

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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 :
Buffalo Valley Telephone Company : P-00981428F1000
Conestoga Telephone & Telegraph Company : P-00981429F1000
Denver & Ephrata Telephone and Telegraph : P-00981430F1000
Company. 2006 Annual Price Stability :
Index/Service Price Index. :
 :
 Initial Hearing :
 :
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Pages 37 through 171

Hearing Room No. 4
Commonwealth Keystone Building
Harrisburg, Pennsylvania

Wednesday, January 17, 2007

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

SUSAN D. COLWELL, Administrative Law Judge

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P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL: This is
3 the time and place set for the evidentiary hearing in the
4 three cases consolidated for hearing and decision captioned
5 2006 Annual Price Stability Index/Service Price Index
6 filings of Buffalo Valley Telephone Company at
7 P-00981428F1000; Conestoga Telephone & Telegraph Company at
8 P-00981429F1000; and Denver & Ephrata Telephone & Telegraph
9 Company at P-00981430F1000. I am Susan Colwell, the
10 Administrative Law Judge appointed by the Commission to
11 preside in this matter.

12 I note for the record the attendance of the following
13 counsel: on behalf of the Denver & Ephrata Companies,
14 Michael L. Swindler and Jennifer M. Sultzaberger; on behalf
15 of the Office of Trial Staff, Robert V. Eckenrod; on behalf
16 of the Office of Consumer Advocate, Joel Cheskis; on behalf
17 of the Office of Small Business Advocate, Steven C. Gray;
18 and on behalf of the Verizon Companies, Suzan D. Paiva,
19 Leigh Hyer and Jeffrey Rackow.

20 Is that everybody? Are there any attorneys here who
21 have not signed and should?

22 (No response.)

23 JUDGE COLWELL: The first item of business are the
24 two motions for admission pro hac vice made by Suzan Paiva
25 on behalf of Leigh Hyer and Jeffrey Rackow. These were

1 filed on January 5, 2007.

2 Are there any objections to these motions?

3 (No response.)

4 JUDGE COLWELL: Hearing none, then they are granted
5 and Ms. Hyer and Mr. Rackow are admitted for the purposes of
6 these proceedings.

7 Second, as you all know, there are numerous
8 representations labeled proprietary in the testimony and in
9 the accompanying exhibits. I assume that any discussion of
10 these items will require us to use the proprietary record.
11 You have to be sure to tell me when you're going to do that
12 because the court reporter won't go on the proprietary
13 record until I ask her to and won't come back off until
14 she's instructed to do so.

15 When we do that, any person who is not privileged to
16 hear the testimony will be asked to leave the room. For
17 everyone's information, there are two people here you may
18 not recognize but they are staff individuals, Mr. Dave
19 Ehrhart, and a member of our ALJ legal staff, Eranda Vero.
20 They're in the back of the room there, they are present, and
21 they can stay during that time because they are my staff.

22 Are there any persons here who are not signatories
23 who can't stay, or lawyers, who will be asked to leave, or
24 is everybody good? I just want to know if there's anyone.

25 (No response.)

1 JUDGE COLWELL: Does anybody not understand what I'm
2 talking about?

3 (No response.)

4 JUDGE COLWELL: So I assume everybody in the room
5 then can stay through the proprietary record; correct?

6 (No response.)

7 JUDGE COLWELL: All right. I assume you all know who
8 each other are and, therefore, you know whether or not
9 that's true and will tell me.

10 The parties have submitted a witness schedule and an
11 estimate of cross-examination that will be needed. I
12 appreciate that. Thank you very much. According to it,
13 Mr. Swindler will begin.

14 Go ahead, sir.

15 MR. SWINDLER: Thank you, Your Honor. Your Honor, I
16 would call to the stand Mr. Leonard J. Beurer.

17 JUDGE COLWELL: I have to apologize in advance to the
18 witnesses. We're in a hearing room where there happens to
19 be an air vent right at the feet of the witness, so whoever
20 is there is going to get a special chill. It discourages
21 people from talking too long, but aside from that, it's
22 pretty inconvenient.

23 Would you raise your right hand, please?

24 **Whereupon,**

25 **LEONARD J. BEURER**

1 having been duly sworn, testified as follows:

2 JUDGE COLWELL: Thank you. Please be seated.

3 Mr. Swindler.

4 MR. SWINDLER: Thank you, Your Honor.

5 **DIRECT EXAMINATION**

6 BY MR. SWINDLER:

7 Q. Mr. Beurer, could you please state your name and
8 spell your last name for the record?

9 A. Leonard Beurer, that's B-e-u-r-e-r.

10 Q. Mr. Beurer, have you prepared for this
11 proceeding testimony and exhibits both in direct, rebuttal
12 and surrebuttal form?

13 A. Yes, I have.

14 MR. SWINDLER: Your Honor, this testimony has been
15 identified as D&E Statement No. 1, the direct testimony of
16 Leonard J. Beurer, with D&E Exhibit 1 through D&E Exhibit 6;
17 D&E Statement No. 1-R, the rebuttal testimony of Leonard J.
18 Beurer, with D&E Exhibits 1-R through 5-R; and D&E Statement
19 No. 1-SR, the surrebuttal testimony of Leonard J. Beurer.
20 That testimony has been provided in both proprietary and
21 public versions and includes D&E Exhibit 1-SR. There will
22 also, Your Honor, be an exhibit identified as D&E Exhibit
23 1-RJ, which will be an exhibit to Mr. Beurer's oral
24 rejoinder.

25 Your Honor, to make it easy for the parties, and for

1 Your Honor and the court reporter, I have prepared a list of
2 D&E's statements and exhibits, because the exhibits do have
3 various pages to them, and I will provide that list to
4 counsel. I've already provided it to Your Honor and to the
5 court reporter.

6 JUDGE COLWELL: And I appreciate that.

7 (Whereupon, the documents were marked
8 as D&E Statement No. 1, with D&E
9 Exhibits Nos. 1 through 6; D&E
10 Statement No. 1-R, with D&E Exhibits
11 Nos. 1-R through 5-R; D&E Statement
12 No. 1-SR, with D&E Exhibit No. 1-SR,
13 and D&E Exhibit No. 1-RJ for
14 identification.)

15 MS. PAIVA: Mr. Swindler, while you're passing that
16 out, may I take a look at the exhibit to the oral rejoinder?

17 (Document handed to Counsel Paiva.)

18 MR. SWINDLER: At this point we're just identifying
19 it for the record.

20 (Counsel Swindler distributing documents.)

21 MR. SWINDLER: Can I proceed?

22 (No response.)

23 BY MR. SWINDLER:

24 Q. Mr. Beurer, with regard to the statements and
25 exhibits, D&E statements and exhibits, that I have just

1 identified, and as are shown on the list of D&E statements
2 and exhibits, were they prepared by you or under your
3 supervision and control?

4 A. Yes.

5 Q. Are there any corrections, changes or
6 modifications you wish to make to any of your statements or
7 exhibits at this time?

8 A. No.

9 Q. If I were to ask you today the questions
10 contained therein, would your answers be the same as the
11 answers contained therein?

12 A. Yes.

13 Q. And is the information contained in your
14 statements and exhibits true and correct to the best of your
15 knowledge, information and belief?

16 A. Yes.

17 MR. SWINDLER: Your Honor, with that, at this time we
18 do have very brief oral rejoinder for Mr. Beurer.

19 JUDGE COLWELL: Go ahead.

20 BY MR. SWINDLER:

21 Q. Mr. Beurer, on page 5, lines 2 through 4, of
22 Mr. Price's surrebuttal testimony, which is identified as
23 Verizon Statement 1.2, Mr. Price claims that leaving in
24 place D&E's pre-July 1, 2006 intrastate access rates will
25 leave the D&E companies access rates still higher than they

1 should be. Can you comment?

2 A. Yes. If the D&E carriers had never made any
3 changes in their access rates other than the Global Order
4 and the 2003 Joint Stipulation Order, the rates calculated
5 on that exhibit identifies what those rates would be today
6 had D&E not made any changes other than in compliance with
7 those two orders.

8 Q. When you say the exhibit, are you referencing
9 what we have marked as D&E Exhibit 1-RJ?

10 A. Yes, I am.

11 MR. SWINDLER: Let me pass that out to the parties.
12 Verizon already has a copy.

13 MS. PAIVA: Yes, but we would like an extra copy for
14 our witness.

15 MR. SWINDLER: Sure.

16 MS. PAIVA: After you pass it out, I actually have an
17 objection.

18 (Document distributed by Counsel Swindler.)

19 MR. SWINDLER: Copies of D&E Exhibit 1-RJ have been
20 provided to all the parties, Your Honor, and the appropriate
21 number of copies to the court reporter.

22 MS. PAIVA: Your Honor, before he starts questioning
23 on this exhibit, Verizon objects to the introduction of this
24 exhibit for oral rejoinder, because just looking at this and
25 hearing the previous question, this seems to be a rehash of

1 everything that has already been said in the written
2 testimony, and it also appears to be something that could
3 have been presented as an exhibit to the surrebuttal
4 testimony. Given that we've already had three rounds of
5 written testimony on a fairly quick turn-around, I don't
6 believe it's appropriate to come in on rejoinder and bring
7 in anything other than information that is directly targeted
8 to the surrebuttal and that is necessary because it hasn't
9 been stated before. Therefore, we object to the use of
10 Exhibit 1-RJ and to any oral rejoinder that just repeats
11 what's already in the testimony or could have been raised on
12 surrebuttal.

13 JUDGE COLWELL: Mr. Swindler.

14 MR. SWINDLER: Well, first of all, Your Honor, as you
15 know, under 66 Pa. C.S. 315(a), the party with the burden of
16 proof has the opportunity to present the last bit of
17 testimony, and that's what we've done in oral rejoinder. As
18 I indicated in my question, it's specifically related to
19 Mr. Price's surrebuttal testimony, so that is completely
20 appropriate. The exhibit relates specifically thereto, and
21 Mr. Beurer has indicated that. It is a completely
22 appropriate response to surrebuttal testimony, and that's
23 what we present it as.

24 JUDGE COLWELL: Is this all information that's
25 already in the record, it's just presented in --

1 MR. SWINDLER: Absolutely not, Your Honor. Maybe
2 Mr. Beurer can clarify or explain, but this is not
3 information that's on the record or been presented in the
4 testimony up to this point. Mr. Price indicated in his
5 surrebuttal reference to where the access rates, the
6 intrastate access rates, should be, and Mr. Beurer is trying
7 to explain and respond to Mr. Price's claim in his
8 surrebuttal testimony with this exhibit.

9 JUDGE COLWELL: Okay. Well, why don't we let him go
10 ahead and explain that, and then we'll determine whether or
11 not your objection should be granted.

12 Go ahead.

13 THE WITNESS: You want me to explain the exhibit?

14 MS. PAIVA: And particularly to explain what, in the
15 exhibit, is not already in the record, right, Your Honor?

16 JUDGE COLWELL: I think we'll let Mr. Swindler
17 present this for what he wants it presented for.

18 BY MR. SWINDLER:

19 Q. Mr. Beurer, looking at D&E Exhibit 1-RJ, can you
20 please explain what that exhibit shows?

21 A. Yes. This exhibit now shows what the rates
22 would have been had the D&E carriers only implemented the
23 Global Order and the 2003 Joint Stipulation Order. All of
24 my prior exhibits had included all the voluntary reductions
25 that D&E had done throughout that period of time, so this

1 now identifies, in response to Mr. Price's surrebuttal
2 statement, what would the rates have been had there been
3 absolutely no changes other than those two items.

4 Q. In fact, what does this exhibit show as compared
5 to what you've identified in your prior exhibits?

6 A. That the current rates that we filed for in our
7 2006 PSI are well below the rates that we could have had,
8 had we made no voluntary reductions.

9 MS. PAIVA: Your Honor, it still seems to me that
10 it's duplicative of the Exhibit 5-R that was attached to the
11 rebuttal testimony that goes through all the reductions over
12 the years and their impact on rates. Also, I don't see why
13 this couldn't have been brought up in surrebuttal, in
14 written surrebuttal, so that we didn't see it on the day of
15 the hearing, if they thought it was necessary to reconfigure
16 the same information in some different way.

17 JUDGE COLWELL: I will allow it. Go ahead.

18 BY MR. SWINDLER:

19 Q. Anything further, Mr. Beurer, with regard to
20 this exhibit?

21 A. No.

22 Q. Thank you.

23 MR. SWINDLER: Your Honor, with that, I request that
24 the D&E statements and exhibits be admitted into the record
25 and Mr. Beurer would be available for cross-examination.

1 JUDGE COLWELL: We'll do the cross-examination first
2 and then we'll determine whether or not they're all
3 admissible. According to the list you've given me, the
4 first party to cross-examine will be OCA.

5 Mr. Cheskis.

6 MR. CHESKIS: We have no questions for this witness,
7 Your Honor.

8 JUDGE COLWELL: Very good. Also, OSBA has no
9 questions?

10 MR. GRAY: No questions, Your Honor.

11 JUDGE COLWELL: And OTS has no questions?

12 MR. ECKENROD: No questions, Your Honor.

13 JUDGE COLWELL: Ms. Paiva.

14 MS. PAIVA: Yes, I have some questions, Your Honor.

15 JUDGE COLWELL: I thought you might.

16 MS. PAIVA: The first question is, can you hear me or
17 do you want me to move the mic?

18 JUDGE COLWELL: I can hear you. I don't know about
19 the people behind you.

20 **CROSS-EXAMINATION**

21 BY MS. PAIVA:

22 Q. Mr. Beurer, can you hear me?

23 A. With the wind, you're a little bit quiet, but I
24 can hear you. Take it slow.

25 Q. I have a little cold, so it's hard to speak up.

1 Good morning, Mr. Beurer.

2 A. Good morning.

3 Q. We've already met. I just have a few questions
4 for you this morning.

5 A. Yes.

6 Q. In this case, you're testifying on behalf of the
7 three ILECs, D&E, Conestoga and Buffalo Valley; correct?

8 A. Yes.

9 Q. And these three companies are subsidiaries of
10 D&E Communications?

11 A. Communications, Inc., yes.

12 Q. And D&E Communications acquired the Conestoga
13 and Buffalo Valley ILECs through its acquisition of
14 Conestoga Enterprises in 2001; is that correct?

15 A. Yes, they did acquire them. I'm not sure if it
16 was 2001 or 2002, I was not with the company at that time,
17 but I know they did acquire them, yes.

18 MS. PAIVA: I have a document that I would like to
19 show you and have marked as Verizon Cross Exhibit 1, so I'll
20 take a minute to pass that out.

21 (Document distributed by Counsel Paiva.)

22 (Whereupon, the document was marked
23 as Verizon Cross-Examination Exhibit
24 No. 1 for identification.)

25 BY MS. PAIVA:

1 Q. While you're looking at it, just for the
2 record --

3 MR. SWINDLER: Are we supposed to write Exhibit 1 on
4 this?

5 MS. PAIVA: Yes. Just put a 1 in the blank.

6 BY MS. PAIVA:

7 Q. For the record, this is a page that I printed
8 from the D&E Communications, Inc. web site on January 15,
9 2007 entitled "Combined Company Information." I just wanted
10 to ask you, under the title "Combined Company Information"
11 it says that "On May 24, 2002," -- that tells us the date --
12 "D&E Communications acquired Conestoga Enterprises, creating
13 one of the nation's 20 largest independent telephone
14 companies." Is that correct, that statement appears on the
15 web site?

16 A. It appears on the web site, yes.

17 Q. Have you seen it before?

18 A. No.

19 Q. Do you have any reason to believe that this
20 document is not correct that appears on the web site?

21 A. I did not put it together, so I don't know if
22 it's correct or incorrect. I have no reason to believe it's
23 not correct.

24 Q. Now, the three D&E ILECs, Buffalo Valley,
25 Conestoga and D&E, they're located in southeastern

1 Pennsylvania; is that correct?

2 A. Buffalo Valley is up, I don't know if you call
3 it southeast, it's certainly a little bit farther to the
4 north than what Conestoga and D&E is.

5 MS. PAIVA: I thought it would be helpful if we just
6 -- I was going to mark for the record here Verizon Cross-
7 Examination Exhibit 2, which is another document I pulled
8 from the D&E web site, and this contains a map, just so that
9 we could all, in context, understand where the companies
10 are. I'm going to pass out the map so everybody can look at
11 it.

12 (Document distributed by Counsel Paiva.)

13 (Whereupon, the document was marked
14 as Verizon Cross-Examination Exhibit
15 No. 2 for identification.)

16 MR. SWINDLER: Your Honor, can I ask the relevance of
17 location of the companies as to the questions that we are
18 supposed to be dealing with in this remand proceeding?

19 JUDGE COLWELL: He's asking for an offer of proof,
20 Ms. Paiva.

21 MS. PAIVA: Well, in his written testimony he talks
22 about the companies and generally where they're located, and
23 I just thought to have a visual image with a map of where
24 they're located would be helpful for the record, and also to
25 put a context to the characterization of the companies,

FORM 2

1 whether they're rural or suburban or however they are, to
2 understand where they are. I'm not going to ask a lot of
3 questions about it. I just thought it would be helpful to
4 have him verify on the map where the companies are located.

5 MR. SWINDLER: Your Honor, we'll stipulate that the
6 D&E companies are rural ILECs.

7 JUDGE COLWELL: Do you need more than that?

8 MS. PAIVA: If he would stipulate to the admission of
9 the map into the record, that's fine; I wouldn't have to ask
10 any questions about it.

11 (No response.)

12 JUDGE COLWELL: It looks like you can resume your
13 questioning, Ms. Paiva.

14 BY MS. PAIVA:

15 Q. Mr. Beurer, do you get to the page that has the
16 map?

17 A. Yes, ma'am.

18 Q. Just taking a look at the map, the blue outlined
19 areas are the three ILECs; correct?

20 A. Yes, ma'am.

21 Q. And the one that is at the top left-hand corner
22 in Union County, Lewisburg, is that Buffalo Valley?

23 A. Yes, ma'am.

24 Q. And the one that's sort of in the middle that
25 has Ephrata -- is that the name of it?

1 A. Ephrata.

2 Q. The one that has Ephrata in it, that is D&E;
3 correct?

4 A. Yes, ma'am.

5 Q. And the final one that is over to the right more
6 and has Birdsboro in it, that one is Conestoga; correct?

7 A. Yes, ma'am.

8 Q. Based on your knowledge of the operating
9 territories of these companies, does this map correctly
10 depict where they are geographically in Pennsylvania?

11 A. Yes, ma'am.

12 Q. And the surrounding areas that are yellow, that
13 are outside the blue lines, those are not part of the ILEC
14 territory; correct?

15 A. That is correct.

16 Q. Do you know what ILEC predominantly serves those
17 territories?

18 A. I assume Verizon.

19 Q. Going to your direct testimony, taking a look at
20 Exhibit 3, Exhibit 3 details the various access rate
21 decreases that the companies have had since the Global
22 Order; correct?

23 A. Yes.

24 Q. And there's one page for each company, so
25 Exhibit 3 is a three-page document; correct?

1 A. Yes.

2 MR. SWINDLER: I'm sorry; are you referring to D&E
3 Exhibit 3 --

4 MS. PAIVA: To the direct testimony.

5 MR. SWINDLER: Just to clarify, there's not one page
6 per company, each different company is listed on the page.
7 The pages are divided by access element and --

8 MS. PAIVA: Are we looking at the same thing?

9 MR. SWINDLER: Apparently not.

10 (Document shown to Counsel Swindler by Counsel
11 Paiva.)

12 MR. SWINDLER: To clarify, Ms. Paiva, you're talking
13 about Exhibit 3, Sheet 1.

14 MS. PAIVA: Yes. Each one is entitled Exhibit 3,
15 Sheet 1; one says Sheet 1 - BVT, one says Sheet 1 - CTTC,
16 and the other one says Sheet 1 - D&E.

17 MR. SWINDLER: With regard to Sheet 1, I apologize,
18 you're correct.

19 MS. PAIVA: And it is actually Exhibit 3 to the
20 direct; right?

21 MR. SWINDLER: Exhibit 3, Sheet 1.

22 JUDGE COLWELL: Mr. Swindler, is your microphone on?
23 (Counsel Swindler indicating.)

24 JUDGE COLWELL: Yes, it is. All right. Thank you.

25 MS. PAIVA: I'm looking at Exhibit 3, Sheet 1. I'm

1 looking at the sheet for D&E, which for me is the third one
2 of the sheets.

3 BY MS. PAIVA:

4 Q. The first set of reductions after the Global
5 Order, that was done effective December 1, 2001; correct?

6 A. Yes.

7 Q. And D&E reduced its carrier charge from \$6.11 to
8 \$5.61; correct?

9 A. Yes.

10 Q. Now, you were not employed by D&E at the time
11 that reduction was made, were you?

12 A. No.

13 Q. When did you start working for D&E?

14 A. In 2004.

15 Q. In 2001, were you actually located in
16 Pennsylvania or were you working elsewhere?

17 A. No. I was working elsewhere. My staff was
18 working with me. They've been here for the entire time
19 period.

20 Q. What company were you working for in 2001?

21 A. Valor Telecommunications.

22 Q. Does Valor Telecommunications do business in
23 Pennsylvania?

24 A. No.

25 Q. Now, still looking at Exhibit 3, based on the

1 three sheets, one sheet for each company, it seems to me
2 that the last time -- before the present case, the last time
3 that any of the companies reduced access rates was November
4 of 2003; is that correct?

5 A. Yes.

6 Q. And that was before you were employed by D&E;
7 correct?

8 A. Yes.

9 Q. So, in fact, none of these companies have
10 reduced access rates since you came to the company, other
11 than the present filing, the subject of this case; correct?

12 A. Yes.

13 Q. Are you aware that with respect to the D&E
14 entity, that there was a Commission order at Docket
15 R-00016682, entered November 30, 2001, that actually
16 approved that first rate decrease that was effective
17 December 1, 2001?

18 A. No, I'm not.

19 Q. So you didn't review that order in preparation
20 of your testimony?

21 A. I was not aware of that order. I'm not aware of
22 what that order is right now.

23 Q. So I guess it would be correct to say that you
24 don't know what reasons D&E might have given to support that
25 filing back in 2001?

1 A. I only know what my staff has indicated what the
2 history was with each one of these orders; that the 2001
3 filing was a rate rebalancing to reduce access and increase
4 local.

5 Q. You mentioned your staff a minute ago. Do you
6 know whether or not your staff reviewed that November 2001
7 order?

8 A. For this proceeding?

9 Q. Right, for this proceeding.

10 A. No.

11 Q. So they never indicated to you what the contents
12 of that order might have been?

13 A. No.

14 Q. Now I'm going to go to your surrebuttal
15 testimony for a moment. We can close Exhibit 3.

16 JUDGE COLWELL: I'm sorry, Ms. Paiva, where did you
17 say we're going now?

18 MS. PAIVA: Surrebuttal.

19 BY MS. PAIVA:

20 Q. At page 5 of your surrebuttal at the bottom,
21 lines 23, 24, you state that, "D&E carriers have
22 historically been extremely diligent in using those 'other
23 ways' to implement the revenue increases authorized under
24 their Chapter 30 plans." It carries over to the next page.
25 Is that correct?

1 A. Yes.

2 Q. Now, by "other ways" -- and you have it in
3 quotation marks -- you mean increasing rates other than
4 access rates, increasing other non-competitive rates;
5 correct?

6 A. Yes.

7 Q. Are you aware that Act 183, effective November
8 30, 2004, resulted in changes to the inflation offset used
9 to calculate the companies' PSI formula and rate
10 entitlement?

11 A. Yes.

12 Q. In fact, in the Commission's June 23 orders on
13 each of these filings, the Commission recognized that the
14 three D&E ILECs' inflation offsets were changed by Act 183,
15 any filings subsequent to that, so that they changed from 2
16 percent to zero; is that correct?

17 A. Yes, based on the election we made.

18 Q. And these 2006 PSI filings that are the subject
19 of this proceeding are actually the first filings that these
20 ILECs have made with the new zero inflation offset, aren't
21 they?

22 A. Based on my recollection of when the actual
23 Chapter 30 amended plans were filed in accordance with Act
24 183, the 2006 filing I believe is the first filing that was
25 made subsequent to Act 183.

1 Q. And so the first filing with a zero inflation
2 offset.

3 A. Yes.

4 Q. To your knowledge, is it true that this is the
5 first time that these three companies' PSI formulas have
6 actually generated the opportunity to increase rates or a
7 positive PSI?

8 A. No, I believe we've had a positive increase in
9 rates prior to this.

10 Q. Do you know in what years you've had a positive
11 increase in rates?

12 A. Either 2002 or 2003 I believe was a small
13 increase even after the 2 percent offset. I'm not
14 remembering right now which year it was. I'm thinking it
15 was 2003.

16 Q. Was that an increase actually generated by the
17 formula or was that due to some exogenous event?

18 A. No, I believe it was due to the formula. The
19 actual change in GDPPI was greater than 2 percent.

20 Q. Do you remember the amount of revenue --

21 A. Very small. It was a small amount.

22 Q. Less than \$100,000?

23 A. I don't know the dollar amount.

24 Q. But much smaller than the increases allowed
25 under the 2006 PCO; correct?

1 A. Yes.

2 Q. Turning to page 9, also, of your surrebuttal --
3 actually, the discussion starts at the bottom of page 8. In
4 general, you say that you are wanting to illustrate the
5 flaws in Mr. Price's comparison of the magnitude of the D&E
6 companies' access reductions versus the magnitude of
7 Verizon's access reductions. That's the discussion that is
8 at the bottom of page 8 and the top of page 9; correct?

9 A. Yes.

10 Q. And you say at the top of page 9, line 4, that
11 D&E has had \$30 million in access reductions. That would be
12 since the Global Order; correct?

13 A. Yes.

14 Q. That figure is taken from your Exhibit 5-R to
15 your rebuttal testimony, and take a look at it, if you like.

16 (Witness perusing document.)

17 A. Yes.

18 Q. If I understand Exhibit 5-R correctly, what
19 you've done here is figured out what your rates would have
20 been under the rates that were in existence after the Global
21 Order, what your rates actually were based on the reductions
22 you made over the years, taking the difference for each year
23 from 2001 to 2006; is that correct?

24 A. Yes. This calculation compares our current
25 rates to the rates in Global, and then takes the current

1 demand for each year to calculate that impact.

2 Q. So you're basically saying that all IXEs, all
3 access customers, and even ILECs, taken together, if D&E had
4 never changed its rates from the rates in effect at the
5 Global order, they would have paid approximately \$30 million
6 more in access?

7 A. If rates had not been changed post Global,
8 that's what they would have paid in additional access
9 revenues.

10 Q. Just to understand your calculation, this is a
11 cumulative calculation, so, for example, if you look at --
12 let's look at D&E -- well, I'll just try to make it simple
13 for the sake of example rather than using these numbers.
14 You say in 2001, the carriers would have paid a million
15 dollars more if we had not changed our rates, and then you
16 say in 2002, the carriers would be paying a million dollars
17 more if we had not changed our rates, and assuming that that
18 number never changed, you would have a million dollars for
19 each year, 2001, 2002, 2003, all the way up to 2006, and you
20 would have a cumulative savings of \$6 million; correct?

21 A. Yes. This is a cumulative calculation, so it
22 calculates each year individually based on that year's
23 demand and then sums up the years since Global.

24 Q. Now, you then compare that number to Verizon's
25 access reductions over the same period, same time period,

1 since the Global order, which appears at the bottom of page
2 8, line 24, and you say that Verizon had \$140 million of
3 access reductions; correct?

4 A. The \$140 million came from Mr. Price. I merely
5 divided by access lines to identify what that amount per
6 line equated to.

7 Q. And you actually took the \$140 million from page
8 7 of Mr. Price's rebuttal?

9 A. Yes.

10 Q. And he explained that the \$140 million was made
11 up of \$89 million that Verizon paid out, reduced, after the
12 Global Order, and an additional \$50 million that was
13 reduced, mostly with Verizon North, after Phase I of the
14 Verizon access proceeding and ended up with \$140 million?

15 A. He made reference to the \$140 million, and so I
16 used his \$140 million to compare to our reduction on a per
17 line basis.

18 Q. Do you know whether the \$140 million is a
19 cumulative number, like the millions of dollars you added up
20 for each year, or whether it's just the one year's value?

21 A. No, I do not. I assumed it was the cumulative
22 number since he was referring to my information.

23 Q. Let me ask you this then. Have you reviewed the
24 Commission's comments that it submitted to the FCC -- the
25 Pennsylvania Public Utility Commission's comments -- in the

1 Missoula Plan docket?

2 A. No, I have not.

3 Q. So you're not aware then that the Pennsylvania
4 Public Utility Commission calculated a cumulative number
5 with that \$89 million in access savings for Verizon?

6 A. No, I am not.

7 Q. Would you accept, subject to check, that the \$89
8 million and the \$50 million are just the one year's value of
9 those access reductions?

10 A. Subject to check, sure.

11 JUDGE COLWELL: I have to warn you, I really don't
12 like subject to check. If somebody's going to give me
13 something subject to check, somebody has to check it and get
14 back to me.

15 MS. PAIVA: Your Honor, I was going to actually
16 introduce the Commission's comments from the Missoula Plan,
17 but since he said he didn't read it, I didn't bring it in,
18 but in there the Commission takes the \$89 million and adds
19 it up for each year and comes up with a number that's \$600
20 million, so it is checkable.

21 JUDGE COLWELL: Okay. Then include that reference in
22 your brief, please.

23 MS. PAIVA: I just wanted to ask him one more
24 subject-to-check question just to make the record clear.

25 JUDGE COLWELL: You know the rules.

1 MS. PAIVA: It is checkable.

2 JUDGE COLWELL: Okay.

3 BY MS. PAIVA:

4 Q. Subject to check, if you assume that the \$89
5 million decrease was in effect from, we'll use the same date
6 you did on your chart, so 2001, 2002, 2003, 2004, 2005 and
7 2006, so that's six years, and you also assume that the \$50
8 million -- and this is a matter of public record in the
9 Commission's order -- went into effect in 2005, so that's
10 been in effect for two years, 2005 and 2006, so if you were
11 going to calculate a cumulative number, six times \$89
12 million plus two times \$50 million, to come up with a
13 cumulative Verizon number for the same time period
14 corresponding to your exhibit, that that number would be
15 approximately \$634 million in cumulative access savings for
16 the Verizon companies?

17 A. I agree to those calculations, yes. The math
18 adds up. If those were only individual year's numbers, then
19 if you're trying to compare to my cumulative number, you add
20 them together. You would then still divide by the access
21 lines to determine how much per line that was over that
22 cumulative period of time.

23 Q. And I actually do have one question for you
24 about the access lines -- that's also at the top of page 9
25 -- because the calculation you did, I think you just

1 explained it, was you took the access savings and divided it
2 by the number of lines to try to come up with a per line
3 access savings for each company; correct?

4 A. Yes.

5 Q. And for the D&E companies you used the number of
6 lines of 139,226?

7 A. Yes.

8 Q. For the Verizon companies you used the number of
9 lines that appears on line 1 of page 9, which is 6,092,636;
10 correct?

11 A. Yes.

12 Q. Now, are you aware that D&E actually asked
13 Verizon in discovery to produce its number of access lines
14 in Pennsylvania?

15 A. I believe so, yes.

16 Q. Do you recall seeing our response to that
17 interrogatory?

18 A. I did not use that. I pulled the same
19 information that I could pull from the D&E carriers, and I
20 felt that USAC had the most accurate information that was
21 comparing apples to apples, both companies at the same point
22 in time, using the same rules.

23 Q. So you did not use the number of lines that
24 Verizon produced in response to the discovery request?

25 A. No, ma'am. I went to USAC to get the same

1 number for both companies.

2 Q. Now, I have the Verizon discovery response here
3 if you need to look at it, but you may be able to answer
4 this question without looking at it. From your
5 recollection, do you recall that the number of lines in
6 Verizon's discovery response was actually approximately --

7 MR. SWINDLER: Excuse me, Your Honor, I would object.
8 I don't believe it's appropriate for Verizon to be using its
9 own response for the truth of the matter.

10 MS. PAIVA: Your Honor, I'm not seeking to admit the
11 response for the truth of what's contained in it, I'm
12 seeking to show that the witness had in his possession a
13 sworn discovery response from Verizon that shows that the
14 number of Verizon lines is substantially lower than what he
15 used in his calculation. By using a much higher number of
16 lines, he therefore made the per line access savings for
17 Verizon seem much lower than it would have been if he had
18 used the number from the response to discovery. That's why
19 I'm not showing the document; I'm not trying to put the
20 document into the record, I'm only asking him if he's aware
21 that the number that we produced was actually much smaller
22 than the number he used in his testimony.

23 JUDGE COLWELL: Well, that's the question you can
24 ask.

25 MS. PAIVA: That was the question I was trying to ask

1 him.

2 MR. SWINDLER: There should not be any reference to
3 the Verizon discovery response since we have not put that
4 into the record.

5 MS. PAIVA: My only reason to refer to it was because
6 that's the way that he would have seen that number and
7 because they asked for it.

8 JUDGE COLWELL: I think you've made your point that
9 your number is different from the number he relied upon, and
10 I'm sure that when you put your witness on, you can
11 straighten the whole matter out.

12 MS. PAIVA: Can I just ask him to confirm if he's
13 aware that the number that he used is lower, for the record?

14 JUDGE COLWELL: You can ask him if he's seen the
15 discovery responses.

16 MS. PAIVA: He said he did.

17 JUDGE COLWELL: Then you're done.

18 MS. PAIVA: Can I ask him if he knows that the number
19 was lower? I think that's also an important point.

20 MR. SWINDLER: He said he hasn't seen the response,
21 Your Honor. He's already testified to that.

22 MS. PAIVA: He testified that he didn't use the
23 number, he didn't testify that he knew the number was lower.

24 JUDGE COLWELL: Mr. Beurer, do you know the number
25 was lower?

1 THE WITNESS: No, I did not look at those numbers.

2 JUDGE COLWELL: Thank you.

3 Please go on.

4 MS. PAIVA: That actually was my last question -- oh,
5 wait, let me just --

6 JUDGE COLWELL: Okay.

7 (Pause.)

8 MS. PAIVA: We're good. That's it.

9 JUDGE COLWELL: Mr. Swindler, anything else for this
10 witness?

11 MR. SWINDLER: Your Honor, may I have a few moments
12 before any possible redirect?

13 JUDGE COLWELL: Yes. Off the record.

14 (Discussion off the record.)

15 JUDGE COLWELL: Let's go back on the record.

16 Go ahead, Mr. Swindler.

17 MR. SWINDLER: Thank you, Your Honor. Just very
18 brief redirect.

19 **REDIRECT EXAMINATION**

20 BY MR. SWINDLER:

21 Q. Mr. Beurer, with regard to Ms. Paiva's questions
22 about the location of the D&E companies and whether they are
23 surrounded by Verizon, can you further respond?

24 A. Verizon, being the largest carrier in
25 Pennsylvania, obviously serves the most lines. We still

1 have many other rural carriers that adjoin the D&E
2 properties or are near D&E properties for all three of our
3 companies, so there are still many other rural carriers
4 besides Verizon in the areas where we serve.

5 Q. Would you characterize then the D&E companies as
6 being totally surrounded by Verizon?

7 A. No, they are not.

8 Q. Ms. Paiva also asked you whether the inflation
9 offset for the D&E companies was recently changed. Was
10 there anything else that was simultaneously changed at the
11 time that the inflation offsets were changed in those
12 amended Chapter 30 plans?

13 A. Yes. Our network modernization plan commitments
14 were changed, and we greatly accelerated the requirement to
15 have broadband availability to 100 percent of our customers
16 to December 31, 2008.

17 Q. Mr. Beurer, with regard to the cumulative
18 numbers in the discussion with Ms. Paiva, can you tell me,
19 how does the Verizon 600 some odd million dollars in
20 cumulative reduction compare to D&E's?

21 A. If you look at the access line numbers which I
22 used per the USAC reports, the Verizon companies have
23 roughly 43 times as many lines as what the D&E companies
24 have, so if you would take the roughly 43 times number and
25 multiply it times the amount per line that we calculated,

1 the \$634 million number should actually be more like \$1.2
2 billion if you compare that to the actual impact per line
3 that the D&E carriers took using her numbers. And the math
4 on that is simply taking their lines divided by our lines
5 and multiplying that times the \$30 million that we took as a
6 reduction to get what they should have as a reduction, if
7 they would take the same impact on a per line cumulative
8 basis, as what the D&E carriers have taken.

9 Q. So putting it on an apples-to-apples cumulative
10 basis, you get \$1.2 million for Verizon --

11 A. Billion.

12 Q. -- 1.2 billion for Verizon, but that's not what
13 was done?

14 A. They only did half that according to her revised
15 calculations.

16 MR. SWINDLER: Thank you. That's all I have.

17 JUDGE COLWELL: Ms. Paiva?

18 MS. PAIVA: I do have one question, but also,
19 Your Honor, I don't think I can do the higher math to divide
20 the number of lines by their number, multiply it times \$30
21 million. I would like to go back and check that and see if
22 it actually comes out to \$1.2 billion.

23 JUDGE COLWELL: Who has a calculator? I'll need to
24 check it.

25 MS. PAIVA: Maybe Mr. Beurer; he's the one to do the

1 math. Have you actually done the calculation?

2 THE WITNESS: Yes, on Mr. Thomas' calculator. If you
3 take roughly 6 million divided by roughly 140,000, and then
4 multiply that by the 30 million.

5 MS. PAIVA: Your Honor, I would like to take a break
6 to actually do that calculation. Would you like me to ask
7 my recross first and then do that?

8 JUDGE COLWELL: No, I want you to be happy with the
9 number. Let's just take a minute and you can do that.

10 MS. PAIVA: It may take a couple minutes.

11 JUDGE COLWELL: Off the record.

12 (Discussion off the record.)

13 JUDGE COLWELL: Back on the record.

14 Go ahead.

15 MS. PAIVA: Just one follow-up question.

16 **RECROSS-EXAMINATION**

17 BY MS. PAIVA:

18 Q. You have not done this new calculation that you
19 just did, dividing Verizon's number of lines by your number
20 of lines times 30 million, you have not done that
21 calculation using the numbers that Verizon provided in
22 discovery, have you?

23 A. For access lines?

24 Q. Right.

25 A. No, I have not. I would have to also know the

1 equivalent D&E lines using the same method that Verizon
2 calculated in order to make an apples-to-apples comparison.

3 MS. PAIVA: That's it. No further questions.

4 JUDGE COLWELL: Mr. Swindler?

5 MR. SWINDLER: Nothing, Your Honor.

6 JUDGE COLWELL: All right. At this point you have
7 moved the admission of all of your exhibits. Are there any
8 objections?

9 MR. SWINDLER: Your Honor, with regard to Verizon
10 Cross Exhibit No. 1 --

11 JUDGE COLWELL: Let's just talk about yours first.

12 MR. SWINDLER: Oh, I'm sorry.

13 JUDGE COLWELL: Then we'll get to Ms. Paiva's; okay?

14 MR. SWINDLER: I have no objection to my exhibits,
15 Your Honor.

16 (Laughter.)

17 JUDGE COLWELL: I'll mark that down.

18 MS. PAIVA: I have no objection to his exhibits
19 except for the one that came in as a new exhibit on
20 surrebuttal, which we discussed, which I still believe is
21 duplicative of material that's already in the record.

22 MR. SWINDLER: It came in on rejoinder, just to
23 clarify.

24 MS. PAIVA: On rejoinder.

25 JUDGE COLWELL: Overruled. All of the statements and

1 exhibits of D&E are admitted.

2 (Whereupon, the documents marked as
3 D&E Statement No. 1, with D&E
4 Exhibits Nos. 1 through 6; D&E
5 Statement No. 1-R, with D&E Exhibits
6 Nos. 1-R through 5-R; D&E Statement
7 No. 1-SR, with D&E Exhibit No. 1-SR,
8 and D&E Exhibit No. 1-RJ were
9 received in evidence.)

10 MS. PAIVA: And I should now move the admission of
11 Verizon Cross-Examination Exhibits 1 and 2?

12 JUDGE COLWELL: Yes.

13 MS. PAIVA: I move for their admission.

14 JUDGE COLWELL: Mr. Swindler.

15 MR. SWINDLER: Your Honor, with regard to Verizon
16 Cross Exhibit 1, this has been noted as being a page from
17 D&E's web site. My copy is cut off on the edge and I'm not
18 sure if this is meant to indicate that the D&E web site is
19 also cut off at the edge. So this is a quasi objection
20 because it doesn't appear that I have the entire page on my
21 copy.

22 MS. PAIVA: It's only half of the last letters, a
23 couple of lines, that's cut off on my copy, but we can print
24 out a better copy and submit it and substitute it for the
25 record, if that would be acceptable to Mr. Swindler.

1 JUDGE COLWELL: Ms. Paiva, as I recall, the point of
2 this exhibit was the little bit that appears at the top of
3 the page under "Combined Company Information"?

4 MS. PAIVA: That's correct.

5 JUDGE COLWELL: And that's clear, so I don't think
6 that the rest of it is important enough to keep this whole
7 exhibit out. We'll just admit it for the purpose it was
8 submitted for.

9 MR. SWINDLER: So is it my understanding, Your Honor,
10 that Cross Exhibit 1 is admitted only for the purpose of the
11 bold paragraph number one?

12 MS. PAIVA: That's acceptable.

13 JUDGE COLWELL: Yes.

14 (Whereupon, the document marked
15 as Verizon Cross-Examination Exhibit
16 No. 1 was received in evidence.)

17 MR. SWINDLER: Thank you, Your Honor. With regard to
18 Verizon Cross Exhibit No. 2, I note that what I was handed
19 is a five-page document. Ms. Paiva only references the map,
20 and so there's no objection to the one-page map being marked
21 and entered as Verizon Cross Exhibit 2; however, the other
22 pages don't appear to be relevant and we object.

23 MS. PAIVA: I would say the reason we submitted the
24 whole document was because in some e-mail correspondence
25 regarding some other exhibits earlier, Mr. Swindler

1 expressed a preference to have the whole document rather
2 than just excerpts, so I submitted the whole document, but,
3 in fact, I would only be referring to the map in briefing.

4 MR. SWINDLER: As I recall, Ms. Paiva, I didn't get
5 my way on that one, so I was just trying to be consistent.

6 MS. PAIVA: I didn't think we had resolved that.

7 JUDGE COLWELL: I don't see where the rest of this is
8 going to hurt your client, Mr. Swindler. It appears to be a
9 rather positive statement about the companies. I don't
10 understand your objection.

11 MR. SWINDLER: May I have a moment, Your Honor?

12 JUDGE COLWELL: Yes.

13 (Counsel Swindler and Counsel Paiva conferring.)

14 MS. PAIVA: We've come to an agreement with respect
15 to this exhibit and the other exhibits that we're going to
16 introduce later with the OCA witness. We are only going to
17 do excerpts and not the whole document, and so that means we
18 are only going to admit the map. Would you like us to pull
19 this apart and then just submit the map to the court
20 reporter marked as Exhibit 2?

21 JUDGE COLWELL: Yes, I would.

22 MS. PAIVA: We can do that at the lunch break.

23 JUDGE COLWELL: Then the map which is marked as
24 Verizon Cross Exhibit 2 is admitted.

25 (Whereupon, the document marked

as Verizon Cross-Examination Exhibit
No. 2 was received in evidence.)

JUDGE COLWELL: As I understand it, we are finished
with Mr. Beurer?

MR. SWINDLER: That's all we have, Your Honor.

JUDGE COLWELL: Thank you very much, Mr. Beurer. You
can step down.

(Witness excused.)

JUDGE COLWELL: All right. We're ready to go forward
then. Let's hear from -- was there anything else,
Mr. Swindler?

MR. SWINDLER: No, Your Honor.

JUDGE COLWELL: All right. Then let's hear from
Verizon.

MS. PAIVA: Verizon calls Don Price to the stand.

JUDGE COLWELL: Mr. Price.

(Pause.)

JUDGE COLWELL: Before you sit down, would you raise
your right hand, please?

Whereupon,

DON PRICE

having been duly sworn, testified as follows:

JUDGE COLWELL: Thank you. Please be seated.

Go ahead, Ms. Paiva.

DIRECT EXAMINATION

FORM 2

1 BY MS. PAIVA:

2 Q. Good morning, Mr. Price. Are you comfortable up
3 there?

4 A. Yes. Thank you.

5 Q. Mr. Price, do you have before you a document
6 that is marked Verizon Statement No. 1.0, the direct
7 testimony of Don Price in this matter, dated December 18,
8 2006?

9 A. Yes, I do.

10 Q. Was this testimony prepared by you or under your
11 direct supervision and control?

12 A. Yes, it was.

13 Q. If you were asked the same questions today,
14 would your answers be the same?

15 A. Yes, they would.

16 Q. Does this testimony also contain various
17 exhibits, actually Exhibits 1 through 10?

18 A. There were several. Yes, that's correct.

19 (Whereupon, the documents were marked
20 as Verizon Statement No. 1.0, with
21 Verizon Exhibits Nos. 1 through 10
22 for identification.)

23 BY MS. PAIVA:

24 Do you have any corrections to your direct testimony?

25 A. I do not.

1 Q. Do you also have before you a document that's
2 marked Verizon Statement No. 1.1, the rebuttal testimony of
3 Don Price, dated January 5, 2007?

4 A. Yes, I do.

5 Q. And was this testimony prepared by you or under
6 your direct supervision and control?

7 A. Yes, it was.

8 Q. If you were asked the same questions today,
9 would your answers be the same?

10 A. They would.

11 Q. Does this testimony also contain a number of
12 exhibits, actually Exhibits 1 through 7?

13 A. Yes, it does.

14 (Whereupon, the documents were marked
15 as Verizon Statement No. 1.1, with
16 Verizon Exhibits Nos. 1 through 7
17 for identification.)

18 BY MS. PAIVA:

19 Q. Do you have any corrections to your rebuttal
20 testimony?

21 A. Yes, I have three minor corrections that I would
22 like to point out at the appropriate time.

23 JUDGE COLWELL: This is it.

24 MS. PAIVA: Would you prefer him to make them now?

25 JUDGE COLWELL: Yes.

1 THE WITNESS: At page 22 of the rebuttal testimony,
2 line 7, the only change is to strike two words, the first
3 two words on that line, "any such." With that change, the
4 sentence actually reads in correct English.

5 Then at page 25, line 19, there is a figure of \$.005.
6 After that I would insert the words "per minute," so that
7 the line now reads, "...\$.005 per minute higher than..."

8 Finally, at page 30, line 12, there's a stray period
9 in the parenthetical before the comma that I'd like to
10 strike.

11 With those changes, I have nothing further.

12 BY MS. PAIVA:

13 Q. Moving then to surrebuttal, do you have also
14 before you a document that was marked Verizon Statement 1.2,
15 the surrebuttal testimony of Don Price, dated January 12,
16 2007?

17 A. Yes, I do.

18 Q. Was this testimony prepared by you or under your
19 direct supervision and control?

20 A. Yes.

21 Q. If you were asked the same questions today,
22 would your answers be the same?

23 A. They would.

24 Q. There are no exhibits to this testimony;
25 correct?

1 A. That's correct.

2 (Whereupon, the document was marked
3 as Verizon Statement No. 1.2
4 for identification.)

5 MS. PAIVA: Let the record reflect that I have now
6 handed up two copies each of the public and proprietary
7 versions of these three pieces of testimony, Statement 1.0,
8 1.1 and 1.2, to the court reporter.

9 JUDGE COLWELL: Ms. Paiva, I hate to say this, but I
10 don't seem to have the surrebuttal. I'm sure you sent it to
11 me, but it hasn't gotten to my desk. Do you have a spare
12 copy of that with you?

13 MS. PAIVA: We must have a spare copy.

14 (Document handed to Judge Colwell.)

15 JUDGE COLWELL: Thank you.

16 MS. PAIVA: With the corrections noted, Verizon would
17 move for the admission of these three documents subject to
18 cross-examination.

19 JUDGE COLWELL: We will start right in on the cross-
20 examination then.

21 Mr. Swindler.

22 MR. SWINDLER: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. SWINDLER:

25 Q. Good morning, Mr. Price.

1 A. Good morning.

2 Q. Would you agree, subject to check -- just
3 kidding.

4 (Laughter.)

5 Q. Mr. Price, is this your first time to present
6 testimony before the Pennsylvania PUC?

7 A. Yes, it is.

8 Q. So that would mean, I guess, that you did not
9 participate as a witness or any other capacity in
10 Pennsylvania's Global proceeding?

11 A. I certainly didn't participate as a witness. I
12 don't believe that I had any behind-the-scenes involvement
13 in that proceeding?

14 Q. Prior to your involvement in this proceeding,
15 did you have any specific knowledge of the D&E companies'
16 intrastate access charges?

17 A. No.

18 Q. Did you have any knowledge of the D&E companies
19 at all prior to this proceeding?

20 A. Not specifically, no.

21 Q. When the D&E carriers originally filed their
22 2006 PSI filings in April of 2006, did Verizon intervene to
23 oppose the rates contained in those filings?

24 A. I don't believe that they did. That actually
25 predates my involvement in the matter as well.

1 Q. Mr. Price, have you been involved at all in the
2 design of any of the Verizon PCO filings in Pennsylvania?

3 A. No.

4 Q. Now, I would direct your attention to your
5 surrebuttal testimony, Statement 1.2, page 4, lines 16
6 through 19. Will you let me know when you're there?

7 A. All right, I'm there.

8 Q. Now, am I correct that at lines 16 through 19
9 you indicate that you have not argued that D&E access rates
10 should be set at the same level as Verizon's substantially
11 lower intrastate or interstate rates, or that the D&E
12 companies' carrier charge should be immediately reduced to
13 match the level of Verizon's much lower carrier charge?

14 A. That is my testimony.

15 Q. Now I'm going to ask you to turn to your direct
16 testimony, Statement 1.0, specifically page 3, lines 6
17 through 11, and let me know when you're there.

18 A. Okay, I'm at page 3.

19 Q. Now, at lines 6 through 11, would you agree that
20 your testimony states, " Even before these increases, the
21 access charges assessed by Denver and Ephrata, Conestoga and
22 Buffalo Valley were significantly higher than the reasonable
23 and Commission-approved rates charged by the Verizon ILECs;
24 rolling back these rate increases is necessary to prevent
25 the companies' access rates from getting even further out of

1 line at a time when they should be moving closer to the
2 rates charged by Verizon."

3 A. That is my testimony.

4 Q. Would you also agree that in Verizon's amicus
5 response filed July 20, 2006 to the D&E petition for
6 reconsideration, which was filed July 10, 2006 in this
7 matter, Verizon compared the progress made by D&E lowering
8 access rates since Global to the progress of Verizon North?

9 A. I don't have that document in front of me. I
10 have reviewed it, but I don't recall the specific contents
11 at this time.

12 (Pause.)

13 Q. Mr. Price, I am approaching you with, with
14 Your Honor's permission, Verizon's amicus response that I
15 just referenced in the question, page 3. Can you take a
16 look at that and tell me whether there is, in fact, a
17 reference to the Verizon North rates?

18 (Document handed to witness.)

19 A. All right.

20 (Witness perusing document.)

21 A. Okay, I've reviewed that question.

22 Q. Can you respond to my question or would you like
23 me to repeat it?

24 A. If you could repeat it, that would help.

25 Q. Would you agree that in Verizon's amicus

1 response filed July 20, 2006 to the D&E petition for
2 reconsideration filed July 10, 2006 in this matter, Verizon
3 compared the progress made by D&E lowering access rates
4 since Global to the progress of Verizon North?

5 A. I can agree at least to some extent. There was
6 specific reference in the passage that you showed me to a
7 comparison of the carrier charge.

8 Q. Would you also be able to agree from your review
9 that in that same amicus response on page 3, that Verizon
10 compared D&E's carrier charge increase to Verizon's existing
11 carrier charge rate?

12 A. Yes. I believe that's what I just said.

13 Q. Looking again at your direct testimony on page
14 8, line 16, through page 9, line 6, do you not again
15 contrast Verizon access charge rates with the D&E carriers'
16 rates?

17 A. Yes.

18 Q. Now I'm going to refer you to your surrebuttal
19 testimony at the top of page 5. Let me know when you're
20 there.

21 A. Okay, I'm there.

22 Q. Based upon your surrebuttal testimony at page 5,
23 am I to now understand that the only issue Verizon believes
24 is before the Commission in this limited proceeding is
25 whether D&E's pre-July 1, 2006 intrastate access rates

1 should have been left in place during the stay of the
2 Commission's access reform proceeding?

3 A. Yes. I mean, it's my understanding that that
4 was the purpose of this proceeding, was to determine in fact
5 whether the increases that were implemented effective July 1
6 for the three D&E companies should remain in effect or
7 whether they should be rescinded or rolled back.

8 Q. Let's turn to page 3 of your surrebuttal,
9 specifically line 17, and let me know when you're there.

10 A. I'm there.

11 Q. Am I correct that you say at page 3, line 17, of
12 your surrebuttal that the D&E companies should be required
13 to maintain the status quo pending the stay of the access
14 investigation?

15 A. Yes.

16 Q. Mr. Price, to your knowledge, is there any
17 specific provision in the Commission's August 20, 2005 order
18 at Docket No. I-00040105 which froze the rural ILECs'
19 intrastate access charge increases during the stay of the
20 investigation?

21 A. I think the short answer is no, I'm not aware of
22 a specific provision, and I believe that that in fact is the
23 purpose of this limited proceeding, to determine whether the
24 increases that were effected July 1 were just and
25 reasonable, in the public interest, et cetera.

1 Q. My question to you relates to the August 20,
2 2005 order of this Commission. The I docket that I
3 referenced is the access charge investigation docket. My
4 question is: to your knowledge, is there any specific
5 provision in that order that froze rural ILEC intrastate
6 access charges during the stay of that investigation?

7 MS. PAIVA: Mr. Swindler, do you have a copy of that
8 order that you can show him?

9 MR. SWINDLER: Sure.

10 (Counsel Swindler and Counsel Paiva conferring.)

11 BY MR. SWINDLER:

12 Q. Mr. Price, just to clarify for your knowledge,
13 the August 2005 order that I am referencing is the
14 Commission's order in the I docket that grants the first
15 stay --

16 A. All right, sir.

17 Q. -- of the access reform investigation for the
18 rural ILECs, and I'm asking you, to your knowledge, are you
19 aware of any provision, specific provision, in this August
20 2005 order that froze the access charge rates.

21 A. My response is I've seen the order, I've read
22 the order, I mean, it says what it says, and obviously I'm
23 not a lawyer, so I'm not here to argue the merits of the
24 order. That said, I do not recall specific language that
25 expressly provided for a freeze, as you put it.

1 Q. Thank you. Now I'm going to ask you the same
2 question with regard to the November 15, 2006 order at that
3 docket. That was the Pennsylvania Commission's order which
4 granted the further stay of the access charge reform
5 investigation --

6 MS. PAIVA: Your Honor, I'm sorry to interrupt, but I
7 don't really understand the purpose of these questions,
8 because these are Commission orders and they speak for
9 themselves, as the witness pointed out; they either did or
10 did not contain language providing for a stay. I don't see
11 the purpose of asking the witness whether he's aware of that
12 in the order. You can interpret the order.

13 MR. SWINDLER: Your Honor, I'm simply asking whether,
14 to his knowledge, there is such a provision in the order.

15 JUDGE COLWELL: Ms. Paiva, are you willing to
16 stipulate that none of these orders stays -- what he's
17 looking for. I'll let him use the word that he wants to.

18 MS. PAIVA: The second order, the November 15 order,
19 contains language that -- to paraphrase, it says that if the
20 companies were to propose to increase their access rates,
21 they would have to make a certain showing. I don't know if
22 you would characterize that as a stay. It says what it
23 says; it says what you need to prove if you were going to
24 try to raise your access rates, and we don't believe that
25 the D&E companies have proven that.

1 MR. SWINDLER: Your Honor, it's Mr. Price who's
2 testifying, not Ms. Paiva. If Verizon would like to
3 stipulate for the record that neither the August 2005 order
4 nor the November 15, 2006 order at the I docket have express
5 provisions that freeze rural ILEC intrastate access charge
6 increases during the stay of that investigation, I will not
7 need to ask the questions.

8 JUDGE COLWELL: That's what he's looking for.

9 MS. PAIVA: Your Honor, I don't believe we're in a
10 position to stipulate as to the meaning of the Commission
11 orders right now. That is to be briefed. If you believe by
12 us not stipulating to that, that he can ask the witness if
13 he's aware of what's in these orders, he can ask; I just
14 don't see the value of that to the record.

15 JUDGE COLWELL: Well, I don't either, but it's his
16 case and I don't see any harm either. As long as he doesn't
17 ask for legal interpretation, I'll allow it.

18 MR. SWINDLER: Thank you, Your Honor.

19 BY MR. SWINDLER:

20 Q. Mr. Price, would you like me to repeat the
21 question?

22 A. I believe I can answer without you having to
23 repeat it. Again, I do not -- and the order will speak for
24 itself, does speak for itself. I do not recall express
25 language that prohibits changes to the carriers' access

1 rates. By the same token, I do recognize that the order had
2 in it language referencing the concerns that Verizon had
3 expressed about the continuance of the stay while the D&E
4 companies' access rates were increased, and did have
5 language in the order that talked about --

6 MR. SWINDLER: Your Honor, Mr. Price has already
7 answered my question. I asked him whether there was an
8 express provision, and he said to his knowledge he does not
9 believe there was.

10 JUDGE COLWELL: Okay. Do you have any further
11 questions for him?

12 MR. SWINDLER: I have further questions, Your Honor.

13 JUDGE COLWELL: Okay. Go ahead.

14 BY MR. SWINDLER:

15 Q. Mr. Price, turn to your surrebuttal testimony
16 again, page 3, line 16. Let me know when you get there.

17 A. I'm there.

18 Q. Is it your testimony there that to permit any
19 access charge increase during the stay of the investigation
20 is, in and of itself, not just and reasonable?

21 A. That part of my testimony probably could have
22 been phrased a little more artfully, and by that what I mean
23 is in this case, given the evidence that I've seen, I don't
24 believe that these increases are just and reasonable. The
25 various reasons for that belief are spelled out in my

1 testimony. That is not to say that another carrier couldn't
2 come in and put on a case and demonstrate that the increases
3 were just and reasonable, I just don't believe, in the facts
4 that I've seen in this proceeding, that that's the
5 conclusion that the Commission should reach.

6 Q. So not just other carriers, would you then agree
7 that if D&E were able to show that this access rate increase
8 was just and reasonable, that the increase should be
9 permitted?

10 A. Well, that's ultimately for the Commission to
11 decide. What I'm here to do is to offer my opinion as to
12 what I believe the relevant factors are, given the
13 parameters set by the Commission, and whether or not that
14 evidence holds up in light of analysis.

15 Q. How about rather than increasing access rates,
16 what if a rural carrier proposed to decrease access rates
17 during the stay of the Commission's access investigation,
18 would you characterize that as disrupting the status quo?

19 A. Well, obviously to some extent it would "disrupt
20 the status quo," but my reading of the Commission's orders
21 on the concerns previously expressed about access charges
22 and reasons that access charges need to be reformed -- which
23 apparently the Commission still believes or else it wouldn't
24 have before it a pending investigation into access charges,
25 albeit one that's stayed right now. So if a carrier were to

1 reduce its rates, it would seem to at least in part address
2 the Commission's prior concerns that access rates were too
3 high, contained implicit subsidies and hampered competition
4 and the other factors that the Commission has stated in its
5 orders.

6 Q. Would you agree that the language "disrupting
7 the status quo" is in fact from your surrebuttal? I didn't
8 add that in my question; you used that language in your
9 testimony, did you not?

10 A. I believe so, yes.

11 Q. And again, to make sure I understand your
12 answer, yes or no, if a rural carrier were to propose a
13 decrease to their access rates during the stay of the
14 investigation, would that disrupt the status quo in your
15 mind?

16 A. I believe I've already answered that.

17 Q. Yes or no?

18 A. In a strictly technical sense, it would, but
19 consistent with prior Commission orders.

20 Q. Mr. Price, again referencing the November 15,
21 2006 order of the Commission -- and that order not only
22 instituted this bifurcated proceeding, but that was also the
23 order that we previously referenced that granted the further
24 stay of the investigation at the I docket; okay?

25 A. Yes, that's my understanding.

1 Q. Would you agree that in the Commission's
2 November 15, 2006 order, the Commission stated that "Other
3 rural ILECs contemplating the submission of PSI filings
4 should be prepared to fully support the justness and
5 reasonableness of any proposed increase to intrastate access
6 charges during the stay of this proceeding"?

7 A. I believe that language to that effect -- I
8 don't remember the specific words, but obviously language to
9 that effect, I do recall that in the order.

10 MS. PAIVA: Your Honor, just for the record, the
11 witness doesn't have the order in front of him, but we'll
12 accept that Mr. Swindler is correct in reading passages from
13 it.

14 JUDGE COLWELL: I trust him to do that. He would be
15 caught otherwise, and he's too smart for that.

16 MS. PAIVA: We can always check it; right?

17 JUDGE COLWELL: Yes, we can check it.

18 BY MR. SWINDLER:

19 Q. Mr. Price, if the Commission told Verizon that
20 it better be prepared to fully support the justness and
21 reasonableness of its access charge increase, would you
22 conclude from that that Verizon was prohibited from
23 implementing such an increase?

24 A. No. I think consistent with my earlier answer,
25 it would be a burden of proof question; it would be the

1 extent to which the company could convince the Commission
2 that its actions were, I believe we used the term, just and
3 reasonable.

4 Q. Mr. Price, hypothetically, if the Commission
5 were to institute a generic investigation into local
6 exchange carriers' R1 and B1 rates, residential and business
7 rates, would it be Verizon's position that a rural ILEC
8 would be precluded from changing its local rates pursuant to
9 the provisions of its Chapter 30 plan pending the outcome of
10 such a proceeding?

11 A. I really don't have a basis for answering that.
12 I mean, it's a hypothetical, it doesn't present anything
13 that I'm aware of that is currently under consideration, and
14 I've not been asked to opine on that particular question.

15 Q. Mr. Price, are you aware that this Commission
16 has stated, in fact, it was in the November 15 order, that
17 intrastate access rates in Pennsylvania are already lower
18 than in many other states?

19 MS. PAIVA: Can you cite the page and actual quote
20 from the order?

21 MR. SWINDLER: I'll be glad to show it to him.

22 May I have one moment, Your Honor?

23 JUDGE COLWELL: Yes.

24 (Pause.)

25 MR. SWINDLER: May I approach the witness,

1 Your Honor?

2 JUDGE COLWELL: Yes.

3 BY MR. SWINDLER:

4 Q. Mr. Price, the November 15, 2006 Commission
5 order at page 11, does it make the statement that the
6 intrastate access charges are lower in Pennsylvania than in
7 many other states?

8 (Document shown to witness.)

9 A. Yes.

10 Q. Thank you.

11 Mr. Price, would you agree or do you have any reason
12 to disagree that one factor considered by the Commission in
13 granting the stay of the state access reform proceeding is
14 this Commission's concern that the Missoula Plan brings into
15 question whether this Commission should act quickly to order
16 further intrastate access charge reductions which possibly
17 then would hurt Pennsylvania's chances in the future of
18 receiving federal subsidy monies for these reductions?

19 MS. PAIVA: Are you asking him generally if that's
20 what the Commission's order says or is that a quote?

21 BY MR. SWINDLER:

22 Q. Mr. Price, just showing you page 12 from that
23 same November 2006 order, I'm just asking you: is the
24 sentence that I just stated in the order on page 12?

25 (Document shown to witness.)

1 A. I see that, and I recognize that as part of the
2 Commission's discussion about the stay. I don't think that
3 changes anything in my testimony about the facts in this
4 proceeding.

5 Q. You agree the statement exists in the order?

6 A. I do.

7 Q. I can cite you, for example, to your direct
8 testimony at -- let me just ask you generally: do you agree
9 that you testified that D&E could have increased local rates
10 rather than increased access rates with regard to this
11 proceeding?

12 A. I believe the company did have other options.
13 I'm not here to say what options might or could have been
14 taken, but yes, it is my understanding that under the
15 Chapter 30 plans, there were other options for the
16 companies' rate design.

17 Q. Would you agree specifically in your direct
18 testimony at page 5, line 14, you presented your suggestion
19 that basic local rates could have been increased rather than
20 access rates?

21 A. That is part of my direct testimony, yes. I
22 mean, a fair reading says other basic rates, so other
23 protected services could have been -- the rates could have
24 been changed.

25 Q. Do you disagree with the argument made by the

1 Office of Consumer Advocate that was quoted in the
2 Commission's August 2005 order that under certain outcomes,
3 rural ILEC ratepayers may bear the same burden twice from
4 the same reduction in intrastate access charges?

5 A. I don't agree that there's anything that
6 suggests that that is a likely outcome. I mean, is it
7 possible, yes, I guess it is, but that's a very different
8 matter than saying that it's likely or probable.

9 Q. Do you disagree that the Commission in fact
10 found the OCA's argument persuasive in its granting of the
11 stay of the access investigation, the initial stay, in its
12 August 2005 order?

13 MS. PAIVA: Your Honor, I object to this question.
14 What the Commission did and didn't find persuasive, that's
15 up to the Commission to determine. The order speaks for
16 itself. I don't think it's fair to ask the witness what the
17 Commission found to be persuasive in making its decision.

18 JUDGE COLWELL: I will sustain that.

19 MR. SWINDLER: Your Honor, the August 2005 order, at
20 page 17, specifically states that the Commission finds the
21 OCA position persuasive. I didn't add the word
22 "persuasive," I'm quoting directly from the order, and I
23 would be glad to show Mr. Price that.

24 JUDGE COLWELL: Well, I believe that, and I'm sure he
25 would agree to it if you showed it to him, but I don't know

1 why you need him to say that.

2 BY MR. SWINDLER:

3 Q. Mr. Price, I'm going to direct you to page 9 of
4 your direct testimony.

5 A. Okay.

6 Q. There you discuss the proprietary percentages of
7 the D&E carriers' intrastate access revenues estimated to be
8 paid by Verizon, do you not?

9 A. Yes, I do.

10 Q. I'm not going to go into those proprietary
11 percentages, I'm just going to ask you: would you agree
12 that the amount Verizon pays in access charges is directly
13 related to the amount of Verizon IXC or long-distance
14 traffic originated and terminated?

15 A. Yes, we're talking about usage-based rates, and
16 obviously the share, if you will, of revenues would be a
17 function of the volume of usage.

18 Q. So just to be more specific, you would agree,
19 would you not, that the amount that Verizon pays in access
20 charges to the D&E carriers is directly related to the
21 amount of Verizon long-distance traffic originated and
22 terminated by the D&E carriers on their network?

23 A. (No response.)

24 Q. Same question, I'm just specifying that it
25 applies to D&E.

1 A. Right, and I understand that. My hesitation is,
2 as you noted, there are two components of that, and this
3 kind of lumps both of those together; we've got the
4 originating piece, which is a D&E customer who places a call
5 perhaps using one of the Legacy Verizon Long Distance
6 companies who are using the former Verizon Long Distance
7 Company, so there would be originating access charges billed
8 to the companies that I'm here representing today by D&E in
9 that instance. The flip side of that would be a call coming
10 from -- really it could be from a Verizon local customer in
11 Pennsylvania or it could be from a customer in another
12 carrier's exchange that uses the former MCI or the former
13 Verizon Long Distance companies as their carrier, and in
14 that instance then that would be the entity paying the D&E
15 companies the terminating access charge. So just to be
16 clear, all of that's sort of lumped together in the numbers
17 that we're talking about.

18 Q. So it follows from that that if Verizon pays a
19 large amount to the D&E carriers in access charges, that's
20 because the D&E carriers originate and terminate a large
21 amount of Verizon long distance calls over its network.
22 Would you agree with that?

23 A. Obviously, large is a relative term and there
24 are specific percentages that are spelled out here that
25 apparently were deemed by the D&E companies to be

1 proprietary, because that's the source; these are not
2 calculations that I performed, these figures were provided
3 in response to Verizon's discovery.

4 Q. Mr. Price, I'm going to show you what has been
5 marked as D&E Cross-Examination Exhibit No. 1. This you
6 should recognize as Verizon's response to D&E discovery, Set
7 I, No. 9.

8 (Document handed to witness.)

9 MR. SWINDLER: I am providing copies to the Judge and
10 the parties and the appropriate number of copies to the
11 court reporter.

12 (Document distributed by Counsel Swindler.)

13 BY MR. SWINDLER:

14 Q. Mr. Price, do you recognize that response as
15 your response?

16 A. Yes, I do.

17 MR. SWINDLER: Your Honor, I am asking that this be
18 identified as D&E Cross-Examination Exhibit No. 1.

19 JUDGE COLWELL: That's fine.

20 (Whereupon, the document was marked
21 as D&E Cross-Examination Exhibit No.
22 1 for identification.)

23 BY MR. SWINDLER:

24 Q. Mr. Price, am I correct that in the response set
25 forth in what has been identified as D&E Cross-Examination

1 Exhibit No. 1 you state, "Verizon does consider it possible
2 for competition from alternative service providers to
3 constrain Verizon's ability to increase rates"?

4 A. Yes.

5 Q. Based on that, Mr. Price, would you agree that
6 it is also possible for competition from alternative service
7 providers to constrain the D&E carriers' ability to increase
8 rates?

9 A. Yes, I believe it's possible, and that
10 possibility has been presented by Mr. Beurer as one of the
11 factors that the companies considered and decided to raise
12 access rates instead. I'm not familiar with anything that's
13 been presented in Mr. Beurer's testimony or otherwise in
14 this case that suggests that that is, in fact, a likely
15 result or something that has been anything other than a mere
16 assertion.

17 Q. But you would agree, would you not, that that
18 could be a compelling reason for the D&E carriers to elect
19 not to increase local rates in its 2006 PSI filing?

20 A. I agree that it could be. I talked about that
21 in my rebuttal testimony where I looked at the data that the
22 D&E companies had provided as to the reasons for disconnect
23 that had been provided by their customers, and the number of
24 competitive losses, as it were, that were shown in that data
25 for months in 2006 was a relatively small fraction of the

1 number of disconnects of the company. I don't remember the
2 specific numbers, those are in my testimony, but it was a
3 relatively small fraction. So the competitive losses, at
4 least in the data that was provided by the companies, did
5 not seem to be a significant factor, if you will, in terms
6 of why people were disconnecting from the D&E companies.

7 Q. Mr. Price, did Verizon announce yesterday its
8 divestiture of 1.4 million rural access lines in Maine,
9 Vermont and New Hampshire?

10 A. There was an announcement yesterday. It did
11 involve access lines I believe in the states that you
12 mentioned. I guess we can quibble a little bit about the
13 extent to which those lines are rural, because my
14 understanding is it was all of the lines in those states,
15 whether they were in cities, towns, rural areas, whatever.
16 So there was an announcement.

17 Q. Am I correct that as a general matter you agree
18 that Chapter 30 allows PSI revenue increases to be allocated
19 at the carriers' discretion among non-competitive rates?

20 A. Well, I do agree that there is a certain amount
21 of discretion, but I don't believe that it's unfettered. I
22 mean, I think the Commission has made it pretty clear --

23 Q. Mr. Price, let me refer you to --

24 A. -- in its recent orders that it retains
25 jurisdiction over the question of whether or not those rates

1 are just and reasonable.

2 Q. Let me refer you to your rebuttal at page 2. Do
3 you in fact state that as a general matter you agree that
4 Chapter 30 allows PSI revenue increases to be "allocated at
5 the carriers' discretion among non-competitive rates"?

6 A. And I stand by my testimony there, sir.

7 Q. Your rebuttal at page 16, line 20, --

8 A. I'm sorry; line?

9 Q. Page 16, line 20.

10 A. Okay.

11 Q. Do you not state there that "The D&E carriers'
12 Chapter 30 plans allow them to raise any non-competitive
13 rates to implement PSI revenue increases"?

14 A. Yes, I do, and I believe that's consistent with
15 my previous answer.

16 Q. Now, let's look again in your rebuttal on page
17 5.

18 A. I'm sorry; we were in the rebuttal.

19 Q. Yes. In your rebuttal on page 5, there's a
20 footnote 3; is that correct?

21 A. Yes.

22 Q. And in footnote 3 on page 5 of your rebuttal you
23 reference Global Order Appendix II, Small Company Universal
24 Service Fund Settlement, Appendix A.

25 A. Yes, I do.

1 Q. "Attached hereto as Exhibit 1." And just for
2 clarification, to make sure the record is clear, that's
3 Rebuttal Exhibit 1 and not Verizon's Direct Exhibit 1; is
4 that correct?

5 A. That is correct.

6 Q. Now, can you tell me, did you use your Exhibit 1
7 data to formulate your rebuttal testimony and as the basis
8 for any of your other testimony with regard to the
9 Pennsylvania Global proceeding?

10 A. I apologize, I'm not sure I understood your
11 question. Could you repeat it?

12 Q. You reference the exhibit as being the
13 settlement appendices, but it's not real clear to me,
14 because it's referenced in footnote 3, what you did with
15 that exhibit, so I'm asking you: did you use Exhibit 1 in
16 preparing your rebuttal testimony or in preparing any other
17 aspects of your testimony with regard to Pennsylvania's
18 Global proceeding?

19 A. The context of the answer where the footnote
20 appears is in response to Mr. Beurer's assertion at various
21 places in his direct testimony that suggested that any
22 upward change by the D&E companies' carrier charges, so long
23 as they did not exceed \$7.00, was acceptable, and so I
24 didn't find anything in the document that we're discussing,
25 Exhibit 1 to my rebuttal testimony, the Global Order

1 Appendix II, that really supports that conclusion.

2 Q. Do you have your Verizon Rebuttal Exhibit No. 1
3 in front of you?

4 A. Yes, I do.

5 Q. That Exhibit 1 Appendix from the Global Order
6 includes various settlement schedules, does it not?

7 A. It does.

8 (Pause.)

9 MR. SWINDLER: May I approach the witness,
10 Your Honor?

11 JUDGE COLWELL: Yes.

12 BY MR. SWINDLER:

13 Q. Mr. Price, I'm just going to ask you to look at
14 this document, the transmittal letter on this document. Can
15 you just read the first paragraph? This is a transmittal
16 letter dated February 22, 2000; would you agree?

17 (Document shown to witness.)

18 A. That's the date on the document, yes.

19 Q. Would you agree that the Commission stamp that
20 is on the transmittal letter would suggest that this is a
21 document filed with the Pennsylvania Commission?

22 MS. PAIVA: I would actually object to this. You
23 haven't laid any foundation to see if the witness has seen
24 this document before. It's from 2000 and appears to be from
25 a different case. I'm sure he can say that it's stamped

1 with the Commission Secretary's Bureau seal, but what is
2 that going to tell you?

3 MR. SWINDLER: I'm not suggesting that he has seen
4 it. In fact, when we get through it will be clear that he
5 hasn't seen it.

6 May I proceed, Your Honor?

7 JUDGE COLWELL: I think she's asking for an offer of
8 proof. I would like that as well.

9 MR. SWINDLER: An offer of proof?

10 JUDGE COLWELL: Tell me what it is and why you're
11 putting it in.

12 MR. SWINDLER: Certainly, Your Honor. What Mr. Price
13 has attached to his rebuttal as Rebuttal Exhibit 1 is an
14 Appendix II from the Global Order, which purports to present
15 settlement schedules which Mr. Price has relied upon in his
16 testimony with regard to the Global proceeding. What we
17 have, Your Honor, and what I would like to show Mr. Price
18 is, in fact, the final settlement schedules that were
19 submitted subsequent to the preliminary schedules that
20 Mr. Price relied upon, to show him specific reference to
21 some pages, page 2, so that he can compare the D&E
22 settlement numbers to the numbers in his Exhibit 1, and to
23 show him that his preliminary numbers do not match the
24 numbers that are in the final settlement schedules that were
25 included in the Global proceeding that then implemented the

1 Pennsylvania Universal Service Fund.

2 MS. PAIVA: Your Honor, first of all, the current
3 receipts from the Universal Service Fund companies are in
4 the record. I guess this historical information goes to how
5 everything was calculated and what the receipts ended up
6 finally being, but I don't think Mr. Swindler ever got an
7 actual answer to the question he was trying to ask before
8 because I don't think the witness understood it. If he was
9 asking whether those actual tables that are attached to the
10 text of the stipulation were something that the witness used
11 in his calculations in his testimony, perhaps we could
12 stipulate that he didn't actually use those tables, then
13 that would make this irrelevant.

14 MR. SWINDLER: Your Honor, Mr. Price has an Exhibit 1
15 attached to his rebuttal testimony. I am simply going to
16 show Mr. Price that the Exhibit 1 that he attached to his
17 testimony wasn't the proper exhibit that he should have
18 attached and reviewed in preparation of his testimony. He
19 used preliminary numbers. I'm showing him the final, actual
20 numbers used to implement the PA USF, and I'm just asking
21 him to verify that his numbers don't match the actual
22 numbers.

23 MS. PAIVA: The problem is, of course, this is just a
24 pleading filed by I guess Mr. Swindler's law firm, and we
25 don't have the context, any Commission order approving this

1 as the final numbers. We do know that this document was
2 attached to the Global Order. I suppose we could stipulate
3 that it was preliminary. I don't think that that would
4 actually make any difference to the case.

5 MR. SWINDLER: All I'm asking -- I'm not asking
6 Mr. Price any legal opinion, I'm only asking Mr. Price to
7 confirm that the numbers on his schedule with regard to
8 D&E's contribution to the PA USF do not match the numbers
9 set forth in the final schedule.

10 JUDGE COLWELL: But the point is, you haven't proven
11 that's a final schedule. You've proven that you have a
12 document that differs from his.

13 MR. SWINDLER: Your Honor, what I was asking
14 Mr. Price to do was to read the first two paragraphs of the
15 transmittal letter to Secretary McNulty, which indicates
16 that the attachment is, in fact, the revised final
17 calculations setting forth the Universal Service funding
18 levels, and that these final calculations should serve as
19 the basis for NECA's invoice.

20 JUDGE COLWELL: And then what would happen to that?
21 Would they be approved by the Commission? Is there an
22 approval letter somewhere?

23 MS. PAIVA: That's the problem, just because you say
24 you're filing this as final doesn't mean there wasn't -- we
25 don't know if somebody objected to it, something got

1 changed, and we don't know that this was actually accepted
2 by the Commission as final.

3 JUDGE COLWELL: And ultimately are these numbers
4 relied upon for something that you're going to discredit or
5 are we just marking time here?

6 MR. SWINDLER: Your Honor, Mr. Price has the exhibit
7 attached to his testimony and he talks about the
8 relationship between the access charges increase and what
9 the D&E carriers have done compared to their PA USF
10 contributions and what they've gotten out of the Universal
11 Service Fund, and I am trying to just indicate that
12 Mr. Price used preliminary numbers, not final numbers, and
13 that the final numbers would, in fact, show that the D&E
14 carriers did not have anything from the USF Fund.

15 MS. PAIVA: Your Honor, also, they had the chance to
16 put on oral rejoinder where I suppose they could have said,
17 you know, had their witness say under oath these were the
18 final numbers. They didn't do that. This witness doesn't
19 know anything about this document, can't say that it was the
20 final --

21 JUDGE COLWELL: I understand that, but before we even
22 get there, Mr. Price, did you rely on the exhibit that we're
23 referring to in calculating any of your calculations?

24 THE WITNESS: No, Your Honor.

25 JUDGE COLWELL: So then what would be the point of

1 continuing this line of questioning? I don't understand.

2 MR. SWINDLER: May I have a moment?

3 JUDGE COLWELL: Yes.

4 (Pause.)

5 MR. SWINDLER: Your Honor, I'll withdraw the
6 question.

7 JUDGE COLWELL: Okay.

8 MR. SWINDLER: That eliminates about four pages of
9 cross, Your Honor, so if you'll just give me a moment, I'll
10 try to see where we're at.

11 (Pause.)

12 BY MR. SWINDLER:

13 Q. Mr. Price, please refer to your rebuttal
14 testimony at page 7, line 12. Are you there?

15 A. At line 12 you said?

16 Q. Yes, sir.

17 A. Yes, I am.

18 Q. At line 12 you refer to Verizon's \$50 million
19 reduction in access rates pursuant to Docket C-20027195; is
20 that correct?

21 A. Yes, I do.

22 Q. Can you tell me what the date of that reduction
23 was?

24 A. A specific date, no, I cannot. My recollection
25 is it was a 2003 proceeding, but the effective date, no, I

1 cannot.

2 Q. Do you know whether at the time of the Verizon
3 \$50 million reduction, whether Verizon's access charge
4 reform proceeding was already in progress?

5 A. Not specifically. There are some procedural
6 aspects of the history of the splitting out of Verizon's
7 access proceedings from others that I frankly don't have a
8 firm grasp on.

9 Q. Mr. Price, has Verizon, in the last three years,
10 to your knowledge, increased rates to other carriers?

11 A. I don't understand your question.

12 Q. Rates charged by Verizon to other carriers,
13 whether they be access charges, unbundled network element
14 charges, has Verizon, in the last three years, increased
15 those rates to other carriers

16 MS. PAIVA: Your Honor, I would object to the
17 question to the extent it goes beyond access charges,
18 because it's beyond the scope of this proceeding. I don't
19 know how the witness could be expected to know every single
20 charge that we might --

21 MR. SWINDLER: I just asked to his knowledge.

22 JUDGE COLWELL: I think it's a fair question as he
23 has several times compared the D&E rates to Verizon's. If
24 he knows --

25 MS. PAIVA: Access rates.

1 JUDGE COLWELL: That's fine. We can limit it to
2 that. If he knows, he can answer the question.

3 THE WITNESS: Beyond the access rates that I've
4 looked at, I have no knowledge of the specific changes that
5 Verizon may or may not have implemented.

6 BY MR. SWINDLER:

7 Q. To your knowledge, has Verizon ever increased
8 rates to D&E for D&E's use of Verizon's network?

9 A. Well, "ever" is a pretty long time and I don't
10 go back that far.

11 Q. In the past three years, has Verizon increased
12 rates to D&E for D&E's use of Verizon's network?

13 A. I do not believe that any access rates have been
14 increased, no.

15 Q. How about other than access rates?

16 A. I have not tried to understand every aspect of
17 Verizon's operations in Pennsylvania in preparation for this
18 case.

19 Q. Do you happen to have with you D&E's exhibits
20 that were attached to Mr. Beurer's direct testimony?

21 A. No, I don't.

22 Q. Mr. Price, I have an extra copy here of
23 Mr. Beurer's direct testimony and the exhibits are attached,
24 so why don't we just turn to Exhibit 3, Sheet 2.

25 (Document handed to witness.)

1 Q. Do you have that?

2 A. Yes, I do.

3 Q. In fact, the exhibits that we're going to be
4 looking at are all pretty much there together, Exhibit 3,
5 Sheet 2, Exhibit 3, Sheet 3. They show the carrier charge
6 and traffic sensitive element analyses, would you agree, for
7 rates from April 2000 to July 2006?

8 A. That is what they represent, yes.

9 Q. And also, we're going to look at Exhibit 4,
10 Sheets 2 and 3, which are similar analyses of the rates from
11 April 2000 to July 2006 for the R1 and B1 rates.

12 Have you seen those, Mr. Price?

13 A. Yes.

14 Q. Let's start with Exhibit 3, Sheet 2.

15 MR. SWINDLER: Your Honor, my client wouldn't spring
16 for a stand to set this on, so I'm going to have to just use
17 this chair.

18 JUDGE COLWELL: I actually have one back in the back
19 if you want it. I'm not kidding. There are two of them in
20 the robing room. Do you want one?

21 MR. SWINDLER: Certainly.

22 JUDGE COLWELL: You're going to have to come and get
23 it.

24 (Laughter.)

25 (Pause.)

1 JUDGE COLWELL: It didn't work. It has it's own pad
2 and it doesn't have a ledge to put that on. Sorry, you'll
3 just have to stand there and hold it up.

4 BY MR. SWINDLER:

5 Q. All this page is, is an enlargement of the
6 exhibit that is attached to the direct, an enlargement of
7 what you have there except it's in color like it was when it
8 was originally sent to all the parties; okay? Can we agree
9 to that?

10 A. It appears to be, yes.

11 Q. And I promise you, the other three are also
12 blow-ups of the exact exhibit and everyone can follow along
13 in the direct testimony.

14 Now, what I'm going to ask you, Mr. Price, is having
15 looked at Exhibit 3, Sheet 2, CC Analysis, you would agree
16 CC stands for carrier charge?

17 A. That's my understanding.

18 Q. This is showing the CC Analysis of the CC rates
19 from April 1, 2000 to July 1, 2006. Would you agree with
20 that?

21 A. Yes, that's the way it's marked.

22 Q. And April 1, 2000 would correspond with Global
23 Order and implementation of the Pennsylvania Universal
24 Service Fund. Can we agree to that?

25 A. Yes.

1 Q. And the ending bar, or July 1, 2006, that would
2 be the rate inclusive of what the companies have proposed
3 and submitted in their 2006 PSI filings that were approved
4 in the Commission's June order and then eventually rescinded
5 and remanded back for discussion in this proceeding.

6 A. Well, except it's not my understanding that
7 they've been rescinded at all. These are the rates that
8 took effect July 1 of '06 and that, to my knowledge, still
9 are in effect.

10 Q. You're correct. I apologize. I stand
11 corrected. You're right; these are the rates in effect and
12 we're now looking to see whether they should stay in effect;
13 right?

14 A. That's my understanding.

15 Q. My point was to show you that this last bar
16 graph does include what was in the 2006 PSI filing.

17 A. Okay.

18 Q. Also, so that it's clear for the record, we have
19 one page here, this is Sheet 2 of Exhibit 3, and it shows
20 the CC Analysis for each company, Buffalo Valley at the top,
21 Conestoga in the middle, D&E at the bottom, so that all
22 three companies are represented on the same sheet. Would
23 you agree with that?

24 A. I do.

25 Q. Now, what I'm going to ask you is, if we take

1 the exhibit that's attached to the direct testimony of
2 Mr. Beurer and we simply try to compare rates by looking at
3 the trend of the rate from the time of the Global Order to
4 the time of the 2006 PSI filing, so that's including the
5 rates submitted in the 2006 PSI filing, the end rates, we
6 have what I'm showing here as the trend from the first
7 Global access rate to the access rate, the CC portion of the
8 access rate, at the 2006 PSI filing. Do you follow me?

9 A. I follow what you're doing. I don't agree with
10 it, but --

11 Q. Now, all I'm going to ask you is, if you look at
12 this trend from 2000 to the PSI filing in 2006, does this
13 show that the carrier charge element -- would you agree that
14 the trend of the element is going down from 2000 to 2006?

15 MS. PAIVA: Mr. Swindler, would you turn that?

16 (Counsel Swindler complying.)

17 MS. PAIVA: It says Exhibit 3, Sheet 2, but the one
18 that's in the testimony doesn't have the trend lines, the
19 dark lines on top.

20 MR. SWINDLER: That's correct.

21 MS. PAIVA: So this is different from what's in the
22 testimony then.

23 MR. SWINDLER: This is the exhibit, this is the same
24 exhibit; I have now added a trend line. I'm asking
25 Mr. Price, would you agree the trend line is down?

1 MS. PAIVA: Of course, the trend line doesn't touch
2 the top of all the bars, it only touches the top of some of
3 them.

4 MR. SWINDLER: I'm asking him for the trend line from
5 2000 to 2006.

6 BY MR. SWINDLER:

7 Q. Is the trend of the carrier charge down even
8 when you include the increase included in the 2006 PSI
9 filing noted at that far right bar?

10 A. I don't think it's a particularly fair analysis,
11 because --

12 Q. Mr. Price, you can discuss that --

13 A. -- I'm not taking issue with --

14 JUDGE COLWELL: Gentlemen. Gentlemen. One at a
15 time, please.

16 MR. SWINDLER: Your Honor, I'm only asking Mr. Price,
17 yes or no, is the trend down? If his counsel wants to
18 discuss that on redirect, then --

19 JUDGE COLWELL: He's allowed to disagree with your
20 premise, though, Mr. Swindler. You can't force him to agree
21 with you. Just let him answer the question.

22 THE WITNESS: My disagreement, Your Honor, hinges on
23 the fact that none of the previous rates are at issue here,
24 and how those compare or whether or not where we are today
25 shows any kind of trend is, in my view, really not relevant

1 to the question, which is should the rates that became
2 effective July 1, in light of the Commission stay, be
3 allowed to stand. So whether prior rates did or didn't do
4 anything, in my view, is really not something that I've
5 analyzed, not something that I believe is relevant to what
6 Your Honor is here to decide.

7 JUDGE COLWELL: All right. Thank you.

8 Go ahead, Mr. Swindler.

9 BY MR. SWINDLER:

10 Q. Mr. Price, having said that, is the trend line
11 on this Exhibit 3, Sheet 2, going down for each of the
12 companies for the CC portion of the access charge?

13 A. And my response is that the rates in effect July
14 1, '06 for each of the three companies are lower than the
15 rates that were in effect on April 1, 2000.

16 Q. So you would agree that the trend is for the
17 rate to have gone down from Global Order to present?

18 A. No, I don't agree with that at all. I agree
19 that if you connect the beginning point and the end point,
20 you have a downward line, but I don't believe that that
21 means that it's a "trend" given the increases that have
22 already been implemented.

23 Q. With that understood and without going through
24 the same analysis or the same explanation, because all these
25 sheets look relatively the same as far as how they're set

1 up, and I've already explained 2000 to 2006, let's move to
2 Sheet 3 of Exhibit 3, which is the TS Analysis, the traffic
3 sensitive portion, and let me ask you: would you agree that
4 from the beginning point of 2000 to the end point of 2006,
5 that this shows a downward line?

6 A. If you connect the two end points, yes; if you
7 ignore the first two periods, the trends are basically flat,
8 if you will, both for Buffalo Valley and Denver & Ephrata.

9 Q. When you connect the end points, you get a
10 downward line for all three companies, yes or no? Would you
11 like to look at it closer?

12 A. Well, it's barely down if you look at Conestoga.
13 Connecting the beginning and end points for Buffalo Valley
14 and Denver & Ephrata, the last end point is lower.

15 Q. It's Denver & Ephrata.

16 A. Sorry.

17 Q. And since you brought up that the TS portion --
18 you're suggesting that the downward line is only a slight
19 downward line, just go back to Sheet 2 of Exhibit 3. Would
20 you agree that, in fact, Conestoga's CC portion of that
21 access rate is actually a very large downward line compared
22 to the other two from end point to end point?

23 MS. PAIVA: Your Honor, I think the witness has
24 answered these questions. The chart speaks for itself. Is
25 it necessary for him to measure the angle of the line?

1 MR. SWINDLER: Your Honor, Mr. Price was attempting
2 to point out that the TS Analysis showed an only slight
3 decrease for Conestoga, and I was simply bringing to his
4 attention that the CC portion of that access charge in fact
5 then also shows a very large downward line from end point to
6 end point.

7 BY MR. SWINDLER:

8 Q. Can we agree, Mr. Price?

9 JUDGE COLWELL: You've made your point, Mr. Swindler.

10 BY MR. SWINDLER:

11 Q. Similarly, Mr. Price, I'm just going to ask you
12 to look at Exhibit 4, Sheets 2 and 3. Again, look at the R1
13 Analysis and the B1 Analysis for residential and business
14 rates from 2000 to 2006. This simply represents an
15 enlargement of the exhibit as it's attached to Mr. Beurer's
16 direct, but then when I overlay a line drawn from end point
17 to end point, as I'm showing on this enlarged exhibit, would
18 you agree that for the R1 Analysis, Exhibit 4, Sheet 2, that
19 when you draw a line from end point April 2000 to end point
20 July 2006 you get an upward line?

21 MS. PAIVA: Your Honor, I hate to keep objecting to
22 this, but you only get an upward line if you are ignoring
23 the parts of the data points that go above the line. I
24 think if you really drew a line, you would have a zig-zag
25 line going up and down. I don't see the point of this

1 questioning.

2 MR. SWINDLER: Your Honor, that's why I attempted to
3 call it a trend, because it shows an upward trend. I'm
4 asking Mr. Price whether you get an upward line from end
5 point to end point, since he prefers to refer to it in that
6 manner as opposed to referring to it as a trend.

7 JUDGE COLWELL: And I think Ms. Paiva's point is well
8 taken. These charts do speak for themselves. You have made
9 your point. He doesn't have to agree with a trend. The
10 word "trend" I think is something we haven't defined and
11 we're having trouble with. Let's go beyond trend.

12 MR. SWINDLER: Your Honor, I'm simply trying to get
13 from Mr. Price that the line from end point to end point for
14 Exhibit 4, Sheet 2, is an upward line, yes or no.

15 BY MR. SWINDLER:

16 Q. If you can answer that without me showing you
17 this enlargement, that's fine.

18 JUDGE COLWELL: Mr. Price?

19 THE WITNESS: The end points are higher than the
20 beginning points from April 2000 to July 2006.

21 BY MR. SWINDLER:

22 Q. And are you saying that with regard to both
23 Exhibit 4, Sheet 2, and Exhibit 4, Sheet 3, of the R1 and B1
24 Analysis?

25 A. The statement is true with respect to both.

1 Certainly, the difference is -- there are differences. In
2 other words, the beginning point for the residential rates
3 on Exhibit 4, Sheet 2, were lower by, you know, measurable
4 amounts than the July '06 rates. That's not the case for
5 the B1 rates; they've seen apparently much less steep
6 increases.

7 Q. Would you agree that in all --

8 MS. PAIVA: Can I just interrupt for a second? I
9 don't have Exhibit 4, Sheet 3 in my copy of the testimony.
10 I guess that's supposed to be the B1 analysis; right?

11 MR. SWINDLER: That was the one that was --

12 MS. PAIVA: Is that the one that was sent separately?

13 THE WITNESS: It was sent separately.

14 MR. SWINDLER: It was e-mailed to you in black and
15 white and then we overnighted that to you in color.

16 MS. PAIVA: May I just take a look?

17 MR. SWINDLER: Sure.

18 JUDGE COLWELL: Mr. Swindler, can I ask you how much
19 more cross you have for Mr. Price?

20 MR. SWINDLER: One question, Your Honor.

21 JUDGE COLWELL: Okay.

22 (Pause.)

23 MR. SWINDLER: Your Honor, what I have and I would
24 like identified as D&E Cross-Examination Exhibit No. 2 is
25 simply an eight-and-a-half by eleven copy of the exhibit

1 overlay we just discussed with Mr. Price showing the line
2 from end point to end point. I have provided the parties,
3 Your Honor and the court reporter with the appropriate
4 number of copies.

5 (Document distributed by Counsel Swindler.)

6 (Whereupon, the document was marked
7 as D&E Cross-Examination Exhibit No.
8 2 for identification.)

9 MS. PAIVA: Are you going to ask him questions about
10 this or are you just putting this in to conform with your
11 blow-ups?

12 MR. SWINDLER: I'm going to ask him no further
13 questions. It's easier to place in the record than the
14 enlargements. For the courtesy of the parties, I'm just
15 providing these as Cross-Examination Exhibit No. 2.

16 MS. PAIVA: I'm going to have an objection to this.
17 Do you want it now or do you want to save it for when he
18 moves the documents into evidence?

19 JUDGE COLWELL: Hold onto it for a minute.

20 Go ahead.

21 THE WITNESS: It might be helpful if I had a copy of
22 that.

23 MR. SWINDLER: I'm sorry. I thought perhaps you
24 wanted to fly back to Texas with the enlargements.

25 (Document handed to witness.)

1 THE WITNESS: I may have enough trouble with my
2 flight schedules to not need that.

3 BY MR. SWINDLER:

4 Q. Mr. Price, moving on, is it your opinion that
5 access rates should move to cost?

6 A. That's certainly not the opinion that I've
7 expressed as part of my testimony in this proceeding, no.

8 Q. Mr. Price, does that mean in your opinion access
9 rates should not move to cost?

10 A. No. I'm simply saying that that's not part of
11 what's at issue in this proceeding, so there's not anything
12 in my testimony that says exactly what rates should be set
13 at, only that the increases should not be allowed during the
14 pendency of the Commission stay of the rural ILEC access
15 investigation.

16 Q. Mr. Price, then just as a general premise, in
17 your opinion should access rates move to cost?

18 A. Well, I assume that we'll get a chance to talk
19 about that at the right time in the right proceeding. In
20 terms of the way that intercarrier compensation should move,
21 I think the fundamental question is not so much cost,
22 because we can argue about that a great deal and different
23 people can have very different opinions about what is and is
24 not cost, but the real question is that in an industry today
25 where many carriers are providing both local, long distance

1 services and a number of other internet-enabled services,
2 for example, and each operates their own network, one of the
3 fundamental policy questions this Commission is going to
4 have to grapple with, or the FCC is going to have to grapple
5 with, is how much of those network costs should be shifted
6 to other carriers and their customers versus how much of a
7 given carrier's network costs should be picked up by its own
8 end-user customers.

9 MR. SWINDLER: I apologize, Your Honor, this has
10 turned into more than one last question.

11 BY MR. SWINDLER:

12 Q. Based on that answer, Mr. Price, assuming then
13 that the costs are known, in your opinion should the access
14 rate move to cost?

15 A. I apologize; I did not fully hear all of your
16 question.

17 Q. You indicate that there could be argument about
18 cost, cost being uncertain, and I'm asking you if costs were
19 known, in your opinion should access rates move to cost?

20 A. If they were known?

21 Q. Yes.

22 A. No, because I think that is -- the whole
23 question of what is the cost, I mean, we've even seen it to
24 some extent in this proceeding, deflects the policymakers'
25 attention from the fundamental question of how much of a

1 carrier's own network costs should be borne by its customers
2 and how much should be shifted to other carriers that have
3 their own networks and their own costs of operating those
4 networks that have to be borne by their own customers. So
5 it's really more of a -- it's a very broad policy question,
6 and I'm not sure that there are specific guidelines. I
7 mean, if there were, perhaps this Commission would have
8 resolved the issue sooner, the FCC would have resolved the
9 issue sooner, but they haven't.

10 MR. SWINDLER: Thank you, Mr. Price. I have no
11 further questions.

12 JUDGE COLWELL: Ms. Paiva, I assume you're going to
13 have some redirect?

14 MS. PAIVA: I may have some redirect, but I would
15 suggest that maybe if we took a lunch break and came back,
16 because Mr. Price doesn't have to run out of here right
17 away, that maybe we could at least eliminate or shorten it.

18 JUDGE COLWELL: That's what I thought would happen,
19 yes. So this would be a grand time to take a lunch break.
20 That way everyone can come back and be awake again for the
21 afternoon. Drink lots of caffeine.

22 My watch says 12:33. We'll meet back here at 1:30.

23 (Witness temporarily excused.)

24 (Whereupon, at 12:33 p.m., the hearing was adjourned,
25 to be reconvened at 1:30 p.m., this same day.)

AFTERNOON SESSION

(1:33 p.m.)

JUDGE COLWELL: Let's go back on the record.

Go ahead, Ms. Paiva.

Whereupon,

DON PRICE

having previously been duly sworn, testified further as follows:

REDIRECT EXAMINATION

BY MS. PAIVA:

Q. Mr. Price, earlier, before lunch, Mr. Swindler asked you a number of questions about various Commission orders and read passages from Commission orders that had to do with this Commission's views on access charges. Are there any other PUC orders that factored into your opinions in this case?

A. Beyond the ones that I reference in my testimony, and particularly the Global Order and the '03 order, and then the more recent decisions, there was one that expressly relates to the D&E companies. That order was in Docket No. R-00016682. It had to do with the Chapter 30 filings that were made by Denver & Ephrata.

Q. Is there a date at the very end of that order? What is the date the order was entered?

A. November 30, 2001.

1 Q. And how did that order factor into your opinions
2 in this matter?

3 A. Well, we discussed, particularly in the direct
4 testimony, sort of our sense, my sense of the Commission's
5 policies, if you will, towards access charges, and at page 3
6 of that order where it talks about access reductions that
7 were made in that filing by the Denver & Ephrata companies,
8 it says that the reasons that the company made its revenue
9 neutral rate rebalancing included to move access charges
10 closer to cost, to provide access services, to reduce
11 subsidies from access charges and bring rates closer to the
12 cost of providing the service, to provide comparable service
13 to rural customers, and to prepare D&E to meet the
14 challenges of competitive entry of other telecommunications
15 providers into its service territory. As I understand it,
16 this order resulted in the reductions that were shown for
17 2001 in Mr. Beurer's exhibit.

18 MS. PAIVA: That's it for the redirect.

19 JUDGE COLWELL: OCA, do you have questions for this
20 witness?

21 MR. CHESKIS: We have no questions for this witness,
22 Your Honor.

23 MS. PAIVA: Your Honor, it's on the Commission's web
24 site, but I do have extra copies of that order he was
25 discussing if --

1 JUDGE COLWELL: Don't worry about that now, we'll
2 talk about that when it gets to briefing.

3 MR. SWINDLER: No questions, Your Honor.

4 JUDGE COLWELL: I actually do have a question for
5 you, Mr. Price. You talk about why the filing as it stands,
6 all three of them, don't fit the standard for just and
7 reasonable. Can you tell me what would? And when you say
8 just and reasonable and we all say just and reasonable,
9 you're saying "I know it when I see it, but this isn't it,"
10 or can you give me something -- point me somewhere in your
11 testimony or tell me what would be just and reasonable?

12 THE WITNESS: Your Honor, quite frankly, the only way
13 that I can honestly address that is almost by negative
14 implication, because obviously most of my testimony went
15 into rebutting the points that were made by the companies'
16 witness. So, for example, had it been shown that there
17 really were no other alternatives other than to raise access
18 rates, I mean, that would obviously be a factor that the
19 Commission would want to consider. In this case I don't
20 believe that showing was made.

21 JUDGE COLWELL: So you think there has to be a
22 showing that this is the only choice they have?

23 THE WITNESS: Well, no, but I think given where the
24 Commission is with regard to the overall question of what
25 direction should access charges take and whether they should

1 go down further and, if so, how do we do it, I mean, it's
2 very difficult, particularly from the perspective of someone
3 that pays access charges, it's difficult to say: well,
4 we're not going to really look at the underlying question,
5 but we're going to allow increases in these rates that we
6 have serious questions about and feel like need further
7 investigation.

8 JUDGE COLWELL: When you say underlying questions,
9 what exactly do you mean?

10 THE WITNESS: Well, going back to the Global Order,
11 the Commission was concerned that there were implicit
12 subsidies, and I take the point that maybe from a strictly
13 economic standpoint that's not the correct word, but, in
14 other words, having other carriers be responsible for the
15 operating costs, if you will, of a given carrier's network.
16 Back to my point that I made earlier about each carrier has
17 its own costs of running and operating a network. What is
18 the appropriate means for the Commission to decide -- or
19 what is the appropriate answer as to how much carriers
20 should look to other carriers and their customers for the
21 costs of operating that network. Each of the carriers has
22 its own costs, each of its customers are going to have to,
23 you know, obviously help defray those costs, but at what
24 point do you say it's okay for 20 percent of a given
25 carrier's costs to be borne by other carriers' customers?

1 We've heard a lot about trends. There were some
2 figures that were presented by Mr. Loube -- and I hope I
3 said that name right; I apologize -- about the loop costs
4 that he had identified, and if you look at the carrier
5 charges that the Denver & Ephrata companies --

6 JUDGE COLWELL: Before you leave here today I'm going
7 to get you to say Ephrata.

8 THE WITNESS: Okay. Ephrata.

9 JUDGE COLWELL: There you go.

10 THE WITNESS: Please, it's not for lack of trying.

11 If you look at the per line rates that were in the
12 Chapter 30 filings of last year -- I'm sorry; if you look at
13 the line counts that were in those filings, and if you take
14 the carrier charges that the companies are charging today
15 after the increases and you kind of average all that out,
16 that's roughly 19 percent of the three combined companies'
17 loop costs that they're shifting to other carriers to be
18 recovered through this carrier charge.

19 JUDGE COLWELL: How does that compare to what other
20 companies do?

21 THE WITNESS: Well, I was just going to say, the same
22 analysis for Verizon, based on the loop figures that were
23 provided in our discovery response that we didn't utilize,
24 that same amount is about 2 to 3 percent --

25 MR. SWINDLER: Your Honor, excuse me, but I would

1 just caution Mr. Price to make sure he's not using any
2 proprietary information here.

3 JUDGE COLWELL: Proprietary information for your
4 client?

5 MR. SWINDLER: Your Honor, he's talking about
6 percentages. I just wanted to make sure that it was clear
7 that unless we are on the proprietary record, in attempting
8 to provide percentages with regard to D&E, that he should
9 note whether they're proprietary or not, whether he wants to
10 say the percentages.

11 JUDGE COLWELL: Well, he's already said them, so are
12 you telling me that should be proprietary?

13 MR. SWINDLER: I'm just jumping in, Your Honor, to
14 ask that for the rest of the explanation, he consider
15 whether the information is proprietary before he says it.

16 JUDGE COLWELL: Because I can ask the court reporter
17 to go back and start a proprietary record at that point if
18 that's what you're telling me.

19 MS. PAIVA: I believe that the calculations are based
20 on non-proprietary figures, although the witness can tell us
21 that.

22 THE WITNESS: That's exactly right, Your Honor. The
23 only numbers, and I haven't used those numbers, I haven't
24 stated those numbers, but in the calculation that I did, if
25 you take the line counts that were in the June 28, 2006

1 filings for each of the three companies and then use their
2 carrier charges to tally up, you know, the total revenues
3 generated for those number of lines times that rate, and
4 then you compare that amount to Dr. Loube's testimony where
5 he says the proxy loop cost for the Denver & Ephrata
6 companies was --

7 JUDGE COLWELL: Excuse me; Denver and what?

8 THE WITNESS: Ephrata.

9 JUDGE COLWELL: Ephrata.

10 THE WITNESS: Ephrata.

11 JUDGE COLWELL: There you go.

12 THE WITNESS: You know what it is, there's enough
13 Spanish down where I come from that you're accenting the
14 wrong syllable every time. Ephrata.

15 I don't recall the exact number, but it was in the
16 context of comparing the proxy loop cost for the D&E
17 companies with the proxy loop cost for the constituent
18 components of the Verizon ILECs.

19 JUDGE COLWELL: So it's not proprietary?

20 THE WITNESS: No. No. If you take that
21 calculation --

22 JUDGE COLWELL: And if he does cross the line, jump
23 up and tell me.

24 THE WITNESS: If you take that calculation and look
25 at how much that carrier charge generates towards that loop

1 cost, for the D&E companies it's about 19 percent, and
2 that's averaging their lines and their specific carrier
3 charges to that average per loop costs that are in
4 Dr. Loube's testimony. So it's 19 percent recovered from
5 other carriers versus, for Verizon, about 2 to 3 percent.

6 JUDGE COLWELL: Now, is it fair to compare the D&E
7 companies to Verizon?

8 THE WITNESS: Well, the point of that comparison
9 really goes to what I was talking about a few minutes ago,
10 which is each entity has its own network that it has to
11 operate, and the policy question -- these numbers are
12 instructive of the big gap between the extent to which
13 carriers rely on their own customers to fund the operations
14 of that network versus the extent to which they look to
15 other carriers' customers for that funding.

16 Now, that's not the issue for this proceeding, that's
17 for the investigation, but those are the kinds of policy
18 issues that either this Commission or the FCC will
19 ultimately have to address.

20 JUDGE COLWELL: Although you say it's not the issue
21 for this proceeding, it basically is what you're relying on
22 to tell me that you don't think that's just and reasonable;
23 right?

24 THE WITNESS: If the increase that were implemented
25 by the D&E companies were anything beyond a mere rounding

1 error in terms of the overall average rate per minute that
2 they charge, it would have been significant, because it
3 raises the question of what the Commission's decision in
4 this case, what impact that will have on other carriers'
5 decisions while the investigation of the access rates is
6 stayed. It's a problem -- from Verizon's view, it's a
7 problem of sort of having one's cake and eating it, too; you
8 can't stay the investigation and say don't look at the
9 underlying issues and at the same time increase the very
10 rates that are subject to the investigation.

11 JUDGE COLWELL: I'm still having trouble coming to
12 grips with the fact that you're telling me that this isn't
13 the right way to do it, but you haven't given me an
14 alternative. What should the D&E companies be doing that
15 would give me a just and reasonable result if not what they
16 have already done?

17 THE WITNESS: Well, I think part of the problem is
18 Verizon would concede that it doesn't want other carriers or
19 this Commission getting into the business of directing what
20 its filings should look like; in other words, that is in
21 large part a matter that should be at the discretion of the
22 company. When the result is looked at, then the question
23 is, you know, what is the effect of that result? And the
24 problem that we have is with these increases, and then some
25 other carriers' increases, what is the combined effect of

1 that while the Commission has said, "We know that we need to
2 look at these rates, but we're not going to look at them
3 now"? Well, if we're not going to look at them, it's very
4 -- I know I'm not answering your question, and I apologize,
5 but it's quite a conundrum because we don't want to be the
6 ones that tell the D&E companies exactly what to do. We
7 know that -- and I believe I was asked on cross questions
8 about are there pending investigations or what if there were
9 pending investigations into local rates? Well, that's a
10 very different question. There is, to my knowledge, there
11 is no such pending investigation into local rates in
12 Pennsylvania, there is a pending investigation into access
13 rates.

14 JUDGE COLWELL: But what you're asking the Commission
15 to do here is say: D&E, what you've done isn't just and
16 reasonable, try again, but we don't want to get into the
17 business of telling you how to do it. Do you see what I'm
18 saying?

19 THE WITNESS: Yes, I do.

20 JUDGE COLWELL: Do you see the problem?

21 THE WITNESS: Yes, I do.

22 JUDGE COLWELL: I can't tell the Commission to do
23 that. I have to give them some kind of reasonable
24 alternative. If what I think the D&E companies have done
25 isn't just and reasonable, I have to explain exactly why so

1 that the D&E companies would then know how to fix it.

2 THE WITNESS: And I understand that problem. The
3 point of portions of my testimony was to highlight earlier
4 Commission orders that talked about things like diminishing
5 or eliminating the subsidy flows that existed from access to
6 local rates, and to toll rates to some extent as well. That
7 is something that the Commission has said, as I read the
8 orders, the Commission has said, "This is the first step,"
9 or "This is an additional step," but they've never said, "We
10 think we're there. We think we're through with this." And
11 until they do grapple with that next step or until they do
12 get to a point where they say, you know, "Okay, we're done,
13 this is the end," then to increase rates during that period
14 seems to us to be going in the wrong direction.

15 Now, could the companies have raised local rates?
16 Yes. I've got numbers in my rebuttal testimony that show
17 that they could raise their residential rates and still be
18 below the \$18.00 cap or benchmark, whichever term you
19 prefer. That is an option. The company chose not to pursue
20 that for reasons that it said were because of competitive
21 pressures. Whether or not that's true, I haven't seen
22 anything in this case that has demonstrated to me that
23 there's a substantive basis for that. I mean, we have the
24 discovery response that says Mr. Beurer had a conversation
25 with some of the other officers of the company and that's

1 the way they decided to go. Is that a sufficient basis for
2 them telling the Commission that they really had no other
3 realistic option than to increase access? I don't think so.

4 JUDGE COLWELL: Okay, I think I understand your
5 testimony.

6 Anybody have any questions based on my discussion
7 with Mr. Price?

8 (No response.)

9 JUDGE COLWELL: Mr. Swindler?

10 MR. SWINDLER: No, Your Honor.

11 MS. PAIVA: No.

12 JUDGE COLWELL: Thank you very much, Mr. Price.

13 THE WITNESS: Thank you, Your Honor.

14 (Witness excused.)

15 JUDGE COLWELL: It looks like we have one witness
16 left because --

17 MS. PAIVA: We still have one little housekeeping
18 matter with D&E's cross exhibits.

19 JUDGE COLWELL: Oh, I'm sorry. Go ahead.

20 MS. PAIVA: I assume that Mr. Swindler is going to
21 move for the admission of both of these cross exhibits?

22 MR. SWINDLER: Yes, Your Honor. D&E carriers would
23 move for the admission of D&E Cross Exhibit No. 1 and D&E
24 Cross Exhibit No. 2.

25 JUDGE COLWELL: Any objection?

1 MS. PAIVA: I have no objection to No. 1, which is
2 the interrogatory response, but on No. 2, which is the
3 colored copy of the charts with the trend lines, we do
4 object to the admission of this document into the record.
5 The underlying charts, the bar graph itself, is already in
6 the record, it's attached to Mr. Beurer's testimony, so the
7 only thing that this exhibit adds are the dark lines that
8 connect the points, but I think it was pretty well
9 established through Mr. Price's testimony that these lines
10 don't prove anything. They ignore part of the data points;
11 they don't go up and down like they would if they were
12 actually going to graph the data points from point to point.
13 I don't exactly know what definition of the term "trend"
14 that Mr. Swindler was using, but I don't think that they
15 show anything other than the fact that the first number, in
16 certain cases, the first number is higher than the last
17 number, but that is obvious from the underlying charts
18 without needing to draw these black lines, which could be
19 misleading if it was just picked up as an exhibit
20 substantively in the record. So we would object to this
21 exhibit.

22 JUDGE COLWELL: Mr. Swindler.

23 MR. SWINDLER: Your Honor, if Ms. Paiva thought that
24 there was a problem, she had the opportunity on redirect to
25 ask Mr. Price further questions with regard to those, and

1 she did not. What I would point out is as a cross exhibit,
2 Mr. Price's testimony, in various places in his direct and
3 his rebuttal, indicates that in his opinion the D&E access
4 increases "fly in the face of Commission policy." That
5 discussion is in Mr. Price's rebuttal at page 3, line 3. In
6 addition, in his direct testimony at page 13, line 2,
7 Mr. Price testifies that the D&E companies are just
8 reversing direction from prior efforts by the Commission to
9 reduce rural carrier access charges. He also states on page
10 14, line 13, of his direct testimony that the Commission's
11 Global Order reflected its policy determination that such
12 subsidy flows should be reduced over time. Cross-
13 Examination Exhibit No. 2 responds to Mr. Price's testimony
14 and shows that, in fact, these exhibits show that even with
15 the increases in the D&E 2006 PSI filings, the Commission's
16 policy of decreasing access rates since the Global Order,
17 over time, have been followed. Therefore, I believe it's an
18 appropriate exhibit.

19 JUDGE COLWELL: I have to tell you that I thought the
20 charts themselves did exactly what you tried to tell us that
21 they did and that there's no actual reason to have submitted
22 them separately, but on the other hand, I don't see where
23 the addition of a black line makes any difference whatsoever
24 to the underlying chart, so I really don't know why we're
25 really fighting about it, quite honestly. I'm going to

1 overrule the objection and admit it for whatever purpose you
2 think it stands for.

3 MR. SWINDLER: Thank you, Your Honor.

4 (Whereupon, the documents marked
5 as D&E Cross-Examination Exhibits
6 Nos. 1 and 2 were received in
7 evidence.)

8 JUDGE COLWELL: Mr. Cheskis.

9 MR. CHESKIS: Your Honor, before we call the OSBA
10 witness, I would like to move for the admission of the
11 rebuttal testimony of Dr. Robert Loube.

12 JUDGE COLWELL: Any objection?

13 (No response.)

14 MR. CHESKIS: I will indicate that the OSBA and D&E
15 companies indicated they did not have cross for him. The
16 Verizon companies were willing to waive their cross of
17 Dr. Loube upon condition of submission of a stipulation into
18 the record, which I would now like to ask counsel for
19 Verizon to discuss.

20 I am also handing copies of Dr. Loube's rebuttal
21 testimony dated January 5, both in proprietary and non-
22 proprietary fashion, to the court reporter, and ask that
23 they be marked as OCA Statement 1-R. Copies have already
24 previously been distributed to Your Honor as well as to the
25 other parties.

1 JUDGE COLWELL: I ask that you get me an affidavit
2 from Dr. Loube and submit that as well.

3 MR. CHESKIS: All right.

4 (Whereupon, the document was
5 marked as OCA Statement No. 1-R
6 for identification.)

7 MR. RACKOW: Your Honor, as Mr. Cheskis indicated, we
8 have agreed to waive cross-examination of Dr. Loube provided
9 that we are also able to stipulate on the record to certain
10 facts and to the admission of two exhibits. Those are pages
11 1 and 9 through 13 of the OCA's joint motion to defer dated
12 May 23, 2005 from Docket I-00040105, and also, secondly,
13 pages 1 and 7 through 10 of the OCA's joint motion to
14 further stay dated August 30, 2006 from Docket I-00040105.
15 We have copies of those two exhibits to submit.

16 JUDGE COLWELL: Okay.

17 MR. RACKOW: Beyond the admission of those two
18 exhibits into the record, the other part of the stipulation
19 is to state on the record, as counsel for OCA has agreed,
20 that Dr. Loube testified in this proceeding that the
21 telephone penetration rate in Pennsylvania as of March 2006
22 was 94.8 percent. Based on the same report by the Federal
23 Communications Commission, about which Dr. Loube testified,
24 the telephone penetration rate in Pennsylvania as of March
25 2005 was 94.3 percent. The annual average telephone

1 penetration rate in Pennsylvania for 2004 was 95.6 percent;
2 and the annual average telephone penetration rate in
3 Pennsylvania for 2005 was 95.6 percent.

4 Have I stated that accurately?

5 MR. CHESKIS: Yes.

6 JUDGE COLWELL: Does any other party have any
7 objection to these statements being admitted to the record?

8 MR. SWINDLER: No, Your Honor.

9 JUDGE COLWELL: All right.

10 (Whereupon, the document marked
11 as OCA Statement No. 1-R
12 was received in evidence.)

13 MR. RACKOW: Shall we call those exhibits Verizon
14 Cross Exhibits 3 and 4?

15 JUDGE COLWELL: That's fine with me.

16 MR. RACKOW: Thank you.

17 MR. CHESKIS: Thank you very much, Your Honor.

18 (Whereupon, the documents were marked
19 as Verizon Cross-Examination
20 Exhibits Nos. 3 and 4 for
21 identification, and were received in
22 evidence.)

23 MR. GRAY: Your Honor, the OSBA would call
24 Mr. Buckalew to the stand, please.

25 JUDGE COLWELL: Good afternoon, sir.

1 MR. BUCKALEW: Good afternoon.

2 Whereupon,

3 ALLEN G. BUCKALEW

4 having been duly sworn, testified as follows:

5 JUDGE COLWELL: Thank you.

6 DIRECT EXAMINATION

7 BY MR. GRAY:

8 Q. Mr. Buckalew, will you please state your full
9 name for the record and spell your last name?

10 A. My name is Allen G. Buckalew, B-u-c-k-a-l-e-w.

11 MR. GRAY: Thank you.

12 Your Honor, the OSBA has previously distributed a
13 document to all the parties, including yourself, that is
14 entitled the Rebuttal Testimony of Allen G. Buckalew. We
15 would ask that that be marked for identification as OSBA
16 Statement No. 1.

17 JUDGE COLWELL: All right.

18 (Whereupon, the document was
19 marked as OSBA Statement No. 1
20 for identification.)

21 BY MR. GRAY:

22 Q. Mr. Buckalew, do you have a copy of OSBA
23 Statement No. 1 in front of you?

24 A. Yes, I do.

25 Q. Mr. Buckalew, was OSBA Statement No. 1 prepared

1 by you or under your supervision?

2 A. Yes, it was.

3 Q. Mr. Buckalew, any changes or corrections to OSBA
4 Statement No. 1?

5 A. No, there are not.

6 Q. Mr. Buckalew, if I asked you all the questions
7 contained within OSBA Statement No. 1, would each answer be
8 the same today as is set forth in the document?

9 A. Yes.

10 Q. Mr. Buckalew, are the answers in OSBA Statement
11 No. 1 true and correct to the best of your ability and
12 belief?

13 A. Yes.

14 MR. GRAY: Your Honor, at this time I would ask to
15 move OSBA Statement No. 1 into the record, subject to timely
16 motions and cross-examination.

17 JUDGE COLWELL: Let's go with the cross-examination
18 then.

19 MR. GRAY: Mr. Buckalew is available for cross.

20 JUDGE COLWELL: From the list that was given to me,
21 the only party that has any cross for Mr. Buckalew is
22 Verizon.

23 MR. SWINDLER: Yes, Your Honor, we do have some
24 cross, although it should not be extensive.

25 **CROSS-EXAMINATION**

1 BY MR. RACKOW:

2 Q. Good afternoon, Mr. Buckalew. My name is
3 Jeffrey Rackow. I'm here on behalf of the Verizon
4 companies. You are testifying on behalf of the Office of
5 Small Business Advocate; correct?

6 A. Correct.

7 Q. Have you testified in other proceedings before
8 the Commission?

9 A. Yes.

10 Q. Have you testified in other proceedings before
11 the Commission about access charges?

12 A. Yes.

13 Q. And which proceedings would those be?

14 A. You'd have to look at my résumé; they're all
15 listed.

16 Q. Is your testimony in this case submitted in
17 response to Mr. Price's testimony of Verizon?

18 A. Yes, my testimony was submitted in response to
19 Mr. Price's testimony.

20 Q. In preparing for your testimony in this case,
21 did you also familiarize yourself with positions of the OSBA
22 in other access cases?

23 A. I've been involved in them, so I think I -- I
24 didn't do it specifically for this case, but I know their
25 position.

1 Q. In your testimony in this case, Mr. Buckalew, is
2 it correct that you acknowledged that the increases to the
3 D&E access charges must be just, reasonable and non-
4 discriminatory?

5 A. Correct.

6 Q. And did you further testify that in your view
7 those access charge increases are in fact reasonable and
8 non-discriminatory?

9 A. Yes.

10 Q. Are you familiar with the fact that the
11 Commission has another docket in which it is investigating
12 whether to further reduce intrastate access charges of rural
13 ILECs such as the D&E companies?

14 A. I'm aware that the Commission has a docket to
15 further examine access charges. Whether reduction is a
16 result of that is another argument.

17 Q. With the Judge's permission, I'd like to hand to
18 you the Commission's order entered December 20, 2004 from
19 Docket I-00040105. I can provide copies for the other
20 parties as well.

21 JUDGE COLWELL: You can hand it to them. I don't
22 know that anybody needs a copy of that order, but --

23 MR. RACKOW: Pardon?

24 JUDGE COLWELL: I don't know if we all need a copy of
25 that order, but you can certainly hand it to the witness for

1 his reference.

2 (Document handed to witness.)

3 BY MR. RACKOW:

4 Q. Mr. Buckalew, would you look at the last page of
5 that order, please? Do you see that?

6 A. Yes.

7 Q. Could you please read the first numbered
8 paragraph of that page?

9 A. "That an investigation to consider whether
10 intrastate" --

11 Q. I'm sorry to interrupt. Could you begin at the
12 beginning of the page, "It is ordered"?

13 A. Well, why don't you read it then?

14 Q. Okay. Does that order say, "It is ordered: (1)
15 that an investigation to consider whether intrastate access
16 charges and intraLATA toll rates in rural ILECs' territories
17 should be decreased and to consider any and all rate issues
18 and rate changes that should or would result in the event
19 that disbursements from the Pennsylvania Universal Service
20 Fund are reduced and/or eliminated is hereby instituted."

21 Have I correctly read that from that order?

22 A. Yes, and the emphasis is on "should be." In
23 other words, will they be increased is still up for grabs.
24 They haven't made a decision that they're going to decrease
25 access rates.

1 Q. But you would agree that that investigation is
2 to consider whether to reduce those access charges?

3 A. Certainly.

4 Q. Did you know that the Commission has stayed that
5 investigation?

6 A. Yes.

7 Q. Did you know that the stay was imposed on the
8 basis of a request to the Commission by rural ILECs,
9 including the D&E companies, and the OCA?

10 A. Among others I think, yes.

11 Q. And did you know that that request to the
12 Commission for a stay was supported by the OSBA on whose
13 behalf you're testifying here?

14 A. That's what I meant by "among others."

15 Q. With the Judge's permission, I'd like to show
16 you what we're marking for identification purposes as
17 Verizon Cross Exhibit 5.

18 JUDGE COLWELL: Fine.

19 (Whereupon, the document was marked
20 as Verizon Cross-Examination Exhibit
21 No. 5 for identification.)

22 MR. GRAY: Are you going to mark this order as an
23 exhibit?

24 MR. RACKOW: No, we're not going to introduce that
25 order into the record.

1 (Document handed to witness.)

2 BY MR. RACKOW:

3 Q. Mr. Buckalew, what I've handed you we've marked
4 for identification purposes as Verizon Cross Exhibit 5, and
5 it is a brief that was filed by the Office of Small Business
6 Advocate in Docket No. I-00040105 on June 28, 2005. Do you
7 have a copy of that brief before you, Mr. Buckalew?

8 A. You just handed it to me.

9 Q. Would you please turn to page 3 of that brief?
10 If you look in the middle of the page, the first sentence in
11 section B, does that say, "As the ALJ pointed out in her
12 June 8, 2005, Order, at page 9, the Commission has
13 instituted a Verizon access charge proceeding which
14 generally parallels the Commission's investigation into
15 rural ILEC access charges"? Have I correctly read from that
16 brief?

17 A. Yes, you have.

18 Q. And if you turn to the next page, on page 4 of
19 that brief of the OSBA, if I may direct your attention,
20 please, to the second sentence after the block quote, the
21 sentence that begins, "Just as the Commission," I would read
22 that: "Just as the Commission recognized in the Verizon
23 proceeding that the FCC's access charge deliberations could
24 seriously impact if, and how, Verizon's intrastate access
25 charges should be changed, so too could the FCC's

1 deliberations seriously impact if, and how, the rural ILECs'
2 intrastate access charges should be changed." Have I
3 correctly read that sentence from the brief of the OSBA?

4 A. Again, you've read it correctly.

5 Q. Mr. Buckalew, are you familiar with that Verizon
6 access charge proceeding?

7 A. Yes.

8 Q. And have you submitted testimony in that
9 proceeding yourself?

10 A. Yes.

11 Q. Was that on behalf of the OSBA?

12 A. Yes.

13 MR. RACKOW: I'd like to mark as Verizon Cross
14 Exhibit 6 Mr. Buckalew's testimony from that Verizon access
15 charge proceeding. This testimony, Your Honor, is from the
16 access charge proceeding, which is Commission Docket No. C-
17 20027195, and it was the direct testimony of Allen Buckalew
18 on behalf of the Office of Small Business Advocate, dated
19 June 8, 2005, which I'd like to show him and mark as an
20 exhibit. It was submitted in that proceeding as proprietary
21 testimony. We only had a copy of the proprietary version.
22 The parts of the testimony to which I would like to direct
23 his attention and ask a question actually do not contain
24 proprietary information. So with the Judge's permission,
25 and unless there's an objection from the other parties, what

1 we could do is introduce into the record or move later into
2 the record only the cover page and that one particular page
3 that we wish to cross-examine about, rather than trying to
4 seal this document or submit a proprietary version, if that
5 would be okay with the Judge, with Your Honor, and unless
6 there's objection from other parties.

7 JUDGE COLWELL: Mr. Gray.

8 MR. GRAY: I don't have an objection, but I'm going
9 to quickly ask sometime soon for an offer of proof what the
10 testimony is going to demonstrate, but I'm withholding that
11 and we'll proceed. We are not offended by the proprietary
12 issues, we're more concerned in making sure that Verizon's
13 and D&E's proprietary material is taken care of, so we don't
14 have an issue on that side of it.

15 MR. RACKOW: Very well, and if the witness at any
16 time would like to see the full proprietary version, we can
17 provide that for the witness to see without having to put it
18 into the record, but we don't think it would be necessary.

19 JUDGE COLWELL: Why don't you give him a full copy
20 and then you can ask your questions from that, and give
21 everybody else the part that we need to see.

22 MR. RACKOW: We can do that. We're marking this as
23 Verizon Cross Exhibit 6, and this is the cover page and
24 numbered page 5 from the direct testimony of Allen Buckalew
25 from Docket No. C-20027195 dated June 8, 2005.

1 (Whereupon, the document was marked
2 as Verizon Cross-Examination Exhibit
3 No. 6 for identification.)

4 (Document handed to witness.)

5 MR. RACKOW: We've handed the full proprietary
6 version to the witness only and have distributed copies of
7 the cover page and page 5 alone to all the other parties.

8 BY MR. RACKOW:

9 Q. Mr. Buckalew, do you have a copy of the exhibit
10 which has been marked Verizon Cross Exhibit 6?

11 A. Yes, I do.

12 Q. You also have a full copy of the proprietary
13 version of that testimony?

14 A. Yes, I do.

15 Q. Does this appear to be your testimony from that
16 proceeding?

17 A. Yes, it is.

18 Q. Please turn to page 5. Could you please read
19 the last sentence on that page?

20 A. Why don't you read it and I'll agree to it. I'm
21 afraid I might read the wrong sentence.

22 Q. Okay. Does that last sentence on page 5 say
23 "Changes to intrastate access charges at this time are not
24 justified, either based on costs (as I discuss below), or
25 given the fact that the FCC may soon change the entire

1 structure for access charges"? Was that part of your
2 testimony in that case?

3 A. You read that sentence correctly.

4 Q. And so that was part of your testimony in that
5 case?

6 A. In the context of this testimony, yes.

7 Q. Thank you, Mr. Buckalew.

8 You said earlier, Mr. Buckalew, that your testimony
9 in this case was in response to the testimony of Mr. Price
10 of Verizon. Did you know that Mr. Price in this case has
11 testified that the D&E access charge increases are not just
12 and reasonable while the Commission's general investigation
13 of access charges of rural ILECs is stayed?

14 A. Well, I know he's testified to that, but he's
15 wrong. The Commission, if they're going to stay all access
16 charge changes, then they ought to change and stay the PCOs.

17 Q. But you are aware that he has pointed to the
18 stay as the basis of why he believes the access charge
19 increases are not just and reasonable?

20 A. I didn't hear that as really the basis for his
21 testimony. I mean, he thinks any -- I think he thinks that
22 any kind of change past decrease is not just and reasonable.

23 Q. Have you read Mr. Price's testimony?

24 A. Yes, I have.

25 Q. Have you read his rebuttal testimony?

1 A. Yes, I have.

2 Q. Have you read his surrebuttal testimony?

3 A. Yes, I have.

4 Q. In your own testimony in this case that you've
5 submitted, did you ever once mention the stay of the access
6 charge investigation?

7 A. No, because everybody knows there's a stay. Why
8 would I?

9 Q. Did you and the OSBA have the opportunity to
10 submit surrebuttal testimony in this case?

11 A. Yes.

12 Q. And did you submit any surrebuttal testimony in
13 this case?

14 A. There was no need.

15 MR. RACKOW: Subject to moving into evidence the
16 exhibits we've marked, and subject to whatever there might
17 be on redirect, I have no further questions.

18 JUDGE COLWELL: All right. I guess no one else has a
19 question on the first round.

20 Mr. Gray, do you have any redirect?

21 MR. GRAY: Yes. Thank you, Your Honor.

22 Verizon counsel first crossed my witness on the
23 docket which is I-00040105; that's correct? This is the one
24 that is not a cross-examination exhibit; correct?

25 (Document shown to Counsel Rackow.)

1 MR. RACKOW: Correct. It was shown to the witness.

2 MR. GRAY: And you had my expert read the first
3 ordering paragraph of page 7; correct?

4 MR. RACKOW: I think he had me read it.

5 MR. GRAY: Would you please read the title of that
6 case?

7 MR. RACKOW: Order?

8 MR. GRAY: Yes, that order. What's the title?

9 MR. RACKOW: The caption is "Investigation Regarding
10 Intrastate Access Charges and IntraLATA Toll Rates of Rural
11 Carriers, and the Pennsylvania Universal Service Fund."

12 MR. GRAY: Thank you. Just so we're complete about
13 what we're talking about in that investigation. Thank you.

14 **REDIRECT EXAMINATION**

15 BY MR. GRAY:

16 Q. Mr. Buckalew, you have your complete direct
17 testimony in C-20027195 in front of you; is that correct?

18 A. Correct.

19 Q. Counsel gave you your full proprietary version;
20 correct?

21 A. I haven't checked every page, but I assume it
22 is.

23 Q. When you answered Verizon's counsel's question,
24 you said that sentence was "In the context of this
25 testimony." Would you please give us the context of the

1 sentence in this testimony that you alluded to under cross-
2 examination?

3 A. Well, the changes that were referred to are
4 changes in Verizon. Verizon has already dumped most of its
5 costs onto other ratepayers. You just heard a comparison
6 recently when Mr. Price was giving a comparison between
7 D&E's amount that they have charged to other customers,
8 well, they charged that because the other customers use
9 their facilities, and the amount that Verizon has charged.
10 This was related specifically to Verizon. The fact is, is
11 that Verizon has pushed most of these costs onto its less
12 elastic, more monopolistic ratepayers.

13 Q. Thank you. Just to clarify the record, counsel
14 for Verizon asked you about Mr. Price's --

15 MR. GRAY: There was direct, rebuttal and
16 surrebuttal; correct? And then there was also oral
17 rejoinder; is that correct?

18 (No response.)

19 Q. So I'm just saying, Verizon asked you if you had
20 read all of Mr. Price's testimony, and you had; that's
21 correct?

22 A. Correct.

23 Q. Were you also in the room when Mr. Price was on
24 the stand today?

25 A. Yes.

1 MR. GRAY: Thank you. That's all I have.

2 JUDGE COLWELL: Mr. Rackow?

3 MR. RACKOW: No further questions. We would like to
4 move into the record those two exhibits.

5 JUDGE COLWELL: Are there any objections to the
6 admission of Verizon Cross Exhibits Nos. 5 and 6?

7 MR. GRAY: Your Honor, I think I would rather have --
8 Verizon Cross Exhibit 6, let's put in his entire testimony
9 as opposed to an excerpt, because the excerpt, our
10 contention would be this is out of context. It says what it
11 says, but it's out of context.

12 It's one page and one sentence out of how many pages
13 of testimony?

14 THE WITNESS: Fourteen.

15 MR. GRAY: My preference is to put the whole
16 testimony in.

17 JUDGE COLWELL: Do you have copies of the whole
18 testimony?

19 MR. RACKOW: We do, but only the proprietary version.

20 JUDGE COLWELL: Well, we can put that into the
21 proprietary envelope in the Secretary's Bureau.

22 MR. RACKOW: Can we propose instead to submit a full
23 non-proprietary version for the record?

24 MR. GRAY: That's fine with me. I would like to
25 review what non-proprietary looks like, but --

1 JUDGE COLWELL: But you said you didn't have that.

2 MR. RACKOW: We do not, but the portions to which we
3 referred are only non-proprietary.

4 JUDGE COLWELL: But for that particular proceeding
5 there would have been two submitted, one proprietary and one
6 non. You need to get a copy of the non-proprietary that was
7 submitted; you can't make up your own.

8 MR. GRAY: When I get back to the office I'll check
9 and see if we have that. I think we do.

10 MR. RACKOW: It was testimony that the OSBA
11 submitted.

12 JUDGE COLWELL: I understand that, but the fact of
13 the matter is we need to get it into this record somehow.

14 MR. RACKOW: Assuming a full copy of the non-
15 proprietary version can be found, would that be sufficient
16 to introduce?

17 MR. GRAY: That's fine.

18 JUDGE COLWELL: Then you will need to submit two of
19 those to the court reporter ASAP.

20 MR. RACKOW: Correct.

21 MR. GRAY: And to all parties; right?

22 JUDGE COLWELL: Pardon?

23 MR. GRAY: And to all parties?

24 JUDGE COLWELL: Yes. Well, only one copy.

25 MR. RACKOW: But only the non-proprietary version.

1 JUDGE COLWELL: But you only need to give him one
2 copy and he gets to make them.

3 Are there any objections to the admission of the non-
4 proprietary testimony that we haven't seen yet in a
5 proceeding where it's already been submitted?

6 (No response.)

7 MR. RACKOW: And that we would be in lieu of what
8 we've already marked as Verizon Cross Exhibit 6.

9 JUDGE COLWELL: Right. We can take out that and
10 throw it away, and you will submit fresh copies.

11 All right. Hearing no objection, then that is
12 admitted. I'm trusting everyone to get those copies
13 submitted quickly and correctly.

14 (Whereupon, the documents marked
15 as Verizon Cross-Examination
16 Exhibits Nos. 5 and 6
17 were received in evidence.)

18 JUDGE COLWELL: While we're admitting testimony,
19 let's admit Mr. Price's testimony. Mr. Price has Statement
20 1 with Exhibits 1 to 10; Statement 1.1 with Exhibits 1 to 7;
21 and surrebuttal with no exhibits; correct?

22 MS. PAIVA: Correct.

23 JUDGE COLWELL: Are there any objections to the
24 admission of those documents?

25 (No response.)

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JUDGE COLWELL: They are admitted.

(Whereupon, the documents marked as Verizon Statement No. 1.0, with Verizon Exhibits Nos. 1 through 10; Verizon Statement No. 1.1, with Verizon Exhibits Nos. 1 through 7; and Verizon Statement No. 1.2 were received in evidence.)

JUDGE COLWELL: Do we have any further questions for Mr. Buckalew?

MR. RACKOW: No, Your Honor.

JUDGE COLWELL: Thank you very much for coming. You may step down.

THE WITNESS: You're welcome.

(Witness excused.)

JUDGE COLWELL: It appears we're fresh out of witnesses.

Yes, sir?

MR. GRAY: We would like to move Mr. Buckalew's testimony into the record, please.

JUDGE COLWELL: Are there any objections to the admission of Mr. Buckalew's testimony submitted in this proceeding?

MR. RACKOW: No, Your Honor.

JUDGE COLWELL: It's Statement No. 1, no exhibits.

1 Hearing no objection, it is admitted.

2 (Whereupon, the document marked
3 as OSBA Statement No. 1
4 was received in evidence.)

5 JUDGE COLWELL: By my count then, we have admitted
6 everything we were supposed to. Did I miss anything?

7 (No response.)

8 JUDGE COLWELL: Then we'll go on to the next phase,
9 which is the briefing phase, and I know we have that
10 scheduled. I have to find my copy of it.

11 (Pause.)

12 JUDGE COLWELL: We are on a very expedited schedule
13 here. The main briefs are due January 26, and the reply
14 briefs are due February 2.

15 Here is an additional request I have. Because we
16 have had so very many references to so very many Commission
17 orders, what I would like the parties to do is to compile a
18 separate booklet of all of the Commission orders you're
19 referring to and submit that with your brief. That way we
20 can have a complete reference book not only for my use but
21 for the Commission's use, because they don't have a lot of
22 time to review cases that come before them most of the time.
23 This one I don't know how long they will take. They've
24 given us a deadline; they don't have one themselves. But
25 they can do this a lot quicker if they don't have to pull

1 old orders out. So let's make it so that we have one
2 booklet that has all the orders in it, let's put them
3 chronologically and with separate pagination so that we can
4 refer to it and everybody refers to the same booklet; you
5 can refer to the order and make up a name for it that you
6 all use. Can you come to this agreement on your own or do I
7 have to make it up for you?

8 MR. SWINDLER: We could probably work it out,
9 Your Honor, but it might be difficult knowing each other's
10 -- what we're going to be citing in the orders. On top of
11 that, I'm just thinking that we actually cite the Global
12 Order, for example, which is in WP, --

13 JUDGE COLWELL: That's a huge document.

14 MR. SWINDLER: -- so it is a published order.

15 JUDGE COLWELL: I don't think you need to include the
16 Global Order.

17 MR. SWINDLER: If we can exclude that, that would be
18 helpful.

19 JUDGE COLWELL: Yes. Definitely exclude that. They
20 should all have copies on their desks.

21 MR. SWINDLER: But we're going to be pretty busy just
22 trying to get a brief done in a week. I don't know how
23 we're going to have time to coordinate things with the other
24 parties.

25 MS. PAIVA: Can I make a suggestion?

1 JUDGE COLWELL: Yes.

2 MS. PAIVA: When we do an appellate brief, sometimes
3 we do the appendix after the briefs are submitted. The only
4 problem is then you won't have page cites, but you could
5 have all the orders in chronological order in a book that
6 way. Because in a week it's going to be hard to put
7 together a brief and also have page cites to an appendix and
8 get those into the briefs. It's hard enough to even write
9 the brief in that short a period.

10 MR. SWINDLER: Your Honor, we can certainly put
11 together a booklet that will accompany our main brief that
12 includes orders that we have cited.

13 JUDGE COLWELL: Are we doing this so that all the
14 parties are filing main briefs simultaneously, or are you
15 filing first?

16 MR. SWINDLER: Your Honor, it's my understanding that
17 everyone was filing main briefs.

18 JUDGE COLWELL: Okay. I really think that what I
19 need here is one document that you all refer to so that all
20 of the references match. That's what I need.

21 MR. GRAY: Your Honor, could we go off the record?

22 JUDGE COLWELL: Yes, we can.

23 (Discussion off the record.)

24 JUDGE COLWELL: Let's go back on the record.

25 While we were off the record we discussed the fact

1 that I have asked the parties, specifically the Denver &
2 Ephrata parties, to compile a complete booklet of the
3 Commission orders that are used in this case, with the
4 exception of the Global Order, which is really too
5 voluminous to be included. The parties are all to give the
6 case numbers and captions to Mr. Swindler by noon on Friday,
7 the 19th, and by the following Wednesday, he will have
8 compiled the booklet for their use and reference in their
9 briefs which are due on the 26th. You all get extra points
10 for this.

11 The other issue that I have is there are some
12 proprietary exhibits in some of the testimony. Are all of
13 the proprietary exhibits clearly marked in testimony that's
14 marked proprietary, or are there some proprietary exhibits
15 that are just attached to testimony but marked as
16 proprietary when the testimony isn't?

17 (No response.)

18 JUDGE COLWELL: I'm trying to make sure there aren't
19 any proprietary exhibits that aren't clearly marked to go
20 into the orange folder.

21 MS. PAIVA: If I understand your question correctly,
22 for the Verizon testimony, the two that have exhibits --
23 only two pieces have exhibits. We have the proprietary
24 version of the testimony designated proprietary on the cover
25 of the testimony and on the exhibits.

1 JUDGE COLWELL: That's fine. Okay. As long as
2 everybody has that differential.

3 MR. SWINDLER: Your Honor?

4 JUDGE COLWELL: Yes, sir.

5 MR. SWINDLER: We do actually have exhibits that are
6 proprietary and they are stapled to the testimony and the
7 testimony is not proprietary.

8 JUDGE COLWELL: Okay. How do you want to handle
9 that? You can take them off and -- it's really very
10 difficult to do without substituting your testimony with at
11 least a page marker that says "proprietary exhibit excluded
12 here" or something like that.

13 MR. SWINDLER: What you would like us to do then is
14 to just deem what we have submitted at this point as the
15 proprietary version and submit to you public versions of the
16 testimonies with page markers in places of the proprietary
17 exhibits?

18 JUDGE COLWELL: That would be the best way to make
19 sure everything gets into the right folder, and make sure
20 you or the court reporter marks that clearly so that when
21 she gives them to the Secretary's Bureau, they know what
22 color folder to put them into. Okay?

23 MR. SWINDLER: We'll do that, Your Honor.

24 JUDGE COLWELL: Are there any other issues we need to
25 discuss on the records today?

1 MR. GRAY: Your Honor, just to be clear, the
2 transcript is on a three business day turn-around; is that
3 correct?

4 COURT REPORTER: Yes.

5 JUDGE COLWELL: Anything else?

6 (No response.)

7 JUDGE COLWELL: All right. I don't want to hold you
8 back any longer, you all have a lot of work to do. Thank
9 you for your patience and your time. We're off the record.

10 MR. SWINDLER: Thank you, Your Honor.

11 MR. GRAY: Thank you, Your Honor.

12 MR. CHESKIS: Thank you, Your Honor.

13 MS. PAIVA: Thank you, Your Honor.

14 MR. RACKOW: Thank you, Your Honor.

15 (Whereupon, at 2:36 p.m., the hearing 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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