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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

December 5, 2007 - 10:20 a.m.
Concord, New Hampshire

DAY II

RE: DT 07-027
KEARSARGE TELEPHONE CO., WILTON TELEPHONE
CO., HOLLIS TELEPHONE CO., AND MERRIMACK
COUNTY TELEPHONE CO.: Petitions for
Alternative Regulation Pursuant to
RSA 374:3-b.

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Graham J. Morrison
Commissioner Clifton C. Below

Connie Fillion, Clerk

APPEARANCES: Reptg. Kearsarge Telephone, Wilton Telephone,
Hollis Telephone & Merrimack County
Telephone:
Frederick J. Coolbroth, Esq. (Devine...)

Reptg. segTEL, Inc.:
Susan S. Geiger, Esq. (Orr & Reno)

Reptg. Granite State Telephone:
Paul J. Phillips, Esq. (Primmer, Piper...)

Reptg. Comcast Phone of New Hampshire:
Stacey L. Parker, Esq.

COURT REPORTER: Steven E. Patnaude, LCR (#52)

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APPEARANCES: (C o n t i n u e d)

Reptg. Daniel Bailey:
Alan Linder, Esq. (N.H. Legal Assistance)
Daniel Feltes, Esq. (N.H. Legal Assistance)

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Meredith Hatfield, Esq., Consumer Advocate
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Reptg. PUC Staff:
F. Anne Ross, Esq.

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[Witness panel: Reed|Bailey|Gage|Traum]

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

2 CHAIRMAN GETZ: Okay. Good morning,
3 everyone. We're back on the record in DT 07-027. Is
4 there anything that we need to address before we turn to
5 redirect of the panel?

6 (No verbal response)

7 CHAIRMAN GETZ: Hearing nothing, then
8 who would like to go first on redirect?

9 MS. ROSS: Staff has no redirect.

10 CHAIRMAN GETZ: No redirect.

11 MR. COOLBROTH: Mr. Chairman, well, I
12 have a few.

13 CHAIRMAN GETZ: Ms. Hatfield, do you
14 have redirect?

15 MS. HATFIELD: No, I don't. Thank you.

16 MR. COOLBROTH: Thank you, Mr. Chairman.

17 CHAIRMAN GETZ: Mr. Coolbroth.

18 REDIRECT EXAMINATION

19 BY MR. COOLBROTH:

20 Q. I'd just like to address a couple of questions to the
21 panel, whoever wishes to field it, they're very general
22 questions. And, actually, my first question is to
23 Mr. Reed. Mr. Reed, yesterday you were asked whether
24 the four plans of the Companies were the same, and you

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[Witness panel: Reed|Bailey|Gage|Traum]

1 expressed some hesitation about that. Could you please
2 explain that for the Commission.

3 A. (Reed) Yes. The plans, as they were filed, were the
4 same. But, as we have gone through the Settlement
5 Agreement and changed the different -- The plans, as
6 they were filed, were all the same for the four
7 Companies. But, as the Settlement Agreement has
8 changed some of the terms, as we mentioned yesterday,
9 to the different periods of rate caps, so each plan is
10 being modified to accommodate those changes.

11 Q. And, there was some discussion yesterday about an
12 initial rate "freeze" period. And, I just want to
13 clarify, that does not mean that rates could not go
14 down, is that right?

15 A. (Reed) That's correct. We used the term "freeze"
16 during our discussions, and it carried over into
17 yesterday, but what we mean is the rates could not be
18 increased, but they could be lowered.

19 MR. COOLBROTH: Thank you. That's what
20 I have for redirect.

21 BY CMSR. BELOW:

22 Q. I have a question for the panel, in terms of the
23 concept of ending the rural exemption, and creating
24 these triggers for a non-affiliated wireline CLEC that

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[Witness panel: Reed|Bailey|Gage|Traum]

1 is either providing basic service to the exchange or
2 has collocated and is offering service. And, the
3 question is that the waiver of the rural exemption
4 would not require the Petitioners to file wholesale UNE
5 and resale tariffs. And, so, the question is, how
6 would a CLEC gain access to the local loop to be able
7 to provide alternative service, if they did collocate
8 in the exchanges?

9 A. (Bailey) The CLEC would have to negotiate an
10 interconnection agreement with TDS. And, they have to
11 negotiate an interconnection agreement for collocation
12 collocation and for loops. And, one of the provisions
13 shorten the time frame for negotiating an
14 interconnection agreement on collocation, so that they
15 could get started on collocation sooner than they
16 otherwise would under The Act, that says they start to
17 negotiate an interconnection agreement. And, if they
18 can't resolve issues in I think it's 135 days, then
19 they ask the Commission to arbitrate the differences.
20 And, so, in 1996, the Commission actually arbitrated
21 the first interconnection agreement between AT&T and
22 Verizon, because they couldn't agree on the TELRIC
23 rate. So, rather than have the company file a huge
24 tariff on all the possible TELRIC rates, the thought is

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[Witness panel: Reed|Bailey|Gage|Traum]

1 that they will do that through negotiated
2 interconnection agreements and will only have to decide
3 the rate on the services that CLECs are actually
4 interested in in their territory.

5 Q. And, so, if there's an impasse in those negotiations,
6 the expectation is the Commission would arbitrate that?

7 A. (Bailey) Yes.

8 Q. So, it's not a situation where, just by being
9 difficult, that the telephone companies could block
10 this, the possibility of CLECs providing competitive
11 service?

12 A. (Bailey) That's correct. And, under the federal Act,
13 the Commission has to get the whole arbitration done in
14 nine months, from when the CLEC asks TDS to start
15 negotiating. So, that's why we had the one-year and
16 the two-year rate freezes in Hollis and Wilton to
17 accommodate that.

18 Q. Okay. And, then, in Section 6.2, the very end of that,
19 where the reference says that "and that such service is
20 "competitive" within the meaning of RSA 374:3b", the
21 intent of putting that "competitive" in quotation
22 marks, I take it, is that the Settling Parties haven't
23 agreed to what that means, but rather that would put
24 off that question to the Commission to decide, should

[Witness panel: Reed|Bailey|Gage|Traum]

1 that (v) section come into play? That that sort of
2 puts that issue off to a future date?

3 A. (Bailey) Yes, especially for wireline and broadband
4 service.

5 Q. Right.

6 A. (Traum) And, I certainly concur with that response.

7 Q. Okay. I think that's my only questions -- well,
8 there's actually one more. In (iv) of that section
9 6.2, it's a provision that "a non-affiliated CLEC is
10 providing basic service to the exchange". And, I take
11 it, the use of the term "basic service" in that context
12 is probably tied to the definition of "basic service"
13 in the PUC rules, is that true?

14 A. (Bailey) Yes.

15 Q. Whereas, some of the other alternatives require an
16 offering of services, but isn't necessarily basic
17 service, because it could be bundled, bundled telephone
18 service, there's an equivalency to telephone service,
19 but it's not necessarily basic service, under (i), (ii)
20 and (iii)?

21 A. (Bailey) It's not stand-alone basic service. But
22 "telephone service" in (ii) and "functional equivalent
23 to telephone service" means to me that the bundle at
24 least would have to include a basic service-like

[Witness panel: Reed|Bailey|Gage|Traum]

1 offering, but not on a stand-alone basis.

2 Q. And, do the other parties agree?

3 A. (Traum) Yes.

4 A. (Reed) Yes.

5 CMSR. BELOW: Okay. Thank you.

6 CHAIRMAN GETZ: Okay. Is there anything
7 further for the panel?

8 (No verbal response)

9 CHAIRMAN GETZ: Hearing nothing, then
10 you're excused. Thank you, everyone.

11 MR. COOLBROTH: Does Mr. Reed remain for
12 cross-examination?

13 CHAIRMAN GETZ: Well, that was unclear
14 from my notes yesterday in what the proposed order for
15 today is. It's Mr. Reed on his underlying testimony, and
16 then we would put --

17 MR. COOLBROTH: Mr. Ulrich.

18 CHAIRMAN GETZ: -- Mr. Ulrich. And,
19 then, where are we going? I thought we were trying to
20 accommodate the schedules of Mr. Johnson and then Dr.
21 Loubé?

22 MR. LINDER: And, Dr. Johnson would be
23 available after the Company witnesses.

24 CHAIRMAN GETZ: Okay. Does anybody

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[Witness panel: Reed|Bailey|Gage|Traum]

1 agree that that's the order?

2 (No verbal response)

3 CHAIRMAN GETZ: Okay.

4 MR. COOLBROTH: Actually, Mr. Chairman,
5 one thought that we had that might make things easier
6 today, we could have Mr. Ulrich join Mr. Reed, and have
7 the two of them as a panel. So that we don't have the
8 questions about which witness is response for which data
9 responses. That might make things go more quickly. We're
10 willing to do that, if that would help move the proceeding
11 along.

12 CHAIRMAN GETZ: Any objection?

13 MR. LINDER: I don't really have an
14 objection. The way Attorney Feltes and I had planned it,
15 that I was the one who would be submitting questions to
16 Mr. Reed on cross-examination, and Mr. Feltes would be
17 cross-examining Mr. Ulrich. So, that was the way we had
18 divided it up.

19 CHAIRMAN GETZ: Well, sometimes it
20 occurs that questions get deferred. So, why don't we
21 employ a panel, in case we need to address that issue.

22 MR. COOLBROTH: I call Timothy Ulrich
23 then to join the panel.

24 (Whereupon Timothy W. Ulrich was duly

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[Witness panel: Reed|Ulrich]

1 sworn and cautioned by the Court
2 Reporter.)

3 MICHAEL C. REED, PREVIOUSLY SWORN

4 TIMOTHY W. ULRICH, SWORN

5 DIRECT EXAMINATION

6 BY MR. COOLBROTH:

7 Q. Mr. Ulrich, would you please state your full name and
8 provide your business address for the record.

9 A. (Ulrich) My name is Timothy W. Ulrich. And, it's
10 spelled U-l-r-i-c-h. My business address is 525
11 Junction Road, Madison, Wisconsin.

12 Q. And, by whom are you employed and in what capacity?

13 A. (Ulrich) I'm employed by TDS Telecom as a Manager in
14 its Government and Regulatory Affairs Department.

15 Q. And, did you have occasion to file prefiled direct
16 testimony and prefiled rebuttal testimony in this
17 docket?

18 A. (Ulrich) Yes, I have.

19 Q. And, in fact, has your prefiled testimony for Hollis
20 Telephone Company been premarked as HTC 3P and HTC 5P,
21 KTC 3P and KTC 5P, MCT 3P and MTC 5P, and WTC 3P and
22 WTC 5P, is that correct?

23 A. (Ulrich) If I could see them, I assume that they are.
24 I don't have them.

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[Witness panel: Reed|Ulrich]

1 A. (Reed) We have them here.

2 Q. Take a moment.

3 A. (Ulrich) Yes, they are marked that way.

4 Q. Do you have any changes that you wish to make to that
5 testimony?

6 A. (Ulrich) No, do not.

7 Q. And, are the statements contained therein, taken as a
8 whole, true and accurate to the best of your knowledge,
9 information and belief?

10 A. (Ulrich) Yes.

11 Q. And, do you adopt them as your testimony today as
12 though read into the record?

13 A. (Ulrich) Yes.

14 MR. COOLBROTH: The witness is available
15 for cross-examination.

16 CHAIRMAN GETZ: Okay. Thank you. I
17 guess I had anticipated to give the opportunity to the
18 signatories first, then the parties that have no
19 opposition, and then to Mr. Linder. But, Ms. Ross, do you
20 have questions for the panel?

21 MS. ROSS: Staff has no cross for the
22 witnesses.

23 CHAIRMAN GETZ: Ms. Hatfield?

24 MS. HATFIELD: I do just have one

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[Witness panel: Reed|Ulrich]

1 question for Mr. Reed.

2 CROSS-EXAMINATION

3 BY MS. HATFIELD:

4 Q. And, when Ms. Bailey was answering Commissioner Below's
5 question with respect to Section 2.2 of the Settlement
6 Agreement, and which aspects of the Telecommunications
7 Act of 1996 would either apply or would be waived. I'm
8 confused about why 251(c)(3) is not included, and
9 whether that does need to be included, in order to
10 allow CLECs to negotiate a TELRIC rate with the
11 Company?

12 A. (Reed) I will just ask you to repeat that question
13 again please, I just want to make sure, or rephrasing
14 it.

15 Q. Sure. If you look at Section 2.2 of the Settlement,
16 which is on Page 3, you can see there are portions of
17 the Telecom Act of 1996 under which a CLEC may request
18 an interconnection agreement. And, it says it's
19 "limited to the items set forth in 251(a), (b), and
20 (c)(2, (4) and (6)". And, my understanding is that
21 UNEs are covered under (c)(3). So, I'm wondering if
22 you could explain why (c)(3) was not included, and if
23 that is actually necessary?

24 A. (Reed) I'm not an expert on the TelAct. So, it's going

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[Witness panel: Reed|Ulrich]

1 to take me a minute to go through and try to recall all
2 of the discussions on that.

3 Q. Mr. Reed, just as a follow-up, is it merely to allow
4 for the expedited process that's discussed in that
5 paragraph? Does it just have to do with the timing --

6 A. (Reed) Yes.

7 Q. -- of the interconnection?

8 A. (Reed) Yes.

9 Q. Okay.

10 A. (Reed) And, of course, I mean, during the settlements,
11 we're trying to anticipate what a CLEC might want,
12 might need. We don't know what they're going to want
13 when they send us a request. We react to that with
14 whatever the particular item is. But, to anticipate a
15 full-blown TELRIC study or full-blown tariffs -- or a
16 full set of tariffs, before we know what a CLEC is
17 actually requesting from the particular company.

18 Q. So, this process allows the Company to do it more on a
19 case-by-case basis?

20 A. (Reed) Yes.

21 MS. HATFIELD: Thank you.

22 CHAIRMAN GETZ: Ms. Geiger?

23 MS. GEIGER: No questions. Thank you.

24 CHAIRMAN GETZ: Ms. Parker?

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[Witness panel: Reed|Ulrich]

1 MS. PARKER: No questions. Thank you.

2 CHAIRMAN GETZ: Mr. Phillips?

3 MR. PHILLIPS: Granite State has no
4 cross-examination.

5 CHAIRMAN GETZ: Mr. Linder?

6 MR. LINDER: Yes. Thank you. Good
7 morning, Mr. Reed.

8 WITNESS REED: Good morning.

9 MR. LINDER: Good morning, Mr. Ulrich.

10 WITNESS ULRICH: Good morning.

11 MR. LINDER: The questions I have are
12 generally directed to Mr. Reed. And, before I begin, I
13 just wanted the Commission to note that yesterday I
14 referenced a packet of exhibits, which would be -- which
15 were numbered Bailey 10 through 28, with the exception of
16 22C. And, those are all data responses of the Company,
17 which those packets have been prepared and were
18 distributed to all parties. And, I think the
19 Commissioners have them now. And -- Thank you.

20 And, as I understand from Mr. Coolbroth,
21 the Company has reviewed these data responses, which have
22 been marked -- each one has been marked as an exhibit in
23 the upper right-hand corner, exhibit for identification.
24 And, originally, I was going to review them one-by-one

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[Witness panel: Reed|Ulrich]

1 with Mr. Reed, just to verify that they were the Company's
2 responses, and that the information in there was accurate
3 and up-to-date. And, my understanding is that Mr.
4 Coolbroth has indicated that the Company is happy to
5 stipulate to these marked exhibits, and that they be
6 admitted into the record as full exhibits. And, with
7 that, it would certainly shorten the cross-examination.

8 MR. COOLBROTH: Mr. Chairman, all of the
9 ones we were provided, which are Bailey 10 through 21,
10 Bailey 22C, and then Bailey 23 through 28. Those are all
11 data responses by the Company. We have no objection to
12 their admission. In addition, Bailey 31 through 54 are
13 also data responses by the Company, and we have no
14 objections to their admission. I guess Bailey 30 is not a
15 data response, so we would assume that counsel would
16 proceed with respect to that one. But, as to the others,
17 we have no objection, and certainly welcome the
18 opportunity to move things along by not going through them
19 one-by-one.

20 MR. LINDER: The packet that is just now
21 being distributed to the Commission was also distributed
22 to all the parties prior to the hearing today, and that's
23 the packet of Bailey Exhibits 30 through 54. And, so, the
24 Company would be stipulating to the admission of 31

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1 through 54. And, those particular data responses are
2 directed to Mr. Ulrich. And, both witnesses have those
3 packets with them now. So, we're trying to shorten the
4 cross-examination.

5 CHAIRMAN GETZ: Okay. Thank you. Well,
6 let's address identification, before we get to admission.
7 So, all of the Bailey Exhibits 10 through 21 and 23
8 through 28 and 30 through 54 will be marked for
9 identification consistent with the packets that have been
10 provided to the Clerk.

11 (The documents, as provided, were
12 herewith marked as Bailey Exhibits 10
13 through 21, Bailey Exhibits 23 through
14 28, and Bailey Exhibits 30 through 54,
15 respectively, for identification.)

16 CHAIRMAN GETZ: We'll deal with
17 admission of evidence at the end. And, if you could
18 proceed with your cross-examination.

19 MR. LINDER: Yes. Thank you.

20 MS. ROSS: Were they assigned a number
21 or were they assigned a series of numbers?

22 CHAIRMAN GETZ: Yes, it's the exhibits
23 as submitted and marked by New Hampshire Legal Assistance,
24 and as provided to the parties.

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[Witness panel: Reed|Ulrich]

1 MS. ROSS: Thank you, 10, 11, and 12

2 then? Bailey 10, Bailey 11 --

3 CHAIRMAN GETZ: Well, 10 through 21, 23

4 through 28, and 30 through 54.

5 MS. ROSS: Thank you.

6 MR. LINDER: And, I believe all except

7 number 30 are data responses.

8 BY MR. LINDER:

9 Q. So, Mr. Reed, you have that packet, you've had an
10 opportunity to review the first packet, the 10 through
11 21 and 23 through 28?

12 A. (Reed) Yes.

13 Q. Am I correct?

14 A. (Reed) Yes.

15 Q. Yes. Okay. So, rather than going through each and
16 every one of those items, let me just ask you to
17 confirm the following: That you would agree that there
18 are no competitive local exchange carriers operating in
19 the TDS service territories today?

20 A. (Reed) Do you want to refer to a particular or a
21 general statement?

22 Q. Well, those are Exhibits 13, 14, and 15. And, those
23 are Staff --

24 A. (Reed) Okay.

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[Witness panel: Reed|Ulrich]

1 Q. -- data responses or responses to Staff 1-82, 1-87,
2 segTEL 1-8. And, each of those have been marked "13",
3 "14", and "15", respectively. And, our reading of them
4 is that there are no competitive local exchange
5 carriers or CLECs operating in the TDS service
6 territories today. And, I was just asking for
7 confirmation that that statement that I made is
8 correct?

9 A. (Reed) I'm sorry, but Bailey 15 mentions something
10 beyond CLECs. So, I don't know if you would like me to
11 respond to that one separately or --

12 Q. Oh, I see.

13 A. (Reed) -- the first two, the first one says "CLEC", the
14 second one says "wireline CLECs", and the third one has
15 a little more detail. So, I'm not sure how you want me
16 to respond.

17 Q. Okay. It was just to the extent that it referred to
18 CLECs. To the extent that it referred to some other
19 item wouldn't be necessary. It was just simply the --

20 CHAIRMAN GETZ: Well, my understanding
21 of the question is, are you aware of any CLECs operating
22 in any of the franchises that are subject to this
23 petition?

24 WITNESS REED: The answer would be "no,

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[Witness panel: Reed|Ulrich]

1 I do not know of any." My concern was with the third data
2 response that is an exhibit that talks about cable
3 companies and fiber provided by other companies, and I
4 wasn't sure how to --

5 BY MR. LINDER:

6 Q. No, I understand your confusion. And, the third one
7 that you responded -- that you're mentioning, which is
8 segTEL 1-8, which is Exhibit 15, it's subsection (b),
9 as in "boy", that we were referring to.

10 A. (Reed) Yes.

11 Q. Which confirms to our knowledge that no CLECs provide
12 service in TDS territories at this time. That was --

13 A. (Reed) Correct. Yes.

14 Q. Thank you for pointing that out. Thank you. And,
15 similarly, you would confirm that there are no CLECs
16 providing basic local exchange service in any of the
17 four Companies' service territories?

18 A. (Reed) That's correct, yes.

19 Q. Yes. Okay. And, I think you would also confirm that
20 at this time there are no communities within the TDS
21 serving area where a cable provider is offering voice
22 telephone service at this time?

23 A. (Reed) Correct.

24 Q. Okay. And, you would also confirm that, at this time,

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[Witness panel: Reed|Ulrich]

1 Comcast Digital Voice is not being offered in the TDS
2 serving territories at this time?

3 A. (Reed) I agree.

4 Q. Okay. And, similarly, you would confirm that there's
5 no wireline competition from any other wireline carrier
6 in any of the four Companies' serving areas, is that
7 correct?

8 A. (Reed) Yes.

9 Q. Okay. And, I'm just asking you to confirm that TDS
10 does not currently have any studies showing the extent
11 to which customers, TDS customers, are using any
12 alternatives, meaning the percentage of households in
13 each exchange that are using any particular
14 alternative, there's not a study that breaks that down
15 to that level, is there?

16 A. (Reed) There's no studies. The only thing we relied on
17 were the exit interviews from customers who left TDS.

18 Q. Okay. Thank you. And, likewise, you would confirm
19 that the Company did not prepare any price elasticity
20 of demand study to determine the presence of
21 competitive alternatives in its exchanges?

22 A. (Reed) Correct.

23 Q. Okay. Thank you. The Plans allow, as you pointed out,
24 rate decreases, but they also allow for, at the

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[Witness panel: Reed|Ulrich]

1 appropriate time, increases in rates of up to
2 10 percent per year, up to the Verizon level. And,
3 that's exclusive of any exogenous events, is that --

4 A. (Reed) Basic rates only.

5 Q. Basic rates only, yes. Thank you for that
6 clarification. And, you would confirm that there are
7 circumstances that could cause those rates to exceed
8 the Verizon rates, if there was a particular exogenous
9 event which caused the cost to rise to that level?

10 A. (Reed) If there were an exogenous event, and it was
11 presented to the Commission by the Company, and the
12 Commission approved the exogenous event, yes, it could
13 happen.

14 Q. Okay. You're pretty familiar with the statute that
15 we've been talking about, the RSA 374:3-b, I'm
16 assuming. And, I'm happy to give you a copy of it
17 right now, if you would like to have one to refer to?

18 A. (Reed) Sure, I would like that.

19 MR. LINDER: Okay. I have extra copies,
20 if --

21 (Atty. Linder distributing documents.)

22 MR. LINDER: Does anybody else need a
23 copy?

24 MS. HATFIELD: I'll take one.

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[Witness panel: Reed|Ulrich]

1 MR. LINDER: I'm not actually asking
2 that this be marked as an exhibit, but I thought it would
3 just be helpful --

4 MR. PHILLIPS: Mr. Linder, I have a
5 question on that point.

6 MR. LINDER: Yes, go ahead.

7 MR. PHILLIPS: Is it not true that
8 Bailey Exhibit Number 53 is a copy of the statute?

9 MR. LINDER: That's what it is intended
10 to be. So, thank you for pointing that out.

11 BY MR. LINDER:

12 Q. So, being that you're pretty familiar with the statute,
13 and directing your attention to III, which is prefaced
14 with "The commission shall approve the alternative
15 regulation plan if it finds that:" And, then, there's
16 (a), (b), (c), (d), (e), (f). Just directing your
17 attention to subsection (b). Is there anything there
18 that prohibits the Company from having a rate cap of
19 less than 10 percent?

20 A. (Reed) No.

21 Q. No, okay. All right. And, is there anything that
22 prohibits the Company from choosing a rate ceiling less
23 than the Verizon rates? Or, do you read this as
24 requiring that it be at the Verizon rates or the

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[Witness panel: Reed|Ulrich]

1 largest incumbent?

2 A. (Reed) That would be a cap, the Verizon rate. The
3 Verizon equivalent would be a cap.

4 Q. But the Company could choose to have a cap lowering
5 than that?

6 A. (Reed) Yes.

7 Q. Yes. Okay. Fine. Thank you.

8 MR. COOLBROTH: Mr. Chairman, I just
9 want to point out that I haven't raised objections. I
10 assume these questions are asking Mr. Reed for his lay
11 opinion as to the interpretation of the statute, he was
12 not asking for Mr. Reed's legal conclusion with respect to
13 it?

14 MR. LINDER: I was not asking for a
15 legal conclusion. Thank you. Yes. That's correct.

16 BY MR. LINDER:

17 Q. There is a Exhibit 23 that I did want to ask you to
18 look at for just one moment, because there is a
19 clarification. The Exhibit 23 is actually a data
20 response to OCA 2-11. And, if we're looking at the
21 same document, it's a chart of the extent to which, for
22 illustrative purposes, the rates could increase for
23 each of the 16 TDS exchanges. Are we looking at the
24 same document?

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1 A. (Reed) Yes.

2 Q. Okay. So, the two clarifications I wanted to make sure
3 of is that the chart assumes, am I correct, the chart
4 assumes that the comparable Verizon rates remain the
5 same? Is that an assumption in that chart? During
6 that five-year period that's portrayed in the chart?
7 Perhaps Mr. Ulrich could --

8 A. (Ulrich) That would be correct.

9 Q. Yes. Thank you very much. Thank you.

10 A. (Ulrich) Unless they were changed for an exogenous
11 change or something to that effect, but they would be
12 in that same rate band.

13 Q. Okay. And, that actually was going to be my next
14 question for clarification, is those rate changes do
15 not include possible exogenous events, is that right?

16 A. (Ulrich) That's correct.

17 Q. All right. Thank you for the clarification. These
18 questions are in reference to the Exhibits 26 and 27 in
19 the packet. You can look at them if you want. But,
20 basically, I want to confirm that, with respect to
21 pricing decisions that are made by the Company, did
22 those -- those pricing decisions are not necessarily
23 made at the local New Hampshire level, and that those
24 pricing decisions could be made at the TDS company

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[Witness panel: Reed|Ulrich]

- 1 level? Did I understand that correctly?
- 2 A. (Reed) Correct.
- 3 Q. All right.
- 4 A. (Reed) With input from the local market.
- 5 Q. Yes. Thank you for that clarification. And, likewise,
- 6 that regulatory decisions, management decisions
- 7 likewise might be made at the Company level, rather
- 8 just at the local level. Is my understanding correct?
- 9 A. (Reed) A regulatory decision? I'm -- yes.
- 10 Q. Okay. Thank you. Thank you. And, we talked about
- 11 studies before, and I just wanted to confirm that the
- 12 Companies have not performed an impact study with
- 13 respect to what impact the Plan might have on the
- 14 Company's customers by income level?
- 15 A. (Reed) Are you referring to a specific exhibit?
- 16 Q. Yes, 28, actually.
- 17 A. (Reed) That's correct.
- 18 Q. Okay. Thank you. Thank you. Now, just -- go ahead.
- 19 A. (Reed) I'm wondering if I might add a point --
- 20 Q. Please do.
- 21 A. (Reed) -- to an earlier question?
- 22 Q. Sure.
- 23 A. (Reed) I'm sorry. I should have jumped in earlier.
- 24 Q. That's fine.

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[Witness panel: Reed|Ulrich]

1 A. (Reed) On the rate groups?

2 Q. Yes.

3 A. (Reed) You know, the rate groups, that the Verizon
4 equivalent is based on the size of your calling area?

5 Q. Yes.

6 A. (Reed) So, before a rate is changed, we'll have to make
7 sure that that calling area falls within a certain rate
8 group. So, you know, this is illustrative. We assume
9 that it's about this rate group, because, for example,
10 Boscawen has the Concord calling area. So, we kind of
11 assumed it falls in that rate group. But it would be a
12 more careful analysis that would be done. So, I just
13 wanted to clarify that.

14 Q. Thank you very much for that clarification. Just
15 getting back to the statute again, to get clarification
16 from you on behalf of the Company with respect to the
17 Company's interpretation of the statute, how it thinks
18 the Commission should interpret the statute. And, I'm
19 asking these questions for clarification only. Can you
20 point where in the statute it says -- let me back up
21 one second. I think yesterday, Mr. Reed, you said that
22 you feel that "the Legislature has already made a
23 finding in the statute that the wireline, wireless, and
24 broadband services being referred to in the statute are

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[Witness panel: Reed|Ulrich]

1 already competitive with the Company's current
2 services." Did I understand you correctly to say that?

3 A. (Reed) I'm not sure I said that yesterday.

4 Q. Okay. That's why I'm asking.

5 A. (Reed) I think you may find that in my testimony, but
6 I'm not sure I said that yesterday.

7 Q. Okay. Is that the Company's position, basically, that
8 the Legislature has already found competitive --

9 MR. COOLBROTH: In terms of the
10 Company's position, the Company was referring to the
11 declaration of purpose in the original enactment of
12 374:3-b, which we have cited in our testimony.

13 MR. LINDER: Okay.

14 MR. COOLBROTH: So, that it's the
15 session law, as opposed to within the RSA, but it is part
16 of the statute.

17 BY MR. LINDER:

18 Q. Okay. So, that's where you're referring to?

19 A. (Reed) I'm not -- I've lost your question.

20 Q. Okay. Is there -- let me ask it another way. Is there
21 anything in the statute or the session law that
22 prohibits the Commission from making a finding or
23 determination as to whether the wireline, wireless, and
24 broadband service referred to in the statute is or is

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[Witness panel: Reed|Ulrich]

1 not competitive?

2 MR. COOLBROTH: I'm going to object to
3 that question. It seems to me that, as phrased, is
4 unanswerable, because what wireline, broadband, or
5 wireless service? I mean, I think that question, as
6 asked, is pretty much unanswerable.

7 MR. LINDER: Well, let me rephrase the
8 question.

9 CHAIRMAN GETZ: Well, my recollection
10 from yesterday is that Mr. Reed stated that the statute
11 recognizes that competition exists.

12 MR. LINDER: Okay.

13 CHAIRMAN GETZ: And, I take it that your
14 question goes to whether that's an irrebuttable
15 presumption?

16 MR. LINDER: Correct.

17 CHAIRMAN GETZ: And, that there's no way
18 that the Commission could find otherwise.

19 MR. LINDER: Thank you. Thank you very
20 much. That was the clarification that we're looking for,
21 as to "is that the Company's position?"

22 MR. COOLBROTH: Just the other thing
23 that I would reflect on what the Company's position is, we
24 have entered into a Settlement Agreement. And, the

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1 Company had a litigated position, and that was reflected
2 in the testimony. The Company has executed a Settlement
3 Agreement, and has agreed that the statutory test is met
4 upon the terms that are in the Settlement Agreement, and
5 has agreed therefore to support that, and not to press
6 other -- its original claims about the interpretation of
7 the statute. The Company now relies on the Settlement
8 Agreement.

9 MR. LINDER: Okay. That clarifies it.
10 All right. Thank you. I'll let Mr. Feltes inquire of Mr.
11 Ulrich. Thank you very much, Mr. Reed.

12 MR. FELTES: Chairman Getz, members of
13 the Commission, good afternoon.

14 BY MR. FELTES:

15 Q. Mr. Ulrich -- is it "Ulrick" [sic] or "Ulrich"?

16 A. (Ulrich) It's "Ulrick" [sic].

17 Q. "Ulrick" [sic], okay. Sorry about that. Let me direct
18 you to Page 10 of your rebuttal testimony. Tell me
19 when you're there.

20 A. (Ulrich) I'm there.

21 Q. Okay. Thank you. On Line 15 through 17, on Page 10,
22 you were asked if you "are aware of other independent
23 research that considers wireless and broadband service
24 to be substitutes for an ILEC's wireline

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[Witness panel: Reed|Ulrich]

- 1 telecommunications service?" Did I read that
2 correctly?
- 3 A. (Ulrich) Yes, you did.
- 4 Q. And, your answer was "yes", is that correct?
- 5 A. (Ulrich) That's correct.
- 6 Q. And, the Executive Summary that you cited from, I'm
7 going to read it, says "wireless and broadband services
8 are increasingly substitutable for and competitive with
9 wireless services in the markets for basic telephone
10 service". Did I read that correctly?
- 11 A. (Ulrich) Yes, you did.
- 12 Q. So, the NRRRI study doesn't, in fact, conclude that
13 wireline and broadband are substitutes, they've
14 concluded that they're "increasingly substitutable",
15 correct?
- 16 A. (Ulrich) If you read further throughout the study, it
17 does make assertions that there -- people are using
18 them as substitutes, and then what they're making a
19 point here in their Executive Summary is that, as time
20 goes on, it's getting more and more, people are looking
21 for increasing, using it more as a substitute.
- 22 Q. They conclude that they're "increasingly
23 substitutable", correct?
- 24 A. (Ulrich) The verbiage here says "increasingly".

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[Witness panel: Reed|Ulrich]

- 1 Q. Thank you. And, the NRRI study that you cited from, it
2 didn't do an analysis of the State of New Hampshire,
3 did it?
- 4 A. (Ulrich) Not that I'm aware of.
- 5 Q. Would you accept subject to check that it didn't do an
6 analysis of the State of New Hampshire's markets?
- 7 A. (Ulrich) Subject to check with NERA.
- 8 Q. Thank you. And, also, subject to check --
- 9 A. (Ulrich) It is NRRI, not "NERA".
- 10 Q. Thank you. And, also, subject to check, Mr. Ulrich,
11 that it did not do an analysis of TDS's markets,
12 correct?
- 13 A. (Ulrich) That's correct.
- 14 Q. Thank you. Mr. Ulrich, do you know what a "relevant
15 product market" is?
- 16 A. (Ulrich) From an economic perspective definition, I
17 would have an idea as to what one is.
- 18 Q. All right. Let me refer you to what has been premarked
19 as "Bailey Exhibit 30". It's the Executive Summary
20 that you cited to on Page 10 of your rebuttal
21 testimony. Are you there?
- 22 A. (Ulrich) Yes, I am.
- 23 Q. And, let me read, if I can, from paragraph two of the
24 Executive Summary, which, again, that you cited from on

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[Witness panel: Reed|Ulrich]

1 Page 10 of your rebuttal testimony. Paragraph two:
2 "Assessing competitive conditions in a market and
3 determining whether a firm or groups of firms has
4 market power requires defining the market in the
5 product and geographic terms". Did I read that
6 correctly?

7 A. (Ulrich) That's correct.

8 Q. Do you disagree with that?

9 A. (Ulrich) For their purposes here, I don't disagree with
10 that.

11 Q. That's an acceptable way to assess competitive
12 conditions?

13 A. (Ulrich) It's probably an acceptable way to look at
14 determining the level of competition in a market.

15 Q. Thank you. Reading on after that comma: "determining
16 which producers and consumers are actually part of the
17 part, and measuring market shares and/or other
18 indicators of competitiveness in the market". Did I
19 read that correctly?

20 A. (Ulrich) That's correct.

21 MR. COOLBROTH: Well, I'm going to
22 object. The word "actually" Mr. Feltes included in his
23 assertion. That word "actually" is not in the quote.

24 BY MR. FELTES:

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[Witness panel: Reed|Ulrich]

- 1 Q. Strike "actually" from my quote. Would you agree with
2 that approach, Mr. Ulrich?
- 3 A. (Ulrich) I would agree to that, this is what you would
4 do if you were doing a typical analysis of the
5 competitive nature of a market or the level of
6 competition in the market.
- 7 Q. All right. And, did TDS perform such an analysis in
8 any of its service exchanges?
- 9 A. (Ulrich) Since we were not required to do so by the
10 statute, we did not.
- 11 Q. All right. And, just reading the last sentence:
12 "Making a determination as to whether the market is or
13 is not workably competitive." Did I read that
14 correctly?
- 15 A. (Ulrich) Yes, you did.
- 16 Q. Do you disagree with that?
- 17 A. (Ulrich) No, I do not.
- 18 Q. You don't disagree with that. And, did TDS make a
19 determination about whether or not any of its exchanges
20 in any of its service territories are workably
21 competitive?
- 22 A. (Ulrich) Just for clarification, we have done this in
23 other states, but we have not done this in the State of
24 New Hampshire.

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[Witness panel: Reed|Ulrich]

1 Q. Thank you. And, do you agree also that the cross price
2 elasticity analysis that Mr. Linder referred to earlier
3 would help measure the ease with which a customer can
4 shift in and out of certain products, is that correct?

5 A. (Ulrich) It is certainly one indicator that one looks
6 at.

7 Q. Did TDS look at any indicators of the ease with which a
8 customer can shift in and out of certain products in
9 any of its service exchanges?

10 A. (Ulrich) We did not do so from the perspective of doing
11 a price elasticity of demand study.

12 Q. Did you do a cross price elasticity study?

13 A. (Ulrich) No, we did not.

14 Q. All right. Let me draw your attention to Bailey
15 Exhibit 31, it's right behind that. Mr. Ulrich, would
16 you agree that the current telecom market, as well as
17 the market at issue in this docket, is basic local
18 service, as well as technologies that compete with
19 basic local service, is that correct?

20 MR. COOLBROTH: I'm going to object to
21 that question. What is the source of that assertion?
22 What is the authority for that question?

23 MR. FELTES: The question, Attorney
24 Coolbroth, it's Patnode Data Response 2-25. And, I'm

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[Witness panel: Reed|Ulrich]

1 referring to Bailey Exhibit 31.

2 CHAIRMAN GETZ: I took it, Mr. Feltes,
3 you were just seeking that he would confirm the response
4 to Patnode 2-25, Bailey Exhibit 31?

5 MR. FELTES: Right. And, I'm also
6 confirming that he believes that that's the market at
7 issue in this docket.

8 BY MR. FELTES:

9 Q. Do you believe that's the market at issue in this
10 docket, Mr. Ulrich?

11 A. (Ulrich) As I stated in my response here, basic local
12 exchange service as well as technologies that compete
13 with local exchange service, in response to your
14 question, is at the current telecom market. And, I'm
15 not sure what it's quoted here out of in the data
16 request response here, so I don't know what that's
17 referring to.

18 Q. Okay. Well, let's move onto Bailey Exhibit 32, and
19 this is another one of your responses. And, again, we
20 just asked you to define the "current telecom market".
21 Your response, if I read it correctly, is "The current
22 telecom market includes wireless, wireline, satellite,
23 and broadband providers already offering
24 telecommunications services to customers, which are

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[Witness panel: Reed|Ulrich]

1 providing customers with the same functional
2 capabilities as provided by the Petitioners'
3 traditional landline services." Did I read that
4 correctly?

5 A. (Ulrich) You did read that correctly, but you left out
6 the last sentence, which says "See response to Patnode
7 2-25." Which either provides additional information,
8 which I do not have in front of me, --

9 Q. I'm sorry, I just referred to Patnode 2-25, but that's
10 Bailey Exhibit 31. So, do you still agree with your
11 response to Patnode 2-24, Bailey Exhibit 32?

12 A. (Ulrich) Yes, I do.

13 Q. Thank you. Bailey Exhibit 33 is a response from
14 Mr. Reed. And, the question was "what constitutes a
15 "competitive choice"? And, I'm going to read the
16 response: "Petitioners did not use or feel the need to
17 use economic criteria to determine that a customer
18 makes a choice" --

19 (Court reporter asked Atty. Feltes to
20 slow down when reading from a document.)

21 MR. FELTES: Oh, I'm sorry, Steve.

22 BY MR. FELTES:

23 Q. I'm referring to Bailey Exhibit 32. The question
24 pertains to "what's a "competitive choice"?" Would Mr.

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[Witness panel: Reed|Ulrich]

1 Ulrich agree that that's what the question pertains to,
2 or Mr. Reed? Mr. Reed, would you agree that Patnode
3 2-20 pertains to what is a "competitive choice"? It's
4 Bailey Exhibit 33.

5 MR. COOLBROTH: Can we start again and
6 have the question? I just don't know what the question is
7 at the present time.

8 BY MR. FELTES:

9 Q. The question, we're going into some questions and
10 answers about what is actually a "competitive choice".
11 And, it's Bailey Exhibit 33, it's a response from
12 Mr. Reed, to the question "what is a "competitive
13 choice"?" Or, "how you evaluate what is a "choice" or
14 a "competitive choice"?" Would Mr. Reed agree that
15 that's what the question pertains to, Bailey
16 Exhibit 33?

17 A. (Reed) Pertains -- I'm sorry, pertains to --

18 Q. Okay. Let me --

19 A. (Reed) I think I may have lost the earlier part of the
20 question.

21 Q. Sure.

22 A. (Reed) I'm sorry.

23 Q. I'm referring to Bailey Exhibit 33.

24 A. (Reed) Yes.

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[Witness panel: Reed|Ulrich]

- 1 Q. It's Patnode Data Response 2-20. It asks "please
2 explain the economic criteria the Company suggests the
3 Commission use to evaluate whether a choice is merely a
4 "choice", or a "competitive choice." Did I read that
5 correctly?
- 6 A. (Reed) Well, yes, except it references "Staff 1-26 and
7 1-27". So, I've got to go back and -- which was
8 referring to the loss of access line data.
- 9 Q. Okay.
- 10 A. (Reed) Would you like me to clarify that or --
- 11 Q. If you want to.
- 12 A. (Reed) I mean, Staff -- I mean, it refers, it starts
13 out by saying "Again in reference to the response to
14 Staff 1-26 and 1-27."
- 15 Q. Right.
- 16 A. (Reed) 1-26, it says "please explain how the
17 significant loss of access line data can help in
18 determining", and then 27, Staff 1-27 says "Please
19 explain significant loss in intrastate access revenue
20 and how can that determine". And, then, so the
21 question was, in Patnode 2-20, "Again in reference
22 to...Staff 1-26 and 1-27, please explain the economic
23 criteria the Company suggests the Commission use". The
24 economic criteria -- And, the answer to that question

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[Witness panel: Reed|Ulrich]

1 is, we provided additional data to the Commission, in
2 addition to the data that was provided to show the
3 availability of competitive wireless, wireline, or
4 broadband, we felt it important to provide the
5 Commission with data showing that it's not only
6 available, but there are losses, the customers are
7 using it, which is resulting in losses of some of these
8 items. So, that -- does that help? Does that answer
9 your question?

10 Q. That answers my question in part. The Company believes
11 that loss of access lines is a measure of competition?

12 A. (Reed) No. What I said was that we believe that the
13 loss of access lines, loss of access minutes, and loss
14 of revenues is an indicator that customers are choosing
15 alternatives to our service.

16 Q. Okay. And, in your response on Pat 2-20, you said, and
17 I'll ask you if I read it correctly: Petitioners did
18 not use or feel the need to use economic criteria to
19 determine that a customer makes a "choice" to use a
20 competitor. If a customer uses a competitor for any or
21 all of the services offered by the Petitioners, it is a
22 "competitive choice." Did I read that correctly?

23 A. (Reed) Yes.

24 Q. Do you still agree with that?

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[Witness panel: Reed|Ulrich]

1 A. (Reed) Yes.

2 Q. All right. Let me explore this a little bit. Let's
3 say that I have a hand-held AM/FM radio. I'm
4 dissatisfied with that product. There's an automobile
5 dealership in town that offers cars with AM/FM radios
6 bundled into them. Is that car, offering the same
7 function as the AM/FM radio, a competitive choice to
8 the AM/FM radio?

9 A. (Reed) Sure. Yes.

10 Q. A car is a competitive choice to an AM/FM radio?

11 A. (Reed) I don't know the answer to that question.

12 Q. Mr. Ulrich, would you agree that a car, offering AM/FM
13 radio service is a competitive choice to a hand-held
14 AM/FM radio?

15 A. (Ulrich) I have not reviewed that hypothetical that
16 you're suggesting. So, I don't want to give a
17 response.

18 Q. Okay. People talk over the internet using something
19 that's called "Voice Over Internet Protocol", or
20 "VoIP", correct?

21 A. (Reed) Yes.

22 Q. I'm going to refer you to Bailey Exhibit 34. And,
23 Mr. Reed, since you answered this question, I'll just
24 ask you the question. To clarify and confirm, TDS has

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[Witness panel: Reed|Ulrich]

- 1 not received any requests to port telephone numbers
2 from basic service to VoIP in 2006, is that correct?
- 3 A. (Reed) That's actually not what it says.
- 4 Q. It says "Please provide the annual number of porting
5 requests for years 2004, 2005 and 2006." Is that --
6 Did I read that correctly?
- 7 A. (Reed) It says "How many porting requests from VoIP
8 providers have been received" for those periods of
9 times? And, the answer is "We have none."
- 10 Q. And, you have not fulfilled any requests to port those
11 --
- 12 A. (Reed) We have not had any requests.
- 13 Q. Not had any requests. And, those -- In 2004, 2005, and
14 2006?
- 15 A. (Reed) That's correct.
- 16 Q. Mr. Reed, you provided some maps to the Commission and
17 to all the parties indicating DSL service is available
18 to certain customers in certain exchanges, correct?
- 19 A. (Reed) Yes.
- 20 Q. And, am I correct that TDS is the only provider of
21 wholesale and retail DSL service to TDS's customers?
- 22 A. (Reed) Yes. In our service territory, yes.
- 23 Q. Right. And, that's, for the record, that's Bailey
24 Exhibit 52. Does TDS have any information about

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[Witness panel: Reed|Ulrich]

1 persons within TDS's service exchanges that are solely
2 using VoIP?

3 A. (Reed) I do not, no.

4 Q. And, does TDS have any information with respect to
5 persons within TDS's service exchanges that are only
6 using wireless?

7 A. (Reed) I'm not sure of information available.
8 Obviously, we're losing, we have lost significant
9 access lines, and we have customers in their exit
10 interviews who have said that they have left for that
11 particular reason. So, the answer would be "yes", we
12 do have evidence.

13 Q. Can I point to Bailey Exhibit 37? And, that's Bailey
14 Exhibit 37. It's Staff Data Request 1-58. Question
15 (a): "Has the Company estimated what percentage of
16 broadband customers in each exchange do not purchase
17 TDS basic local service? Question (b): "If not,
18 please provide the aforementioned estimate, along with
19 the analysis and accompanying relevant documents and
20 workpapers." Did I read that correctly?

21 A. (Reed) Yes.

22 Q. And, your response was: "No", Petitioners have not
23 estimated the number of customers who are cable
24 broadband only or cable and wireless only." Did I read

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[Witness panel: Reed|Ulrich]

1 that response correctly?

2 A. (Reed) Yes, you've read it part way through.

3 Q. Do you agree with that response to this date?

4 A. (Reed) Well, along with the rest of it.

5 MR. COOLBROTH: The response has another
6 sentence.

7 MR. FELTES: I agree, the response has
8 another sentence. We can read the --

9 BY THE WITNESS:

10 A. (Reed) Well, why don't I just read it in then.

11 BY MR. FELTES:

12 Q. Sure.

13 A. (Reed) What I said was: "Petitioners have not
14 estimated the number of customers who are cable
15 broadband only or cable and wireless only. Our best
16 estimates are provided in the loss of access lines
17 accompanied by the loss of any growth in access lines
18 contained in Attachments A through D."

19 Q. Thank you, Mr. Reed. Mr. Ulrich, I'm going to turn
20 back to you. I've been neglecting you a little bit.
21 can you please turn to Page 4 of your rebuttal
22 testimony? Are you there?

23 A. (Ulrich) Yes, I am.

24 Q. On Page 4, on Lines 4 through 5, you were asked the

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[Witness panel: Reed|Ulrich]

1 question: "Please further explain your understanding
2 of the meaning of the term "competitive" as used within
3 the pertinent statute?" Did I read that correctly?

4 A. (Ulrich) Yes, you did.

5 Q. And, your response was: "The plain language of the
6 statute, including the statute's placement of the term
7 "competitive" before identifying the specific services
8 (wireline, wireless or broadband), together with the
9 expressed legislative findings in Laws 2005, 263:1 and
10 the Study Committee Report, cause me to conclude that
11 the General Court has already determined that these
12 services are competitive with the services of small
13 ILECs." Did I read that correctly?

14 A. (Ulrich) Yes, you did.

15 Q. And, can you now turn to Bailey Exhibit 53? It's the
16 statute.

17 A. (Ulrich) I'm there.

18 Q. You're there? In RSA 374:3-b, III, the statute, the
19 plain language of the statute says "The Commission
20 shall approve the alternative plan if it finds that:"
21 Did I read that correctly?

22 A. (Ulrich) Correct.

23 Q. And, so, it is your position that the Legislature has
24 already made a finding, correct?

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[Witness panel: Reed|Ulrich]

- 1 A. (Ulrich) As I discussed in my testimony, that is
2 correct. That we have based it upon what the General
3 Court has said, as well as what laws 2005, 263.1 also
4 states, which is that -- that they have found "that the
5 growth of unregulated wireless and broadband
6 telecommunications services has provided consumers
7 alternatives to traditional telephone utility
8 services." Which can be found in my rebuttal testimony
9 on Page 4, Lines 12 through 19.
- 10 Q. And, in that passage you just read, Mr. Ulrich, can you
11 point to me where the General Court said that these
12 alternatives were competitive, on Page 4 of your
13 rebuttal testimony?
- 14 A. (Ulrich) No, I can't point to the exact word, that they
15 said "it is competitive".
- 16 Q. And, Mr. Ulrich -- Ulrich, sorry, going back to
17 RSA 374:3-b, Bailey Exhibit 53, and RSA 374:3-b, III
18 (a), following the words "finds that", I'm reading:
19 "Competitive wireline, wireless or broadband service is
20 available to a majority of retail customers in each of
21 the exchanges served by such small incumbent local
22 exchange carrier." Did I read that correctly?
- 23 A. (Ulrich) Yes.
- 24 Q. And, it is your position, as you mentioned earlier,

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1 that despite the word "competitive" in this sentence
2 and despite the word "finds" in RSA 374:3-b, III, the
3 Commission is precluded from making a finding that
4 technologies are competitive?

5 A. (Ulrich) Our position is, as we've stated before, is
6 that we feel that the General Court has already made
7 that finding, and the term "competitive" is used to
8 modify those particular technologies. It does not
9 direct, to be clear, it does not direct the Commission
10 to do any type of economic analysis or things along
11 those lines or to promulgate administrative rules to
12 carry out any type of study that might be needed within
13 this area to do a finding.

14 Q. Thank you, Mr. Ulrich. Can you point to me in RSA
15 374:3-b anywhere in the statute where the Commission is
16 expressly prohibited from making such a finding?

17 A. (Ulrich) No, I cannot.

18 Q. And, Mr. Ulrich, you heard earlier testimony that
19 there's no CLECs operating in any of TDS's service
20 exchanges, is that correct?

21 A. (Ulrich) As the term "competitive local exchange
22 carriers" are defined within the New Hampshire
23 statutes, that's correct.

24 Q. And, do you agree with that?

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[Witness panel: Reed|Ulrich]

1 A. (Ulrich) That's correct.

2 Q. Let me refer you to Page 4, Mr. Ulrich, of your
3 prefiled testimony, Lines 9 through 12.

4 A. (Ulrich) Could you say those lines again please?

5 Q. Sure. It's Lines 9 through 12.

6 MR. COOLBROTH: Of Page?

7 MR. FELTES: I'm sorry, Fred. It's the
8 prefiled testimony, Page 4, Lines 8 through 12, actually,
9 is what I'll refer to. And, I just have five or six more
10 questions.

11 WITNESS ULRICH: I'm there.

12 BY MR. FELTES:

13 Q. Okay. Is it your testimony, in the prefiled testimony,
14 that "Rural ILECs currently face a competitive threat
15 in their markets from cable companies, facility-based
16 CLECs and wireless companies." Is that correct?

17 A. (Ulrich) Okay. Just to be clear, that is correct, to
18 be clear, what the term "rural ILEC" is referring to
19 here is generally, not specifically to the New
20 Hampshire ones. Mr. Reed addressed the specific
21 competitive nature here in New Hampshire.

22 Q. Thank you. Turning back real briefly to Bailey
23 Exhibit 53, RSA 374:3-b, III, reads, III(d) -- III(a),
24 excuse me, reads: "Competitive wireline, wireless, or

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[Witness panel: Reed|Ulrich]

- 1 broadband service", is that correct?
- 2 A. (Ulrich) That is correct.
- 3 Q. And, it doesn't read "competitive or potentially
- 4 competitive wireline, wireless, or broadband services",
- 5 is that correct?
- 6 A. (Ulrich) It does not read that.
- 7 Q. Referring to Page 5 of your rebuttal testimony. On the
- 8 bottom of Page 5, Mr. Ulrich, you refer to a letter
- 9 submitted by the New Hampshire Public Utilities
- 10 Commission to the House Science, Technology and Energy
- 11 Committee, is that correct?
- 12 A. (Ulrich) This is in my rebuttal testimony?
- 13 Q. Yes, that's correct. I'm sorry about that. It's
- 14 Page 5 of your rebuttal testimony.
- 15 A. (Ulrich) Yes, I do reference that document.
- 16 Q. And, is that document you referred to Bailey
- 17 Exhibit 38?
- 18 A. (Ulrich) Yes, it is.
- 19 Q. Thank you. And, now referring to Page 13 of your
- 20 rebuttal testimony. Let me know when you --
- 21 A. (Ulrich) I'm there.
- 22 Q. You're there? Okay. You were asked a question over
- 23 your concern over the increase in prices, is that
- 24 correct?

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[Witness panel: Reed|Ulrich]

- 1 A. (Ulrich) Would you point to the lines specifically.
- 2 Q. Sure. Lines 10 through 12 on Page 13 of your rebuttal
3 testimony, you were asked a question concerning
4 concerns over possible price increases?
- 5 A. (Ulrich) That's correct.
- 6 Q. And, on Line 17 through 19, you express agreement with
7 Dr. Johnson, in stating: "Dr. Johnson [Johnson Direct
8 at Page 31] is right when he says "in competitive
9 markets, firms typically increase their prices in
10 response to cost increases, while they decrease rates
11 in response to competitive pressures." Did I read that
12 correctly?
- 13 A. (Ulrich) Yes, you did.
- 14 Q. Do you agree with that?
- 15 A. (Ulrich) Yes, I do.
- 16 Q. And, in response to this alleged competition TDS is
17 facing, has it lowered its rates for basic service in
18 the last year?
- 19 A. (Ulrich) In the State of New Hampshire, just for
20 clarifications?
- 21 Q. Sure.
- 22 A. (Ulrich) No.
- 23 Q. And, what I'm referring to now is Bailey Exhibit 40.
24 And, Mr. Reed, you answered this. I'm wondering if

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[Witness panel: Reed|Ulrich]

1 Mr. Reed and Mr. Ulrich agree that there has been no
2 change in basic local service rates in the years 2000
3 through 2006, is that correct? Am I reading that
4 correctly?

5 A. (Ulrich) Yes.

6 A. (Reed) Yes.

7 A. (Ulrich) That's correct.

8 MR. FELTES: Thank you. No further
9 questions.

10 CHAIRMAN GETZ: Redirect, Mr. Coolbroth?

11 MR. COOLBROTH: Yes. Thank you, Mr.
12 Chairman.

13 REDIRECT EXAMINATION

14 BY MR. COOLBROTH:

15 Q. Mr. Ulrich, I'd like to ask a question relating to
16 wireline competition, and specifically with respect to
17 the possibility of resale. Is it true that the -- that
18 the Petitioners have agreed to waive the rural
19 exemption as part of the settlement in this case?

20 A. (Ulrich) That is my understanding.

21 Q. And, does that open the possibility of offering retail
22 services with a wholesale discount?

23 A. (Ulrich) It does provide that opportunity.

24 Q. So, with a resale discount, is a CLEC able to, for

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[Witness panel: Reed|Ulrich]

1 instance, resell the TDS companies' basic services at
2 wholesale with a discount?

3 A. (Ulrich) Yes, it could.

4 Q. And, with such a discount, could a CLEC offer a basic
5 service, coupled with a wholesale DSL service, provided
6 from TDS's interstate tariff?

7 A. (Ulrich) If it chose to do so, it could.

8 Q. Now, I believe there was testimony that the Companies
9 have not performed price elasticity or cross elasticity
10 studies, in order to present their position in this
11 case, is that correct?

12 A. (Ulrich) Yes.

13 Q. And, could you tell the Commission why?

14 A. (Ulrich) First of all, we're not required to under the
15 statute to do so, and, doing so, can be a very, you
16 know, expensive-type analysis to undertake. And, so,
17 we have not chosen to do so, because that's not
18 necessarily how we set our prices when we look at
19 offering our services. So, we don't look to a price
20 elasticity of a demand-type calculation.

21 Q. And, with respect to the porting of telephone numbers
22 to providers of Voice Over Internet Protocol service, I
23 believe testimony was that there have not been requests
24 to port those numbers, I believe it was through 2006?

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[Witness panel: Reed|Ulrich]

- 1 A. (Reed) That's correct. But, I just want to clarify,
2 there have been no requests from VoIP providers. There
3 have been customers that have inquired, in fact, I
4 think some have come to the Commission saying, you
5 know, "how do we port our number?" But it's up to the
6 VoIP provider to establish their trading partner
7 profile and the things that go along with that, but --
8 as the wireless carriers have done, but we have not had
9 that from a VoIP provider.
- 10 Q. Now, I will ask Mr. Ulrich, has there been recent FCC
11 action related to the porting of numbers to VoIP
12 providers?
- 13 A. (Ulrich) Yes, they have come up with a recent order
14 requiring some.
- 15 Q. And, is it your expectation that that will cause such
16 requests to increase?
- 17 A. (Ulrich) I would think so.
- 18 Q. And, in terms of trying to be able to identify how many
19 people are using Voice Over Internet Protocol service
20 only for their telephone service, is that information
21 that the Company is able to get?
- 22 A. (Reed) No, not that I'm aware of. A customer could use
23 Voice Over Internet Protocol, either using their DSL
24 line or using a cable modem service. And, we really

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[Witness panel: Reed|Ulrich]

1 don't have any way of knowing that for sure.

2 I mean, some of these services are --
3 they're the Vonage-type services that are 24.95
4 unlimited, or there's some internet-to-internet type
5 things that are, I think, virtually free to customers.
6 So, we have no way of knowing who uses those.

7 Q. And, there were several questions, several times the
8 same question, about the presence of CLECs operating in
9 your territories. And, I think each time it was
10 qualified with "to our knowledge" until the last time.
11 I assume that your answer is, with respect to whether
12 there are CLECs operating in your territory, when you
13 say "no", you mean "no, to your knowledge"?

14 A. (Reed) To my knowledge, there are no CLEC -- I really
15 want to be clear that there are no wireline CLECs that
16 are certified to operate in our territory or are
17 operating in our territory that I'm aware of.

18 MR. COOLBROTH: That concludes my
19 redirect.

20 CHAIRMAN GETZ: Okay. Thank you. I
21 think that concludes the examination, gentlemen. Thank
22 you. Mr. Linder, are you prepared to proceed with Dr.
23 Johnson?

24 MR. LINDER: Well, we are prepared to

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[Witness panel: Reed|Ulrich]

1 proceed. I don't know if the Commission would plan to
2 take a break at this point or whether it wishes us to
3 proceed.

4 CHAIRMAN GETZ: I think that -- well,
5 let me just ask this. I'm assuming it's Dr. Johnson, then
6 Dr. Loube, right, and then Dr. Chattopadhyay and Ms. Gauge
7 are all going to be qualified and subject to cross. Is
8 there any indication of how much cross? I'm just trying
9 to make a judgment on whether we're going to take a lunch
10 recess or go through, take a short recess, and then try to
11 finish the hearing without a lunch recess. Do any of the
12 parties have any feel or thoughts regarding that process?

13 MR. COOLBROTH: Mr. Chairman, I'm a
14 terrible judge, but I think I have an hour to an hour and
15 a half, is what I think I have.

16 CHAIRMAN GETZ: For --

17 MR. COOLBROTH: Dr. Johnson.

18 CHAIRMAN GETZ: Dr. Johnson. All right,
19 let's -- And, then, after Dr. Johnson, is there going to
20 be much cross for the other witnesses?

21 MR. LINDER: Mr. Chairman, we do have
22 several questions for Dr. Loube. And, we do have several
23 questions for the Staff witnesses. My estimate would be
24 15 minutes for each of those three witnesses.

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[Witness panel: Reed|Ulrich]

1 CHAIRMAN GETZ: All right. Well, let's
2 do this then. Let's take a brief recess now, 10 or 15
3 minutes, we'll come back, we'll do the examination of Dr.
4 Johnson. And, then, we'll see where we are then, if we'll
5 take a lunch recess or just complete the hearings. Let's
6 break briefly.

7 (Recess taken at 11:35 a.m. and the
8 hearing reconvened at 11:59 a.m.)

9 CHAIRMAN GETZ: Mr. Linder.

10 MR. LINDER: Thank you, Mr. Chairman.
11 I'd like to call Dr. Ben Johnson to the stand please.

12 CHAIRMAN GETZ: And, let me just note
13 that I think more reasonable minds may have persuaded me
14 that the better course is to go for about an hour, and
15 take an actual lunch recess, and then wrap up whatever
16 needs to be wrapped up.

17 MR. COOLBROTH: Mr. Chairman, if I could
18 just insert one other matter before we proceed with Dr.
19 Johnson. And, that is, we would like to ask the
20 Commission to take administrative notice of the provisions
21 of Verizon's retail tariff that would be implicated by the
22 Plan. The Plan references comparable rates of Verizon.
23 And, just for purpose of the completion of the record, I
24 think the easiest thing to do is for the Commission to

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[Witness: Johnson]

1 take administrative notice of what's on file.

2 CHAIRMAN GETZ: Is there any objection?

3 MR. LINDER: We have no objection.

4 CHAIRMAN GETZ: Okay. Then, we will
5 take administrative notice.

6 (Administrative notice taken.)

7 (Whereupon Ben Johnson was duly sworn
8 and cautioned by the Court Reporter.)

9 BEN JOHNSON, SWORN

10 DIRECT EXAMINATION

11 BY MR. LINDER:

12 Q. Okay. Dr. Johnson, would you please give us your name
13 and business address and occupation please.

14 A. Yes. My name is Ben Johnson. My business address is
15 3854-2 Killearn Court, Tallahassee, Florida 32309. My
16 occupation is a Consulting Economist.

17 Q. And, you've been before this Commission in the past,
18 have you not?

19 A. Yes, I have.

20 Q. Okay. And, did you prepare for these proceedings
21 prefiled direct testimony dated October 12, 2007, on
22 behalf of New Hampshire Legal Assistance's client?

23 A. Yes, I did.

24 Q. Okay. And, I handed you, just before you took the

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[Witness: Johnson]

1 witness stand, two documents. Do you have those
2 documents in front of you?

3 A. Yes, I do.

4 Q. Okay. Can you tell me what those documents are? Can
5 you identify them?

6 A. Yes. One is the confidential version, the other is the
7 public version of my prefiled direct testimony,
8 including my appendix.

9 MR. LINDER: Before we ask to have those
10 documents marked, I just wanted to ask the Commissioners
11 if the Commissioners have their own copies or if the
12 Commissioners would like additional copies?

13 CHAIRMAN GETZ: I'm all set. We're all
14 set. Thank you.

15 MR. LINDER: Thank you very much. I'd
16 like to have these documents marked.

17 BY MR. LINDER:

18 Q. Dr. Johnson, are they -- is one a public document and
19 the other one marked "confidential"?

20 A. Yes.

21 MR. LINDER: Okay. So, may we have
22 those documents marked with an exhibit number please. I
23 think the last exhibit was number six, the Settlement
24 Agreement, and --

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[Witness: Johnson]

1 CHAIRMAN GETZ: So, then, rather than
2 use the "Bailey" nomenclature, we'll just call
3 Dr. Johnson's publicly available testimony "Exhibit Number
4 7" and the confidential version "7C".

5 (The documents, as described, were
6 herewith marked as Exhibit 7 and 7C,
7 respectively, for identification.)

8 MR. LINDER: Yes. Thank you very much.
9 And, I have provided to the court reporter one version of
10 each, and I have provided to the Commission's clerk one
11 version of each of those two documents, which are marked
12 "7" and "7C".

13 BY MR. LINDER:

14 Q. Dr. Johnson, were these two documents, prefiled
15 testimony marked "Exhibit 7" and "Exhibit 7C", prepared
16 by you or under your supervision?

17 A. Yes.

18 Q. And, is there attached to those documents an 11 page
19 document entitled "Qualifications of Ben Johnson"?

20 A. Yes.

21 Q. Okay. And, is each of these exhibits, 7 and 7C, true
22 and correct to the best of your knowledge, information
23 and belief?

24 A. Yes. Although, I do have one correction.

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[Witness: Johnson]

1 Q. Okay. And, what would that be?

2 A. On Page 81, at Line 16, we have a typo. I don't know
3 how you want me to handle this, because I just realized
4 it's a --

5 Q. Is that on the confidential version?

6 A. It is. It's on Line 16, the number in the center there
7 is wrong. It's not worth probably shutting the whole
8 hearing down, just to, you know, kicking people out of
9 the room. I don't know what you need to do, but
10 there's a different number that needs to go there.

11 CHAIRMAN GETZ: Let me just find out, is
12 this testimony, to the extent it's confidential, it's just
13 not available to the public or are there certain parties
14 that should not see this, the confidential material?

15 MR. LINDER: I think the way we handled
16 it was that there were certain parties that may not have
17 had this document. Is that correct? Yes, that is
18 correct. There were certain parties that did not have
19 access to the confidential version, 7C.

20 MR. COOLBROTH: So, it is also not
21 public. So, we would clarify that.

22 MR. LINDER: Yes.

23 CHAIRMAN GETZ: Well, are you going to
24 have questions on confidential matters, Mr. Coolbroth?

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[Witness: Johnson]

1 MR. COOLBROTH: No, I'm not. Mine will
2 be entirely public.

3 CHAIRMAN GETZ: Okay. Let's do it this
4 way. To the extent Dr. Johnson wants to make a change,
5 can you just file a revised page that we'll make part of
6 the record, then we won't have to ask people to leave the
7 room.

8 MR. LINDER: Thank you, Mr. Chairman.

9 BY MR. LINDER:

10 Q. And, that was Page 81, Dr. Johnson?

11 A. Yes.

12 Q. Okay. Thank you. Are there any additional changes or
13 corrections?

14 A. No.

15 Q. Okay. And, if you were asked today the same questions
16 that are in Exhibit 7 and 7C, your prefiled testimony,
17 would your answers be the same?

18 A. Yes.

19 Q. And, you adopt this testimony as your own?

20 A. Yes, I do.

21 Q. Are you aware that, on November 30th, some of the
22 parties to this case signed a document entitled
23 "Settlement Agreement"?

24 A. Yes.

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[Witness: Johnson]

1 Q. And, that document has been marked "Exhibit 6" in these
2 proceedings. Have you had the opportunity to read that
3 document?

4 A. Yes, I have.

5 Q. And, does the Settlement Agreement, Exhibit 6, cause
6 you to change your prefiled testimony and conclusions
7 and recommendations in any way?

8 A. No, it does not.

9 Q. In your opinion, does the Settlement Agreement and the
10 Company's revisions to their Alternative Regulation
11 Plans meet the criteria that competitive wireline,
12 wireless, or broadband services be available to the
13 majority of retail customers in each exchange?

14 A. No, I don't believe it complies with that requirement
15 any more than the originally filed plans.

16 Q. And, do you have any specific comments or concerns with
17 respect to the Settlement Agreement or the revisions to
18 the Plans that you referred to?

19 A. Yes, I do.

20 Q. Okay. Do you have the Settlement Agreement in front of
21 you, Exhibit 6?

22 A. Yes.

23 Q. Okay. Do you have -- Do you have any comments or
24 concerns with respect to Paragraphs 1 through 4, which

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[Witness: Johnson]

1 appear on Pages 3 and 4, which pertain to the CLEC
2 certification waiver of rural exemption, and so on?
3 A. Yes, I would briefly comment. This clearly is one of
4 the concessions that the Staff apparently was seeking
5 in this bargain that you're seeing in front of you.
6 And, I recognize that it is of some benefit from the
7 perspective of trying to reduce barriers to entry into
8 the TDS markets. However, the reduction in barriers to
9 entry is a very modest one, and, in my view, is not
10 substantial. The barriers still exist, in that these
11 are small companies and in relatively small markets.
12 So, they're not the top choices of places to go in the
13 country. That is unchanged, obviously. They are the
14 markets they are. And, many of the protections from
15 requiring of opening of markets that are specific to
16 rural companies apply to TDS. These provisions, in
17 particular, Section 2.1 and 2.2, do make some small
18 changes, and they're small changes in a good direction,
19 I want to be clear about that, and good in the sense
20 that they're opening the market towards making it
21 easier for a competitor to enter. But, again, I don't
22 believe that it's a sea change or a dramatic change in
23 the situation.

24 In particular, it does not require a

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[Witness: Johnson]

1 filing of a tariff for either resale or unbundled
2 elements. And, I can understand, from the Company's
3 point of view, why it would seek that limitation in the
4 opening that's taking place, in that it reduces the
5 burden on the Company. But, when you flip it over,
6 from a CLEC's point of view, the burden of judging "How
7 easy would it be to enter this market?" "How costly
8 would it be?" "Could I make a profit?" "What would my
9 business plan look like?", is left to their
10 imagination. There is no readily available tariff they
11 can look to to determine "what will the terms and
12 conditions be?" "What will the costs be?" "What would
13 it cost me to collocate?", and so forth. You don't
14 have a tariff to look at. What you have is a somewhat
15 streamlined process of negotiation. And, that
16 negotiation process itself can be costly for a CLEC.
17 So, depending on the CLEC, you might find one or two
18 that would probe and would enter into negotiations.
19 Whether those negotiations would ultimately be
20 successful, whether that company would be eager enough
21 to enter the market, that it would go through the cost
22 of arbitration, is all a matter of speculation at this
23 point. So, I just want to be clear that, without an
24 actual tariff requirement, the reduction in barriers to

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[Witness: Johnson]

1 entry is actually quite modest.

2 Q. Thank you. Proceeding to Paragraph 5 of the Settlement
3 Agreement, which appears on Page 4, with respect to the
4 Wilton and Hollis companies, do you have any concerns
5 or comments?

6 A. Yes. The first thing I'd like to point out, to make
7 sure it's clear, because it may or may not be clear in
8 everyone's mind, as I'm reading this provision, and as
9 I read the original plan, Paragraph 5 is sort of the
10 exception to the basic pattern. These are limitations
11 on rate increases that are an exception to a general
12 freedom to raise rates without limitations. So that,
13 as I understand it, WTC and HTC would immediately, from
14 the effective date of the Settlement, upon approval by
15 this Commission, if it were approved, could immediately
16 increase Caller ID rates, they could immediately
17 increase Call Waiting rates, they could immediately
18 increase bundled services that include those elements,
19 they could immediately increase, I would assume,
20 various specialized services provided to their business
21 customers that do not fall within the "basic service"
22 category. And, exactly what is or is not in that
23 category is not something I'm sure of at the moment.
24 It would be a matter of studying the tariff and

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[Witness: Johnson]

1 comparing it to the definition of "basic service".
2 But, for example, if they offered a burglar alarm
3 service, very likely that would not be protected in any
4 way and could be immediately increased.

5 Often, there are a whole series of
6 services that are vital to small businesses, and that
7 they are -- they depend upon, they're not basic, not
8 every business needs them, but certain businesses do
9 use them. Those services presumably could be increased
10 from day one. So, that's the key point. And, so that,
11 to the extent there are limitations that are being set
12 forward, those are the only limitations. Other than
13 that, they are effectively, I'm not sure you'd be fair
14 to say "deregulated", but the form of alternative
15 regulation is essentially similar to the regulation
16 that Wal-Mart has on its prices. Basically, they have
17 to pay the minimum wage to their employees, and that
18 pushes their prices up to some degree. It's kind of an
19 indirect, very limited form of regulation. It is not
20 what we normally think of as "traditional regulation",
21 where there is any specific limitation on how much they
22 can choose to charge for particular services from day
23 one.

24 And, yet, I believe, as set forth in my

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[Witness: Johnson]

1 testimony, that they do not, in fact, face any
2 competition at this point. The wireless alternatives
3 that are available, the broadband alternatives that are
4 available are not competitive alternatives, in my view.
5 I'm trying not to spend any more time than necessary,
6 but that was the key point I wanted to make with regard
7 to Paragraph 5.

8 Q. Okay. Thank you. With respect to Paragraph 6, which
9 is located on Page 4 of the Settlement Agreement, do
10 you have any comments or concerns with respect to
11 Paragraph 6? And, that includes whether you have any
12 comments or concerns with respect to subparagraph 6.2,
13 regarding the termination of the basic service rate
14 cap?

15 A. Yes. In addition to the types of concerns I've already
16 expressed, with regard to these two companies, there is
17 some additional delay, shall we say, or some additional
18 protection provided for basic service increases,
19 increases in prices for basic service, in Section 6.2.
20 So, they're fairly critical to a reading of the Plan,
21 and whether or not it is, in any sense, an improvement
22 over the originally filed plan. And, certainly, the
23 individual items listed is a mixed bag. There are some
24 good things here. It certainly calls attention, for

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[Witness: Johnson]

1 example, to a distinction between whether a provider is
2 TDS itself, and is that an alternative that we want to
3 consider "competitive", versus a non-affiliated
4 provider. So, I think it's good that the Staff
5 insisted on language that says "a non-affiliated cable
6 provider". Whereas, if you look at the original plan,
7 the Company, in its testimony and its filing, seems to
8 draw no distinction between TDS companies that's
9 providing an alternative and other companies providing
10 an alternative. It appears to my reading of the
11 Company's understanding of what they filed and what
12 their plan is is that their own DSL service can be
13 viewed as an alternative, and is, of course, a
14 competitive alternative under their view, because they
15 seem to believe all these alternatives are competitive
16 alternatives. Here at least the Staff does insist on
17 it being non-affiliated. So, there's some good things
18 here.

19 I want to, however, call your attention
20 to some weak points in the language that do concern me,
21 and that I want to be sure you focus on when you
22 evaluate it. The first provision, (i), refers to
23 collocation. And, the first I want to call your
24 attention to, when you think about collocation, you're

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[Witness: Johnson]

1 typically talking about a special case. A carrier that
2 typically is focusing on business customers, often
3 large business customers, has special needs and they
4 need to collocate. And, then yet you read the rest of
5 the sentence "and is offering service". So, the way
6 I'm understanding this language, it appears to me
7 fairly clear that, if a carrier, a specialized carrier,
8 that targets the handful of large business customers in
9 town collocates and offers services to those business
10 customers, from that point forward, the test has been
11 met for residential customers, and, therefore,
12 residential customers will be subject to these rate
13 increases. The protections would be removed. And,
14 again, there's just a lack of linkage here between
15 whether it's a true competitive alternative to the
16 customers in question. The focus seems to be
17 encouraging competition where it's possible. And,
18 certainly, I could understand that the Staff might see
19 that the business market has more possibilities than
20 residential, but the residential customers would
21 nevertheless be swept up in this deregulation or
22 freedom to raise prices, whatever would be the proper
23 way to phrase it.

24 Similarly, the provision later talks

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[Witness: Johnson]

1 about a -- talking about "a non-affiliated CLEC is
2 providing basic service through resale, unbundled
3 network elements, its own facilities or a combination
4 thereof." Now, when you read that as a whole, it
5 certainly is describing the kind of competitive
6 activity one would like to see before opening up
7 freedom to raise prices and so on. However, if you
8 look at it closely, since it has "or" at the end, and
9 the whole way the series of items is sequenced, it
10 appears to me that what's being said here is that, as
11 long as a non-affiliated CLEC is providing basic
12 service through resale, then the test is met. And, so,
13 you don't necessarily have to be using unbundled
14 elements. You don't necessarily have to be using your
15 own facilities or any combination. You could simply be
16 reselling. And, that is of grave concern. Because
17 there are specialized carriers who focus on the resale
18 market, and the type of competition they offer is
19 extremely limited relevance. First of all, they may
20 have only, say, a 10 percent discount off the retail
21 price. So, at most, they've got a 10 percent margin to
22 work with in which they have to pay all their costs in
23 marketing and so on. So, they're certainly not going
24 to provide much downward price competition from a

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[Witness: Johnson]

1 reseller. If TDS doubled its rates, that reseller
2 would presumably have to double their rates. But, also
3 bear in mind, sometimes they don't even have any
4 discount. What they're actually offering to the
5 consumer is a prepayment plan for people with poor
6 credit, they may have some sort of protections against
7 excessive toll charges and other things that they build
8 into their mechanism of pricing. So that they have a
9 niche in the market, but it isn't a niche that is
10 appealing to the majority of customers.

11 And, again, my concern is, we seem to
12 have triggers here that are very -- very quick to be
13 triggered, and yet it then removes the price
14 protections, such as they are, for all customers, even
15 though the type of competition that's being measured
16 here might be of very limited relevance.

17 As to the final section, talking about
18 the broader one about wireless or non-affiliated
19 broadband service is "competitive" within the meaning
20 of the statute, it seems to kick the question sort of
21 -- it doesn't really resolve the question that's before
22 you. It leaves to be determined whether or not the
23 particular service in question is or is not
24 competitive. So, it doesn't really solve the problem.

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[Witness: Johnson]

1 It's not as if you have a settlement in front of you in
2 which all parties or some parties have said "You have a
3 difficult statute, first impression, you need to
4 resolve this. Here's how we suggest you resolve it.
5 Here's a set of more specific criteria that we'll come
6 back in a fresh proceeding and, if facts meet these
7 criteria, we all agree that would be a reasonable test,
8 a more specific test than the broad general language
9 that the statute has." That's not the kind of
10 settlement you have in front of you.

11 Instead, you basically, when it comes to
12 this, if you can't meet any of these other specific
13 things, you can still go back to the original criterion
14 and leave it to the imagination as to whether or not it
15 is or is not competitive.

16 Q. Thank you. Do you have any comments with respect to
17 Paragraph 7, the Lifeline rates?

18 A. It's nothing really unique to that paragraph. In
19 general, it does provide some limited protection for
20 Lifeline customers during the first four years, beyond
21 that which is provided to other customers. And, that's
22 certainly a good thing, since these are some of the
23 customers who would be the most adversely affected by a
24 substantial increase in rates. However, it is -- that

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[Witness: Johnson]

1 protection is not very long lasting, because it,
2 ultimately, after the four years, it then falls back to
3 the same set of tests that we were just talking about.
4 And, the fact that the type of competition, the resale,
5 and all these things we're talking about, may or may
6 not apply to Lifeline customers specifically. It is
7 not clear that the tests have to apply or that Lifeline
8 customers have to be buying broadband service at a
9 Lifeline rate or anything of that sort. I don't know
10 exactly what they have in mind, but certainly seems as
11 though, at some point, this protection goes away. And,
12 it sure looks like it could go away as little as four
13 years into the Plan.

14 Q. Thank you. Do you have any comments with respect to
15 Paragraph 8, on Page 6, regarding "exogenous changes"?

16 A. Yes. I particularly would call your attention to the
17 language that -- the general tone of the language,
18 first, I would point out, is one that basically leaves
19 consumers out of the picture. It is basically relying
20 on this Commission to decide whether or not an
21 exogenous change is significant enough that it merits
22 passing through some sort of rate increase. There is
23 no provision that says "consumers can complain if the
24 Company files a request and asks for a hearing and

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[Witness: Johnson]

1 insist upon an investigation." It's strictly at this
2 Commission's discretion. Certainly, this Commission
3 would have that discretion on its own without this
4 provision. What's significant about the provision is
5 that it seems to put some sort of limitations on the
6 Commission's discretion, maybe I'm wrong, but that's
7 the impression I get. Particularly, is this sentence
8 that troubles me "Such an investigation shall be
9 limited to the financial impact of the proposed change
10 and shall not include a rate-of-return analysis." So,
11 it appears that what is happening here is that, while
12 the Commission can, if it wants to, investigate. If it
13 doesn't, the exogenous rate increase goes in effect at
14 the Company's own action. But, when it investigates,
15 it's limited in what it can look at. It can only look
16 at the financial impact, and it cannot include a
17 rate-of-return analysis. And, so, what I think that is
18 saying is, if the Company were making, let's say
19 hypothetically, a 25 percent return on equity prior to
20 the exogenous change. And, as a result of the
21 exogenous change, it incurred some new costs, they
22 would be allowed to come in and only show you the
23 financial impact of those higher costs, and there would
24 be no opportunity for the company -- the Commission,

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1 excuse me, to balance that against an environment in
2 which they really can afford to absorb this exogenous
3 change. If profits are ample, there's absolutely no
4 need to pass it through. And, thus, it appears to be
5 tying the Commission's hands, so that you effectively
6 could have a rate that's even higher than the rates
7 otherwise allowed, in particular, the Verizon cap
8 that's otherwise present. It allows you to go in
9 excess of the Verizon cap, no matter how high their
10 profits might be, provided there is some sort of a
11 financial impact that's been measured.

12 One other thing I would call your
13 attention to is in Section 8.3.2. Which I found caught
14 my eye when I was looking at it. It's deleting words
15 from the original filed plan "no longer" and
16 substituting the words "does not". And, I think what
17 it means is "does not meet". And, so, what I think
18 that is telling you is that the Staff was trying to be
19 intellectually honest, that's my way of reading at
20 least, that they understand and their testimony stands
21 that really don't have substantial competition facing
22 this company. Nevertheless, they have a plan. And,
23 so, that's why it's sort of saying "it no longer meets
24 the criteria for eligibility". They may never have met

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[Witness: Johnson]

1 the criteria for eligibility. And, so, they're
2 creating a mechanism by which, if at some point you
3 want to step in, you can, regardless of whether there's
4 been a change that caused them to no longer meet the
5 criteria, or they never meet it in the first place. In
6 any event, I found that an interesting wording change
7 and I wanted to call your attention to it.

8 Q. Thank you. Are there any other comments or concerns
9 that you might have that have not been covered to this
10 point, with respect to the Settlement Agreement?

11 A. Just a general one. It seems to me that the Settlement
12 that you're being offered is offered to create this
13 freedom to raise rates for all services immediately,
14 except basic service, and basic service within a matter
15 of years, on a very wide-ranging basis. I mean, you're
16 talk about substantial percentage increases, as well as
17 dollar increases in some cases, solely on the basis
18 that we're reducing barriers to entry, making it a
19 little bit easier for traditional wireline competitors
20 to enter the market by requiring a good faith
21 negotiation for unbundled elements and the like. And,
22 that seems to me, while I can understand the trade-off
23 that's being presented to you, but I would suggest to
24 you that it's not a good trade-off. Personally, I

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[Witness: Johnson]

1 don't believe it's in the public interest. And, I
2 don't really see the logic to it. It seems to me that
3 it makes much more sense to just be patient. If you
4 wait a few more years, if, in fact, either of two
5 things could start happening where the facts will have
6 changed, and a plan, an appropriate plan would be --
7 merit being approved under the statute. Either the
8 wireless market continues to evolve, prices continue to
9 come down, and enough customers get comfortable with
10 the idea of living with just a wireless phone, that it
11 truly starts being a competitive alternative for a
12 majority of customers. We're not there yet. We're at
13 something like seven percent right now to use as an
14 alternative, a meaningful alternative, and are only
15 using a wireless phone, instead of a wireline phone.
16 Either that happens or the phone -- the cable TV
17 company enters the market and starts aggressively
18 offering phone service, actually rolling out phone
19 service, as they have in other parts of the country.
20 And, under either of those circumstances, the facts
21 before you would be very different. So, it seems to me
22 that to just be patient until the facts change, it
23 makes more sense than to sort of assume that the facts
24 will change one of these days, and why not go ahead and

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1 encourage other carriers to enter. And, again, maybe
2 the situation will surprise me, but I would not expect
3 to see massive entry into these markets, particularly
4 for residential customers, particularly for customers
5 that my client is most concerned about, those who can't
6 afford to buy a lot of bells and whistles, and they
7 pretty much buy basic phone service. I would not
8 expect to see a lot of competitive entry into those
9 markets, regardless of how much you've reduced the
10 legal barriers to entry, because we haven't seen it in
11 so many other markets around the country. It's the
12 exception, not the norm. There are so many markets
13 today where, even though the Bell companies have a
14 tariff on filing or had one on file, that there are no
15 competitors that are targeting residential customers,
16 and the handful of competitors that exist are targeting
17 businesses. Again, it's a pattern that's happened a
18 lot around the country. To speculate that it will
19 change, in this particular market, enough to justify
20 sort of raising prices immediately, on the hopes that
21 eventually competition will be stronger, does not
22 strike me as in the public interest.

23 Q. Dr. Johnson, having reviewed now the Settlement
24 Agreement, Exhibit 6, and the revisions to the

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[Witness: Johnson]

1 Alternative Regulation Plans, what is your
2 recommendation to the Commission now?

3 A. I would recommend rejecting the Settlement, as well as
4 the originally filed Plans. And, to the extent
5 possible, providing some further guidance to the
6 parties as to your interpretation of the statute, since
7 it's pivotal to this decision. So that any future
8 filings can be more closely and narrowly crafted to the
9 tests that you think are most crucial in determining
10 whether or not the services in question, wireless and
11 broadband, are or are not competitive alternatives for
12 a majority of customers.

13 MR. LINDER: Thank you, Dr. Johnson.
14 Dr. Johnson is now available for cross-examination.

15 CHAIRMAN GETZ: Thank you.

16 MR. LINDER: Thank you.

17 CHAIRMAN GETZ: Mr. Phillips, do you
18 have questions for Dr. Johnson?

19 MR. PHILLIPS: Granite State does not
20 have any questions.

21 CHAIRMAN GETZ: Ms. Parker?

22 MS. PARKER: No questions.

23 CHAIRMAN GETZ: Ms. Geiger?

24 MS. GEIGER: No questions.

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[Witness: Johnson]

1 CHAIRMAN GETZ: Ms. Hatfield?

2 MS. HATFIELD: No questions. Thank you.

3 CHAIRMAN GETZ: Ms. Ross?

4 MS. ROSS: I need to confer for a
5 minute.

6 (Atty. Ross conferring with Atty.
7 Coolbroth.)

8 MS. ROSS: I have no questions for this
9 witness.

10 CHAIRMAN GETZ: Mr. Coolbroth?

11 MR. COOLBROTH: Thank you, Mr. Chairman.

12 It is 12:30. Do we want to move on? I'm prepared to, but
13 whether now is a good time to break?

14 CHAIRMAN GETZ: Why don't you start, and
15 I think we'll try and maybe break around 1:00.

16 MR. COOLBROTH: Okay. Good afternoon,
17 Dr. Johnson.

18 WITNESS JOHNSON: Good afternoon.

19 CROSS-EXAMINATION

20 BY MR. COOLBROTH:

21 Q. I'd like to start out by directing your attention to
22 Page 24 of your testimony. And, all of my questions
23 will be directed to public portions of your testimony.

24 A. Okay.

[Witness: Johnson]

1 Q. On Lines 21 through 23, you state, do you not, that " If
2 the proposed Plans are approved, TDS will have nearly
3 complete freedom to price most of its services in
4 whatever manner best maximizes its profits." Did I
5 have that sentence right?

6 A. Yes.

7 Q. Now, that does not cover access service, does it?

8 A. No, there are restrictions on that.

9 Q. And, it does not cover basic service, is that right?

10 A. No. And, I'm not suggesting, by the way, that, in
11 dollar terms, it would be most of your revenue stream.
12 Because, obviously, basic and access are a very
13 substantial portion of the revenue stream.

14 Q. Obviously, you have a sense to where I'm going. And,
15 also, the Plans do not cover interstate services, do
16 they?

17 A. No. You already have the mechanisms in place to
18 provide revenue through interstate that are outside of
19 this plan or outside of this Commission's jurisdiction.

20 Q. And, aren't those, by far, the largest revenue sources
21 for the Companies?

22 A. I would expect so. I haven't looked. There are,
23 generally, a large number of additional services
24 available. They're relatively minor. Some of them are

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[Witness: Johnson]

1 more substantial, the Call Forwarding or Call Waiting
2 or Caller ID. Caller ID, in particular, has grown in
3 popularity, and is often priced at a very high level
4 and provide significant revenues. But there's often a
5 long, long list of additional services that are
6 available that, for particular customers, may be very
7 important to them.

8 Q. But they are optional calling services, are they not?

9 A. You have the option of moving out of New Hampshire, I
10 suppose. It depends on the business how optional they
11 are. And, again, I haven't looked closely at your
12 tariff, but just using an example that comes to mind,
13 for many businesses, rotary service is mandatory, that,
14 to make their business work well, they want to have a
15 single phone number published and have it rolled
16 forward to other phone lines. And, there are many
17 jurisdictions in which that is not considered "basic
18 service". That is an "optional service". If you want
19 the absolute bare bones service, you have to have, you
20 know, 20 different phone numbers available, and the
21 customers randomly guess which one isn't busy at the
22 moment. But, if you want to actually call a single
23 number and have it roll to whichever line is available
24 at that moment, you'll have to pay for that, that's

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[Witness: Johnson]

1 called a "rotary" or a "hunting charge", and it's
2 generally been priced at a higher level. And, I don't
3 -- Again, my understanding, at this point, it isn't
4 specifically clear what services are or are not basic
5 service. But I certainly didn't see anything in the
6 plan or in the statute or in the Commission's rules
7 that would in any way protect rotary pricing from price
8 increases.

9 Q. Now, that sounds like a business service, right?

10 A. Absolutely, yes.

11 Q. And, aren't business customers typically sophisticated
12 enough to seek out, for instance, competitive local
13 exchange carriers, in the event that that becomes an
14 issue?

15 A. Absolutely, if competitive carriers exist in their
16 area. And, that's why I was saying that basically
17 their choice would be, let's say you're a hardware
18 store in one of the towns that you're serving, and you
19 -- a large hardware store, or an insurance agency or
20 whatever, and you have seven lines, and you're used to
21 having a single phone number published, and customers
22 can call that one phone number, and you're paying
23 whatever you're paying. Under the Plan, once the price
24 caps are removed, then those prices would go all the

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[Witness: Johnson]

1 way up to the Verizon rate for the basic element, and
2 for any optional elements, and I'm assuming rotary
3 charges might be an example, Caller ID might be another
4 example and various other things, basically, their
5 choice is to pay it or shut down the business and move
6 to another part of the state, where they have got more
7 favorable rates available. I don't really see a whole
8 lot of other alternatives. They could call around and,
9 you know, call down to Manchester or over to Boston and
10 try to convince one of those CLECS to move into the
11 neighborhood. And, there's a small chance they might
12 persuade them, if they're a cousin or something. But,
13 other than that, you really can't count on it. You
14 basically are expecting this Commission to provide the
15 protection for that service.

16 Q. Well, couldn't that business customer, for instance,
17 through a CPE, solve that problem with a PBX?

18 A. "CPE", I'm not sure what the acronym --

19 Q. With the customer premises equipment that they use,
20 couldn't they address that issue with their own
21 customer premises equipment?

22 A. You have to lay it out for me a little more clearly how
23 -- what are they using to hook to their customer
24 premises? A wireless phone? I mean, in my testimony,

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[Witness: Johnson]

1 I explain, you know, theoretically, I suppose you could
2 try to get a wireless service for businesses, but
3 businesses don't do it. It's not reliable enough. It
4 fades in and out. There's various problems. I've
5 never heard of a business that has a, you know, a tied
6 down location relying on a wireless, in lieu of a
7 wireline service. So, I suppose, theoretically, you
8 could figure out a way to jerry-rig it into a PBX, but
9 I've never heard of anyone actually doing it. I don't
10 think it's a very practical alternative.

11 Q. To convert the inward loop into a trunk, and do
12 switching through a PBX with direct inward dial lines,
13 you don't think is something that might occur to
14 somebody?

15 A. A loop that you're providing? Then, where's the
16 alternative? Again, I'm not sure I'm following your
17 example. I thought we were talking about trying to
18 find an alternative to the monopolist. And, if the
19 prices start being too high, what could they do? And,
20 as opposed to simply saying, paying you for your
21 service and trying to find some way to trim my bill by
22 using different parts of your tariff? I mean, there
23 may be ways to dodge some of the worst pain. In the
24 case of rotary, I'm not sure there really is. There

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[Witness: Johnson]

1 might be some other part of the tariff that you could
2 buy lines out of that would allow you to consolidate
3 everything into a single phone line, a single phone
4 number over multiple lines. But most of those services
5 tend to be priced higher than the basic one to which
6 the rotary charge applies in the first place.

7 Q. Well, are you familiar with the TDS company tariff
8 services in those respects?

9 A. I haven't, I'd be happy to look at them if you want to
10 hand me a tariff, but I haven't --

11 Q. But you're speculating then?

12 A. You're asking me to speculate about what somebody could
13 do with a CPE, and I hadn't had occasion to study your
14 tariff, to try to figure out what would be the least
15 painful way to deal with price increases in a
16 particular scenario.

17 Q. And, is it possible that that same business could
18 resolve that problem by using a data link and
19 Voice-over Internet Protocol services?

20 A. There is -- There is some limitation from the
21 interstate side that, if the prices got really, really
22 outrageous on the intrastate side, at some point they
23 could conceivably find relief by going into the
24 interstate tariff and picking up some sort of a service

[Witness: Johnson]

1 that would not normally be used for a typical small
2 business, buying that service and then configuring it,
3 with helps of consultants or whatever, and, you know,
4 having it contaminated with a bit of interstate usage,
5 etcetera, so that they could get out from under the
6 onerous burden of the intrastate tariff. There is a
7 scenario, I can visualize that. But it generally
8 starts cutting in at significantly higher revenue
9 levels or price levels, something in the three to five
10 hundred dollar per month and above is where you start
11 having enough money at stake that people start looking
12 at alternatives like that and can think about the cost
13 of hiring a consultant to help them figure it out and
14 even know that such a thing exists. So, it's the more
15 typical business that's down below that threshold I
16 think would find -- hard-pressed to find an interstate
17 solution.

18 Q. I mean, in your mind, it's really that complex a
19 scenario out of the simple hypothetical that I gave you
20 and it's -- in terms of the dollar amounts that are
21 involved and the need for a consultant, out of that
22 simple hypothetical that I just gave you?

23 A. Well, maybe I misunderstood your question. I thought
24 that you're saying that going into the interstate

[Witness: Johnson]

1 private line tariff, finding something like a DS1
2 service, you said "Data Link", I'm not familiar with
3 the brand name, but I was guessing it would be
4 something like a DS1 service that you would hook in,
5 normally used for internet protocol, and configuring
6 that with phone numbers to take your calls from your
7 customers in your town. That's not something that, you
8 know, the average hardware store would know how to do
9 on their own, I don't think.

10 Q. On Page 27 of your testimony, in the table that's on
11 that page, if you let me know when you're there?

12 A. Sure.

13 Q. You've fashioned that table with percent increases, is
14 that right?

15 A. Yes.

16 Q. And, so, for example, for Wilton Telephone Company,
17 that's "WTC", you're presenting to the Commission a
18 percentage rate increase of "114 percent" as a source
19 of your concern in this case?

20 A. Well, I presented "\$6.72", increasing to 14.39, which
21 works out to 114 percent. I certainly haven't, given
22 the fact that all the numbers are less than \$20 or
23 whatever, you know, benchmark you might have in your
24 mind, because the actual number is right there.

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[Witness: Johnson]

- 1 Q. Of course, that's not the percentage of the total phone
2 bill by any stretch, is it?
- 3 A. No. There are interstate charges, surcharges that
4 would apply in particular, as well as some state taxes
5 and the like.
- 6 Q. And, in terms of the source of alarm that the
7 Commission should have about "114 percent", under the
8 Settlement Agreement, there would be no increase in
9 basic service in that for the first year of the Plan
10 for that exchange, isn't that true?
- 11 A. Right, as there has not been for many years. That is
12 not to suggest that TDS doesn't have revenue sources
13 that are growing, this particular price has not been
14 increasing.
- 15 Q. Do you know that? Do you know that the TDS companies
16 have revenue sources that are growing?
- 17 A. Well, you, obviously, have other opportunities
18 available to you, besides the basic exchange rate.
- 19 Q. Do you know that they have other revenue sources that
20 are growing? That's your statement.
- 21 A. I haven't said that. I said that -- I was trying to
22 make it clear that we're focusing on one piece of the
23 picture. There is many other pieces of the picture as
24 well. There is the revenues coming in from DSL, there

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[Witness: Johnson]

1 is revenue coming in from other sources, as well as
2 from basic service.

3 Q. But, in terms of this "114 percent increase", it might,
4 doing the math correctly, if the entire 10 percent rate
5 increase were placed into effect in Year 2, after the
6 Plan starts in operation, that would be an increase of
7 67 cents a month? Am I correct about that?

8 A. Well, one presumes that 10 percent of \$6.72 is 67
9 cents. If that's all your question is, I certainly
10 agree with your arithmetic.

11 Q. And, would you accept subject to check that, in the
12 subsequent years, the subsequent three years under the
13 Plan, and assuming that each one went to the maximum,
14 that the maximum increases would be 74 cents a month,
15 81 cents a month, and 89 cents a month, would you
16 accept that subject to check?

17 A. Sure.

18 Q. And, then, in the sixth year, based on Verizon's
19 current rate, as you have outlined it in your example,
20 and I'm not sure, we haven't checked that, but that the
21 amount or the increase in year 6 after the plan would
22 be \$5.45 a month, the maximum, is that right?

23 A. No, it would be 5.40, unless Verizon's rate has
24 increased or some sort of exogenous phenomena has taken

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[Witness: Johnson]

1 place. So, it's either up to the maximum, 14.39, or
2 it's some higher number, depending on what happens with
3 Verizon and what happens with the exogenous provisions.

4 Q. And, this is a concern we would have six years from
5 now, is that right?

6 A. Yes. As opposed to four years from now, under the
7 originally filed Plan. So, there is a two-year delay,
8 and certainly postpones the pain for a couple of years,
9 but the pain is still there. And, again, the question
10 is, is the pain justified? Is there some reason why
11 the Company needs this increase? Whether you think of
12 it as a 100 percent increase or think of it as a
13 doubling of the rate or think of it as \$7.00. However
14 you think of it, is there some real need for it? I
15 haven't seen a showing of any sort of need. And, I
16 haven't shown -- again, more concern, I haven't seen a
17 showing that there's going to be adequate alternatives
18 for consumers if they're not pleased with paying that
19 rate. If they want to go somewhere else, is there
20 anywhere else for them to go?

21 Q. Well, suppose that the Companies don't go with their
22 Plans and suppose they remain on rate of return
23 regulation, and suppose, therefore, that they don't
24 offer bundles, and they don't mix regulated services

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[Witness: Johnson]

1 with unregulated services, and, therefore, over time,
2 continue to lose access lines and lose access minutes.
3 What do you think the impact would be for basic service
4 rates under that scenario?

5 A. It's hard to imagine they would be any worse than
6 giving the Company one hundred percent freedom to do
7 whatever it wants. But I don't know specifically.
8 Because what you're basically visualizing is a scenario
9 in which more and more of the Companies' revenues are
10 coming from unregulated sources, such as DSL.

11 Q. No, that wasn't my hypothetical.

12 A. Well, that's what I was hearing, because you were
13 saying they're not bundling, they're -- and we're not
14 getting opportunities, so we're just sort of leaving
15 the basic business to sort of do poorly, while we focus
16 on trying to generate revenues in the unregulated area.

17 Q. I didn't assume that in my hypothetical.

18 A. Well, maybe you want to restate or let me rehear the
19 question, because that's part of what I thought I was
20 hearing in the scenario.

21 MR. COOLBROTH: Could we have the
22 question read back.

23 (Whereupon the court reporter read back
24 the prior question that contained the

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[Witness: Johnson]

1 hypothetical posed by Atty. Coolbroth.)

2 BY THE WITNESS:

3 A. I guess what I was hearing was they don't mix, they
4 didn't bundle, I didn't understand why you were
5 suggesting that, and they don't mix regulated and
6 unregulated. Typically, what you'd want to do is you'd
7 want to be as aggressive as possible about making
8 customers as happy as possible, so you'd want to be
9 bundling your DSL service with your basic service and
10 the various other services and marketing them as
11 aggressively as possible. That was kind of, maybe I
12 misinterpreted, that's what I was hearing.

13 In general, though, the thrust of your
14 question, hearing it a second time, I realize maybe the
15 thrust of your question is "well, what will happen if
16 you continue to lose access lines and minutes?" If
17 that was the thrust of your question, I think, clearly,
18 there is a concern that profits will decline over time,
19 your ability to recover your costs will decline, if
20 both access minutes and access lines were to continue
21 to decline. It's not clear to me that that is likely
22 to happen in the future. I believe a large part of the
23 decline that has happened in access lines will continue
24 for a little longer, which is the loss of second lines,

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1 and I wrote about that briefly in my prefiled
2 testimony. But there's clearly a limit to how long
3 that phenomena will last. At some point, all of the
4 second lines will be gone, if broadband services become
5 popular enough that everybody has a broadband service.
6 So, there's an outer limit of how far things will go in
7 that regard.

8 BY MR. COOLBROTH:

9 Q. Do you have a specific piece of evidence that you are
10 relying on for your conclusion that "the loss of access
11 lines is entirely due to second lines"? Do you have a
12 basis for that?

13 A. I don't think I said that it's "entirely due to second
14 lines", sir.

15 Q. Do you have a percentage of the second -- of the access
16 line losses that you are able to point to evidence that
17 shows that that is due to second lines?

18 A. I don't believe we have the facts that can tell you
19 what percentage it is one way or the other. The
20 Company certainly didn't file an analysis that allows
21 us to sort of disentangle these different phenomena.

22 Q. But, based on the lack of evidence, then you reached
23 the conclusion, is that right?

24 A. No, based on the general understanding of the industry

[Witness: Johnson]

1 trends, and --

2 Q. So, you have not studied the access line losses at TDS
3 to understand what the source of those is, is that
4 right?

5 A. Again, in the absence of data to be studied, I did not
6 perform an analysis. I studied the data we had
7 available. It was very limited. I looked at the
8 discovery responses, and certainly looked at those, but
9 they were very limited. And, I wrote about in my
10 testimony, my interpretation of that limited data is
11 consistent with the general industry pattern, which is
12 that the number of customers who are cutting the cord
13 to go wireless is a very small percentage currently.
14 Nationwide, it depends on how you measure it, different
15 studies, but somewhere in the ballpark of 10 percent.
16 So, at most, if, you know, 10 percent of the customers
17 no longer have a wireline service, and if they had
18 previously had one, which is a big "if" that probably
19 doesn't apply, then you've got 10 percent of your lines
20 lost from that. Realistically, though, most of those
21 people who "cut the cord" are actually college kids,
22 people who otherwise would have grown into a phone and
23 never did get one. They had a wireless phone from
24 their parents when they were in middle school or high

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[Witness: Johnson]

1 school. By the time they go off to college, they're
2 used to having just the wireless phone. It's
3 convenient, they carry it with them, and they're never
4 in the dorm room anyway, so they don't get a phone
5 line. That's not going to be a loss of a line in that
6 case. But, at most, maybe 10 percent from that.

7 Beyond that, what you have is the
8 phenomena that we saw where there was growth in the
9 number of second lines, as people were making dial-up
10 use of the internet, and it showed up in various ways.
11 There were various spikes in local minutes that
12 affected interstate/intrastate jurisdictional issues, a
13 lot of things. It's well understood that that
14 phenomena happened, and it's now fading. It's like a
15 wave going up, and now it's fading back down.

16 Q. And, for the matter that's before this Commission,
17 you're concluding all of that without having seen any
18 evidence that any of that is applicable to the TDS
19 companies?

20 A. No, I don't think that's a fair characterization at
21 all. Obviously, I have a certain level of expertise
22 from following the industry. And, what I have looked
23 at, in this case, the actual evidence, even though it's
24 very limited, that the Company brought forward is fully

[Witness: Johnson]

1 consistent with the general pattern I'm describing.

2 But I'm not going so far as to saying absolutely for
3 sure that the exact same percentages apply here; I
4 don't know that.

5 Q. But your conclusion that -- your expectation that the
6 decline in access lines will diminish is based on your
7 conclusion that it is currently caused by the loss of
8 second lines, is that right?

9 A. Again, you're trying to put words into my mouth. I
10 don't think I phrased it that way.

11 Q. What else is the basis for your conclusion that the
12 loss of second lines will diminish? I mean, the loss
13 -- I'm sorry, that the loss of access lines will
14 diminish?

15 A. Well, again, that's part of the problem, is you keep
16 saying that I said "it will diminish". I said it -- "I
17 would expect it to diminish", "it may diminish", I'm
18 not sure exactly how I phrased it. But I don't believe
19 I said "it will diminish". You set up a hypothetical
20 that seemed to suggest the loss would continue all the
21 way to zero, we just wait a few more years, things are
22 all going to go right down to zero. And, I was trying
23 to suggest, if that was the implication of your
24 hypothetical, I was protesting the hypothetical as not

[Witness: Johnson]

1 fitting the real facts. But, as to how much it would
2 diminish, how much it would -- how long this
3 diminishment in lines will take place and whether the
4 rate of decline will drop, I don't know for sure. But
5 I'm suggesting to you that the end result, from a low
6 income consumer's point of view, can't be any worse
7 than giving the Company total freedom to raise rates
8 now. I mean, that's as bad as it can possibly get.
9 You raise the rates now and convince everybody to start
10 abandoning their phone service, so you get this
11 downward spiral or a "death spiral", it's sometimes
12 described, as soon as possible. And, so, everybody who
13 can afford the bundles and people elsewhere are all
14 sort of leaving the traditional phone company and going
15 to the bundles, and the folks who can't afford the
16 bundles are left with no alternative. That's the
17 "worst case" scenario.

18 Q. And, that's the scenario that, for a year, for Wilton
19 Hollis -- the Wilton Telephone Company, their basic
20 rates are going to be frozen at \$6.72. And, in year
21 two, their rate will be \$6.72. And, in year three, it
22 will go up by 67 cents a month. This doomsday scenario
23 for low income customers is going to happen under that
24 circumstance, is that correct?

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[Witness: Johnson]

1 A. That wasn't what I was referring to. I was referring
2 to the basic -- you seem to be juxtaposing a choice,
3 which I think is a false choice, between continue with
4 regulation and have disaster fall, okay? That there
5 will be some sort of death spiral that somehow, because
6 the Company doesn't have the freedom to do something,
7 it's not clear what they need freedom for, but, because
8 of that lack of freedom, we're going to have this
9 terrible doomsday scenario. Versus a plan in which,
10 after a few short years hiatus, you have tremendous
11 freedom to raise prices. And, again, my concern is
12 that, when that freedom comes in, the people who will
13 be the most hard hit are those who are basically using
14 phone service without a lot of bells and whistles.
15 That the bundled services are where you're most likely
16 to start seeing competition is from the cable company,
17 and the pattern we've seen from cable companies is they
18 tend to target the \$100 a month customer. And, they
19 say you'll get some basic television and some basic
20 broadband and some basic phone, plus a bunch of other
21 things, like Call Waiting or Caller ID, for around
22 \$100. That is a plausible alternative for somebody who
23 can afford \$100 a month. But, for somebody that's used
24 to spending \$15 a month or \$12, or whatever this 6.72

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[Witness: Johnson]

1 adds up to, by the time you add on the federal charges
2 and the like, that's a huge difference. And, the fact
3 that you get all these extra things, if you can't
4 afford cable TV today, and you're trying to live with
5 over-the-air signal, the fact that, you know, they're
6 going to -- willing to throw in the cable TV for your
7 \$100, doesn't change the fact that phone service is no
8 longer 15, it's now 100. And, again, that is a real
9 concern, that we have to remember, we're not just
10 talking about the customer who is the most of interest
11 to competitors, those who buy the bundles. We also
12 have to be concerned about senior citizens on low
13 income, people who, you know, need a phone, they use a
14 phone, but they're not a candidate for the kind of
15 bundled opportunities that we often think about when we
16 think about competitive offerings.

17 Q. Now, just to stop there for a second, where is it in
18 the Plan that the Company would charge that specific
19 customer, that kind of customer \$100 a month for
20 telephone service?

21 A. I didn't say "\$100 a month for phone service". I was
22 suggesting that the alternative, to whatever price you
23 chose, you have unlimited freedom to charge anything up
24 to Verizon's rate. If Verizon's rate is still capped

[Witness: Johnson]

1 at 14.39, then that's it. If they have been
2 deregulated or they have increased their prices to \$18
3 or 19, then that becomes the element for the phone
4 element. What I was trying to focus on is that the
5 general tendency that "well, we're going to have all
6 these competitive alternatives from broadband." Well,
7 broadband, for example, is typically \$40 a month, plus
8 your phone service. So, you have to be a customer who
9 either values broadband or is already spending
10 something like \$50 a month or \$60, where that becomes a
11 cheap alternative. If you're used to paying 14 or 15,
12 then, any way you cut it, \$50 is not solving your
13 problem if the price is going up.

14 Q. And, actually, for the poorer customers and lower
15 income customers, I guess I would like to speak about
16 them for a second. And, if they're on a Lifeline rate,
17 now, under the Settlement Agreement, those Lifeline
18 rates are capped at current levels for four years,
19 isn't that right?

20 A. Yes.

21 Q. And, for those customers, these increases, for
22 instance, in Wilton, the 67 cent, 74 cent, 81 cent and
23 89 cent increases wouldn't start until year five, isn't
24 that right?

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[Witness: Johnson]

1 A. Yes.

2 Q. And, so that the concern about going to the Verizon
3 rate for those customers doesn't happen until year
4 eight, is that right?

5 A. Yes.

6 Q. And, have you performed a revenue requirement analysis
7 for any of these companies?

8 A. No.

9 Q. So, you don't know whether they're -- under rate of
10 return regulation, whether any of them is entitled to a
11 rate increase now, is that right?

12 A. No. And, frankly, I doubt -- it's something that is
13 generally determined in the context of a rate case.
14 You can do side calculations, but there's going to be
15 issues like proper cost allocation of DSL service, cost
16 allocation of between interstate and intrastate.
17 There's a whole series of issues that this Commission
18 probably hasn't had to deal with for this company in
19 quite a while. So, even if you try to go back to the
20 last rate case and simulate how it would turn out, it
21 would be hard for someone like myself or even for one
22 of the Staff members to know for sure what would be the
23 final outcome of a litigated proceeding in which you
24 actually try to determine a revenue requirement.

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[Witness: Johnson]

1 Q. Do you know any of that? Have you reviewed the history
2 of the regulation of these companies to know whether
3 any of those analyses have been done?

4 A. All I was trying to say -- I don't know how recently
5 they had been done. What I was trying to say is,
6 generally, that is something that is litigated. The
7 Commission makes the decisions. All the Staff
8 calculations in the world don't tell you the answer.
9 The Commission has to ultimately decide it, when it's
10 actually being presented to them. And, all I was
11 trying to suggest is there's going to be some issues,
12 like DSL, that are relatively recent, DSL is a
13 relatively recent technology. There have been some
14 changes at the federal level that may well not have
15 been dealt with by this Commission itself for this
16 company in recent years. And, that's all I was saying.
17 I don't know what calculations the Company internally
18 might or might not have performed or the Staff might or
19 might not perform.

20 Q. And, I wanted to direct your attention to Page 28 of
21 your testimony, and, particularly, on Lines 15 through
22 18. And, again, you're talking about the Wilton
23 Telephone Company potential increases, I think, the
24 "114 percent", which was residential, and I guess the

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[Witness: Johnson]

1 "163 percent", which is business. And, in that
2 sentence you say "Were they allowed," meaning these
3 increases, "these drastic rate increases would have a
4 particularly severe impact on low income customers,
5 many of whom may feel compelled to drop their telephone
6 service." Did I read that right?

7 A. Yes.

8 Q. And, that's over these increases of 67 cents a month,
9 74 cents a month, 81 cents a month, and 89 cents a
10 month?

11 A. No.

12 Q. Do I have that right?

13 A. No. Because those add up to 30 percent, plus
14 compounding. If all we're talking about is the 10, 10,
15 10, it's 40 percent. Obviously, my statement was the
16 full increase to the Verizon level. And, if I had to
17 do over, I probably wouldn't put the word "many" in
18 there on Line 17, to be honest with you, looking at it.
19 Because I don't know whether it would be many
20 customers, but certainly some customers might feel
21 compelled to drop their phone service.

22 Q. And, I'm looking at them, and I can't do the math that
23 quickly, but I think these total up to \$3.00 a month.
24 And, your testimony is that people are going to give up

[Witness: Johnson]

- 1 their telephone service over \$3.00 a month?
- 2 A. Well, certainly, low income customers have always been
3 known to have lower participation in the phone number,
4 less use of the phone than other socioeconomic groups.
5 It's a well understood pattern and quite significant.
6 There's been tremendous effort at the federal level to
7 try to deal with it. But the fact is, they're very
8 price-sensitive. For them, even \$10 or \$15 a month, by
9 the time you add in the federal charges and the taxes
10 and so on, is a serious issue. And, they say "well,
11 I'll try to get by with using my neighbor's phone" or
12 "I'll try to find a payphone", which used to be a
13 solution that's much less viable than it is as payphone
14 service goes away. But, to the extent there's still
15 payphones, and they can figure "I'll use a payphone, go
16 done the street." That that is the sort of alternative
17 that people in that income group have to deal with.
18 That those of us who are in upper income or middle
19 class income simply have trouble relating to.
- 20 Q. And, for those, for that group, the Settlement
21 Agreement provides a four-year deferral of --
- 22 A. That problem.
- 23 Q. -- of those 10 percent increases to address that very
24 concern, doesn't it?

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[Witness: Johnson]

1 A. Or a two-year deferral or a one-year deferral,
2 depending on the company.

3 Q. Not for Lifeline --

4 A. And, again, you have to remember, some low income
5 customers are not on Lifeline. And, it may be a matter
6 of pride, when you think of someone who's a senior
7 citizen, and they have never taken welfare and they
8 don't intend to take welfare, there are various reasons
9 that we've had that phenomena that the take up rate on
10 Lifeline has never been anywhere near 100 percent of
11 those qualified for. So, you can't generalize and
12 assume that only low income customers are -- that all
13 low income customers are only, you know, part of the
14 Lifeline program. The fact is, many of them are not,
15 they pay the regular rate.

16 Q. Do you know whether any of the exchanges that are
17 involved here include a lot of folks who are not low
18 income?

19 A. I would assume it does.

20 Q. For instance, have you ever been to Hollis, New
21 Hampshire or Melvin Village, New Hampshire?

22 A. I may have, but I don't remember them specifically. I
23 don't know.

24 Q. But, if these companies lose, do not have the

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[Witness: Johnson]

1 flexibility for bundling services, and therefore lose
2 out to these, as you reference them, "\$100 a month
3 cable services" and so forth, and lose large numbers of
4 customers to people for whom those are attractive
5 alternatives, where does that leave the remaining
6 customer of these companies?

7 A. Let me answer it this way. If you're asking me whether
8 I think it would be good public policy to prevent this
9 company from bundling services, I would say "no". And,
10 if you're saying that this Commission prohibits
11 bundling of services, unless you have some sort of
12 specific plan, then I would highly recommend you file a
13 plan to allow bundling of services. I mean, bundling
14 is a good idea. It's one that's attractive in
15 marketing things, and it's certainly wise. And, I
16 don't see the choice as between deregulating basic
17 rates and deregulating all sorts of rates, versus
18 bundling. It seems to me you can have bundling, while
19 still continuing to protect customers. And, I can't
20 really imagine a scenario in which you wouldn't have
21 that freedom to bundle, if you asked for it. That, if
22 there's rules that prevent it, then surely there's an
23 opportunity to ask for a waiver of the rules. And, I
24 would certainly think this Commission would be willing

[Witness: Johnson]

1 to listen to that. And, I would certainly recommend,
2 if I were asked, I would recommend that you grant such
3 a waiver. That bundling should be allowed, and there
4 should be opportunities to do discounts to encourage
5 people to, those who can afford \$70 a month for phone
6 service, encourage them to buy as much as possible.
7 Have a discount for their fourth line into their house
8 request. Why not? Or their third line or their second
9 line, whatever. There's lots of creative things you
10 can do on the marketing side that you can still do
11 whether you're a regulated company or not.

12 CHAIRMAN GETZ: Mr. Coolbroth, how much
13 more? I'm just trying to determine whether this is a good
14 time to break or not.

15 MR. COOLBROTH: I think there's at least
16 another hour.

17 CHAIRMAN GETZ: Okay. Well, I think
18 it's probably a good time to take the lunch recess then.
19 And, then, over lunch, I also ask the parties, the
20 procedural schedule back in July didn't address the issue
21 of briefs. I'll ask the parties to talk about that during
22 lunch. And, if there's a proposal to make regarding
23 briefing, I'd like to hear it at the end of the day.

24 Is there anything that we need to

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[Witness: Johnson]

1 address before I take the lunch recess?

2 (No verbal response)

3 CHAIRMAN GETZ: Okay. Hearing nothing,
4 then we will recess until 2:15.

5 (Lunch recess taken at 1:07 p.m. and the
6 hearing reconvened at 2:21 p.m.)

7 CHAIRMAN GETZ: Okay. Good afternoon.

8 We're back on the record in 07-027, and continuing with
9 the examination of Dr. Johnson by Mr. Coolbroth.

10 MR. COOLBROTH: Thank you, Mr. Chairman.

11 Good afternoon, Dr. Johnson.

12 WITNESS JOHNSON: Good afternoon.

13 BY MR. COOLBROTH:

14 Q. Did you have occasion to read the recommended decision
15 of the Joint Board on Universal Service issued
16 November 19, 2007?

17 A. No.

18 Q. Would you accept subject to check that, in Paragraph 65
19 of that report, they note that there are 217 million
20 wireless phones in the country and 172 million wireline
21 phones in the country? Does that sound about right to
22 you?

23 A. It's plausible, but I have no idea what numbers they
24 cited.

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[Witness: Johnson]

1 Q. Do you have a sense for how many cellphones there are
2 in the United States of America versus how many
3 landline phones there are?

4 A. Just a general sense. There's -- The wireless industry
5 is matured. There's still growth left to be had. But
6 many households and many businesses already have a
7 phone or more than one phone. The trend, in recent
8 years, has been multiple phone lines being sold at the
9 same households. So, plans with two and three lines
10 have become increasingly popular.

11 Q. I noticed in your testimony you talked about the shared
12 minutes, the plans where folks share minutes. And, you
13 indicated that that costs more than having landline
14 extensions, is that right?

15 A. Well, yes, the typical plan would be something like,
16 for 59.95 a month, you can get a family plan, with a
17 large bundle of minutes, say 900 minutes a month, and
18 maybe free calling to and from the wireless calls, so
19 you actually get some extra minutes, for about \$60 a
20 month. So, and that becomes pretty comparable to the
21 level of calling capacity of a typical household. You
22 know, you might have to control your calling and you
23 might have to limit it somewhat, but you could squeeze
24 within that, many households could squeeze within that,

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[Witness: Johnson]

1 if it's only, say, a three-member household, two
2 parents and a teenager, as long as they tell the
3 teenager "never call your friends", and there they
4 could probably live within that for \$60 a month,
5 compared to the 15 or 20, if they use a regular
6 wireline. But most households don't want to try to
7 live within those constraints, the teenager would
8 scream if they had to, so they end up getting them
9 both. And, so, you've got the wireline at home for the
10 long conversations in the evening, and you have
11 wireless for when you're mobile and moving around and
12 need to make calls. And, the combination of the two is
13 what most households, many households are now using.

14 Q. But, for the customer that has expended that amount of
15 money for the cellphone and for the minutes, and given
16 the choice between using minutes that you've paid for
17 and incurring new toll charges on your landline phone,
18 isn't there an incentive to use up those minutes that
19 you've already paid for on your wireless phone?

20 A. Some users will perceive it that way and will place
21 some long distance calls that way. But, on the other
22 hand, obviously, to the extent they're using them up
23 for the long distance, they don't have them available
24 for the local. So, it depends. I think the bigger

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[Witness: Johnson]

1 variable would be, is this going to be a -- is this a
2 call where the quality of the call is really important
3 to me or not? You know, if I'm making a quick call to
4 talk to someone. I really don't know how, and I
5 haven't seen any studies that specifically focus in on
6 how many consumers are sort of calculating "How close
7 am I to bumping up against the ceiling?" And, "I
8 better not make any more calls, and including no more
9 long distance calls", versus, you know, "I've still got
10 a couple hundred minutes left." I suspect a lot of
11 customers really don't know where they are on their
12 bundle of minutes each month. And, so, I suspect it
13 varies, depending on the kind of personality.

14 But I certainly will concede, if that's
15 your question, I have conceded and I will concede that
16 there has been some movement of calling activity that
17 previously would have taken place over the wireline
18 network onto wireless, because wireless phones are
19 there and it's convenient, it's in your pocket. And,
20 so, it is convenient to pull it out and just start
21 making a phone call, both local and long distance. On
22 the other hand, there's also induced calling, because
23 it is convenient, you pick up the call and make another
24 call, and the number you're calling may be one of TDS's

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[Witness: Johnson]

1 phone lines that they're receiving, if it's a long
2 distance call from Boston or whatever on -- originating
3 in a cellular call in Boston and terminating in New
4 Hampshire, you're actually getting some benefit from
5 that activity. So, it's a mixed bag of what's
6 happening. There's some shifting of minutes taking
7 place, but there's also been some inducement of
8 additional calling.

9 Q. And, in your testimony talking about landline versus
10 alternatives, you talked about the ability to send
11 faxes as an advantage of landline service. Is that
12 also a declining line of business in your mind, though,
13 faxes?

14 A. I would think so, because of the convenience, if you
15 have a high-speed internet connection, and that's a
16 critical "if", and you get used to using the mechanisms
17 that are available through that, primarily e-mail, it
18 becomes increasingly easier just to e-mail something,
19 than it is to print the document, take it from the
20 printer, go over to the fax machine, run it through a
21 fax. And, so, documents that previously you might have
22 faxed, you no longer are faxing. So, I'm not sure I
23 would describe it "declining" in the sense that it's
24 about to end any time soon. If you need a signature on

[Witness: Johnson]

1 a document, fax is pretty much the way to go. It's
2 about the only alternative. It's possible to scan the
3 document and go through all that effort and then e-mail
4 the attachment. But it's still very common to fax
5 something directly, if it's not already in the computer
6 in the first place. So, if it's a handwritten
7 document, notes, an invoice, a bill, a check, anything
8 like that, I think it's still much more typical to just
9 slap it on a fax machine than it would be to try to
10 scan it in and then take that scanned item to make it
11 an attachment to an e-mail, and then send the e-mail
12 and worry about whether they received the e-mail or
13 not. It just there's functional differences, and I
14 think most people are still in the habit of using fax
15 for a lot of things that theoretically could get
16 shifted off the fax system and could go to the
17 internet.

18 Q. Well, what if you have like multiple users, like, for
19 instance, the service list in this docket?

20 A. Uh-huh.

21 Q. Haven't folks used e-mail, rather than faxes, to
22 communicate and transmit documents?

23 A. Yes. It's not quite, again, there's some reliability
24 issues, but it has some convenience benefits that are

[Witness: Johnson]

1 pretty significant.

2 Q. In terms of your view on the definition of
3 "competition", I've sort of concluded, and you can tell
4 me where I'm wrong, that in order, in your mind, in
5 order for a service to be competitive within the
6 meaning of the statute, regardless of the modality over
7 which it's offered, it has to include, as a separate
8 stand-alone service, a basic service that is priced and
9 packaged pretty much similarly to the basic landline
10 service that is offered by the TDS companies.

11 A. That's interesting. Where did you get that impression?

12 Q. Well, just in terms of the definition that you had in
13 your testimony about what it took to be competitive,
14 that, number one, the relevant market was basic, and,
15 number two, that the service had to be a substitute for
16 basic. And, so, I logically drew the conclusion that
17 what somebody else would have to offer would have to
18 look pretty much like basic service.

19 A. I really don't think the way you're characterizing it
20 is the way I would have visualized the situation.
21 There might be such an argument to be made, but that
22 was not my testimony.

23 MR. LINDER: Mr. Coolbroth, if you have
24 a citation, perhaps it would help the witness.

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[Witness: Johnson]

1 MR. COOLBROTH: It was more of a general
2 conclusion.

3 MR. LINDER: Oh.

4 BY THE WITNESS:

5 A. Well, I think, as far as the question of "is the
6 service to focus on basic?", there is this uncertainty
7 in the statute. You could, for example, look at the
8 statute and say "well, if competitive wireline service
9 is available to a majority of the customers, blah, blah
10 blah," and read that as being "well, if there's one
11 competitive toll carrier, then everything cuts in",
12 because toll service, arguably, is a wireline service.
13 I don't think that's at all what the statute means. I
14 think that would be a tremendous stretch to try to
15 reach that. But, certainly, there is some ambiguity
16 here. And, I suppose it's possible for someone in good
17 faith to reach a different conclusion.

18 Similarly, there's this ambiguity in
19 that the language, the first language about competitive
20 service does not specifically tie to basic local. It
21 goes on to talk about protections for basic local, and
22 there is -- it's, obviously, a concern about basic
23 local. And, thus, I think it would be a real stretch
24 to suggest that, if any service, no matter how

[Witness: Johnson]

1 inconsequential were available and competitive, both
2 available and competitive, then, you know, all bars are
3 gone and you have the right to the Plan. But I will be
4 the first to concede that that is an ambiguity. And, I
5 tried to clarify this, in my testimony I was talking
6 about basic services, I think basic service, basic
7 telephone service is of critical importance, and I
8 tried to emphasize its importance. But I never went so
9 far as to say that "a competitive service has to be
10 exactly the same as or directly comparable to basic
11 service." I think the critical question is whether a
12 majority of the customers -- for a majority of the
13 customers, it is a competitive service, and it's a
14 significant service. I think you have to read into the
15 -- that you mean a significant service. So that means
16 there's some sort of voice communication service that a
17 majority of the customers would be using that's
18 relevant to a majority of customers. I think you've
19 got to read into that. You know, we're not talking
20 about, again, that say, for example, that a competitive
21 -- "there is a service available that was competitive
22 to data lines, and that therefore voice basic service
23 is deregulated." Again, I just don't think that's the
24 kind of thing the Legislature had in mind.

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[Witness: Johnson]

1 BY MR. COOLBROTH:

2 Q. Now, when an incumbent local exchange carrier loses
3 access lines and loses revenues as a result, does it
4 experience a corresponding cost savings that's equal to
5 the revenues that are lost?

6 A. I would not, just guessing in the dark, without more
7 facts, I would say probably not in general, there are
8 some fixed costs that are fairly significant, there are
9 some fixed revenues, but there's plenty of fixed costs.
10 So, you would expect that fluctuations in lines would
11 trigger fluctuations in revenues that are somewhat
12 greater in amplitude than the at least short-term
13 fluctuations in costs.

14 Q. And, when an incumbent local exchange carrier
15 experiences a loss in access minutes due to reduced
16 long distance calling volumes, and therefore loses
17 revenues, corresponding revenues, is there a cost
18 savings to the carrier that corresponds to the revenue
19 loss?

20 A. There is a cost savings. But, if by "corresponds" you
21 mean "of equal magnitude", I would say "no", it would
22 be a lesser magnitude.

23 Q. I'm trying to think of, with respect to a loss of
24 access minutes, what would be the variable costs that

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[Witness: Johnson]

1 you're thinking of that are decremental in that
2 instance?

3 A. Well, you would have some reduction in billing costs,
4 you'd have some reduction in administrative costs.
5 You'd have -- In general, you would have reductions.
6 They would tend to be -- you'd have to do a study, you
7 would have to really focus in on it to try to estimate
8 how significant they would be. But, if you did an
9 econometric study, for example, you would pick up a
10 variability in the cost, even though you might, at
11 first glance, have trouble thinking "where will the
12 savings be?" But the savings would be there. You
13 would have some reduction.

14 Q. Well, actually, if I can, just for a second --

15 A. Simple terms, take, for example, the switching
16 equipment. The switching equipment doesn't need to be
17 as large if you don't have as much calling volume. If
18 it had been growing, you can stop adding capacity to
19 the switch, because it's no longer growing. You've got
20 a reduction in the growth rate. If you've sort of --
21 have already put in that large piece of equipment,
22 then, obviously, for a time period, then you're still
23 incurring the higher costs based on the earlier calling
24 volumes. So, it gets back into my time frame. When

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1 would you say, if some line cards are -- and the trunk
2 cards are going bad, you wouldn't necessarily have to
3 replace them, because you no longer have the capacity
4 you need to deal with that. You know, you're not
5 straining every bit of capacity. There will be some
6 savings that start showing up almost immediately, but
7 they will certainly be less than the savings that would
8 occur over a longer time period.

9 Q. And, I was just trying to think of what the billing
10 savings might be? If the retail customer is still
11 there, and the interconnection carrier still has some
12 relationship or still provides some long distance
13 service within the exchange, there really wouldn't be
14 any savings in billing costs, would there?

15 A. Can easily visualize that, on a month-to-month
16 fluctuation basis, there might not be any. My
17 intuition is that, if you did study it, and there were
18 a sustained reduction by a year or two later, you would
19 see some savings in costs. I might be mistaken, but
20 that's my intuition, that there would be some savings.

21 Q. Well, I was thinking, if Joe Jones has a landline phone
22 and has presubscribed to AT&T, and makes fewer toll
23 calls, and instead uses a cellphone, for example, that,
24 with the loss in access minutes, the local company is

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1 still going to be billing Joe Jones, and it's still
2 going to be billing AT&T, if AT&T has any other
3 customers that use its long distance service, isn't
4 that true?

5 A. Right. If they were sending him a paper bill, it would
6 be easy to visualize "well, the number of sheets of
7 paper is shorter", because there's less detail being
8 listed that, if that particular customer is missing,
9 you no longer have to capture his detail. Of course,
10 if it's an electronic transfer, you know, maybe there
11 wouldn't be a reduction. Again, my intuition is there
12 would be some savings. But, if your point is that
13 there are fixed costs, and that a reduction or
14 increase, either way, in volumes doesn't immediately
15 translate into cost changes corresponding to, and if
16 you meant by that "equal to", the revenue, I'll be the
17 first to admit that, certainly not.

18 Q. With respect to your testimony regarding the test for
19 exogenous factors under the Plan, and, in particular,
20 your focus on the language indicating that the
21 Commission "would not conduct a rate-of-return review".
22 If the Commission were to conduct a rate-of-return
23 review in connection with an exogenous change, that
24 would simply result in the Companies remaining under

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[Witness: Johnson]

1 rate-of-return regulation, would it not?

2 A. No, not necessarily.

3 Q. Well, wouldn't you need to keep all of your books on a
4 regulated basis in accordance with the Uniform System?

5 And, wouldn't you have to be able to perform a
6 pro-formed test year, and do all of the things that are
7 required of a rate-of-return company, in order to be
8 able to ever recover the effects of an exogenous
9 change?

10 A. It seems to me you've got the whole concept backwards.
11 This language is limiting this Commission's discretion
12 in deciding what factors, what facts to take into
13 account, in deciding whether the proposed magnitude of
14 the rate increase is appropriate. What it's saying is
15 any sort of a rate-of-return analysis is prohibited.
16 As to what would be practical, if the Company no longer
17 used the Uniform System of Accounts, and if the Company
18 no longer filed any sort of data with the Commission,
19 but it wants a rate increase based on an exogenous
20 change, then presumably it would have to file
21 persuasive evidence, and that would be based on the
22 actual books and records. You're still going to have
23 some sort of certified accounting records. A publicly
24 held -- A subsidiary of a publicly held company, you're

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1 certainly going to have some usable books. It's not
2 like, you know, just somebody's guesswork, how much
3 money is coming in, where the money is going. So, it
4 may not be the Uniform System of Accounts, but there
5 will be data available to this Commission that it could
6 look for, absent this prohibition. And, it could look
7 at the question of whether "well, do you already have
8 other adequate revenue sources? Do you have other
9 sources of revenue to offset this? Are there other
10 things going on that -- there's any number of things
11 the Commission could appropriately look at in deciding
12 whether or not a rate increase would be appropriate.
13 Again, we're talking about rate increases over and
14 above the many discretionary ones the Company has full
15 discretion on. These are the ones that are attempting
16 to go in excess of the Verizon maximum rate. And, it
17 certainly seems to me that that sentence has a purpose,
18 and the purpose is to wall off the Commission's
19 discretion.

20 Q. But it would apply both to exogenous changes that would
21 increase rates, as well as exogenous changes that would
22 decrease rates, isn't that right?

23 A. Yes. So, regardless of, if, for example, there were a
24 -- let's say there were changes in federal regulations,

[Witness: Johnson]

1 there's any number of possibilities you can think of,
2 the two big ones that immediately come to mind would be
3 something that the FCC does that has a significant
4 impact on the Company, good or bad. And, the second
5 possibility is something in the tax rates, particularly
6 corporate tax rates, and a new Congress might come in
7 and decide to raise or lower corporate tax rates and
8 has a significant impact. And, you know, both of them
9 are problematic with this language. I mean, it
10 strongly implies that you're going to have your
11 blinders on, you're going to focus in on just this one
12 change and you're going to pass it through. Again,
13 it's a change in the ceiling. But, in any event,
14 you're going to pass it through with blinders on. And,
15 that's doesn't strike me as the best way of going about
16 it.

17 Q. Well, and just within those blinders, you would be
18 identifying what the event was, isn't that true?

19 A. Yes.

20 Q. And, you'd be identifying what the financial impact is
21 of that event?

22 A. That was not a defined term. So, that would end up
23 being about as controversial as the word "competitive"
24 is in this proceeding, I suspect. But that will be --

[Witness: Johnson]

1 The whole heart of it is "what is the financial
2 impact?" Why did they use the word "financial"? Why
3 doesn't it just say "impact"? I mean, there's going to
4 be a lot of attention drawn to that, because that's the
5 pivotal thing, it's "limited to financial impact".

6 Q. And, the Commission would be determining which rate
7 classes that should be apportioned to, right?

8 A. They get to investigate it. It's not clear what they
9 get to determine. It's just not clear to me. The
10 Company gets the initiative, it files the proposed
11 rates. It's not clear to me, maybe if I go back and
12 reread it, it will become clearer, as to whether or not
13 the Commission gets to fiddle with the rates or whether
14 it's an up or down vote. I'm not sure.

15 Q. If I could direct your attention to the Section 7.1.1
16 of the Plan, and perhaps I could pick one, Exhibit KTC
17 1P, or really any of the Exhibit 1Ps, if you look at
18 Section 7.1.1?

19 A. Yes.

20 Q. Does it say that "On its own initiative and after
21 notice and hearing, the Commission may require the
22 Company to adjust rates for circumstances that meet the
23 criteria of Section 7"?

24 A. Yes.

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[Witness: Johnson]

1 Q. So, this is not solely a Company-noticed or a Company
2 option, this is the Commission as well has the option
3 to initiate those proceedings?

4 A. Certainly, the -- It certainly doesn't -- It's worded
5 differently than it said in 7.1. The Commission may
6 require the Company to adjust prices upward or downward
7 due to financial impacts of exogenous changes. It's
8 kind of convoluted. It cross references the criteria
9 of Section 7 and references by way of circumstances. I
10 don't know why it's so convoluted. It seems like it's
11 very straightforward what the Company gets to. It's a
12 bit more vague as to what the Commission can do.
13 Certainly, I would, if this were in effect and we came
14 to those circumstances and there were a substantial tax
15 reduction, and certainly if it only applied to this
16 company, it would certainly seem logical that you ought
17 to be allowed to lower the rates. But there's a lot of
18 vagueness here.

19 I mean, another thing I haven't
20 mentioned, but it's sort of troubling me, I mean, in a
21 sense, it's almost -- it's hard to believe someone
22 would think this about it, and yet you read it, it's
23 not clear. And, seeing what's happening with the
24 statute, which seems clear to me, but, obviously, isn't

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1 -- we're not all reading the statute the same way, I
2 shouldn't perhaps mention it. Which is, well, what if
3 the -- let's say it's a tax change that applies to the
4 industry as a whole, maybe it applies to all American
5 corporations, and the tax rate goes from 34 percent to
6 50 percent, because they decide they're really going to
7 raise revenues from that group of taxpayers. And, so,
8 Verizon raises all of its rates. And, the Commission,
9 there's an emergency action, the Commission says "It's
10 well merited. We're going to let you raise your
11 rates." And, then, this company comes in and wants to
12 raise it's rates as well, and it's also merited and
13 there is a financial impact. Do you get a double dip?
14 Once, because the Verizon cap went up, and then again
15 because you have this financial impact? Surely, you
16 wouldn't think you do. But the language of the Plan is
17 unclear enough that there is some ambiguity. And, it's
18 kind of the same thing here about "well, how much
19 discretion does the Commission really have?" And,
20 then, you -- when in the midst of all that uncertainty,
21 you suddenly have this very clear language that "it
22 shall not include a "rate of return" analysis". It
23 doesn't say "it shall not result in a rate case". It
24 says "a rate-of-return analysis". So, it's kind of

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1 like it's walling off just about any sort of analysis
2 that really checks what the final net effect is on the
3 Company's need for the rate change. And, at a minimum,
4 it's going to sort of make it harder to navigate the
5 shoals of such a proceeding, make sure you stay clear
6 of that sentence.

7 Q. I'm still trying to understand where the ambiguity is
8 in 7.1.1? "On its own initiative and after notice and
9 hearing, the Commission may require the Company to
10 adjust rates for circumstances that meet the criteria
11 of Section 7."

12 A. Okay, well what criteria meet the circumstances of what
13 -- let me try it again. What circumstances meet the
14 criteria of Section 7? When you go back to Section 7,
15 it begins with -- it's kind of a -- it's a backward
16 reference to a section that includes 7.1.1. The whole
17 thing is just a little confusing to me. But I'm not --
18 I suspect, if you really put a pencil to it and were
19 forced to figure it out, that eventually you could come
20 up with a very reasonable interpretation. It's just,
21 right off the cuff, I'm not 100 percent sure what this
22 means.

23 CHAIRMAN GETZ: Mr. Coolbroth, I think
24 yesterday it was mentioned that the revised Plans were in

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[Witness: Johnson]

1 process, is that correct, or --

2 MR. COOLBROTH: Yes, Mr. Chairman. I
3 circulated drafts this morning asking other parties for
4 comment. But they have been preoccupied, I'm afraid.

5 CHAIRMAN GETZ: That's all right. I
6 just wanted to understand whether they were done and
7 available or they're still in progress?

8 MR. COOLBROTH: No, drafts have been
9 circulated. And, actually, perhaps we can speak at the
10 break and see where we are.

11 CHAIRMAN GETZ: Okay.

12 BY MR. COOLBROTH:

13 Q. Dr. Johnson, I'm going to ask a question, and I'm going
14 to ask you to assume, and not to agree, but just assume
15 for purposes of my hypothetical, that, as a result of
16 the use of cellphones and the use of Voice-over
17 Internet Protocol, to make calls that would otherwise
18 be intraLATA toll calls, an ILEC, similar to one of
19 these companies, experiences declining access revenues
20 to the point that the Company is no longer earning it's
21 authorized rate of return, and assume that it's under
22 rate-of-return regulation. Should the company be able
23 to increase its rates to recover that shortfall?

24 A. Generally, yes.

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1 Q. Now, suppose that same company were to be advised by
2 its marketing people that it could avoid that loss of
3 revenues by actively marketing bundles of services and
4 other products, including regulated and nonregulated
5 bundles or bundles that include regulated and
6 nonregulated services, and thereby avoid the revenue
7 loss. If the Company chose not to avail itself of
8 those opportunities, and it experienced the revenue
9 loss that I described in my prior hypothetical, would
10 it still be entitled to a rate increase to recover the
11 loss?

12 MR. LINDER: Mr. Coolbroth, by any
13 chance was this -- that hypothetical a data request that
14 had been submitted earlier to Dr. Johnson? And, if so,
15 could he be provided with a copy of that? It just sounds
16 like a data request.

17 MR. COOLBROTH: It is similar to one
18 that I had asked before. I have not proposed to use the
19 data response. I had proposed to ask the same question in
20 the nature of cross-examination.

21 MR. LINDER: Okay.

22 BY THE WITNESS:

23 A. If I'm understanding the question, first you had asked,
24 "if there is a shortfall, are they still entitled to

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1 request rate relief?" And, in simple terms, I said
2 "yes", I mean, they're probably entitled to it, if I
3 understood the way you described the hypothetical
4 correctly. Maybe I didn't hear it right. But it
5 sounded like you set up a set of circumstances in which
6 they would be entitled to it, and I was trying to be
7 clear that, "sure, they would be entitled to ask for
8 requested relief." What specific set of rates would go
9 up would be a different question. And, then, you went
10 onto say, if they had opportunities to ameliorate that
11 problem, by being more creative in their marketing and
12 by bundling and doing other things that are the current
13 state-of-the-art in the industry and it's normal in the
14 industry and most companies are doing, but they're
15 choosing not to, they're sort of being recalcitrant and
16 saying "no, I'd rather raise my rates", would they
17 still be entitled to increase the rates? And, it
18 sounded to me like it's getting into this gray area
19 legally, as to whether you could make some kind of an
20 argument that, in essence, to impute revenues that are
21 imprudently being forgone by a failure to operate in a
22 prudent and reasonable manner. And, I don't know
23 legally whether the Commission would be entitled to
24 deny rate relief on that. I can easily see

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1 counterarguments that it's speculative, that, you know,
2 no one can calculate exactly how much revenue would
3 have been generated if they had done the bundling, and
4 so on. So, it seems to me it would be one of those
5 gray things. That, certainly, it would be reasonable
6 to argue that you ought to impute the normal level of
7 revenues that should have been earned, rather than just
8 take as a given what they're actually earning, if, in
9 fact, they're refusing to bundle and refusing to be
10 nimble in their marketing.

11 But, if we're sort of drifting into the
12 range of "it's just sort of old-fashioned management",
13 and he's not doing a very good job, and they've got
14 really good attorneys to defend that old-fashioned
15 management, who knows what will come out at the end of
16 the process. I don't know.

17 BY MR. COOLBROTH:

18 Q. But I'm gathering from your answer that one possibility
19 in that rate case is that the Commission could
20 determine not to allow the rate increase on the basis
21 that the Company had not bundled together services over
22 which they had no jurisdiction, and offered those in
23 order to increase jurisdictional rates, is that right?

24 A. Well, that would be one of the good defenses that the

[Witness: Johnson]

1 attorney could try to make. "Well, this is really
2 beyond your jurisdiction. You're trying to go beyond
3 that jurisdiction." And, certainly, to the extent
4 there's a history of these kinds of things, when
5 commissions have successfully done something somewhat
6 analogous, it's a fine line. They say "No, we're not
7 telling management how to operate. We're merely
8 imputing a prudent level of management to the regulated
9 operation." There's a nuclear plant that should have
10 been canceled or, you know, had cost overruns, you
11 know, things of that sort where there's a history of
12 this, there is a fine line. If you're telling
13 management "you go fire that engineer", you can't do
14 it. Very, very rarely is there a state statute that
15 allows the commission to tell management what to do.
16 But, if they fail to take reasonable and prudent
17 actions, and the facts are clear enough, they're often
18 upheld, and being able to minimize the adverse impact
19 to innocent parties. In this case, let's say, the
20 regulated ratepayers, they shouldn't have to bear the
21 burden of imprudent management that's not doing the
22 bundling.

23 Now, I know you're bringing in this
24 question of "Well, it's unregulated. It's, you know,

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1 off -- outside your jurisdiction, and the FCC has
2 preempted you." Again, the only way you could
3 successfully deal with it, as a commission, if you
4 wanted to, would be to say "Well, what we're talking
5 about is the equivalent impact of, in terms of -- you
6 can do what you want in the unregulated, but we still
7 have some say, for example, in jurisdictional
8 allocations. And, we're going to impute the ratios
9 that would be in effect if you had acted prudently."

10 The profits you made from those bundled
11 services are always off limits. You might be making 30
12 percent in the federal jurisdiction, and only making
13 10 percent in the state jurisdiction. And, you're
14 pretty much stuck with the reality of the 10 percent.
15 And, if they're down to 6, they're entitled to move
16 back up to 10. And, if, in fact, they're still making
17 30 in that other jurisdiction might be frustrating and
18 it might be something in the back of your mind that
19 you're aware of, but you really don't act on it.

20 Q. Suppose in my same hypothetical the Company avails
21 itself of the bundling opportunities and is wildly
22 successful. And, as a result, is, on its regulated
23 revenues, earning above the last authorized allowed
24 rate of return. Should the Commission, in that

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[Witness: Johnson]

1 instance, be able to initiate an investigation to lower
2 the Company's rates?
3 A. I wouldn't recommend they do so, but they could. A
4 general philosophy of most regulators, and certainly
5 one I would recommend, is, especially in facts like
6 that, is to allow the Company to continue to earn the
7 high returns as a reward to management for being
8 aggressive. You want to stay out of their business as
9 much as possible. And, having long periods between
10 rate cases is generally a good thing. And, it averages
11 out. You have stretches of high earnings and stretches
12 of low earnings, and you have companies that earn a lot
13 and companies that earn less. In general, that's a
14 good thing. When it starts becoming year after year a
15 pattern in which a company or a whole industry is
16 overearning year after year, some action is often
17 appropriate. Oftentimes, when commissions have stepped
18 in, they have done it in ways that are sort of halfway
19 measured, they say "We'd really like you to invest
20 more" or "we'd like you to do some things that are, you
21 know, help share the wealth for the good of the state,
22 because technically we could call you in and we could
23 roll your rates back." But you end up having a
24 settlement or you end up having some actions. And,

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[Witness: Johnson]

1 again, I'm just talking in general, the pattern I've
2 seen around the country. And, while I think it's
3 generally a sound one, that you don't want to be
4 micromanaging year by year the profits of a company,
5 regardless of whether you have that statutory
6 authority, that's not the way regulation usually works
7 in practice and it's not the way I would recommend to a
8 commission how they should operate.

9 MR. COOLBROTH: We have no further
10 questions, Mr. Chairman.

11 BY CMSR. BELOW:

12 Q. Dr. Johnson, could you turn to Section 7.1 of one of
13 the Alternative Regulation Plans.

14 A. Okay.

15 Q. And, the second sentence talks about "For purposes of
16 this section, the term exogenous change shall mean a
17 change in any single federal, state or local government
18 tax, mandate, rule, regulation, or statute which causes
19 a change in a local exchange carrier's total intrastate
20 regulated revenue, expenses, or plant in service, of
21 more than", it says "2 percent", but "5 percent" would
22 be substituted by the Settlement, "in any 12-month
23 period, as compared to the base period." Then, it goes
24 on to define the "base period". Would you imagine that

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[Witness: Johnson]

1 the reference to "regulated revenue, expenses or plant
2 in service" would indicate that the Company would still
3 need to maintain financial books that account for and
4 allocate all costs and revenues and expenses and
5 investments between intrastate, so-called "regulated
6 services" versus "nonregulated services"?

7 A. It's a good question. I had not thought about it.
8 That phrase "intrastate regulated" is a term of art
9 that certainly immediately comes to mind, you visualize
10 the traditional methodology, in which you do maintain
11 the Uniform System of Accounts and you coordinate with
12 the FCC, and it's sort of -- sort of everybody sort of
13 understands the process. And, it certainly sounds like
14 that.

15 If there were some other provision in
16 the Plan, and I don't remember if there is, that
17 specifically says that a whole bunch of rules that
18 would normally be required using a Uniform Accounting
19 system and the like have been eliminated, and I don't
20 remember if there is, but if that was the
21 understanding, that they no longer had to follow the
22 Uniform System of Accounts, then I guess it would be
23 something you'd have to estimate, based on whatever
24 books and records you did have available. And, you'd

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[Witness: Johnson]

1 have to somehow try to figure out what is intrastate.

2 And, if, in the future, that becomes murkier and

3 murkier, then I don't know what would happen.

4 Q. Well, I was just sort of wondering about this in light

5 of your concern, your analogy to the potential double

6 dip, where there is an exogenous change that could

7 result in an adjustment in Verizon's basic service

8 rates would also apply to this --

9 A. Right.

10 Q. -- company, and how it might be affected by the details

11 of that language. But, I guess --

12 A. I mean, I think, but for the fact that it's not common

13 sense, you just literally read it, it seems like you

14 would be entitled to an increase, if, say -- let's say

15 your tax rate increased, it's very straightforward,

16 went from 34 percent to 40 percent, so it's a very

17 straightforward calculation. The only question is "how

18 much of your profit is intrastate?" That was one that

19 you're calling my attention to. But I could easily

20 visualize you would have to do your best to interpret

21 the plan and this Commission's ruling in light of the

22 facts, so you would do your best to estimate the

23 intrastate share. And, having done all that, you would

24 then allow an increase. Meanwhile, perhaps on a

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[Witness: Johnson]

1 different timeline, maybe six months or a year later,
2 Verizon would eventually get around to asking for rate
3 relief. They might want to wait awhile, depending on
4 their circumstances. Maybe they've got other issues
5 before the Commission, where they're not eager to have
6 a proceeding pancaked on top of other proceedings.
7 Whatever reason, they might await a while. So, at some
8 later time, they come in and raise their rates. And,
9 there's a long debate about, you know, exactly what
10 rates go up. By the time they finally raise their
11 rates, you've already given relief to this company. At
12 that point, I think there is a risk of the double
13 relief. Not suggesting it's intended, and it's
14 probably something this Commission could prevent with,
15 you know, some sort of appropriate order at the time
16 they issued the initial order saying "we're going to
17 roll it back if Verizon gets around at raising their
18 rates." But, at a minimum, I would suggest to you that
19 the language you're dealing with is fairly fresh off
20 the press and hasn't been carefully thought through.

21 CMSR. BELOW: Okay. Thank you. I think
22 that's all.

23 CHAIRMAN GETZ: Okay. Redirect,
24 Mr. Linder?

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[Witness: Johnson]

1 MR. LINDER: Just one question.

2 REDIRECT EXAMINATION

3 BY MR. LINDER:

4 Q. Dr. Johnson, you were asked about long distance, and
5 with respect to basic local exchange. And, I know that
6 you referred to that in your recommendations on Pages
7 101 and 102. But I didn't know if you felt that you
8 had an adequate opportunity to respond to the question
9 regarding long distance, as to whether you see that as
10 a competitive alternative on an exchange by exchange
11 basis to basic, and whether you needed to comment more
12 on that?

13 MR. COOLBROTH: I'm going to object to
14 that question. I think that that's surrebuttal testimony.
15 I don't recall getting into that area on my
16 cross-examination. And, I think that addresses a point
17 that we raised in our rebuttal testimony, as opposed to
18 anything that I raised in cross today.

19 MR. LINDER: Maybe I misunderstood the
20 question regarding long distance. That's why I raised the
21 issue.

22 CHAIRMAN GETZ: Well, I'm trying to
23 recall when the issue was raised. Restate the question
24 for me please.

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[Witness: Johnson]

1 MR. LINDER: Okay.

2 CHAIRMAN GETZ: So, I can recall who
3 said what when, if that's possible.

4 MR. LINDER: Okay. The question is
5 "whether the long distance is being considered as a
6 competitive alternative to basic local exchange?"

7 CHAIRMAN GETZ: I'll going to allow the
8 question.

9 BY THE WITNESS:

10 A. To the extent my earlier comments might have muddied
11 the waters, I will do my best to keep it clear here, or
12 maybe make it even worse. What I would suggest is
13 that, when I look at this language, that "the
14 Commission shall approve the Alternative Regulation
15 Plan if it finds that", and that word "finds", you
16 know, implies some discretion in my mind to the
17 Commission, "if it finds that competitive wireline,
18 wireless or broadband service is available to a
19 majority of the retail customers", and goes on.

20 I read that as meaning that the services
21 in question are competitive with the voice grade
22 communication services that customers actually use in a
23 substantial way, not a specific element like long
24 distance service, and the fact that you have

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[Witness: Johnson]

1 competition for long distance would somehow trigger
2 this for everything else. And, I give the other
3 analogy would be that "if, say, a data service used by
4 12 customers, and is available and competitive for
5 those 12 customers, would then cause every other
6 customer to be subject to an alternative regulation
7 freedom of pricing?" I don't think that's the logical
8 way to interpret it. Beyond that, I think there's
9 other language in here that talks about exchange by
10 exchange, and it strikes me that long distance, by its
11 nature, is between exchanges. So, it certainly seems
12 like a particular stretch to try to bring long distance
13 competition in as some kind of a trigger, when it seems
14 clear the focus is on intra-exchange services.

15 MR. LINDER: Thank you for the
16 clarification. And, that's all that we had.

17 CHAIRMAN GETZ: All right. Then, I
18 think that completes the examination of Dr. Johnson.
19 You're excused.

20 WITNESS JOHNSON: Thank you.

21 CHAIRMAN GETZ: And, are we hearing from
22 Dr. Loube next?

23 MS. HATFIELD: Yes. Thank you. The OCA
24 calls Dr. Robert Loube.

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[Witness: Loube]

1 (Whereupon Robert Loube was duly sworn
2 and cautioned by the Court Reporter.)

3 ROBERT LOUBE, SWORN

4 DIRECT EXAMINATION

5 BY MS. HATFIELD:

6 Q. Good afternoon, Dr. Loube.

7 A. Good afternoon.

8 Q. Could you please state your full name for the record.

9 A. Robert Loube.

10 Q. By whom are you employed?

11 A. Rolka, Loube Saltzer Associates.

12 Q. And, what is your business address?

13 A. 10601 Cavalier Drive, Silver Spring, Maryland 20901.

14 Q. What is your position at Rolka Loube Associates?

15 A. Vice President.

16 Q. And, is your educational and professional background
17 detailed in Exhibit RL-1, which is an attachment to
18 your testimony?

19 A. Yes, it is.

20 Q. Have you previously testified before this Commission?

21 A. No, I have not. I have testified in front of other
22 public utilities commissions, such as Maine,
23 Pennsylvania, Michigan, Washington State, and several
24 others.

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[Witness: Loube]

1 Q. Would you briefly describe your educational and
2 professional background for the Commission.

3 A. Surely. I have a Ph.D in Economics. I worked for four
4 years at the Indiana Utility Regulatory Commission,
5 another seven at the D.C. Public Service Commission,
6 another five at the Federal Communications Commission.
7 And, since 2001, I have been an economic consultant.
8 Most of my clients are consumer advocates or state
9 attorney generals.

10 Q. Did you file prefiled testimony in this docket on
11 October 12th on behalf of the OCA?

12 A. Yes, I did.

13 MS. HATFIELD: Mr. Chairman, I'd like to
14 have marked for identification Mr. Loube's testimony.
15 There is a public and a confidential version.

16 CHAIRMAN GETZ: And, I guess the
17 convention we will be using would be to mark Dr. Loube's
18 testimony as -- Public Version as "Exhibit 8" and the
19 Confidential Version as "8C".

20 MS. HATFIELD: Thank you.

21 (The documents, as described, were
22 herewith marked as Exhibits 8 and 8C,
23 respectively, for identification.)

24 BY MS. HATFIELD:

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[Witness: Loube]

1 Q. Mr. Loube, what has been marked as "Exhibit 8", public
2 and confidential, was that prepared by you or under
3 your direction?

4 A. Yes, it was.

5 Q. And, is it true and correct to the best of your
6 knowledge and belief?

7 A. It is.

8 Q. Do you have any changes or corrections today?

9 A. No, I don't.

10 Q. And, do you adopt this testimony as your own today?

11 A. I do.

12 MS. HATFIELD: Thank you. The witness
13 is now available for cross-examination.

14 CHAIRMAN GETZ: Okay. Mr. Coolbroth?

15 MR. COOLBROTH: No questions,

16 Mr. Chairman.

17 CHAIRMAN GETZ: Ms. Ross?

18 MS. ROSS: I have no questions.

19 CHAIRMAN GETZ: Ms. Geiger?

20 MS. GEIGER: No questions. Thank you.

21 CHAIRMAN GETZ: Ms. Parker?

22 MS. PARKER: No questions.

23 CHAIRMAN GETZ: Mr. Phillips?

24 MR. PHILLIPS: Granite State has no

[Witness: Loube]

1 questions.

2 CHAIRMAN GETZ: Mr. Linder.

3 MR. LINDER: Yes. Thank you. Good
4 afternoon, Dr. Loube.

5 WITNESS LOUBE: Good afternoon.

6 CROSS-EXAMINATION

7 BY MR. LINDER:

8 Q. I have a few questions, mainly a clarification, with
9 respect to your testimony, your prefiled testimony
10 marked "Exhibit 8", on Page 2. And, if I could direct
11 you to Line 14, actually, Lines 16 and 17. And, as I
12 read Line 16, it indicates that competitive cable,
13 wireless and broadband are not available to a majority
14 of the TDS retail customers. Is that -- Am I
15 understanding that correctly? And, my question is,
16 whether that is intended to apply to each of the
17 exchanges for each of the companies or whether that was
18 just in general?

19 A. That was -- First off, let's make sure that everyone
20 knows what we're talking about here. Well, on 16 and
21 17, I state that, you know, my summary of Mr. Reed is
22 that he asserts that there are competitive
23 alternatives, and then I say "I will demonstrate that
24 his assertion is false." And, what I mean when I say

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[Witness: Loubé]

1 "his assertion is false" is that there are not
2 competitive alternatives to a majority of the retail
3 customers, as I read the law of the state.

4 Q. Thank you. And, my question is, is that in reference
5 to each of the exchanges or to each of the companies
6 generally? That's what was unclear to me.

7 A. Well, it's definitely true to each of the companies.

8 Q. Okay.

9 A. Whether or not it's true in each of the exchanges, I
10 believe it's true also to each of the exchanges.

11 Q. Okay. Thank you. And, then, I wanted to direct your
12 attention to Page 11 of your testimony, Exhibit 7 [8?],
13 and similar question to the previous one. On Line 13,
14 where you indicate that "Competitive broadband is not
15 available to the majority of retail customers in each
16 exchange in every TDS service territory", when you say
17 "every TDS service territory", you're referring to all
18 four companies?

19 A. Correct.

20 Q. Okay. That's -- Thank you. Thank you. And, then,
21 with respect to Page 12, of your testimony,
22 Exhibit 7 [8?], actually, at Line 12, when you talk
23 about the availability of wireless service does not
24 mean that this equates to the criterion of available

[Witness: Loubé]

1 competitive wireless service, a clarification, are you
2 saying that it's your testimony that competitive
3 wireless service is not available for the majority of
4 retail customers in each exchange in every TDS service
5 territory for each of the four companies?

6 A. Yes. My statement is that wireless is considered by
7 the majority of customers to be a complement, and not a
8 substitute.

9 Q. Okay. Thank you. And, finally, with respect to
10 Page 20 of your testimony, at Line 13, where you say
11 that "well, I'd say starting at Line 11, you say that
12 "Very few competitors provide a service offering that
13 competes with the basic local exchange rate", did I
14 read that correctly?

15 A. Yes.

16 Q. Okay. And, then, you say that "an increase in the TDS
17 basic service rates means that customers, who will have
18 no alternative for that service when competitors enter
19 the market, pay a lot more for their services, while
20 TDS customers interested in purchasing bundles would
21 receive discounts." And, could you clarify what you
22 mean by the "discount" aspect of that statement please?

23 A. Well, let's take, for example, that I currently buy a
24 Triple Play service from a company for \$100. If I

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[Witness: Loube]

1 bought each one of those on an a la carte basis, I'd be
2 paying maybe \$130 or \$140. So, that is a discount I
3 get by buying the bundle. If you purchase things on an
4 a la carte basis, one at a time, without buying a
5 bundle, you pay higher rates.

6 Q. I see. Okay. And, then you talk about a "shift in
7 prices" following that. Could you explain what you
8 mean by that, by the "shift"?

9 A. Yes. You're getting an increase from your a la carte
10 customers, from your basic service customers who aren't
11 buying the full bundle. That's where you're getting --
12 a larger share of your revenue is going to come from
13 these customers.

14 MR. LINDER: I see. Okay. Thank you
15 for the clarification. I have no further questions.

16 Thank you, Dr. Loube.

17 BY CMSR. BELOW:

18 Q. Do you mean a larger share of the total revenue or a
19 larger share of the regulated revenue related to basic
20 service?

21 A. Well, it's -- in this case, the regulated revenue, yes.
22 You might, and probably will, get more revenue from,
23 say, some of your unregulated services.

24 Q. Because, presumably, the purposes of a bundle is to

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[Witness: Loube]

1 sell other services --

2 A. Right.

3 Q. -- that the customers aren't buying, so that might
4 actually increase the overall revenue from, and more of
5 it might be coming from the bundle customers, it just
6 wouldn't be for the basic service?

7 A. It wouldn't be for the basic service. In other words,
8 you could get more service from -- more revenue from
9 DSL, but that wouldn't address the question of whether
10 or not the Company, on a state based, regulated --
11 intrastate regulated books, is getting more or less
12 revenue.

13 CMSR. BELOW: Thank you. That's all.

14 CHAIRMAN GETZ: Redirect?

15 MS. HATFIELD: No thanks you.

16 CHAIRMAN GETZ: Then, you're excused.

17 Thank you, Doctor.

18 MS. ROSS: I would like to call Pradip
19 Chattopadhyay and Josie Gage as witnesses.

20 (Whereupon Pradip K. Chattopadhyay was
21 duly sworn and cautioned by the Court
22 Reporter and Josie A. M. Gage was
23 recalled to the stand, having been
24 previously sworn.)

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[Witness panel: Chattopadhyay|Gage]

1

PRADIP K. CHATTOPADHYAY, SWORN

2

JOSIE A. M. GAGE, PREVIOUSLY SWORN

3

DIRECT EXAMINATION

4

BY MS. ROSS:

5

Q. Good afternoon.

6

A. (Gage) Good afternoon.

7

Q. Excuse my voice, I have a cold. Dr. Chattopadhyay,

8

could you begin by giving your name, your business

9

address, and your position.

10

A. (Chattopadhyay) My name is Pradip Chattopadhyay. And,

11

the business address is 21 South Fruit Street, Suite

12

10. I am the Assistant Director of the Telecom

13

Division, on the PUC Staff.

14

Q. And, would you briefly describe your educational

15

background and experience for the Commission please.

16

A. (Chattopadhyay) I have a Ph.D in Economics. And, since

17

1999 November, I have been working in the regulatory

18

field. I have worked in India as a electricity

19

regulator. I worked at the New Hampshire Public

20

Utilities Commission, previous to being in the Telecom

21

Division, in the Electric Division as an analyst. I've

22

also worked at National Regulatory Research Institute,

23

Columbia, for less than a year. And, I have worked at

24

the World Bank as a short-term consultant working on

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[Witness panel: Chattopadhyay|Gage]

1 mostly electric issues.

2 Q. Thank you. And, Ms. Gage, would you please, I believe
3 you already have stated your name and position, but
4 would you briefly describe your educational background
5 and experience for the Commission.

6 A. (Gage) Yes. My background, in terms of my education,
7 is that I have a Bachelor of Science degree in Business
8 from Lasell College, in Auburndale, Massachusetts. I
9 have a Master of Business Administration degree
10 concentrated in Investments and Economics from Simmons
11 Graduate School of Management, in Boston,
12 Massachusetts. My graduate level experience included
13 analyzing case studies in Market Failures. I assisted
14 in writing curriculum for the graduate school with
15 regard to the failure of Long-Term Capital Management,
16 a wealthy hedge fund. This was an analytical, economic
17 study in severe market dysfunction.

18 With regard to my work experiences, I
19 have served as a Financial Analyst for Russell Mellon
20 Financial, and as an Assistant Financial Analyst for
21 Massachusetts Interest on Lawyers' Trust Accounts
22 Committee. Immediately preceding my service for the
23 PUC, I worked as a Registered Representative with the
24 former A.G. Edwards, currently known as "Wachovia

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[Witness panel: Chattopadhyay|Gage]

1 Securities", where I analyzed many investments,
2 including telecommunications securities.

3 In my current duties as a Utility
4 Analyst for the Commission, I analyze dockets as they
5 open. And, I also serve as primary contact to the CLEC
6 and CTP community as they require regulatory
7 assistance. I also serve as the primary eligible
8 telecommunications carrier contact for the
9 Telecommunications Division. I am a member of the team
10 representing the Staff regarding the potential cutover
11 of Northern New England's telecommunications services
12 from FairPoint Communications to Verizon -- excuse me,
13 to FairPoint Communications from Verizon. I
14 voluntarily serve on the Telecommunications Advisory
15 Board's subcommittee on developing a broadband action
16 plan regarding the expansion of broadband in the State
17 of New Hampshire.

18 Q. Thank you. Dr. Chattopadhyay, did you prefile
19 testimony in this docket?

20 A. (Chattopadhyay) Yes, I did.

21 Q. Is that your prefiled testimony?

22 A. (Chattopadhyay) Yes, it is.

23 Q. Mr. Chattopadhyay, --

24 MS. ROSS: Let me ask that this be

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[Witness panel: Chattopadhyay|Gage]

1 marked. By the way, we have only public versions. So,
2 I'd like to have this marked for identification as
3 whatever the next exhibit number is.

4 CHAIRMAN GETZ: Okay. It will be marked
5 for identification as "Exhibit Number 9".

6 (The document, as described, was
7 herewith marked as Exhibit 9 for
8 identification.)

9 BY MS. ROSS:

10 Q. Mr. Chattopadhyay, do you have any corrections or
11 changes to this testimony?

12 A. (Chattopadhyay) Yes, I do. In Page 19 of my testimony,
13 Line 6, the reference to "RSA 378" should be "374".
14 That's the only correction I have.

15 Q. And, Dr. Chattopadhyay, if you were asked the questions
16 in this testimony today, would your answers be the same
17 as they were?

18 A. (Chattopadhyay) Yes.

19 Q. And, do you adopt this testimony as your sworn
20 testimony today?

21 A. (Chattopadhyay) Yes, I do.

22 Q. Ms. Gage, did you prefile testimony in this docket?

23 A. (Gage) Yes.

24 Q. Is this your prefiled testimony?

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[Witness panel: Chattopadhyay|Gage]

1 A. (Gage) Yes, it is.

2 MS. ROSS: I'd like to ask that this be
3 marked, and again, we have only a public version, for
4 identification as the next exhibit number.

5 CHAIRMAN GETZ: And, Ms. Gage's
6 testimony will be marked for identification as "Exhibit
7 Number 10".

8 (The document, as described, was
9 herewith marked as Exhibit 10 for
10 identification.)

11 BY MS. ROSS:

12 Q. Ms. Gage, do you have any corrections to make to your
13 prefiled testimony?

14 A. (Gage) Yes, I do. Page 2, Line 3, and I would insert
15 the word "former" before the word "Salisbury". And,
16 that is all.

17 Q. And, if you were asked these same questions today,
18 would your answers be the same?

19 A. (Gage) Yes, they would.

20 Q. And, do you adopt this testimony as your sworn
21 testimony today?

22 A. (Gage) Yes, I do.

23 MS. ROSS: Thank you. The witnesses are
24 available for cross-examination.

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[Witness panel: Chattopadhyay|Gage]

1 CHAIRMAN GETZ: Okay. Mr. Coolbroth?

2 MR. COOLBROTH: No questions, Mr.

3 Chairman.

4 CHAIRMAN GETZ: Ms. Hatfield?

5 MS. HATFIELD: No questions. Thank you.

6 CHAIRMAN GETZ: Ms. Geiger?

7 MS. GEIGER: No thank you.

8 CHAIRMAN GETZ: Ms. Parker?

9 MS. PARKER: No questions. Thank you.

10 CHAIRMAN GETZ: And, Mr. Phillips?

11 MR. PHILLIPS: Granite State has no

12 questions.

13 CHAIRMAN GETZ: Mr. Linder?

14 MR. LINDER: Mr. Feltes has some

15 inquiries to make. Thank you.

16 CROSS-EXAMINATION

17 BY MR. FELTES:

18 Q. Good afternoon, Ms. Gage and Dr. Chattopadhyay. I just

19 have a few questions. And, we'll start with Ms. Gage.

20 Ms. Gage, referencing Page 3 of your testimony. Let me

21 know when you're there.

22 A. (Gage) I'm there.

23 Q. Okay. The question on the top of the page, Line 1,

24 "Why did you choose only one exchange in the MCTC areas

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[Witness panel: Chattopadhyay|Gage]

- 1 and one exchange in the KTC areas to review?" Did I
2 read that question correctly?
- 3 A. (Gage) Yes.
- 4 Q. And, the answer is: "The statute requires availability
5 of a competitive wireline, wireless or broadband
6 service to a majority of retail customers in each of
7 the exchanges served by the ILEC." Did I read that
8 correctly?
- 9 A. (Gage) Yes.
- 10 Q. And, as Ms. Ross -- Attorney Ross had indicated, that
11 still is your testimony?
- 12 A. (Gage) Yes.
- 13 Q. Okay. And, that you evaluated four of TDS exchanges,
14 Salisbury, Sutton, Hollis, and Wilton, is that correct?
- 15 A. (Gage) That's correct.
- 16 Q. And, turning your attention to Page 11, Lines 8 through
17 9.
- 18 A. (Gage) Did you say "Page 11"?
- 19 Q. That's correct.
- 20 A. (Gage) I'm there.
- 21 Q. Thank you. The question was: "Given Staff's analysis
22 of wireless services in the Sutton and Salisbury
23 exchanges, what is the estimated availability of the
24 cellular signal in either exchange?" And, your answer:

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[Witness panel: Chattopadhyay|Gage]

1 "In the Sutton exchange, Staff finds that the
2 availability of wireless signal is restricted mainly to
3 the outdoors by lack of adequate cell sites." Did I
4 read that correctly?

5 A. (Gage) Yes.

6 Q. And, turning down to Line 17 and 18, you state that:

7 "In the Salisbury exchange, Staff finds that the
8 availability of wireless signal is restricted all but
9 completely to the outdoors, and is unreliable even
10 then." Is that correct?

11 A. (Gage) Yes, it is.

12 Q. And, based on this, do you conclude that wireless is
13 not available to the majority of the retail customers
14 in the Salisbury -- excuse me, yes, Salisbury exchange?
15 Do you want me to repeat that, I'm sorry?

16 A. (Gage) No, that's fine. I do.

17 Q. Okay. And, turning to Page 12, Lines 8 through 12.

18 And, at Lines 11 through 12 is what I'm going to refer
19 to. You stated in a conclusion: "My analysis of the
20 Sutton and Salisbury exchanges revealed no availability
21 of wireline, wireless, or broadband alternatives which
22 are not provided by TDS itself." Is that correct?

23 A. (Gage) That's correct.

24 Q. And, would you agree that you looked at whether or not

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[Witness panel: Chattopadhyay|Gage]

1 the technologies were available?

2 A. (Gage) That is what my testimony was looking at, yes.

3 Q. And, Dr. Chattopadhyay looked at whether or not the
4 technologies that were available were competitive,
5 correct?

6 A. (Chattopadhyay) Yes.

7 Q. Okay. And, just turning to Dr. Chattopadhyay's
8 testimony real quick. Referring to Page 3 of your
9 testimony, sir, Lines 17 through 21.

10 A. (Chattopadhyay) Uh-huh. Yes.

11 Q. Isn't it true that Staff and your testimony recommend
12 that the service that is the subject of a competitive
13 analysis be basic local service?

14 A. (Chattopadhyay) That's correct.

15 Q. Thank you. And, now, the same page, referring to
16 Page 3, Lines 1 through 4, in your opinion, does the
17 mere availability of broadband and wireless technology
18 mean that they are competitive?

19 A. (Chattopadhyay) No.

20 Q. Thank you. Flipping forward to Page 4, Line 8 through
21 10.

22 A. (Chattopadhyay) Can you please repeat that? Lines?

23 Q. Yes, Lines 8 through 10.

24 A. (Chattopadhyay) Yes. I'm there.

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- 1 Q. Would you agree that evaluating how retail customers
2 actually substitute between basic local service and
3 response to changes in price is the essence of a
4 competitive analysis?
- 5 A. (Chattopadhyay) I do.
- 6 Q. All right. And, did you perform such an analysis?
- 7 A. (Chattopadhyay) Yes, I did.
- 8 Q. And, was that a price elasticity of demand analysis?
- 9 A. (Chattopadhyay) Yes, it was.
- 10 Q. And, did you conclude, based on your price elasticity
11 of demand analysis, that, in the Hollis exchange,
12 people were [weren't?] reacting to the prices for basic
13 local exchange service?
- 14 A. (Chattopadhyay) Can you please repeat the question?
- 15 Q. Okay. Did you conclude, based on your price elasticity
16 of demand analysis, in the Hollis exchange, that
17 consumers weren't effectively reacting to changes in
18 basic local exchange prices, correct?
- 19 A. (Chattopadhyay) I conclude that they weren't reacting
20 sufficiently to the change in price for me to determine
21 that the basic local service that those customers buy
22 is competitive.
- 23 Q. Okay. And, the Hollis exchange had broadband and
24 wireless available, too, correct?

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1 A. (Chattopadhyay) That's correct.

2 Q. And, did you perform a similar analysis in the Wilton
3 exchange?

4 A. (Chattopadhyay) Yes, I did.

5 Q. Did you come to the same conclusion that you just
6 articulated in the Wilton exchange as you did in the
7 Hollis exchange?

8 A. (Chattopadhyay) Yes, I did.

9 Q. And, in the Wilton exchange, it was determined by
10 Ms. Gage that broadband and wireless were both
11 available in the Wilton exchange, too?

12 A. (Chattopadhyay) Yes. I would also like to bring to
13 attention that my analysis was done for the period,
14 largely speaking, December 2004 through June 2007.
15 That was the period for which I used the data for.

16 Q. Thank you. And, did the Company provide any
17 information for you to conduct this analysis?

18 A. (Chattopadhyay) Very little.

19 Q. And, Dr. Chattopadhyay, Ms. Ross asked you this
20 earlier, but do you believe your testimony, at the time
21 that you wrote it, to be true and correct?

22 A. (Chattopadhyay) Yes.

23 MR. FELTES: Thank you. I have no
24 further questions.

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[Witness panel: Chattopadhyay|Gage]

1 CHAIRMAN GETZ: Ms. Ross, redirect?

2 MS. ROSS: Yes. Thank you.

3 REDIRECT EXAMINATION

4 BY MS. ROSS:

5 Q. Dr. Chattopadhyay, because you weren't available on the
6 Commission -- I'm sorry, on the panel yesterday, with
7 regard to the Settlement, could you explain to the
8 Commission why Staff supports the Settlement, not
9 withstanding the testimony that you just adopted and
10 submitted?

11 A. (Chattopadhyay) In the context of the testimony that I
12 have, where I had looked at the situation in Hollis and
13 Wilton, my analysis, which has several models, the
14 linear models suggest that, for example, in Wilton, if
15 we look at what's going to happen approximately two
16 years after June 2007, using assumptions like the
17 wireless prices are going to continue to go down, as
18 observed in the trend that I have, in the data that I
19 used, as well as the other inputs in my model, the
20 price elasticity goes sufficiently high for me to be
21 confident that, with the elimination -- rather, excuse
22 me, with the waiver of the rural exemption, as well as
23 the removal of the obstacle on the certification
24 process, it provides significant confidence in my mind

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1 that the market for basic local service, because of the
2 threat of entry, you know, as addressed in the
3 Settlement, I am personally confident that that's going
4 to happen in Wilton, the market is going to be
5 sufficiently competitive.

6 With Hollis, again, the price
7 elasticity, based on similar inputs that I just
8 described, though they don't go as far as what I find
9 in Wilton, they do give me sufficient -- let me put
10 this this way, they do hint to me that in about, say,
11 three years, the market in Hollis would be sufficiently
12 competitive, keeping in mind that there are going to be
13 threat of entries as, again, addressed in the
14 Settlement. So, I am personally confident that the
15 settlement addresses those issues that I had, you know,
16 I had concerns about.

17 Q. Dr. Chattopadhyay, when you say "three years", three
18 years beginning on what date?

19 A. (Chattopadhyay) I would -- That's really an
20 approximate, you know, time frame I'm looking at.
21 Basically, because my model was based on observations
22 from December 2004 through June 2007, you can kind of
23 -- I'm looking at three years from 2007 June, roughly.
24 Again, knowing that this process will take some time,

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1 and then the Commission will have to decide whether
2 it's -- approving the Alt. Reg. or not -- or, rather,
3 the Settlement or not, I'm just building in that extra
4 time there. And, it's just a rough estimate, what's
5 going to happen in three years. That's because, in
6 Hollis, I know that we have two years freeze on basic
7 rates.

8 MS. ROSS: Thank you. I have no further
9 redirect.

10 CHAIRMAN GETZ: Well, Mr. Linder or
11 Mr. Feltes, I think this testimony is more in the nature
12 of supplemental direct, rather than redirect. If you
13 would like to inquire further of Dr. Chattopadhyay on this
14 additional testimony, you have the opportunity.

15 MR. LINDER: Thank you, Mr. Chairman.
16 We perceive it the same way that the Chair does, but we
17 will -- we do not find it necessary to cross-examine.
18 Thank you for the opportunity.

19 CHAIRMAN GETZ: All right. Then, that
20 completes the examination. You're excused. Thank you.

21 Okay. Let's address some procedural
22 issues. I guess, first, is there any objection to
23 striking identifications and admitting the exhibits as
24 full exhibits?

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[Witness panel: Chattopadhyay|Gage]

1 MR. COOLBROTH: No objection, Mr.
2 Chairman.

3 MS. ROSS: No objection.

4 CHAIRMAN GETZ: Then, all the identified
5 exhibits will be admitted as full exhibits. We have the
6 issue of briefs. Is there any meeting of the minds on
7 that issue?

8 MS. ROSS: Yes. The parties checked on
9 when transcripts would be ready, and we have agreed that
10 the first round of briefs will be on January 11th, and
11 probably will just be the parties opposing the Settlement,
12 which, as far as we know, is just New Hampshire Legal
13 Assistance. With reply briefs due on January 25th.

14 CHAIRMAN GETZ: Do I take it then that
15 that obviates closing statements?

16 MS. ROSS: Yes, it does.

17 MR. COOLBROTH: Yes, Mr. Chairman. And,
18 the TDS Companies do not plan to file an initial brief.
19 That is not out of disrespect. It is, as we had
20 discussed, we've entered into a Settlement and are resting
21 on the Settlement, but we'll be interested in replying, in
22 the event or to respond to the brief of Mr. Bailey.

23 CMSR. BELOW: I'd like the parties who
24 are supporting the Settlement to address either, I guess,

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1 through the reply brief, if that's all you're going to do,
2 the basis, the legal basis for what the Commission -- that
3 you would advocate the Commission approve it, pursuant to
4 374:3-b and other statutes, or other statutes, if we're
5 not making all the findings specified in III of 374:3-b.
6 I mean, that, you know, obviously, some of the testimony,
7 questions of those supporting the Settlement, questioned
8 whether the evidence supports the findings. And, so, the
9 legal brief should, you know, address the basis, whether
10 we have to decide that or not. And, if not, the basis for
11 -- the legal basis for approving the Settlement, or not,
12 in the case of those who oppose the Settlement.

13 CHAIRMAN GETZ: Okay. Any other issues
14 that we need to address before we adjourn the hearings?

15 (No verbal response)

16 CHAIRMAN GETZ: Okay. Hearing nothing,
17 then we will close the hearings, wait for the briefs to be
18 filed, and take the matter under advisement. Thank you,
19 everyone.

20 (Hearing ended at 3:42 p.m.)

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