

PUBLIC UTILITY COMMISSION

----- X
 Investigation Regarding Intrastate
 Access Charges and IntraLATA Toll
 Rates of Rural Carriers and The
 Pennsylvania Universal Service Fund
 AT&T Communications of Pennsylvania
 LLC v. Armstrong Telephone Company -
 Pennsylvania, et. al.
 (Initial and Further Hearings)
 ----- X

ORIGINAL
 Docket No.
 I-00040105

Docket No.
 C-2009-2098380,

Pages 566 to 702

Hearing Room 2
 Commonwealth Keystone Bldg.
 Harrisburg, Pennsylvania

Friday, April 16, 2010

Met, pursuant to notice, at 9:04 a.m.

BEFORE:

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P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE KANDACE F.

MELILLO: This is the time and the place for the last scheduled day of hearing in the following consolidated cases: Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and The Pennsylvania Universal Service Fund. The Docket Number is I-00040105. And also AT&T Communications of Pennsylvania, LLC, TCG New Jersey, Inc., and TCG Pittsburgh, Inc., collectively AT&T, Complainants, versus Armstrong Telephone Company PA, et al., Respondents. The lead docket number is C-2009-2098380.

I am Administrative Law Judge Kandace Melillo assigned by the commission to preside in this matter.

Do we have the appearance sheet yet back from the parties?

(Document handed to the Court.)

JUDGE MELILLO: I note the appearances this morning of Philip S. Shapiro, Esquire, on behalf of AT&T; Michelle Painter, Esquire, on behalf of AT&T; Demetrios Metropoulos on behalf of AT&T; Norman Kennard, Esquire, and Regina Matz, Esquire, on behalf of Pennsylvania Telephone Association; John Povilaitis

1 on behalf Quest Communications Company; Joel Cheskes,
2 Esquire, and Darryl Lawrence, Esquire, on behalf of
3 the Office of Consumer Advocate; Benjamin J. Aron,
4 Esquire, on behalf of Sprint; Zsu Benedek, Esquire, on
5 behalf of CenturyLink; Michael Gruin, Esquire, on
6 behalf of Sprint; Allison C. Kaster, Esquire, and
7 Adelou Bakare, Esquire, on behalf of the Office of
8 Trial Staff; and Steven Gray, Esquire, on behalf of
9 the Office of Small Business Advocate.

10 Good morning.

11 The parties have agreed to accommodate
12 the remaining witness's schedule, Mr. Zingaretti, so
13 that he may be excused by 1 o'clock today.

14 Are there any preliminary matters that
15 the parties wish to raise?

16 (No response.)

17 JUDGE MELILLO: Hearing nothing,
18 Pennsylvania Telephone Association, do you have a
19 witness to call?

20 MR. KENNARD: Yes, we do. Pennsylvania
21 Telephone Association will call Gary Zingaretti to the
22 stand.

23 JUDGE MELILLO: Stand and raise your
24 right hand.
25 Whereupon,

1 GARY M. ZINGARETTI,
2 having been duly sworn, testified as follows:

3 JUDGE MELILLO: Thank you. Please be
4 seated.

5 Proceed, counsel.

6 MR. KENNARD: Thank you.

7 DIRECT EXAMINATION

8 BY MR. KENNARD:

9 Q Please state your name and business address for
10 the record.

11 A My name is Gary Zingaretti. Business address is
12 -- I work for ICORE, I-C-O-R-E. Business address, 326
13 South Second Street, Emmaus, Pennsylvania, 18049.

14 Q And on whose behalf are you appearing here today,
15 Mr. Zingaretti?

16 A I am appearing here today on behalf of
17 Pennsylvania Telephone Association.

18 Q Had you previously prepared documents in the form
19 of testimonies, first of which is marked as PTA
20 Statement Number 1, direct testimony of PTA,
21 consisting of 57 pages?

22 A Yes, I did.

23 JUDGE MELILLO: And that is so marked
24 for the record.

25 (Whereupon, the document was marked

1 as PTA Statement No. 1 for
2 identification.)

3 BY MR. KENNARD:

4 Q To which were attached GMZ 1 through 16
5 inclusive?

6 A Yes. That's correct.

7 MR. KENNARD: We'd also ask those be
8 marked as well, Your Honor.

9 JUDGE MELILLO: All right. They may be
10 so marked.

11 (Whereupon, the documents were marked
12 as GMZ Exhibit Nos. 1 through 16 for
13 identification.)

14 BY MR. KENNARD:

15 Q Did you also have prepared under your supervision
16 PTA Statement 1-SR, the surrebuttal of the
17 Pennsylvania Telephone Association, consisting of 63
18 pages to which GMZ Exhibit 17 through 19 were
19 attached?

20 A Yes, I did.

21 MR. KENNARD: Ask that those be so
22 marked, Your Honor.

23 JUDGE MELILLO: They will be so marked
24 for the record.

25 (Whereupon, the document was marked

1 as PTA Statement No. 1-SR for
2 identification.)
3 (Whereupon, the documents were marked
4 as GMZ Exhibit Nos. 17, 18 and 19 for
5 identification.)

6 BY MR. KENNARD:

7 Q Finally did you also cause to be prepared the PTA
8 Statement 1-RJ, the joinder testimony, which consists
9 of 12 pages?

10 A Yes, I did.

11 MR. KENNARD: Ask that that also be
12 identified for the record, Your Honor.

13 JUDGE MELILLO: Yes. That may be
14 identified for the record.

15 (Whereupon, the document was marked
16 as PTA Statement No. 1-RJ for
17 identification.)

18 BY MR. KENNARD:

19 Q Are there any corrections that you wish to make
20 to the testimonies or exhibits at this time?

21 A Yes. There are several corrections which need to
22 be made.

23 MR. KENNARD: And Your Honor, for the
24 parties' convenience, we have distributed something
25 called PTA errata, so that -- it seemed to us to be

1 easier for the parties to follow the changes if they
2 were written down.

3 JUDGE MELILLO: I appreciate that.
4 Thank you.

5 THE WITNESS: The first change on that
6 errata sheet is in the direct testimony at Page 10,
7 Line 13. \$44.7 million number should be \$44.3 million
8 number. That's consistent with the exhibit.

9 The next is at Page 19 of direct. You
10 can strike the word -- I'm sorry, on Line 9, strike
11 the word "increases" after "banked."

12 Page 21, the footnote that is on Line 5,
13 Footnote Number 31 is a stray footnote reference, the
14 text of which should be deleted but we're leaving the
15 footnote in there as blank so as not to change any of
16 the subsequent footnote numbers.

17 Last change to direct testimony is on
18 Line 53 -- Page 53, I'm sorry, Lines 19 to 20. The
19 sentence that starts "the retroactive relief
20 provision," strike the word "applies" and the comma
21 after that and in Line 20 strike the word "it," and
22 lawyer's -- after "lawyer's reading" it would be
23 comma, to make the sentence flow.

24 There were also changes to four of the
25 exhibits, I believe three of which have already been

1 provided via e-mail, clean copies. Those are Exhibits
2 8, 9 and 12. And those were -- 8, 9 and 12 were all
3 heading issues. There was no changes to any of the
4 data.

5 Exhibit GMZ 8, the second column shows
6 interstate demand revenues and rates, not intrastate.
7 It was originally labeled as intrastate.

8 BY MR. KENNARD:

9 Q Just for purposes of clarity, original GMZ 8 is a
10 -- there's column blocks. There's three columns under
11 a common title and three additional columns under a
12 common title. Is that what changes?

13 A Yeah. The second block of data is intrastate
14 demand at interstate rates.

15 GMZ 9, which is a multi-page exhibit --
16 they are page numbered however. The GMZ 9, Page
17 Number 9 on the original copy had identifiers over the
18 columns of A, B, and C. Those should be stricken.
19 Those were carried over from an earlier sheet.

20 Then on Page -- I'm sorry, Exhibit GMZ
21 12, Pages 4 through 9, this is an exhibit which
22 quantifies the impact of mirroring Verizon's rate, but
23 in the original filing made it did not say mirroring
24 Verizon rate, it said mirroring interstate rate. So
25 anywhere in that exhibit where we refer to interstate,

1 should be mirroring Verizon intrastate rates.

2 And there was one change which was noted
3 yesterday in Exhibit GMZ 7. That is the caption, it
4 was a schedule showing local rate increases. It said
5 "local rate increases implemented in the global
6 order." It should read "since the global order."

7 I also have two changes to the
8 surrebuttal testimony. Beginning, unfortunately, with
9 the cover sheet. I too didn't have Dr. Loube's
10 proofreader available to me. Where it says "prepared
11 rebuttal direct testimony," strike the words
12 "rebuttal" and "direct" and replace that with
13 "surrebuttal."

14 And the last is on Page 41. That will
15 be Line 18. In the middle of the line, the words
16 "offset setting" should be stricken and replaced by
17 the word "offsetting."

18 And I believe that to be everything.

19 Q Mr. Zingaretti, with those changes that you've
20 noted, is the testimony and exhibits presented as PTA
21 Statement 1, PTA Statement 1-SR, PTA Statement 1-RJ
22 and Exhibits GMZ 1 through 19 true and correct to the
23 best of your knowledge, information and belief?

24 A Yes, they are.

25 MR. KENNARD: Your Honor, we'd ask that

1 these documents be admitted into the record at this
2 time.

3 JUDGE MELILLO: Any objections?

4 (No response.)

5 JUDGE MELILLO: They're admitted.

6 (Whereupon, the documents marked
7 as PTA Statement No. 1, 1-SR and 1-RJ
8 were received in evidence.)

9 (Whereupon, the documents marked
10 as GMZ Exhibit Nos. 1 through 19 were
11 received in evidence.)

12 MR. KENNARD: And the witness is
13 available for examination by the parties.

14 JUDGE MELILLO: I have AT&T as having
15 some questions. Yes.

16 MS. PAINTER: Thank you.

17 CROSS-EXAMINATION

18 BY MS. PAINTER:

19 Q Good morning, Mr. Zingaretti. Good to see you
20 again. I want to start off with this Exhibit GMZ 7.

21 A Yes.

22 Q And you made the change that these were local
23 rate increases implemented since the global order.

24 A That's correct.

25 Q Let's look at Citizens of Kecksburg. When was

1 the \$11 rate established for Citizens of Kecksburg?

2 A I believe the \$11 rate was either implemented at
3 the global -- or part of it was implemented at the
4 global and then the rest were subsequently made
5 shortly thereafter.

6 Q So you'd say around the 1999, 2000 time frame?

7 A Yeah. That would be approximate.

8 Q Okay. Let's look at -- so Citizens of Kecksburg
9 currently has \$11 growth rate; is that correct?

10 A Yes.

11 Q That's the rate they charge their end user
12 customers?

13 A Residential end user customers.

14 Q Let's look at GMZ 9.

15 A Okay.

16 MS. PAINTER: And does this -- I
17 understand that this is proprietary, but I assume that
18 the carrier charge rate is not proprietary, correct?

19 MR. KENNARD: It's a tariff rate.

20 BY MS. PAINTER:

21 Q So the first column on this exhibit has the
22 current carrier charge rate for each of the RLECs; is
23 that right?

24 MR. KENNARD: Are you on GMZ 9 Page 2?

25 MS. PAINTER: I am. Page 2.

1 THE WITNESS: Yes, it does.

2 BY MS. PAINTER:

3 Q Okay. So Citizens of Kecksburg have \$11.18 rate
4 -- carrier charge rate; is that right?

5 A That's correct.

6 Q And that's the rate per line that they charge
7 IXC?

8 A They charge -- that's the rate per line they
9 charge all users of intrastate inter-exchange service,
10 some of which are IXCs.

11 Q Okay. So just to be clear, Citizens of Kecksburg
12 is currently charging a higher carrier charge than it
13 is a local rate to its end users; is that right?

14 A That rate is higher as a result of the actions
15 that the company has implemented based on the global
16 and the Phase 2 proceeding, yes.

17 Q And let's take a look at Line 10. Go back to GMZ
18 7. Ironton -- the rate that Ironton is currently
19 charging its local residential end users is \$13.50 a
20 month. Do you see that?

21 A Yes, I do.

22 Q And looking at GMZ 9, the rate that Ironton is
23 charging for its carrier charge is \$17.99 a month; is
24 that right?

25 A Yes. That's correct.

1 Q Now, going back to Citizens of Kecksburg, the \$11
2 retail rate. Is it your testimony that Citizens is a
3 rural carrier, serving a rural territory?

4 A Citizens has been deemed by this commission to be
5 a rural carrier, yes.

6 Q Does Citizens' \$11 local rate cover Citizens'
7 costs?

8 A I don't think we can make -- draw that conclusion
9 about any of the rates of any of the companies in this
10 proceeding.

11 Q Well, according to your qualifications, Mr.
12 Zingaretti, you have 22 years of experience in the
13 regulatory and revenue requirements segment of the
14 telecommunications industry. What do you think, Mr.
15 Zingaretti? Do you think an \$11 rate covers their
16 costs?

17 A It really doesn't matter what I think whether it
18 covers their cost or not because it's their tariff
19 rate - - -

20 Q I'm asking you, do you think it covers their
21 costs, the \$11 rate - - -

22 A I have not prepared a cost study for Citizens of
23 Kecksburg or any other entity in this proceeding so I
24 cannot answer that.

25 Q Well, taking, Mr. Zingaretti, your 22 years of

1 experience, you don't have any idea as to whether
2 costs in a rural area would be more than \$11?

3 MR. KENNARD: Asked and answered, judge.
4 He says he doesn't know. There's no cost study
5 presented by AT&T or anybody else in this case that
6 would lead him to that conclusion. He's reluctant to
7 make it.

8 JUDGE MELILLO: I agree. It's been
9 asked and answered.

10 BY MS. PAINTER:

11 Q All right. Turn back to GMZ 9.

12 A Okay.

13 Q Page 2. I'm looking at Page 2 in particular. It
14 looks like there are five RLECs with no TTL rate. Is
15 that right? Is that what that dash represents?

16 A Yes. The dash represents zero and there are five
17 carriers who have rebalanced their rates to have a
18 carrier charge of zero.

19 Q And when did those RLECs eliminate their carrier
20 charge rates?

21 A I can't speak to when those rates were effective.
22 I assume the tariff pages would have the effective
23 date but I don't know off the top of my head.

24 Q Okay. I want to make sure I understand PTA's
25 proposal in this case. Is PTA's proposal that the

1 commission should not reduce intrastate access rates
2 at all?

3 A No. That's not PTA's proposal. Actually, if we
4 go to the surrebuttal testimony that might be a little
5 -- or -- yeah, the surrebuttal testimony, it might be
6 a little easier to walk through. This would be the
7 surrebuttal at 61. Page 61. The PTA proposal is that
8 there is rational reform in intercarrier compensation,
9 consisting of a benchmark rate - - -

10 Q Let me stop you there. What is -- what's your
11 proposal on the benchmark rate?

12 A Our proposal on the benchmark rate was set forth
13 in the Judge Colwell proceeding and we would stand by
14 that number. I believe the math on that is \$18.94
15 now.

16 Q Okay. So your proposal is that a benchmark
17 should be set of \$18.94?

18 A Well, -- it depends how you're using the word
19 benchmark. I wouldn't say ben -- I use benchmark and
20 rate cap as synonymous. So if there's a -- I don't
21 want to leave the impression that there is a -- that
22 the benchmark would be a rate everyone would have to
23 get to immediately. It would be a rate cap, which
24 would then be subject to access reductions and local
25 rate increases in a rational and comprehensive manner.

1 Q Okay. So would you be using it consistent with
2 the way that AT&T is using it, that essentially you
3 would assume that RLECs raise their rates to \$18.94
4 and then after that any reduction would be taken from
5 Universal Service Fund?

6 A A little different, I think, than what -- what
7 you've described is kind of imputing the rate increase
8 up to \$18.94. That part of it, yes. Subject to, I
9 believe -- you know, there's a difference between our
10 plan and the AT&T plan in terms of the transition to
11 get there. So it may be a little bit different than
12 the AT&T plan. If AT&T were to say you had to have
13 everything over 18.94 on -- everything up to 18.94 on
14 day one and you only recover the additional after
15 that, I wouldn't agree with that. But if there is a
16 -- transition steps to get to 18.94, then as long as
17 the company's met the transition steps to get there,
18 that -- that is what I would agree to.

19 Q Okay. So your proposal is that the benchmark not
20 be set at 18.94 immediately?

21 A The benchmark in my proposal of 18.94 could be
22 set immediately because it's a rate cap. But within
23 that process we would -- we would -- our proposal also
24 includes getting together in a collaborative nature to
25 resolve these issues, not in hearings, but 18.94 could

1 be the rate cap but there would be a plan designed to
2 get us -- to get the LECs to 18.94 if that's where
3 they need to get to to cover the access revenues that
4 were reduced.

5 Q Well, what is that -- what is that plan?

6 A We haven't set forth a specific plan. We've set
7 forth what we call guiding principles of a plan.

8 Q So you just want the commission to issue an order
9 under your guiding principles?

10 A That's one option. Alternatively they could also
11 take us up on our proposal to take this to a
12 collaborative process and allow the parties to work
13 those details out.

14 Q Well, if -- if the commission were to adopt say a
15 benchmark of 18.94, have you done any type of
16 calculation as to what the size of the Universal
17 Service Fund would be?

18 A We've -- no. We've quantified the impact of
19 mirroring. I believe you can work backwards from the
20 data we've provided to come up with the size of the
21 Universal Service Fund. But we've identified the
22 impact of mirroring and the per line increase that
23 would be required to get to 18.94.

24 Q And what was that impact of mirroring, do you
25 recall?

1 A It's \$63.9 million. And that is just the PTA
2 companies.

3 Q Right. Okay. So if you add in the CenturyLink,
4 would you agree it's about \$86 million?

5 A No. I believe -- I believe it's more like 90
6 million.

7 Q Okay.

8 A 90 -- I have 91.7 million is the total with
9 CenturyLink being another 27.8 million. But obviously
10 CenturyLink's number is in its own testimony.

11 Q Okay. So then that -- 91.7. We have a current
12 Universal Service Fund of 33 million; is that right?

13 A I believe that's approximately the number.

14 Q Okay. So you add the 91.7 million to that 33
15 million and -- just some quick math here, that's about
16 124.7 million?

17 A You -- let me back up. You're adding the entire
18 access reduction to universal service?

19 Q Right.

20 A That would -- yeah, that's an approximate number,
21 yes.

22 Q Okay. But -- and then if you do have a benchmark
23 such as the OCA benchmark, it ends up reducing that
24 somewhat, right?

25 A That would be correct.

1 Q Okay. And so your -- let me just be clear. Your
2 proposal is not to have access reductions and then
3 take the full amount from the Universal Service Fund;
4 is that right?

5 A That's correct.

6 Q Okay. Now, I think part of your proposal as well
7 is, I believe that you testified that the commission
8 should wait for the FCC in light of the FCC recent
9 action regarding the national broadband plan; is that
10 right?

11 A I believe we've said that any changes that are
12 made have to be harmonized with the FCC plan. To the
13 extent that that would require us to wait, that's, I
14 would say, subject to how quickly the FCC acts and how
15 quickly this commission wishes to act.

16 Q All right. Well, let's talk about how quickly
17 the FCC will act.

18 MS. PAINTER: I have what I would like
19 marked as AT&T Cross Exhibit 4.

20 JUDGE MELILLO: That document you are
21 distributing may be marked AT&T Cross-examination
22 Exhibit Number 4.

23 (Whereupon, the document was marked
24 as AT&T Cross-Examination Exhibit No. 4
25 for identification.)

1 BY MS. PAINTER:

2 Q Have you had a chance to review this?

3 A Yeah, I've had a chance to review it very
4 quickly; but go ahead.

5 Q And this is a news release from the FCC regarding
6 this broadband plan to the FCC agenda. Would you
7 agree with that?

8 A Yes, I would.

9 Q And if you look at the last paragraph on Page 1
10 of AT&T Cross Exhibit 4, would you agree that the FCC
11 as part of their broadband plan is going to initiate
12 60 rulemakings?

13 A Yes. That's what the release says.

14 Q And if you look at the last page of this AT&T
15 Cross Exhibit 4, this is a chart of the 60
16 rulemakings. And if you look at this last column,
17 which the heading is -- looks like fourth quarter
18 2010.

19 A Yes.

20 Q About ten blocks down there is the intercarrier
21 compensation NPRM. Do you see that?

22 A Yes, I do.

23 Q Okay. So looks like the FCC's -- would it be
24 your understanding that the FCC is going to be
25 releasing its intercarrier compensation NPRM in the

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1 fourth quarter of 2010?

2 A It would be my understanding that as of April of
3 2010 that's when they believe it will be released.

4 Q Okay. Would you agree that the FCC issued its
5 first intercarrier compensation NPRM in 2001?

6 A In the open intercarrier compensation docket?

7 Q Yes.

8 A I believe that was the starting point for that,
9 yes.

10 Q Okay. To date there has been no decision on
11 that, right?

12 A I think there have been small decisions that may
13 have included that docket as a reference, but no
14 unified intercarrier compensation reform.

15 Q So I just want to make sure I'm clear. Is it
16 your position that the commission should not issue a
17 decision in this case until the FCC acts on the
18 intercarrier -- this new intercarrier compensation
19 NPRM?

20 A Again, I can't control the agendas of either the
21 FCC or the PUC.

22 Q I'm just asking for your position.

23 A My position is that they need to be harmonized.
24 And that doesn't mean having to wait, it just means
25 what it says. Harmonized. To make sure that the --

1 the results that are going to be -- that are going to
2 come from the state proceeding must be in line with
3 what we either expect the FCC to do or what the FCC
4 does. And I believe they've stated in this broadband
5 order elsewhere that it's their intention to mirror --
6 to have states mirror the intrastate rate --
7 interstate rates, I'm sorry, for intrastate purposes.
8 That's consistent with our proposal. So I think that
9 would be harmonized.

10 Q Okay. So that the commission should try to guess
11 what the FCC is going to do when it's making its
12 decision here?

13 A The commission is free to set its policy as it
14 sees fit. It need -- our position is it needs to be
15 harmonized, which I think is consistent with nearly
16 every party who's filed commissions -- filed comments
17 at the FCC, indicating that they'd like to see a
18 unified rate structure.

19 Q All right. Let me turn to your surrebuttal at
20 Page 27. And I'm looking at the top of the page. If
21 you turn back to 26, it's question and answer, it's
22 about COLR or carrier of last resort obligations; is
23 that right?

24 A That's correct.

25 Q Okay. And you state there at Line 10, if the

1 obligation, and I believe you mean the COLR
2 obligation, does not exist, then the commission should
3 advise the companies so they can revise their business
4 plans accordingly. Do you see that?

5 A Yes, I do.

6 Q How would the companies revise their business
7 plans accordingly?

8 A Well, amongst other things, they could begin to
9 not serve customers who they don't have network to
10 today, if it's not economically viable. That to me is
11 the -- is the crux of the carrier of last resort
12 obligation. We got spun off yesterday -- I think it
13 was yesterday -- on market exit for a company with a
14 COLR responsibility, but it's the duty to serve anyone
15 that is, in my mind, more important portion of the
16 COLR obligation.

17 Q Okay. So the "revise business plans accordingly"
18 is that some of the RLECs would choose not to serve
19 certain areas of their territory?

20 A They could. It could relate to a lot of the
21 reporting, which CenturyLink witness Bonsick
22 referenced yesterday. There are all the things that
23 go into the carrier of last resort obligation, which
24 the companies could then evaluate whether they want to
25 undertake one versus the other.

1 Q Well, talk me through that. What are the other
2 things that go into the carrier of last resort?
3 You've mentioned that there are certain territories
4 that you may not serve, reporting requirements. What
5 else?

6 A I would say witness Bonsick listed them as well
7 as I could. And I would agree that the items he
8 listed were sufficiently described.

9 Q I'm asking you. What would they be?

10 A (No response.)

11 Q I'm trying to - - -

12 A The obligation to build broadband network where
13 no one else has that obligation.

14 Q That's part of your COLR obligation?

15 A I would say it's -- it's an obligation -- there
16 are -- short answer, yes. Because it is a regulatory
17 burden imposed upon the incumbents that's not imposed
18 upon competitors.

19 Q Well, would you agree that the RLECs -- wasn't
20 Chapter 30 a bit of a quid pro quo? Didn't the RLECs
21 voluntarily agree to build broadband networks in
22 exchange for certain pricing flexibility?

23 A Pricing flexibility that we're here in a
24 regulatory proceeding to try to enforce.

25 Q What does that mean?

1 A If the quid was the pricing flexibility, to work
2 within our price stability mechanisms, then we would
3 not be in a proceeding trying to talk about cost of
4 service and cost of COLR obligations, we'd simply be
5 operating under that plan and building our broadband
6 network.

7 Q Okay. So are you -- what are you saying? That
8 under that quid pro quo that you will guarantee a
9 certain level of revenues?

10 A Not revenues. Rates.

11 Q Okay. Well, isn't AT&T arguing that you should
12 be able to charge essentially what you want to your
13 customers?

14 A Only if we charge what you want to the carriers.

15 Q Well, in terms of these COLR obligations that
16 you've discussed, how much does it cost the PTA
17 companies to comply with these reporting requirements?

18 A The PTA companies have not prepared a study for
19 that. CenturyLink has not prepared a study for that.
20 In my 25 years in the industry, I have never seen a
21 study for COLR obligations, nor have I seen a
22 methodology ever presented by a commission, and I
23 believe in Sprint witness Appleby's testimony -- or in
24 response to discovery, he had never seen a COLR study,
25 and I think he's just shy of 25 years in the industry.

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1 So the short answer is we didn't provide a study of
2 any costs, which such study has never been defined or
3 authorized.

4 Q Do you have any idea? I mean, even without a
5 study, do you have any idea how much those costs may
6 be? Are they \$10, \$10 million, \$30 million, \$100
7 million?

8 A Without a study I couldn't say.

9 Q Has any RLEC in Pennsylvania ever petitioned the
10 commission to be relieved of any of their COLR
11 obligations?

12 A Not that I'm aware of in Pennsylvania, no.

13 Q What would you -- what would you even request the
14 commission to do?

15 A I think that would probably be a legal question.
16 I wouldn't know what to ask the commission to do.

17 Q Has any RLEC ever petitioned the commission to
18 have its local service declared competitive?

19 A None that I'm aware of.

20 Q Let's turn back to GMZ 7 quickly.

21 A Okay.

22 Q Now, in the second column it has the current
23 local service rates; is that right?

24 A Correct.

25 Q And is it -- is it your position that there would

1 be massive migration of customers if any of these
2 rates were increased?

3 A I think it's our position that there would be
4 migration if the rates were increased. However, the
5 bottom line is that the local rates need to be
6 comparable and affordable and those are the guidelines
7 which should ultimately determine where these rates
8 are at the end of this or other proceedings.

9 Q Well, have you done any type of affordability
10 study?

11 A Again, as far as affordability, comparability, we
12 stand by what was in the USF proceeding. And that was
13 a comparability standard prepared by PTA.

14 Q Is an \$11 rate comparable to -- to meet the
15 comparability standard?

16 A I would say that the \$11 rate could meet the
17 comparability standard in Verizon's rural areas. If
18 you - - -

19 Q Well, is that your understanding of
20 comparability? Isn't comparability that the rural
21 rates are supposed to be comparable to the urban
22 rates?

23 A Yes. But that literal reading would also mean
24 that Verizon within its own operation is not in
25 compliance with comparability. So there are other

1 factors that go into comparability which could make
2 this rate comparable to those of Verizon's.

3 Q I guess what I'm trying to get at, is it your
4 testimony that the rates that are listed in this
5 current column cannot be raised at all, either because
6 of mass migration concerns or concerns of
7 comparability and affordability?

8 MR. KENNARD: Can you indicate where in
9 his testimony he's made that statement?

10 MS. PAINTER: Well, I'm asking him that.

11 MR. KENNARD: You're not asserting that
12 he's made that statement?

13 MS. PAINTER: No. I'm asking him if
14 that is his position.

15 THE WITNESS: Could you repeat the
16 question, please?

17 BY MS. PAINTER:

18 Q Is your position that the rates -- current local
19 service rates cannot be raised at all, either because
20 of concerns of mass migration or comparability or
21 affordability? In other words, looking at this
22 column, is that a perfect rate for all of the RLECs
23 and they cannot be raised at all by the commission?

24 A No. We haven't said that. The benchmark rate
25 that we established, the rate cap, would create the

1 break point where universal service begins to kick in
2 to keep rates affordable and comparable. If a company
3 for its own purposes determines that \$11 or 13.50 is
4 the rate that they need to charge, it can't charge any
5 more than that, it would be the PTA proposal that that
6 difference between the 11 and the 18.94, or whatever
7 benchmark is chosen, is essentially eaten by that
8 company. It's imputed against their revenues.

9 Q So it -- how does the commission know when a
10 company has decided that it can't increase its rates
11 anymore?

12 A It wouldn't see any tariff rate increase filings.

13 Q Okay. Well, you testified, for instance, that
14 Citizens -- their \$11 rate, they had to keep it for
15 four years, so it's your position that rate cannot be
16 raised at all?

17 A That's not my position at all. My position is
18 that up to an affordability standard and a
19 comparability standard, the amount of increase would
20 be at the discretion of the companies. The access
21 reductions in our proposal would be implemented over a
22 transition period and as companies chose not to
23 increase rates to get to that benchmark rate, that
24 would be a decision they would make knowing full well
25 that they were losing access revenue and not

1 recovering all of the offsetting increases.

2 Q Now, at Page 47 of your surrebuttal testimony,
3 Line 14, you state there AT&T recommends rate cap for
4 residential customers of \$25. Now, that's not until
5 the fourth year of AT&T's proposal; is that right?

6 A I'm sorry, I went to my direct. It was Line 47?

7 Q No.

8 A Page 47.

9 Q Yeah, Page 47, Line 14.

10 A Yes. That's the ultimate residential benchmark
11 rate or rate cap under the AT&T proposal.

12 Q So the \$25 is in the fourth year?

13 A That is -- yeah. \$22 immediately and then 1
14 dollar increases thereafter.

15 Q On Page 49, starting at Line 22, you talk about
16 the CenturyLink survey, you call it a poll, the
17 customer survey. And going on to Page 50 you state
18 that essentially that you would expect to see the same
19 type of results that CenturyLink saw.

20 A That's correct.

21 Q And that's for all of the RLECs?

22 A That is for the RLECs in general, so yes, you
23 would say it was for all of the RLECs.

24 MS. PAINTER: Your Honor, I'd like to
25 have marked AT&T Cross Exhibit 5.

1 JUDGE MELILLO: The document you're
2 distributing may be marked as AT&T Cross-examination
3 Exhibit Number 5.

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

7 MR. KENNARD: Can we have just a second,
8 Your Honor?

9 (Brief pause.)

10 MR. KENNARD: Thank you, Your Honor.

11 BY MS. PAINTER:

12 Q Now, this is a -- PTA's response to AT&T data
13 request and you sponsored this; is that correct?

14 A Yes. First page.

15 Q Right. Well, you - - -

16 A Right.

17 Q And what was asked is whether -- talking about
18 essentially your statement that if rate increases were
19 increased, that it would accelerate customer migration
20 and line losses; is that right?

21 A That's correct.

22 Q And you reference back to a response of PTA in
23 the proceeding before ALJ Colwell, correct?

24 A Yes, we did.

25 Q And that response was provided on the second

1 page?

2 A Yes. It appears it is.

3 Q Okay. So -- and essentially what this is, is
4 it's to show -- look at what it says, it's to show
5 that there's a increase in dial tone rates and during
6 the same period there's been a -- dramatic line
7 losses; is that right? And this is for one company in
8 particular, for D & E.

9 A Give me a minute. I want to figure out which
10 line is which on the exhibit since it's in black and
11 white.

12 Okay.

13 Q Okay. Let's take a look at this chart. If you
14 look at the first time period from December of 2000,
15 December of 2001, the dial tone rate line, would you
16 agree with me that the dial tone rate stays -- if it
17 raises, it raises only slightly?

18 A That -- the top line being the dial tone rate
19 line, yes, it does appear to increase just slightly.

20 Q Okay. And would you agree that during that same
21 time period, that the line loss was fairly steep?

22 A No. I believe -- if I interpret this correctly,
23 I believe what the data point says is that there was
24 about zero percent change in line loss. That aligned
25 the second dot on the top line with the second dot on

1 the bottom line, which shows that when there was a
2 minor rate increase, there was what appears to be a
3 very slight rate decrease.

4 Q So this -- okay. So this -- the fact that this
5 is sloping upward does not show a decrease in --
6 you're telling me that there was no line loss between
7 December 2000 and December 2001?

8 A I believe that's what I've been telling you, yes,
9 because the right access to this grid is not total
10 lines or total lines lost, it's a percentage of lines
11 lost. So what that illustrates is that from December
12 '00 to December '01, you had a very slight rate
13 increase, which was met by a very slight decrease in
14 lines.

15 Q Okay. Well, let's look at the dial tone rate
16 from -- it's the third block over. Doesn't really
17 completely correspond, it doesn't look like, to days
18 but it may be December of '02.

19 A Okay.

20 Q Into December of '03. See that?

21 A Yes.

22 Q Do you see there is a slight increase there?

23 A Yes.

24 Q And then the gain/loss line is -- looks to me
25 like it's steady. Are you saying that's not steady?

1 A I'm saying that is not steady, yes.

2 Q Okay. Well, tell me how to read this gain/loss
3 part then.

4 A The gain/loss part -- the fact that there is a
5 line here is, in my -- if I had done this graph, there
6 wouldn't be a line there. These are data points. The
7 third data point in the bottom gain/loss graph
8 correlates to the right-hand side of this table, which
9 shows a 2 percent line loss. So you would have to
10 compare that -- if we were talking about, you know, as
11 has been referred to, the elementary and indisputable
12 downward sloping demand curve, you would compare that
13 to the rate right above the December of '02 growth
14 rate. So you're looking at more than likely a 13 to
15 14 dollar rate and that created a 2 percent reduction
16 in lines.

17 Q And is it your testimony that the -- that an
18 increase in rates is what caused that loss in lines?

19 A Not exclusively. Not exclusively. When you
20 average a company or multiple companies, you can end
21 up drawing, you know, what I call the fallacy of
22 causation, that that's the only thing that happened
23 that changed anything. What you've got, even within
24 the D & E entity, is the same thing that was described
25 yesterday by CenturyLink of areas of strong

1 competition, areas of no competition. So that demand
2 curve that might apply, might apply in the IXC
3 market, might apply in parts of the RLEC markets, but
4 in other parts of the RLEC market it's a perfectly
5 straight demand line because it is still a monopoly
6 offering. So it is a mixed bag and the customer
7 migration is driven in part by the price but also in
8 part by competitive alternatives.

9 Q Okay. Let me look at the last two data points
10 from December of '07 to December of '08. Would you
11 agree with me that the price plates stayed fairly
12 consistent there?

13 A Yes. It appears to stay fairly consistent.

14 Q And what does that gain/loss line show you there?
15 Does that show 2 percent loss?

16 A No. Those gain/loss -- it shows 4 percent in
17 2007.

18 Q I see.

19 A And about 5 and a half percent in 2008.

20 Q I see. Okay.

21 A Which is indicative, I think -- going back to the
22 last point -- of the fact that competitors are serving
23 parts of the exchanges and in those areas where we are
24 pushing rates up, that's going to have the consequence
25 of pushing more customers off of the network onto the

1 competitors.

2 Q Do you know where the competitors are or where
3 they aren't?

4 A I believe we've stated there are no studies
5 presented by the companies or prepared that would
6 outline that.

7 Q Now, you state in your surrebuttal, I think you
8 stated this is in your direct and you stated again
9 today, that you would like essentially for the parties
10 to get together and talk about resolution. And in
11 fact, on Page 61 of your surrebuttal -- you put there
12 on Line 6 that no party has accepted that offer. Now,
13 you are aware of the fact, aren't you, that AT&T -- a
14 representative from AT&T did in fact contact and meet
15 with a representative from PTA to discuss the
16 possibility of resolving issues in this case, aren't
17 you?

18 A AT&T and PTA?

19 Q Yes.

20 A No, I'm not aware of that.

21 MS. PAINTER: I have nothing further,
22 Your Honor. I would like to move the admission of
23 AT&T Cross-examination Exhibit 4 and 5.

24 JUDGE MELILLO: Any objections?

25 (No response.)

1 JUDGE MELILLO: Those documents are
2 admitted.

3 (Whereupon, the documents marked
4 as AT&T Cross-Examination Exhibit Nos.
5 4 and 5 were received in evidence.)

6 JUDGE MELILLO: Sprint, do you have any
7 cross-examination?

8 MR. ARON: Yes, Your Honor. Let me move
9 the microphone.

10 CROSS-EXAMINATION

11 BY MR. ARON:

12 Q Good morning, Mr. Zingaretti. I'm Benjamin Aron.
13 I'm representing Sprint/Nextel.

14 A Good morning.

15 Q I'd like to ask you a quick question on Page 10
16 of your surrebuttal testimony. And between Lines 6
17 and 10, you talked about setting rates at cost. I'm
18 curious, what parties to this case have discussed or
19 advocate setting rates at cost?

20 A There have been multiple claims for cost studies,
21 which I would interpret that the carriers who wanted
22 those cost studies wanted to see rates that were based
23 on those cost studies. So that's what that's in
24 reference to.

25 Q Right. The question, however, was what party has

1 advocated that rates be set at cost? Every party here
2 has actually made a proposal for what they believe
3 ought to happen. Are any of those proposals -- do any
4 of those proposals, rather, suggest that rates ought
5 to be set at cost?

6 A To the extent interstate access rates are cost
7 based, yes, they have. And I'm not sure that every
8 party has set forth a proposal, but those who have I
9 believe have all used either the interstate rate or
10 Verizon's rate, which obviously we don't agree that
11 Verizon's rate would be indicative of our costs. Our
12 being PTA.

13 Q Is it your position that interstate rates were
14 set at cost?

15 A Interstate rates are set by NECA, and they are
16 cost -- they are based on embedded costs of all
17 participants in the NECA pool. Individual company
18 would be indicative of each individual company. It
19 may or may not be. But there are cost based rates for
20 the thousand or so carriers that participate in the
21 NECA tariff.

22 Q You said cost based. That's very different, is
23 it not, than cost?

24 A To the extent cost based includes a reasonable
25 return on investment, yes.

1 Q So you agree that interstate rates do have a
2 reasonable return on investment?

3 A For the elements which it is being applied, yes.

4 Q Okay. In other words, traffic sensitive - - -

5 A The traffic -- for the traffic sensitive portion
6 for switching, for instance, has a return on switching
7 investment.

8 Q Okay. Thank you. And you testified, correct,
9 that cost studies have never formed the basis for
10 access rates; is that correct?

11 A I'm not sure if I said never in my testimony but
12 - - -

13 Q Let's take a look.

14 A Yeah, if you have a cite, that would be fine.

15 Q Page 17, Line 10 through 11.

16 MR. KENNARD: Surrebuttal?

17 MR. ARON: I'm sorry. That is correct.

18 Surrebuttal.

19 THE WITNESS: Lines -- I'm sorry, which
20 lines?

21 BY MR. ARON:

22 Q Lines 10 through 11.

23 A Yes. Cost studies were never used when the USF
24 was set up and the rates were established. And I
25 would note that even in 1984 or 5 when this commission

1 implemented access, it simply mirrored the NECA rates
2 at the time. So there were no formal cost studies
3 even presented at that point in time.

4 Q How were rates, regulated rates, set prior to --
5 let's say prior to 1993?

6 A They were set very similarly to what we're all
7 talking about here. They were set in more or less a
8 residual basis, which was total company review of
9 earnings under rate of return regulation and
10 essentially determination by the commission in each
11 case of what was the affordable local service rate,
12 and what was left over was to access and toll.

13 Q I see. But cost was never part of that
14 consideration, a company's cost of providing service?

15 MR. KENNARD: The cost of a service or
16 the cost of service?

17 MR. ARON: The cost of providing a
18 service.

19 MR. KENNARD: As a total company
20 proposition? As a revenue requirement?

21 BY MR. ARON:

22 Q I'll let you answer the question as you choose.

23 A Could you restate the question please then?

24 Q During rate return regulation, was cost a
25 consideration in setting regulated rates?

1 A In the aggregate, under rate of return
2 regulation, yes, there would have been an intrastate
3 revenue requirement, which was met by a series of --
4 which was satisfied by the application of a series of
5 rates which were developed in accordance with the
6 longstanding public policy of universal service.

7 Q Okay. Thank you. You mentioned universal
8 service so let me ask you a question about that. Are
9 you aware of whether there is any statute or rule that
10 obligates the commission to establish or maintain a
11 Pennsylvania Universal Service Fund?

12 A I'm not familiar with all the statutes and rules.
13 I think I'd defer that one to an attorney.

14 Q Just whether you're aware of any. So I take it
15 you are not, it sounds like.

16 A I know that the existing state USF, there was a
17 rulemaking proceeding after that. I'm assuming it was
18 codified, but at this point I couldn't point you to
19 it.

20 Q And prior to 1999 when the global order was
21 issued, prior to that, there was no Pennsylvania USF;
22 is that correct?

23 A That's correct.

24 Q Okay. And when the commission established the
25 Pennsylvania Universal Service Fund, that was a policy

1 decision by the commission, was it not?

2 A I guess I would just consider it a continuation
3 of the universal service obligations, and the state
4 acted in that way. I'm not -- I'm not sure that I
5 could say that it was a preconceived state policy.
6 I'm not -- you know, I'm not in on those discussions
7 yet.

8 Q Your opinion. Do you believe that was a policy
9 decision by the commission?

10 MR. KENNARD: Asked and answered, judge.

11 MR. ARON: It has not been answered.

12 MR. KENNARD: To the extent it's been
13 asked, it's been answered. You may not like the
14 answer, but fundamentally if he's being asked about
15 the policy position, that's fine. Your Honor
16 sustained those objections. I'm not -- seems to me
17 like what we're driving at here is is it a legal
18 requirement or a policy requirement. And those kind
19 of questions should be briefed and not subject of
20 cross-examination to a lay witness, particularly when
21 it's repetitive.

22 MR. ARON: There's no shortage of
23 testimony from this witness and from virtually every
24 witness here about what the commission ought to be
25 doing, why they ought to be doing it, whether it's

1 appropriate or why it's appropriate. And that's
2 essentially what we're here to talk about. Access
3 rates, the relationship of access rates with universal
4 service. I am curious about the PTA companies'
5 position on why there's a USF at all. They must have
6 an opinion. It didn't just spring into existence of
7 its own accord. It happened. Companies all existed
8 when it happened. Mr. Zingaretti has been in the
9 industry for 22 years. I'm sure he's very familiar
10 with why there is a PA USF and I'm curious whether he
11 believes that it was a policy-based decision.

12 JUDGE MELILLO: I think he answered that
13 he was not privy to the conversation, so I'm not
14 certain that he knows. But I'll allow one more
15 question in that regard to see if perhaps you can get
16 more responsive - - -

17 MR. ARON: Thank you, Your Honor.

18 JUDGE MELILLO: - - - than you're trying
19 to get, I guess.

20 BY MR. ARON:

21 Q Mr. Zingaretti, understanding that you were not
22 employed by the commission at the time and were not
23 privy to the commission's discussions of why it
24 created the Pennsylvania Universal Service Fund, is it
25 your opinion that they reached a policy conclusion,

1 the result of which was the establishment of a
2 Pennsylvania Universal Service Fund?

3 A I don't know that they reached a policy
4 conclusion.

5 Q Okay. I'm curious whether you have an opinion
6 regarding whether the commission can change the
7 Pennsylvania Universal Service Fund.

8 A Again, I think that is a legal question. I'm not
9 sure that -- as I said, I can't point to the statute
10 or that it is codified, so I can't really say whether
11 they can or can't change that.

12 Q Can you turn to Page 62 of your own surrebuttal
13 testimony. Can you read me the first bolded caption
14 on that page?

15 A The PA USF design for price cap companies.

16 Q So you testified, if I'm understanding you
17 correctly, that they ought to make changes to the PA
18 USF. So I'm going to ask you again, do you believe
19 that the commission has the authority to change the
20 Pennsylvania Universal Service Fund?

21 A I don't think I've testified that they should
22 make changes. If you read that more closely you'll
23 see that we're talking about the incremental Universal
24 Service Fund which might come from this proceeding,
25 not the existing Universal Service Fund. So we've not

1 taken a position that that should change.

2 Q Appreciate that. You testified that inter-MTA
3 traffic is not much of an issue for wireless carriers;
4 is that correct?

5 A That's correct. As it relates to the
6 Pennsylvania RLECs.

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

9 A I have.

10 Q And are you familiar with Mr. Appleby's claim
11 that Sprint incurs -- nationally incurs, not in
12 Pennsylvania, hundreds of millions of dollars in
13 access charges for its wireless traffic?

14 A I read that and that may be the national number.
15 However, I don't know what the Pennsylvania number
16 was. It wasn't presented. The only thing we've heard
17 about Pennsylvania is that for CenturyLink it's less
18 than 5 percent of their total access traffic. So I
19 guess I stand by my testimony.

20 Q And he also indicates that wireless carriers hand
21 their inter-MTA traffic IXCs for delivery to local
22 exchange carriers over access rates, right? That's
23 the mechanism by which they deliver that traffic?

24 A In some cases that's how they deliver the
25 traffic, yes.

1 Q Okay. Do you have any reason to dispute that?

2 A No.

3 Q Okay. And does each PTA member directly
4 interconnect with Sprint?

5 A Please define which Sprint entity we're speaking
6 of.

7 Q Sprint Wireless -- well, frankly, all of them.
8 Any of them. You pick.

9 A There may -- I believe there are entities that
10 interconnect directly with Sprint, the interexchange
11 carrier. I honestly can't say whether Sprint Wireless
12 directly interconnects with every -- with any PTA
13 company but I would suspect they might interconnect
14 directly to some of the larger PTA companies.

15 Q But not to all of them, right?

16 A No. I would suspect not to all of them.

17 Q Okay. And for those PTA member companies that do
18 not directly interconnect with Sprint, how do they get
19 traffic to Sprint?

20 A The same way Sprint gets traffic to the RLECs.
21 Through a tandem provider, typically Verizon.

22 Q Why do rural carriers -- why do they choose to do
23 that? Why not directly interconnect with Sprint?

24 A It's not the -- it's not the rural LEC's choice.
25 It's Sprint's choice. They're the ones who would

1 order the circuits to interconnect, not the RLEC.

2 Q I see. Would you agree that the rationale behind
3 the decisions to directly interconnect are probably
4 economic and efficiency reasons, that it's probably
5 less expensive to use the aforementioned tandem
6 provider?

7 MR. KENNARD: I object. He said it's
8 not RLEC's decision. It's Sprint's decision. So he's
9 asking him speculation of what Sprint's
10 decision-making process is. Mr. Appleby should have
11 testified to this.

12 MR. ARON: Your Honor, he's been in the
13 industry for 22 years. I think it's hardly a secret
14 that certain decisions in this industry are made due
15 to efficiency decisions -- considerations rather.
16 It's not a complicated question and it's not specific
17 to Sprint. The question is whether, when carriers
18 connect indirectly, whether that is grounds upon an
19 efficiency and economic -- well, economic efficiency
20 reasons.

21 JUDGE MELILLO: I think it's a fair
22 question. Mr. Zingaretti may not know whether it's
23 Sprint. It's a fair question. Go ahead. You may
24 answer.

25 THE WITNESS: Could you restate the

1 question, please?

2 BY MR. ARON:

3 Q Certainly. Do you -- your understanding of the
4 industry, having been in the industry for 22 years, do
5 you suspect or agree that economic efficiency reasons
6 underlie the decisions to indirectly connect with
7 other carriers?

8 A Specifically, obviously each carrier makes their
9 own decision. That could be part of it. There are --
10 there are other reasons why carriers may not want to
11 directly connect with other carriers. Which I would
12 say are -- let's put it this way. Through -- by going
13 through a tandem, a carrier that wishes to avoid
14 paying appropriate access charges has more options
15 than they do if they interconnect directly. So
16 there's -- I would say that's sort of the -- I'll call
17 it the devious reason not to interconnect directly.
18 But in general I think most law-abiding,
19 regulation-abiding carriers wouldn't, I hope, use that
20 in their decision making.

21 Q Is this practice fairly common in the industry in
22 your experience, indirect interconnection?

23 A Yes. There's indirect interconnection through
24 most of the industry.

25 Q Is there any reason preventing Sprint from

1 delivering its inter-MTA traffic to RLECs via Sprint's
2 affiliated IXC?

3 A No. None that I'm aware of. Carriers use least
4 cost routing regularly.

5 Q Have PTA companies endeavored to determine what
6 percentage of Sprint's traffic delivered by its IXC is
7 inter-MTA wireless originated traffic?

8 A At this point no. They had -- the PTA companies
9 evaluated how much inter-MTA traffic is billed via the
10 interconnection agreement directly with Sprint and the
11 other parties. However, they have not undertaken a
12 study to identify all of the traffic. I would also
13 note though that in terms of what the carriers have
14 billed Sprint specifically, the carriers have not even
15 been able to get an interconnection agreement with
16 Sprint until just this past month. Five years after
17 it was requested. And the only reason -- well, I'll
18 stop there. Five years after it was requested.

19 Q Glad you mentioned that. I have every intention
20 of talking about that, but we'll wait just a minute
21 and get back to that if you don't mind. You testified
22 that wireless carriers cannot bill tariff access
23 charges; is that correct?

24 A That's my understanding of the federal rules,
25 yes.

1 Q Is there anything that precludes the wireless
2 carriers from entering into agreements with ILECs to
3 charge access?

4 A They are free to enter into that type of an
5 agreement.

6 Q How many of the PTA carriers have entered into
7 that -- such an agreement with Sprint?

8 A I don't believe there was anything in the
9 agreement that was just filed - - -

10 Q I'm asking you any agreement. Not that specific
11 agreement. How many of them have an agreement with
12 Sprint, any agreement with Sprint?

13 A Again, focusing Sprint wireless?

14 Q Yes. We're talking about wireless access.

15 A I just wanted to be clear.

16 Q Absolutely.

17 A To my knowledge, none of the PTA companies charge
18 access -- or are -- have agreements which allow Sprint
19 to charge access.

20 Q None of them. Okay. Okay. So the 12 RLECs that
21 entered into interconnection agreements with Sprint,
22 let's talk about that. Do those agreements -- I guess
23 we've just established that those agreements do not
24 have any provisions allowing Sprint to compensate the
25 RLECs for RLEC non-local traffic termination, correct?

1 Access charges.

2 A For Sprint to compensate the RLECs you said?

3 Q Let me rephrase it. I might have gotten that
4 backwards. Those agreements don't allow Sprint to
5 charge access to the RLECs for non-local traffic?

6 A I don't believe that they do.

7 Q Okay. You made a point of mentioning in your
8 testimony that Sprint has not paid for traffic
9 termination prior to entering into this agreement,
10 correct?

11 A Yes.

12 Q Okay. Did the RLECs bring a complaint to the
13 commission about that?

14 A Not that I'm aware of.

15 Q Have the RLECs requested that Sprint pay any
16 money that the RLECs might claim was due during the
17 aforementioned period?

18 A I would be speculating as to whether any of the
19 RLECs had any individual conversations with Sprint.
20 So I would have to say I don't know.

21 Q Don't know. Okay. But you would agree that they
22 have a right to come to the commission and complain
23 about such things, wouldn't you?

24 A I would suspect that they probably have that
25 right. And we're talking access traffic, inter-MTA

1 traffic?

2 Q Yes, that's correct. Whatever it is that you
3 said we weren't paying your clients, that traffic.

4 A Well, the inter-MTA traffic, they would have had
5 a right to file a complaint for non-compliance with
6 our tariffs. I'm not sure, I've never had to file a
7 complaint on intra -- on carriers not paying intra-MTA
8 traffic rates. So I'm not sure where that complaint
9 could have been filed or ended up.

10 Q But those 12 carriers did not file in any court
11 that you're aware of, did not complain to any entity
12 that would have jurisdiction over that kind of matter,
13 none of them have filed such a complaint, have they?

14 A None that I'm aware of.

15 Q You mentioned that the negotiation was a
16 five-year, ongoing negotiation; is that correct?

17 A I was not involved in all of the negotiations.
18 But that's my understanding, that it was five years
19 from the date of request for interconnection until the
20 agreement was actually done.

21 Q Okay. And there are processes under federal law,
22 are there not, to avoid extended negotiations?

23 A I believe there are processes available to both
24 parties to avoid extended negotiations, yes.

25 Q And those are typically, without getting into the

1 statute section, such as arbitrations, right, the
2 carriers are allowed to take a -- such a dispute to a
3 state commission like the Pennsylvania commission to
4 have the commission arbitrate the disputes and reach a
5 decision on what the final interconnection agreement
6 between carriers ought to be, correct?

7 A That's -- yeah, that's one remedy I'm familiar
8 with, yes.

9 Q How many of those 12 carriers took advantage of
10 that, the available remedy of arbitration?

11 A Again, I wasn't a participant in the negotiation
12 of the agreement. I'm assuming that -- I would only
13 be assuming that since the agreement was ultimately
14 executed individually by the parties, that there was
15 no arbitration. I guess the -- there would be record
16 here at the PUC if there was.

17 Q And in the event that an arbitration is
18 initiated, there is a mandated time frame for the
19 institution of the arbitration, for finishing the
20 arbitration and for the commission issuing a decision,
21 right? There's time lines that govern?

22 A There are time lines that govern, yes.

23 Q But again, none that you're aware of, none of
24 those 12 carriers took advantage of the arbitration
25 remedy?

1 A I don't know if they did. Like I said, it would
2 be an assumption otherwise.

3 Q I see. And are you familiar with the term bill
4 and keep? It's an industry term. Are you familiar
5 with that?

6 A Yes, I am.

7 Q And that term describes an arrangement which
8 carriers do not pay each other for the traffic they
9 exchange, correct?

10 A That is correct.

11 Q Is that a phrase, that term, that's found in --
12 are you aware of whether that's found in the FCC's
13 rules?

14 A It is. And as I interpret bill and keep, to the
15 extent that I've seen it in the industry, it's
16 typically a design mechanism for when traffic is in
17 balance, that companies decide that bill and keep is a
18 satisfactory way to operate. I don't believe that
19 that necessarily describes the wireless/wire line
20 relationship. I view bill and keep a little
21 differently than I think Sprint might.

22 Q Is your view of bill and keep the view that's in
23 the FCC's rules? Does it talk about -- are you aware
24 of whether it describes balance traffic in the FCC
25 rules?

1 A I don't have the FCC rules in front of me, nor do
2 I have the Telecom Act. But in terms of how I've seen
3 it used in the industry and used in interconnection
4 agreements, which would be based on the FCC rules,
5 there is typically traffic balance provisions which
6 would kick in a bill and keep mechanism as opposed to
7 paying access. And typical are 60/40 traffic
8 balances. So to the extent that the industry has
9 interpreted bill and keep and put it into
10 interconnection agreements that wireless providers
11 have in fact signed, that's how I -- that's how I
12 believe bill and keep has been interpreted.

13 Q But you apparent -- the question was whether
14 that's how it's in the rule, and I guess from what I'm
15 gathering is you don't know.

16 A I don't have the rule in front of me, no.

17 Q Fair enough. And do PTA carriers have
18 interconnection agreements with every carrier with
19 whom they exchange traffic?

20 A Well, they wouldn't need interconnection
21 agreements with anyone who they exchanged --
22 inter-exchanged traffic with. So no.

23 Q Okay. How about inter-MTA traffic? Do you have
24 an agreement with every carrier -- do all of the PTA
25 member companies have interconnection agreements with

1 every carrier with whom they exchange inter-MTA
2 traffic?

3 A I -- I'll say I don't believe so. I believe
4 there are probably some carriers whose traffic is
5 deemed de minimis to where the cost of actually
6 developing and implementing and getting approval of an
7 interconnection agreement would outweigh the benefit
8 of the ability to bill a reciprocal compensation rate.
9 And again, access traffic, to the extent that's
10 inter-MTA, would be covered by the tariffs.

11 Q I see. So if I understood your answer correctly,
12 there are carriers with whom the PTA members exchange
13 traffic and do not collect compensation for that
14 traffic.

15 A I don't think that's what I said. I think what I
16 said was there are -- there are likely carriers whose
17 traffic is de minimis and as such neither party bills
18 the other for that traffic. So that would be another
19 flavor of bill and keep.

20 Q Okay. So we have carriers whom the PTA members
21 don't charge for the traffic. Correct?

22 MR. KENNARD: Asked and answered. He
23 can qualify it again and say it's de minimis traffic
24 by small - - -

25 JUDGE MELILLO: I think he -- I don't

1 know if that was a question. I think he just was
2 stating that.

3 MR. ARON: Yes.

4 JUDGE MELILLO: I didn't take it as a
5 question.

6 MR. KENNARD: All right. He looked at
7 the witness.

8 MR. ARON: I was actually reading.

9 JUDGE MELILLO: We'll take that as not
10 being a question.

11 MR. KENNARD: Then I have no objection.

12 BY MR. ARON:

13 Q Now, your PTA members, before they had the
14 interconnection agreements in place with Sprint, how
15 much did they pay Sprint for terminating traffic on
16 Sprint's network?

17 A The same rate Sprint paid the RLECs. Zero.

18 Q Zero. I see. And for local traffic?

19 A Same answer.

20 Q Okay. And now that they have an interconnection
21 agreement, PTA members, per the terms of the
22 agreement, will actually pay Sprint for the traffic
23 they terminate on Sprint's network, right? Local
24 traffic. Not access. Let me clarify that.

25 A Both parties will pay for the local traffic they

1 deliver to the other party's network, yes.

2 Q And that's symmetrical, that compensation, right?
3 The rate that they're going to pay is in each
4 direction the same?

5 A Yes. It would be a symmetrical rate as per the
6 agreements.

7 Q Okay. Let me move along. So do you recall Mr.
8 Appleby gave a few examples, hypothetical calling
9 patterns?

10 A Yes, I do.

11 Q Do you recall that you critiqued Mr. Appleby's
12 hypotheticals and characterized them as inaccurate?

13 A Yes, I did.

14 Q Okay. You testified that -- that each month each
15 RLEC develops its carrier charge revenue by applying
16 the carrier charge per line number to the number of
17 lines in service for that month, right?

18 A That's correct.

19 Q And the total amount is spread amongst all the
20 carriers based upon their proportional share of
21 traffic sent to the RLEC?

22 A Correct.

23 Q Okay. And if a competitive carrier terminates a
24 single call to an RLEC customer, the competitive
25 carrier is then responsible for its proportionate

1 share of the carrier charge for all of the RLECs
2 access lines, correct?

3 A For its proportional share as measured by the --
4 its minutes as it relates to total intrastate
5 inter-exchange minutes. So yes.

6 Q And the only instance in which this does not
7 apply is when there is not a single call from a
8 particular carrier to a single customer of an RLEC,
9 right? So if there's no calls to the RLEC customers,
10 any of the customers, then you're not involved in the
11 carrier charge payment for that particular month.
12 Your proportional share is zero for those calls,
13 right?

14 A If a -- let me just ask for clarification.
15 You're saying that the -- the carrier in question --
16 and we'll use Sprint long distance. Sprint long
17 distance has delivered zero minutes to an entire RLEC?

18 Q Exactly. That's correct.

19 A Delivered and originated? Because it goes -- it
20 goes both ways.

21 Q Sure. Let's go with that.

22 A Okay. Then they would have zero percent of the
23 intrastate market and they would be allocated zero
24 percent of the carrier charge.

25 Q Okay. So when -- when you claim to correct Mr.

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1 Appleby's conclusion, your correction actually only
2 works when there is not a single call to a single
3 customer, correct? Other than that limited instance,
4 Mr. Appleby's hypotheticals are actually accurate, are
5 they not?

6 A No. No. Mr. Appleby asserts that there is no
7 carrier charge -- that there is a carrier charge
8 assessed on a line even though there's no usage on
9 that line. And what we pointed out was that in the --
10 in the -- that's basically the extreme. What we're
11 seeing, as was I think in cross of Mr. Appleby, this
12 is an average rate development. And that's how --
13 that's how the carrier charge was developed and
14 determined to be applied. It's similar -- it's
15 similar to the argument that I don't make any
16 interstate calls so I shouldn't pay the subscriber
17 line charge. The fact of the matter is it's a
18 tariffed element that is assessed on every line, just
19 like the federal charge.

20 Q So let me back up. I find myself confused. If a
21 carrier places zero traffic, right, to any RLEC
22 customer, right -- let's just use Sprint as an
23 example. So Sprint IXC places zero traffic to the --
24 exchanges zero traffic with the RLEC, right? In an
25 entire month. There's zero carrier charge. We

1 established that, right?

2 A Specifically billed to Sprint. Correct.

3 Q Right. Specifically billed to Sprint. If Sprint
4 places a -- exchanges one call, right, with the RLEC
5 in a month, Sprint does pay its proportionate share
6 for the entire RLEC access line, the entirety of the
7 RLEC access lines?

8 A It would include RLEC access lines in total,
9 including those with zero usage and including those
10 with a hundred times the amount of average usage. So
11 it's all lines. And it's an average rate.

12 Q Okay. Thank you. There was some discussion
13 earlier about tariff -- provisions that allowed PTA
14 carriers to extend -- charge for line extensions under
15 certain provisions. I believe Mr. Bonsick said
16 yesterday it was over a thousand feet. The specifics
17 aren't important, but beyond a certain distance you
18 can begin to charge to make up for the cost of that.
19 Is that correct?

20 A To make up a portion of that cost, yes.

21 Q Okay. And that's consistent with the PTA
22 carriers, right? They have such tariff provisions?

23 A I would suspect they do. I haven't reviewed that
24 section of all their tariffs in quite some time.

25 Q I would -- I would concede that they're probably

1 different perhaps in terms of what the expense is and
2 the distance is and all of that. But it wouldn't be
3 uncommon to find that they have such charges, right?

4 A I would agree.

5 Q And if the line extension is conducted and we say
6 that it is part of the COLR obligation, right, that
7 doesn't change the ability to charge that if the
8 conditions are met, right?

9 A The tariff language speaks for itself.

10 Q Speaks for itself. Thank you. And lest I
11 forget, let me just rattle these three off. You've
12 not calculated the cost of COLR, right?

13 A Yeah. I believe I've answered that and refer
14 back to that response rather than duplicate it.

15 Q I see. So can we just clarify for the record,
16 have the PTA carriers calculated their cost and put it
17 on the record in this proceeding?

18 A We have not calculated a COLR cost. And to go on
19 for the fullness of the record, in 50 years combined
20 experience of myself and Sprint witness Appleby we've
21 never seen one.

22 Q Understood. Cost of basic local service, there's
23 no cost studies that were submitted by the PTA,
24 correct?

25 A That's correct. And there's been no cost study

1 methodology ever endorsed by this commission for that.

2 Q And same for the cost of access?

3 A Same response.

4 Q Fair enough. Rather than start passing stuff out
5 from the stack I thought we'd just take care of those
6 real quick.

7 JUDGE MELILLO: May I interrupt just a
8 moment. It is 10:35 right now. Do the parties wish
9 to take a mid morning break?

10 MR. ARON: Certainly.

11 MR. KENNARD: How much more cross do we
12 have?

13 MR. ARON: I am about halfway through.

14 MR. KENNARD: Halfway through the hour
15 and a half testimony?

16 JUDGE MELILLO: Is that all right? Ten
17 minutes. Sorry. We'll be back on the record then at
18 10:45.

19 (Recess declared from 10:35 a.m. until
20 10:50 a.m.)

21 JUDGE MELILLO: Let's go back on the
22 record. Mr. Aron, you were cross-examining Mr.
23 Zingaretti. Please continue.

24 MR. ARON: Thank you, Your Honor.

25 BY MR. ARON:

1 Q Mr. Zingaretti, you mention at Page 34, Lines 3
2 through 4 that Sprint -- that's a reference to
3 surrebuttal. You mention that Sprint does not reveal
4 its urban operations for comparison purposes. Do you
5 see that?

6 JUDGE MELILLO: I'm sorry, where are
7 you, Mr. Aron?

8 MR. ARON: Surrebuttal, Page 34, Lines 3
9 and 4.

10 JUDGE MELILLO: Thank you.

11 THE WITNESS: Yes, I see that.

12 BY MR. ARON:

13 Q And did PTA seek urban data from Sprint to
14 analyze?

15 A For the Sprint -- I'm sorry?

16 Q Did PTA seek data on Sprint's operations in urban
17 areas?

18 A PTA sought investment data, which I believe is
19 proprietary in this case, and ultimately did receive
20 investment information from Sprint which actually
21 supports this statement, without going into what the
22 proprietary data was. So yes.

23 Q Let me understand. Are you saying that we -- we
24 are trying to hide the fact that we operate in urban
25 areas? Is that your -- what your statement here is to

1 be read as?

2 A No. I think we've provided a couple of maps of
3 the Sprint/Nextel service territory, so there's not
4 necessarily anything that -- those were from the web
5 site. So I don't think you're hiding the fact that
6 you're not in rural markets. I think it took a while
7 to determine that in addition to not being in those
8 markets you were investing far more capital in urban
9 markets than rural.

10 Q I see. But you say that we don't reveal our more
11 urban operations. What did we not do? To say we
12 don't reveal it is to -- seems to me that you're
13 saying that we failed in some regard, either in
14 discovery or testimony. What did we do to not reveal?

15 A Well again, depending on which Sprint entity
16 we're talking about, this is wireless, I believe
17 Sprint painted itself as a provider throughout the
18 state and in making that statement basically said it
19 had roaming agreements to cover the entire state, not
20 -- not actual investment in each of those areas.

21 Q We said we have roaming agreements to cover the
22 entire state? Is that what we said?

23 A You said something to that effect in -- in
24 testimony. I don't know that you -- let me take that
25 back. I'm not sure you ever said you've got the

1 entire state covered. But there was a reference to
2 Sprint's roaming agreements where it doesn't have
3 network.

4 Q Sprint's a pretty big company, isn't it?
5 Communications company.

6 A I would presume, yes.

7 Q Do you think it's a secret that we operate in
8 urban areas? Do you think that if you were to ask the
9 average Joe walking down the street, he wouldn't be
10 aware that Sprint operates in urban areas?

11 MR. KENNARD: Speculative, Your Honor.

12 MR. ARON: I'm asking him - - -

13 JUDGE MELILLO: I agree. I guess I
14 would have to agree with you, counsel. That's
15 speculative. Move on.

16 MR. ARON: I will, Your Honor.

17 BY MR. ARON:

18 Q Mr. Zingaretti, how much time did you spend
19 reviewing characteristics of Sprint's urban service?

20 A The urban analysis was basically the review of
21 Sprint testimony, the review of the web site for
22 availability, and for publicly available statements
23 about where Sprint was planning investments and then
24 ultimately the discovery response on actual
25 Pennsylvania investments. So I don't know that I can

1 give you a time, but those were the things that were
2 considered.

3 Q Okay. And you state that there are large
4 portions of Pennsylvania that are either not served or
5 where service is only rated as good to fair. And
6 that's the next two lines on the same page. Have you
7 reviewed in urban areas that -- those same
8 quantifications?

9 A I don't think I've ever argued that Sprint's not
10 providing service in urban markets. I think the
11 statements that are here are indicative of whether
12 Sprint's providing service in rural markets. So no, I
13 I would have no reason to have looked at Sprint's
14 urban operations.

15 Q Okay. Let me clarify. You're making the
16 assertion in your testimony, are you not, that Sprint
17 is most heavily investing in urban areas? I don't
18 think I mischaracterized you there, right?

19 A In Pennsylvania, they are prevalent in urban
20 areas and, based on discovery, spending far more money
21 there than in urban [sic] areas. So I think that's
22 what we've said.

23 Q And what I'm curious about is have you reviewed
24 Sprint's coverage in urban areas to determine how
25 prevalent service rated as fair or good is and

1 compared that to how prevalent fair or good coverage
2 is in rural Pennsylvania?

3 MR. KENNARD: Asked and answered, judge.
4 The witness was -- stated previously that he had no
5 reason to review coverage rankings in the urban areas.

6 MR. ARON: If he said that I
7 misunderstood. If he could clarify that, I would
8 appreciate it.

9 JUDGE MELILLO: I'll allow a
10 clarification.

11 MR. ARON: Thank you.

12 THE WITNESS: The question again?

13 BY MR. ARON:

14 Q Have you undertaken a comparison of Sprint's
15 coverage rated as fair and good in urban areas versus
16 rural areas to determine whether the prevalence of
17 such coverage is the same, equal, highly dissimilar?

18 A I have not.

19 Q Thank you. Have you made any effort to determine
20 how many people live in areas in which Sprint service
21 directly and through roaming is unavailable?

22 A No. We have not.

23 Q And the record -- to avoid going on the
24 confidential record I'm just going to use an
25 approximation, but the record shows that fairly close

1 to a hundred percent of Pennsylvanians live in an area
2 where they can -- where Sprint service is available,
3 whether it's through roaming or directly, correct?

4 MR. KENNARD: Can you point us to where
5 the record shows that?

6 MR. ARON: It's in Mr. Appleby's
7 testimony. If we want to go on the proprietary record
8 I'm more than happy to use the actual number.

9 MR. KENNARD: I'm just interested to
10 know where it's in the record at all.

11 JUDGE MELILLO: Can you provide the
12 citation to Mr. Appleby's testimony?

13 MR. ARON: Yeah. Give me one minute.
14 (Brief pause.)

15 MR. ARON: Okay. I have the reference.
16 And the reference is from -- it's on Page 33, the
17 entire sentence, there's discussions from Page 32 and
18 33 of Mr. Appleby's rebuttal testimony that was
19 entered as Sprint Statement 1.2.

20 THE WITNESS: I don't have a copy of Mr.
21 Appleby's testimony. Just so we all know that.

22 MR. ARON: Would you like to see a copy?

23 THE WITNESS: I would if I'm going to
24 agree with something that's in it.

25 (Document handed to the witness.)

1 THE WITNESS: If I might have a minute.

2 MR. ARON: Take your time.

3 (Brief pause.)

4 THE WITNESS: Okay.

5 BY MR. ARON:

6 Q Can you tell me what you believe the difference
7 is between coverage that's categorized as good or
8 fair? What's the difference between the two?

9 A More than likely self-explanatory. There's
10 levels of service quality and I guess it's in the
11 consumer's view as to what's good or fair coverage.

12 Q But you don't know. You testified that there's
13 areas of our coverage categorized as fair and good.
14 So could you please tell me what the difference is
15 between fair and good?

16 A I'll tell you what my opinion of the difference
17 is but I'm not sure that that would necessarily
18 indicate what Sprint believes its network is, or the
19 public at large. Good service quality is no -- you
20 know, no dropped calls, good clarity. Fair I would
21 categorize as good quality and the frustration of
22 occasional dropped calls.

23 Q I see. Is good the highest quality service that
24 Sprint lists on the web site in your review?

25 A I don't recall if there was a higher quality.

1 Q I see. But you don't base that on any scientific
2 opinion. That's just your basic opinion, I take it?

3 A That would be my opinion.

4 Q Okay. Do you consider yourself an expert in
5 wireless service?

6 A From the consumer's perspective, I don't know
7 that there's an expert consumer, but I've been a
8 consumer of wireless service for longer than I
9 probably care to admit.

10 Q Not as a consumer, sir. As an expert witness.
11 Are you an expert on wireless service?

12 A No.

13 Q Now, in your testimony, and we talked about it
14 briefly here already, you indicate that all wireless
15 carriers enter into roaming agreements.

16 A Could you take me to the cite, please?

17 Q Sure. Let me just go through it for you. Can
18 you take a look at Lines 10 and 11?

19 A Which testimony, which page?

20 Q The same. Oh, 34, on your surrebuttal. Do you
21 see there where you testify, "while all wireless
22 carriers enter into roaming agreements"?

23 A Yes.

24 Q Okay. So you testified that all wireless
25 carriers enter into roaming agreements, right?

1 A Based on my understanding of the wireless
2 industry, yes, there are roaming agreements.

3 Q And you're no expert in that industry, I take it?

4 A I don't consider myself an expert in wireless
5 technology but I am in the industry long enough to
6 understand roaming agreements and that carriers use
7 them when they don't have network. And that's been my
8 general understanding of the industry.

9 Q Do you hold yourself out to be an expert on the
10 wireless industry?

11 A I have not held myself out as an expert on
12 wireless, no.

13 Q So you are not an expert on wireless?

14 A I am an expert in the field of
15 telecommunications. To the extent that in that field
16 I've become aware of the ways things work, I know that
17 wireless companies have roaming agreements.

18 Q Are you expert in the wireless industry?

19 A I think I said no already.

20 Q Did you? Because I wasn't clear on that.

21 A I think no will show up in the transcript.

22 Q Fair enough. Thank you.

23 JUDGE MELILLO: I can verify that
24 question has been asked and answered.

25 MR. ARON: Thank you.

1 BY MR. ARON:

2 Q Do you have any idea whether expenses are
3 incurred under those roaming agreements?

4 A I'm sure the carriers pay each other for use of
5 their networks.

6 Q Do you believe that it might be economically
7 efficient for the carriers to rely on service through
8 roaming agreements?

9 A Again, I'm aware of the existence of roaming
10 agreements but that's where my wireless knowledge
11 ends.

12 Q Fair enough. I think we already established that
13 when a PTA carrier is not directly interconnected with
14 Sprint, that to terminate a call to Sprint, it would
15 use an intermediate carrier, tandem provider or
16 whatnot?

17 A Traffic -- yes. All traffic exchanged would be
18 exchanged in both directions through a tandem
19 provider.

20 Q Okay. So PTA carriers and other carriers rely on
21 intermediate carriers to indirectly interconnect. And
22 that's common in the industry?

23 A It's relatively common, yes.

24 Q Okay. I want to talk with you real briefly about
25 a hypothetical. So in this hypothetical, a Sprint

1 customer is currently in one of the PTA members
2 service territories. And this is an area where
3 Sprint's coverage is available directly, okay. Not
4 through roaming but directly. And one of the RLEC
5 customers, the PTA member calls the Sprint customer
6 who just happens to be sitting immediately next to
7 him. It's all within the same RLEC, within the same
8 PTA member service territory. Okay?

9 A Okay.

10 Q So in this instance, the call would traverse the
11 RLEC system, right? It would be handed off to the
12 intermediate carrier, assuming no direct
13 interconnection. The tandem carrier would presumably
14 hand the call to Sprint, assuming they were, you know,
15 directly connected to the tandem, and then Sprint
16 would route that call and terminate it at its
17 customer's cell phone. That sounds reasonably
18 accurate, right?

19 A Yeah. In that hypothetical, that generally
20 works. Go ahead.

21 Q Okay. Now, let's talk very briefly about the --
22 about the roaming aspects. So same customer sitting
23 next door, same RLEC, so on. So the RLEC customer
24 picks up the phone, dials the Sprint telephone number.
25 And -- I'm sorry. So Sprint is roaming and -- let's

1 say it's AT&T territory. So the RLEC customer picks
2 up the phone and he dials Sprint and there's no direct
3 RLEC/Sprint interconnection, so it's going to be taken
4 over the RLEC network, handed to the tandem provider
5 and it's going to be handed to Sprint. Sprint
6 recognizes one of my customers, not in my network,
7 Sprint's going to hand that off to the roaming
8 partner, in this case AT&T, right? And the call would
9 then be terminated on AT&T's network because the
10 customer's sitting next door in this example, and
11 that's with roaming, correct? Is that accurate?

12 A Yes, but as a clarifying point, the telephone
13 number of the called party, the wireless entity, - - -

14 Q The Sprint customer.

15 A - - - is that a local number in your hypothetical
16 or is it a long distance number in your hypothetical?
17 Because it changes the routing.

18 Q For my purposes it's not terribly important but
19 you choose which one is preferable for you in terms of
20 the routing.

21 A Well, I -- they're not preferable, they're
22 different.

23 Q Okay. So let's say it's a local telephone
24 number.

25 A Okay. Then in general, the diagrams or the

1 hypothetical you've laid out is still generally
2 correct.

3 Q Generally correct?

4 A Yeah.

5 Q Okay. Do you know the network protocol for
6 Sprint?

7 A No, I do not.

8 Q And you don't know the network protocol, GSM
9 protocol for AT&T either, do you?

10 A I don't know the wireless protocol, no.

11 Q So the fact that the hypothetical I laid out is
12 an impossibility, you don't know that either, do you?
13 Those two networks can't roam in each other, can they?

14 A I don't know.

15 Q You don't know. Okay. Thank you. In your
16 surrebuttal testimony, Page 35 Lines 5 through 9, you
17 indicate that the number of customers Sprint serves in
18 rural areas simply points to the sheer magnitude of
19 the carrier. I think the reference actually is
20 Sprint, and I think Verizon might have been included.
21 So in the text it's a plural, carriers.

22 A Okay. I'm at the cite. What was the question?

23 Q It's just that you -- you testified there that
24 the -- that the number of customers that Sprint serves
25 in rural areas is a testament to -- of the sheer

1 magnitude of the company.

2 A Yes. Large companies serving -- claiming to
3 serve a hundred percent of the state are by default
4 going to serve a larger amount of rural customers. So
5 yes.

6 Q And I'm curious, do you agree or deny that Sprint
7 has made substantial network investments in rural
8 areas of Pennsylvania?

9 A I guess when I review substantial, it's within
10 the context of total investments made by the company.
11 And I view the substantial investments made by Sprint
12 to be in the urban markets, not the rural markets. We
13 can argue all day about what the word substantial
14 means, but that's my opinion of what it means and
15 where the money was spent.

16 Q Fair enough. You're entitled to that. So let's
17 rephrase this. You don't disagree that Sprint has
18 invested sufficiently to cover tens of thousands of
19 customers in rural Pennsylvania today?

20 A I don't know that because I don't know how much
21 of the rural coverage that's been -- in terms of the
22 number of customers, is being provided through
23 roaming, which, based on my limited understanding, is
24 -- creates an expense but does not require significant
25 capital investment.

1 Q Okay. Do you deny that urban and rural customers
2 both value -- highly value wireless service?

3 MR. KENNARD: I'm going to object.
4 First it's speculative. Secondly, I don't see
5 anything in Mr. Zingaretti's testimony about the value
6 to the customer of wireless service.

7 MR. ARON: Mr. Zingaretti is providing
8 testimony here that the fact that there are rural
9 customers on Sprint's network is almost a default and
10 it just so happens because Sprint's so big that
11 customers are naturally going to be on the network
12 somewhere. And I'm curious whether Mr. Zingaretti has
13 an opinion as to whether those customers perhaps are
14 on Sprint's network because of some other reason. Not
15 just they're so big I can't avoid gravitating towards
16 them. Maybe it's the value of Sprint's service.

17 JUDGE MELILLO: I think that calls for
18 speculation. I don't see how he can necessarily know
19 how a customer values what the service - - -

20 MR. ARON: Your Honor, we have already
21 established he's not a wireless expert so I'll move
22 on. Fair enough.

23 BY MR. ARON:

24 Q Mr. Zingaretti, are you aware of any subsidy
25 payments available from the State of Pennsylvania for

1 wireless carriers serving in rural Pennsylvania?

2 A Outside of federal universal service support and
3 any of the ARRA money that might have been available,
4 no, nothing specific from the State of Pennsylvania.
5 But federal monies for operations in Pennsylvania are
6 available.

7 Q And wireless carriers serving in rural
8 Pennsylvania, they're not allowed to charge access.
9 We've already established that. Right?

10 A They're - - -

11 Q That's a mischaracterization. They're not - - -

12 A Yeah. They're not allowed to tariff access
13 charges. And that, of course, is a federal decision,
14 not state decision.

15 Q Certainly. The PTA member companies, we've
16 established, have not agreed in an interconnection
17 agreement to pay access to Sprint for termination of
18 calls in rural areas?

19 A As I said, I wasn't in those. I don't know if
20 Sprint ever even asked for it. So... The agreements
21 are what they are.

22 Q Okay. And the current system of access charges
23 and universal service, do you believe that encourages
24 proliferation of wireless telephony in rural
25 Pennsylvania?

1 A I think it certainly encourages it because -- if
2 you're going to talk about universal service, you're
3 going -- you need to also include the federal support
4 as well. You can't limit that discussion simply to
5 the state. And I think we heard Sprint has \$1.2
6 million of universal service support that it receives.
7 Clearly that's going to help it invest in network
8 somewhere.

9 Q I see. The question actually was whether the
10 current system of access charges and Pennsylvania
11 universal services fund encourages wireless telephony
12 proliferation in rural Pennsylvania.

13 A I apologize because I did not pick up
14 Pennsylvania Universal Service Fund. I would say that
15 it is neutral to wireless carriers because they don't
16 receive support, nor do they pay into the support, and
17 on the -- on the access side, while -- we've got no
18 evidence on the record that it's a huge number in
19 Pennsylvania. We don't know how much intrastate
20 access Sprint is paying or any of the other wireless
21 carriers are paying. So I'd say I can't draw a
22 conclusion there.

23 Q I see. But they do -- under the current system
24 of access charges, access charges would be due from
25 them on certain traffic, correct?

1 A Yes. That's correct.

2 Q Okay. And they are not currently collecting,
3 that you're aware of, access charges from any PTA
4 carrier?

5 A Again, if Sprint has a problem with that, we're
6 in the wrong venue. We need to be in Washington to
7 argue that, you know. And the flip side of that, of
8 course, is that the wireless carriers are provided the
9 entire MTA for local calling and local compensation,
10 which I'm sure Sprint is aware there are -- are far
11 larger than local calling areas in Pennsylvania and in
12 other -- other areas actually represent multiple
13 states that fall within one MTA. So let's not focus
14 exclusively on the disadvantage of these access
15 charges, let's focus a little bit too on the advantage
16 of the access that the wireless carrier avoids that
17 the wire line company has to pay.

18 Q And that compensation for the type of traffic
19 you're talking about, that's reciprocal compensation,
20 is it not?

21 A That's correct.

22 Q And is that in each direction equal?

23 A The rate or the revenues?

24 Q The rate.

25 A The rate would be equal.

1 Q I see. So unlike access charges, the rates are
2 equal in either direction?

3 A Again, it's a matter of federal law and/or
4 policy, I don't know how you'd describe it, that sets
5 those rates.

6 Q You're not aware of what the rate -- the laws say
7 regarding those rates?

8 A Reciprocal compensation rates are symmetrical.

9 Q They are symmetrical, right?

10 A I -- I answered that. They are symmetrical.

11 Q I don't believe you came close to answering it,
12 sir. They are symmetrical?

13 A They are symmetrical.

14 Q Thank you. You state that -- in your testimony
15 you state that revenue losses that might occur through
16 access reductions, right, that that should be
17 recovered -- the offset should be recovered from other
18 services within the commission's jurisdiction,
19 correct?

20 A Should the commission decide to change access,
21 yes, that's our -- it should be offset in a revenue
22 neutral manner from services regulated by this
23 commission.

24 Q Is that merely your opinion or do you feel that
25 the commission lacks the authority to look to

1 non-jurisdictional revenues?

2 A Under the alternative regulation plans that have
3 been approved by the commission, this would in my
4 opinion qualify first as a revenue neutral rate
5 rebalancing, which by definition is only within
6 non-competitive services. Even if it were not to be
7 considered a rate rebalancing, it would qualify as an
8 exogenous event under the Chapter 30 plans, which
9 takes us back to the very same definition of how the
10 rates are recovered, which is revenue neutrally
11 through non-competitive services only. So the plans
12 that the commission has approved already contemplate
13 revenue recovery for these types of matters through
14 non-competitive services only.

15 Q Okay. Under the current plans.

16 A Under the plans that exist today, yes.

17 Q Okay. Are those plans subject to revision?

18 A I don't know what the legality of that would be
19 given that the -- the quid of the broadband network
20 has already been implemented and we'd be looking at
21 changing the pro quo.

22 Q Okay. So back to the original question, do you
23 believe the commission is without authority to look to
24 jurisdictional revenues? I'm sorry, non-jurisdictional
25 revenues. I think they can look to all the

1 jurisdictional revenues they want.

2 A I think that's a legal question that would be
3 something that would play out in the changing of
4 plans. I can't speculate as to whether they have that
5 authority or not.

6 Q Fair enough. Let me ask you, do you agree that,
7 without the existence of the copper network, DSL
8 would not be available to rural customers today?

9 A Specifically DSL, not broadband services?

10 Q Tell you what. Let me try to narrow that. Maybe
11 phrase it a little more carefully. Do you agree that
12 DSL offered over the copper network is dependent upon
13 that network for provision of the DSL service?

14 A Yes. DSL uses the copper with certain
15 conditioning done in many cases, but yes, the base
16 copper is the same.

17 Q And the copper network over which the DSL is
18 provided, that was constructed over the years based on
19 ratepayer derived revenues, correct?

20 A If by ratepayers you mean all customers including
21 access customers, local customers, it is paid for and
22 continues to be paid for by all customers.

23 Q Okay. Do you believe it's a legitimate function
24 of the Pennsylvania commission to insulate rural
25 carriers from competition?

1 A I don't think I've ever said that that's what
2 this proceeding's about. And nor do I believe that's
3 what this proceeding is about.

4 Q I agree you've never said it. At least certainly
5 not in the testimony. Curious about your opinion. Is
6 that a legitimate function of the Pennsylvania
7 commission?

8 A The Pennsylvania commission, and I think we --
9 there was a reference yesterday to a cite in Chapter
10 30 that talked about all the -- all the other
11 proliferation of other services, and I think Mr. Kubas
12 accurately portrayed that, that -- that that could not
13 be done at the detriment of the companies that it
14 served. That it regulated, I'm sorry.

15 Q I'm going to apologize. I'm not sure I
16 understood the answer. Could you just repeat the
17 answer?

18 A Well, the -- could you repeat the question?
19 Sorry.

20 Q I can't. I'm sorry. Do you believe it's a
21 legitimate function for the Pennsylvania commission to
22 insulate rural carriers from competition?

23 A No, and I don't believe that's what's going on at
24 the moment.

25 Q Fair enough. Thank you. Is it -- do you believe

1 it's fair to say that the commission's job is to set
2 the parameters for the market and that it's up to the
3 participants in the market to earn the revenues in the
4 market? Is that a fair statement?

5 A It's a -- it's a fair but oversimplified
6 statement. If we -- we're in this unique position
7 where we're not a monopoly provider everywhere but
8 we're not in a competitive market everywhere. And to
9 simply state that it could set a policy or a rate and
10 say everyone go have -- have at, is I think -- as I
11 said, it oversimplifies the statement.

12 Q Fair enough. I want to talk to you a little bit
13 about your knowledge of the PTA companies and lines of
14 business that they're in if you don't mind.

15 A Okay.

16 Q So I guess this is overly obvious, but the PTA
17 companies provide basic local service, right?

18 A Yes.

19 Q And basic local service is one service they
20 provide. Private line service; is that correct?

21 A Yeah, I would imagine most have at least some
22 private line customers. Yes.

23 Q And just to be clear, I'm not grouping these in,
24 you know, competitive, non-competitive. Just trying
25 to get an idea what services. So if I list them in

1 some random order, it's not my intent to be unclear.
2 So private line; we know and I believe it's on the
3 record that they provide vertical services, which, you
4 know, are things such as voice mail, directory
5 listings, call forwarding, call waiting. Those are
6 the services PTA member companies provide?

7 A Yes.

8 Q Okay. Special access services, switched access
9 services, foreign exchange, E.I.S. Those are
10 typically services you expect all the PTA companies to
11 provide, correct?

12 A Generally speaking, yes.

13 Q Okay. And in addition to all the services we
14 just talked about, the PTA companies also provide
15 various competitive services that are a little
16 different from the ones we just talked about. And
17 they do earn revenues from these competitive services.
18 Would you agree that from competitive services they
19 earn revenues?

20 A I'd like some specific examples because I have a
21 feeling our definition of competitive services is
22 going to be different.

23 Q Fair enough. Tell you what. Let's withdraw that
24 question. Just go a little further. Do the PTA
25 companies -- they provide toll service through

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1 affiliates; is that correct?

2 A Not entirely. I know there is at least one,
3 possibly two, that don't provide any toll service
4 whatsoever. But for -- that's a correct statement for
5 the majority.

6 MR. ARON: Your Honor, we're going to
7 distribute Sprint Cross -- I think we're at 8.

8 JUDGE MELILLO: Yes, we are. The
9 document being distributed is marked as Sprint
10 Cross-examination Exhibit Number 8.

11 (Whereupon, the document was marked
12 as Sprint Cross-Examination Exhibit No.
13 8 for identification.)

14 MR. ARON: Your Honor, we should note --
15 I'm sorry. This is -- the cover sheet's on the second
16 page indicating proprietary and confidential. So this
17 should be so marked.

18 JUDGE MELILLO: All right. Very well.
19 Let's mark that on the first page then for
20 clarification and appropriate filing of these exhibits
21 in the record. Do we need to be on the proprietary
22 record?

23 MR. ARON: No. I won't get into the
24 specifics of the items.

25 BY MR. ARON:

1 Q Mr. Zingaretti, this is a discovery response PTA
2 provided. That is, I hope, an accurate list of the
3 PTA companies that provide toll service?

4 A Yes. That's my understanding, based on the
5 contacts that I made with the companies.

6 Q And I believe that there are 30. We can both
7 count them.

8 (Brief pause.)

9 I counted fast but I see 31. I guess
10 what we'll do is we'll say there's at least 30 on the
11 list that we handed to you, correct? And that's close
12 enough to the 30 that you mentioned earlier. So
13 again, I don't want to go into them. You see them on
14 the list. That's not necessary.

15 A Yes.

16 Q And those 30 companies, they earn revenues from
17 the toll services they provide, right?

18 A If we're going to go with 30, 29 of them.

19 Q I'm sorry.

20 A Yeah. There is one exception - - -

21 Q Okay.

22 A - - - on that list.

23 Q Okay. And in addition to basic local and toll,
24 the PTA companies provide broadband service, correct?

25 A I believe all the PTA companies provide broadband

1 service. Clarification on your last question, though.
2 And I don't recall -- I think your question said the
3 RLECs earn money from the toll service. If -- just
4 for clarification, if that was the question, it would
5 be the RLEC affiliates earn money from toll service.
6 So just to be clear.

7 Q Certainly. Thank you. I forgot where we were so
8 if I'm repeating a question I apologize. But the PTA
9 companies earn revenues from broadband service, right?

10 A They earn -- yes. They earn interstate revenues
11 from broadband services.

12 Q Inter?

13 A Inter, i-n-t-e-r.

14 Q And in addition to basic local and toll and
15 special access and switched access and foreign
16 exchange and private line service, a lot of these
17 companies also have CLEC affiliates that operate in
18 territories outside of their historic monopoly
19 territory; is that correct?

20 A Some of them do. I'm not sure how you categorize
21 the number but there are some that have CLEC
22 affiliates.

23 Q Can you identify a few of the PTA member
24 companies that have affiliated CLECs?

25 A I can tell you the ones that I'm aware of. The

1 Denver and Ephrata entities have an affiliated CLEC.
2 Frontier Properties have an affiliated CLEC. Some of
3 these have affiliated CLECs that may or may not even
4 be operational. I'm not sure. I just remember seeing
5 applications made. Ironton has a CLEC affiliate. And
6 actually that's -- yeah. That's all the ones that I'm
7 familiar with.

8 Q Are you aware of whether Bentleyville has - - -

9 A I'm not aware of whether Bentleyville has a CLEC
10 affiliate. Actually Armstrong has a CLEC affiliate.
11 That's one that I missed.

12 Q Out of interest, does Armstrong also have a cable
13 affiliate?

14 A Yes, I believe they do.

15 Q You believe they do, okay. And the PTA member
16 companies or their affiliates, they earn revenues from
17 the CLEC operations, correct?

18 A They would have revenues. They also have
19 expenses and investments. But they -- revenues would
20 be one component.

21 Q And some of these PTA companies, they operate
22 Internet service providers as well, don't they?

23 A Some of them do. I don't know that I could give
24 you a list like the CLECs. That's not something that
25 I'm intimately familiar with.

1 Q Fair enough. Thank you. And some of the PTA
2 members sell television service as well, don't they?

3 A A vast minority. Whether the number is 30 or 31,
4 I think there are six that currently offer cable
5 television service or IP telephony.

6 Q Can you list those?

7 A I could try.

8 Q I'm not going to hold you to - - -

9 A Is that -- that's not confidential, is it? I
10 don't believe - - -

11 Q If it is we'll skip it.

12 MR. KENNARD: Skip it.

13 MR. ARON: I think we have web site
14 screen shots from them. If you want to see if he's
15 aware of it.

16 JUDGE MELILLO: Where do we stand? Are
17 you giving the six or not? Is the question withdrawn?
18 Is there an objection?

19 MR. KENNARD: I thought we were going to
20 skip it. I thought there was an offer to skip it.

21 BY MR. ARON:

22 Q I think what we're curious about is if you could
23 just list a few that you're aware of. That would be
24 sufficient.

25 A I'm familiar with Northeastern Pennsylvania

1 Telephone, Venus Telephone, Hickory Telephone. I'm
2 halfway there. I believe North Penn Telephone.

3 MR. KENNARD: Those would be affiliates
4 of the RLECs?

5 THE WITNESS: Yeah. All of these are
6 offered by the affiliate. Not the company itself.

7 MR. ARON: Your Honor, if I might just
8 clarify that. It's my turn to cross-examine the
9 witness. Mr. Kennard will certainly have his turn to
10 pose questions on redirect. But we'd appreciate it if
11 he - - -

12 JUDGE MELILLO: I agree with that.

13 THE WITNESS: Well, I think the question
14 was which telephone companies have affiliates that
15 offer cable. And that's what I'm listing. Because
16 these are all -- these are all - - -

17 BY MR. ARON:

18 Q In fairness, that wasn't our question but you're
19 welcome to answer it that way.

20 JUDGE MELILLO: I believe now he has, in
21 fact, clarified that they're all affiliates. We're up
22 to -- we have four. Are there two more?

23 THE WITNESS: There are - - -

24 MR. ARON: And I - - -

25 THE WITNESS: Consolidated, I think,

1 offers - - -

2 MR. ARON: So we'll accept that there's
3 those four plus two. I don't want to press the issue.

4 JUDGE MELILLO: All right. We're up to
5 five.

6 MR. ARON: So there's one other. That's
7 fine.

8 BY MR. ARON:

9 Q I think this might have even come out in the
10 record from Mr. Bonsick yesterday, but a few of these
11 -- aside from the ones we talked about, a few of them
12 have partnership arrangements, I'm not privy to them,
13 but with Dish Network, to provide satellite TV as part
14 of the bundles that they sell.

15 A I am only aware of one PTA company that has an
16 arrangement with Dish Network. I'm not familiar with
17 the others.

18 Q Okay. Do you know which -- which one is that?

19 A I believe Frontier Commonwealth has a Dish
20 Network arrangement.

21 Q Okay. Thank you. And some of those PTA members,
22 actually they sell wireless service also, don't they?

23 A Yeah. I know of a couple that do but that's
24 probably about as far as I can get you.

25 Q Which two are those?

1 A I believe Northeastern Pennsylvania has built a
2 separate network run by its affiliate to provide
3 wireless service. And I believe one of the D & E --
4 one of the Windstream D & E entities also does that.

5 Q Did they build their own network, the Windstream
6 entity?

7 A (No response.)

8 Q If you don't know, that's fine.

9 A Yeah, I don't know. I don't know.

10 Q We would expect that there are also revenues
11 earned from the wireless services as there were for -
12 - -

13 A Sprint Wireless would know better than I. Again,
14 I know there's a cost structure there, an investment
15 structure there, but that's as far as I can go.

16 Q Fair enough. All right. So let me just review
17 this. So we have -- we've summarized that the PTA
18 member companies, either all of them or some portion
19 of them, certainly all of them for some, but the
20 services that the group provides would be basic local
21 services, associated vertical calling services,
22 certain competitive services, intrastate toll
23 services, broadband services, some with Internet
24 service. Some have CLEC affiliates. There's toll
25 service through affiliates and a few of them have

1 television service, at least one of them has partnered
2 up with Direct TV to - - -

3 JUDGE MELILLO: I think it was Dish
4 Network.

5 MR. ARON: I'm sorry, Dish Network. I
6 apologize.

7 BY MR. ARON:

8 Q - - - Dish Network to provide satellite TV.
9 There's some of them that have their own Internet
10 service providers. Is that -- that's accurate, right?

11 A (No response.)

12 Q Summarization of - - -

13 A No. No. Because many, if not all, of those
14 additional -- those last few services aren't provided
15 by the telephone companies in a non-competitive
16 manner. They're provided by affiliates and in fact
17 can be provided by non-affiliated competitors as well.
18 So I wouldn't agree that the RLECs are offering all
19 those services.

20 Q I see. Do the RLECs own those affiliates?

21 A I'm not aware of the corporate structure of each
22 of the companies so I don't know.

23 Q Okay. And you contend that the commission should
24 ignore the PTA companies' revenues from all of the
25 sources that -- well, beyond the -- beyond the few

1 that we were sure that we agreed on, but they should
2 ignore the revenue from, let's put it this way,
3 non-jurisdictional services, correct, for the purposes
4 of determining appropriate access rates?

5 A They should take into account the rates charged
6 for regulated competitive -- non-competitive services.
7 And just as a clarification, the desire to bring
8 broadband into that play and say we need to take that
9 broadband revenue, that's already been addressed by
10 the FCC. These companies file certain provision
11 broadband on a regulated interstate basis and as such
12 that is already covered by the interstate
13 jurisdiction. And if that company decided that it
14 wants to offer broadband on a non-regulated basis, it
15 would immediately receive a reduction in its
16 interstate revenues. So what you're -- what the --
17 what the takeaway that I've heard for the last two
18 days is that we need to take all this broadband over
19 to regulated intrastate. It's already addressed by
20 the interstate side. If the company does want to do
21 it on a non-competitive basis, it loses interstate
22 revenues because those costs go to non -- go to
23 competitive services. So as it relates specifically
24 to the broadband, I think that question has been asked
25 and answered by the FCC in their current rules. So it

1 would not come over to intrastate is the -- the end of
2 that.

3 Q Is it your position the FCC has indicated that
4 the revenues from broadband must remain in the
5 interstate jurisdiction?

6 A Interstate, or if when combined by an affiliate
7 -- or when combined with Internet it goes to a
8 non-regulated basis. But the companies in this
9 proceeding are providing it on a regulated interstate
10 basis, which is obviously interstate, it is not within
11 the jurisdiction of the existing price cap plans.

12 Q And does that apply to costs as an investment for
13 broadband as well?

14 A Yes, it does. If you're a cost company, you
15 would reduce your cost base settlements by further
16 allocating costs to deregulated accounts.

17 MR. ARON: If I could have one moment,
18 Your Honor. I believe I'm done.

19 JUDGE MELILLO: All right. Let's go off
20 the record for a minute.

21 (Discussion off the record.)

22 JUDGE MELILLO: Back on the record.

23 MR. ARON: Sprint has no further
24 questions, Your Honor.

25 JUDGE MELILLO: Would you like to move

1 your cross-examination exhibit?

2 MR. ARON: Yes, we would. Thank you.

3 JUDGE MELILLO: Any objection to
4 admission of Sprint Cross-examination into the record?

5 (No response.)

6 JUDGE MELILLO: Hearing no objection
7 it's admitted.

8 (Whereupon, the document marked
9 as Sprint Cross-Examination Exhibit No.
10 8 was received in evidence.)

11 JUDGE MELILLO: The next party that
12 indicated they had cross-examination for Mr.
13 Zingaretti is Verizon.

14 CROSS-EXAMINATION

15 BY MS. PAIVA:

16 Q Hello, Mr. Zingaretti.

17 A Hello.

18 Q Take a look at Pages 6 and 7 of your direct.

19 A Okay.

20 Q There you talk about the history of the RLECs
21 intrastate access rates in Pennsylvania. You
22 mentioned how they started at about 10 cents a minute
23 in 1985 and they were reduced down to an average 7
24 cents a minute by 1997 and are now on average about 5
25 cents a minute. Is that your testimony?

1 A Yes, I believe that's correct.

2 Q And then on Page 7 at Line 2 and 3 you talked
3 about an industry-wide access reform effort that began
4 in 1997. Do you see that?

5 A Yes, I do.

6 Q Now, why did the commission and the industry find
7 it necessary to reduce access rates? Why didn't they
8 just leave them at 10 cents a minute?

9 A I -- from reviewing prior orders, I think there
10 was a perception that high access rates were
11 detrimental to competition, so that was probably why
12 the commission felt obligated to move forward with
13 that. I personally don't agree with that since
14 competitors can charge the same rates as the
15 incumbents, but I think it's safe to assume that that
16 was a driving factor for the commission.

17 Q So based on your last answer, you would have been
18 just fine if all the access rates stayed at 10 cents a
19 minute?

20 A Again, it doesn't -- doesn't matter what I think
21 would be fine. Obviously the commission made its
22 decision. But to the extent that -- to the extent
23 that they were still ten cents a minute and local
24 rates were what they are, it would not have had, in my
25 opinion, an impact on local competition to the extent

1 that I think other folks have probably testified, not
2 just in this case but in other cases, that it is
3 detrimental.

4 Q Do you remember talking about the Citizens
5 Telephone Company of Kecksburg and their \$11 local
6 rates?

7 A Yes, I do.

8 Q And I believe your testimony was that they --
9 they had not increased their rate even though they
10 have the right to do so, based on legislation?

11 A That's correct. They have banked revenues still
12 in their bank that has not been taken.

13 Q Now, Citizens did not refrain from increasing
14 that rate because it found that its customers could
15 not afford to pay more than \$11, did it?

16 A I don't know what the specifics were as to why
17 Citizens is where they are.

18 Actually, I apologize, it's not related
19 to the question, but just to make sure one thing is
20 clear, because I know it wasn't in some of the
21 testimony. Citizens is not a Frontier company. I
22 think in some of the analysis they were dropped in
23 with Frontier. Citizens is a stand-alone ILEC. Just
24 for clarity. I want to get that out there.

25 Q That is a good clarification because I thought

1 they were a Frontier company.

2 A No, they're not. They're a stand-alone company.

3 Q And you don't know if they conducted any analysis
4 of affordability?

5 A I do not know that, no.

6 Q If there were no competition in Citizens'
7 territory, would you assume that Citizens would
8 increase that rate to the maximum extent the PUC would
9 allow?

10 A Well, I mean, it's a hypothetical because there
11 are CLECs certified and operating in that territory
12 now. But under that hypothetical, they would have the
13 opportunity to increase that rate in accordance with
14 their plan up to whatever the commission were to
15 determine or has determined a reasonable rate is, a
16 benchmark rate.

17 Q And do you believe they would increase their
18 rates?

19 A I don't know that they would. Given the fact
20 that they haven't it's kind of hard to say in a
21 hypothetical.

22 Q So you don't know?

23 A I don't know.

24 Q Now, you were discussing, I guess with Mr. Aron,
25 the concept of roaming agreements. Do you recall

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1 that?

2 A I do.

3 Q Now, if a cell -- a wireless carrier is able to
4 enter in a roaming agreement for a particular
5 geographic area, doesn't that mean that some wireless
6 carrier is providing service there, correct?

7 A I think -- yeah, I think that they would have to
8 be in order for the call to be completed, yes.

9 Q So because they had a roaming agreement you'd
10 basically be using that other wireless carrier's
11 network, correct?

12 A Yeah. I guess my -- it would be like an IXC
13 using a local network to complete a call. So I guess,
14 yeah, if you don't have network there, you're using
15 somebody else's. So yeah. I would agree that the
16 network's there.

17 Q Another follow-up question. I think you
18 discussed this with Ms. Painter when you talked about
19 the carrier of last resort obligation and what type of
20 ILEC obligations should go away if that obligation
21 were going to be reduced, and one of the things I
22 understood you to say is the obligation to bill the
23 broadband should be reduced or eliminated. Did I
24 understand that correctly?

25 A No. I think I said that's an obligation that the

1 ILECs have that the competitive LECs don't. Those
2 networks have been built already as part of the
3 regulatory packet that we're under now. I don't know
4 that I'd be advocating to unwind that or unbuild those
5 networks. So I guess the answer is, if that's -- if
6 that was what was drawn from that statement, that's
7 not what was intended. It was just a difference of
8 regulatory parity.

9 Q And you actually hit on my next question, which
10 is all of the PTA companies, except for the old
11 pre-merger Windstream, have actually already finished
12 their broadband deployment?

13 A They finished deployment, and Windstream is on a
14 different schedule. And that was done under the
15 alternative regulation plans which provided a certain
16 level of revenues, not just for the construction but
17 for the ongoing operation of those networks. So we
18 can't draw too much of a conclusion that it's built
19 already because we don't know what the ongoing
20 expenses are, and built and paid for can be two
21 different things.

22 Q But at least they have achieved a hundred percent
23 broadband availability by the end of 2008 as reported
24 to the commission, correct?

25 A As reported to the commission. And in

1 concurrence with their stated plans, yes.

2 Q Were you here yesterday when I was discussing how
3 -- this was with Mr. Lindsey, the question of
4 competition in CenturyLink's territory, and he
5 testified that he believed that there are some areas
6 of the territory that had competition, some areas of
7 the territory that did not have competition but he had
8 not been able to quantify what percentage or where
9 those were. Have you done any studies to quantify
10 where competition exists in the PTA companies?

11 A We have not. The closest thing we have to that
12 would be the information that I think was provided in
13 the Judge Colwell proceeding about the availability of
14 broadband voice -- voiceover broadband services
15 offered by cable companies in competition with
16 incumbents, which I think statewide was less than 60
17 percent and I would imagine is lower in rural areas
18 just by the nature of the build-out of cable markets
19 in rural versus urban areas. But specific to a
20 company in exchange where other service is available,
21 no, I think we said no in the Judge Colwell proceeding
22 and we've got no new information on that.

23 Q And even that information you just mentioned from
24 the Judge Colwell proceeding, that's only on cable
25 carrier, it is not on wireless carrier; is that

1 correct?

2 A That is correct.

3 Q I suppose -- am I correct then that you have not
4 done or are not aware of any study of line loss by
5 exchange for the PTA companies?

6 A No, I'm not. I would have to go back and look
7 but a good portion of these companies are single
8 exchange companies, so that something could be drawn
9 from the -- from the tariff and that would be their
10 entire exchange, but nothing beyond that, no.

11 Q So for those companies, if they're single
12 exchange and they had line loss - - -

13 A It would show on a total exchange basis, not
14 areas of high competition, low competition. Almost on
15 a disaggregated basis. The exchange would not show
16 up. Just the exchange level.

17 Q Now, I believe you discussed with Ms. Painter
18 that -- I don't want to mischaracterize your testimony
19 so let me tell you what I understood, you tell me if
20 I'm right. That the PTA agrees that at least some
21 rate rebalancing from access rates to retail rates is
22 possible. At least up to a benchmark of \$18.94 for
23 residential rates. Did I understand that correctly?

24 A I think that may be a little past where we went,
25 but the concept is that if the commission is going to

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1 reduce intrastate access rates, that it be done in a
2 reasonable fashion, which would combine some local
3 rate increases with state universal service support
4 beyond some number to be determined. Obviously we've
5 got the number that we have from the Colwell
6 proceeding, but whatever number is ultimately
7 determined, subject to the companies having the
8 discretion based on their own individual situations to
9 not go all the way to the cap should that be
10 determined by management to be the best positioning
11 for them.

12 Q So I guess it would be more correct to say your
13 first position is no access fee -- no access decreases
14 and your second position is what you just said?

15 A Well, yeah, I think we said in the direct that we
16 didn't feel that there was an overwhelming need to
17 reduce access. But to the extent this commission
18 wants to take it on, it needs to be rational and over
19 -- over a period of time where, you know, the consumer
20 doesn't see significant rate increases at a time where
21 other utility bills, like electric, are having 30
22 percent increases.

23 Q Now, you mentioned the number of \$18.94. I think
24 you said that came from testimony in the proceeding
25 before Judge Colwell, correct?

1 A Yes. That's correct.

2 Q Do you know what went behind that calculation?

3 A My understanding of the calculation was that it
4 was 115 percent of the Verizon -- I think it was the
5 average of density cell one and two rates. But it was
6 the -- it was 115 percent over what was identified as
7 the Verizon urban rate.

8 Q So if Verizon increases its urban rate, your
9 benchmark also increases, correct?

10 A Unfortunately as a result of what was presented
11 in the Colwell proceeding, yes, that's how it would
12 work. So in -- the down side of that is that in a
13 significant way Verizon controls the rates that are
14 charged to the rest of the state. But again, that's
15 been put out there.

16 Q You know that we don't want control of the rates
17 of the rest of the state because we don't agree with
18 the comparability analysis. But I agree that is what
19 you put out there. Is affordability -- if you know,
20 was affordability part of that analysis too?

21 A I -- my understanding of it was that that was
22 simply a comparability number. That was not an
23 affordability number. And I guess -- at least that
24 was what Dr. Loubé testified yesterday, this would be
25 -- comparability would be lower than affordability, so

1 that would be the benchmark, I think. His approach
2 was the lower of comparability and affordability,
3 which seems to make sense to me.

4 Q And on affordability, you're not aware of any
5 other affordability evidence besides the evidence that
6 Mr. Colton put on in the case before Judge Colwell,
7 are you?

8 A I'm not aware of any of the affordability
9 evidence that went into that case. I simply got the
10 PTA number for comparability.

11 Q All right. Now, I think a minute ago when you
12 were describing if there was an access decrease what
13 should happen, you talked about Universal Service
14 Fund. Now, is PTA's position that the access rates
15 should be decreased and rebalanced only as far as they
16 can go to get to the benchmark or is your position
17 that they should be rebalanced all the way down to a
18 level advocated by AT&T and then there should be some
19 contribution by the Universal Service Fund?

20 A Well, I guess I take it back to the fact that
21 we're trying to mirror interstate, you know. My
22 preference would be that we mirror interstate and
23 obtain the additional support from the Universal
24 Service Fund, similarly to what they did on the
25 federal side. You know, we want to mirror the

1 interstate for the rates, for the access rates.
2 That's fine, we're on our way to doing that. But
3 understand that the feds got there by having a
4 Universal Service Fund that set over 15 percent of
5 assessment rate of retail revenues. You know, by all
6 accounts Pennsylvania's is 1 percent and -- but we're
7 trying to mirror one aspect of their reform.

8 That being said, I think we recognize
9 that in terms of the comprehensive solution, we would
10 support one that does have reasonable increases in
11 local service rates. So that it's not simply dollar
12 for dollar from access to universal service.

13 But bear in mind that even the broadband
14 plan that was recently issued, or at least provided
15 information for, when it talked about the need to
16 rebalance intrastate to the interstate level, they
17 talked about using that as a mitigating factor for
18 local service rates and they cited rates in the 8 to
19 12 dollar range. We've moved far beyond that in
20 Pennsylvania already. And again, we've -- I think
21 it's -- well, it's in my testimony, sort of that early
22 adopter penalty if we get too far ahead. So I'm sure
23 I didn't answer your question but - - -

24 Q I think you've gone beyond answering my question.
25 You can stop. I did have one follow-up on what you

1 said at the beginning though. You said the federal --
2 the federal rebalancing utilized federal universal
3 service funds. But isn't it also correct that the
4 federal rebalancing replaced some of the revenue with
5 the subscriber line charge that's charged directly to
6 end users?

7 A Yeah, that went up by \$3. And if we review, you
8 know, PTA Exhibit 7, we've already gone up by \$5.45 on
9 our local service rates. So in terms of
10 comparability, we've put more on the end user already
11 than the federal side saw fit. But yes. It was a
12 combination.

13 Q But if you go back to the early days when some
14 revenue was allocated to the federal jurisdiction and
15 some to the intrastate jurisdiction, more revenue was
16 in the intrastate jurisdiction, correct?

17 A There was more of the loop allocated to the
18 interstate jurisdiction. I don't know that that's
19 universally correct that there was more allocated to
20 the intrastate than the interstate because when -- the
21 period you're talking about is when support was
22 implicit and you had things like local switching
23 support where companies could have up to 85 percent of
24 their switching investments and -- and switching
25 revenue requirement come from interstate. So I

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1 wouldn't agree with that categorization as accurate
2 for all.

3 Q Going back to the state Universal Service Fund,
4 based on the answer you gave a few minutes ago, have
5 you quantified how much money PTA would be seeking
6 from the state Universal Service Fund based on
7 increasing rates to \$18.94?

8 A No. That's -- that's not a number that we put
9 forth in this proceeding. I think we have all the
10 piece parts to figure that number out but it just
11 didn't end up being in any of the testimony or
12 exhibits.

13 Q Do you know what it is, even though it's not in
14 the testimony?

15 A I don't actually. Because I never ran it off of
16 an 18.94 benchmark.

17 Q Do you have an idea in terms of order of
18 magnitude? Like would it be more than \$50 million?

19 A I don't know. I don't know.

20 Q Do you believe it's something that we could
21 calculate based on the numbers that are already in the
22 record?

23 A I believe it is. Because we have -- we have
24 total lines in the record and we have the current
25 residential rate in the record. We'd simply compare

1 that to whatever the benchmark would be. That's the
2 additional revenue from the customer or imputed for
3 the customer. The rest would go to the Universal
4 Service Fund. So yes, I think it's -- all the pieces
5 are here to do the calculation.

6 Q I think you agree that the current Universal
7 Service Fund, assuming there were no changes to it,
8 contribution's based on intrastate revenue of the
9 contributing carriers, correct?

10 A Yes. That's correct. All carriers would
11 contribute, contribute based on a percentage, the same
12 percentage of intrastate revenues.

13 Q So there is no relationship to how much any
14 particular carrier uses the RLECs network, correct?

15 A You're making the -- I guess we're making the
16 presumption that high amounts of revenue and calling
17 don't necessarily mean high amounts of calling into
18 rural territories. I don't know that we can
19 necessarily make that connection.

20 Q Maybe I can ask you a more specific question. Do
21 you remember when you were talking to Mr. Aron about
22 the hypothetical, what if Sprint IXC exchanges zero
23 traffic with the RLECs, would it still pay a carrier
24 charge. I think you said no, it would not. Right?

25 A That would be correct.

1 Q Now, in that same hypothetical if Sprint IXC
2 exchanges zero traffic with the RLECs but it does some
3 other business in Pennsylvania where it earns
4 intrastate revenue, it would still contribute to the
5 state USF, correct?

6 A It would based on the rules that were constructed
7 at the time of the global settlement that I think were
8 agreed to by, if I'm not mistaken, many of the parties
9 who are in this case.

10 Q Now, the -- if the carriers that currently
11 contribute to the state USF are required to increase
12 their contributions based on a higher -- higher
13 percentage of intrastate revenue, that additional
14 money that's being taken from these carriers is not
15 revenue neutral to them, is it? Not replaced by other
16 revenue from some other source?

17 A To the extent that everyone is using the rural
18 network, we're not going to go away from that
19 hypothetical, it's actually better for the carriers to
20 pay into the universal service support as opposed to
21 paying access because the residential rural -- or the
22 rural ratepayers are picking up a portion of that
23 access reduction.

24 So if there's a \$63 million access
25 reduction and, I'll use a hypothetical number, 20 of

1 that goes to the customer, then that means, if the --
2 as an example, if there were one carrier providing
3 access and one carrier contributing to the fund, they
4 would see a \$63 million expense reduction and a \$43
5 million expense increase. So they'd actually be
6 better off than they are today.

7 We can't look at just the universal
8 service contribution to determine whether a carrier is
9 better off or worse off. Do they contribute more?
10 Absolutely. The fund is bigger, they contribute more.
11 But they save more on the access side than they
12 contribute.

13 Q Well, that might be the case if there was one
14 carrier paying access and one carrier contributing to
15 the Universal Service Fund, but isn't it the truth
16 that the set of carriers that contribute to the
17 Universal Service Fund are not exactly the same as the
18 set of carriers that pay access and that some carriers
19 may pay more if this is taken as a percentage of their
20 intrastate revenue versus what they pay if it's taken
21 based on their minutes of use of the RLECs network?

22 A I think each carrier would have to calculate
23 their own individual impact, but taken as a whole for
24 public policy purposes, it's a lower net payment from
25 providers of intrastate telecom services in the

1 Commonwealth of Pennsylvania.

2 Q So you would look at all of them taken together,
3 not the impact on individual carriers?

4 A I don't have the information to calculate the
5 impact on individual carriers. But the Universal
6 Service Fund funded by revenues is not just a state
7 approach, it's a federal approach. So it's -- you
8 know, there have been a lot of dockets opened at the
9 FCC about changing the way we contribute into
10 universal service, and they have not moved off of a
11 revenue based approach. So there must be some merit
12 to it.

13 Q Did you read Mr. Price's testimony where he
14 explained how, for example, the same \$20 million in
15 access, that Verizon ILEC would pay a very small
16 percentage of it but if that \$20 million were
17 transferred to the state Universal Service Fund,
18 Verizon ILEC would pay more than 50 percent of that.
19 Did you read that part of his testimony?

20 A Well, that's -- that's indicative of the fact
21 that Verizon again is the largest provider of
22 telecommunications service in the state.

23 Q So the answer is yes, you did read that part?

24 A I did -- I -- I heard it yesterday -- yesterday I
25 think Mr. Price was up. Yes. I did read that.

1 Q Okay. And you don't have a problem with that?

2 A It's the mechanics of universal service. Works
3 the same way on the federal side.

4 Q On the federal side, though, isn't it passed
5 through as a surcharge on a customer's bill?

6 A It can be. And there's also additional
7 contributors, which I know is a sore subject, but
8 that's part of our plan too.

9 Q Well, I just have one more question to you about
10 the Universal Service Fund, and it's about the current
11 Universal Service Fund, not the proposal to increase
12 it. I suppose you also did read -- I know you did
13 because you filed the testimony of rejoinder to it --
14 Mr. Price's testimony about the possibility of
15 redirecting \$8.4 million from the current Universal
16 Service Fund to utilize it for the present access
17 rebalancing. Did you read that testimony?

18 A Yes, I did.

19 Q I just want to make sure I understand your
20 position because you did file some testimony in
21 opposition to that. Is it your position that the PUC
22 cannot -- does not have the authority to redirect that
23 money or is it your position that the PUC should not
24 do that even though they may have the authority?

25 A Well, the support -- it kind of goes back to the

1 -- where are the rules for universal service set out -
2 - -

3 Q It's a yes or no question. Is it cannot or
4 should not?

5 A I think it's, to the best of my knowledge, should
6 not, with the caveat that I don't know what the legal
7 requirements would be for them to change an existing,
8 in-place fund that was a result of access charge
9 reductions that were implemented years ago. So I
10 don't know how you unwind that.

11 MS. PAIVA: All right. Well, that
12 actually was my last question. Thank you.

13 JUDGE MELILLO: Thank you. Does any
14 other party have cross-examination for Mr. Zingaretti
15 or follow-up questions before I ask a few questions?

16 (No response.)

17 JUDGE MELILLO: Hearing nothing, I just
18 have a few matters, Mr. Zingaretti.

19 First of all, in your surrebuttal, you
20 request that the Chapter 30 plans of the RLECs be, in
21 a sense, reflected in this record so the parties can
22 refer to them. You said a similar request was granted
23 in Judge Colwell's proceeding. It's my interpretation
24 of the commission order that I read to you yesterday
25 that -- the commission's consolidation order, that in

1 fact the record in Judge Colwell's proceeding is
2 available to the parties. So in fact the Chapter 30
3 plans are part of the record. And they also are a
4 public record here in the commission. So everyone can
5 refer to the Chapter 30 plan.

6 Now, did you want any other plan to be
7 recognized, for example Verizon's Chapter 30 plan, or
8 does any party want me to take notice or in essence
9 reflect that in this record? I don't recall whether
10 that was in Judge Colwell's proceeding.

11 MR. KENNARD: I know we had asked that
12 the RLEC PTA member company plans be included in the
13 record.

14 JUDGE MELILLO: And they are in the
15 record.

16 MR. KENNARD: Yes. We appreciate that.

17 JUDGE MELILLO: I'm sorry?

18 MR. KENNARD: And we appreciate that. I
19 don't know that we made any other requests. I don't
20 know that Verizon wants theirs in. We didn't move for
21 it.

22 MS. PAIVA: I was not planning to cite
23 Verizon's plans. If anybody else wants them.

24 MS. BENEDEK: I have a quick question.

25 JUDGE MELILLO: Yes, Ms. Benedek.

1 What's the question?

2 MS. BENEDEK: I wasn't actively in that
3 case.

4 JUDGE MELILLO: I wasn't either.

5 MS. BENEDEK: Was CenturyLink, at that
6 time Embarq's, Chapter 30 plans included in the
7 record, does anybody know?

8 (No response.)

9 MS. BENEDEK: In an abundance of caution
10 I'm requesting to take administrative notice of the
11 CenturyLink, formerly doing business as Embarq, plan
12 that's on file with the commission.

13 JUDGE MELILLO: Yes. We will do that to
14 the extent it's not already in the record. It is now
15 in the record as a public document under the
16 commission regulations.

17 MS. BENEDEK: Thank you.

18 JUDGE MELILLO: Just a couple questions
19 about the PTA proposal. I know we've had some
20 questions and some clarification about that. My
21 understanding is if the commission would want to
22 reduce access charges in this case, and you have
23 indicated that that should be done reasonably and over
24 a period of time to interstate parity, would the
25 reductions correspondingly be met with revenue

1 rebalancing up to what PTA's proposing is the
2 benchmark and then anything over that would be
3 obtained from the Pennsylvania Universal Service Fund?

4 THE WITNESS: Yes. That would be part
5 of the proposal. And if a company elected not to get
6 to the benchmark, if they stopped \$2 short of the
7 benchmark, that \$2 is imputed against them and they
8 just receive revenue as if they were at the benchmark.
9 So yes. If the commission were to move that way, that
10 would be the recommendation.

11 JUDGE MELILLO: So your proposal would
12 not be a flash cut immediately to interstate parity;
13 is that correct? It would be over a period of time
14 and as you would move toward parity, you would
15 correspondingly then rebalance?

16 THE WITNESS: That would be the
17 proposal. And consistent with a lot of filings made
18 at the FCC it's kind of referred to as a glide path.
19 A transition to the affordable rate or the comparable
20 rate.

21 JUDGE MELILLO: And did you agree to the
22 glide path set forth in your testimony of seven to ten
23 years? Do you believe that's reasonable?

24 THE WITNESS: That's -- that's what has
25 been put forth in a lot of universal service

1 proceedings or at the FCC, so that was the basis of
2 our seven to ten year analysis.

3 JUDGE MELILLO: It's possible that the
4 commission in this proceeding may decide to reduce
5 intrastate access charges but may not specifically
6 adopt every single part of the parties' proposals but
7 may in fact adopt portions of parties' proposals. Do
8 you see that as something that could be worked out in
9 your recommendation of a technical conference at the
10 conclusion of these proceedings?

11 THE WITNESS: I think it could, and I
12 think from a practical standpoint, I think it would be
13 -- it would probably result in access reductions
14 sooner than if we simply have a PUC order, which no
15 doubt a party will find unreasonable and likely
16 appeal.

17 JUDGE MELILLO: You see what I'm saying
18 is that -- Ms. Paiva mentioned this too, or brought
19 this up, there may be some computations that aren't in
20 the record right now. If piece parts of proposals are
21 put together, we may not yet know what the ultimate
22 impact is, although we would have the destination.
23 The ultimate destination. So your suggestion of
24 technical conference is I think one that -- certainly
25 to take into account, and I was wanting to see if you

1 agree or thought that that would be a possibility,
2 that that would be an opportunity for the parties to
3 talk about implementation of what the commission has
4 decided to do.

5 THE WITNESS: Yes.

6 JUDGE MELILLO: Yes?

7 THE WITNESS: Yes, I agree.

8 JUDGE MELILLO: And by the way, I
9 really liked your proposal of the parties settling. I
10 thought that was the best proposal of all. Thank you
11 for suggesting that.

12 And if the parties want to settle, by
13 all means, I encourage that. And we can request the
14 commission give us additional time in that regard.
15 Because right now we're under time constraints.

16 Does anyone have any questions as a
17 result of my questions?

18 (No response.)

19 JUDGE MELILLO: All right. Hearing
20 nothing, do we want to take a short break before
21 redirect?

22 MR. KENNARD: Please, Your Honor.

23 JUDGE MELILLO: All right. How about
24 five minutes? Would that be sufficient? Or ten
25 minutes?

1 MR. KENNARD: Ten minutes.

2 JUDGE MELILLO: We'll take a ten-minute
3 break. We're off the record.

4 (Recess declared from 12:20 p.m. until
5 12:30 p.m.)

6 JUDGE MELILLO: Back on the record.

7 MR. KENNARD: Pennsylvania Telephone
8 Association has no redirect examination of Mr.
9 Zingaretti.

10 JUDGE MELILLO: All right. Mr.
11 Zingaretti, you're excused.

12 THE WITNESS: Thank you.

13 JUDGE MELILLO: And you have 30 minutes
14 leeway.

15 THE WITNESS: Very good. Thank you.

16 JUDGE MELILLO: Does that conclude the
17 parties' presentation of these days of the
18 proceedings?

19 (No response.)

20 JUDGE MELILLO: Hearing nothing I take
21 that as a yes. Are there any housekeeping matters the
22 parties wish to raise at this point before we get into
23 the briefing matter?

24 MS. BENEDEK: I do. I have two.

25 JUDGE MELILLO: Yes. Ms. Benedek.

1 MS. BENEDEK: The one thing I have - - -

2 JUDGE MELILLO: You may want to speak
3 into the microphone.

4 MS. BENEDEK: We had promised to send or
5 give to people a copy of our public version of the
6 main brief in the Century/Embarq merger. A couple
7 pages -- three pages have been pulled by AT&T. I have
8 a complete copy of the redacted brief here for the
9 parties.

10 And then the other point was in the
11 rebuttal -- surrebuttal testimony of the panel
12 CenturyLink, there are two pages at the end, Page 27
13 and 26, that were reversed. It's a 1.3, I believe.

14 JUDGE MELILLO: Let me take a look at
15 that. That actually was Mr. Bonsick's. Yes. Mr.
16 Bonsick's testimony. That's correct. What happened
17 was Page 26 did not follow Page 25.

18 MS. BENEDEK: Okay. So - - -

19 JUDGE MELILLO: It follows Page 27.

20 MS. BENEDEK: It's all there. It's just
21 a pagination error. And that's all that I have.

22 JUDGE MELILLO: All right.

23 MR. KENNARD: While she's doing that,
24 judge, I don't think all parties got all the exhibits,
25 so maybe it would be helpful if the parties sponsoring

1 exhibits, introducing exhibits of cross-examination
2 nature would just simply agree to scan them in and
3 send them around to the parties.

4 JUDGE MELILLO: Yes. I think that was
5 discussed and I think that's a good plan. There was
6 some that Mr. Daughtry (phonetic) referred to in the
7 back of the hearing room that did not receive all the
8 cross-examination exhibits.

9 Also, anything that -- for which notice
10 was taken, we want to make sure the parties have
11 availability of those documents as well. There are
12 some that are available at the commission, they're
13 public documents. There may be others, for example
14 the FCC proceeding, various positions of the parties,
15 I had asked for a link for that.

16 MR. KENNARD: I will do that.

17 JUDGE MELILLO: And there may be some
18 other matters. I think there was a reference to a
19 brief and you had agreed to provide parties copies.

20 MS. BENEDEK: I just did that.

21 JUDGE MELILLO: And is that brief on the
22 record of the commission? Is that a public document
23 at the commission?

24 MS. BENEDEK: Yes.

25 JUDGE MELILLO: How old is it?

1 MS. BENEDEK: Yes, it is, and it was
2 filed March 13, 2009.

3 JUDGE MELILLO: All right.

4 MS. BENEDEK: Did you get a copy?

5 JUDGE MELILLO: I'm not certain that I
6 actually did get a copy of that. There's been a lot
7 of papers in this case.

8 (Document handed to the Court.)

9 JUDGE MELILLO: All right. Thank you.

10 Now we'll discuss briefing. First of
11 all, I am going to require a common briefing outline.
12 That briefing outline needs to be provided to me no
13 later than two weeks from today or by Friday, April
14 30th, 2010. The parties should get together and
15 decide what issues they want to raise in their briefs
16 and all positions then should be set forth in the
17 briefing outline.

18 However, the parties are not required to
19 address every issue. They should set that forth in
20 their briefs so that I'm aware that that party is
21 taking no position on that issue. They should so
22 state in the brief that they are not taking a
23 position. So all briefs should have the same outline
24 in the table of contents.

25 Briefs must include at the beginning a

1 succinct summary of the party's position, both their
2 affirmative position and their rebuttal to other
3 parties' positions so that I have in one place a
4 summary, a succinct summary for my purposes. I will,
5 I'm sure, be required to summarize the parties'
6 positions in my recommended decision.

7 There will be a page limit. My
8 suggestion is 100 pages for the main brief, 60 pages
9 for the reply brief. The appendix will not count
10 against your page limit. The appendix, you can not
11 count your procedural history against your page limit,
12 and in the appendix you will include copies of
13 unreported decisions that you've cited to. Also
14 proposed findings of fact, proposed conclusions of law
15 and proposed swearing in paragraphs. The proposed
16 findings of fact must set forth the place in the
17 record that supports your proposed finding. Either
18 transcript page, exhibit page or both or testimony
19 cite or both or all.

20 I am requesting that the parties, of
21 course, provide an e-version of their briefs to me in
22 Word 2003 or compatible plus a hard copy. I will set
23 this forth in a briefing order to be forthcoming so we
24 don't have any disagreement or confusion about this.

25 Now, the page limit that I'm suggesting,

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1 does any party disagree with that?

2 (No response.)

3 JUDGE MELILLO: The parties think a
4 hundred pages of -- in essence of the summary and
5 argument part of the brief will be sufficient?

6 (No response.)

7 JUDGE MELILLO: I don't hear any
8 objection to that. And 60 pages for the reply briefs.
9 And Mr. Kennard, are you questioning
10 that?

11 MR. KENNARD: Preliminarily I think it's
12 doable. I mean, it's the kind of thing where I'm
13 sorry this letter isn't short but I didn't have enough
14 time to write a shorter letter.

15 JUDGE MELILLO: I'm sorry. I'm not
16 hearing you.

17 MR. KENNARD: It's -- I think it's
18 doable. I think the parties need to be concise and
19 not verbose. We need to get down to the issues. It's
20 doable from our perspective.

21 JUDGE MELILLO: All right. All right.
22 Hearing no disagreement then, the hundred page limit,
23 as I stated, will be applicable for main briefs and 60
24 pages for reply briefs.

25 MS. BENEDEK: That excludes the findings

1 of fact?

2 JUDGE MELILLO: Yes, it does exclude
3 that. It also excludes the procedural history and any
4 copies of unreported decisions that you're going to
5 need to supply to me.

6 Remember this is your opportunity to
7 convince the administrative law judge. The briefs go
8 to me. It's in your interests to be as succinct and
9 clear as possible. Should you dare to file
10 exceptions, then that goes to the commission. But,
11 you know, I get the briefs. So that's your first
12 opportunity to convince the tribunal, trier of fact,
13 of the correctness of your position.

14 Any questions?

15 MS. BENEDEK: I have one. And I'm not
16 sure if you have complete control or the ability to
17 make this happen but I - - -

18 JUDGE MELILLO: Probably not.

19 MS. BENEDEK: Exceptions and reply
20 exceptions?

21 JUDGE MELILLO: I don't know. But in
22 this type of case it would surprise me if they didn't
23 allow reply exceptions. It is a recommended decision
24 so it will be subject to exceptions, as was Judge
25 Colwell's part of the case. I assume they had reply

1 exceptions in that part of the case as well.

2 That case has not been -- that part of
3 the case has not been decided to my knowledge. If it
4 is decided during the briefing time we'll -- or my
5 writing time we'll have to deal with that at that
6 time.

7 Anything further? Any other questions?

8 (No response.)

9 JUDGE MELILLO: Anything for the good of
10 the order?

11 All right. We're off the record. Thank
12 you very much.

13 (Whereupon, at 12:40 p.m., the
14 proceeding was concluded.)

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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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By: Rachelle Hirneisen
Rachelle D. Hirneisen
Registered Merit Reporter

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