4 cap filings with the Commission pursuant to their
5 alternative regulation plans?

6 A. Yes. My understanding, they file the annual
7 price cap filings.

8 Q. And as part of that review, does the Commission
9 staff request and does the company provide information about
10 competitive services, non-competitive services and in fact
11 aren't those annual price cap filings approved by the
12 Commission?

13 A. I know they file the revenue on the non-
14 competitive service side to some detail. But I don't know
15 the detail of the competitive revenue and what's provided in
16 that. I just don't recall.

17 Q. But those plans and those annual price cap
18 filings are filed with the Commission and are eventually
19 approved by the Commission and complaints can be filed by
20 any party, but they ultimately approve vis-a-vis an order
21 issued by the Commission, correct?

22 A. Yes.

23 Q. Now, relative to tariff filings, isn't it true
24 that if a service is subject to regulation by the
25 Commission, there is a tariff filed for the service and

1 rates filed, terms and conditions filed, correct?

2 A. Generally, that's true. There were some
3 services that were de-tariffed. Some of the competitive
4 services were de-tariffed years ago. I believe one was
5 directory -- I'm sorry, Yellow Pages, advertising, those
6 kinds of things have been, what we say is de-tariffed.

7 Q. In terms of the tariff filings, generic
8 statement, isn't there a bureau at the Commission that
9 reviews tariff filings made by companies?

10 A. Yes, there is.

11 Q. And do they not also have the ability to ask
12 questions, discovery, etcetera of a party or an RLEC, let's
13 say, that files a tariff?

14 A. Yes, they do.

15 Q. So these are not technically reports, but they
16 are opportunities for the Commission to look over both
17 tariff filings and also annual price cap filings that a
18 company may make, correct?

19 A. Yes.

20 Q. I want to go to an area of cross-examination
21 undertaken by counsel for AT&T, and he asked you whether
22 there have been any cost studies presented in this case.
23 I'd like to ask you a couple questions in that regard. Am I
24 correct that the current intrastate switched access rates
25 for CenturyLink and the RLECs are based upon a result that

1 came out of the Global Order in 1999?

2 A. Generally, yes, but my understanding is, there
3 even have been changes since then that have reduced some of
4 the switched access rates and raised the common carrier line
5 charges. So they're not exactly as they were established in
6 the Global Order, but they were --

7 Q. Subsequent Commission orders changed?

8 A. Yes. They were changed by Commission orders or
9 settlements, settlements approved by Commission orders since
10 the Global Order.

11 Q. Right. And I started with the Global Order
12 because, is it your understanding that the Global Order had
13 subsumed into it numerous proceedings, correct?

14 A. That's right.

15 Q. And several of those proceedings included cost
16 studies and cost analysis provided by various parties,
17 correct?

18 A. Yes, I recall that.

19 Q. Coming out of the Global Order or any subsequent
20 order by the Commission, has this Commission identified any
21 accepted, definitive standard for the undertaking of cost
22 studies for intrastate switched access services?

23 A. Not specifically, no, that I'm aware of.
24 They've ruled on access charges and made various
25 determinations, but no definitive, final cost study

1 methodology that I'm aware of has ever been determined or
2 prescribed.

3 Q. And same question for local exchange, cost
4 studies associated with local exchange rates for the RLECs.
5 To your knowledge, is there any Commission order that
6 definitively set forth a cost standard applicable to the
7 costing of local exchange services provided by the RLECs?

8 A. I'm not aware of any.

9 Q. And would it be fair to say then that the
10 current rates are based upon pricing decisions that the
11 Commission has implemented and not costing decisions per se
12 and only costing decisions?

13 A. Well, not entirely, because if you recall in the
14 Global Order, the claim was to -- or the final outcome was
15 to maintain a common carrier line charge, which in theory is
16 the recovery of some loop costs from access rates. So there
17 was some cost basis background theory as part of the global
18 settlement, so there was some basis, there was some cost
19 basis at that time.

20 Q. But ultimately, there was a pricing decision
21 that balanced the local rates, cap on the local rates and
22 other factors? The resulting rates were a culmination of
23 pricing decisions, correct?

24 A. Well, that was the outcome, and it was a
25 settlement, so you could say that it was based on -- their

1 price was considered in the final analysis.

2 Q. And one final question. You were asked by
3 counsel for Sprint, did the Commission explicitly in the
4 order that you cited on page 13 of your direct testimony
5 reject mirroring of rates; do you remember that line of
6 cross? I know it's late, but --

7 A. It was a while ago.

8 Q. It was page 13.

9 A. Okay.

10 Q. Let me simplify it.

11 A. All right.

12 Q. If you eliminate the carrier, the CCL, then you
13 -- and you mirror interstate, then you effectively would be
14 mirroring the rates, interstate rates for my client,
15 interstate access rates for my client, let's say. Let's
16 take my client as an example. If you eliminate the CCL and
17 you move to interstate, then that's the mirroring that would
18 be done or could be done.

19 A. Right.

20 Q. Now, if you don't, if you retain some portion of
21 the CCL, then logically you're rejecting the mirroring,
22 correct?

23 A. The last part of your answer is yes. The first
24 part was, though, earlier today in the hearings, I believe
25 one witness said CenturyLink's rates are not exactly the

1 same.

2 Q. Oh, we've got some minor --

3 A. There was some minor differential in some of the
4 minor switching or transportation rates. So with that
5 qualification, I would say yes, generally your switched
6 access per-minute rates are the same. It's the common
7 carrier line charge that exists which causes the difference.

8 Q. So to bring it back to your testimony on page 13
9 of your direct, when you say the Commission retained the CCL
10 for Verizon and you don't recollect whether it rejected
11 explicitly the mirroring, by virtue of the fact that they
12 retained some portion of the CCL, they didn't adopt
13 mirroring, correct?

14 A. That's the conclusion I would reach.

15 MS. BENEDEK: Thank you.

16 JUDGE MELILLO: Yes, Mr. Aron? You have some follow-
17 up?

18 MR. ARON: Very brief.

19 FURTHER CROSS-EXAMINATION

20 BY MR. ARON:

21 Q. Mr. Kubas, you were asked about annual price cap
22 plan filings. Do you recall that?

23 A. Yes, I do.

24 Q. Is it your understanding that those filings
25 contain all costs, all expenses, all investments and all

1 revenues from all services?

2 A. I don't know that. I'm only familiar with the
3 non-competitive revenue and an inflation offset calculation.
4 Whether the RLECs file any more detailed information, I'm
5 not aware of that.

6 Q. And that's filed with the Bureau of Fixed
7 Utility Services, correct?

8 A. Yes.

9 Q. Okay. Thank you. Ms. Benedek asked you a
10 question regarding pricing versus policy and there were a
11 series of questions about that. Is it your understanding
12 that the Commission is obligated to make rate decisions
13 based on pricing and not costing, or is that a policy
14 decision for the Commission to make of its own accord?

15 A. I'm sorry, I didn't hear the last part of that
16 question.

17 Q. Is the Commission free to make decisions on
18 rates based on pricing or on costing, or is there some
19 requirement that they do one or the other? Is that a policy
20 decision for them to make?

21 A. I'm not aware of any requirement one way or the
22 other. They've done both things.

23 MR. ARON: Thank you. That's all I have, Your Honor.

24 JUDGE MELILLO: All right. Anyone else have any
25 cross-examination?

1 (No response.)

2 JUDGE MELILLO: All right. Hearing no one, then is
3 there any redirect for the witness, Ms. Kaster?

4 MS. KASTER: No, Your Honor, there is not.

5 JUDGE MELILLO: All right. Very well. I believe
6 then you can be excused, Mr. Kubas. Thank you.

7 THE WITNESS: Thank you, Your Honor.

8 (Witness excused.)

9 JUDGE MELILLO: Does that conclude our witnesses for
10 today, then? Under the agreement we were going to reserve
11 Mr. Zingaretti for tomorrow, starting at 9:00. I understand
12 that cross-examination for Mr. Zingaretti will be fairly
13 substantial.

14 MR. KENNARD: The way we worked this out in order to
15 get Mr. Kubas up and accommodate the suggestion of Sprint
16 that we do that, and also Mr. Zingaretti's schedule that
17 requires that he be here no later than 1:00 tomorrow, we
18 have an estimate of AT&T of one half-hour on cross-
19 examination; estimate by Sprint of one and a half hours of
20 cross-examination; and by Verizon, a half an hour, so we
21 have about two and a half hours tomorrow of cross-
22 examination. We will do our direct promptly and
23 efficiently. We might be out of here by noon.

24 JUDGE MELILLO: Well, you understand that there will
25 be some briefing instruction given at the end, although I

1 will follow that up with a briefing order, but there will be
2 some statements made.

3 MR. KENNARD: Mr. Zingaretti doesn't need to be here
4 for that.

5 JUDGE MELILLO: That's true, unless he wants to weigh
6 in on any page limitations.

7 (Laughter.)

8 MR. KENNARD: I'll ask him.

9 JUDGE MELILLO: All right. Is there anything further
10 for today, then?

11 (No response.)

12 MR. KENNARD: All right. Hearing nothing, then we're
13 off the record until 9:00 tomorrow morning.

14 (Whereupon, at 5:32 p.m., the hearing was adjourned,
15 to be reconvened at 9:00 a.m., Friday, April 16, 2010, in
16 Harrisburg, Pennsylvania.)

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and thereafter reduced to typewriting by me or under my direction, and that this transcript is a true and accurate record to the best of my ability.

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