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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In re: I-00920020 Pennsylvania Public Utility Commission v. Commonwealth Telephone Company.  
Assessment of the impact of significant increase in certain operating expenses on the common equity return rate. Further hearings.

Harrisburg, Pennsylvania  
September 22, 1993

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HOLBERT ASSOCIATES  
JANET E. SMITH  
2611 Doehne Road  
Harrisburg, Pennsylvania 17110

HOLBERT ASSOCIATES (717) 540-9669

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THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In re: I-00920020 Pennsylvania Public Utility  
Commission v. Commonwealth Telephone Company.  
Assessment of the impact of significant increase  
in certain operating expenses on the common  
equity return rate. Further hearings.

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Stenographic report of hearing held in  
Hearing Room 2, North Office Building,  
Harrisburg, Pennsylvania,

Wednesday,  
September 22, 1993  
at 10:12 a.m.

- - - - -

BEFORE

GEORGE KASHI, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

CAROL F. PENNINGTON, ESQUIRE  
P.O. Box 3265  
Harrisburg, Pennsylvania 17105-3265  
Appearing on behalf of Office of Trial Staff

PHILIP F. MCCLELLAND, ESQUIRE  
MARK J. SHOSTAK, ESQUIRE  
1425 Strawberry Square  
Harrisburg, Pennsylvania 17120  
Appearing on behalf of Office of Consumer  
Advocate

MARK A. KEFFER, ESQUIRE  
3033 Chain Bridge Road  
Oakton, Virginia 22185  
Appearing on behalf of AT&T

HOLBERT ASSOCIATES (717) 540-9669

1 APPEARANCES: (Cont'd.)

2 NORMAN JAMES KENNARD, ESQUIRE  
3 116 Pine Street  
4 Harrisburg, Pennsylvania 17101  
5 Appearing on behalf of Commonwealth Telephone  
6 Company  
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8  
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1 JUDGE KASHI: This is the time and place set for the  
2 Pennsylvania Public Utility Commission versus the  
3 Commonwealth Telephone Company, Docketed at I-00920020.  
4 The purpose of this morning's hearing was to have cross  
5 examination on all other parties' testimony.

6 However, during the week, I was called by counsel  
7 for the parties and informed that there was a settlement  
8 in process and that today's hearing would be to  
9 cross-examine the testimony of AT&T.

10 And if any of the other parties wish to put any of  
11 the testimony in as discussed or whether it was to be  
12 stipulated.

13 So that, Mr. Keffer, do you want to call your first  
14 witness? First, do you have any preliminary matters?

15 MR. KENNARD: None, Your Honor.

16 MS. PENNINGTON: None, Your Honor.

17 MR. KEFFER: Well, Your Honor, let me ask you a  
18 question because I do have a couple preliminary matters.  
19 The scope of this case has changed now.

20 All of the other parties, except for AT&T, has  
21 reached a tentative settlement agreement. So for AT&T,  
22 the target has shifted considerably.

23 So that the record is clear as to what target we're  
24 shooting at, I would suggest that it would be helpful if  
25 the parties with outline for the record the nature of the

1 tentative settlement agreement that's been reached so that  
2 as we proceed through the testimony this morning, Your  
3 Honor will have some idea as to why AT&T is pursuing some  
4 of the issues that it continues to pursue. Otherwise,  
5 this may not make a whole lot of sense.

6 JUDGE KASHI: I imagine that when I see the  
7 settlement, it will make as much sense to me if they  
8 outline it. I don't know if there's a outline at the  
9 present time or not. Have you been part of the process  
10 when the settlement was arrived at?

11 MR. KEFFER: Have I been part of the process? And  
12 the answer is, not really. But I have been informed as to  
13 what the major substantive points are. And I think it  
14 might be helpful if that was put on the record

15 JUDGE KASHI: And the settlement in no way changes  
16 your complaint.

17 MR. KEFFER: That's true.

18 JUDGE KASHI: So in no way changing your complaint,  
19 it would no way change your testimony.

20 MR. KEFFER: Well, that's not true. But we can go  
21 forward.

22 JUDGE KASHI: Please. AT&T would call Chris  
23 Rozycki.

24 CHRISTOPHER ROZYCKI, called as a witness, having  
25 been duly sworn, was examined and testified as follows:

1 JUDGE KASHI: Please be seated, sir.

2 DIRECT EXAMINATION

3 BY MR. KEFFER:

4 Q Mr. Rozycki, do you have with you this morning a  
5 document that was filed with the Commission on August 9th,  
6 1993 but which has a date of July, 16 1993, entitled  
7 testimony of Christopher J. Rozycki on behalf of AT&T  
8 Communications of Pennsylvania, Inc.?

9 A Yes.

10 Q Was this document prepared by you or under your  
11 supervision?

12 A Yes, it was.

13 MR. KEFFER: Your Honor, could we mark this for  
14 identification as --

15 JUDGE KASHI: AT&T Statement Number 1.

16 (AT&T Statement Number 1 was produced and  
17 marked for identification.)

18 BY MR. KEFFER:

19 Q Mr. Rozycki, since the time that you've prepared  
20 this testimony, your employment status has changed, has it  
21 not?

22 A Yes, it has.

23 Q Could you please summarize that briefly for the  
24 record?

25 A When I wrote the testimony, I was an employee of

1 AT&T. And today, I am an employee of McNeil--  
2 Technologies located at 6101 Stevenson Avenue, Suite 100  
3 in Alexander, Virginia. And there I'm director of  
4 telecommunications.

5 MR. KEFFER: Your Honor, may I ask Mr. Rozycki a  
6 very brief line of supplemental questions to get into the  
7 record the reasons why AT&T is not entering into the  
8 settlement agreement?

9 JUDGE KASHI: My problem is I haven't seen the  
10 settlement or you're talking just some general questions  
11 as to the process of it.

12 MR. KEFFER: Yes, Your Honor.

13 JUDGE KASHI: All right. Go ahead.

14 MR. KENNARD: Just for the record, the Company  
15 doesn't have any objection so long as that testimony is  
16 subject to cross examination.

17 JUDGE KASHI: Obviously.

18 BY MR. KEFFER:

19 Q Mr. Rozycki, are you aware of the general terms  
20 of the settlement agreement that has been reached by the  
21 other parties in this case?

22 A Yes, I am.

23 Q And to the best of your understanding, what are  
24 the terms of that agreement?

25 A As I understand it right now, the Company and the

1 OCA have agreed -- the OCA has agreed to drop its case, I  
2 think if the Company is willing to reduce or eliminate its  
3 charges for touch-tone which are worth approximately, as I  
4 understand it, \$1.6 million.

5 Thus, in essence, the Company and the OCA are  
6 settling this case for \$1.6 million in rate reductions  
7 that would go to simply local ratepayers.

8 Now, in addition to that, there are some other  
9 issues, I think. I'm not totally aware of what those  
10 issues are that the OCA and Commonwealth Telephone Company  
11 have agreed to pursue at a later date.

12 Q You said, Mr. Rozycki, that the structure of the  
13 settlement agreement effectively reduces local rates?

14 A That is correct.

15 Q Of the five largest telephone companies in  
16 Pennsylvania, where are Commonwealth's local rates today?

17 A According to Commonwealth's testimony, they have  
18 the lowest local rates of the five largest companies in  
19 the State of Pennsylvania.

20 Q And where are Commonwealth access charges?

21 A They are the -- among the same five companies,  
22 they are the second highest. In fact, they're roughly  
23 twice those of Bell of Pennsylvania.

24 Q Is there evidence in the record that suggests the  
25 relationship between local rates and Commonwealth's costs

1 in providing local service and also Commonwealth's access  
2 charges and its costs from providing access service?

3 A Yes. Commonwealth's cost studies provide, in  
4 this case, indicate that local service is underpriced by  
5 approximately, roughly, and these are by their estimates,  
6 50 percent.

7 In essence, the revenue requirement for local  
8 service is 50, \$54 million. And the revenues that  
9 Commonwealth is collecting is around 25, \$26 million for  
10 those for that class of service.

11 By contrast, access is priced substantially above  
12 Commonwealth's stated cost of access service in this case.

13 Q You said Commonwealth's development of its costs?

14 A Yes. Their own.

15 Q That's before any adjustments?

16 A That's right. The numbers that I'm using right  
17 here right now are before any adjustments by AT&T or by  
18 OCA. These are Commonwealth's cost studies,  
19 fully-distributed cost study provided in this case and  
20 they are all forecast. And I note or emphasize forecast  
21 of revenues for the perspective test year of 1993.

22 Q Now, just to close out a summary of AT&T's  
23 position here. What's the relationship between  
24 Commonwealth's interstate access state and its interstate  
25 access revenues?

1 MR. KENNARD: Judge, I'm going to object. This is  
2 outside the scope of the settlement. I don't know what  
3 interstate and intrastate costs have to do with the  
4 settlement.

5 JUDGE KASHI: It has it do with the reasons of if  
6 Mr. Keffer explains as why AT&T isn't part of the  
7 settlement.

8 MR. KENNARD: If that's true, I withdraw the  
9 objection.

10 JUDGE KASHI: That's what the testimony said, his  
11 testimony supplemental testimony of the witness is being  
12 offered for.

13 MR. KENNARD: I heard that too.

14 MR. KEFFER: Are you withdrawing it.

15 MR. KENNARD: If it has something to do with your  
16 position on the settlement, sure.

17 MR. KEFFER: Do you recall the question?

18 THE WITNESS: Yes. In essence, what we found in  
19 looking at Commonwealth's cost studies is that  
20 Commonwealth is collecting revenues which produce net  
21 income that is roughly \$14 million greater than the net  
22 income they would need to produce the federal -- the FCC  
23 is allowed rate of return of 11.25 percent.

24 So they're overearning by \$14 million. And that, in  
25 turn, translates to revenues -- if the -- well, that in

1 turn, translates to excessive revenues of \$24 million  
2 applying state and federal taxes to the \$14 million in net  
3 income.

4 BY MR. KEFFER:

5 Q So Commonwealth's interstate access charges and  
6 overearning about \$14 dollars. It's intrastate access  
7 charges by its own numbers is priced above costs. But  
8 it's local service rates is some 50 percent below the cost  
9 of providing service?

10 A Right. And the settlement in this case basically  
11 says that even though interstate access and intrastate  
12 access are priced substantially above cost, the reductions  
13 in this case are going to flow to local service which, in  
14 fact, is priced below cost. I'm not sure I understand the  
15 logic in that.

16 Q Now, you're not suggesting that this Commission  
17 has jurisdiction over interstate access rates, are you?

18 A No, it does not have any jurisdictions over  
19 interstate rates. But as I indicated in my testimony,  
20 there is a major case, the Mid-Plains case that went  
21 before the FCC and I think the federal courts, which  
22 basically indicated that in a state rate case, the state  
23 was allowed to pursue residual ratemaking if it found that  
24 a company like Commonwealth an average schedule company  
25 was earning more than its allowed rate of return from its



1 a part 36 cost study?

2 A Yeah, it is in my opinion. And it was put forth  
3 such by Commonwealth Telephone Company.

4 Q And when you say part 36, is that part 36 a  
5 federal communication regulations?

6 A That's correct.

7 Q That's where part 36 comes from. And are those  
8 the regulations that determine what costs are separated to  
9 the state jurisdiction and what costs are separated to the  
10 interstate jurisdiction?

11 A Well, that's an accurate representation of what a  
12 part 36 study does, in essence. But I guess the question  
13 you might want to ask or lead up to is whether or not  
14 that's an appropriate cost study for Commonwealth to use  
15 in this case.

16 It's not the way -- it has not been used, a part 36  
17 styled cost study has not been used to develop the rates  
18 that Commonwealth charges in the interstate arena. In  
19 fact, they are an average schedule company.

20 They simply accept the rates provided to them by  
21 NECA which is why when they produce this part 36 study,  
22 the revenues they are collecting through the interstate  
23 arena, through their interstate rates, are significantly  
24 different than their cost study produced in terms of a  
25 revenue requirement.

1 Q Do you have the -- do you have the part 36 with  
2 you?

3 A No, I do not.

4 Q Well, I want to read you from a portion of that  
5 body of regulation and I can give it to you so you can  
6 look at it.

7 JUDGE KASHI: Could you show it to counsel and then  
8 show it to the witness first before we go along.

9 MR. KEFFER: Counsel can probably quote along with  
10 him.

11 BY MR. MCCLELLAND:

12 Q What I'm going to quote from is Section 3641 (B)  
13 and that states, The separation procedures set forth in  
14 this part are designed primarily for the allocation of  
15 property costs revenues, expenses, taxes and reserves  
16 between state and interstate jurisdictions.

17 For separations, where required, of the state  
18 portion, between exchange and toll or for separations of  
19 individual exchanges or special services, further analyses  
20 and studies may be required to adapt the procedures to set  
21 additional separations. Do you need see this?

22 A Well, I may. I don't know what your question is.

23 Q Here. You can take a look at it.

24 A If you're going to ask me to requote it, yeah.

25 Q Well, I wouldn't ask that. But my question is,

1 with regard to the further analyses and studies that may  
2 be required it adapt the procedures to set traditional  
3 separations, which I just read, did you do such further  
4 analyses and studies in order to separate the cost between  
5 services within the state jurisdiction in the study that  
6 you're using in your testimony?

7 A No. In fact, we were given just such a study, a  
8 part 69 study, by the company, Commonwealth in this case.  
9 They had done that as part of their total cost study in  
10 this case.

11 Now, we did look at that. We reviewed it. It  
12 appeared on its surface to have been done appropriately.  
13 Whether or not every number in it is absolutely accurate,  
14 I can't verify. But I can tell you, it looks very much  
15 like other studies.

16 And the cost relationships between local, toll and  
17 access are similar to those we've seen in other company  
18 studies.

19 Q Now, but does part 36 tell how to separate costs  
20 between different services in the state  
21 jurisdiction? Does it tell you how much cost you go to  
22 state toll and how much cost you go to state exchange  
23 service?

24 A No, it does not.

25 Q Does part 69 tell you how that must be done?

1 A Yes, it does.

2 Q Now, to what extent does that occur in part 69 ?  
3 What does part 69 tell you then?

4 A Well, it basically provides guidelines to break  
5 out the cost of the companies to allocate the cost of the  
6 company to the various classes of service.

7 Q And is that where we get into this classification  
8 of other as a class of service?

9 A I would -- yes, I would assume so.

10 Q Okay. So in part 69, does this then tell you  
11 that there are toll costs and there are other costs within  
12 the state jurisdiction?

13 A Part 69 would tell you there are toll, other  
14 access, there's intrastate, interstate, there is  
15 non-traffic sensitive. Yes, it breaks it out into those  
16 kinds of categories.

17 Q Are you saying part 69 tells you that you should  
18 use a -- well, let's first, what is a SLU allocator? What  
19 does that mean?

20 A That means that SLU means subscriber line usage.  
21 And it, in essence, means that the minutes of use that  
22 occur on a specific dial tone line would be used to  
23 allocate the cost of whatever you're dealing with  
24 associated with that line.

25 Q So that if I'm in the Commonwealth territory and

1 I make a 10-minute local call, the SLU on that call would  
2 be 10. And if I make a two-minute toll call within the  
3 state, the SLU on that call would be 2. Is that it?

4 A Well, let me try and rephrase what I think you're  
5 trying to say. If there were two calls on a phone line  
6 for a given month and those two calls were a two-minute  
7 local call and an eight-minute long distance call -- or  
8 better yet, the two-minute local call -- a two-minute long  
9 distance call and an eight-minute local call, which is  
10 more accurate, then the SLU for local would be .8 or 80  
11 percent of the minutes that were transmitted over that  
12 line.

13 And the SLU for long-distance would be .2 or 20  
14 percent of the minutes that were transmitted over that  
15 line. So it's a percentage. It's a factor.

16 Q And does part 69 tell you you must use a SLU  
17 allocator in allocating cost between that local call and  
18 that toll call?

19 A Well, part 69, up until now, indicates that the  
20 allocator should be a SPF allocator or subscriber plant  
21 factor which is an arbitrary allocator not related to  
22 anything that I know of.

23 Q But you didn't use SPF in your study?

24 A In fact, if you'll look carefully at our  
25 testimony, we first go through and compare Commonwealth's

1 costs based on their part 69 SPF study to the rates they  
2 are charging AT&T. And the rates they are charging AT&T  
3 are millions of dollars higher than their SPF base cost  
4 would indicate.

5 And then we go and we use the more appropriate SLU  
6 based allocator so we can understand for intrastate  
7 purposes. And I must indicate that there's no requirement  
8 in this state that any SPF allocator be used for  
9 intrastate cost purposes.

10 We then know and used SLU to gain a more accurate  
11 representation of what the cost for access should be on  
12 the dial tone line.

13 Q Okay. To go back to 69 for a minute. Do these  
14 FCC regulations apply to how a state commission has to do  
15 their own cost allocation?

16 A Absolutely not.

17 Q Now, let's take one element cost. That's the  
18 cable and wire facilities, all the wires that the  
19 telephone companies use. Is that also allocated based on  
20 SLU or based on SPF?

21 A At this point, I do not recall. But within the  
22 part 69, if there is an allocator SPF or SLU, it would be  
23 a SPF. SLU is not used in the federal guidelines.

24 Q All right. Well, let me phrase it somewhat  
25 differently. When they separate costs between the

1 interstate jurisdiction and the state jurisdiction, do  
2 they use either SLU or SPF to determine which costs of  
3 wire are interstate and which costs of wire are  
4 intrastate?

5 A Well, up until now, that would have been -- they  
6 would have used a modified SPF. But beyond, I think,  
7 1/1/94, they will use 25 percent. Period.

8 Q Now, in fact, under part 36, the FCC said, well,  
9 for most, at least, of the cable wire facilities, 25  
10 percent will go to the interstate side, 75 percent will go  
11 to the intrastate side as of 1/1/94, I think you're  
12 correct?

13 A That's correct.

14 Q And that doesn't come out of SPF or SLU, does it?

15 A No, that is absolutely the arbitrary of  
16 arbitrary allocator.

17 Q Now, have you also calculated in this case what  
18 your allocator on SPF or SLU would be between the  
19 jurisdictions?

20 A Between SPF or -- I'm not sure of the question.

21 Q Let me try this again. You did a SLU allocator?

22 A Right.

23 Q How much of SLU would go to the interstate  
24 jurisdiction?

25 A I don't recall at this point. But I'm going to

1 say it was roughly 10 to 15 percent, and I'm not sure if I  
2 have that number with me, so.

3 Q I understand that you may not recollect --

4 A They were provided to us by the company. We did  
5 not make a number up.

6 Q Okay. But let's just agree that if you did a SLU  
7 allocator --

8 A Right.

9 Q -- less than 25 percent would go to the  
10 interstate jurisdiction?

11 A Well, less than 25 percent of those costs that  
12 are allocated using a SPF or SLU allocator, yes.

13 Q But, in fact, some of the cost, particularly wire  
14 costs, do not go by SLU or SPF under the FCC rules?

15 A That's correct.

16 Q Have you calculated what the cost on the federal  
17 side under part 36 allocator are for every minute of phone  
18 use on the federal side?

19 A No, we did not. And we didn't really see the  
20 point -- well, let me back up. In order to basically  
21 recreate the part 69 and know where, in fact, the part 36,  
22 where costs belong, we would have allocated a portion to  
23 federal and to state based on SLU, I think. If I  
24 understand your question correctly, yes.

25 Q Well, what I'm trying to find out now is that if

1 you use this SLU allocator for the total company, how much  
2 of its cost would go to the interstate side?

3 A A lesser portion than the company used in their  
4 cost study.

5 Q And the lesser portion as required in the part  
6 36?

7 A Well, Yeah. But I need to stop here. And we  
8 need to talk a minute about this use of the word required  
9 in part 36. In this case, a part 36 study is not  
10 required. So that's a misuse of the word required.

11 In fact, this company, Commonwealth, uses an average  
12 schedule method of collecting rates. So they accept the  
13 rates that are in the NECA tariff and say, okay, we'll  
14 charge these rates whatever they are.

15 Now, in preparing for this case, Commonwealth  
16 decided, Oh, we'll use a part 36, 69, a part 36 study to  
17 allocate our costs between interstate and intrastate.

18 What that allowed them to do is allocate a very  
19 small percentage of their cost to interstate relative to  
20 the rates they're charging which is why we found, and I  
21 think your witnesses also found, that they are  
22 overearning roughly \$14 million on net income which  
23 translates to \$24 million in revenue.

24 Q If you calculated the cost of a -- the cost of a  
25 toll call on the interstate side, under part 36 and,

1 again, I want you to assume that part 36 is applicable  
2 here for this question?

3 A Okay.

4 Q Would that be more or less than your calculation  
5 of the cost as you've done your study on the state side?

6 MR. KEFFER: You're going to need to repeat the  
7 question. Your Honor, let me offer a stipulation here  
8 which may help cut some of this short.

9 I mean, we will stipulate that we have accepted the  
10 results of Commonwealth's part 36 study which assigned  
11 cost to the interstate jurisdiction using the FCC 25  
12 percent gross allocator and we didn't adjust that in any,  
13 way shape or form. Interstate costs are what they are.

14 MR. MCCLELLAND: Or what they would be under part 36  
15 is what you're saying.

16 MR. KEFFER: What the company shows them to be. We  
17 didn't fool with the interstate portion. All we did was  
18 adjust the intrastate portion. If that helps move this  
19 along, fine.

20 JUDGE KASHI: It's a stipulation as to what AT&T did  
21 with the part 36 study of the company. But I don't know  
22 if that's where he's going at all.

23 BY MR. MCCLELLAND:

24 Q That's not quite there, Your Honor. My question  
25 was and I will accept that I think I understand what you

1 have used to get to your final cost study in your SLU  
2 analysis.

3 But still my question stands. If you compare the  
4 cost of the toll call -- and let's to try to simplify  
5 it -- on a SLU minute basis in the state side, and you  
6 compare that toll call on the interstate side on the same  
7 SLU minute basis, is not the cost higher on the interstate  
8 side than it is on the intrastate side under your study?

9 A Shouldn't it be or isn't it?

10 Q Is it?

11 A I'm sorry. Can I step back a moment? We don't  
12 do it that way.

13 Q Is it assuming that a part 36 study applies. I  
14 want to get over that. All this is premised upon a part  
15 36 study applying to this?

16 A Well, let me try it this way. If --

17 JUDGE KASHI: Can you give him an answer to that  
18 question first?

19 THE WITNESS: I don't understand the question. Maybe  
20 I should say that.

21 MR. KEFFER: The question doesn't make sense.

22 THE WITNESS: I'm trying to be as helpful as I can.  
23 I honestly don't understand what you're trying to get at.

24 JUDGE KASHI: He's right in his premises, he's wrong  
25 in his premises about the SLU minute on an interstate

1 basis versus a SLU minute on an intrastate basis?

2 THE WITNESS: I don't know. And I don't think it's  
3 a simple thing to answer. It's not a black and white  
4 answer. It would depend on what the actual percentage of  
5 minutes -- access minutes interstate are relative to the  
6 actual percentage of access minutes intrastate.

7 Now, I can say this, if we did apply a SLU based  
8 allocator to interstate, it would absolutely lower the  
9 cost allocated to interstate and bring more costs  
10 intrastate than SPF does.

11 And if we use SLU, that would, in essence, also add  
12 more costs to and appropriately so, I might add, to local  
13 service.

14 It would accurately reflect the cost associated with  
15 each class of service based on the relative use of those  
16 services, okay, of the dial tone line.

17 In other words, each service would be broken out by  
18 its percentage of use of the dial tone line; and it would  
19 be a very accurate representation of cost allocated by  
20 usage.

21 BY MR. MCCLELLAND:

22 Q How did you treat directory revenues in your cost  
23 study?

24 A I don't know.

25 Q Well, you used the Company's cost study?

1           A   That's correct.  And I honestly do not remember  
2 what we did with directory.

3           Q   Would you agree -- and I have another regulation  
4 if you want to look at under 36.215 (A) that those  
5 revenues are supposed to be assigned to exchange  
6 operations?  Is that correct in your understanding?

7           MR. KEFFER:  Clarification.  Are you asking about  
8 directory revenues or directory costs?

9           MR. MCCLELLAND:  Directory revenues.  Under part 36  
10 those are assigned to exchange operations.

11          MR. KEFFER:  I'm sorry.  But the revenues are  
12 assigned under part 36 or costs?  Part 36 is a cost study  
13 methodology not revenue allocation methodology.

14          MR. MCCLELLAND:  Let me see this just a second.

15 BY MR. MCCLELLAND:

16          Q   Okay.  I'd like to read you from 36.215.  That's  
17 part 36.  It says part A, directory revenues are assigned  
18 to the exchange operation?

19          A   I agree that you've read that correctly.

20          Q   Do you know how directory revenues were assigned  
21 in the part 36 study?

22          A   No, I do not.  I do not recall.  And I can quite  
23 frankly tell you that we did not spend a great deal of  
24 time picking apart every single number to determine  
25 whether or not Commonwealth Telephone Company did an

1 accurate part 36 study. That was not our objective.

2 Our objective was to take the existing study and  
3 say, okay. Accepting what you filed, what does it show  
4 us? And accepting that, without going into the meticulous  
5 process of picking at every single number, we found \$14  
6 million in overearnings.

7 I suspect, if we went through it as you're  
8 suggesting, we may have found a million or 2 more. If you  
9 would like, I think we'd be happy to go back and attempt  
10 to do that. However, as you probably are well aware or  
11 have been advised, the part 36 rules can be interpreted.

12 Q Would you look on page 7 of your testimony? And  
13 I want to read that top paragraph. The part 36 rules  
14 assign all of the telephone company's regulated cost to  
15 service categories in a manner designed to produce a large  
16 subsidy for local service.

17 This means that for some services, including access,  
18 the rules assign more common in overhead costs than would  
19 be supportable in a competitive marketplace.

20 First of all, could you explain what you mean there  
21 by common and overhead costs?

22 A Those costs that are not directly associated with  
23 the costs of producing service to a specific class of  
24 customer. As an example, I might use the president's  
25 desk.

1 Q Okay. Or the president's salary for that matter?

2 A Exactly.

3 Q And do you believe that that salary is directly  
4 related to any other service such as exchange service?

5 A No. I mean, it is a common or -- it is a common  
6 cost. It's common to all services.

7 Q And would you have any view as to where common  
8 and overhead costs ought to be assigned or allocated?

9 A It depends on the allocation process or the cost  
10 methodology that you're using. Okay. And various  
11 companies and various industries deal with that  
12 differently.

13 Clearly, those costs that have to be recouped.  
14 Companies normally tend to have loss leaders and more  
15 profitable services. The more profitable services often  
16 bear a greater portion of common and overhead costs than  
17 do, for instance, the loss leaders.

18 Q In your own study, as you completed it, how did  
19 you allocate common and overhead costs?

20 A We accepted, as I indicated, the part 36 study  
21 filed by the company and their allocations.

22 Q Now, let me -- I want to talk to you about the  
23 competitive marketplace reference that you made there.  
24 And you discussed the assignment of common and overhead  
25 cost then, quote, supportable in a competitive

1 marketplace.

2 Now, does that mean that you would favor the  
3 assignment of common and overhead cost the way a  
4 competitive market place would assign those costs?

5 A Yes, I would. I'm not sure that I would accept  
6 your definition of how a competitive marketplace would do  
7 that. But I would accept what I've said, yes.

8 Q Would you also recommend assigning the cost of  
9 the local loop -- and that's the wires that connect the  
10 local customer to the central office -- on a competitive  
11 basis?

12 A Well, I don't know how that would be done. The  
13 local loop is absolutely a monopoly service. It is the  
14 most monopoly service you will find, if I can use that  
15 term, in the telecommunications industry.

16 The local loop is, in my opinion and AT&T's opinion,  
17 in the opinion of a large body of people involved in this  
18 industry, the responsibility of the local ratepayer.

19 When the local ratepayer goes to the telephone  
20 company and says, I would like service, it is that call or  
21 this order for service that basically begins the process  
22 of incurring costs for the local loop.

23 The local loop is not in any way associated with  
24 competition in interest exchange. It's not associated  
25 with a number of phone calls a person uses, that a person

1 makes. You can make an unlimited amount of phone calls or  
2 no phone calls over a local loop. But you still have to  
3 recover the costs if you're a company.

4 Q Have you considered how much AT&T would have to  
5 pay to competitively build a total network to provide its  
6 services to the Commonwealth customers as a means of  
7 allocating costs?

8 A Yeah. Actually, that's a good question. I have  
9 considered what the options might be to AT&T if local  
10 service were provided competitively.

11 And by my calculations or my estimation, AT&T would  
12 pay a lot less than what it's paying today to Commonwealth  
13 Telephone Company for access if access were competitively  
14 available. And I'll give you an example.

15 Let's say the local cable TV company decided to  
16 start offering local service, local telephone service,  
17 okay.

18 Well, their access line, their dial tone line is  
19 paid for. It's paid for by the user of cable service. So  
20 they can charge any amount they want so long as it covers  
21 their incremental costs of providing telephone service  
22 access to long-distance user, for instance.

23 And if they charge a small increment above that,  
24 they won't make a profit. And the cost that they would  
25 need to incur to offer that kind of service would be

1 substantially less than what AT&T is being charged by  
2 Commonwealth Telephone Company.

3 Q That was really not my question.

4 A I think it was.

5 Q Your question -- the answered the question, What  
6 if local service were priced competitively. My question  
7 is, What if access service was priced competitively?

8 A I'm sorry. That's the question I just answered.

9 Q Have you considered competitively speaking, how  
10 much it would cost for AT&T to compete with Commonwealth  
11 to provide the same access service that you enjoy now?  
12 That is, how much would it cost AT&T to have a network  
13 that reaches those customers?

14 A I've just answered that. If AT&T were to go out  
15 into the competitive market and look for competitive  
16 vendors of access, my guess is it would pay substantially  
17 less than it pays Commonwealth today.

18 Now, to directly answer your question, AT&T can't  
19 provide local service. So that's not a consideration.  
20 It's not even in the realm of possibilities.

21 Q I'm not asking AT&T to provide local service.  
22 I'm asking AT&T to provide access service. The same  
23 access you need every time a customer completes an AT&T  
24 call?

25 A Why would it do that?

1 Q Well, that's the question. Why would you assume  
2 that that network is already there and not competitively  
3 have to be provided by AT&T? Have you even considered how  
4 much it would cost to build that network to reach those  
5 customers?

6 A Well, let me put it to you this way. I suspect  
7 that a number of companies are considering alternative  
8 possibilities to accessing those customers, and it can be  
9 done today substantially cheaper than the same service  
10 that is provided by Commonwealth.

11 Q Now, let me address an issue you're raising.  
12 You're talking about cable companies?

13 A Cable is one. We can go to the personal  
14 telephone, PCS, personal communication systems, that are  
15 soon to be available. There are a lot of options  
16 available today.

17 Q Do the cable companies reach all the Commonwealth  
18 Telephone Company customers?

19 A I suspect not. I don't know. I have not done a  
20 survey.

21 Q It is a very rural territory. Is it not?

22 A Compared to Philadelphia, yes.

23 Q Okay.

24 A And I'm relatively speaking.

25 Q Okay. But you don't know to what extent these

1 customers are reachable by any other means other than the  
2 Commonwealth Telephone?

3 A That's correct, yes.

4 Q Now, with regard to this idea of building some  
5 alternative network and building more cheaply, have you  
6 tried to determine what that cost would be in any sense in  
7 this proceeding?

8 A No, we have not. Number 1 and Number 2, there is  
9 no sense in doing that because there is a regulated  
10 monopoly that provides that service. And I think, if I'm  
11 not mistaken, Pennsylvania prohibits competitive local  
12 service. So, I mean, it's not within the realm of  
13 possibility.

14 Q Let me -- I would like now to address some  
15 testimony you have at the bottom of page 5. And there you  
16 say in competitive markets, prices tend to reflect costs  
17 and economist instruct that prices must at least cover the  
18 total service long run incremental cost of a service. Do  
19 you see that?

20 A Yes.

21 Q Now, have you, in this proceeding, tried to any  
22 extent to figure out what the long service incremental  
23 cost of access is for the Commonwealth Telephone Company?

24 A We might have if Commonwealth Telephone had  
25 answered our cost interrogatories, but they did not.

1 Q So you didn't?

2 A That would be correct.

3 Q Total service long run incremental cost, does  
4 that mean all the services necessary to provide access to  
5 AT&T?

6 A I'm not sure I understand how -- you'll have to  
7 rephrase that.

8 Q I will rephrase it. When you use the words total  
9 service, long incremental cost -- and I'm focusing here on  
10 the total service part of that -- does that mean the cost  
11 of all the services that are necessary to provide some  
12 service?

13 A After the other costs, after the costs associated  
14 with providing other services are removed, yes.

15 Q Okay. Well, that's really the question --

16 A If you're trying to ask me is total service cost  
17 equivalent to stand alone cost, the answer is no and  
18 should not be. No one should ever use stand alone costs.

19 Q Stand alone cost of AT&T, for example, building  
20 this network to obtain access?

21 A That's correct.

22 Q So total service isn't all the services. It's  
23 some set of services after you got rid of some of the  
24 services?

25 A In essence, yes.

1 Q How do you figure out which of those services  
2 have to be gotten rid of before you will calculate your  
3 total service long range incremental cost?

4 A In essence, what you'll need to do is determine  
5 the total cost of providing access service. And, of  
6 course, access service cannot be looked at distinctly  
7 without looking at the total cost of telephone service.

8 The total cost of telephone service and subtract  
9 from that the costs, the additional incremental costs used  
10 to provide access service. That would be the total  
11 service long run incremental cost of access. The total  
12 cost of the company less the cost of providing access.

13 Q In your view then, does the total service long  
14 run incremental cost for access include the cost of that  
15 local loop?

16 A No, it does not.

17 Q And that's because the local loop belongs to the  
18 exchange service?

19 A That's correct.

20 Q Also, on your attachment 3 -- and I'd like you to  
21 look at that now -- you do some analysis there to figure  
22 out which toll calls are covering access costs and which  
23 toll calls are not. Is that correct?

24 A That's correct.

25 Q Okay. And in that analysis, are you assuming

1 that all the toll calls originate and terminate in the  
2 Commonwealth territory?

3 A That is an assumption we've made here, that's  
4 correct.

5 Q Now, is it correct, to some extent, toll calls  
6 made by Commonwealth customers terminate in the  
7 territories of other local exchange carriers?

8 A That would also be correct.

9 Q And, for example -- and well, let me ask you  
10 about the geographic position of the Commonwealth  
11 territory. Do you know, does the Commonwealth territory  
12 border the Bell territory to some extent?

13 A Yes, yes.

14 Q For example, well, tell me if you know this,  
15 Commonwealth territory is quite close to Harrisburg?

16 A Yes.

17 Q And Harrisburg is a Bell exchange?

18 A Yes, I know that.

19 Q It's also fairly close to Scranton?

20 A Yes.

21 Q And Scranton is a Bell exchange?

22 A Yes.

23 Q Did you calculate the access cost for AT&T if a  
24 call goes from Commonwealth territory to the Bell  
25 territory?

1 A No, we did not, not in this analysis.

2 Q However, you have indicated Bell access costs are  
3 much lower than Commonwealth access cost?

4 A About half.

5 Q And then in a call originating from Commonwealth  
6 and terminating in Bell, those access costs would be much  
7 lower than a cost originating and terminating in the  
8 Commonwealth territory, particularly?

9 A Yes, and significantly higher than a call  
10 originating in Bell and terminating in Bell.

11 Q Have you done any studies of the average access  
12 cost of AT&T calls that originate in Commonwealth  
13 territory?

14 A No, we have not. I have not. I would have no  
15 way of knowing that.

16 Q Also, in your charge on attachment 3, is it  
17 accurate that some of the calls cover their access costs  
18 in your analysis and some of them do not?

19 A Yes, that's correct.

20 Q Have you done any calculations as to whether the  
21 average toll call covers its access charges or does not?

22 A No, we have not.

23 Q I want to ask you another question about another  
24 cost element. Particularly, and that would be signaling  
25 system 7 costs. Are they included in the cost which

1 you've allocated in your study?

2 A I can't answer that one way or another.

3 Q Can you comment on what is a signaling system 7  
4 cost?

5 A No. I'd leave that to an engineer. No, I don't  
6 want to do that.

7 Q Did you change the ways signaling system 7 costs  
8 are allocated at all from the way which Commonwealth  
9 calculated those costs?

10 A Unless they are affected by a SPF or SLU  
11 allocated, the answer would be no, we did not change them  
12 in any way.

13 Q In your view, would signaling system 7 costs be  
14 more related to toll calls than local calls?

15 A I'm not sure that I know enough about signaling  
16 system 7 to answer that, so I won't.

17 Q You wouldn't venture an opinion of whether  
18 signaling system 7 is necessary then to complete a local  
19 call?

20 A No.

21 JUDGE KASHI: You better straighten me out on that.  
22 No, they're not necessary. Or no, you're not going to  
23 give the opinion?

24 THE WITNESS: I honestly, at this point, don't know.

25 JUDGE KASHI: I was confused.

1 MR. MCCLELLAND: Your Honor, I would like to know  
2 move -- and have other questions -- from the prefiled to  
3 the supplemental testimony that was given by Mr. Rozycki  
4 today.

5 BY MR. MCCLELLAND:

6 Q Mr. Rozycki, in your opinion, does a customer  
7 have to take touch tone service to buy local service from  
8 Commonwealth?

9 A I don't know whether they have to, whether it's a  
10 requirement or not, no. I know in many companies, it's an  
11 option not a required service.

12 Q Well, hypothetically, in the Commonwealth  
13 territory touch tone is an optional additional service,  
14 would you agree then that you don't have to buy touch tone  
15 to buy basic service?

16 A That would be correct.

17 MR. MCCLELLAND: Your Honor, I think that's all the  
18 questions that I would ask. Thank you.

19 JUDGE KASHI: Thank you very much. Let's take a  
20 10-minute recess then.

21 (Whereupon, a brief recess was taken.)

22 JUDGE KASHI: Back on the record. Cross-examine.  
23 Mr. Kennard.

24

25

CROSS EXAMINATION

1 BY MR. KENNARD:

2 Q Thank you, Your Honor. Good morning.

3 A Good morning.

4 Q To clarify some of the discussion with counsel  
5 for the Office Consumer Advocate regarding the use of part  
6 69, you would agree that, that is, part 36 that  
7 jurisdictionally separates a telephone company's costs;  
8 correct?

9 A Correct.

10 Q And part 69 does not allocate between  
11 jurisdictions; correct?

12 A That's also correct.

13 Q Part 69 simply takes the  
14 jurisdictionally-identified cost from part 36 and then  
15 allocates those costs among the access elements of CCL and  
16 transport and so forth?

17 A Well, yes, all of the elements not just access.

18 Q What other elements are there?

19 A Local service.

20 Q And with respect to the discussion of use of a  
21 SLU factor, would you agree that use of SLU would result  
22 in a corresponding decrease in common overheads allocated  
23 to access charges, access service?

24 A Yes, that would, yes.

25 Q Could you reference your attention, please, sir,

1 to page 4 of your testimony and particularly at the top  
2 there's an item and within a box identified as Roman 2,  
3 and there I believe you make two points that CTCO's access  
4 rates are substantially higher than other LECs Number 1.

5 Number 2, that CTCO's access rates have never been  
6 based on any measure of cost. And in order to demonstrate  
7 the first point, you have a chart below that whereby you  
8 compare what you call the top 5 LECs. And I think you've  
9 used access charges as a basis of identifying the top 5  
10 largest local exchange carriers in Pennsylvania. Is that  
11 correct?

12 A No, actually we use the same 5 LECs that  
13 Commonwealth used in its study when it compared local  
14 exchange rates.

15 Q And what was the basis of the identification of  
16 those five versus some other group of local exchange  
17 carriers?

18 A If I'm not mistaken, they are simply the largest  
19 five in the state based on revenues. They pay also be the  
20 largest five based on access, which I suspect they are.

21 Q Now, there's 34 other local exchange carriers  
22 doing business in Pennsylvania; correct?

23 A Roughly speaking, yes.

24 Q And would you agree, sir, that CTCO's rates for  
25 switched access are comparable to those level of rates

1 charged by those other 34?

2 A Well, no, I wouldn't. Many of them, if not most,  
3 are lower -- charged lower access rates than CTCO and  
4 Commonwealth. And many of those, 25, have some form of  
5 cap in place which Commonwealth does not. Not only are  
6 the rates different but their rates are lower than  
7 Commonwealth's.

8 Q As a data request, would you please support your  
9 statement by comparing the other LECs access -- switched  
10 access charges stated on a minute of use basis as compared  
11 to Commonwealth?

12 MR. KEFFER: I'm going to object to that. I mean,  
13 Commonwealth can dig out the tariffs of the other  
14 companies as easily as we can. There's no need to make  
15 that a burden for AT&T's consultant.

16 I mean, it's publicly available information.  
17 There's no reason to target AT&T to provide that  
18 information. It's available to you, Mr. Kennard.

19 MR. KENNARD: Two Responses, Judge. First, it is  
20 the factual assertion of this witness that Commonwealth is  
21 higher than many, I believe, the witness said if not most  
22 of the other LECs. Therefore, I think it's incumbent upon  
23 this witness if he's going to make a factual statement to  
24 back it up and not guess and the burden is not properly  
25 shifted to Commonwealth to develop support for this

1 witness's statement.

2           Furthermore, it is not information which is  
3 necessarily readily available. The tariff information  
4 would be. However, the minute information may not be and  
5 AT&T has a direct business relationship with all of those  
6 local exchange carriers whereas Commonwealth does not.  
7 And, therefore, AT&T would be in a better position to  
8 obtain the information.

9           JUDGE KASHI: Provide the information, counsel.

10           THE WITNESS: It's proprietary.

11 BY MR. KENNARD:

12           Q The second point you make is that access rates  
13 have never been based upon cost. Can you tell me, sir,  
14 are the access charges of any other LEC in Pennsylvania  
15 cost base?

16           A I'd say, yes.

17           Q Which ones?

18           A At least Bell of Pennsylvania. And in the 25  
19 capped companies, most of the reductions and capping that  
20 has taken place is associated with the fact that their  
21 rates are substantially above costs.

22           So they have been -- each of the companies has been  
23 moving their access rates closer to their cost. Are they,  
24 by definition, cost based? Maybe not yet.

25           But they're moving in that direction. And they've

1 made changes in their rates to try and reflect the fact  
2 that their costs are substantially lower than the rates  
3 they are charging.

4 Q So I'm sure I understand. Your answer is that  
5 many of the LECs are moving towards costs but not to cost  
6 yet. And your understanding is only Bell is at the level  
7 of access charges which are based upon -- which are  
8 equivalent to the cost of providing access service. Is  
9 that a correct understanding of your testimony?

10 A Partially correct. Any company that has  
11 instituted a cap, has reduced its rate, is moving  
12 its -- it has instituted cost based notions within their  
13 ratemaking procedures.

14 So the minute they begin changing rates and develop  
15 rates that are in some way reflective of costs, no matter  
16 how far apart they are, they begin to develop cost based  
17 rates.

18 Commonwealth's rates are not cost base. There's  
19 never been any analysis of those rates before this  
20 Commission based on their costs.

21 Q Well, let me ask you this, sir, if Commonwealth  
22 were to agree to cap its access charges and that was the  
23 outcome of this proceeding, would you then say that  
24 Commonwealth's access charges are cost based?

25 A Yes. The CCL charge would then be more on a

1 basis of cost than it had been prior, yes.

2 Q But either their -- I don't want to get into a  
3 semantic discussion. But cost base to me and the way I  
4 took it to mean in your testimony is the equivalent to the  
5 cost. Is that a fair understanding of your testimony?

6 A No, I don't -- I think AT&T as never indicated  
7 that it had to have rates equivalent to only cost. AT&T  
8 has indicated that it would like rates based upon a  
9 company's cost not arbitrarily determined.

10 Q But I understand what you just said. But looking  
11 at top of page 4, Roman 2, you say Commonwealth's access  
12 rates have never been based upon any measure of cost. Do  
13 you mean there that Commonwealth's rates are not close to  
14 cost or they are not equivalent to cost?

15 A Well, they're neither of those. But what I mean  
16 is that they have never undergone any test to determine  
17 their relationship to cost.

18 Q And the reason for that, sir, is that  
19 Commonwealth has not had a rate proceeding since 1978?

20 A That would be a major reason, yes.

21 Q Now, let me take you back to what I intended to  
22 ask as part of the original question and, that is, is any  
23 LEC in the Commonwealth of Pennsylvania have access  
24 charges that are equivalent to their cost of providing  
25 access service?

1           A No. And as I will repeat, AT&T has never  
2 indicated that they had to have access rates that were  
3 equal only to access cost. This date, in fact, requires  
4 that access provide some contribution to local service.

5           All of the rates in Pennsylvania, in fact, provide  
6 contribution to local service through the CCL charge.  
7 Many of the rates provide additional contribution to local  
8 service through their traffic sensitive charges.

9           Q I don't want to get into a semantic discussion of  
10 what is cost, whether it should be strictly cost based and  
11 should be no NTS allocation to access charges and as I  
12 understand that distinction of what you just made in your  
13 testimony. You can include it as the word cost as  
14 including NTS or not including NTS.

15           Let me ask you this. Are you aware of any LEC in  
16 Pennsylvania that has access charges that are equal to the  
17 cost of providing access service and that cost being  
18 defined as including some component of NTS cost at a CCL  
19 rate?

20           A I would say at least Bell of Pennsylvania falls  
21 within that definition. Very possibly GTE is coming close  
22 if not there.

23           Q Would you provide any documentation that you have  
24 that supports your claim that Bell and GTE's access  
25 charges are equivalent to cost providing access service?

1           A No, I will not because that would require  
2 providing proprietary information for those companies  
3 which I cannot do. They are costs.

4           Q Would you seek to ask them if they will release  
5 the information to Commonwealth that you possess upon  
6 which you made your factual claim? Does the information  
7 in your possession conclude that Bell and GTE's access  
8 charges equal their cost of providing access service  
9 including some component of NTS cost?

10           MR. KEFFER: Point of clarification. When you  
11 started this line of questioning, you said, Are their  
12 rates moving towards their cost? Now you've change it to  
13 are their rates equal to the cost?

14           JUDGE KASHI: And not only that, in the middle of  
15 it, you changed also you gave us some very specifics as to  
16 what you were defined as what you meant by cost. But then  
17 when you finished your question, you said, equivalent to  
18 cost. And I'm not quite sure exactly what you are asking.

19           MR. KENNARD: The questioning started to stumble on  
20 the issue of cost. So rather than leave that open, I  
21 attempted to define. The cross examination also stumbled  
22 upon a phraseology based on any measure of cost.

23           So I used the word equivalent in an attempt to  
24 narrow the cross examination down so the witness and I  
25 understand what the issues, what we're seeking.

1 JUDGE KASHI: Let's make sure we all understand.

2 MR. KENNARD: That's what I was attempting to do.

3 MR. KEFFER: In an attempt to move this along, I'm  
4 willing to stipulate that this Commission has never  
5 required any LEC to set access charges equal to a measure  
6 of costs if you will stipulate that the Commission has  
7 required many of the LECs to move towards.

8 MR. KENNARD: If you want to offer a stipulation,  
9 that's fine. I agree with you this Commission has never  
10 done that. It has never required access charges based  
11 upon the cost of providing access service, whatever that  
12 cost might be.

13 MR. KEFFER: Did you say equal to or based on?  
14 You're changing the words.

15 MR. KENNARD: I'm not doing that to be -- I'm trying  
16 to be precise in this.

17 MR. KEFFER: But it's a critical distinction and  
18 you're playing with it.

19 JUDGE KASHI: What we're dealing in here as far as  
20 what I'm hearing, when we're talking about costs, the  
21 witness is categorically stating that Commonwealth's  
22 charges have nothing to do with costs.

23 MR. KENNARD: Correct.

24 JUDGE KASHI: That Commonwealth's charges are -- and  
25 I believe the record reflects this, he uses the words

1 arbitrary. And so, when we're in that area and now we go  
2 around and start talking about people who have caps and  
3 are cost based, we're talking about apples and oranges  
4 here.

5 I mean, as far as I'm hearing AT&T's presentation,  
6 AT&T's presentation is saying, Commonwealth, you've got  
7 nothing to do with costs. Your charges have absolutely  
8 nothing to do with cost.

9 So when you're hearing counsel picking at what is  
10 cost based and what is not cost based, okay. As far as  
11 the record goes, I don't even think it's close because I  
12 want to know why he thinks they're so arbitrary.

13 MR. KENNARD: Judge, I agree that Commonwealth's  
14 rates for access are not based upon cost. The point of  
15 this cross examination is neither is any other LEC in the  
16 Commonwealth either.

17 So for Mr. Rozycki to point the finger at  
18 Commonwealth and say --

19 JUDGE KASHI: It's not that they're not cost based  
20 or that they're not based on cost, we know that they're  
21 not equivalent to cost. Everybody agrees to that.

22 We know that, and we also know that that's not  
23 required. But that's not what AT&T is saying. That's not  
24 the thrust of his testimony. The thrust of the testimony,  
25 you guys don't even consider costs.

1 MR. KENNARD: And the recommendation of the  
2 testimony is to move the rates --

3 JUDGE KASHI: Toward costs.

4 MR. KENNARD: Well, we're going to get into that.  
5 It's less than.

6 JUDGE KASHI: I'm saying is that, we're playing with  
7 the semantics. It is cost based. That's not what he's  
8 saying. He's saying you guys are arbitrary. Period. So,  
9 you know, if you want to say to him, aren't Bell and all  
10 the rest of them arbitrary, then we're all in the same  
11 ball park.

12 BY MR. KENNARD:

13 Q That's an excellent question. Aren't the other  
14 LECs rates equally arbitrary in the establishment of  
15 access charges?

16 A No, they are not.

17 Q And why not?

18 A Because they went through rate cases. Many of  
19 them provided costs, and their access rates were  
20 frequently, if not almost always, lower to be more  
21 reflective of those costs.

22 Q So --

23 A Now, by my definition, that is cost based. I  
24 looked at a cost. I developed a rate. I've now got a  
25 rate based on the cost. Is the rate equal to the cost? I

1 don't know. Maybe not.

2 Q So the --

3 A I'm sorry. Let me finish. In the case of  
4 Commonwealth, you've provided a fully distributed cost  
5 study in this case. One way we can look at cost is to  
6 say, let's get Commonwealth's existing access rates down  
7 to those fully distributed cost levels.

8 But in my estimation, that's only the upper limit of  
9 what might be defined as a cost based rate. Fully  
10 distributed costs are one way to define it.

11 When we look at total service long run incremental  
12 cost or strictly incremental costs which many of the Bell  
13 companies like to use, we're talking worlds apart.

14 In the difference between Commonwealth's own  
15 incremental cost of providing access and their long run  
16 incremental cost of providing access may be millions upon  
17 millions of dollars.

18 The cost to Commonwealth of providing minimum access  
19 may roughly approximate on one end 1 to 2 cents. We're  
20 being charge 7 cents. So to say cost base opens a wide  
21 range of definitions as to what cost studies we're looking  
22 at, what we mean by cost base.

23 What I've seen shown you in the testimony and what  
24 I've tried to explain here is that Commonwealth's own  
25 access rates, currently, are well above its own cost

1 study.

2 I believe you provided a cost study which is the  
3 highest cost you could come up with not the lowest cost.

4 Q Well, I don't appreciate you appealing the study  
5 that way. The results are what the results are.

6 A I wasn't looking for appreciation.

7 Q But let's go back to the essential points of  
8 based upon cost. As I understood you to say, the elements  
9 are this: The costs are looked at. The access rate is  
10 capped or lowered and capped?

11 A Right.

12 Q And that yields a rate -- access rate which is  
13 based upon cost. Did I understand you to say that?

14 A It is based upon cost. It may not be equivalent  
15 to cost.

16 Q So as a result of this proceeding, if  
17 Commonwealth's access rates, CCL component, particularly,  
18 were capped and you looked at the cost, sir, then at the  
19 outcome of this proceeding, this conclusion, you would  
20 agree that Commonwealth's access charges would be then, at  
21 that point in time, based upon cost?

22 A They would be, yes, based upon an allocation of  
23 costs to the dial tone line. I've indicated before that  
24 AT&T does not view the dial tone line, the CCL charge, as  
25 being a cost of access of providing access. That is an

1 end user cost, should be charged to the end users.

2           However, it is a charge that AT&T pays and doesn't  
3 disagree with paying to support local service to support  
4 the local loop.

5           I don't know that that really fits accurately the  
6 definition of a cost. That's a subsidy. Okay. And  
7 that's a subsidy. Now, if you want to talk about traffic  
8 sensitive cost which you haven't brought up, you've been  
9 talking CCL and non-traffic. We can talk about that.

10           Q I wanted to make sure that it would be based upon  
11 cost at the conclusion of this proceeding, the CCL were  
12 capped. And I believe you agree that it would be based  
13 upon cost?

14           A Giving my caveats, yes, it would be based on  
15 cost.

16           Q Can you reference page 5 of your testimony,  
17 please, sir? And the second question and answer describes  
18 some history behind Commonwealth's access rates. And the  
19 last sentence in there talks -- says with the exception of  
20 minor rate changes related in TRA 86 and STAS, the  
21 Commonwealth's access rates have remained largely  
22 unchanged.

23           Is it not true, sir, that in September of 1986  
24 Commonwealth voluntarily reduced its CCL from a level of  
25 4.71 cents per minute to a level of 4.32 cents per minute?

1 A Well, assuming that your dates are correct, yes,  
2 it did reduce its rates.

3 Q And that had nothing to do with either STAS or  
4 TRA 86; correct?

5 JUDGE KASHI: That's not my understanding. Maybe I  
6 need to be corrected. I'm not sure what it had to do with  
7 it though. If it wasn't TRA 86, I don't know what it had  
8 to do with it.

9 BY MR. KENNARD:

10 Q Couldn't it have been a voluntary reduction by  
11 Commonwealth in the CCL component of the access charges?

12 A Sure, it could have been.

13 Q And do you know what the dollar impact of that  
14 reduction was upon AT&T's access charge payments to  
15 Commonwealth?

16 A I have absolutely no idea.

17 Q Would you accept, subject to check, that, to  
18 date, AT&T's share of savings associated with that  
19 reduction is \$3.7 million?

20 A You can provide me with that analysis. I'm not  
21 going to accept that. I don't know.

22 Q You have information --

23 A I know at this point that I have the information  
24 available to me to check that.

25 Q Could you not take your caps bills and calculate

1 what access revenues payments would have been at 4.71  
2 cents and then compare that to what, in fact, was paid as  
3 the CCL component?

4 JUDGE KASHI: Could you provide him with your  
5 analysis that comes up with that. And he can decide  
6 whether he's going to accept it or not.

7 THE WITNESS: One way to look at it and I don't have  
8 those caps bills.

9 BY MR. KENNARD:

10 Q They're in another part of AT&T?

11 A I don't work for AT&T anymore. I don't have  
12 them.

13 Q Fair enough. Now, do you know, sir, whether  
14 AT&T in response to this reduction in CCL reduced its toll  
15 rates applied to Commonwealth Telephone Company  
16 subscribers?

17 A If you're requesting that AT&T geographically  
18 de-averages its rates, whether they are geographically  
19 de-averaged, they are not. AT&T charges average rates  
20 throughout the state. And to the best of my knowledge,  
21 last time I looked, AT&T's reductions in toll rates  
22 largely exceeded any reductions in access rates that it's  
23 received since the divestiture.

24 So, yeah, they've been accommodated. If that sort  
25 of answers your question.

1 Q Let me ask you the question again, specifically.  
2 Was there any toll reduction targeted at Commonwealth  
3 subscribers as a result of the telephone company's  
4 voluntary reduction in the CCL component?

5 A No. In fact, if AT&T were to establish separate  
6 rates for Commonwealth customers only, they would probably  
7 be much higher than AT&T state rates are today.

8 Q So -- I'm sorry. Are you finished?

9 A Yeah. I'm finished.

10 Q AT&T has many different toll rate schedules.  
11 There is not one NTS toll table that applies to all calls  
12 within the Commonwealth of Pennsylvania; correct?

13 A That's correct.

14 Q In fact, one of the items mentioned in your  
15 testimony is that if there is some movement -- and I don't  
16 want to get into what the movements should be -- you've  
17 offered to provide Reach Out to Pennsylvania to  
18 Commonwealth subscribers and that toll schedule has been  
19 offered to other customers in the Commonwealth of  
20 Pennsylvania?

21 A Yes, it has.

22 Q And that's not a de-averaging of toll rates  
23 that's the offering of a different toll tariff; correct?

24 A That's right. It's one way that AT&T chooses to  
25 discount its rates. There are others that are becoming

1 increasingly popular.

2 Q And at the current time for intrastate calling,  
3 AT&T offers Commonwealth subscribers only the standard MTS  
4 toll tariff; correct?

5 A I'm not sure. I believe that AT&T offers other  
6 services in the Commonwealth territory. If you're  
7 referring only to residential ratepayers --

8 Q Yes, sir.

9 A -- again, I'm not sure whether things such as the  
10 I-Plan are available to Commonwealth ratepayers or not.  
11 But there may be other services, discounted-type services  
12 available to Commonwealth ratepayers.

13 Q Now, from your testimony, I understood your  
14 previous response to include the statement that AT&T has  
15 declined to offer Reach Out Pennsylvania toll tariff to  
16 Commonwealth subscribers because AT&T's operation and  
17 Commonwealth's territory is not profitable. Is that a  
18 correct understanding?

19 MR. KEFFER: Point me to the reference in the tariff  
20 that says it's not profitable.

21 BY MR. KENNARD:

22 Q Do you agree with that statement?

23 A I didn't say that, I don't think.

24 Q Do you agree with that statement?

25 A I haven't done -- and I'm not sure that it could

1 be done -- a financial analysis of AT&T's service of  
2 Commonwealth territory alone. I don't know if we're  
3 profitable.

4 Q Well, I have Commonwealth's subscribers that have  
5 not been offered Reach Out Pennsylvania to date?

6 A That service in and of itself probably would not  
7 provide a profit to AT&T if it were offered at  
8 Commonwealth's territories at the current rates.

9 Q But you don't know specifically whether it would  
10 or wouldn't. You haven't quantified that?

11 A No. I think, in essence, our pricing  
12 people -- and I don't do this, so I have not quantified  
13 it. Our pricing people have chosen not to offer it in the  
14 Commonwealth because it would not produce a profit for  
15 AT&T, that service alone.

16 There's no sense in offering a service that's not  
17 profitable. AT&T is not in the business anymore for  
18 providing non-profitable services. There's just no point  
19 in that.

20 Q Just so I understand your testimony. Based upon  
21 a conclusion by AT&T that the toll rates available under  
22 Reach Out would produce revenues that yielded unprofitable  
23 operations that Reach Out Pennsylvania has not been  
24 offered by AT&T and CTCO's service territory?

25 A Would you re state? I lost you in the middle.

1 Q Reach Out Pennsylvania isn't being offered  
2 because it would not be profitable to do so by AT&T?

3 A That is my understanding. That's what I've been  
4 told by the people who provide or develop the costs and  
5 services offer them to Pennsylvania.

6 Q Would you please provide the analysis that  
7 concludes that the offering of Reach Out Pennsylvania  
8 would not be profitable in Commonwealth service territory?

9 MR. KEFFER: Your Honor, the witness never said  
10 that.

11 JUDGE KASHI: The witness said that he was told that  
12 it wasn't profitable.

13 MR. KENNARD: And what I'd like, Your Honor, is a  
14 copy of the documentation from those individuals at AT&T  
15 that the supports that conclusion.

16 JUDGE KASHI: Go ahead, Mr. Keffer. I'm not going  
17 to argue with this.

18 MR. KEFFER: Well, I guess two things. One, the  
19 witness didn't say he knew that we couldn't offer the  
20 service on a profitable basis. He was never in the group  
21 that does that analysis.

22 Number 2, I'm having trouble seeing the relevance of  
23 the information. And Number 3, Mr. Kennard represents a  
24 number of companies. And he's been wanting to know for a  
25 long time why AT&T will or will not offer Reach Out in a

1 particular area.

2           Generally, the answer he's been given before is that  
3 as long as there is a per minute CCL, AT&T is unwilling to  
4 provide the service. Any analysis that goes deeper than  
5 that, Number 1, would come from a group that Mr. Rozycki  
6 has never been associated and, Number 2, would be highly  
7 proprietary to AT&T.

8           MR. KENNARD: Judge, AT&T holds out this carrot and  
9 the carrot is Reach Out Pennsylvania. And what they're  
10 seeking to do is motivate the parties, Your Honor, and  
11 this Commission, to lower access charges in order for them  
12 to offer Reach Out Pennsylvania.

13           The reason they say they can't offer it now is  
14 because of the profitability, lack of profitable. Whether  
15 Mr. Rozycki prepared the study or not, that is that  
16 Company's conclusion.

17           And Mr. Rozycki has been informed that that's the  
18 conclusion of his corporation, the corporation he now  
19 consults for.

20           And it seems to me that we are entitled -- if that  
21 is their argument, we're entitled to look at the  
22 underlying factual basis for making that claim because for  
23 all Commonwealth knows and Your Honor and any of the  
24 parties, it could be offered now and AT&T's operations are  
25 entirely profitable.

1           So either they support the statement and provide the  
2 information which let's us all the look at the underlying  
3 analysis to reach that conclusion or simply a speculative  
4 statement that's totally unsupported in the record.

5           MR. KEFFER: Mr. Kennard's argument supposes that  
6 AT&T would be obligated to provide the service under  
7 certain circumstances. I mean, if we just didn't want to  
8 provide in Commonwealth's territory for whatever reason,  
9 even if it was hugely profitable to do so, I don't believe  
10 the Commission would force us to undertake that action.

11           I mean, the decisions that we make regarding when to  
12 offer the services and not to offer the services are  
13 internal AT&T.

14           Now having said, what Mr. Rozycki has indicated in  
15 his testimony is that if Commonwealth's access charges go  
16 in a particular direction, AT&T will likely offer the  
17 service. And beyond that, I think we're getting into a  
18 little deeper than it needs to be.

19           JUDGE KASHI: That information will be provided.  
20 You can argue, sir, as you already have, that the  
21 statement by the witness is unsupported by that. Off the  
22 record.

23           (Discussion off the record.)

24           JUDGE KASHI: Back on the record.

25 BY MR. KENNARD:

1 Q Mr. Rozycki, could you please reference page 22  
2 of your testimony?

3 A Yes.

4 Q Under Roman 10, the second Q and A, there's that  
5 phraseology, cost based. And given our earlier discussion  
6 on that on the meaning of that word, is it proper to  
7 understand and is the import of your testimony that if  
8 Commonwealth Telephone caps CCL as a result of this  
9 proceeding, that it's because its rates are then cost  
10 based that AT&T will offer Reach Out Pennsylvania to  
11 Commonwealth subscribers?

12 A That's not an easy answer. Generally speaking,  
13 we have -- AT&T has offered Reach Out. And I think it has  
14 been in every instance where a company has capped its CCL.  
15 Okay. My suspicion is that AT&T will choose to do the  
16 same here. Cap your CCL. We'll offer Reach Out. I think  
17 that answers your question.

18 Now, I need to indicate though that that group that  
19 does pricing likes to say, no, no, we're going to look at  
20 this. And we're going to make sure that we, in fact, want  
21 to offer Reach Out.

22 Now, having said that, I remind you, it's been  
23 offered in every instance where a company has capped. Is  
24 that the answer you want?

25 Q I don't want any particular answer. I want to

1 know what AT&T is going to do.

2 MR. KEFFER: Sure you do.

3 THE WITNESS: I can't tell you. They're going to  
4 take it and analyze it. But I can tell you what they've  
5 done in the past.

6 BY MR. KENNARD:

7 Q In the question, Will AT&T offer Reach Out and  
8 the answer is yes, it's not entirely accurate. It is,  
9 AT&T will seriously consider it. And based upon history,  
10 will very likely provide it?

11 A That's what I said. My testimony says yes, so.

12 Q Well, which is more accurate?

13 A I don't work for AT&T anymore, and I can't speak  
14 for him them. I don't mean to belabor.

15 Q Was it a good answer when?

16 A It was a good answer. If you can expect if you  
17 cap, you'll see it. I'll give you another caveat. AT&T  
18 can change its mind. AT&T can say, We've set up new  
19 criteria today. And, No, you don't meet them.

20 Or we've lowered the rate for Reach Out. And guess  
21 what, it's going to take more than just a cap today to get  
22 us to offer this. And AT&T has been lowering the rates  
23 for Reach Out progressively for some time. I can't say  
24 so. I can't say it's absolute, and I'm sorry. I wish I  
25 could.

1 Q I understand. We wish you could too. What  
2 savings are available to subscribers under Reach Out  
3 Pennsylvania relative to the standard MTS toll rate?

4 A I've never really done an analysis of that. I  
5 think you can take the Reach Out rate of \$9.00 and  
6 something and divide it by -- I don't remember what the  
7 rate is today.

8 Divide it by 60 minutes and you can determine what  
9 that is. Yes, it is a discount over existing MTS rates.

10 Q Over AT&T's existing MTS rates?

11 A Yes.

12 Q And you don't know whether Reach Out Pennsylvania  
13 provides greater or lessor discounts than other plans  
14 currently available to Commonwealth subscribers such as  
15 MCI's friends and family, Sprint's clarity or even the  
16 I-Plan which you think may already be made available to  
17 subscribers?

18 A Well, there are many plans out there. And I will  
19 say this, quite honestly, MCI's friends and family has  
20 been very successful. My suspicion is that it's a very  
21 good rate.

22 Q And your suspicion is that MCI's friends and  
23 family plan offers greater discount than AT&T Reach Out?

24 A It may very well.

25 Q And there may be many other toll plans out there

1 currently offered that also provide greater subscriber  
2 savings than Reach Out Pennsylvania would?

3 A There may be.

4 Q Can you reference page 6 of your testimony,  
5 please? At the top of page 6, there's a paragraph which  
6 starts, access prices established. And in the second  
7 sentence, you make a reference to increase use of  
8 Commonwealth's network for inter-exchange calling. You're  
9 referring to stimulation?

10 A Yes, I am.

11 Q And that stimulation occurs only if a user's  
12 rates would be reduced?

13 A That's correct.

14 Q And with respect to the second part of that  
15 sentence, the deterrence of risk of facilities bypass by  
16 customers and/or carriers, that risk would be deterred,  
17 again, only if there were some reduction in end user  
18 tolls?

19 A Yes, or the offering of discounted plans which we  
20 established are a way to reduce rates.

21 Q Are you aware of any customer carrier bypass  
22 facilities in place and operation within CTCO's service  
23 territory?

24 A No, I am not aware.

25 MR. KENNARD: Your Honor, that concludes this

1 portion of this issue. And we'll be moving into another  
2 area if you want to take a break.

3 JUDGE KASHI: How much time do you think? If we go  
4 for another half hour, how close are you to the end?

5 MR. KENNARD: Not very close.

6 JUDGE KASHI: We're going to recess. And at this  
7 point, we'll come back at 1:15.

8 (Whereupon, a lunch recess was taken to reconvene at  
9 1:16 p.m., the same day.)

10 JUDGE KASHI: Do you wish to continue cross  
11 examination, Mr. Kennard.

12 MR. KENNARD: Your Honor, one thing I wanted to pick  
13 up earlier, which I didn't, during the cross examination  
14 by Mr. McClelland, you made reference to a discussion  
15 regarding long run incremental costs that you would know  
16 the incremental cost if CTCO had answered interrogatories.

17 And I wanted to ask you if you're referring to  
18 Commonwealth's response to AT&T set 1, number 9?

19 MR. KEFFER: Can we?

20 MR. KENNARD: I have one here if you want to look at  
21 it.

22 THE WITNESS: I don't have it memorized, so.

23 MR. KENNARD: You don't?

24 THE WITNESS: I'm sorry. What was the question? If  
25 I was referring to this particular question?

1 BY MR. KENNARD:

2 Q Is that the interrogatory that you were referring  
3 to previously?

4 A It would be one way of getting it, and is one of  
5 the interrogatories I was referring to, yes. There are  
6 other interrogatories that we put forth that asked for  
7 specific cost information that would have allowed us to do  
8 a cost study. That information was not provided to us.

9 Q Can you tell us what those interrogatories were  
10 at this point?

11 A I'd have to go through the entire list.

12 Q And that one in particular asked if Commonwealth  
13 has performed any long run incremental cost studies?

14 A Yes.

15 Q This interrogatory being number 1, set 1, number  
16 9?

17 A Yes.

18 Q And the response is Commonwealth hasn't done long  
19 run incremental studies?

20 A Yes.

21 Q And the answer was responsive. It asked for  
22 studies and Commonwealth said we didn't have it?

23 A Yes. And if you had had them and provided them,  
24 it would have been beneficial. But knowing that the  
25 likelihood of Commonwealth having performed incremental

1 cost studies, knowing that that likelihood was very low,  
2 AT&T of requested specific information about specific  
3 costs, all of the costs --

4 MR. KENNARD: I'd like to object at this point.

5 JUDGE KASHI: You did it fellow. I was very  
6 surprised by the question. You opened it. Let him  
7 finish.

8 MR. KENNARD: Your Honor, we asked specific  
9 questions that would have given us specific information  
10 regarding the various costs that Commonwealth incurs in  
11 providing service.

12 That would have allowed us, in a timely fashion, to  
13 develop our own cost studies. But we weren't provided  
14 with that. We were provided with the part 69 study done  
15 by Commonwealth on the 1st of May, essentially, I think,  
16 is when it arrived.

17 BY MR. KENNARD:

18 Q I ask a data request be distributed. Would you  
19 please identify those interrogatories responses to which  
20 you just referred?

21 A Here, now?

22 Q No; as a data request.

23 A Yes, we can.

24 Q Thank you. Can you reference your attention,  
25 please, to page 21 of your testimony?

1 JUDGE KASHI: 21?

2 MR. KENNARD: Yes, sir.

3 BY MR. KENNARD:

4 Q In the third full paragraph, first sentence,  
5 would I be incorrect to characterize the sentence as  
6 setting forth the opinion that high access charges have  
7 subsidized low local rates?

8 A Yes. Now, let me expand on that a little bit.  
9 We've talked about costs and high access charges. The  
10 fully distributed cost study --

11 MR. KENNARD: Judge, I didn't ask anything about  
12 cost studies. I simply asked about the rates and if there  
13 is a cross subsidy.

14 JUDGE KASHI: Answer the question, sir.

15 THE WITNESS: Yes, access is used to subsidize local  
16 service.

17 BY MR. KENNARD:

18 Q And that's true both of interstate access charges  
19 and intrastate access charges. Is that correct?

20 A That is correct.

21 Q So the level of access charges being paid by the  
22 inter-exchange carriers for interstate access has created  
23 a subsidy for local exchange rates keeping them at a level  
24 that is less than cost; correct?

25 A Substantially less than cost, yes.

1           Q Now, when can you reference your attention to  
2 page 9 of your testimony, second Q and A. Second  
3 sentence, average schedule means higher profits. You  
4 would agree, would you not, sir, that those profits -- if  
5 you will and I'll use your term and I don't necessarily  
6 agree with your terminology -- are not necessarily kept by  
7 Commonwealth Telephone or its shareholders but rather flow  
8 or a part of that subsidy flows to local exchange rates?

9           A Well, to the extent that it can be demonstrated  
10 without a doubt that Commonwealth is not overearning, yes,  
11 that would be correct. But if Commonwealth is  
12 overearning, those excess revenues that are collected by  
13 Commonwealth would go to the stockholders of Commonwealth  
14 not to the local ratepayers.

15           Q And your testimony does not address the  
16 profitability or rate of return earned by Commonwealth  
17 either in the intrastate jurisdiction or out on a total  
18 company basis. Is that correct?

19           A Unfortunately, at this point, that is correct.

20           Q There was previously set forth by the Office of  
21 Trial Staff an exhibit, Cross Examination Exhibit Number  
22 4. Do you have that?

23           A No, I do not.

24           Q Can I show it to you? It's marked as DTS Cross  
25 Examination Exhibit 4. Have you reviewed that, sir?

1 A Yes.

2 Q Does that appear to be a calculation of total  
3 company rate of return?

4 A I assume so, yeah. It doesn't say total company  
5 here.

6 Q And the bottom line result demonstrated in that  
7 exhibit is an overall rate of return of 8.41 percent?

8 A That appears to be correct.

9 Q Does that appear to be excessive?

10 A Assuming that this has been accurately  
11 calculated, no, it wouldn't be excessive.

12 Q Could you please reference your attention to page  
13 20 of your testimony, at the second Q and A, after Roman 9  
14 addresses itself to the question, will intrastate access  
15 reduction cause an increase in local rates?

16 The response is not necessarily. The sentence at  
17 the end of that paragraph says it may be that even with  
18 reduced access charge, Commonwealth would still achieve  
19 adequate earnings.

20 You have not drawn a conclusion, have you, in this  
21 testimony that Commonwealth is overearning. You've merely  
22 stated it may be true or it may not be true?

23 A We have not found in looking at Commonwealth's  
24 own part 69 cost study that Commonwealth is, in fact,  
25 overearning in the interstate arena.

1 Q I understand that. But on a total company basis,  
2 you've not addressed total company results in earnings in  
3 your testimony; correct?

4 A We have not, others have.

5 Q I understand that.

6 A And I might add that I have reviewed some of the  
7 others. And if I'm not mistaken, testimony from the OCA  
8 indicates --

9 MR. KENNARD: Judge.

10 JUDGE KASHI: We're not going to address the  
11 testimony of the OCA, testimony from the OCA or Office of  
12 Trial Staff has been yet filed. And it's not part of this  
13 record.

14 BY MR. KENNARD:

15 Q Will you reference page 8 of your testimony,  
16 please? Bottom of page 8, last sentence. The ability or  
17 inability to conduct a jurisdictional separation study is  
18 not a requirement for qualification to be an average  
19 schedule company, is it?

20 A To the best of my knowledge, no, it is not.

21 Q The only companies that cannot be an average  
22 schedule company in this country are any regional Bell  
23 operating company or operating company of an RBOC?

24 A That's not correct.

25 Q An RBOC can be average?

1 A You said the only companies.

2 Q I'm starting a list. Let me finish.

3 A Finish the list then. I'm sorry.

4 Q Can an operating company of an RBOC, can't be  
5 GTE, you can't go from being a cost company back to an  
6 average schedule company. And if you're a cost company as  
7 of the end of 1983, you cannot become an average schedule  
8 company. But anybody else that doesn't fall within those  
9 four categories of restrictions can be an average schedule  
10 company?

11 A Run the list by me again.

12 Q United RBOC, not GTE not cost as of the end of  
13 1993, and not subsequently have elected to become a cost  
14 company? Does that sound like an exhaustive list?

15 A I don't think that's completely accurate. I  
16 think there are companies who obtain a certain size who  
17 are required to be cost companies.

18 Q What is that size?

19 A I don't know.

20 Q Can you confirm that the first four, the four I  
21 mentioned are absolutely true?

22 A I can't confirm, but they sound correct.

23 Q On the other hand, could Commonwealth voluntarily  
24 elect to become a cost company?

25 A Yes, it could.

1 Q And there's no limitation upon their ability to  
2 make that election at the FCC?

3 A Not to the best of my knowledge, no.

4 Q And were CTCO to abandon the average schedule and  
5 become a cost company there be no basis for the so-called  
6 residual ratemaking adjustment that you discuss in your  
7 testimony, would there?

8 A No, there would not because Commonwealth would  
9 lower its rates in the interstate arena by \$24 million to  
10 become a cost company.

11 Q Now, let's talk about your \$14 million. I  
12 understand how you made that calculation. And all you did  
13 was compare the revenues the Commonwealth earns interstate  
14 and deduct it from what was included in their part 36  
15 study. And that yielded a result of about \$14 million;  
16 correct?

17 A Correct, that's correct.

18 Q Now, is that -- that is a gross revenue figure?

19 A That is a gross net income figure.

20 Q Would you reference your attention to a response  
21 to Commonwealth's interrogatory set 1, number 1,  
22 specifically the work papers attached in response to that  
23 interrogatory. Do you have that, sir?

24 A Yes, I do.

25 Q Interrogatory asks that you provide work papers

1 related to claims 1993 interstate access return of almost  
2 42 percent?

3 A That's correct.

4 Q And is not line 3 in that calculation the result  
5 of -- a revenue number which results from taking forecast  
6 interstate revenue and reducing that by the part 36  
7 revenue requirement?

8 A Let me read you what it says.

9 Q I understand what it says.

10 A Then you're misrepresenting it. So let me read  
11 it. It says it is additional return. Okay. And by  
12 return, we mean net income. Yes, it is produced, as  
13 you've indicated, by subtracting part 36 revenue  
14 requirements from forecast revenue. But it's not excess  
15 revenues. It's basically net income.

16 Q What you're saying that falls to the bottom line.  
17 Therefore, you feel you fairly characterized the return?

18 A Yes, yes.

19 JUDGE KASHI: Mr. Kennard, can I ask you to put that  
20 in as a cross examination exhibit, please?

21 MR. KENNARD: Yes, sir.

22 JUDGE KASHI: Thank you.

23 MR. KENNARD: I prefer AT&T put it in. I don't  
24 care.

25 MR. KEFFER: You can call that AT&T exhibit -- what

1 are we up to? I have no idea. I don't think we're up to  
2 anything on exhibits. You don't have any.

3 JUDGE KASHI: You don't have any exhibits. Let's  
4 put it in on the company's cross examination exhibit.

5 (CTCO Cross Examination Exhibit Number 1 was  
6 produced and marked for identification.)

7 BY MR. KENNARD:

8 Q However, sir, in order to determine what the  
9 income effect is of that number, wouldn't it have to be  
10 adjusted downward in order to recognize the associated  
11 income taxes?

12 A Well, in fact, I think it would have to be  
13 adjusted upward to recognize that this is taking directly  
14 the bottom line.

15 Q The Commonwealth doesn't pay any taxes on this  
16 \$13.9 million listed on line 3?

17 A Well, I don't know where this shows up because,  
18 obviously, Commonwealth does not submit a part 36 study to  
19 the IRS. I have no idea where this money shows up. If  
20 you'd like me to speculate, I can. But I --

21 Q And the number that you previously -- here this  
22 morning for the first time, I heard a number about 24  
23 million?

24 A That's correct.

25 Q That number is derived by taking this \$14 million

1 figure and grossed it up for income taxes. What income  
2 tax rate have you used?

3 A 34 percent for federal, 12, 12 1/2 for state.

4 Q And that's all?

5 A We could -- I mean, we could throw in the STAS  
6 and those numbers and uncollectables. And it would  
7 probably go up to 25.

8 Q Let me ask you as a data request, could you  
9 provide calculation that takes this \$14 million --

10 A I can provide that.

11 Q -- of what you call return and grosses it up for  
12 the tax effect?

13 A Yes.

14 Q And if, in fact, you take \$24 million out of the  
15 interstate jurisdiction for the credit of the intrastate  
16 jurisdiction which you propose, would not then  
17 Commonwealth only receive revenues interstate of 38.3  
18 million less the 24 you've identified or something like  
19 \$14 million?

20 A I'm sorry. I didn't follow that. Run the math  
21 by me again.

22 Q Well, is the residual amount you calculated, 14  
23 million or \$24 million?

24 A Well, the revenue required to produce a \$14  
25 million return would be \$24 million because you'd have to

1 apply taxes. And they would have to be added in to the  
2 expenses shown that are accommodated, if you will, in the  
3 part 36 revenue requirement.

4 Q And you've made your residual ratemaking  
5 calculations on the basis of 14 million, however, and not  
6 24 million.

7 A Yes, we were very generous.

8 Q You're stating that \$24 million should have been  
9 used?

10 A That should have been the appropriate number.

11 Q So, essentially, you're removing \$24 million from  
12 the interstate jurisdiction; correct?

13 A Removing it from the interstate jurisdiction,  
14 yes, and bringing it to the intrastate as income.

15 Q And what, sir, is the resulting interstate  
16 revenue left after your adjustment?

17 A It would be revenue enough to --

18 Q No. What's the specific number?

19 A I haven't got that here.

20 Q It's a simple calculation, isn't it? Look at  
21 line 1 of your Commonwealth Cross Examination Exhibit  
22 Number 1. They're going to receive \$38.3 million. You  
23 state that the residual ratemaking adjustment should be to  
24 remove \$24 million from that. What is that number, sir?

25 A Well, there's obviously an error in my

1 calculation somewhere. And I'll have to sit down and look  
2 it over.

3 Q What's the resulting number, please?

4 JUDGE KASHI: Answer the question, please.

5 THE WITNESS: Pardon?

6 JUDGE KASHI: Could you answer the question?

7 THE WITNESS: Yeah. I have not calculated it. It's  
8 a negative 10.

9 BY MR. KENNARD:

10 Q And how did you arrive at a negative 10? What  
11 did you do?

12 A Took 24 from 38, and subtracted an additional 24.

13 Q I understand the first 24 being reduces. And  
14 that yields a result of about 14.3 million?

15 A Yeah. Now, what was the calculation you asked me  
16 to make?

17 Q That was the calculation, 14.3 million. That's  
18 what's left in interstate revenue after your residual  
19 adjustment?

20 A Right.

21 Q And what does the part 36 study show Commonwealth  
22 revenue requirement is interstate?

23 A 24 million.

24 Q So under your ratemaking adjustment, you're  
25 taking out approximately \$10 million more than would yield

1 compensatory rates on the interstate side?

2 A That's correct. There is obviously an error.

3 Q Could it be, sir, that your number of 14 million  
4 is improperly grossed up for taxes? And the 10 million  
5 that you add was, in fact, incorrect and the number is 14  
6 million as you set forth in your testimony that includes  
7 the taxes already?

8 A Yes, could be.

9 Q Could you reference your attention to page 18 of  
10 your testimony. Under Roman 8, there's an answer, the  
11 second sentence of the first paragraph. The best way to  
12 correct for this would be for Commonwealth to reduce its  
13 interstate access charges. That would be upon application  
14 to the FCC?

15 A Is that the question?

16 Q Yes.

17 A Yes, that would be the best way.

18 Q Has AT&T -- could AT&T file a complaint at the  
19 FCC and seek relief to reduce interstate rates there?

20 A I'm not sure about that.

21 Q Has --

22 MR. KEFFER: Well --

23 JUDGE KASHI: He's not a liar.

24 MR. KENNARD: Well, you know has how it is. It kind  
25 of blends together. If I go beyond his ability to answer,

1 I'll quickly stop.

2 BY MR. KENNARD:

3 Q Do you know if AT&T has investigated that  
4 possibility?

5 A I suspect that they have. I don't know.

6 Q Let's shift over to discuss NTS cost, page 13 of  
7 your testimony, please, second Q and A.

8 MR. KEFFER: I'm sorry. Which page?

9 MR. KENNARD: Thirteen.

10 BY MR. KENNARD:

11 Q You state the PUC has never required a SPF based  
12 allocation. Is it also true that the PUC has never  
13 required anything other than a SPF -- anything else?

14 A To the best of my knowledge, I think you're  
15 correct.

16 Q I mean, in other words, what I'm asking is the  
17 PUC has never identified the appropriate allocator for NTS  
18 costs either way?

19 A Yeah, to the best of my knowledge.

20 Q Would you agree that the intrastate access charge  
21 is accepted by this Commission effective January 1, '84 at  
22 the time of divestiture or SPF based since they mirrored  
23 the NECA charges that were in effect at that time?

24 A Restate.

25 Q Did not the intrastate access charges adopted by

1 this Commission mirror the NECA charges?

2 A That's not the same question. But now --

3 Q I'm breaking it down into the component parts.

4 A The intrastate access charges, to the best of my  
5 knowledge, mirrored NECA in June of 1985.

6 Q And those access charges were SPF based; correct?

7 A Well, that's a real reach. No. They were based  
8 on average schedule rates in the interstate arena which  
9 are based on a sampling of companies and their cost  
10 studies, which I'm not sure. May have been SPF based to  
11 develop those rates. But they were in no way developed on  
12 -- based on Commonwealth's.

13 Q Sir, don't misunderstand. I'm not suggesting you  
14 are. You don't know if SPF was used to calculate the  
15 average schedule?

16 A No, I do not know if SPF was used. I do know it  
17 was based on an average base of companies.

18 Q On page 14 of your testimony, you set forth the  
19 results of a SLU based allocation of NTS cost. As a data  
20 request, would you please identify the SLU factors which  
21 you utilized in this analysis? And would you please  
22 provide a full and complete copy of the study including  
23 the work papers, wherein, the SLU factors were utilized?

24 A If I can stop you right there, we use the SLU  
25 factors provided us by Commonwealth Telephone Company, no

1 others.

2 Q And where did you get those SLU factors from?

3 A I think in an interrogatory that we submitted to  
4 Commonwealth. They were provided to us by the Company.

5 Q Well, it may be the Company is unable to  
6 replicate the results of your study. Without your work  
7 papers, we don't know exactly how you did it. So we'd  
8 like the SLU factors you used in it. If you received them  
9 from Commonwealth, fine. But show us the work papers,  
10 show us the study where you took those SLU factors and  
11 moved them through the study to arrive at the results  
12 shown on the bottom of page 14.

13 A I understand what you're asking. Yes, we can  
14 provide that.

15 Q Has the FCC ever endorsed a SLU based allocation  
16 of NTS cost?

17 A I don't know if they've ever endorsed it.

18 Q What they've done is frozen SPF at 25 percent?

19 A That's correct. And that, of course, is to  
20 provide contribution to the dial tone line to local  
21 service.

22 Q Conceptually, sir, does the local loop provide a  
23 value to AT&T?

24 A It provides a means. Well, yeah, of course it  
25 provides a value. It provides a means whereby AT&T can

1 reach its customers to that extent it provides a value.

2 Q And is that value greater if the local loop is  
3 used to complete an interstate call than it would be if  
4 the loop was used to complete an intrastate toll call?

5 A I don't know how you would determine that.

6 Q Well --

7 A I think the value is greatest to the end user of  
8 having that dial tone line in place.

9 Q I understand that. But looking at the value of  
10 AT&T, is that value greater if you're hauling the call  
11 interstate or hauling an intrastate call? Or is it the  
12 same?

13 A I don't know.

14 Q Reference, if you would please, to page 22 of  
15 your testimony, second line from the bottom, you state  
16 that the reductions and access that you propose will move  
17 Commonwealth closer to a cost based excess rate structure?

18 A That's correct.

19 Q Now, don't your recommendations actually move  
20 Commonwealth's access charges to a point that is less than  
21 cost?

22 A Well, and we had a long discussion of this  
23 earlier. There are many determinants of cost. There are  
24 fully distributed cost. There are total service long run.  
25 There are incremental costs. There are average costs for

1 as many analysts you can find. There are probably  
2 determinations of cost.

3 Q I understand the debate keep the economy moving.  
4 I understand that.

5 A Hopefully, it will keep me employed. In terms of  
6 what we're talking about here is long run incremental  
7 cost, and, yes, reductions of this sort will move  
8 Commonwealth's rates closer to long run incremental costs.

9 Q Can you tell me where in your testimony in your  
10 exhibits you've identified that long run incremental cost  
11 as providing access?

12 A As I indicated earlier, we had asked for the  
13 information to produce that and did not get it and did not  
14 produce it. However, we've looked that in other  
15 companies.

16 And as I may have mentioned earlier, we found access  
17 often cost in the 1 to 2 cent per minute per end range.

18 Q Now, please reference attachment 2 of your  
19 testimony, the cost study that you've presented on this  
20 page, summary of recommendations has at column B,  
21 Commonwealth's calculation of fully embedded cost  
22 allocation and a revenue requirement of 11.2 million. Is  
23 that a correct understanding of that column?

24 A Yes.

25 Q And you have identified, I believe,

1 back -- although it's not shown on this chart -- on page  
2 14, a SLU based allocation which you recommend which  
3 yields a revenue requirement of 8.1 million. Is that  
4 correct?

5 A That's correct.

6 Q And going back to attachment 2, column 3  
7 demonstrates the revenues that you believe should be  
8 yielded in this proceeding. In other words, they are your  
9 recommended level from access. Is that correct?

10 A That is also correct.

11 Q And that yields \$6.5 million; correct?

12 A Yes.

13 Q So that the revenues that you are proposing be  
14 received by Commonwealth from intrastate access are less  
15 than the result either of Commonwealth's cost study or  
16 your cost study using SLU?

17 A Let me see if I can walk you through this so that  
18 you can understand what we're doing here. If I can have a  
19 moment to do that, Your Honor.

20 JUDGE KASHI: Can you answer his question first?

21 THE WITNESS: The answer is yes, how's that?

22 BY MR. KENNARD:

23 Q And please accept my assurances that I understand  
24 what you did in your testimony and --

25 MR. KEFFER: Please accept my assurances. I don't

1 care if you understand. I want the Judge to understand.  
2 If he wants to offer an explanation.

3 MR. KENNARD: That's what briefs are for.

4 JUDGE KASHI: I'll listen to it.

5 THE WITNESS: I'll try to be brief. And start with  
6 Column A. Column A, as it is indicated here, it's the  
7 revenues that Commonwealth Telephone has projected it will  
8 earn from access the InterLATA access in 1993, 8.2 from  
9 CCL and traffic sensitive would be 5.6 for a total of  
10 13.8.

11 Column B is revenue requirement that Commonwealth  
12 developed in their own part 69 study. By the way, when I  
13 answered your question earlier about capping CCL, I  
14 assumed you meant at \$6.1 million.

15 I hope you didn't mean at \$8.2 million. But, \$6.1  
16 million would be a cost based rate for CCL based on your  
17 own cost.

18 Column C basically shows that the revenue  
19 requirement that we determine by doing two things and  
20 there are two steps in column C.

21 Step 1 was we applied a SLU factor. We substituted  
22 the SLU factor for the SPF factor used in Commonwealth  
23 study. And that produced rates or revenue requirement of  
24 \$3 million for CCL as opposed to \$6.1 million.

25 That was the first effort, substituting SLU for SPF.

1 Secondly, what we did was adjusted the traffic sensitive  
2 rates to reflect the \$1.7 million that we think would be  
3 appropriate and appropriate reduction or share of the  
4 reduction from the \$14 million in overearnings from  
5 interstate. And we allocated that \$14 million to all  
6 ratepayers equally and came up to 1.7 for access.

7 Now, those two numbers, 3 million 3.5 sum to \$6.5  
8 million. That is, yes, in fact, below a SLU based  
9 calculation of cost. But it is also above what we think a  
10 long run incremental cost study would produce.

11 So it's still going to be within the range of reason  
12 in terms of cost. And I define that range of reason as  
13 being between long run incremental costs at the low end  
14 and fully contributed costs at the high end.

15 Rates should fall somewhere in that range. In my  
16 mind, totally inappropriate that they would be anywhere  
17 outside that range or above that range as they are today.

18 BY MR. KENNARD:

19 Q Mr. Rozycki, in the long run incremental studies  
20 that you reference, what is the contribution received from  
21 access for its use of the local loop?

22 A That would need to be determined within those  
23 studies.

24 Q And the other company studies you're using as a  
25 proxy here. What was the contribution of access service

1 to the local loop?

2 A Well, let me give you an example here. In  
3 Delaware, recently, we have been involved in a rate case  
4 with Diamond State Telephone and the contribution that the  
5 hearing examiner is passing on to the Commission for  
6 approval is zero.

7 They are setting CCL and Delaware at zero. That is  
8 the recommendation at this point. In Pennsylvania, that  
9 contribution is hard to identify as a specific number.  
10 But say, for instance, in the case of Bell, it's  
11 approaching a SLU based rate.

12 Q I understand that. But SLU based rate is within  
13 the context of a embedded cost study, isn't it?

14 A There's no other way to look at the contribution  
15 from CCL than really in an embedded cost. As part of a  
16 long run incremental cost study, there will not be cost  
17 calculated for CCL.

18 Q In other words --

19 A That would have to be added over and above the  
20 cost study results as contribution to dial tone line. And  
21 if I haven't indicated before -- and I don't mean it cut  
22 you off. But if I haven't indicated before, AT&T has  
23 never indicated that it's not willing to pay a  
24 contribution to the dial tone line.

25 The company has an opinion on what it ought to be.

1 And it ought to be zero. But it's never objected to  
2 paying a contribution in support of the local service.

3 Q All I want to establish, Mr. Rozycki, is within  
4 your range, you've stated a ceiling and a floor. And a  
5 floor is a long run incremental cost?

6 A Yes.

7 Q And the contribution made by access charges were  
8 they priced exclusively by long run incremental cost.  
9 Contribution to the local loop is zero; correct?

10 A From CCL, yes. If it were not specified, it  
11 would strictly --

12 Q If you had any contribution from the local loop  
13 would have to be layered on top of the long run  
14 incremental study?

15 A That's correct, yes. I'm sorry if I wasn't clear  
16 on that earlier.

17 Q Turning to an area where you were cross-examined  
18 earlier today by Mr. McClelland, that being the imputation  
19 of toll rates is and specifically attachment 3 to your  
20 testimony, you have not reviewed any traffic figures  
21 associated with these rate tables; correct?

22 A That's correct.

23 Q So that the statements made above these two  
24 tables regarding 21.68 percent of initial minutes, 80  
25 percent of additional minutes, and 60 percent of all

1 minutes is strictly a plotting of --

2 A No. Let me back up and restate. Now that I  
3 recall, we did have available in one of the  
4 interrogatories traffic studies. I'm sorry. I misspoke.

5 Q That distributed toll traffic across these rate  
6 bands and within these times of days?

7 A That is my understanding, yes.

8 Q And these figures, the 21.68, the 60 Percent are  
9 bases stated using that traffic data to weigh in these  
10 data points?

11 A Yes.

12 Q On the rate tables?

13 A Yes.

14 Q Would you please provide us with the studied and  
15 the underlying work papers that you used to identify --

16 A Yes, we can.

17 Q -- these percentages? Looking at the other side  
18 of this chart which are the access charges, I believe you  
19 agreed with Mr. McClelland that the figure of 14.97 cents  
20 of access per minute assumes an intracompany call?

21 A Yes, it does.

22 Q And you further agree that Commonwealth  
23 subscribers don't only call other Commonwealth subscribers  
24 within the LATA, but they may also call subscribers  
25 associated with other telephone companies, Bell of

1 Pennsylvania, for example?

2 A Yeah. And I don't mean to be -- I think AT&T, in  
3 this case, is not trying to indicate that Commonwealth's  
4 toll charges have to cover, impute the 14.97 cents. But  
5 they need to impute an appropriate weighted average of  
6 access cost that Commonwealth faces and that weighted  
7 average is probably going to come in -- I'm going to say,  
8 this is a wild guess, around 12 cents.

9 Q Well, I don't think we benefit from wild guesses.  
10 I understand your philosophic position. As I understand,  
11 you're trying to establish the objective or the standard.  
12 But you're unable to testify that Commonwealth doesn't  
13 already meet that standard, but you think they should be  
14 held up to that test?

15 A Exactly. If they do meet it and I will embellish  
16 it. If they do it, by all means, I think then their rates  
17 are in line with our beliefs. We think the Commission  
18 should require them to meet it though.

19 Q Now, further underlying the 14.97 cents is an  
20 assumption that the circuit miles for transport for AT&T  
21 are the same as Commonwealth?

22 A I'd have to say, yeah. I think that's -- if I  
23 understand what you're saying.

24 Q Let me walk through it and make sure you do.  
25 Transport is an access charge element that's included in

1 the 14.97 percent; correct?

2 A Right.

3 Q And you have utilized the transport component  
4 that AT&T pays Commonwealth Telephone?

5 A Right.

6 Q And how many points of presence or POPs does AT&T  
7 have in Commonwealth's territory?

8 A Gee, I don't know. I honestly do not know.

9 Q Would you be accept subject to check that the  
10 answer is none?

11 A I see no reason why you would tell me none if you  
12 don't mean it.

13 Q We're both being fooled if it's not true if you  
14 check it.

15 A Okay. All right.

16 Q AT&T has a POP in Scranton. Do you know that?

17 A I don't know where all of AT&T's POPs are.

18 Q Would you accept that subject to check?

19 A Sure.

20 Q Do you know where Mansfield is in Wellsboro,  
21 Pennsylvania?

22 A I don't.

23 Q If we took a map of Pennsylvania, would you  
24 accept that they're up in the northern tier in  
25 Pennsylvania and they are some 20 miles apart?

1 A Yes.

2 Q And in order for AT&T to haul the traffic the way  
3 AT&T has chosen to configure its network is to haul from  
4 Mansfield down to Scranton and then back up to Wellsboro  
5 to complete the call. Is that correct?

6 A It may well be, yeah.

7 Q If your assumptions are true and your subject to  
8 check that's a distance of about 200 miles?

9 A I don't know.

10 Q Subject to check?

11 A It wouldn't be 200 miles at Commonwealth's rates.

12 Q Well, the transport component would be based upon  
13 those distances in that mileage that AT&T would pay;  
14 correct?

15 A That's correct.

16 Q But Commonwealth doesn't transport itself that  
17 way. It goes interest office right from Mansfield to  
18 Wellsboro; correct?

19 A I assume you're correct, yes.

20 Q So that this number that you've stated for  
21 access, do we understand each other the answer is, yes, it  
22 includes a higher transport level than Commonwealth itself  
23 should pay or would pay given the configuration of its  
24 network?

25 A Well, it does -- it includes the rates that are

1 applicable to AT&T and takes those into consideration. So  
2 it looks at the access AT&T would need to purchase. To  
3 the extent that we are faced with different rates, if you  
4 will, than the company is internally, then, yes, we would  
5 have a different set of costs than the company might have  
6 here.

7 Q Just to be specific, the rates are the same. The  
8 mileages are different and you agree that Commonwealth  
9 should use its own transport miles and not those  
10 associated with AT&T's network?

11 A Yes.

12 Q Now, is it your testimony, Mr. Rozycki, that each  
13 and every route on the Commonwealth's system irrespective  
14 of whether it's day, night or evening should fully recover  
15 the associated access charges, or is your testimony --

16 A Repeat the question.

17 Q That each and every route during each and every  
18 time of the day and week within each and every mileage  
19 band should fully recover the associated access charges;  
20 or are you setting forth the proposition that on a total  
21 service basis, the toll revenues should recover the access  
22 expenses which you would impute?

23 A It would be acceptable to AT&T to use a weighted  
24 cost in imputing access and one way of weighting that cost  
25 would be to take the total revenues and match them with

1 the total access -- rated access cost. In other words,  
2 tariff had access rates.

3 And it's very important we understand we're not  
4 talking about imputing costs. We're talking about  
5 imputing access rates here.

6 Q I understand.

7 A This is why I was having a little trouble with  
8 your analogy. Our rates here and if it's not noted here,  
9 it should have been in a footnote, are based on 10 miles  
10 of access. So not 200 miles of transport.

11 Q There's no way it's not showing on here how you  
12 got the 14?

13 A That's an omission. When we do these studies, we  
14 always assume a 10-mile transport leg.

15 Q Would you please, as a data request, identify how  
16 you billed the 14.97 cents of access charge utilized in  
17 attachment 3?

18 A We can do that. No problem.

19 MR. KEFFER: Let the record reflect that I just  
20 handed that to counsel.

21 MR. KENNARD: We'll look at it later. And if it's  
22 responsive, that's fine. But the data request stands.

23 MR. KEFFER: That's my original.

24 BY MR. KENNARD:

25 Q Going back to your previous answer, I want to

1 make sure that we understand each other. You said  
2 something about a weighted average rate. And I didn't  
3 mean to bring it into weighted average.

4 What I meant to say is, is it acceptable in your  
5 opinion and to serve your theory that an aggregate toll  
6 revenues are greater than access rates imputed for that  
7 service?

8 A Yes, provided that the access rates that you're  
9 using include terminating access rates, the actual  
10 terminating access rates that you pay under I-Thorp or  
11 through the inter-exchange rates, the inter-LATA rates, as  
12 well as your own rates to originate the cost.

13 Q Thank you. I think we understand each other.  
14 Can you reference yourself to page 16 of your testimony  
15 and talk about CCL cap.

16 You note in your testimony two methods of capping.  
17 One is a revenue cap and one is a per line cap?

18 A There are two methods accepted in Pennsylvania,  
19 probably others.

20 Q And looking at the 25 companies listed in the  
21 enclosed table that starts on 16 and goes over to 17,  
22 only the first two companies, Bell and GTE were revenue  
23 capped. Is that correct?

24 A That's correct.

25 Q All the remainder have been per line caps. Is

1 that correct?

2 A That is also correct.

3 Q I think you agree previously that all these  
4 companies have rate activity or sought to become a  
5 recipient of revenues under the Pennsylvania toll fund.  
6 Is that correct?

7 A I'm sorry. I'm not sure what you're saying.

8 Q Each one of these companies listed that have  
9 either had rate activity since the first one was capped if  
10 '85 or sought to become a recipient under the Pennsylvania  
11 toll fund?

12 A No, that's not accurate. There are also  
13 companies under here that they have voluntarily  
14 established cap rates.

15 Q And which ones would those be, sir?

16 A Well, let's see here. Denver and Ephrata,  
17 Bentleyville Telephone Company, Palmerton Telephone  
18 Company.

19 Q Is that it?

20 A Yes. No, it's not it. I might also add that  
21 ALLTELL, Brookville Telephone Company that is below the  
22 list has voluntarily agreed to cap as part of their  
23 merger. And there are, of course, other companies that  
24 we are -- that AT&T is negotiating with.

25 Q Okay. Would you agree that the majority of these

1 LECs capped at a minute of use charge of 4.71 cents?

2 A No, I would say it's probably 50/50. There's  
3 probably a split, half and half. Those that have reduced  
4 and those that have capped at 471.

5 Now, if you're going to tell me that 13 out of the  
6 25 is a majority -- I'm not sure of the exact numbers. I  
7 think it's about half and half.

8 Q But at least half have capped at a level of 4.71?

9 A That would be right.

10 Q And that equivalent rate is greater than  
11 Commonwealth's charge of 4.33 cents per minute?

12 A We're talking about little companies not a large  
13 company like Commonwealth Telephone Company.

14 Q On page 17, the first Q and A, the rationale that  
15 it is more appropriate to recover NTS costs on a  
16 non-traffic sensitive basis is true of both revenue  
17 capping and per line capping; correct?

18 A Hang on one second. I was on the wrong page.  
19 Can you ask the question again? Go ahead. I'm sorry.

20 Q The first Q and A?

21 A Yeah.

22 Q What was the question, again? That the rationale  
23 of recovering NTS cost on a non-traffic sensitive basis is  
24 served either by revenue capping or per line capping,  
25 neither one is traffic usage sensitive; correct?

1           A   That would be correct, neither one is usage  
2 sensitive. One is growth sensitive and one is not.

3           Q   One is access line growth sensitive; correct?

4           A   That's correct. And for a company that is  
5 collecting well above a SLU based level, there's no real  
6 need to be setting a cap on an access line basis.

7           Q   And then the next sentence you say Commonwealth  
8 dial tone line costs does not various with usage. Would  
9 you agree, sir, though that dial tone line costs will  
10 various with time?

11          A   Yeah, most likely downward.

12          Q   Now, of the companies listed within the chart at  
13 the bottom of 16 and top of 17, did AT&T seek what you  
14 have sought in this proceeding and that's a SLU based CCL  
15 traffic sensitive access elements at cost?

16          A   Are you asking which -- do you want to restate  
17 the question? I'm not sure what the question is.

18          Q   If in these cases that were in the process of  
19 being litigated or developing on the record evidence, did  
20 not AT&T seek -- basically what you seek here is SLU based  
21 CCL and a traffic sensitive element set cost?

22          A   In at least a number of these cases, yes, we  
23 sought a SLU based cost rate.

24          Q   And isn't it true that AT&T settled many of these  
25 cases in exchange for simply a per line cap?

1           A For very small companies yes, we have a tendency  
2 to settle. There's -- you have to understand, small  
3 companies have very little source of revenue. And access  
4 is their primary source. And AT&T may be their primary  
5 carrier. But 95 percent of their minutes may go over AT&T  
6 service.

7           So to that extent, we're not trying to beat these  
8 companies over the head and get them to establish SLU  
9 based cost. We'd love to see that happen. But we have  
10 not been persistent in that regard.

11           With larger companies, as you can understand, will  
12 be much more consistent and larger companies, of course,  
13 have a much broader source or revenue base to draw their  
14 total revenues from and their contributions to the dial  
15 tone line from.

16           Q Is it also true that where these cases were  
17 litigated to conclusion, that PUC only allowed or granted  
18 as relief to AT&T a CCL per line cap?

19           A I view the Bell case and GTE case as being a  
20 litigated conclusion. I'm not sure what -- I'm not sure  
21 of the question.

22           Q It's your recollection that the GTE case listed  
23 secondly in the 1986 case was litigated to conclusion?

24           A Define litigated conclusion. I'm not sure.

25           Q The Commission resolved the case on a polling of

1 the issues and there was no settlement?

2 A I'm not sure. But I think in the Bell and the  
3 GTE case, there was a polling of the issues. There may  
4 have been agreements established by AT&T and Bell and GTE  
5 in those cases. But they were full blown rate cases.

6 Q I understand that they were full blown rate  
7 cases. I'm talking about cases that were litigated to  
8 conclusion. There was no settlement of rate design issues  
9 and the Commission resolved it by polling?

10 A Again, I think in those cases and I'm shooting  
11 from the hip going from recollection, those cases were  
12 resolved by a combination of settlement and issues  
13 resolved by the Commission. And I may be wrong.

14 Q Are you aware of any cases that were litigated to  
15 conclusion from this list?

16 A Yes, there are some.

17 Q And of those, was the entirety of the relief  
18 granted to AT&T in per line cap?

19 JUDGE KASHI: There was only two cases that weren't  
20 per line caps.

21 MR. KENNARD: The entirety of the relief. There's  
22 no reduction, there's only a cap.

23 THE WITNESS: Restate the question.

24

25 BY MR. KENNARD:

1 Q Let me state it another way. Identify for me any  
2 case in this list that was litigated to conclusion where  
3 the relief was a reduction on CCL on a cap?

4 A The only one that I know of on the list that was  
5 litigated to conclusion, and there are a couple of early  
6 case that may fit in the bill, was the Breezewood case.  
7 And in that case, I think we received a per line cap.

8 And if I'm not mistaken, no reduction in CCL. But  
9 Breezewood is a tiny company. I'm not sure because I  
10 wasn't in this. I don't know about Venus, Sugar Valley,  
11 Citizens Utilities and Pymatuning Telephone Company, and  
12 Oswayo River.

13 I'm really not sure about those. But most of these  
14 cases have been settled. I mean, do you want me to say  
15 that? I mean, there it is. I'm not sure what you're  
16 getting at.

17 Q They've been settled in exchange for a per line  
18 cap?

19 A And often reductions.

20 Q Would you please identify for me which of these  
21 cases also at the time the cap was put into place also  
22 required a reduction --

23 MR. KEFFER: This is really dragging on and turning  
24 into a game of test your memory for the last 8 or 9 years.  
25 I mean, the Commission's files and records speak for

1 themselves. The orders that came out in the cases  
2 describe what happened. And if Mr. Kennard wants to cite  
3 in his briefs what happened in some of these other  
4 proceedings, I think he can do so.

5 I think it's a little unfair to expect Mr. Rozycki  
6 to remember what happened 5 or 7 or 9 years ago and put it  
7 into the record.

8 JUDGE KASHI: Do you remember, sir?

9 THE WITNESS: I can specifically say on some of  
10 them. Would you like me to list them? I am not going  
11 to --

12 JUDGE KASHI: We already know you're unsure from  
13 Venus and Oswayo.

14 THE WITNESS: I do know some of those involve  
15 decreases. I'm not sure they can. Canton involved a  
16 decrease. Enterprise involved a decrease. Conestoga  
17 involved a decrease.

18 Lakewood Telephone Company involved a decrease.  
19 Breezewood no decrease. ALLTELL a decrease. Denver and  
20 Ephrata, as I recall, no decrease. That was a voluntary  
21 cap.

22 North Pittsburgh a decrease. Bentleyville a  
23 voluntary cap, no decrease. ALLTELL-Murraysville, I'm not  
24 sure on that one. I'm honestly not sure.

25 Now, all of those listed on October 5th,

1 Northeastern, Citizens Telephone, Ironton, Yukon Waltz,  
2 North Penn, and M&M Mahanoy and Mahantango and Armstrong  
3 Telephone Company were done related to the telephone and  
4 involved no decreases. And the final one Palmerton  
5 Telephone Company, I think it was voluntary. And I think  
6 it included a decrease.

7 BY MR. KENNARD:

8 Q Okay. Palmerton cap is not the result of toll  
9 fund participation?

10 A No.

11 Q It was a voluntary?

12 A Yes.

13 Q And you said Bentleyville was voluntary as well?

14 A Yes.

15 Q And that was not the result of a rate case?

16 A Absolutely correct, it was not the result of a  
17 rate case.

18 Q When Mr. Keffer asked you questions on direct  
19 examination relative to the settlement and I know you know  
20 parts of it but you don't know all of it?

21 A No, I honestly do not.

22 Q You know that there's an element of a touch tone  
23 reduction in there. I'm sure you'd accept that there are  
24 other elements and that's not the toll total dollar value  
25 of the settlement.

1 But what I do want to focus on and what you should  
2 know and I hope you know, is that Commonwealth has offered  
3 to place a per line cap on access charges intrastate if  
4 AT&T will join with the remaining parties into that  
5 settlement. Do you understand that?

6 A Yes, I do.

7 Q And AT&T, to date, has rejected that offer and  
8 sought to lower access rates as well as cap them. Capping  
9 is not a enough for your client's perspective. Is that  
10 correct?

11 A That is correct. And to be more specific, what  
12 AT&T wishes here and we think it's totally appropriate is  
13 that if there are reductions in this case, those  
14 reductions should flow first to those rates, to those  
15 ratepayers who are paying costs -- who are paying rates  
16 well above costs.

17 And if there are additional funds available, then  
18 flow to those customers whose rates are well below cost.  
19 As I indicated early, local service isn't picking up 50  
20 percent of its cost. And yet, it's going to get a rate  
21 reduction.

22 I mean, it's great that local service rates are low.  
23 But as we've indicated in the testimony, they're low  
24 primarily because access rates have been held so high.  
25 And access rates are, in fact, above cost by using

1 Commonwealth's own cost studies.

2           So, it's our position in this case that if there are  
3 to be rate reductions, they ought to come to access first.  
4 There are great local rates in Commonwealth territory.  
5 There are not great access rates, and we'd like them to be  
6 in somewhat better.

7           Q   Great in the sense their low?

8           A   I'd love to have a local rate like that.

9           Q   Does not have a per line cap reduce the growth of  
10 minutes revenues and, therefore, yield some future rate  
11 relief relative to doing nothing, as compared to doing  
12 nothing?

13          A   Well, as we go out into the future, yes, the per  
14 line cap is better than nothing. I mean, absolutely. I  
15 can't disagree with that.

16          But a per line cap in a case in a company like  
17 Commonwealth, would appear to be pretty hollow because  
18 Commonwealth's own projections in this case indicate that  
19 access and lines are growing practically nil.

20          There seems to be no growth. So we're not going to  
21 realize much in the way of savings. Now, if there is  
22 substantial growth there 4, 5 percent a year, yeah, we'll  
23 see some savings in the out years. It will start to  
24 happen.

25          Now, by contrast, a revenue cap to the extent

1 that -- and this is no in no way fool proof either. To  
2 the extent that minutes grow, a revenue cap reduces the  
3 effective CCL rate more quickly than a line cap does.

4 Q I'm surprised to hear you say that there is  
5 virtually no growth in Commonwealth's territory. Hasn't  
6 the Company forecast growth underlying its current  
7 exhibits of 2 percent for access and 5 1/2 percent for  
8 toll? Would you accept that subject to check? I think  
9 you can verify it in information.

10 A 2 percent is real low by Pennsylvania standards.

11 Q I understand but it's not nil. It's 2 percent?

12 A Okay. I agree it's not nil. It's 2 percent.

13 Q And toll growth is 5 1/2 percent?

14 A I don't know how that affects AT&T.

15 Q Well, if a cap is not placed, access revenues  
16 grow by 5 1/2 percent because toll usage is growing at  
17 that rate. If an access line cap is placed, the growth in  
18 that revenue stream is arrested to a 2 percent level?

19 A Okay. You're saying lines are growing at 2  
20 percent?

21 Q Yes, sir.

22 A Yes. The growth would be arrested to a 2 percent  
23 level. If you're saying toll, Commonwealth long distance  
24 toll is increasing at 5 percent. That's one thing. But I  
25 don't think your revenue for access shows 5 percent

1 growth. If it does, I missed it. It was virtually no  
2 growth, as I recall.

3 Q Well, to the extent there is a difference between  
4 access line growth and access usage growth, if a cap was  
5 put into place on January 1, 1994, for example, then AT&T  
6 and the IXCs would pay less at the end of 1994 than they  
7 would at the absence of a per line cap; correct?

8 A To the extent there is a per line growth, yes.

9 Q And Commonwealth has calculated that that  
10 savings, comparing those two growth rates and I think we  
11 presented that to AT&T as part of settlement discussions,  
12 was about \$335,000.00; correct? Do you recall that  
13 figure?

14 A No, I don't even know if I was shown that figure.

15 Q You were just explaining the concepts and not the  
16 dollar value associated?

17 A Yes.

18 Q Okay. I understand. I'm going to move to a  
19 CLD, if you want to take a break.

20 JUDGE KASHI: Take a 15-minute recess.

21 (Whereupon, a brief recess was taken.)

22 JUDGE KASHI: Back on the record. Is it your  
23 understanding, sir, and I think I want to consolidate one  
24 spot what Mr. Kennard has just asked concerning the  
25 settlement that AT&T's position according to the

1 settlement is to not participate unless they get a cap and  
2 a reduction and that the reductions that we're talking  
3 about flow back to AT&T are to flowing back to the local  
4 users?

5 THE WITNESS: I think you need to ask AT&T's attorney  
6 that question as opposed to me because I don't know that  
7 I'll be handling that. I'm not going to be handling the  
8 negotiations there.

9 MR. KEFFER: Do you want me to take that?

10 JUDGE KASHI: I thought that's what he testified to.  
11 I wanted to consolidate the three.

12 THE WITNESS: I mean --

13 JUDGE KASHI: If it's in the record, it's in the  
14 record. If it's not, it's not.

15 BY MR. KENNARD:

16 Q Thank you, Your Honor. Turning your attention to  
17 that portion of your testimony that relates to  
18 Commonwealth Long-Distance Company. Could you reference  
19 specific attention to page 28, please?

20 A One second, please. Your Honor, I'm sorry. I  
21 would recommend that to AT&T. And I'm not trying to -- I  
22 didn't mean to dodge the question at all. That wasn't my  
23 intent. In negotiations, the AT&T attorney will handle  
24 that. But I would advise AT&T with agreeing with that  
25 approach. I'm sorry.

1 Q Page 28.

2 A Yes.

3 Q You have quoted in the middle of the page in bold  
4 face a portion of Chairman Rolka's motion which was  
5 adopted by this Commission that the Commission's Law  
6 Bureau should make appropriate recommendations regarding  
7 the Commonwealth situation?

8 A Yes.

9 Q And that relates back to the types of issues  
10 raised on page 27 relative to the relationship between a  
11 local exchange carrier and its affiliated reseller?

12 A That's correct.

13 Q Now, do you know if the law bureau staff is, in  
14 fact, investigating the relationship between Commonwealth  
15 Telephone Company and Commonwealth Long-Distance Telephone  
16 Company?

17 A It is my understanding that the Commission is.  
18 I'm not sure if it's the law bureau.

19 Q And is not true that AT&T has provided the  
20 Commission staff or the persons associated with the  
21 investigation a copy of those portions of your testimony  
22 that you present here today that relate to CLD?

23 A I don't know. I mean, if they have, I haven't  
24 been told that.

25 Q Would you accept that subject to check that that,

1 in fact, has happened?

2 A Yes.

3 MR. KENNARD: Your Honor, I would move to strike Mr.  
4 Rozycki's testimony starting at page 26 and continuing  
5 through to page 36 with the exception of the last question  
6 and answer. That is the entirety of -- I take that back.  
7 Page 35, please summarize your testimony. And the purpose  
8 here is to excise the record evidence that AT&T attempts  
9 to adduce in this proceeding which relates to Commonwealth  
10 Long-Distance.

11 Now, I would do so on several basis, Judge. First  
12 off, that the issue of what Commonwealth Long-Distance  
13 Company is doing or isn't doing is not relevant for the  
14 purpose of this investigation.

15 This investigation was established to review first  
16 and foremost Commonwealth's telephone relationship with  
17 its parent C-Tech, specifically the management fees, and  
18 then to investigate earnings.

19 The issue of CLD and its behavior or its  
20 advertising and the issues contained in Mr. Rozycki's  
21 testimony are not relevant to the scope of that  
22 proceeding.

23 Secondly, the focus of Mr. Rozycki's criticism are  
24 upon Commonwealth's Long-Distance's behavior and not that  
25 of Commonwealth Telephone. It's fundamentally unfair to

1 boot strap these issues into a case that involves a  
2 totally different corporation that is a local exchange  
3 carrier.

4 If there is a complaint, it is properly leveled at  
5 Commonwealth Long-Distance Company and Commonwealth  
6 Telephone, has a very difficult time trying to defend  
7 against those accusations because all the books, all the  
8 records, all the analogies are in a separate company.

9 Thirdly, Judge, the issue of CLD's name and its  
10 marketing is the subject of a separate staff investigation  
11 undertaken pursuant to this Commission's regulations  
12 regarding informal investigations.

13 And AT&T's attempts to place that matter here  
14 represent an unnecessary duplication of Commission  
15 efforts.

16 Fourthly, what AT&T is doing is forum shopping; and  
17 they were trying to get you to reach a conclusion and  
18 trying to get the law bureau to reach a conclusion.

19 And by forum shopping, maybe we will get some  
20 favorable response. And one of those two investigations  
21 that places Commonwealth Telephone in double jeopardy.

22 On those basis, Judge, we do not think this issue is  
23 properly here. It is being addressed elsewhere.

24 JUDGE KASHI: Do you have a response?

25 MR. KEFFER: Yes, I do. There are two

1 investigations going on that involve related issues. But  
2 they are very different investigations. In this  
3 proceeding, we are looking at the actions of Commonwealth  
4 Telephone Company.

5 And Mr. Rozycki's testimony addresses actions that  
6 Commonwealth Telephone Company has taken to give what we  
7 believe is an unfair competitive advantage to its  
8 affiliate, Commonwealth Long-Distance.

9 In the other proceeding that Mr. Kennard referenced,  
10 the Commission is looking at it from -- I guess looking at  
11 the other side of the coin. That investigation  
12 specifically involves Commonwealth Long-Distance.

13 So there is a distinction all though the issues are  
14 related. This case is looking at Commonwealth Telephone.  
15 The other informal investigation that the law bureau is  
16 conducting is looking at the access of Commonwealth  
17 Long-Distance.

18 So there is a difference in the parties. As far as  
19 the allegations of forum shopping, I didn't start these  
20 two cases. The Commission did.

21 I would be happy to have all of these issues wrapped  
22 up into one investigation. But that's not the way the  
23 Commission has addressed it, and I feel like I've had to  
24 accept the proceedings as they've occurred. And I've had  
25 to present evidence accordingly.

1           So I guess the primary response is this case  
2 involves Commonwealth Telephone. And the allegations that  
3 we've raised in our testimony are directed at the actions  
4 of Commonwealth Telephone and relief that should apply to  
5 Commonwealth Telephone.

6           The other investigation the law bureau is doing is  
7 for Commonwealth Long-Distance.

8           JUDGE KASHI: I will take your motion, sir, to  
9 strike under advisement and ask that you proceed with your  
10 cross examination.

11          MR. KENNARD: Thank you, Your Honor.

12 BY MR. KENNARD:

13          Q Referencing the bottom of page 26 of your  
14 testimony, Mr. Rozycki, the conclusion stated in the  
15 second sentence of that Q and A at the bottom, many  
16 customers do not realize, that sentence, is a conclusion  
17 reached based upon the survey that you took. It is  
18 described in the next sentence. Is that correct?

19          A That's correct.

20          Q Now --

21          JUDGE KASHI: It is the -- that is the admittedly  
22 unscientific study?

23          MR. KENNARD: Yes.

24          JUDGE KASHI: I wanted to make sure we have the  
25 right one.

1 MR. KENNARD: It is the admittedly unscientific  
2 study.

3 BY MR. KENNARD:

4 Q The survey was undertaken by three individuals  
5 working in AT&T's government affairs organization?

6 A Yes.

7 Q Do they have any training in public polling, the  
8 individuals conducting the study?

9 A Quite honestly, I do not know.

10 Q The survey itself consists of a two-page sheet.  
11 Is that correct?

12 A That's correct.

13 Q And the two-page survey was designed by whom,  
14 sir?

15 A Someone within AT&T with a marketing degree.

16 Q Who was that individual?

17 MR. KEFFER: Me.

18 MR. KENNARD: Is that a spontaneous explanation,  
19 Judge?

20 THE WITNESS: That was AT&T's attorney, Mr. Keffer,  
21 who is present in the room.

22 BY MR. KENNARD:

23 Q Does Mr. Keffer have any degrees in public  
24 polling or public attitude surveys?

25 A Yes. He has a marketing degree and a number of

1 courses in survey design analysis and marketing.

2 Q And that survey was designed strictly for the  
3 purposes of this proceeding?

4 A Yes. And as we have indicated, it was not  
5 intended to be scientific. It was more, take a look, see  
6 was out there. Let's understand what these people  
7 believe.

8 Q So the survey has no value, is what you're  
9 saying?

10 A No, it has value. Whether or not it would  
11 undergo close scrutiny, I don't know. But I think it  
12 suggests very clearly that this should be opened up for  
13 further investigation. These people understand that there  
14 is one company and one company only.

15 Q Do you think the survey is fair in the way it  
16 goes about asking the questions?

17 A You mean does it take advantage of the people who  
18 are surveyed? I don't know what your question means.

19 Q Do you think it fairly presents the questions to  
20 them and ask for their discretion of their point of view?  
21 And or do the questions suggest the result?

22 Your Honor, I'm handing out AT&T's response to a  
23 Commonwealth interrogatory. Ask to be marked CTCO Cross  
24 Examination Exhibit Number 2.

25 JUDGE KASHI: So marked for purposes of

1 identification.

2 (CTCO Cross Examination Exhibit Number 2 was  
3 produced and marked for identification.)

4 MR. KEFFER: Your Honor, point of clarification.  
5 Earlier in this proceeding when I attempted to introduce a  
6 portion of a data response, you asked that the entire  
7 response be included in the exhibit. Is that -- I mean,  
8 this is a piece of our response. It's not the entire  
9 response.

10 MR. KENNARD: It is a copy of the survey form being  
11 used.

12 MR. KEFFER: But it omit the answer pages that were  
13 attached.

14 JUDGE KASHI: Do you have a problem? Is this the  
15 survey that he's now cross-examining?

16 MR. KEFFER: My only problem is that this is not the  
17 entire data response that we provided. This just springs  
18 off an earlier ruling made about something that I  
19 introduced.

20 I took a piece out of their data responses and  
21 introduced. And you said, No, I want the entire response.

22 JUDGE KASHI: Was the entire response appropriate to  
23 the question in that? I quite frankly don't know what  
24 you're referring to. If you're telling me that in the  
25 data response, Mr. Kennard is now questioning about the

1 survey form that was used, you believe there is something  
2 else in that data response that needs to be put in as this  
3 exhibit in order to conduct that cross examination.

4 MR. KEFFER: Let him go ahead and I'll clarify as we  
5 move along.

6 BY MR. KENNARD:

7 Q Is this the form that was used --

8 A Yes.

9 Q -- during the questioning? In the first page,  
10 the intention is to identify if the company is a  
11 Commonwealth Long Distance subscriber?

12 A Correct.

13 Q And in the third box, Commonwealth is listed as a  
14 toll provider. Is that correct?

15 A Third box?

16 Q Yes, sir.

17 A No, sir.

18 Q The first one is the name of the telephone  
19 company that provides your local service?

20 A That's local service.

21 JUDGE KASHI: It's the fourth box.

22 BY MR. KENNARD:

23 Q What is the long-distance company that you used  
24 for dial long distance costs to other states,  
25 Commonwealth?

1 A Right.

2 Q Is that a reference to Commonwealth Telephone?

3 A Well, I think it was placed there to give  
4 customers an option as to how they recognize their  
5 company, whether it's Commonwealth or Commonwealth Long  
6 Distance.

7 JUDGE KASHI: He's probably intended to make it more  
8 unscientific than it is. I don't know why you're  
9 bothering.

10 MR. KENNARD: Here's my dilemma. If they put in a  
11 survey that says it's admitting unscientific. It has no  
12 record weight and shouldn't be relied upon.

13 JUDGE KASHI: So why are we bothering?

14 MR. KENNARD: Judge, I move to strike the whole  
15 reference to the survey. If it stays in, Judge, then it  
16 gets argued. And somebody less learned in these matters  
17 than Your Honor might put some weight on. That's my  
18 concern, honest. We haven't been given --

19 JUDGE KASHI: Go ahead.

20 MR. KENNARD: Go ahead with the cross examination?

21 JUDGE KASHI: With the cross examination.

22 BY MR. KENNARD:

23 Q Can you reference Commonwealth's interrogatory  
24 set 1, number 15, directed at AT&T and AT&T's response?  
25 Number 15, Did Commonwealth Telephone ask AT&T for a full

1 and complete copy of the survey results?

2 A Yes, it did.

3 Q And other than the two pages that have been  
4 marked as Commonwealth Cross Examination Exhibit Number 2,  
5 all Commonwealth got back was a few completed sheets. And  
6 then of those sheets, it was second page only, no first  
7 pages?

8 A It appears that what was provided to you was  
9 second page only, yes.

10 Q And the response says that 141 calls were  
11 attempted and 53 persons called were willing to  
12 participate?

13 A That's correct.

14 Q And the second sheets given relate only to 16 of  
15 those calls? Subject to check, there's 16 there, Mr.  
16 Rozycki?

17 A Subject to check, correct, yes.

18 MR. KENNARD: Your Honor, again, I'm going to move  
19 to strike the survey. It's admittedly unscientific. The  
20 people involved had no training in this type of matter.  
21 And Commonwealth, despite the fact has asked for a full  
22 and complete copy of the survey, wasn't provided with one.

23 MR. KEFFER: Let me address the last two points.  
24 There's no fact in evidence that says these people didn't  
25 receive training.

1 MR. KENNARD: There's no fact that support that they  
2 did.

3 MR. KEFFER: You asked him if he knew, and he said  
4 he didn't. That doesn't establish the fact that they did  
5 not because they did.

6 Secondly, today is the first time Mr. Kennard has  
7 suggested that AT&T's data response was inadequate. And  
8 obviously, now he wants to do this as a hearing room  
9 ambush.

10 If he had a problem with our response, he could have  
11 moved to compel. He could have called me on the telephone  
12 and asked for more data, which we would have provided.

13 It goes back to what I was referencing a moment ago.  
14 I think you need to see the entire response to get the  
15 full flavor of it.

16 JUDGE KASHI: All right. Mr. Kennard, I'm not going  
17 to grant your motion to strike on the survey. I think the  
18 survey and the response of the witness speak for  
19 themselves. And without any further argument in your  
20 brief, I find the thing to be virtually valueless.

21 And it's done nothing but take up our time and the  
22 record. To what end, I haven't the slightest idea. But  
23 I'm not going to throw it out because it only makes me  
24 susceptible upstairs so I can put to what it that was put  
25 before us here in this illustrious fashion.

1 BY MR. KENNARD:

2 Q With some risk, Judge, I want to ask two more  
3 questions about this survey and then I'll move on. Only  
4 10 of the 16 survey forms presented to Commonwealth  
5 checked affiliation with Commonwealth as a reason to use  
6 CLD. Would you accept that subject to check, Mr.  
7 Rozycki?

8 A Checked -- again, what did you say?

9 Q 10 of the 16?

10 A 10 checked what.

11 Q Checked the first box, affiliation of  
12 Commonwealth on the survey form?

13 A Yeah. Subject to check, 10 did. I'm not sure  
14 why you say only.

15 Q Would you accept, subject to check, that with  
16 respect to many of these 10, low prices and good service  
17 were checked as additional reasons?

18 A As well as convenience which appears to be a  
19 frequent response, yes.

20 Q Let's move on to the Palmerton standards set  
21 forth in your testimony on page 27. Would you -- do you  
22 agree with these standards, Mr. Rozycki, personally as a  
23 professional?

24 A I honestly don't think they go far enough. But  
25 as a start, yeah. Under the circumstances, yes, I agree

1 with them.

2 Q And in this proceeding, are you seeking to apply  
3 these standards?

4 A I would say our standards are slightly more  
5 rigorous.

6 Q And please identify in what respect those are  
7 more rigorous.

8 A Well, for instance, the first standard for  
9 Palmerton is that PLDC will not use the logo of Palmerton  
10 Telephone Company or PENCOR in any marketing activity.  
11 AT&T's recommended first standard suggests that we require  
12 Commonwealth Long Distance to change its name which I  
13 think goes further than not using logo to exclude the word  
14 Commonwealth.

15 Standard 2 for Palmerton and our standard two are  
16 largely similar. We are requesting re-balloting of all  
17 customers.

18 Q I'm not talking about the remedy, just the  
19 standards that you seek to test CLDs and Commonwealth's  
20 performance against. What's the rules you're seeking to  
21 apply?

22 A I'm not sure I'm understanding your question.  
23 Let me think about that a minute.

24 MR. KEFFER: Your Honor, I mean, the purpose --

25 THE WITNESS: You want a legal cite?

1 MR. KEFFER: The purpose of the testimony is for  
2 evidence, not to engage in rule making. I would object.  
3 So I would object to the question. He's asking Mr.  
4 Rozycki to make rules.

5 JUDGE KASHI: He's presented what he believes is a  
6 situation here before the Commission, and I don't know  
7 that what he wants is of any value at the present time.  
8 It hasn't been put forth.

9 MR. KENNARD: Okay. I was trying to make some order  
10 out of what appeared to be just a series of diginets, if  
11 you will.

12 BY MR. KENNARD:

13 Q Mr. Rozycki, is CLD a separate corporation?

14 A Yes.

15 Q Does it maintain its own marketing sales and  
16 customer service representatives?

17 A I don't know that.

18 Q Were you told in response to AT&T interrogatory  
19 set 1, number 78 that such was the case?

20 A I don't recall, but I'll accept your rendition of  
21 that answer.

22 Q Do you have any reason to believe that the  
23 response to that interrogatory stating that the CLD does  
24 maintain its own marketing sales and customer sales  
25 representative is untrue?

1           A No, I do not. But I think as we've indicated in  
2 our testimony, there is a strong linkage between the  
3 marketing staffs of the two organizations. And that  
4 customers for Commonwealth, a local company, are often  
5 referred to Commonwealth Long Distance.

6           Worse yet, customers who call Commonwealth Phone  
7 Company who would like to take AT&T as their long-distance  
8 company are often attempted to be referred to Commonwealth  
9 Long Distance by the phone company.

10          Q I understand you're excited about this testimony  
11 and you want to say it as many times as you can. And it  
12 is in the record and you maintain that the advertising  
13 that you cited as attachment 4 to your testimony is  
14 jointly sponsored by Commonwealth Telephone and CLD?

15          MR. KEFFER: Where is that referenced in the  
16 testimony?

17 BY MR. KENNARD:

18          Q Does the witness maintain that?

19          A I can only answer that I think that question is  
20 true. If you will tell me that Commonwealth Telephone  
21 Company did not allow -- expressly refuses to allow this  
22 kind of advertising, then I could accept that there's a  
23 problem with my statement that they are jointly approving  
24 that. Yes, they are jointly approving that.

25          Did Commonwealth expressly -- Commonwealth Telephone

1 Company expressly prohibit Commonwealth Long Distance from  
2 this kind of advertising?

3 Q Mr. Rozycki, do you have any information that  
4 leads you to believe that Commonwealth Telephone Company  
5 assisted CLD in any way in drafting, create, funding,  
6 sponsoring or running any of the advertising contained in  
7 attachment 4?

8 A I have no knowledge one way or the other.

9 Q So, therefore, they are not joint advertisements?

10 A No, I didn't say that. And I won't say that  
11 because the advertisements expressly draw linkage to  
12 Commonwealth Telephone Company. They tell you in here. I  
13 can read from --

14 JUDGE KASHI: Mr. Rozycki, unless you see something  
15 that says read Commonwealth Telephone Company expressly,  
16 prohibit you, Commonwealth Long Distance Telephone  
17 Company, from using our name in any way that can be  
18 imputed to us and approving of your advertisements, you  
19 won't agree that is not a joint advertising?

20 THE WITNESS: I'm not going quite that far.

21 JUDGE KASHI: Okay. Not quite that far. What do  
22 you need?

23 THE WITNESS: Well, you know, they are saying one  
24 bill, one stamp, one company. And I read and I quote.  
25 Now, I don't see nor have I heard anything from

1 Commonwealth Telephone Company that would suggest that  
2 Commonwealth disagrees with this.

3 Now, no, it's not joint. Maybe it's just tacit. I  
4 don't know. It's there. And they're using the local  
5 company as a step to get up into the market. And very  
6 effectively I might add.

7 Is it joint? I guess maybe by your definition, no,  
8 it's not because it doesn't say that this is expressly  
9 approved by Commonwealth Telephone Company.

10 BY MR. KENNARD:

11 Q Mr. Rozycki, page 29, please, sir. The top of  
12 the page, you state -- you identify select quotes where  
13 the ads play up the affiliates relationship?

14 A Right.

15 Q Do not these same ads make it clear the CLD is a  
16 separate corporate entity?

17 A I'd say they make it clear in a court of law. I  
18 mean, if I'm a customer, I'm looking at one bill, one  
19 stamp, one company. Black and white. It doesn't say  
20 anything there about separate companies.

21 Q You've selectively quoted from these  
22 advertisements. Do these advertisements also make  
23 expressly clear a separate corporate relationship and make  
24 it clear that CLD and Commonwealth Telephone are not the  
25 same companies?

1           A   And I can only state that you're probably  
2 correct.  And, yet, as a customer, I am still going to  
3 recognize what I read in the big print not the fine print.  
4 Oh, this is Commonwealth Telephone Company, yeah.  I'll  
5 take long distance from them.

6           Q   Your testimony is customers just read the big  
7 print, they don't read the small print.  Is that your  
8 opinion?

9           A   A lot of customers, I think do.

10          Q   It is those customers that would be confused.  
11 The ones that read the fine print, to use your  
12 characterization, will understand that it is a separate  
13 company?

14          A   Well, what do you mean confused?  You said  
15 they're one company.  Why would they need to be confused?  
16 It says one company.  Pay one company over and over.

17          Q   Mr. Rozycki, if a customer reads other than the  
18 bold print, the customer will understand that they are  
19 separate companies; correct?

20          A   Yes.

21          Q   Now, would you also reference page 30, please.  
22 At the top you state several ads use only the word  
23 Commonwealth to describe Commonwealth Long Distance.  And  
24 then you list five bullets below that?

25          A   That's correct.

1 Q Are you stating that the only reference to CLD in  
2 the advertisement is by use of the word Commonwealth, or  
3 that, at some point, in some advertisements, only the word  
4 Commonwealth appears?

5 A Well, clearly, at some points in some  
6 advertisements, only the word Commonwealth appears. But  
7 the objective is clear, to create confusion.

8 Q Would you agree that each one of the five bullets  
9 you list on page 30, that the full corporate name appears  
10 at least once in the advertisements?

11 A Yes, I'll agree.

12 Q Is it not true that each advertisement contains,  
13 somewhere, a corporate name at the bottom, Commonwealth  
14 Long Distance Company, in localized format and then says  
15 an affiliate of Commonwealth Telephone Company?

16 A I'll agree with that, too. I don't want to beat  
17 a dead horse. But I think the notion an affiliate of the  
18 Commonwealth Telephone Company is to draw the  
19 relationship, draw the reader to the oneness, to the fact  
20 that they are related, not to help them understand that  
21 this is a separate company.

22 Q Is there other advertising, Mr. Rozycki, where  
23 CLD refers to itself only by the phraseology by its  
24 initial CLD and it doesn't use the word Commonwealth or  
25 Commonwealth Long Distance?

1 A I'm sure there is, yes.

2 Q So Commonwealth Long Distance refers to itself  
3 various ways in its advertisements. They call themselves  
4 CLD and calls itself Commonwealth Long Distance. They  
5 call itself Commonwealth Long Distance and calls itself  
6 Commonwealth; correct?

7 A Right.

8 Q Is there any place where it calls itself  
9 Commonwealth Telephone Company?

10 A No, it does not.

11 Q In some of the advertisements, I would note that  
12 there were two digits -- well, for example, on page 30 of  
13 your testimony, the third and middle bullet, Commonwealth  
14 Long Distance is advertising that you dial 53 instead of  
15 1.

16 At that time if the customer sought to make a toll  
17 call and dialed 1, what inter-exchange carrier would they  
18 receive to handle their call?

19 A I'm assuming that is a non-equal access office,  
20 that the ability to dial -- to identify carriers other  
21 than AT&T was not there. So that the only company they  
22 would have gotten was AT&T.

23 Q In order to reach other inter-exchange carriers  
24 such as CLD, additional special digits had to be dialed to  
25 access that carrier in a pre-equal access office?

1 A Yes, that is correct.

2 Q Was the fact that all 1 plus calls made by a  
3 subscriber defaulted to AT&T and an advantage to AT&T?

4 A I'm not sure you want my answer. You want my  
5 personal opinion or -- I mean I think it's a disadvantage.  
6 I think AT&T has been penalized and required to carry all  
7 of that traffic that is not very profitable.

8 Very high cost and non-equal access and offices  
9 required to be the provider of last resort. And it's not  
10 terribly a great benefit.

11 Q What kind of traffic are we talking about? Who  
12 is the subscriber that is not particularly profitable and  
13 AT&T would rather not carry?

14 A I'm not saying they would not rather not carry.  
15 AT&T wants to carry all. I'm saying they may not be very  
16 profitable.

17 Q So given that your objective is to seek all the  
18 traffic you can get, it was an advantage to be the 1 plus  
19 default carrier?

20 A An advantage to be -- you know, there is a  
21 significant cost that is associated with that so-called  
22 advantage. So many people believe it's an advantage. I  
23 personally do not. I think MCI is the company with the  
24 big advantages. It can pick and choose.

25 Q If AT&T had wanted to shed itself of the

1 responsibility of being the 1 plus calling, since you seem  
2 to view it that way, could it have told Commonwealth  
3 Telephone to go equal access earlier and shed that  
4 responsibility?

5 A AT&T has always wanted all the local companies to  
6 go equal access as early as possible.

7 Q Did AT&T ask Commonwealth to go equal access?

8 A I don't know.

9 Q Would you accept, subject to check, it was not  
10 AT&T never asked Commonwealth Telephone for equal access?

11 A Yes. I mean, I don't know what the point is.

12 Q What is the profile of the customer whose traffic  
13 is unprofitable, smaller customer?

14 A An access customer, smaller customer, yes.

15 Q Has AT&T ever asked for equal access for any  
16 telephone company in the United States?

17 A I don't know. I wasn't involved in that process  
18 is.

19 Q Before equal access --

20 A I'm sorry. Go ahead.

21 Q Before equal access came to Commonwealth  
22 Telephone and other carriers were able to utilize 1 plus  
23 calling, what was AT&T's market share?

24 A Restate the question.

25 Q Pre-equal access conversion, what was AT&T's T

1 market share with toll calls of CTCO subscribers?

2 A Well, we would have had -- AT&T would have  
3 carried a large percentage of the originating traffic.  
4 But customers did have the option of choosing MCI and  
5 Sprint and going through the 10 number routine. And I  
6 don't know how much of the terminating traffic came from  
7 other sources. So I honestly don't know.

8 Q Would you agree, subject to check, that  
9 pre-conversion equal access, AT&T enjoyed 97 percent of  
10 the originating toll traffic?

11 A There's no way in the world that I could check  
12 that. So I can't agree subject to check. If you'd like  
13 to check it, fine.

14 Q Your client is AT&T in this case;  
15 right?

16 A And I only know how much traffic AT&T carries or  
17 how much access they buy from Commonwealth. Commonwealth  
18 has not indicated how much traffic or how much access they  
19 sell in total. So I would not know.

20 Q Okay.

21 A Nor does AT&T know.

22 Q When did the equal access conversion start in  
23 Commonwealth's territory?

24 A I don't know that. After 1984.

25 Q Well, let's reference your attention to page 33

1 of your testimony, the first Q, the first paragraph in  
2 that answer.

3 A Are we on page 33?

4 Q Yes, sir. You identify some traffic statistics  
5 or market share statistics that year beginning and year  
6 end 1992.

7 What happened in 1992 that created the opportunity  
8 for other carriers to obtain significant market share of  
9 the toll business of Commonwealth's Telephone Company's  
10 subscribers?

11 A I'm sorry. What event occurred that caused  
12 Commonwealth's market share to grow from 26 percent to 50  
13 percent?

14 Q Yes, sir.

15 A I don't know. Could be equal access, but I'm not  
16 sure if it -- I mean, equal access can't be the right  
17 answer because they would have had zero percent.

18 Q Well, if it started in January of '92, that's the  
19 case. But if it started in '91, these figures would be  
20 fully consistent with that scenario; correct?

21 A Could be.

22 Q You don't know?

23 A No. But they are substantial numbers. The point  
24 is not the events underlying equal access to drive this.  
25 The point is that we haven't seen growth like this

1 anywhere.

2 Q Anywhere, Mr. Rozycki?

3 A Not to my knowledge. We can't find any.

4 Q Isn't it always the case that during the  
5 conversion to equal access to AT&T that it loses its  
6 plus responsibility, that it also loses market share?

7 A Oh, yeah, sure. 10 percent, 15 percent market  
8 share, maybe. But 24 percent in a year, no.

9 Q How many central offices did Commonwealth  
10 Telephone Company convert in 1992?

11 A I don't know.

12 Q If it was a lot of central offices, there could  
13 have been a lot the switching going on that year?

14 A That would not have made the percentage  
15 differences that we're talking about here, no.

16 Q Did Commonwealth Telephone make all IXCs of  
17 record aware of its plans to convert to equal access?

18 A I'm sure they did.

19 Q Under standard operating procedure, AT&T has  
20 notified -- or any IXC, for that matter, is notified 10  
21 days before the conversion of an exchange?

22 A I don't know that.

23 Q Accept that subject to check?

24 A I'll accept it.

25 Q And would you also accept that immediately after

1 the polling results were calculated, AT&T is notified of  
2 those results?

3 A Yes.

4 Q And what happens during the conversion to equal  
5 access? The customers are sent a ballot that lists all  
6 the IXCs of record and asked to select exchange carrier  
7 that they prefer?

8 A Yes.

9 Q And in this alphabet-ridden industry that's  
10 referred to as a preferred inter-exchange carrier or PIC?

11 A That is also correct.

12 Q When the customer is presented with an  
13 opportunity to simply check a box on a piece of paper and  
14 do business with a different IXC they then nominate to  
15 their PIC and that customer is able to reach that PIC  
16 through 1 plus calling?

17 A Correct. Are you asking me if that's the only  
18 method available to me?

19 Q That's the process used at Commonwealth?

20 A Yes, that's the process.

21 Q Could you reference your attention, please, to  
22 your answer to Commonwealth interrogatory 1, number 21,  
23 set 1, number 21? Let me know when your review is  
24 complete, sir.

25 A Okay.

1 Q Do you not state there in the last sentence that  
2 AT&T is not fully marketing its service in Commonwealth's  
3 territory?

4 A That's correct.

5 Q Would you reference your attention to your  
6 response to interrogatory number 21 -- I'm sorry, 22?

7 A Yes.

8 Q CTCO requested that AT&T provide a copy of all  
9 advertising published in Commonwealth's territory. Is  
10 that correct?

11 A Yes, that's correct.

12 Q Was any advertising copy provided to Commonwealth  
13 in response to this interrogatory?

14 A We indicated that would be undoubtedly a  
15 voluminous project and Commonwealth was invited to come to  
16 our offices and review that copy.

17 Q And does it not say that it's voluminous because,  
18 quote, most of AT&T's media adverting is national in  
19 scope, unquote?

20 A That's correct.

21 Q So whatever advertising there was into  
22 Commonwealth's territory during equal access was of a  
23 national and not local nature?

24 A I didn't say that.

25 Q Was there any advertising by AT&T during the

1 conversion of equal access?

2 A I don't have any knowledge of the specific local  
3 advertising that AT&T might be involved in any given  
4 company's territory.

5 Q Can a carrier advertise on the ballot itself?

6 A There are some requirements. I'm not in complete  
7 understanding of them. But I think the answer is, no.  
8 Outside of a certain two-line space allocated to each  
9 carrier, if they can manage to squeeze an advertisement  
10 into that two-line space, I guess they can. And I guess  
11 there are parameters into what they can and cannot say.

12 Q Does AT&T advertise within that space?

13 A AT&T lists its phone number in that space.

14 Q Does CLD advertise in that space?

15 A To my knowledge, they did.

16 Q Could you reference your attention to  
17 Commonwealth's response to AT&T interrogatory 72?

18 A Do you have a copy of that? I don't have it.  
19 Thank you.

20 MR. KENNARD: Your Honor, I ask that this be  
21 identified as CTCO Cross Examination Exhibit Number 3.

22 (CTCO Cross Examination Exhibit Number 3 was  
23 produced and marked for identification.)

24 JUDGE KASHI: So marked.

25 BY MR. KENNARD:

1 Q Mr. Rozycki, did Commonwealth Long Distance put  
2 advertising within the two-line parameters that you  
3 discussed before?

4 A I would call the words lowest cost with no  
5 monthly fee advertising.

6 Q And AT&T has no advertising, simply publishes two  
7 800 numbers?

8 A That's correct, as do virtually all of the other  
9 carriers.

10 Q Can a carrier request Commonwealth insert a bill  
11 stuffer during equal access conversion?

12 A I'm not sure. I'm sure you're going to tell me  
13 we can, that a carrier can. But I don't know that for a  
14 fact.

15 Q Does AT&T do that?

16 A Not to my knowledge.

17 Q Can a carrier undertake direct mailing during  
18 equal access?

19 A Yes, it can.

20 Q Does AT&T or did AT&T during this period?

21 A I don't know if Commonwealth did. I do AT&T does  
22 deal in direct mailing.

23 Q Can a carrier undertake local advertising in  
24 newspapers and radio during equal access conversion?

25 A Yes.

1 Q Did AT&T during the conversion of Commonwealth?

2 A As I indicated earlier, I don't know. Clearly,  
3 our national advertising would have appeared in the local  
4 press.

5 Q You do know for a fact that CLD advertised during  
6 equal access balloting in ads directly targeted to equal  
7 access?

8 A Yes.

9 Q And, in fact, you've included three examples in  
10 your testimony?

11 A Yes.

12 Q And there are other examples contained within the  
13 volume of information provided to you in response to a  
14 interrogatory which you included advertising copy but  
15 which you did not include in your exhibit?

16 A That's correct.

17 Q All other things being equal, Mr. Rozycki, would  
18 you expect that a carrier that did advertise through  
19 direct mailing, bill stuffing, and so forth during an  
20 equal access conversion period would get a greater market  
21 share than a carrier that did not?

22 A Well, I know that if that carrier possessed great  
23 name recognition to its customers, it definitely would.

24 Q Let me back up because I really don't mean to  
25 create an opportunity for you to qualify. I meant that

1 all the things being equal, two entities with similarly  
2 high recognition names or with low recognition names,  
3 would you expect those types of issues being not relevant,  
4 that one of the advertisers would get more market than one  
5 that didn't advertise?

6 A To a certain extent, yeah, I expect that there  
7 might be some differences.

8 Q Now, would you reference your attention, or maybe  
9 you're still there on page 33 of your testimony?

10 A Yes.

11 Q The last full paragraph, second to last line. Do  
12 I read that sentence correctly? Would it be correct to  
13 conclude from this sentence that, conversely, AT&T has of  
14 60 percent of the interstate minutes use?

15 A Yes, that would be correct.

16 Q Now, the figures that you set forth in the  
17 preceding paragraph are not minutes of use but, rather,  
18 they're customer accounts; correct?

19 A I assume they are because, yes, it's customer  
20 selecting. Yes, it is.

21 Q So is there any basis, is it fair to compare a  
22 statistic derived from customer account with a statistic  
23 based upon usage?

24 A Well, to the extent that customers are equal in  
25 nature, that there is a full range of customers within

1 CLD's market share that they have maintained. I might add  
2 that CLD is Commonwealth and Commonwealth Long Distance  
3 offered these numbers up in their annual report, if I  
4 recall.

5 To the extent that there's a full range of customers  
6 there, you'd see a similar number of share of minutes as  
7 you would interstate. I mean, but I don't know what the  
8 mix of customers is.

9 Q So you think the short answer is, yes, you think  
10 it's fair because the customer volumes are probably fairly  
11 equal. So number of customers is going to equal minutes,  
12 more or less?

13 A Without having any further information, I  
14 couldn't say anything but yes.

15 Q Well, let's look at the information that is  
16 available to you. If you look at the response given by  
17 Commonwealth to AT&T's interrogatory set 19 and which has  
18 AT&T minutes by use and year in Commonwealth's territory?

19 A Right.

20 Q Correct?

21 A Um-hum.

22 Q With response to set 2, number 85, which are the  
23 total minutes of use; correct?

24 A Yes.

25 Q And if you were to compare AT&T's share with the

1 total market share for the year 1992, would you agree,  
2 subject to check, that it is measured by minutes, AT&T had  
3 a 64.4 percent market share?

4 A Yes, I would agree with that.

5 Q So it appears, does it not, that the customers  
6 may not be equal; and their usage levels may not be equal?

7 A I don't even know if the basis of these numbers  
8 is equal -- okay. I don't know if the 26 percent to 50  
9 percent in my testimony is the equivalent market area that  
10 is identified in the response to this interrogatory.

11 Q Are you telling me that while CLD claims to have  
12 50 percent of the market as measured by the customers, it  
13 has less than 36 percent of the minutes?

14 A That's correct. And how much would that be? 36  
15 percent or 35 or 10 or what percentage of the minutes does  
16 CLD have? I don't know what to make of this. I mean, you  
17 say 50 percent in your annual report. Now, you're telling  
18 me here, based on minutes, it's not 50 percent. So you  
19 tell me, I can't.

20 Q Is there something less than 36 percent, Mr.  
21 Rozycki; correct? You can at least make that conclusion  
22 based upon this data?

23 A I would think so if they are being counted in  
24 exactly the same way.

25 Q Yes, they are, sir.

1           A   Okay.  I have to believe.  I have no way of  
2 verifying this.

3           Q   Palmerton Telephone just got equal access, did it  
4 not?

5           A   I believe so.

6           Q   Do you know what -- back up.  And the rules that  
7 you cite in your testimony were devised prior to the  
8 certification of the reseller affiliate.  Is that correct?

9           A   Correct.

10          Q   What market share did AT&T get during the equal  
11 access polling of Palmerton Telephone customers?

12          A   You'd have to ask AT&T's marketing department.  I  
13 have no idea.

14          Q   Would you please do that and provide that  
15 information as a data request?

16          MR. KEFFER:  I'll see if it's available.

17 BY MR. KENNARD:

18          Q   What, have you reviewed statistics relative to  
19 PIC selection by subscribers in local exchange carrier  
20 service territories whether it's an affiliated reseller?

21          A   The answer is no.

22          Q   So the figures demonstrated on page 33, 26 to 50  
23 percent may be low by industry standards.  They may be  
24 high.  You don't know.  I don't mean by industry  
25 standards.  I mean, by comparison to other similar

1 situations?

2 A As you've define it, in cases where there are  
3 affiliated resellers, it's feasible that they may be that.

4 Q At the top of page 33, you talk about excess  
5 charges being a dis-incentive for other long distance  
6 companies to market their services. Do you mean by other  
7 long distance companies? Other long distance companies  
8 other than the local exchange companies affiliate?

9 A I'm sorry. Restate the question.

10 Q Who are you referring to on line 4 of page 33  
11 where you use the phrase other long distance companies?

12 A Companies other than AT&T and Commonwealth. I  
13 mean, you know, companies like MCI, Sprint.

14 Q But CLD doesn't pay exactly the same access  
15 charges that AT&T does from exactly the same rate tables?

16 A I don't know. I think you've indicated that they  
17 do. But I don't know that for a fact, so.

18 Q Commonwealth Telephone has told you in  
19 interrogatories that they apply the same rate tables to  
20 CLD and AT&T and every other IXC that serves the  
21 territory?

22 A That's correct.

23 Q Do you have any reason to believe it's not true?

24 A I don't have any reason to believe that it's not  
25 true. As you've just state that Commonwealth Long

1 Distance has 35, 36 percent of the inter-LATA market, my  
2 question to you is where is the competition? If AT&T has  
3 64 percent and you've got 36, what room is there for any  
4 other competition?

5 Q I know you're being rhetorical, you don't want to  
6 engage in a debate?

7 JUDGE KASHI: Don't ask the attorney questions.

8 BY MR. KENNARD:

9 Q Therefore, the access charges would present the  
10 same dis-incentive if there are, in fact, dis-incentives.  
11 The CLD as they do to AT&T and anybody else. That piece  
12 of access charges has occurred at the same level under the  
13 same rate table?

14 A No, unfortunately, you're wrong there. CLD has a  
15 strong incentive to basically grab and get as much as its  
16 own market as it can, Commonwealth market as it can.

17 MCI and Sprint have no incentive to get into this  
18 mark. And if I understand the data you've been giving to  
19 me, they may not be in this market.

20 Access rates are so high and the kind of competition  
21 presented by CLD may give them no incentive to be there.

22 Q Let me back up for a minute. We may have  
23 misunderstood each other. I never said that CLD had a 36  
24 percent market share. You agreed with me that based upon  
25 the data previously presented in interrogatories that AT&T

1 in 1992 had a 64.4 market share; correct?

2 A But you're asking me to make assumptions, to make  
3 statements based on CLD's market share and you're not  
4 giving me that information.

5 Q I haven't calculated. I am simply following what  
6 was available to you when you put together your testimony.  
7 I wouldn't spring information on you that you hadn't seen  
8 on cross examination. That's not fair.

9 JUDGE KASHI: Off the record.

10 (Discussion off the record.)

11 BY MR. KENNARD:

12 Q One of the recommendations you make would require  
13 CTCO to re-ballot all central offices. What would be the  
14 cost of that re-balloting?

15 A I have no idea.

16 Q Are you aware of any exchange anywhere in the  
17 United States which has been forced to be re-ballot?

18 A I'm not aware. That doesn't mean it hasn't  
19 happened, but I'm not aware.

20 Q Does this Commission have the jurisdiction to  
21 order re-balloting?

22 A That's a good question. I don't know.

23 MR. KEFFER: It's also a legal question.

24 JUDGE KASHI: He tried.

25 MR. KENNARD: You never know with these experts,

1 Judge.

2 BY MR. KENNARD:

3 Q Could you reference page 30 of your testimony,  
4 please? You talk about the appearance of CLD in the  
5 telephone book. You say in the last sentence,  
6 Commonwealth Long Distance is always listed first. What  
7 do you mean always listed first?

8 A May I have a copy of that phone book, Mark? If  
9 you can give me a minute, I'll show you.

10 Q Let's focus on the always. There's one page  
11 where it appears; correct?

12 A Well, I think there are more than one page. But  
13 it's always in that area in the telephone book entitled  
14 telephone information, telephone company where it appears  
15 first.

16 Q And there's one section entitled contacting  
17 long-distance telephone companies?

18 A Yes.

19 Q And CLD appears first in that listing; correct?

20 A Correct.

21 Q But it only happens once in the telephone  
22 book. I'm trying to figure out why you always say always.  
23 Because there's lots of copies being made and every one of  
24 those copies, since they're all the same, they're always  
25 there?

1           A I'm not sure of your question. It always on this  
2 page appears first. I mean, am I wrong?

3           Q Yeah, you are. It only happens once in the  
4 telephone book. That page, this section, appears  
5 contacting the long-distance telephone --

6           A What you're saying there's another telephone book  
7 that has this page that it doesn't appear first?

8           Q No, there's only one phone book. There's only  
9 one section like that in the phone book.

10          A On this page, it always appears first.

11          JUDGE KASHI: What page is that, sir? It's not  
12 listed in your testimony.

13          MR. KEFFER: Well, since I have a handful of  
14 Commonwealth directories, it's page 3 of the 2.

15          JUDGE KASHI: Always listed first on page 3?

16          MR. KENNARD: That's what I was looking for,  
17 Judge.

18          JUDGE KASHI: Why didn't you say that?

19 BY MR. KENNARD:

20          Q Would you agree that the document I just handed  
21 out is an accurate depiction of the page you're  
22 referencing?

23          A Bad copy, but accurate.

24          MR. KENNARD: I'd ask it be marked as CTCO CX 4.

25                 (CTCO Cross Examination Exhibit Number 4 was  
                  produced and marked for identification.)

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JUDGE KASHI: So marked.

BY MR. KENNARD:

Q It's a horizontal display; correct?

A Yes.

Q And if Commonwealth weren't listed first, who would be listed first, Commonwealth Long Distance?

A Probably ALLNET.

Q And then AT&T?

A That's correct.

Q So your position wouldn't change? Your client's position wouldn't change?

A Well, it would be second not third. I mean, if they were alphabetic. I'm not sure of your question. ALLNET, AT&T.

Q AT&T is second now?

A Oh, in my -- the copy I'm looking at, an actual copy of the phone book, AT&T is listed there third. I'm sorry.

Q Can I see that?

MR. KEFFER: It jumps around.

BY MR. KENNARD:

Q In Commonwealth Exhibit 4, it remains second?

A Even though AT&T seems to jump around, Commonwealth is still first regardless of where it exists

1 in the alphabet.

2 Q If you go into the yellow pages, they're all  
3 listed alphabetically; correct?

4 A They probably are.

5 Q Well, you have the phone book. Are they?

6 A Let me look at it.

7 Q Would you accept that subject to check, since you  
8 can check it?

9 A Well, its interesting. In the book I have, under  
10 telephone service, long distance, the only company listed  
11 is Commonwealth Long Distance. Under telephone companies,  
12 Commonwealth Telephone is the first company listed. AT&T  
13 appears under telephone equipment and systems dealers. I  
14 assume that's the advertising that AT&T purchased.

15 Q I'm sorry. You said you assume that's the way  
16 AT&T purchased it?

17 A I am assuming, yes.

18 Q Let's go to page 31 of your testimony, please.

19 A I might add, if I really wanted to see the full  
20 list of the telephone companies available, I wouldn't find  
21 them on that page. I'd have to go to page 3 of the blue  
22 section to find them.

23 Q Because AT&T doesn't advertise under  
24 long-distance carriers in the yellow pages; correct?

25 A Apparently not.

1 Q Would you please reference your attention to page  
2 31. Top of 31, there's that word again, joint discount  
3 program. Were you here during the cross examination of  
4 Mr. Burnside?

5 A No, I was not.

6 Q Did you read the transcript to that cross  
7 examination?

8 A I did not.

9 Q You did not?

10 A No, I did not.

11 Q What evidence do you have to support your  
12 statement that these two companies have jointly engaged in  
13 a discounting program?

14 A Well, we've attached as part of our attachment  
15 number 4, page 33, a few subscriber specials. And I'll  
16 read it, which says, Select Commonwealth Long Distance and  
17 receive a 10 percent discount on your Commonwealth  
18 Telephone Company tolls for three months.

19 Just sign up with Commonwealth Long Distance, and  
20 these additional savings will be yours in the fourth,  
21 fifth and sixth months of your service.

22 Q Mr. Rozycki --

23 A If that's not a joint --

24 Q You don't have to read it. It's already in the  
25 record. What evidence do you have that says this was

1 sponsored in a cooperative venture between CLD and  
2 Commonwealth Telephone?

3 A I just read you the evidence.

4 Q Do you know if the discounts were presented as  
5 credits on a CLD bill or credits on a CTCO bill?

6 A They were represented as a 10 percent discount on  
7 Commonwealth Telephone Company tolls.

8 Q Was it a credit on the telephone bill, or was  
9 there a credit on a CLD bill?

10 A Well, I don't know.

11 Q If it was a credit on the CLD bill, it could have  
12 been accomplished by CLD in a manner totally independent  
13 of and in the manner which had nothing to do with the  
14 telephone company; correct?

15 A You know, again, the financial --

16 Q Could it have been done that way, Mr. Rozycki?

17 A Well, yes, it could have been done that way. But  
18 this still reads like a joint marketing program to me, a  
19 joint discount. I'm sorry. Call me stupid. But this  
20 says these two companies have gotten together and offered  
21 a 10 percent discount.

22 JUDGE KASHI: It doesn't say that. That's not what  
23 it says at all. I mean, you've read what it says. It  
24 says pick 1 and get 10 percent on the other. It doesn't  
25 say we too. I take note of your testimony you don't make

1 any joint adventure or cooperative claims. What you've  
2 said in your testimony is you've said joint and you've put  
3 it in quotation marks. Am I correct?

4 THE WITNESS: Yes.

5 BY MR. KENNARD:

6 Q Is that the same then joint that we're talking  
7 about before that the Judge asked you about unless CTCO  
8 says, no, you can't do it on no unqualified terms, then  
9 it's joint?

10 A Well, I'm having a real problem.

11 JUDGE KASHI: Mr. Kennard, you've asked him for the  
12 evidence that he has to support his claim of joint. And  
13 he's told you what it is.

14 BY MR. KENNARD:

15 Q Given that this kind of a marketing effort can be  
16 done independently of the telephone company, AT&T, Mr.  
17 Rozycki, could do the same thing off the same marketing  
18 gimmick?

19 A 10 percent discount on Commonwealth local  
20 service? I don't know of any such thing.

21 Q I'm not asking if you know of any such thing.  
22 I'm saying AT&T could, if it chose to, use the exact same  
23 identical marketing gimmick because it doesn't require any  
24 cooperation from the telephone company?

25 A I'm going to have to say I think you're asking me

1 a legal question. I don't know whether that's legal or  
2 not.

3 Q I'm not asking if it's legal. I'm asking if  
4 physically it could be accomplished.

5 A Well, sure, just about anything could be  
6 accomplished when it comes to billing and pricing.

7 Q Let's reference your attention to another episode  
8 of your testimony, page 32, in the middle, first Q and A,  
9 third line. It says, If a customer tries to select, say,  
10 AT&T, are you indicating that the statement in the box  
11 occurs before the customer has picked AT&T or after the  
12 customer has picked AT&T?

13 A It is my understanding that if a customer calls  
14 and attempts to pick AT&T as its long-distance carrier  
15 over the phone, that the Commonwealth Telephone Company  
16 sales representative is instructed to try and sell them to  
17 transfer them to CLD for a sales pitch.

18 Q Where does this statement occur during the  
19 discussion between the service representative and the  
20 subscriber?

21 A I don't recall exactly.

22 Q Well --

23 JUDGE KASHI: Do you want to pull AT&T Cross  
24 Examination Exhibit Number 1? Is that the one that you  
25 want to pull?

1 BY MR. KENNARD:

2 Q Yes, I do, Judge. Doesn't that exhibit  
3 demonstrate that it occurs at the absolute end of the  
4 conversation?

5 A Yeah. I mean, it probably does. But after I've  
6 tried -- I'm a customer. I've tried to call. I've tried  
7 to pick AT&T.

8 Q Why do you say tried? You've done it. You've  
9 picked AT&T. The subscriber has said AT&T had  
10 check -- the service rep had checked the box. There's  
11 nothing tried. AT&T is the pick.

12 A Good.

13 Q Do you agree with that?

14 A According to your rendition, yes. Okay.

15 Q And then at the end of the conversation, the  
16 service rep goes through that dialogue that's set forth  
17 the two sentences and a question. And if a customer says,  
18 yes, then the service is transfer to CLD where CLD may  
19 attempt to persuade them and to change their mind. But  
20 the customer has picked AT&T; correct?

21 A That sales representative does is not say, May I  
22 transfer you to CLD, MCI, Sprint or any other  
23 long-distance carrier serving this territory. That sales  
24 rep says, May I transfer you to CLD and CLD alone?

25 JUDGE KASHI: I think and correct me if I'm wrong, I

1 don't think the argument is about who it's being  
2 transferred to. I think Mr. Kennard's point is that there  
3 is no interference by the telephone company from keeping  
4 the customer from selecting AT&T. He's arguing with your  
5 testimony that they tried to select. There is nothing  
6 that interferes with the selection.

7 THE WITNESS: And I'm sorry if those words were  
8 unartfully written. I didn't mean to imply that. But the  
9 point --

10 JUDGE KASHI: I think that's what Mr. Kennard has  
11 bent out of shape.

12 THE WITNESS: I'm sorry for that. That was maybe the  
13 improper terminology. I apologize for that. Once I  
14 picked AT&T, Commonwealth Long Distance may get another  
15 shot at that customer. Nobody else does.

16 BY MR. KENNARD:

17 Q Mr. Rozycki, has not AT&T been told on prior  
18 occasions that Commonwealth would provide the same service  
19 for AT&T?

20 A I suspect that you have told us that, yes.

21 Q Why has AT&T not availed itself the opportunity  
22 to do the same thing to its competition if MCI is picked  
23 or CLD is picked, then the call gets transferred to AT&T?

24 A I can't answer that. I'm not part of the  
25 marketing organization, so.

1 Q Let me ask you one other question and I'll  
2 conclude. Going back to Commonwealth Cross Examination  
3 Exhibit Number 3, you spend a fair amount of time in your  
4 testimony talking about commonalty of the 800 number?

5 A Yes.

6 Q I presume that since you didn't read and neither  
7 in attendance at Mr. Burnside cross examination, that you  
8 didn't know what he said on this subject either?

9 A No.

10 Q Is this specifically equal access ballot?

11 A I have it. Thank you.

12 Q There are interminable 800 numbers on this page.  
13 Everybody has an 80 number except one carrier. And most  
14 carriers have two. And are you saying to the Judge in  
15 this Commission that a customer -- a subscriber sitting  
16 down to fill this thing out is going to study those 800  
17 numbers and then notice, Gee, 800 number for Commonwealth  
18 Long Distance is the same as the residence and business  
19 800 number for Commonwealth Telephone.

20 And, Gee, on that basis of that, I'm going to select  
21 Commonwealth Telephone as my pick. Do you really think  
22 that happens, Mr. Rozycki?

23 A I don't think that happens at all. But when I  
24 call that 800 number, who handles my call? What will they  
25 sell me, local service, long distance? I'm calling one

1 number. Who do I get?

2 Q You don't know, do you?

3 A Commonwealth Long Distance or Commonwealth  
4 Telephone Company?

5 Q You don't know. You know the answer to your  
6 question?

7 A No, I don't know.

8 MR. KENNARD: I have no further questions.

9 JUDGE KASHI: Thank you, Mr. Kennard. Well, we have  
10 two choices. We can recess and have you do your ZEA now  
11 or we can recess and do it in the morning.

12 MR. KEFFER: Well, Your Honor, I have another  
13 hearing in the morning on a customer complaint case. I  
14 didn't think this was going to take --

15 JUDGE KASHI: That honestly upsets me. You  
16 specifically canceled Monday and Tuesday and set it for  
17 Wednesday and Thursday. From the very beginning, you knew  
18 we had four days of hearings. We will recess and come  
19 back. And we'll recess 15 minutes. And at that time  
20 we'll come back and do redirect. We stand in recess for  
21 15 minutes.

22 (Whereupon, a brief recess was taken.)

23 REDIRECT EXAMINATION

24 BY MR. KEFFER:

25 Q Mr. Rozycki, I want to clarify a few points that

1 came up with your discussion with Mr. McClelland and Mr.  
2 Kennard regarding access charges. First of all, in the  
3 analysis that you perform, did you make any adjustments at  
4 all to Commonwealth's identification of its interstate  
5 costs in its part 36 study?

6 A No, we did not.

7 Q So when the FCC rules assigned non-traffic  
8 sensitive cost to the interstate jurisdiction using either  
9 SPF methodology or 25 percent allocator. And I can't  
10 recall which is in effect right now. We assume  
11 Commonwealth did it properly, and we didn't do any  
12 adjusting to their interstate cost allocation?

13 A That's correct.

14 Q Mr. McClelland ask you some questions about how  
15 common overhead cost are allocated in competitive markets.  
16 Based on your economics background, generally, how does  
17 that occur?

18 A Well, one theory is and this theory tends to be  
19 played out in reality is the notion of Ramsey pricing.  
20 And that is those services or goods that have -- they are  
21 most elastic, get the lowest share of common and overhead.  
22 And those that are most inelastic, get the greater share.

23 If I, as a consumer, have a lot of options and I can  
24 pick other goods or services, and I will do that. Then  
25 the prices that are posed to me tend to be more closely

1 related or aligned with costs than if I'm buying a  
2 monopoly or monopoly.

3 If it's a monopoly or near monopoly, I can load up  
4 the overhead I wanted because the customer has few  
5 options.

6 Q Mr. McClelland asked you some questions intended  
7 to elicit the notion that the upper limit on access  
8 pricing would be what is commonly referred to as  
9 stand-alone costs.

10 Let me turn this question around for you. If  
11 Commonwealth's local subscribers were required to pay the  
12 stand-alone costs of Commonwealth providing service to  
13 them, their local rates would be much higher. Would they  
14 not?

15 A Yes, they would be.

16 Q And it's true that access provides a contribution  
17 towards Commonwealth's cost of providing local service?

18 A Yes.

19 Q Today?

20 A Today, it does. And contribution comes from  
21 interstate access, the subscriber line charge out of the  
22 interstate, intrastate inter-LATA access and intrastate  
23 intra-LATA access. So they're leased four sources of  
24 subsidy to a dial tone line.

25 Q And it's true, is it not, that if the access

1 recommendation that you've put forward in your testimony  
2 was adopted, that AT&T and the other inter-exchange  
3 carriers would still be making a contribution to  
4 Commonwealth costs to providing local service?

5 A Yes, a substantial contribution.

6 Q All right. You engaged in some discussions this  
7 morning about alternatives to access services and whether  
8 there's any bypass in Commonwealth's area. Is it true  
9 that Commonwealth Telephone Company really provides the  
10 only readily available means for AT&T to reach  
11 Commonwealth's customers?

12 A Yes. Commonwealth is, in fact, a monopoly. And  
13 AT&T has no alternatives in Commonwealth territory in  
14 terms of who it can go to buy service.

15 Q The part 36 and part 69 studies that Commonwealth  
16 provided to you, those are fully distributed cost studies?

17 A Yes.

18 Q If you had access to total service long run  
19 incremental cost studies or access services, would the  
20 resulting costs be higher or lower than what are shown in  
21 the fully distributed cost studies?

22 A They would be substantially lower.

23 Q You discussed the access imputation requirement  
24 with Mr. McClelland and also with Mr. Kennard. Would AT&T  
25 accept an imputation standard that reflected

1 Commonwealth's weighted average access expenses including  
2 its access expenses on the originating end and whatever  
3 access charges applied on the terminating end whether they  
4 were Commonwealth's access charges or some other local  
5 exchange carriers?

6 A Yes. And I apologize if I was not clear on that.  
7 I meant to say yes and exactly that.

8 Q So when we look at the chart on attachment 3 to  
9 your testimony, the dot 47 access expense, reflects  
10 Commonwealth's access expense on both ends?

11 A That's correct.

12 Q But you accept an imputation standard that  
13 reflected Commonwealth on one end and the weighted average  
14 with the others?

15 A Yes.

16 Q So it would be something lower than the \$.15?

17 A Yes. In fact, AT&T has accepted those kinds of  
18 arrangements with many companies in a number of the Bell  
19 Atlantic states.

20 Q Mr. Kennard asked you if you would accept  
21 imputation on a total service basis or whether you wanted  
22 on a per call basis. And I was confused by the question  
23 or the answer. Help me understand what you believe AT&T's  
24 position is on it.

25 A Well, the objective is to get it on a total call

1 basis, of course. That's the way we'd like it. But  
2 realistically, what has been approved in other cases and  
3 what we've come to accept readily, is a total service type  
4 of imputation requirement.

5 Q Touch tone. Do you need touch tone in today's  
6 telecommunication environment to reach or to use a number  
7 of services that are available?

8 A Yes, you do.

9 Q Are you aware of Commonwealth's touch tone take  
10 rate?

11 A No, I'm not.

12 Q Mr. Kennard asked you about the chart on page 4  
13 of your testimony. You can turn there with me. He was  
14 curious as to why you picked the five companies that are  
15 shown on that chart.

16 Are those, in fact, the same five companies that Mr.  
17 Burnside used in his testimony to compare Commonwealth's  
18 local rates with those of other companies?

19 A Yes, they are the same. And we chose them  
20 precisely for that reason to use the same companies.

21 Q And in broad terms, would these be the five  
22 largest telephone companies in Pennsylvania based on  
23 revenue?

24 A I think they would be the five largest no matter  
25 how you look at them, yes.

1           Q Mr. Kennard asked you a question. And in his  
2 question, you made the point that Commonwealth has not had  
3 a rate proceeding since 1978. Why do you think that's so?

4           MR. KENNARD: Judge, I object that calls for  
5 speculation.

6           JUDGE KASHI: Speculation on his part. Sustained.

7 BY MR. KEFFER:

8           Q All right. You had an extensive discussion with  
9 Mr. Kennard regarding what would constitute cost based  
10 access charges. And it wondered all over the map.

11           And I want to see if I can nail down a position  
12 here. Clearly in your testimony, you've made a cost  
13 analysis based on fully distributed costs. And that  
14 appears on your attachment 2 at column 3.

15           If the Commission required Commonwealth to set its  
16 access charges equal to that revenue requirement, clearly,  
17 you would consider that to be cost based access charges?

18           A Well, let's get the record straight. There are  
19 two columns here. Column B are the revenue requirements  
20 that are produced from Commonwealth Telephone Company's  
21 own cost studies.

22           And, yes, if the rates were set at those levels in  
23 order to collect \$11.2 million revenue, that would be one  
24 form of a cost based rate based on fully distributed cost.

25           In Column C, we've adjusted that to reflect a SLU

1 adjustment to the CCL cost. And we've reflected it to  
2 pass on some of the overearnings from interstate. That  
3 would be a SLU based cost with adjustments to it.

4 Q My point is if Commonwealth's access rates were  
5 set equal to either of those revenue requirements, would  
6 you consider those to be cost based rates?

7 A Yes, they would qualify as cost based rates.  
8 That's correct.

9 Q And if there is some reduction in Commonwealth's  
10 existing access charges that results from this case, would  
11 those be cost based access rates or movement towards cost  
12 base access rates or something else?

13 A As you've characterized that, that would be  
14 movement towards a cost based rate. And as I tried to  
15 state earlier, I think I was incorrect in the way I stated  
16 or answered one of Mr. Kennard's questions regarding  
17 whether or not a cap or a cap alone would constitute a  
18 cost rate base. It would not.

19 Q Question. A matter of point, we talked about the  
20 access reduction that occurred back in '86. And after  
21 that, in the conversations in the hall with the Company  
22 folks -- well, let me ask you this question. Now what's  
23 your understanding of the history of Commonwealth's CCL?

24 A Well, my understand is still a little bit  
25 unclear. What we discussed was that there was first a

1 CCL rate at 4.61 cents. That rate was then pegged at the  
2 interstate, to mirror the interstate CCL rate of 4.71  
3 cents in June of 1985, I think.

4 Then later, 1986 time frame, Commonwealth reduced  
5 its rates to 4.33 cents per minute. The Company indicates  
6 that that was a reduction. I'm no sure for what reason.  
7 But it, again, mirrored the then current interstate, the  
8 NECA CCL rate.

9 It is our understanding still -- and I'm not clear  
10 on this, Commonwealth disputes this -- that that reduction  
11 was primarily the result of the Tax Reform Act of 1986.

12 Q The point is the initial rate went up and then it  
13 went down. But it's always been 4.33 cents per minute or  
14 higher?

15 A Since then, it has been 4.33.

16 Q Mr. Kennard asked you a question about whether  
17 access reductions at AT&T as seen from other local  
18 exchange companies have resulted in lower AT&T prices for  
19 its services.

20 Have AT&T's price reductions been less than access  
21 reductions, equal to amount access reductions, more than  
22 access reductions or do you know?

23 A In the total, AT&T has reduced its own rates to  
24 end users in Pennsylvania by more than the total access  
25 rate reductions its received.

1           Q Mr. Kennard and you had some discussions about  
2 Reach Out and whether AT&T would be willing to offer it  
3 and whether it's profitable. Just to make sure things are  
4 clear.

5           You're not in the group or never were in the group  
6 that does the analysis to decide when AT&T offers a  
7 particular service?

8           A That's correct.

9           Q I believe you do know that in every instance  
10 until now, whenever a company has capped its carrier  
11 common line charge, AT&T has offered Reach Out. Is that a  
12 historical fact, is it not?

13          A Yes, it is a fact.

14          Q But as far as you know, is there a guarantee that  
15 AT&T would offer Reach Out if CCL was capped? Or  
16 would -- or could it be that more would be required for  
17 AT&T?

18          A The company has always held out that it would  
19 review the rates and review the cap and determine in each  
20 case individually. But as I say, they've always done it.

21          Q Mr. Kennard raised a point, Gee, why doesn't AT&T  
22 offer Reach Out? MCI is willing to offer its Friends and  
23 Family. What's the problem? Is Friends and Family  
24 structured differently than Reach Out?

25          A Yeah. And to the best of my knowledge, Friends

1 and Family involves, first of all, get you become  
2 the -- you the customer of the MCI become the sales agent  
3 for MCI in gathering more customers. So there's a big  
4 advantage in the way they do that.

5 But, secondly, it's a discount on a per minute, per  
6 phone call basis. Reach Out is entirely different. You  
7 buy a block of time. One hour of calling, one half our of  
8 calling.

9 Q Friends and Family depends on a customer  
10 establishing a calling circle?

11 A Yes.

12 Q And if MCI is willing to have customers in  
13 Commonwealth territory be permitted to participate in  
14 those calling circles, that's MCI's business?

15 A Correct.

16 Q And whether or not it's profitable for MCI to do  
17 so, we have no idea?

18 A We have no idea.

19 Q Mr. Kennard shoved something under your nose  
20 which was identified as OCA Cross Examination Exhibit  
21 Number 4. I'm sorry. Showed you an exhibit. Do you  
22 recall looking at that exhibit? It showed that  
23 Commonwealth's overall rate of return was 8 dot 41  
24 percent.

25 A I do recall it. Let me see if I can put my hand

1 on it.

2 Q Mr. Kennard has graciously allowed me to review  
3 it.

4 A Thank you.

5 Q When you looked at that this morning, was that  
6 the first time that you had studied that exhibit in any  
7 detail?

8 A First time I seen this, yes.

9 Q You haven't done any analysis to determine  
10 whether the rate of return figure shown on that exhibit is  
11 accurate or not?

12 A No, I have not.

13 Q So, in stating that the number that's shown on  
14 the bottom of the page is 8 dot 41 percent, you're not in  
15 any way, shape or form suggesting that that is necessarily  
16 an accurate number?

17 A No. It is what it says it is. I don't know if  
18 the math is correct, and I haven't looked at the  
19 underlying cost or any of the calculations they have used  
20 to develop this.

21 Q Essentially, you're saying it's a number on the  
22 page?

23 A Yes.

24 Q And that's all you know about it. Mr. Kennard  
25 asked you some questions about why companies go average

1 schedule and when they go average schedule. Let me ask  
2 you this.

3 Do you know if Commonwealth Telephone Company is the  
4 largest average schedule company in the nation?

5 A I know that it has to be one of the largest.  
6 Commonwealth Telephone Company is the 20th largest  
7 telephone company in the country. I suspect it is the  
8 largest on the average schedule. The only other --

9 MR. KENNARD: Judge, I'm going to move to strike.  
10 His suspicions, this is just a regurgitation of his  
11 direct. I didn't talk about how big Commonwealth was or  
12 the biggest average schedule. I ask that this area be --

13 MR. KEFFER: I'm leaving that and moving on to  
14 another topic.

15 MR. KENNARD: Does that mean it's withdrawn, the Q  
16 and A is withdrawn?

17 JUDGE KASHI: Yes.

18 BY MR. KEFFER:

19 Q Mr. Rozycki, we blew one. Let's admit it. The  
20 \$14 million number, Mr. Kennard pointed out to you that  
21 that was a revenue requirement number and not a net income  
22 number. Did he not?

23 A Yes. And my face is red.

24 Q And as a revenue requirement number, it already  
25 includes federal and state taxes?

1           A   It does. We did it right the first time. The  
2 second guessing was wrong.

3           Q   So the level of -- the level by which  
4 Commonwealth's interstate access revenues exceed its  
5 identified interstate part 36 revenue requirement is the  
6 \$14 million?

7           A   That is correct.

8           Q   Forget the 24?

9           A   Forget it.

10          Q   Mr. Kennard asked you if the FCC has ever  
11 required SLU, and you said no. Have any states required  
12 the use of a SLU based methodology for allocating  
13 intrastate NTS costs?

14          A   Within its Bell Atlantic region, West Virginia  
15 has required SLU. And additionally, I think in at least  
16 two the states, one is pending, the state commissions have  
17 eliminated the CCL requirement entirely. They would be  
18 Illinois and Nevada, I think.

19          Q   Mr. Kennard asked you a question about value  
20 based pricing, and he suggested to you that AT&T values  
21 the use of the customer dial tone line. In your opinion,  
22 as a consultant in the telecommunications industry, do  
23 customers value local service enough to pay more than  
24 \$5.80 a month for local service?

25          A   I think substantially more.

1 Q Is the CCL -- for an inter-exchange carrier, is  
2 the CCL covering a cost or providing a subsidy?

3 A It provides a subsidy to local service.

4 Q And, again, we're not -- AT&T is not suggesting  
5 that that subsidy be eliminated in this case, are we?

6 A No. I'll reiterate that AT&T, while it has a  
7 very strong opinion that the CCL rates ought to be moved  
8 to zero over time, it also has almost universally conceded  
9 that it will pay and agrees with paying the subsidy.

10 We don't deny that that's a valuable -- at this  
11 point, a valuable portion of supporting local services.

12 Q I want to jump back just a second to the  
13 imputation requirement. Mr. Kennard gave you an example  
14 of a call where AT&T might transport the call 200 miles  
15 and back. And if that occurred, AT&T would pay local  
16 transport charges of 200 miles.

17 My question is this, In your attachment 3 where you  
18 reflect Commonwealth's access charges, what local  
19 transport mileage band did you use to come up with the dot  
20 1497 cents?

21 A We use 10 miles. We have a standard procedure  
22 that we use that is used within AT&T to analyze these  
23 rates to keep them consistent. And that is to use a 10  
24 mile transport rate.

25 JUDGE KASHI: Didn't you already say that when you

1 explained it?

2 THE WITNESS: Yes.

3 BY MR. KEFFER:

4 Q Flip over to page 32 of your testimony. And  
5 let's look at the point that had Mr. Kennard pounding on  
6 the table. The third line of the answer to the question  
7 that appears on the page. If your testimony said if a  
8 customer selects, say, AT&T, are you with me?

9 A Yes.

10 Q Would it change the intent of the testimony?

11 A No, I don't think so.

12 Q Would you be willing to make that change?

13 A I'd be perfectly willing.

14 Q Let's turn over to page 33. You had a fairly  
15 extensive discussion with Mr. Kennard about comparing the  
16 change in CLD's customer PIC rate from 26 percent to 50  
17 percent to AT&T's interstate market share.

18 And he showed you answers to two interrogatories to  
19 Commonwealth's -- I think it's 19 and 85.

20 MR. KENNARD: What were the numbers?

21 MR. KEFFER: These two. You didn't mark those as  
22 exhibits?

23 MR. KENNARD: No, sir.

24 BY MR. KEFFER:

25 Q He showed you Commonwealth's response to

1 interrogatory 19 and 85 and made the point that in  
2 calendar year 1992 for the total year, AT&T's share of  
3 intrastate inter-LATA access minutes of use was 64  
4 percent. Do you recall that discussion?

5 A Yes.

6 Q Okay. Does that reflect the entire year of 1992?  
7 I'm sorry. To the best of your knowledge, the two data  
8 responses that he showed you?

9 MR. KENNARD: We'll stipulate that it does.

10 BY MR. KEFFER:

11 Q Okay. A full year. If Commonwealth Long  
12 Distance had a 50 percent customer PIC rate at the end of  
13 the year, is it possible that AT&T's share of the access  
14 minutes of use in, let's say, December of 1992 could have  
15 been less and, perhaps, substantially less than the 64  
16 percent --

17 A Sure.

18 Q -- average for the entire year?

19 A Sure. We're dealing with two very different sets  
20 of numbers. And have no real background information as to  
21 how they're derived.

22 Q And given that CLD's customer PIC rate was 26  
23 percent in the beginning of 1992, is it possible or,  
24 perhaps likely -- I'll let you pick words -- that AT&T's  
25 share of access minutes of use would have been higher than

1 the 64 percent average for the entire year?

2 MR. KENNARD: Judge, I'm going to object. The  
3 witness said he doesn't have a real understanding of  
4 numbers and this is speculation on his part and does not  
5 benefit this record.

6 JUDGE KASHI: I'm going to overrule the objection  
7 and let the witness answer the question.

8 THE WITNESS: Well, the 1991 numbers here do show  
9 that AT&T's market share would be substantially larger. I  
10 don't have a calculator. But there is a substantial  
11 drop-off just in the year '91 to '92 in AT&T's minutes,  
12 substantial drop-off.

13 We might see a similar drop-off in '93 which could  
14 take the share of minutes down to 50 percent. I don't  
15 know.

16 BY MR. KEFFER:

17 Q Let's focus on that for just a second. You're  
18 referring to response interrogatory 19?

19 A Yes.

20 Q Without putting the numbers in it, did AT&T's  
21 minutes of use grow from '86 to '87?

22 A They grew.

23 Q And from '87 to '88?

24 A They grew.

25 Q And from '88 to '89?

1 A Grew again.

2 Q And from '89 to '90?

3 A They grew.

4 Q Then what happened?

5 A In '91 and '92, they declined. '91, a measurable  
6 decline. And in '92, declined substantially.

7 Q Okay. That's enough on that.

8 MR. KENNARD: Can we just put these in the record?

9 MR. KEFFER: I'm a little dicey about putting the  
10 access modes in.

11 BY MR. KEFFER:

12 Q Mr. Kennard asked you some questions about AT&T's  
13 marketing and advertising efforts in Commonwealth's  
14 territory. And he showed you responses to AT&T responses  
15 to Commonwealth's interrogatories, number 21 and 22. Do  
16 you have those available?

17 A No. For some reason, I don't.

18 MR. KENNARD: Why don't you put them in as  
19 Commonwealth Exhibits?

20 MR. KEFFER: Your Honor, for purposes of these  
21 questions, could we mark these response to question 21 as  
22 Commonwealth Cross Exhibit 5. And response to 22  
23 Commonwealth Cross Exhibit Number 6.

24 JUDGE KASHI: So marked.

25 (Commonwealth Cross Exhibits Number 5 and 6 were  
produced and marked for identification.)

1 BY MR. KEFFER:

2 Q Mr. Rozycki, did AT&T undertake marketing efforts  
3 in Commonwealth territory?

4 A Well, not specifically designed to win  
5 Commonwealth territory residential customers. But  
6 clearly, AT&T has a sales force in Pennsylvania. And they  
7 do market to Commonwealth business customers. So, yes.

8 Q But on the residence side, AT&T has a national  
9 effort. And it's part of that national effort, ads get  
10 published in Commonwealth territory?

11 A We have no marketing people, per se, out knocking  
12 on doors asking people to use AT&T service. So in that  
13 regard, we didn't market it that way. Usually it's done  
14 through telemarketing and through our 800 numbers and our  
15 national advertising.

16 Q Back to one of my favorite points in this  
17 proceeding. You have Commonwealth Cross Exhibit 4, the  
18 page of the telephone directory.

19 JUDGE KASHI: Always first exhibit. You're really  
20 going to do this.

21 BY MR. KEFFER:

22 Q I'll be brief. I want to show you show you a  
23 directory of Wellsboro, Tioga County. Show you that page.  
24 Does that look substantially look like the page that was  
25 introduced in the Cross Examination Exhibit 4?

1 A Yes, it does.

2 Q I'll though show you another direct Towanda,  
3 Bradford, Sullivan County and Canton. Show you the same  
4 page. Does that look similar to the page that you viewed  
5 for the other two directories?

6 A Yes.

7 Q For each instance, is Commonwealth Long Distance  
8 listed first?

9 A Yes.

10 Q Just as another point. What 800 numbers are  
11 customers instructed to call in these current editions of  
12 the telephone directory if they want to reach Commonwealth  
13 Long Distance? If I'm a residential customer, I want to  
14 call Commonwealth Long Distance, what 800 number do I  
15 call?

16 A 800-225-5282.

17 Q Okay. Look up the page a couple inches. What  
18 800 do I want to call if I want to reach Commonwealth  
19 Telephone Company?

20 A Same number 800-225-5282.

21 Q Look at the cover of the telephone books that  
22 I've placed in front of you. What time period does that  
23 cover?

24 A All dated 1992, '93. One is dated 1993, and this  
25 one is 1993.

1 Q In our discovery request, did we ask for current  
2 telephone directories?

3 A Yes.

4 Q And to the best of your knowledge, are those the  
5 current telephone directories used by Commonwealth?

6 A I don't know if they have newer ones. I assume  
7 they are current.

8 MR. KEFFER: I am done, Your Honor. The fastest  
9 redirect on record.

10 JUDGE KASHI: Let me just follow up on that.

11 MR. MCCLELLAND: I do have a few questions, Your  
12 Honor.

13 RE-CROSS EXAMINATION

14 BY MR. MCCLELLAND:

15 Q Mr. Rozycki, let's go first to your discussion.  
16 I believe, you said total service long incremental cost is  
17 generally less than fully distributed cost. Is  
18 that -- were you speaking access cost there?

19 A Yes, I was speaking specifically of access cost.  
20 I didn't really understand the question to mean anything  
21 but access cost.

22 Q Could you briefly explain why that is? Why is  
23 incremental lower than distributed?

24 A Well, because incremental includes the direct  
25 costs, generally, of providing a service and the direct

1 costs of providing an additional increment. Incremental  
2 costs count the increment as one unit of service. The  
3 total service long run incremental cost look at the  
4 increment of the total offering of the service and the  
5 entire output. They do not include common and overheads  
6 as do fully distributed costs.

7 Q Would the same be true with regard to basic  
8 exchange costs in a relationship between total service  
9 long run incremental cost and fully distributed cost?

10 A I suspect so, yes.

11 Q Would you also advocate that basic rates ought to  
12 be set based on total service long run incremental costs  
13 rather than fully distributed costs?

14 A Yes, I would.

15 Q And if all of that were done, who would cover the  
16 common and overhead costs?

17 A Those common and overhead costs would have to be  
18 distributed among all the ratepayers.

19 Q So somehow, the incremental cost would also have  
20 to pick up those costs then?

21 A Well, no. The incremental costs would not pick  
22 them up. The revenues would pick them up, the rates. And  
23 as we talked about earlier with Ramsey pricing, the notion  
24 is and most competitors use this although they don't know  
25 their Ramsey pricing, they will direct a larger percentage

1 of common and overhead to those services with the -- that  
2 are most inelastic and a lower portion of common and  
3 overhead to those services that are most elastic.

4 Q In the Commonwealth territory, is access more  
5 inelastic than basic?

6 A I would say, yes.

7 Q And, again, does that mean that AT&T has some  
8 other alternative of reaching that customer?

9 A Well, AT&T to, at least some customers, is in the  
10 process of developing alternatives, yeah. Not AT&T  
11 itself, but there are other alternatives beginning to  
12 become available.

13 Q I think previously you said it's monopoly. There  
14 are no alternatives?

15 A It is.

16 Q Are both statements true?

17 A Well, it is today a monopoly and, in fact, it is  
18 becoming more competitive, yes.

19 Q Touch tone. I think you said you need touch tone  
20 to access some services?

21 A Correct.

22 Q Do you mean by that your phone needs to generate  
23 tones because there are many services when you generate  
24 tones, you get access to various options within that  
25 telephone system?

1 A I'm sorry. Restate the question.

2 Q Okay. I think what you're saying is for some  
3 services like voice mail, you call it up and they ask you  
4 to use your tone phone to give different signals and  
5 access different kinds of services. That's what you're  
6 getting at, isn't it?

7 A Yes.

8 JUDGE KASHI: You don't need touch tone service to  
9 do that.

10 BY MR. MCCLELLAND:

11 Q You need a touch tone phone to do that?

12 A You need a touch tone phone. And I think in many  
13 instances, you need touch tone service.

14 Q I want to try to get at this problem. A touch  
15 tone service in the Commonwealth territory will set up a  
16 call with tones?

17 A Right.

18 Q Am I correct? It will set up a local call and a  
19 long-distance call, any kind of call. All you do is make  
20 tones and the call is connected. Is this correct?

21 A Yes.

22 Q If you don't have touch tone service, you can use  
23 tones but your call won't set up. You have to use pulses  
24 or a rotary phone?

25 A Right. If you use a touch tone phone, it must be

1 converted to a pulse or rotary-type dial, yes.

2 Q And, in fact, you don't need touch tone service  
3 to complete calls?

4 A Oh, no, not to complete calls.

5 Q And you can then switch -- you can then switch  
6 from a service setting up calls without tones to a tone  
7 and get all the access you wish of these various other  
8 services like voice mail, like 800 numbers, etc.?

9 A I think --

10 JUDGE KASHI: Without having touch tone service?

11 THE WITNESS: Yes, I think so.

12 BY MR. MCCLELLAND:

13 Q And, in fact, would you suspect that many  
14 customers in the Commonwealth territory do not have touch  
15 tone service?

16 A No, I would not suspect that. Most people get  
17 touch tone service today.

18 Q Most, not all?

19 A That's correct, yes.

20 Q So then is it an advantage to the customers to  
21 have touch tone service because they can set up their  
22 calls faster?

23 A I think so, yes.

24 Q Is it also an advantage to have the network to  
25 have that service because the calls get set up faster?

1 A I think so, yes.

2 Q You briefly mentioned on the issue of flowing  
3 through access to AT&T customers. When you said that, did  
4 you mean that with respect to all of the AT&T services or  
5 just -- or did you mean to address just message toll  
6 service?

7 A All of the AT&T services.

8 Q Okay. You didn't do an analysis of whether  
9 message toll service is sort of a standard basis toll  
10 service?

11 A Not as part of this case, no.

12 Q Are you aware of any controversy on that  
13 statement as to whether -- I'm sorry. Let me back up.  
14 When you said access directory, did you mean interstate or  
15 intrastate or both together?

16 A Intrastate.

17 Q You were not speaking of interstate access charge  
18 reductions?

19 A No, just intrastate.

20 MR. MCCLELLAND: I think that's all.

21 JUDGE KASHI: Thank you.

22 MR. KENNARD: No questions.

23 JUDGE KASHI: I have one question for you. When  
24 counsel began the redirect testimony and he asked you  
25 specifically regarding your testimony on cost based rates

1 and your previous testimony regarding a cap and whether  
2 the cap establishes cost base rate, are you repudiating  
3 all the testimony that you gave regarding the  
4 establishment of the cap and the cost base rate?

5 THE WITNESS: No. I think if you're saying the one  
6 sentence where I agreed with Mr. Kennard when he said if  
7 we cap, does that make a cost base rate? The answer is  
8 yes. All of the surrounding testimony, no. Does that  
9 answer your question? And I simply misspoke. And I think  
10 I tried to explain that if I can elaborate.

11 JUDGE KASHI: So your testimony now is that the  
12 establishment of a cap is mere movement to cost?

13 THE WITNESS: That's right. That begins the  
14 movement.

15 JUDGE KASHI: And similarly then, a reduction would  
16 also not be cost based but, again, would only be movement?

17 THE WITNESS: Well, the reduction itself would be  
18 cost based or cost drive. The rate that it produces may  
19 not be cost based.

20 JUDGE KASHI: Do you wish to move your exhibits,  
21 gentlemen?

22 MR. KEFFER: I move for the admission of AT&T  
23 Statement 1 and --

24 JUDGE KASHI: I gather that has attachments.

25 MR. KEFFER: And all attachments, yes.

1 MR. KENNARD: Subject to the motion to strike pages  
2 26 through 35, I believe. Basically, all referenced to  
3 the CLD portion of the testimony including attachment 4.

4 JUDGE KASHI: Do you wish to move your cross  
5 examination exhibits?

6 MR. KENNARD: Yes. Commonwealth would move in its  
7 Cross Examination Exhibits 1 through 6 noting that we'll  
8 make copies of 1 and distribute it to all the parties.

9 JUDGE KASHI: What about 5 and 6? I have none.  
10 Those are the interrogatories 21 and --

11 MR. KENNARD: 21 was marked as Exhibit 5. And 6 is  
12 22.

13 JUDGE KASHI: All right. Received into the  
14 evidentiary record without objection.

15 (AT&T Statement Number 1 was  
16 admitted in evidence.)

17 (CTCO Cross Examination Exhibit Numbers 1 through 6  
18 were admitted in evidence.)

19 JUDGE KASHI: All right. Off the record.

20 (Whereupon, at 5:42 p.m., the hearing was  
21 concluded.)

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the within cause, and that this is a true and correct transcript of the same.



JANET E. SMITH  
Court Reporter

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