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Case Number: 96-899-TP-ALT

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MC GINNIS & ASSOCIATES, INC.
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PUBLIC UTILITIES COMMISSION

STATE OF OHIO

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In the Matter of the)
Application of Cincinnati Bell)
Telephone Company for Approval)
of a Retail Pricing Plan Which) Case No. 96-899-TP-ALT
May Result in Future Rate)
Increases and for a New)
Alternative Regulation Plan.)

- - -

Hearing Room 11-D
Borden Building
180 East Broad Street
Columbus, Ohio 43215
Monday, March 22, 1999

Met, pursuant to assignment, at 9:00 o'clock a.m.

BEFORE:

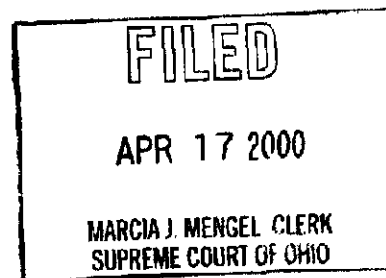
Dwight Nodes, Attorney-Examiner.

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VOLUME XI

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P R O C E E D I N G S

Monday, March 22, 1999

Morning Session

THE EXAMINER: Let's go on the record. Mr. Royer.

MR. ROYER: Just a preliminary matter. I know that or
I understand that we were still looking for the final schedule
of staff witnesses, what order they would be called, and I
wonder if we knew that this morning, or if it was decided
Friday? I missed it.

THE EXAMINER: Let's go off the record.

(Discussion held off the record.)

THE EXAMINER: Let's go back on the record.

Mr. Trabaris, are you ready to call your witness?

MR. TRABARIS: I'd also like to enter my appearance.

Doug Trabaris appearing on behalf of AT&T
Communications of Ohio, Inc., and TCG Ohio.

I would like to call Mr. Richard B. Lee to the stand.

THE EXAMINER: Good morning, Mr. Lee, would you raise
your right hand.

(Witness sworn.)

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1 RICHARD B. LEE

2 of lawful age, being first duly placed under oath, as prescribed
3 by law, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. TRABARIS:

6 Q. Please state your name and business address and employer
7 for the record, please.

8 A. My name is Richard B. Lee, I am vice-president of the
9 economic consulting firm of Snavelly, King, Majoros, O'Connor and
10 Lee, Incorporated, my business address is 1220 L. Street,
11 Northwest, Suite 410, Washington D.C., 20005.

12 Q. Mr. Lee, do you have before you two documents, I'll go one
13 document at a time in introducing them, but you'll explain any
14 modifications, if any, later to both. The first document is
15 entitled "Direct testimony of Richard B. Lee on behalf of AT&T
16 Communications of Ohio, Inc., and MCI Telecommunications
17 Corporation", and that has been marked by the court reporter as
18 MCI/AT&T 1. Do you have that?

19 A. I do.

20 Q. And that consists of approximately a cover page, 12 pages
21 of text, and six attachments.

22 A. Correct.

23 Q. Do you also have in front of you a document entitled
24 "Rebuttal testimony of Richard B. Lee on behalf of AT&T
25 Communications of Ohio, Inc. and MCI Telecommunications

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1 Corporation" and that has been marked by the court reporter as
2 MCI/AT&T 2?

3 A. Yes, I do.

4 Q. And that document consists of a title page, nine pages of
5 text and eight attachments of various lengths?

6 A. Correct.

7 Q. Were these two documents prepared by you or under your
8 supervision and control?

9 A. Yes, they were.

10 Q. Do you have any additions, deletions and other changes to
11 these documents?

12 A. Yes, I have minor corrections to several pages, starting
13 with Page 8 of my direct in December 1997.

14 On Page 8, on Line 6, we should strike the words "Page 1
15 of". On Line 9, strike the words "Page 1 of". Line 18, strike
16 the words "Page 4", and on Line 19 strike the words "Page 4".

17 On Page 9, Line 9, substitute "for BS-NC", "CBT". And on
18 Page 10, first line, strike the words "and future net salvage
19 percents"; on Line 2, the last words "on Pages"; Line 3, "1 and
20 2 respectively"; Line 4, "and future net salvage percents"; Line
21 6 there should be a period after the number 6, and strike "on
22 Pages 1 and 2 respectively".

23 And the last two on Page 11, on Line 2, the Case No. is 96
24 instead of 9C, and on Line 8, the Page number is 9 instead of 8.
25 And those are the only corrections. There are no corrections to

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1 the rebuttal.

2 Q. With those corrections, Mr. Lee, if you were asked the
3 questions contained in AT&T -- excuse me, MCI/AT&T Exhibit 1 and
4 MCI/AT&T Exhibit 2, would your answers be the same?

5 A. Yes, they would.

6 MR. TRABARIS: I would also note for the record that
7 these document haves been marked confidential and proprietary.
8 I would move for the admission of MCI/AT&T 1 and MCI/AT&T 2 and
9 tender Mr. Lee for cross-examination.

10 THE EXAMINER: Very well. Mr. Hart.

11 MR. HART: Thank you, your Honor.

12 - - -

13

14

15 CROSS-EXAMINATION

16 BY MR. HART:

17 Q. Mr. Lee, we have not met before, have we?

18 A. No, we have not, sir.

19 Q. We talked by telephone about a month ago; is that right?

20 A. Yes, sir.

21 Q. At the time that I took your deposition?

22 A. That's correct.

23 Q. All right. Now, am I correct that you have testified on
24 depreciation in a number of TELRIC proceedings around the
25 country?

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- 1 A. That's correct.
- 2 Q. And that your firm has participated in other TELRIC cases
3 for which you were not the witness personally?
- 4 A. That is correct.
- 5 Q. Mr. King, does he tend to address these issues as well?
- 6 A. He did some issues.
- 7 Q. Okay. And I think you noted in your testimony that some of
8 this represents positions that your firm has addressed elsewhere
9 and you have borrowed from?
- 10 A. May I have the reference there?
- 11 Q. Yes, if you'd like at Page 3, Line 10.
- 12 A. Yes. What I said was that the testimony and its framework
13 draws heavily upon the work performed by myself and others on
14 behalf of AT&T, MCI and AT&T Canada.
- 15 Q. As used in other proceedings, correct?
- 16 A. Yes, to use in other proceedings.
- 17 Q. So these same issues that you're addressing here have been
18 addressed by your firm in other cases prior to today?
- 19 A. Yes, they have.
- 20 Q. Okay. Let's, I guess, talk basics here as to what it is
21 we're supposed to be accomplishing. Would you agree with me
22 that the purpose of your testimony is to address what should be
23 the proper economic lives for use in TELRIC cost studies?
- 24 A. That's correct.
- 25 Q. And when we talk about the economic lives, does that mean a

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1 forward-looking life?

2 A. An economic life is the revenue-producing life of an asset,
3 and I think one could say that if you're looking at the
4 revenue-producing life of an asset prospectively, it would have
5 to be forward looking.

6 Q. And so what we're looking for is the economic life of an
7 asset that would be put in service today?

8 A. That's correct.

9 Q. We're not really looking at economic lives of assets that
10 were put into place ten years ago, for example?

11 A. That is correct.

12 Q. All right. And so embedded depreciation reserves aren't
13 really determinative of what economic lives are, are they?

14 A. For lives for prospective lives, looking into the future,
15 it can be -- the depreciation reserves can be a good indicator
16 of past estimates of lives, but for looking into the future,
17 they don't have any relevance.

18 Q. Okay. Now, do you understand that under the Ohio
19 Commission's rules for cost studies, that the default period for
20 a cost study is five years?

21 A. I have no knowledge of the Ohio Commission's cost study
22 rules.

23 Q. Okay. Let me ask you to assume that the outcome of this
24 proceeding will be a series of rates that would likely be in
25 effect for as long as five years. Do you believe that

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1 depreciation lives may change over the course of that five-year
2 period?

3 A. Let me -- let us first qualify the term depreciation lives.
4 The lives that should be used in a TELRIC proceeding are
5 projection lives, which are the lives as we said before, as you
6 said, of newly placed plant, and the objective in a TELRIC
7 proceeding is to choose a life that will represent the life of
8 newly placed plant, and taking into consideration everything you
9 know about the future or think you know about the future.

10 Q. And what I'm asking you is: Would you expect that those
11 economic lives might change in the course of a five-year period?

12 A. If we have a new hearing three years from now, one would
13 want to look at the plant that is being placed three years from
14 now and predict the economic lives for that, the projection
15 lives for that. They might be the same, they might be shorter,
16 they might be longer.

17 Q. So you would agree with me that over the course of five
18 years, the economic lives might change?

19 A. The economic lives you choose today wouldn't change, but
20 you may choose a different economic life three years from now.

21 Q. All right. Now, the lives that you are advocating in this
22 case are lives prescribed by the FCC in 1997; is that correct?

23 A. For CBT Ohio, correct.

24 Q. Okay. Could you describe what the purpose is for the FCC
25 prescribing depreciation lives?

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1 A. The prescription process is intended to develop lives which
2 would be used to apply to the embedded plant, and the procedure
3 that is done is that they choose a projection life which is the
4 life of new plant, they choose a future net salvage which would
5 be the forward-looking salvage, in a curve shape that describes
6 the retirement patterns expected.

7 In the depreciation process for embedded plant, the
8 projection life is then applied to the generation arrangement of
9 all the plant that exists on the books now and out of that comes
10 the remaining life which is used to develop into a depreciation
11 rate.

12 That same projection life can be used in a going-forward
13 study like a TELRIC study, or universal cost study, which are
14 the same thing. That same projection life, instead of being
15 applied to embedded plant, can be used directly in a model going
16 forward.

17 Q. All right. Now, what was the reason the FCC prescribed
18 lives for Cincinnati Bell in 1997?

19 A. That was for their embedded plant.

20 Q. Okay. And when would you expect Cincinnati Bell would ever
21 do another prescription or represcription at the FCC?

22 A. Usually they do it -- in the past there has been a
23 triennial process in which there have been -- the company would
24 submit studies and all of their lives would be reviewed. So on
25 a normal basis, every three years a company would go in.

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1 Now, the Commission has taken -- has done some steps to
2 make sure that its lives are up to date. One of these steps, as
3 a result of the simplification proceeding, has been to establish
4 ranges which I show in my exhibit in my rebuttal, and I think
5 it's Attachment 1, Page 1 of 2, which shows -- of rebuttal --
6 which shows the low and the high range. So they have developed
7 a simplified proceeding so that every year if a carrier believes
8 its lives can be supported within a range but different from
9 existing, they can request an update, and it is entirely
10 possible Cincinnati Bell would come in this year and request an
11 update, or they may wait three years. Let's see, '97, '98, '99,
12 this is the second year, they may come in this year within the
13 ranges or they may wait until next year and do a full update.
14 It's up to them.

15 Q. Why would Cincinnati Bell go in for a represcription?

16 A. If it thought that its -- it could support lives that are
17 different or salvage values that are different than that which
18 is currently prescribed.

19 Q. Well, with price caps at the federal level and alternative
20 regulation at the state level, what reason would Cincinnati Bell
21 have for obtaining prescribed lives?

22 A. Costs still matter, despite price caps. I will speak at
23 the federal level if I may. The determination of cost for
24 universal service is still an ongoing process, for example, and
25 the -- and although that's a forward-looking process, also,

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1 similar to this TELRIC proceeding, but depending on how that
2 proceeding finally evolves, there could be a relatively direct
3 relationship of costs as an example.

4 In the federal proceeding, or in the federal arena, the FCC
5 still monitors the rate of return of the carriers, of the local
6 exchange carriers, including CBT. The depreciation rate is a
7 significant determinant of the rate of return. If the rate of
8 return is found to be increasing and high, it may be an
9 indication that the productivity factor is not appropriate that
10 is being used in the price cap formula. So in that way it's the
11 depreciation rate produces -- or the depreciation life produces
12 a rate which produces expense, which goes into the rate of
13 return calculation and can affect productivity.

14 Q. So the --

15 A. Well, I was going to say, there are two more direct
16 reasons. In the calculation of the productivity, at the federal
17 level, the Commission uses its prescribed lives, so it's basic
18 to the price cap mechanics. And then the universal service
19 proceeding, the Commission ruled that the lives to be used in
20 the universal service by states when they submit them to the FCC
21 and by the FCC to the extent it is calculating the cost of
22 universal service, should be within the prescribed range.

23 So there's a number of reasons why depreciation still has a
24 relevance at the FCC. Indeed, there's a whole proceeding going
25 on discussing whether further simplifications are appropriate or

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1 not.

2 Q. All right. So would you expect that Cincinnati Bell, if it
3 thought the lives prescribed in 1997 no longer were appropriate,
4 would seek represcription in the year 2000?

5 A. I would think that Cincinnati Bell might consider seeking
6 represcription this year, especially as I expect if the result
7 of this proceeding is that the prescribed lives are those that
8 are used for TELRIC. And if it finds that it's not satisfied
9 with that, then they would probably want to seek a new
10 prescription and see if they can get them changed.

11 Q. Let me ask you this: If Cincinnati Bell were to do that,
12 but the represcription did not occur until after the order in
13 this case, would you recommend that the Ohio Commission reopen
14 the TELRIC proceeding in order to adopt the new prescribed
15 lives?

16 A. I really wouldn't want to speak for the Ohio Commission.
17 They have a lot on their plate. If lives did change, if they
18 did get longer or shorter, certainly it would be reasonable for
19 CBT to seek such represcription, but I would not expect the
20 changes to be great and if they were not great, I wouldn't think
21 that the Commission would want to use its resources immediately
22 on another proceeding. But that would be up to the Commission.

23 Q. Don't you state in your testimony that carriers should use
24 the same lives for different regulatory purposes?

25 A. Yes, I do.

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1 Q. So if the FCC were to determine in the future that shorter
2 lives were appropriate, wouldn't those also be appropriate lives
3 for TELRIC proceedings?

4 A. Yes, they would.

5 Q. Now, you've mentioned the streamlining process that the FCC
6 did. Am I correct that that occurred in 1995?

7 A. The last order in the simplification process was '95,
8 correct.

9 Q. Okay. And would it be a fair statement that what the
10 Commission did was rather than deal with each carrier
11 individually when they came in for depreciation lives, they
12 established sort of a range of reasonableness?

13 A. Yes, it is.

14 Q. And in order to establish that range of reasonableness,
15 didn't they take into account prescribed lives that were already
16 in existence?

17 A. That's -- that was their starting place. As their stated
18 intent was to -- and again, we're dealing with projection lives,
19 I can't emphasize that enough. These are the lives of plant
20 being placed as of the date you make a determination, new plant.

21 What their intent was, is to prescribe a range of
22 reasonableness of lives as of the date of which ever order it
23 was, going forward. The mechanics by which they did that are
24 interesting, in that as I mentioned there is a three-year cycle
25 for determining these lives by the major telephone companies.

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1 What they did is they looked back over the prior three years as.
2 to what the projection lives they had prescribed in each of
3 those cases were, and they developed a mean and a standard
4 deviation around that and then they tempered it with their
5 judgment as to whether this is an appropriate range resulting
6 from this, and made whatever adjustments they felt necessary.

7 Q. So the initial cut was simply the average of existing lives
8 with the standard deviation below and above, correct?

9 A. When we say "existing", those are existing projection
10 lives, yes.

11 Q. All right. I tend to use the same term, projection lives.

12 A. I will try.

13 Q. So if we looked at your rebuttal testimony, Attachment
14 No. 1, where you show the range, the low and the high, the low,
15 which is Column A, would be one standard deviation below the
16 mean and the high in Column B would be a standard deviation
17 above the mean?

18 A. I can't say that for a fact because once they got the
19 statistical data, they applied their judgment, and they may have
20 broadened the ranges. I don't think they would have decreased
21 the ranges.

22 Q. So you don't really know how they established any
23 particular low or high?

24 A. That's correct.

25 Q. Now, isn't it also true that the FCC has approved for

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1 Cincinnati Bell certain lives that are outside of that range?

2 A. That is correct.

3 Q. In fact, by definition, if those ranges were a standard
4 deviation, there's a certain population of depreciation lives
5 that are outside the high and the low?

6 A. Oh, yes.

7 Q. So it's not unusual for a given company to be outside that
8 range?

9 A. I would say it is, from my experience, it is an unusual
10 occurrence, in that most of the lives for a given company will
11 be within the range. It's not unusual for some lives, one, two,
12 whatever, of a company, to be above or below.

13 Q. Okay. Now, these high and lows -- highs and lows were
14 established in 1995; is that correct?

15 A. Yes, the last order was '95.

16 Q. So it's been four years since the FCC established its
17 range?

18 A. Yes.

19 Q. And in those four years there have been a number of
20 technological developments, haven't there?

21 A. Certainly.

22 Q. And the FCC has not gone back and adjusted its range for
23 those developments, has it?

24 A. It hasn't adjusted the ranges, but it has affirmed the
25 appropriateness of virtually all the ranges in the notice of

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1 proposed rulemaking in its current depreciation case. So it has
2 revisited the lives.

3 Q. Now, you haven't yourself attempted to determine what
4 appropriate lives would be for Cincinnati Bell, have you?

5 A. Yes, what I have determined is that the lives prescribed by
6 the FCC are the appropriate lives. I haven't done an
7 independent determination of lives.

8 Q. That was my question. You haven't independently attempted
9 to determine Cincinnati Bell's lives, have you?

10 A. I have not.

11 Q. You take at face value what the FCC did two years ago?

12 A. I think it's the best estimate of the projection lives as
13 they exist today.

14 Q. Would you agree with me that as a general proposition it is
15 appropriate to increase depreciation accrual rates if lives are
16 shortening?

17 A. The depreciation rates depend on a number of factors,
18 including the reserve level and the salvage values. All things
19 being equal, the shorter the life, the higher the rate should
20 be.

21 Q. All right. And I think you mentioned earlier that we
22 cannot really determine the appropriate life from an embedded
23 depreciation reserve, can we?

24 A. Just looking at a depreciation reserve, in the case of CBT,
25 50 percent, say, for over all of their plant, doesn't tell you

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1 anything about the future life or the adequacy of the reserve in
2 and of itself. However, as I emphasize in my testimony, looking
3 at the reserve level can be done in two ways, which is very
4 relevant for the determination in this proceeding of what the
5 appropriate projection life is. And those two relevancies are,
6 first, how does the reserve compare to what the reserve should
7 be if all of the lives had always been what your current
8 projection is, and the second is what has been the trend of the
9 reserve over time and what does that say about the person or, in
10 this case the FCC, which is determining the lives over that
11 period.

12 For example, and that's why I have a reproduction on the
13 board of Attachment 4 from my rebuttal testimony, Page 1, the
14 prescription by the FCC which has gone on for about 50 years was
15 done up until about 1980 on a backward-looking basis. It was
16 done with the best of intentions.

17 The FCC and most state regulators felt that the telephone
18 company had been in business for a hundred years and there was a
19 good record of how long different types of plant lasted, and
20 that over the very long run it doesn't matter if you have
21 temporary changes in life, the best indicator of the future will
22 be the past.

23 And they were doing that through 1980. Come 1980, they
24 changed their orientation, spurred largely by carrier requests
25 that looking backwards was not providing them with adequate

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1 capital recovery, and indeed I was at AT&T starting in '80 when
2 this was going on. The Commission changed its orientation from
3 backward looking to forward looking, it happened to change
4 personnel and it changed a lot of procedures at that time, and
5 the results of that was a dramatic change in the reserve ratios
6 so that up until 1980 you saw a reserve that was going down
7 which right after the war was okay because there was a great
8 growth in plant and reserves go down when the plant -- when the
9 plant is expanded, but in the '60s and '70s the reserve kept
10 going down, or the growth had stabilized because of the
11 backward-looking approach of the FCC.

12 They made these changes in 1980. Since then the reserves
13 have gone up dramatically and they continue to go up, and I
14 believe that's a good indicator that they have done a good job
15 in looking into the future and prescribing projection lives.

16 So in that sense, to answer your question directly, the
17 reserve is a good indicator of what the appropriate life is
18 because it's a good indicator that the FCC, and the State
19 Commissions, have done a good job of prescribing forward-looking
20 projection lives.

21 Q. Let's go back and analyze that a little bit. Am I correct
22 that in the early '80s the main driver of this change was the
23 rather dramatic replacements of cross bar switching with
24 electronic switching?

25 A. I think you're really talking more of '70s for that. It

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1 continued on through the '80s, but it was this very transition
2 that led the FCC to realize that looking at historic records
3 alone was not enough.

4 Q. Because for the several years that that had been going on,
5 the depreciation rates were not allowing the telephone companies
6 to recover the capital cost of replacing those switches?

7 A. The depreciation process isn't to produce directly revenues
8 to replace. The intention of the regulatory depreciation
9 process is to match the depreciation to the revenues produced by
10 equipment so that if the equipment was being replaced faster
11 than anticipated, that would result in a reserve deficiency.
12 And indeed, when the FCC began to look forward on the lives
13 around 1980 this all happened, they prescribed shorter lives,
14 and when you prescribe a shorter life and you develop what
15 should the reserve be, the so-called theoretical reserve, you
16 automatically create a deficiency.

17 So a main driver at least until about 1990 of the reserve
18 going up was a catch up, it was a catch up done through
19 amortizations to bring the reserve to a level that it should be.

20 Q. So the actual amortization by itself would not have been
21 enough to bring a reserve where it should have been, there was a
22 second accrual which was essentially an amortization of the
23 deficiency; is that right?

24 A. That's correct. I was saying the same thing. They
25 shortened the lives, which by itself would increase the

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1 depreciation rate. And in addition to that, they did an
2 amortization of the past tense.

3 Q. That explains why there's such a sharp rise, that there
4 were not only shorter lives, there were also accruals of past
5 deficiencies?

6 A. That explains up until the early '90s.

7 Q. Okay. Now, the fact that the FCC switched from a
8 backwards-looking mode to a forward-looking mode doesn't
9 necessarily mean that the lives they were prescribing were
10 accurate lives, does it?

11 A. It doesn't necessarily mean that, no.

12 Q. Okay. And you said the fact that reserves are high now
13 means they are doing a good job. Well, don't you, in fact, to
14 know whether the reserve is appropriate, need to know what the
15 lives of the equipment are?

16 A. I said there were two things that looking at the reserve
17 can do for you, it depends on which way you're looking: One,
18 you can look at trends and that's what I've shown here. And
19 what I conclude from this is that the reserves have no longer
20 been falling, despite the fact that plant growth continues,
21 indeed, they're reaching unprecedented levels, historically high
22 levels and have, and they have just continued.

23 The second thing I said is you compare the reserve, given
24 the lives that you currently have, assuming that the lives had
25 always been in existence and that you call that the theoretical

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1 reserve, and you compare those two reserves and if those two
2 reserves are similar, then you would say that your reserves are
3 at the right level and it's an indicator that your lives have
4 been appropriate.

5 Q. Well, the theoretical reserve, though, itself, depends upon
6 the lives that you use to calculate it being accurate?

7 A. Yes, it does.

8 Q. So we can compare the theoretical and the actual and they
9 might be exactly the same, but that doesn't mean the theoretical
10 is right?

11 A. If the lives were not right, the theoretical wouldn't be
12 right.

13 Q. Okay. Now, back I guess where I started this whole
14 discussion was the point that if everything else is equal, when
15 lives become shorter, the accruals must increase; is that right?

16 A. Yes.

17 Q. Have you reviewed the hearing testimony of Mr. Bolte?

18 A. Yes, I have.

19 Q. All right. Now, in the rebuttal testimony on Page 2, at
20 Line 21 you indicate that CBT's lives rely upon the
21 recommendations of TFI. Do you see that?

22 A. Yes, I do.

23 MR. TRABARIS: What page was that again?

24 MR. HART: Page 2, rebuttal.

25 BY MR. HART:

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1 Q. Is it your testimony that Cincinnati Bell's lives are
2 entirely based upon TFI?

3 A. No.

4 Q. All right. You understand, then, that Cincinnati Bell's
5 lives in many instances are either at the high end or even way
6 above the lives recommended by TFI?

7 A. Well, TFI recommends ranges, and as you say, the lives that
8 Cincinnati has requested tend to be higher than -- towards the
9 high end, simply speaking.

10 Q. And in some cases, they are even above the range that TFI
11 recommends, aren't they.

12 A. Well, let's see. No, I don't -- I don't see that.
13 Digital -- I'm looking at my Attachment 1, Page 1. Digital
14 switching, CBT has 12 and I think the TFI is 9 to 12. Digital
15 circuit, CBT has 9 and it's 6 to 9 for the TFI, and aerial
16 cable, 14 to 20 is TFI's recommendation, I think, and they are
17 at 15. So I think it's fair to say they are in the high end of
18 the range, in general.

19 Q. Aren't some of the cable accounts Cincinnati Bell has
20 proposed even higher than TFI's?

21 A. The aerial, 14 to 20, I think is the TFI recommendation.

22 Q. You're talking about aerial metallic?

23 A. Well, for the metallic, I'm talking metallic, I'm sorry.
24 And 15 is within the 14 to 20 range. Underground metallic, 15
25 is within the 14 to 20, and buried cable metallic, 17 is within

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1 the range.

2 Q. What about for fiber?

3 A. I'm sorry, I don't have fiber noted. 22 may be above the
4 TFI range.

5 Q. All right. On Page 3 at the bottom you indicate that TFI's
6 projections are largely based on substitution analysis, correct?

7 A. Correct.

8 Q. And on Page 4 you say that that is in its own way dependent
9 upon the past; is that right?

10 A. Yes, in its own way.

11 Q. And its way of being dependent on the past is a lot
12 different than the use of mortality analysis, isn't it?

13 A. It is different, yes.

14 Q. Okay. Because what mortality analysis does is use actual
15 retirements to attempt to predict the life of an actual type of
16 plant, correct?

17 A. That's correct.

18 Q. And what substitution analysis does is look at past
19 patterns where one technology has replaced another and project a
20 curve based on that substitution?

21 A. Correct.

22 Q. And it isn't dependent upon the exact same technology?

23 A. Correct.

24 Q. And just as an example, you might go back and look and see
25 what was the pattern by which color TV replaced black and white

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1 TV?

2 A. Well, no, because there still is black and white TV. There
3 are cases in all kinds of different situations where one
4 technology is complete -- has completely replaced another.

5 Q. But it doesn't need to completely replace it in order for
6 it to affect the useful life of the old technology, does it?

7 A. As substitution analysis develops a pattern, it assumes a
8 complete replacement, not just the mechanics; how soon will it
9 take to replace the old technology. So it does assume a
10 complete replacement.

11 You can have -- for example, television came out, it didn't
12 replace radio, there's probably more radio now than there ever
13 has been, so you can have a new technology which comes in and
14 exists side by side with an old technology, and substitution
15 analysis wouldn't be relevant to that, okay? I'm sorry, was
16 that responsive?

17 Q. Well, I'm not sure it was. What I asked you was whether a
18 partial substitution of a technology would have an impact on the
19 economic life of the old technology.

20 A. No. When you are looking at the projection life of the,
21 quote, old technology, it's just a technology that was around
22 before the new technology, and you're looking at new placements,
23 what you're looking at is how long is that new placement of that
24 older technology going to last.

25 Now, if you have a new technology that comes along and you

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1 use that for many applications that you used to use the other
2 technology for, it means you are replacing less of the older
3 technology than you would have, but it doesn't necessarily mean
4 that what you do place won't last exactly as long as what was
5 used to replace.

6 Q. Now, on Attachment No. 3, I believe it is, you have a
7 presentation done by Fatina Franklin of the FCC?

8 A. Yes, I do.

9 Q. And I take it the point you're attempting to make with this
10 is that the past projections by TFI are not the same as the
11 actual experience?

12 A. Just a moment. Sorry, that's Attachment 3 of my rebuttal?

13 Q. Yes.

14 MR. TRABARIS: Mr. Hart, when you're discussing
15 conclusions of Mr. Lee, I assume you're referring to Page 6 of
16 his rebuttal testimony?

17 MR. HART: Yes.

18 THE WITNESS: That's exactly what I was looking for.
19 What I presented it for was to demonstrate that the past
20 projections of TFI have not been necessarily accurate.

21 BY MR. HART:

22 Q. Okay. Now, the data that's on the -- we're looking at
23 Pages 4 and Pages 5, right, of that attachment?

24 A. Yes, that's correct.

25 Q. Okay. The right-hand side of that where it says "percent

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1 surviving from FCC carriers reviewed"?
2 A. Yes.
3 Q. Are those book retirements, or I guess it's the original
4 plant that's not been retired?
5 A. That is correct.
6 Q. Okay. So this would represent booked assets on an embedded
7 basis?
8 A. Yes, it does.
9 Q. Okay. Now, isn't it true that the TFI projections of
10 percentage surviving are not based on book retirements, but
11 rather units in service?
12 A. The forecasts that -- on chart 3 are shown as percentage
13 surviving, were presented in their study, I guess this was their
14 '89 study that we're dealing with there, and that was -- well,
15 let me just take a look here. You say units surviving?
16 Q. As opposed to booked --
17 A. Investment surviving?
18 Q. Right.
19 A. Let me see if I can check that. I don't have that with me.
20 I could take that subject to check that it is units as opposed
21 to investment. These figures are investment.
22 Q. All right. And to compare those two wouldn't necessarily
23 be helpful, would it?
24 A. Well, I wouldn't -- The way those -- the TFI studies are
25 used by carriers has been to use those projections to -- in the

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1 process of determining the remaining lives of the embedded plant
2 on an investment basis. I don't know why there would be a
3 difference particularly in the pattern between the investment
4 and the units.

5 Q. Well, when we're looking at economic lives, wouldn't the
6 economic value of a unit be different than the economic value of
7 the investment?

8 A. The -- Whether the economic value is changing at a rate
9 faster or slower than the straight line would -- that would
10 affect economic value, it wouldn't affect units. So the
11 question would be is there reason to believe that the economic
12 value is changing at a rate different than the life would
13 indicate.

14 Indeed, there is indications that the economic value of LEC
15 plant is not going down as fast as the units, if you will. The
16 evidence of this stems from the high premiums that are paid when
17 one local exchange carrier buys another. It's an indication
18 that the market value, or the economic value of the LEC assets,
19 is actually greater than its net book value on the books.
20 That's why they pay these extreme premiums.

21 Indeed, I think the NARUC subcommittee on accounts
22 presented something to the Society of Depreciation Professionals
23 recently which reached that exact conclusion.

24 Q. Isn't there another factor going on in those merger cases
25 that parties expect some efficiencies according to -- because of

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1 the combination of common operations?

2 A. Yes, of course, there are a lot of factors that go on, but
3 the premiums are so extreme that one has to really question
4 whether maybe the -- the value of the plant is not going down as
5 fast as straight line would predict.

6 Q. Now, when we're dealing with a technology such as
7 electronic circuitry, am I correct that there are really two
8 components to that; there's a common component and then there's
9 a variable component that is based upon the number of lines or
10 circuits?

11 A. There are relatively variable and relatively fixed pieces
12 of circuit, sure.

13 Q. And the number of circuits might decline, which would
14 reduce the investment that's directly attributable to circuits
15 but wouldn't necessarily change the fixed part, would it?

16 A. It could go either way.

17 Q. So that the number of lines might change dramatically and
18 the common investment may not change at all?

19 A. That's a very hypothetical type of question. Yes, and it
20 could go the opposite way. If we were still talking about chart
21 3 from the presentation by the chief of the depreciation branch
22 at the FCC, what the chief was presenting was that in 1996 TFI
23 had predicted that there would only be 21 percent of the
24 investment surviving, and whether that was measured on unit or
25 dollar at the time, I don't think was something that either TFI

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1 or the depreciation branch considered particularly relevant.
2 The ratio was three to one, for goodness sake, in '96, 60
3 percent versus 21 percent. So I think we're splitting hairs
4 here.

5 The basic point of the matter is that replacements did not
6 occur at anything like the rate that was predicted.

7 Q. Has the FCC ignored the TFI projections?

8 A. No, I can't say that. I think that they have reviewed the
9 TFI projections carefully, and they just don't believe the rate
10 at which TFI projects replacements to be a reasonable rate.

11 Q. Has TFI influenced the rates the FCC has chosen?

12 A. TFI data has been presented by many local exchange carriers
13 to the FCC over these last 10, 12 years, and the TFI studies
14 have presented a lot of information about the -- beyond the
15 specific forecasts, they have presented a lot of good
16 information about industry technologies and such. So I think
17 that it has probably been helpful to the FCC to have the
18 information from TFI.

19 Q. Well, the question I'm asking is: Do you know whether or
20 not they have used those studies to choose the lives that they
21 have prescribed?

22 A. Well, as far as I know, they have virtually never used the
23 actual recommendations of TFI, but I'm not saying that the
24 studies haven't had an impact intellectually on what lives they
25 did choose.

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1 Q. Now, you have indicated in your testimony that you do not
2 believe ATM switches will replace digital switches; is that
3 right?

4 A. Could I just have a reference?

5 Q. I think it's on Page 5, Line 7.

6 A. In the rebuttal?

7 Q. Yes.

8 A. Yes, I say ATM switches as being one of those parallel
9 technologies, and indeed in a response to an information request
10 CBT said it does not plan to replace digital switches with ATM
11 switches. And I might add, this is a response I've seen in many
12 other states that this isn't the plan.

13 Q. And that might be a current forecast as opposed to a
14 long-term forecast, correct?

15 A. It's usually not qualified.

16 Q. Because the answer is -- the question isn't asked in a way
17 that puts a time frame on it, is it?

18 A. No.

19 Q. So wouldn't the company answering a question how do you
20 plan to replace your digital switches, answer that with a
21 current time frame?

22 A. I would think in a forward-looking cost case when you're
23 asked a question, you would answer it in whatever time frame you
24 think is relevant, and I would think that it would be the time
25 frame would be the period of life of the digital switches.

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1 Now, it seems that there's been a lot of qualifying going
2 on on this particular response. As I said, I read Bolte's
3 testimony. Let us make it clear, they have no current plans
4 obviously, so -- and I can't see a reason why they would take a
5 local switch, which is -- a digital switch, as we would be
6 putting into this TELRIC model, and I can't see a reason why you
7 would replace it with ATM for the purpose of providing local
8 switching.

9 Q. Currently you wouldn't do that, would you?

10 A. I can't see it in the time frame looking forward right now.

11 Q. Well, in 12 years it might happen, might it?

12 A. No, I think -- in at least for the next 15, it isn't. If
13 I'm not mistaken, 15 is the projection life we have for digital
14 switching.

15 Q. That's the projection life that the FCC prescribed. My
16 question for you is: For purposes of a TELRIC study, aren't we
17 supposed to use the technology that we expect to currently
18 deploy?

19 A. It's the -- as I understand it, it's the latest available
20 technology.

21 Q. The least --

22 A. Least cost, most efficient, that's correct, sir.

23 Q. So I might be able to use an ATM switch, but it might not
24 be least cost?

25 A. And most efficient, that's correct.

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1 Q. Okay. But could you see how the current technology might
2 have a shorter life by virtue of the ATM technology on the
3 forefront?

4 A. I don't. I think a digital switch is perfectly good and
5 economic for the provision of local switching, and I don't
6 particularly see any reason why an ATM would be any better at
7 any point in the future for providing local switching of voice
8 grade services, which is what we're talking about in the TELRIC
9 proceeding.

10 ATM is fine for switching cable TV and such, and high-speed
11 data and Internet, and that indeed is why CBT is putting ten of
12 them in, is because under their Zoom program where they are
13 using the digital subscriber line technology, they will have not
14 cable TV here so far, but high-speed Internet and such, and that
15 won't go through the digital switch that provides the phone
16 service, there's a split of that and not go off on ATM switches
17 and that's how everyone seems to be doing it and that seems to
18 be the appropriate way of doing it.

19 Q. Isn't AT&T heavily reserving the use of ATM switching for
20 voice traffic?

21 MR. TRABARIS: Objection. Relevance, outside the
22 scope of the testimony and Mr. Lee is not employed by AT&T; he
23 is a consultant retained by MCI and AT&T to testify today.

24 THE EXAMINER: Mr. Hart.

25 MR. HART: First, it's relevant because the question

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1 here is whether ATM switching can be used for voice traffic, and
2 might replace digital switching. Secondly, it is real -- I
3 think the other objection was that what AT&T is doing is somehow
4 beyond the scope of the testimony. Well, the subject of the
5 technology is what is at issue and anybody out there who is
6 using the technology is relevant, whether it's AT&T or somebody
7 else. And, thirdly, I guess I'm not sure what the third part
8 was of that.

9 MR. TRABARIS: Mr. Lee is not an internal employee of
10 AT&T or MCI and I think it's inappropriate to ask him questions
11 about the internal business plans of AT&T and MCI.

12 MR. HART: Well, your Honor, this information isn't
13 necessarily something that they have kept a secret. There is
14 public information about these plans. So if he's not aware of
15 them, that's fine. If he is, I'd like to know what he is aware
16 about them.

17 THE EXAMINER: I'll overrule the objection.

18 BY MR. HART:

19 Q. Do you remember the question?

20 A. Would you repeat the question?

21 Q. Let me try again. Isn't it true that AT&T is heavily
22 researching the use of ATM switching for voice traffic?

23 A. I do not know if AT&T is doing that.

24 Q. Okay. If they were doing that, would you consider that an
25 interesting fact to know in establishing the life of digital

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1 switching?

2 MR. TRABARIS: Objection, calls for speculation.

3 THE EXAMINER: Sustained.

4 BY MR. HART:

5 Q. Has NorTel announced a product that combines digital -- I'm
6 sorry, voice traffic with Internet and other data traffic on an
7 ATM switch?

8 MR. TRABARIS: Objection. I guess I'll object again.
9 It's -- what is this, news release testimony? Relevance.

10 THE EXAMINER: You know, there's a -- he's testifying
11 as an expert and, obviously, he's aware of what is happening in
12 the industry, so for the same reason I overruled your first
13 objection, I'll overrule this one. To the extent that you know.

14 THE WITNESS: I don't have a specific announcement by
15 NorTel in mind when I say this, but I am very well aware that
16 ATM can do voice as well as data traffic and such.

17 I think, though, that what I have seen is a great deal
18 of looking at new technologies for long distance carriers for
19 their long distance networks, and indeed, there is a great deal
20 of difference between what is the economic technology for a long
21 distance company as opposed to a local exchange carrier. By
22 that I mean that the long-distance carriers are relatively low
23 in capital intensity. The long distance carriers only need
24 about 150 switches, 100,000 miles of cable and you've got a
25 long-distance carrier that can reach every telephone in the

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1 nation.

2 The local carriers, and the local switching, which is
3 what we're talking about here, in the TELRIC proceeding, needs 6
4 million, last I saw, miles of cable and directly relevant 23,000
5 local switches to connect all of the individual loops in the
6 nation. So what is economic for a local carrier to use to
7 connect to the 10, 20, 30, 40,000 loops of a local switch may be
8 much different technology than that -- what is appropriate for a
9 long-distance carrier to use for its switches.

10 Indeed, the long distance AT&T for example, have been
11 using 4ESS switches as the backbone of its network, and the
12 local carriers have four ESSs for their toll work, but it's not
13 a technology that's used for local connections. So what we're
14 talking about in this case are local loops, local switching, and
15 the AT&T as an IXC doesn't have local loops and local switching.
16 So as far as NorTel is concerned, I'm not familiar with the
17 specifics, but I am familiar that the long distance industry is
18 looking at new technologies for the long distance toll work.

19 BY MR. HART:

20 Q. Well, Cincinnati Bell doesn't even have 50 switches, does
21 it?

22 A. I think it has less than 50 switches.

23 Q. So your comparison of the number of switches a
24 long-distance carrier might have to the local industry doesn't
25 necessarily apply when we look at Cincinnati Bell by itself,

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1 does it?

2 A. I'm talking about the capital intensity, the number of
3 switches per revenue dollar, if you will. It could be economic
4 for a long-distance carrier to replace 150 switches and
5 noneconomic for a local carrier to replace 50 switches.
6 Remember that local switch -- the long distance switch is just
7 connected to other long-distance switches, or as a point of
8 presence to the local exchange carrier switches. In other
9 words, a long-distance switch is connected to other switches,
10 there's a finite number of them, not that many of them. But a
11 local switch which is the purpose of the digital that we use the
12 life of digital switching, is for the local switch, and the
13 local switch is connected to tens of thousands of local loops,
14 and it is just not economic -- well, the FCC itself has
15 recognized in the simplification proceeding that they were two
16 different animals, they should have two different prescriptions,
17 one for long distance, one for local. It's just not relevant.

18 Q. Now, voice traffic is the same on a long-distance carrier
19 as it is on a local carrier, isn't it?

20 A. Yes, voice traffic is voice traffic. But the use that you
21 put a switch to is determined not just by the band width of
22 traffic you're carrying, but also the characteristics of what
23 that switch is used for.

24 Q. Now, hasn't NorTel also announced products that it would
25 sell to end users, not long distance carriers?

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1 A. I'm not -- I don't have in mind any particular
2 announcement, but I'm not sure what you're talking about the end
3 user would do with them.

4 Q. Well, like a company network, an intranet that would have
5 voice and data on it, are there ATM switches being marketed for
6 end users to build their own networks?

7 A. Yes.

8 Q. And those would have to connect to external networks,
9 wouldn't they?

10 A. Yes.

11 Q. So in a sense they would be like a local switch, wouldn't
12 they?

13 A. I guess you could draw an analogy to that. The economics
14 of what you have in a company for your local area network may be
15 quite different than what they are for a local exchange carrier.
16 It would be very speculative to draw that analogy too closely.

17 Q. The economics might be different, but the technologies
18 might be the same, wouldn't they?

19 A. There's no question that ATM switches have a place in a
20 modern LEC network, and that's not the question. The question
21 is whether the digital switches that are placed today to provide
22 local switching for end offices, how long they are going to last
23 and whether it would be economic to replace them, and it's my
24 view and the FCC's view that with all of this knowledge we have,
25 that the local switch is likely to last 15 years if you put it

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1 in now, a digital switch, and that takes into account any
2 changes expected in the technology that would cause one to
3 replace it.

4 By the way, that ATM switch is a digital switch, and if you
5 put in an ATM switch, then you would expect it to last 15 years,
6 too.

7 Q. Now, AT&T and MCI both use shorter economic lives than
8 Cincinnati Bell, don't they?

9 A. Again, I assume you're talking about their lives that they
10 use for their long distance facilities. I don't know actually
11 whether either AT&T or MCI has local switches, but the lives for
12 the long distance plant is not at all irrelevant to the lives
13 for a local exchange carrier plant.

14 Q. What about if AT&T or MCI have a local switch, would the
15 life that they have used for their local switch be pertinent to
16 what the life of Cincinnati Bell's local switch would be?

17 A. Well, then we get into what life were we talking about.
18 You have financial book lives which are those that are,
19 according to GAAP, and are used on the financial books of the
20 company. And then you have regulated lives which are
21 appropriate for use in regulation. This is a regulated
22 proceeding, so when the Commission determines the appropriate
23 life, the Commission is balancing the needs of investors to get
24 a return on their capital, and the needs for ratepayers not to
25 pay more than their fair share of the cost of a piece of capital

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1 equipment.

2 When you go to financial books, the financial books are
3 based on the GAAP principle of conservatism. The financial
4 books are established to protect investors, because the FCC has
5 found the lives that are appropriate to protect investors may
6 not be appropriate for use in regulation.

7 Now, whatever AT&T and MCI do not have regulated books, so
8 any lives that you can find, if you can find them for AT&T and
9 MCI, would be financial book lives. They are conservative. I
10 would expect them to be shorter than an appropriate regulated
11 life.

12 In other words, they wouldn't be relevant to this
13 proceeding.

14 Q. Well, in the case of AT&T and MCI, if they don't have
15 regulated lives, then I guess the Commission is relying upon the
16 financial lives to protect ratepayers; is that right?

17 A. No, the Commission -- the FCC at least, does not rely on
18 any costing for AT&T and MCI, it's found that AT&T was
19 nondominant and relies on competition. So it doesn't look at
20 the lives that are used by AT&T or MCI, it doesn't look at the
21 costs for that matter.

22 Q. And in most competitive markets there's nobody looking at
23 the lives, is there?

24 A. Well, that's not entirely true. There are two other uses
25 of lives. The competitive company has to -- if it's public, has

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1 to provide statements to the Securities and Exchange Commission
2 which are subject to GAAP, and those lives that it uses in these
3 must be short enough to ensure that they are not overstating
4 their current income, and they are not overstating the net plant
5 by what they do.

6 And the second one is the Internal Revenue Service, which
7 is an entirely different set of recovery periods with different
8 motivations behind that.

9 Q. And those are generally even shorter, aren't they?

10 A. The recovery periods are intentionally shorter than the
11 expected economic lives as an encouragement to have business
12 invest.

13 Q. Nobody is suggesting we use tax lives, are they?

14 A. Not in this proceeding. I have seen it done elsewhere.

15 Q. Okay. Getting back to where we were, AT&T and MCI don't
16 have regulated books, right?

17 A. That's correct.

18 Q. And so the only lives they use are the ones in their
19 financial reporting?

20 A. The -- That's what I'm aware of.

21 Q. But neither AT&T nor MCI are willing to disclose to
22 Cincinnati Bell what those lives are, are they?

23 MR. TRABARIS: I'm going to have to object to this
24 question. We're getting further and further afield from
25 Mr. Lee's testimony. Mr. Lee has stated that -- and I'm

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1 paraphrasing, that counsel's comparing apples and oranges. Now
2 he's going further and afield where he's talking about an
3 industry that is very different than the local exchange
4 industry, and then asking Mr. Lee to speculate on possible
5 discovery issues, or possible business issues.

6 THE EXAMINER: Objection is sustained.

7 BY MR. HART:

8 Q. Mr. Lee, would the depreciation that MCI applies to the
9 local switch it's built in Cincinnati be relevant to the
10 economic life of that switch?

11 MR. TRABARIS: Whose local switch are you referring
12 to?

13 MR. HART: MCI.

14 MR. TRABARIS: Objection. He's asking him to testify
15 about MCI's deployment plans for local switches when he said
16 he's not even aware if MCI has local switches.

17 MR. HART: That isn't what I asked at all.

18 THE EXAMINER: All right.

19 MR. TRABARIS: Sure sounded like it to me.

20 THE EXAMINER: Restate the question.

21 BY MR. HART:

22 Q. Would the life that MCI applies to its local switch in
23 Cincinnati be pertinent to the economic life of a local switch?

24 MR. TRABARIS: Assuming evidence not in the record;
25 that's an additional objection when the witness said he doesn't

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1 know if MCI has any local switches.

2 THE EXAMINER: If he doesn't know, then it won't be a
3 problem. Objection overruled.

4 THE WITNESS: No.

5 BY MR. HART:

6 Q. It would not be relevant?

7 A. Correct.

8 Q. Now, Cincinnati Bell -- Strike that.

9 You mentioned that the financial reporting is based on GAAP
10 accounting, correct? Do you have any evidence at all that
11 Cincinnati Bell -- the accountants determined the depreciation
12 lives?

13 A. Let -- first -- First of all, when you say "accountants",
14 who do you mean?

15 Q. Cincinnati Bell's accountants, do they determine what the
16 depreciation lives are for financial reporting purposes?

17 A. I'm sure I -- I assume that there is a process that's gone
18 through. I think Mr. Bolte is heavily involved in the process
19 of developing the financial book lives. As a matter of fact, I
20 think these lives that Cincinnati is proposing to use for
21 regulation are the same as they're using for their financial
22 books.

23 Q. You're correct in that.

24 A. Which is since it is -- it is quite clear in, and the FCC
25 has been quite explicit about the fact that financial book lives

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1 are not appropriate for use in regulation, it would be another
2 reason why you wouldn't want to use Cincinnati Bell's proposal,
3 is they're financial book lives.

4 Now, specifically as to what I do or do not know about the
5 preparation of the lives for Cincinnati Bell's financial books,
6 which, again, is -- we're discussing something that's not
7 relevant to the regulated books, but whoever determines the
8 lives, and I think Mr. Bolte is involved in the determining the
9 lives and their accountants at Cincinnati Bell and Cincinnati
10 Bell is audited by an outside independent accounting firm and
11 produces reports to the Securities and Exchanges Commission.

12 However those lives were determined, the CPA is involved in
13 doing the independent audit and essentially, theoretically, the
14 Securities and Exchange Commission would want to make sure that
15 what was determined, no matter how they determined it, it was
16 short enough so that the depreciation expense is high enough
17 that there wouldn't be a possibility of overstating net income,
18 because the financial books are to protect investors. And also
19 that the net plant on the books was not overstated.

20 So whoever determined the lives, they're reviewed by a GAAP
21 standard.

22 Q. Well, my question to you is: What evidence do you have
23 that anyone other than Mr. Bolte and his depreciation group
24 established the lives for financial reporting purposes?

25 A. I have no evidence that anyone but Mr. Bolte established

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1 the lives, but I do know that the lives are used in reports to
2 the FCC that are audited by the independent auditors and so they
3 have been checked according to GAAP standards by those who are
4 supposed to do that.

5 Q. So they're at least compliant with GAAP; is that right?

6 A. That's correct.

7 Q. Doesn't mean GAAP determined what the lives would be, does
8 it?

9 A. It put a limit on it? Indeed, the lives could be -- they
10 have to be conservative. When there is an unknown involved in
11 doing financial books, you have to be conservative.

12 If I may, let me refer to what the FCC had to say about
13 this, because we seem to be emphasizing this GAAP area.

14 Q. Well, I think you're avoiding my question, which is what
15 evidence you have that the GAAP lives were determined other than
16 by Mr. Bolte? I think you've answered that.

17 A. Okay. Fine.

18 Q. Now, you mentioned the principle of conservatism. There's
19 also a principle of matching involved in GAAP, isn't there?

20 A. Yes, sir.

21 Q. That expenses are supposed to be matched with the revenues
22 that go with them?

23 A. Yes.

24 Q. Now, do you have any evidence that Mr. Bolte chose his
25 lives based on what GAAP would approve?

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1 A. Mr. Bolte, as I understood, says he's responsible for
2 determining lives to be used on the financial statements and I'm
3 sure he's aware that those financial statements, and I know he
4 is aware, must conform to GAAP, so he is aware certainly.

5 Q. Do you have any evidence that he used GAAP to determine the
6 lives?

7 A. I find that an unusual question. That his lives clearly
8 have been acceptable to the accountants, the CPAs, FCC
9 apparently, so whether it was by happenstance or whether he was
10 aware of GAAP's principles, I can't say for sure. I don't know
11 what's in his head.

12 Q. Well, you read his testimony at the hearing, didn't you?

13 A. Yes.

14 Q. Didn't he testify that he did not rely upon GAAP to set
15 lives?

16 A. I have to see that reference.

17 Q. Well, it's in the record. I'll just let it stand as it is
18 then.

19 When you were at AT&T, that was both pre and post
20 divestiture, wasn't it?

21 A. That's correct, sir.

22 Q. Okay. So there was a time frame in which you were
23 responsible for depreciation matters before the FCC for AT&T's
24 local phone business?

25 A. That's correct.

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1 Q. And when you would go in on rate prescriptions or on
2 depreciation rate prescriptions, you would present the shortest
3 lives you thought were reasonable, correct?

4 A. Yes. I -- I would determine a range of reasonableness in
5 our minds and I would determine a point at the lower end of that
6 range.

7 Q. Okay. And the FCC would oftentimes not -- not accept the
8 lives that you prepared either, right?

9 A. I wouldn't say oftentimes. They would sometimes not accept
10 the lives I proposed.

11 Q. Okay. And that doesn't mean that the lives that you
12 presented weren't reasonable, does it?

13 A. The lives I presented I always considered to be reasonable.

14 Q. Now, after you left AT&T, I understand you represented the
15 Federal Government in various rate cases?

16 A. That -- That's correct, various types of proceedings.

17 Q. Okay. And when you were addressing the topic of
18 depreciation there, you were approaching it as a customer; is
19 that right?

20 A. That's correct.

21 Q. And in those situations, you would advocate the highest
22 lives you could possibly advocate, wouldn't you?

23 A. I don't recall in any of the proceedings I was doing for
24 the Federal Government that I was discussing specific lives. I
25 think we were discussing methodology in the proceedings I

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1 represented the Federal Government for. The -- So I'd be
2 speculating, I think, about that.

3 Q. Okay. Now, up until about 1995, the FCC continued to
4 regulate depreciation for AT&T, didn't it?

5 A. Yes. The last prescription was in 1994.

6 Q. And until AT&T received nondominant status, that's why it
7 was having this depreciation determined; is that right?

8 A. That's correct.

9 Q. And after it became nondominant, it's now free to use
10 whatever depreciation it wants?

11 A. That's correct.

12 Q. AT&T didn't retain you to testify on depreciation until
13 after it was free of depreciation restrictions, didn't it?

14 A. I was retained in '96.

15 Q. Which was after it was free of depreciation prescriptions?

16 A. Yes, it was.

17 Q. Now that AT&T is in the position of being a customer for
18 local services, its interests are best served by having low
19 depreciation rates, right?

20 A. Local exchange depreciation rates you're referring to?

21 Q. Right.

22 A. Well, I don't speak for AT&T, but it is logical as a user,
23 one would want to see appropriate depreciation rates. Where I'm
24 having difficulty is that, for example, with the Federal
25 Government, you would want -- you have to take a longer term

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1 perspective. I can speak from the Federal Government's
2 perspective, if I may, because in cases I have represented the
3 Federal Government and I don't represent AT&T here.

4 I'm here on behalf of AT&T and MCI, but the Federal
5 Government is interested in the long-term value that the
6 taxpayer gets for the dollar. When you're looking at the long
7 term, one of the most important things from the Federal
8 Government's standpoint is that there be competition and to have
9 competition, you want competition not just for new entrants, but
10 for old incumbents also. You want them competing, so I think it
11 would be simplistic to say that a user always wants the lowest
12 possible depreciation rates because in the short term that would
13 mean a lower price, and that would be rather simplistic.

14 You don't -- a long -- a user with a long-term perspective
15 would want appropriate lives and rates, they would tend to be
16 shorter lives -- tend to be longer lives and perhaps the company
17 might want, but not necessarily outside of a zone of
18 reasonableness.

19 Q. And AT&T and MCI's position in this case?

20 A. Is to have longer lives than CBT is proposing. The lives
21 that I'm recommending on their behalf in many cases are longer
22 than the lives that CBT is proposing.

23 Q. You're not advocating that anything that CBT proposed is
24 too long, are you?

25 A. Well, I don't know. I can look at it. What I'm advocating

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1 whether they're shorter or longer before I do is that the lives
2 prescribed by the FCC in the latest prescription be used, and in
3 many cases in other proceedings sometimes they're higher,
4 sometimes they're lower.

5 Q. Okay.

6 A. But I can look at Attachment 1, Page 1 and see if there are
7 any cases where the life is longer in Column E.

8 MR. TRABARIS: It's Attachment 1 to your rebuttal.

9 THE WITNESS: To my rebuttal. In all cases where
10 there is a difference, Cincinnati has proposed a shorter life
11 than prescribed by the FCC.

12 BY MR. HART:

13 Q. Okay. So you're not advocating that anything Cincinnati
14 Bell has proposed is too long of a life?

15 A. I am not.

16 Q. Let me just ask you one thing about regulatory depreciation
17 versus financial reporting depreciation.

18 A. Yes.

19 Q. Am I correct that several years ago most local exchange
20 companies took write-offs or write-downs for the FASB 71 change?

21 A. That's correct.

22 Q. And what that was was a -- Let me strike that.

23 Prior to that change, most carriers used the same
24 depreciation for regulatory purposes and financial reporting
25 purposes; is that right?

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1 A. That's correct.

2 Q. And that change allowed the use of different depreciation
3 for financial reporting purposes?

4 A. It required the use of different depreciation for
5 financial. If the carrier believed that it would not recover
6 its capital using the regulated --

7 Q. Okay.

8 A. -- it didn't require that they be different. It just
9 required, once again, the conservative principle that they had
10 to be assured under GAAP principles that they would recover
11 their capital and many carriers, most of the carriers, took
12 write-downs at that time.

13 Q. And I think you indicated that that would be based on a
14 belief that the regulatory depreciation wouldn't allow them to
15 recover their capital?

16 A. That's right.

17 Q. Okay. And does that result in there being a different
18 capital structure for purposes of regulated books and for
19 purposes of public financial statements?

20 A. All things being equal, it would result in a different
21 capital structure.

22 Q. Because we are going to have a smaller asset base and on
23 account of that, a smaller equity on the public books as opposed
24 to the regulated books?

25 A. Yes. That -- That is true.

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1 Q. All things being equal, the debt to equity ratio on the
2 regulated books is going to be higher in the debt column than
3 that ratio is on the public financial books?

4 MR. TRABARIS: I'm going to object to these line of
5 questions. I believe another witness is testifying on this
6 issue. This is a question that I believe this is not something
7 that's being directed in Mr. Lee's testimony.

8 MR. HART: Well, he is expert on depreciation. I'm
9 asking him if that has an affect on the capital structure. I
10 think it's relevant to this case.

11 THE EXAMINER: Overruled. If you know, Mr. Lee.

12 THE WITNESS: If I understand the question, there were
13 write-downs of the financial book's assets which meant the
14 reserves were increased which meant the net plant was less.
15 Those write-downs reduced equity. So the debt to equity ratio
16 on the financial books would be -- there would be more debt to
17 the equity on the financial books

18 BY MR. HART:

19 Q. Than on the regulated books?

20 A. Than on the regulated books.

21 Q. Okay. That's all I wanted to know.

22 One other question about the TFI studies. Am I correct
23 that the TFI studies with respect to copper cable addressed the
24 ADSL technology in those projections?

25 A. TFI studies consider ADSL to be an interim technology and

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1 they, therefore, discussed ADSL in that term.

2 Q. Okay. But they were addressed in that study, they weren't
3 ignored?

4 A. They weren't ignored.

5 MR. HART: Your Honor, if I could have just a couple
6 minutes, I'm about done. I want to look over my notes.

7 THE EXAMINER: Let's go off the record.

8 (Discussion held off the record.)

9 MR. HART: I think that's all the questions I have.

10 THE EXAMINER: All right. Miss Martin.

11 MS. MARTIN: Staff has no questions.

12 THE EXAMINER: Redirect?

13 MR. TRABARIS: No redirect.

14 THE EXAMINER: All right. Thank you, Mr. Lee, you're
15 excused.

16 (Witness excused.)

17 THE EXAMINER: Any objection to the MCI/AT&T Exhibits
18 1 and 2?

19 MR. HART: No.

20 THE EXAMINER: Those exhibits will be admitted into
21 the record.

22 - - -

23 Thereupon, MCI/AT&T Exhibit Nos. 1 and 2 were
24 received into evidence.

25 - - -

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1 THE EXAMINER: All right. Let's take about a
2 ten-minute break and come back with the next witness.

3 (Short recess taken.)

4 THE EXAMINER: Okay. Let's go back on the record.

5 MR. TRABARIS: AT&T would like to call as its next
6 witness James D. Webber.

7 (Witness placed under oath.)

8 THE EXAMINER: Fine.

9 - - -

10 Thereupon, AT&T Exhibit Nos. 10, 11 and 11-A
11 were marked for purposes of identification.

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1 JAMES D. WEBBER

2 of lawful age, being first duly placed under oath, as prescribed
3 by law, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. TRABARIS:

6 Q. Mr. Webber, please state your name and business address for
7 the record, please?

8 A. My name is James D. Webber, W-e-b-b-e-r. My business
9 address is 222 West Adams Street, Chicago, Illinois 60606.

10 Q. By whom are you employed?

11 A. AT&T.

12 Q. Mr. Webber, do you have before you three documents; I'll go
13 through them one at a time for you. The first document is
14 entitled the "Direct testimony of James D. Webber on behalf of
15 AT&T Communications of Ohio, Inc.", and that's been marked by
16 the reporter as AT&T 10?

17 A. I have that document.

18 Q. And consists of a cover page plus nine pages of text?

19 A. That's correct.

20 Q. Do you also have before you a document entitled "Rebuttal
21 testimony of James D. Webber on behalf of AT&T Communications of
22 Ohio, Inc." that's been marked by the reporter as AT&T 11?

23 A. Yes, sir.

24 Q. And that consists of a cover page and 14 pages of text?

25 A. Yes. And I'd qualify that it's actually numbered Pages 2

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1 through 14.

2 Q. Oh, that's correct.

3 A. I think that may be the case with the previous document as
4 well.

5 Q. The cover page is numbered. Thank you. And that this is a
6 proprietary document?

7 A. Correct.

8 Q. The third and final document before you is entitled
9 "Rebuttal testimony of James D. Webber on behalf of AT&T
10 Communications of Ohio, Inc." and that's been marked by the
11 reporter as AT&T 11-A?

12 A. Correct.

13 Q. And that consists of 14 pages?

14 A. It does.

15 MR. HART: Could I interrupt? The testimony that I
16 was given only -- the original testimony you mentioned I only
17 have eight pages. Do you have a -- Do you have an extra copy of
18 that?

19 MR. TRABARIS: Is that 10?

20 MR. HART: Yeah. It was faxed to me on March 8th.

21 THE EXAMINER: Let's go off the record a minute.

22 (Discussion held off the record.)

23 THE EXAMINER: Back on the record. Mr. Trabaris.

24 BY MR. TRABARIS:

25 Q. Mr. Webber, were AT&T Exhibits 10, 11 and 11-A prepared by

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1 you or under your supervision?

2 A. Yes, they were.

3 Q. Do you have any additions, deletions or corrections to
4 these documents?

5 A. I don't believe so. No.

6 Q. There have been substantial changes to AT&T Exhibit 10
7 since it was initially submitted?

8 A. That's correct. That's correct.

9 MR. TRABARIS: Can we go off the record for a second?

10 (Discussion held off the record.)

11 THE EXAMINER: Back on the record.

12 BY MR. TRABARIS:

13 Q. Mr. Webber, AT&T Exhibit 10 is a document that is different
14 than what was initially circulated to the parties?

15 A. That's correct. We've basically taken three sections out
16 of that testimony. The most pertinent part from my perspective
17 is the discussion of SCIS and NCATs where we discussed the
18 differences between average and marginal runs and I had proposed
19 that CBT use marginal runs throughout its studies.

20 Q. Do you have any other changes to your testimony today?

21 A. Other than the sections that we have taken out of the
22 testimony, I don't wish to make any additional changes.

23 Q. With those changes, if you were asked the questions
24 contained in AT&T Exhibits 10, 11 and 11-A today, would your
25 answers be the same?

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1 A. They would.

2 MR. TRABARIS: I would ask for the admission of AT&T
3 Exhibits 10, 11 and 11-A and tender Mr. Webber for
4 cross-examination.

5 THE EXAMINER: Okay. Mr. Hart.

6 MR. HART: Yes, your Honor.

7 - - -

8 CROSS-EXAMINATION

9 BY MR. HART:

10 Q. Mr. Webber, let's turn to your direct testimony first
11 which, I guess, is Exhibit No. 10. And this is the shortened
12 version from what was originally filed. Am I correct that
13 you're employed directly by AT&T?

14 A. That's correct.

15 Q. And you are in the governmental affairs department?

16 A. I am currently in the process of transitioning out of law
17 and governmental affairs into the local service organization.
18 In fact, they moved my office on Friday.

19 Q. But your testimony was written with your background in
20 governmental affairs?

21 A. As it pertains to AT&T, it was written with that background
22 and also the background that I carry with me.

23 Q. Okay. Your job in that division was to implement AT&T
24 policies in the states; is that right?

25 A. By and large, that's correct.

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- 1 Q. And your background is in economics; is that right?
- 2 A. I have a Bachelor's in economics. I also studied
- 3 financial, business, generally, when I was an undergraduate. I
- 4 have a Master's degree in economics as well.
- 5 Q. You're not an engineer, right?
- 6 A. That's correct.
- 7 Q. And you've never actually been in the line position of
- 8 provisioning networks?
- 9 A. Not been involved in physically erecting a
- 10 telecommunications network.
- 11 Q. Or designing one?
- 12 A. That's correct.
- 13 Q. I believe you've testified on fills before on one occasion?
- 14 A. In one proceeding in particular, the MECA case in Michigan,
- 15 Case No. U11448, I sponsored, I believe, three pieces of
- 16 testimony in that case, each of which dealt with fill factors.
- 17 As I sit here now, I don't recall any other pieces of testimony
- 18 in which I testified to that subject.
- 19 Q. Okay. And I take it you were not a witness on fill in the
- 20 Ameritech Ohio TELRIC proceeding?
- 21 A. That's right.
- 22 Q. On Page 3 of Exhibit 10, we have a discussion of cost of
- 23 money. Do you see that?
- 24 A. Yes, I do.
- 25 Q. And am I correct that you're merely adopting what

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1 Mr. Hirshleifer says in his testimony?

2 A. I'm recommending that the Commission adopt that which
3 Mr. Hirshleifer recommended.

4 Q. And you have not done any independent analysis of the cost
5 of capital, have you?

6 A. That's Mr. Hirshleifer's bailiwick.

7 Q. So have you added anything to his analysis in your
8 testimony?

9 A. No.

10 Q. Then at the bottom of Page 3 and top of Page 4, you
11 recommend that the Commission follow Mr. Lee's position, is that
12 right, on depreciation?

13 A. That's correct.

14 Q. Have you done any independent analysis of depreciation?

15 A. No, sir.

16 Q. Do you have anything to add to Mr. Lee's analysis of that
17 issue?

18 A. No.

19 Q. I want to skip fills in your direct testimony because
20 that's covered in your rebuttal, and go to the bottom of Page 7.

21 MR. TRABARIS: Is that AT&T Exhibit 10, 11, 11-A?

22 MR. HART: We're on Exhibit 10 still.

23 BY MR. HART:

24 Q. This is the question that says -- the section Roman Numeral
25 V entitled "CBT unbundled local port study must be modified".

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- 1 Do you see that?
- 2 A. I see that.
- 3 Q. You're recommending that directory listing and operator
4 costs be separated from ports, right?
- 5 A. Be separated from the port cost studies, that's correct.
- 6 Q. Okay. And are you aware that Mr. Mette has in his latest
7 testimony agreed to do that?
- 8 A. No.
- 9 Q. You're not aware of that?
- 10 A. Correct.
- 11 Q. Have you read his testimonies?
- 12 A. Yes.
- 13 Q. What do you understand his position to be on that issue?
- 14 A. I don't recall, quite frankly.
- 15 Q. Have you provided the Commission with any guidelines on how
16 to identify the cost that you believe should be separated?
- 17 A. No, other than taking out the directory listing costs that
18 are identified in the studies, I haven't recommended anything
19 more specific than that.
- 20 Q. Have you reviewed the cost studies to identify what those
21 costs are?
- 22 A. I looked at them in the November 1997 time frame. And I
23 remember them being readily identifiable.
- 24 Q. Have you identified them?
- 25 A. I identified them at that time.

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1 Q. Have you quantified them?

2 A. They were quantified in the studies.

3 Q. Well, can you tell me how much you are recommending come
4 out?

5 A. I'd have to go back and look at the studies. I simply
6 recommended that you take the line items out associated with
7 directory listings and as to the dollars and cents magnitude, I
8 don't recall that as I sit here now.

9 Q. Okay. Would it be appropriate to have a separate rate
10 element for those costs?

11 A. It would be inappropriate to keep them in the port cost
12 studies because basically you're making the assumption that
13 necessarily everyone who buys an unbundled port will require
14 directory listings, and that may not be true.

15 Q. My question is: When you separate those costs from the
16 directory port, should they be recovered somewhere else?

17 A. To the extent that they're purchased by purchasers of
18 unbundled network elements, I wouldn't have any opposition to
19 that.

20 Q. You're not recommending that Cincinnati Bell not recover
21 those costs, you're simply saying they should be recovered at a
22 different rate?

23 A. I'm certainly not recommending that Cincinnati Bell provide
24 a freebie, if that's what you're contemplating.

25 Q. Now, with the, I guess, shortening of your original direct

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1 testimony, is that the only issue you are now addressing on
2 switching?

3 A. I think I talk, whether it's in this piece of testimony, or
4 in my rebuttal piece of testimony, and I think you and I
5 discussed this during my deposition, that to the extent the cost
6 studies at least for reciprocal compensation don't include all
7 uses of demand, then I would still have an opposition to that.

8 Q. Where is that addressed in your testimony?

9 A. I don't see that section surviving in either my direct or
10 my rebuttal testimony.

11 Q. Okay. Let's start on Page 8 of your direct testimony, the
12 topic of common transport.

13 A. I'm sorry, that was Page 8 of my direct?

14 Q. Direct, yes.

15 A. I'm there.

16 Q. Okay. Am I correct, this is now the only question and
17 answer on the topic of common transport?

18 A. I believe it is.

19 Q. Okay. This might help to discuss if we draw something
20 here. Let me draw a tandem switch, and just for illustration,
21 two end office switches and I'll connect each of these with
22 lines. I take it your testimony is that common transport would
23 include all of those connections between switches?

24 MR. TRABARIS: Are you going to be offering this as a
25 cross exhibit, Mr. Hart?

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1 MR. HART: No.

2 MR. TRABARIS: Maybe you should specify exactly what
3 the diagram says. Maybe give a more complete description.
4 There's a tandem box on the top, describe how there's line --

5 MR. HART: I think I'll ask my own questions. If you
6 want to bring that out on redirect, that's fine.

7 BY MR. HART:

8 Q. Mr. Webber, am I correct that you're advocating that common
9 transport includes all transport between Cincinnati Bell
10 switches, whether they're end office or tandem switches?

11 A. My testimony is that common transport is defined by the FCC
12 as the connection between end offices and end offices and
13 tandems.

14 Q. Okay. So it would include all of the connections I've
15 drawn?

16 A. Correct.

17 Q. Okay. And in fact, I've only drawn two end offices, but
18 Cincinnati Bell in Ohio probably has 40 or more end offices,
19 correct?

20 A. I believe it's in the middle 40s, that would be correct.

21 Q. And those end offices would all be interconnected between
22 themselves?

23 A. I don't believe it's true that each end office is connected
24 directly to each and every other end office. I think that would
25 be an untrue statement.

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1 Q. Well, they're all connectable without going through the
2 tandem switch, aren't they?

3 A. That's likely.

4 Q. Okay.

5 A. But not -- it's not true that offices 1 through 40 are
6 separately connected through directly to other offices 1 through
7 40. That is, you couldn't necessarily get from office number 1
8 to office number 23 directly. You may have to traverse through
9 multiple offices to get there.

10 Q. Okay. But I might go from end office 1 to end office 5
11 then to end office 23?

12 A. That's certainly possible.

13 Q. Okay. But those connections between end offices do not
14 rely upon the access tandem; is that correct?

15 A. The route of first choice in many circumstances is to use
16 the access tandem, that's why it's there, it saves on trunking.

17 Q. Can you tell me what end office is connected through the
18 tandem switch as the route of first choice?

19 A. Can I provide you a routing list by switches? I can't do
20 that.

21 Q. What's the basis for your statement that end offices might
22 be connected through a tandem as a route of first choice?

23 A. The very nature of the telecommunications network is such
24 that you use a tandem to connect multiple end offices to one
25 another as a route of first choice rather than trying to

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1 traverse directly to end offices that might be very far from one
2 another or to traverse through multiple end offices.

3 Q. Well, my question is: What knowledge do you have of
4 Cincinnati Bell's network that it operates that way?

5 A. I haven't looked at Cincinnati Bell's routing tables, but
6 it's never been my experience that a carrier would employ
7 tandems and use them as a second route.

8 Q. Well, do you understand that in Cincinnati Bell's network,
9 its access tandem is used as the connection to the outside
10 world, primarily to IXCs?

11 A. That's one purpose of a tandem. Tandems provide
12 connections between end offices. And they provide connections
13 between the local company and other companies.

14 Q. And what I'm asking you is how does Cincinnati Bell use its
15 access tandem, if you know?

16 A. I believe it uses it for both local and end office
17 connections and perhaps interconnection arrangements. I'm not
18 familiar with all the interconnection arrangements going to end
19 offices in particular, or if they use tandem routing as well.

20 Q. Okay. Now, your objection to Cincinnati Bell's cost study
21 is that the end office to end office common transport is priced
22 differently than end office to tandem; is that correct?

23 A. My objection to the way Cincinnati Bell Telephone Company's
24 common transport cost study was developed is that it does not
25 account for routing through tandems, and the very definition of

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1 common transport is that it includes transport between end
2 offices and between end offices and tandems.

3 You can see that in the FCC's local competition order the
4 first report and order, and then restated again in the third
5 order.

6 Q. Well, I'm not sure you answered my question. That is:
7 Aren't you objecting to the fact that Cincinnati Bell charges a
8 different rate or proposes a different rate for common transport
9 between end offices than it does between an end office and the
10 access tandem?

11 A. May I have the previous question and answer read back,
12 please.

13 (Record read back as requested.)

14 MR. TRABARIS: I believe he has already answered the
15 question. Objection, asked and answered. I believe the pending
16 question was answered by the prior answer.

17 THE EXAMINER: I'm -- Read the last most recent
18 question that was just posed by Mr. Hart, if you would.

19 (Record read back as requested.)

20 THE EXAMINER: Objection overruled. Can you answer
21 the question?

22 THE WITNESS: My answer is that, as I stated
23 previously, the objection to the way the cost study was
24 developed is that it ignores the definition of common transport
25 by the FCC. It simply isn't what the FCC said it's supposed to

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1 be.

2 BY MR. HART:

3 Q. Well, Mr. Webber, I'm trying to understand what it is
4 you're proposing we do. Would you agree that Cincinnati Bell
5 has developed a common transport rate for transport between or
6 among end offices?

7 A. Yes.

8 Q. In fact, I didn't draw it, but let me add, are you aware
9 that Cincinnati Bell also has something it calls a local tandem?

10 A. I've seen that phrase.

11 Q. Okay. You understand that to be a different switch than
12 the access tandem we've been discussing?

13 A. I understand that tandems are tandems.

14 Q. Well, they can be used in different ways, can't they?

15 A. They perform the same function and that is switching
16 between offices.

17 Q. Well, do you understand that if an end office to end office
18 direct route is busy, that the way Cincinnati Bell's network
19 operates is that the first level of overflow is to what's called
20 the local tandem?

21 A. I think we just talked about that a minute ago and I
22 understand that.

23 Q. Okay. Didn't Mr. Mette include the costs of the use of
24 the local tandem for common transport in his common transport
25 study?

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- 1 A. He may have, but he hasn't included all tandems.
- 2 Q. And you're referring to the --
- 3 A. The FCC doesn't distinguish between tandem types.
- 4 Q. You're referring to the access tandem, right, when you say
- 5 he left one out?
- 6 A. I'm referring to any tandem that hasn't been captured.
- 7 Q. Well, can you tell me which ones he left out in his study?
- 8 A. It's probably the access tandems.
- 9 Q. Okay. Do you understand that Cincinnati Bell has done a
- 10 cost study and proposed a rate for common transport between the
- 11 access tandem and an end office?
- 12 A. Can I have that again? Could you rephrase it?
- 13 Q. Let me try to state it again.
- 14 Do you understand Cincinnati Bell has proposed a rate for
- 15 transport between an access tandem and an end office?
- 16 A. That would probably be captured in reciprocal compensation
- 17 perhaps.
- 18 Q. Well, it's the same as the use of the access switch plus
- 19 mileage and use of the end office switch, right?
- 20 A. Are you talking about a switched access rate structure?
- 21 Q. I'm talking about tandem transport and termination. Are
- 22 you familiar with this -- the study on that element?
- 23 A. I'm familiar with the reciprocal compensation study that
- 24 has those elements in it.
- 25 Q. Now, isn't that the same cost structure as what you would

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1 encounter using common transport between an access tandem and an
2 end office?

3 A. Sitting here now, I don't know what the distinction is, but
4 what my objection is is that all tandems have been excluded from
5 the definition of common transport for the purpose of conducting
6 the common transport study. The FCC didn't provide latitude for
7 somebody to go ahead and exclude trunking between certain
8 tandems and end offices or to exclude certain tandems.

9 Q. Well, it also didn't prohibit it, did it?

10 A. That, to me, is a question of semantics. And I think that
11 the definition of common transport is what it is and that is
12 transport between end offices and between end offices and
13 tandems.

14 Q. And as far as the pricing structure for that, am I correct
15 that the only thing the FCC said about that was that the charge
16 should be based on per minute of use as opposed to flat rate?

17 A. I believe that's correct.

18 Q. And would you agree with me that Cincinnati Bell's
19 interoffice common transport study that only uses end office in
20 the local tandem is based on per minute of use?

21 A. I'm uncertain as to whether there are trunking charges that
22 would be assessed in addition to common transport rates. When I
23 say -- I should be more clear. Trunk termination charges. But
24 with that caveat, the study by and large is a per minute of use
25 study.

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1 Q. Okay. Would you also agree that Cincinnati Bell's access
2 tandem transport and termination study is also expressed in
3 terms of per minute of use?

4 A. The study that I referred to earlier, I'll refer to it as
5 the reciprocal compensation study because that's the one I'm
6 familiar with. That study has in it several rate elements, a
7 tandem element, an end office element, and a transport element
8 and I think a trunk termination element. Although, I can't
9 recall at this moment. I believe all of those are purchased on
10 a per minute basis except that you might be able to buy or you
11 may have to buy tandem trunk ports separately, I'm not positive
12 about that.

13 Q. Okay. But you would agree with the access tandem
14 switching, the mileage and the end office switching are all
15 expressed in terms of per minute rates?

16 A. I would clarify that the facilities charge is per minute,
17 per mile.

18 Q. Okay. So there's two variables there, mileage and minutes
19 of use, correct?

20 A. Correct.

21 Q. But the minutes of use would control the charge, wouldn't
22 it?

23 A. No.

24 Q. Someone who uses it for two minutes is going to pay more
25 than someone who uses it for one minute?

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1 A. It's a function of minutes and miles.

2 Q. If we use the same amount of mileage, the only variation in
3 rate is going to be the minute of use?

4 A. Yes.

5 Q. Now, is there anything in the FCC's order that says
6 different kinds of common transport can be priced differently --
7 cannot be priced differently, I should say?

8 A. As I stated before, the FCC's definition of common
9 transport is one that's inclusive of all end offices and all
10 tandems, and, hence, you would expect, and I believe that the
11 FCC requires one rate element that captures everything.

12 Q. Can you show me anything -- anything the FCC has ever
13 written that says you have to have a single rate for common
14 transport?

15 A. The fact that the FCC indicates that there is a per minute
16 of use charge for this thing that they've defined in the manner
17 that they did, I think, precludes all other options.

18 Q. Did they ever say that?

19 A. Did they ever say because we have established one element
20 with one name and that it's going to be priced on a per minute
21 of use basis, that we're precluding any other option aside from
22 that which we have just defined?

23 Q. Did they ever say you can't deaverage common transport?

24 A. The phrase "you can't deaverage common transport" doesn't
25 exist anywhere that I'm aware of, but it defies logic that the

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1 FCC would define common transport in the manner that it did and
2 then allow for somebody else to come up with a new rate
3 structure.

4 Q. Don't the FCC rules say that costs should be charged in
5 accordance with how they're incurred?

6 A. And with respect to common transport, I think they said
7 that is on a per minute of use basis.

8 Q. Would you agree with me that the cost of common transport
9 between an access tandem and an end office is different than the
10 cost of common transport between end offices?

11 A. Not strictly.

12 (Discussion held off the record.)

13 BY MR. HART:

14 Q. Mr. Webber, isn't it true in Cincinnati Bell's cost studies
15 that the access tandem has a different cost than an end office
16 switch?

17 A. While I don't recall the specific numbers and I can't say
18 absolutely definitively that would be the case, I believe it
19 would be highly unlikely that it wasn't.

20 Q. Okay. So you would expect that the actual cost that
21 Cincinnati Bell would incur to handle traffic between the access
22 tandem and end office would be different than the costs that
23 Cincinnati Bell would actually incur to handle traffic between
24 end offices?

25 A. For one of the switching elements, in one circumstance,

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1 yes.

2 Q. Now, if you're suggesting that all of these types of common
3 transport should be handled together, wouldn't that result in an
4 averaged rate that would include some piece of the access tandem
5 in every common transport element?

6 A. First of all, I'm not suggesting that common transport be
7 defined the way it is. The FCC did that. I'm merely indicating
8 that your cost studies don't reflect the FCC's definition of
9 common transport.

10 Q. And what you're advocating is that the common transport
11 between the access tandem and end office would be included in
12 that study; is that right?

13 A. I'm advocating that the cost study be done as common
14 transport was defined by the FCC.

15 Q. Well, I'm trying to understand what it is you think we need
16 to do differently, and that is including the access tandem into
17 the study?

18 A. It's including any tandem that's not in that study.

19 Q. And is there any tandem not in that study other than the
20 access tandem right now?

21 A. Not to my knowledge.

22 Q. Okay. So would it be fair to conclude that you're
23 advocating we include the cost of the access tandem in our
24 common transport study?

25 A. And I would qualify that with the statement I'm advocating

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1 that because the FCC defined common transport and your cost
2 studies aren't consistent with the FCC definition of the
3 definition of common transport. I'm not coming into this
4 proceeding saying this must be done, but rather the FCC has said
5 this is what must be done, therefore, go ahead and do it.

6 Q. I'm trying to get past the why and ask what you want us to
7 do. Is that what you want us to do is include the access tandem
8 into the common transport cost study?

9 MR. TRABARIS: I guess, objection, asked and answered.
10 This is completely a battle of semantics here. The witness has
11 testified the FCC stated it must be done and he is not offering
12 a conclusion above and beyond that, as far as I can tell.

13 THE EXAMINER: I guess I'm a little curious. Does
14 this mean if they, in fact, include the access tandem in that
15 cost study, that the rates for local tandem access are going to
16 be higher, or do you -- have you looked into that? I mean, CBT
17 seems to have, as he indicated, deaveraged the two. And if you
18 include, as you're proposing or as you're saying the FCC has
19 mandated, that the access tandem costs be included as well on an
20 average basis, does that -- is that going to raise rates for
21 local -- raise the costs for local tandem access, or do you
22 know?

23 THE WITNESS: It -- If we suppose that the access
24 tandem would -- or the common transport out to the access tandem
25 is inherently more expensive than other tandems or transport to

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1 other tandems, or transport to end offices, then the result on
2 the common transport study is that the rate would increase as a
3 result of averaging. That has nothing to do with the provision
4 by CBT and the sale to CBT's customers, the end users of local
5 or local toll traffic. Nothing whatsoever to do with that. It
6 simply has to do with our ability to buy, as competitive
7 entrants, the common transport defined by the FCC.

8 THE EXAMINER: Okay. Get back to Mr. Hart's question
9 though. You're proposing -- you're saying that the FCC mandates
10 that all the access tandem, whether it be local or -- well,
11 whether it be an access tandem or local tandem costs be included
12 in an average as an average as opposed to separating them out as
13 CBT has done. It's your belief that that's what the FCC
14 requires?

15 THE WITNESS: That's correct.

16 THE EXAMINER: You're proposing that that, in fact, is
17 what should be done, that CBT should do in this case?

18 THE WITNESS: Yes.

19 THE EXAMINER: Okay.

20 BY MR. HART:

21 Q. Now, assuming that the access tandem has a different cost
22 than an end office switch, wouldn't the impact of what you're
23 suggesting be to change the price of common transport?

24 A. Well, you already have in your common transport study, as
25 you've indicated and as we have discussed, other tandems. So

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1 averaging in another cost for another tandem wouldn't
2 necessarily change that relationship. And, in fact, the
3 comparison you made between an access tandem and an end office
4 local switch, it's likely by adding just that element in by
5 itself, you would take the cost downward because tandems are
6 typically less expensive in terms of per minute of use switching
7 than are end offices.

8 Q. Is that true in Cincinnati Bell's cost studies?

9 A. I don't recall specifically, but it's typically true --

10 Q. Well --

11 A. -- by a large order of magnitude. In fact, if you look at
12 the FCC's proxy rates in its first report and order on local
13 competition, you'll see that the FCC allowed for a proxy range
14 of end office switching between two-tenths and four-tenths of a
15 cent per minute. Yet, for access tandems and tandems generally,
16 it allowed for, I believe it was, 15 or 15/10 -- no, 15 percent
17 of one cent for tandems at a maximum.

18 Q. My question is particular to Cincinnati Bell's studies
19 because that's what you're criticizing.

20 A. Okay.

21 Q. Is the rate Cincinnati Bell is proposing to charge for
22 access to end office -- access tandem to end office common
23 transport higher than the common transport rate between end
24 offices?

25 A. I don't recall those specific numbers, but I believe that's

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1 probably true.

2 Q. And the effect of putting them all into one study will be
3 to raise the price for end office to end office common transport
4 over and above what Cincinnati Bell has proposed?

5 A. That's what I said a couple minutes ago, and I haven't
6 changed my mind.

7 Q. Okay. So the way Cincinnati Bell has proposed its rate,
8 those people who use access tandem to end office transport would
9 pay the cost of that particular segment and end office to end
10 office transport would pay the average of all the end office
11 common transport; is that fair?

12 A. Except that you left out your local tandem.

13 Q. Well, in fact, isn't the local tandem just a piece of the
14 regular end office switch?

15 A. They serve two separate functions. Whether they're in the
16 same building and sitting side by side doesn't have anything to
17 do with the difference in the cost study. In fact, an access
18 tandem could be and oftentimes is in the same place as an end
19 office switch. They're literally adjacent to one another.

20 Q. Isn't one difference between an access tandem and an end
21 office switch how they record call data?

22 A. I wouldn't suppose so.

23 Q. Doesn't Cincinnati Bell have flat rate local calling?

24 A. Now you're talking about billing, not recording of traffic.

25 Q. Well, is there a need to record the same data on local

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1 traffic as there is on long distance traffic when you bill flat
2 rate for local?

3 A. For billing purposes, in other words, for rating, that's
4 probably true. But whether the traffic data is kept and the
5 engineers use it to determine whether they need to add
6 additional trunking and switch modules and those sorts of
7 things, I wouldn't expect that the need for the engineering data
8 would be any different and that the recording of the information
9 would be any different.

10 Q. Well, for toll calls, you have to record where the call
11 originated, where it went, how long it lasted, right?

12 A. Start, stop, origination, termination.

13 Q. And for local flat rate calling, you don't really need to
14 record any of that, do you?

15 A. Not for billing purposes, but for traffic engineering, you
16 most certainly do.

17 Q. Okay.

18 A. If you don't know what's going on in your network, you
19 can't design your switches to be current and to have enough
20 trunking capacity and to have enough switch processing capacity
21 should the need arise to augment your facilities.

22 Q. Well, let me go back to where we were. If Cincinnati
23 Bell -- I'm going to draw a red circle around the end offices at
24 the bottom. If Cincinnati Bell charges one rate for common
25 transport that's within that red circle, and a different rate

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1 for calls that go to the access tandem, does that tend to
2 allocate costs more directly to the way in which they're
3 incurred?

4 A. First of all, let me indicate that the red circle you drew
5 has encapsulated a tandem, just so that the record reflects
6 that.

7 Q. The local tandem?

8 A. In addition to that, I would add that you're probably
9 correct. And, in fact, it would be more in line with cost
10 causation if we were to measure and bill separately every single
11 call regardless of time or day, origination, termination and,
12 also, if we were to build a billing system that would
13 distinguish every single type of loop and bill those separately
14 as well. But there's a point at which that doesn't make any
15 sense because the billing systems simply are incapable at this
16 point in time of doing anything like that.

17 Q. What you're suggesting would actually add additional costs
18 that aren't even in the study, wouldn't it?

19 A. Sure.

20 Q. Okay. I'm trying to limit this to the study. Would you
21 agree with me that if we charge a different rate for end office
22 to end office common transport than we do for access tandem
23 common transport, that that will more accurately charge the
24 people who use those different services the cost that they
25 actually cause by virtue of using those services?

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1 A. I think I'm troubled by your question because you're
2 starting now to define two types of common transport, one is, in
3 your words, end office to end office common transport and
4 another one is end office to access tandem common transport.
5 The FCC hasn't made any such distinction.

6 Q. Well, that's not my question, sir. My question is whether
7 billing it the way Cincinnati Bell is proposing more closely
8 matches the costs that are actually incurred to handle that
9 traffic?

10 A. Because you're inappropriately defining two services, that
11 may be the case, but now you've completely stepped away from
12 what the FCC has required in the unbundled network element
13 called common transport.

14 Q. So the answer to my question is, yes, it's more accurate?

15 A. The answer is as I stated.

16 Q. Isn't it also correct that AT&T, for example, while it
17 might have connections to the access tandem, also has direct
18 trunking connections to end offices; is that right?

19 A. That's typical. But as to our relationship with Cincinnati
20 Bell in Cincinnati, I'm not familiar with the trunking
21 arrangements. I simply don't know.

22 Q. But in a typical network, AT&T does that, don't they?

23 A. Yes.

24 Q. Because if there's enough traffic at an end office to
25 justify a direct trunk, it's cheaper for AT&T to do that than it

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1 is to pay the local company for access tandem switching?

2 A. Based upon the rate structure put in place, which is
3 typically following the FCC's methodology, the company has to
4 make a determination as to how they can most cheaply buy the
5 connection they need and oftentimes using the tandem because of
6 the rating structure is more expensive, not necessarily because
7 of the cost structure.

8 Q. Well, in Cincinnati Bell's case, isn't the cost structure
9 more expensive through the access tandem as well?

10 A. In other words, if Cincinnati Bell were to do a cost study
11 reflecting direct transport from an access tandem, rather than
12 common transport in which the traffic is co-mingled with any
13 other type, would that be less expensive?

14 Q. Right?

15 A. Given that it's the same facilities, I don't know that the
16 cost structure would be any different. What we're talking about
17 is AT&T's purchasing of dedicated access rather than switch
18 access because of the rating structure.

19 Q. Well, let's define the two. If we have direct access,
20 you're not paying for access tandem switching, are you?

21 A. That's correct.

22 Q. But you're buying a dedicated facility then as opposed to
23 per minute of use?

24 A. You're buying a dedicated facility, whether portions of it
25 are built on a per minute of use basis or not, rather than

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1 buying tandem switching on a per minute of use basis on a
2 switched access tariff.

3 Q. So if you have enough volume to a given end office to
4 justify a dedicated trunk, the weighing of those two options is
5 how much does the dedicated trunk cost versus how much am I
6 going to pay for minutes of use, right?

7 A. The way I would state is not cost versus pay, but pay
8 versus pay, and that is what are the rate elements that I incur
9 here and what are the rate elements that I incur here, and based
10 upon those rate elements that I have to choose from, I'll make
11 the economic decision. It doesn't necessarily reflect the cost
12 structure.

13 Q. Well, if I pay per minute of use for access tandem
14 switching, plus per minute of use for the trunking facility,
15 that's volume sensitive, isn't it?

16 A. Yes.

17 Q. And there's a volume at which it's going to become cheaper
18 to put in a dedicated facility and not pay access tandem
19 switching, right?

20 A. When you multiply the volume by the rate, the total charges
21 that we incur are affected. It's not the cost structure,
22 though.

23 Q. Well, the flat rate direct transport has no volume
24 sensitivity to it, does it?

25 A. Can I have that question back, please?

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1 (Record read back as requested.)

2 MR. TRABARIS: Before you answer that, I guess I'll
3 object and say asked and answered. I think the witness just
4 testified a minute ago that there may, in fact, be a per minute
5 of use rate in addition to a flat rate.

6 THE EXAMINER: On the dedicated facility?

7 MR. TRABARIS: Right. I recall him --

8 THE EXAMINER: Is that your testimony, is that your
9 understanding?

10 THE WITNESS: What I'm having trouble with is the new
11 access structure in which you can buy dedicated links out of the
12 tandem but you still have to pay for some common transport and
13 either dedicated or common trunk ports at the end office, and
14 when you buy common of either, on either side, although you may
15 have dedicated link, there's a per minute of use charge, so --

16 THE EXAMINER: Well, I think the question seems fairly
17 basic, he's saying you -- AT&T makes an economic decision, it
18 compares its -- what it would pay or what the costs would be for
19 access on the minutes per use basis as opposed to a dedicated
20 facility, whether that dedicated facility has a minutes of use
21 component or not. Obviously, it makes an economic decision
22 which is going to cost less to provision the same service over
23 that link between the access tandem and the end office, and you
24 agreed with that.

25 THE WITNESS: Yeah, I stated that a few minutes ago.

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1 BY MR. HART:

2 Q. Am I correct then that there's some break-even point based
3 on minutes of use where below that volume it's cheaper to use
4 the common transport minute of use and above that volume it's
5 cheaper to go with the dedicated facility?

6 A. Yes, and I would qualify that what you're talking about is
7 dedicated access versus switched access.

8 Q. Right.

9 A. Just so that we're clear.

10 Q. Absolutely.

11 A. I have a feeling it's becoming unclear and I'm not sure
12 why.

13 Q. Well, what I'm trying to ask you is whether the variable
14 that affects which of those two is more economically viable is
15 the amount of traffic that's carried.

16 A. Well, it's a function of two things; the rates and the
17 volumes. And the rates are established by CBT, the volumes
18 happen.

19 Q. Okay. Now, if we were to do what you're suggesting, which
20 is to average access tandem to end office common transport in
21 with all other common transport, isn't the effect of that to
22 lower the price of common transport between the access tandem
23 and the end office?

24 A. Again, I've got to take issue with your definition of two
25 types of common transport. But with that caveat, if you go

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1 ahead and add in the remainder of common transport as defined by
2 the FCC and if it's true, and I don't dispute that it is, that
3 that portion of common transport may be more expensive on
4 average than the remainder, then the cost for common transport
5 now properly defined and costed would rise slightly.

6 Q. Okay. So what we have now done is we have altered the
7 break-even point between using dedicated facilities and using
8 common transport facilities, haven't we?

9 A. I think what you're asking me is if we define common
10 transport as per the FCC, and then now compare that common
11 transport rate to the average cost on a per minute basis for
12 switched access, and also the average cost per minute for
13 dedicated access, would we now have established a third option
14 for access, and is that option now somehow going to play into
15 the mix of what is purchased, whether it's common transport or
16 switched access, or dedicated access for the same thing, and if
17 it's true that those numbers are all different, that may be the
18 result.

19 Q. Well, I'm not sure that was really my question. My
20 question was if we price common transport the way you're
21 suggesting it would be done, that would cause a different break
22 point between the cost of per minute of use and dedicated
23 facilities, than the way Cincinnati Bell is proposing it be
24 done, is that true?

25 A. For which service now are you talking about the break

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1 point?

2 Q. Maybe it would be easier if I put some numbers to it.

3 A. And while we're doing this, can we make sure that we are
4 defining the service that we're talking about, because that's
5 where I'm getting hung up?

6 Q. I'm talking about going from either the access tandem or
7 the point of presence up here to an end office, the different
8 ways we can get there.

9 A. Switched and special access?

10 Q. Exactly.

11 A. Okay.

12 Q. Now, let's say it's one cent per minute to use the common
13 transport between access tandem end office, and let's say it
14 cost \$10 per line for dedicated, okay?

15 A. Now, when you say "common transport", you mean switched
16 access, on the one cent part is this.

17 Q. Right.

18 A. Okay.

19 Q. Now, would you agree with me that given those prices, which
20 is just hypothetical, that when I have a thousand minutes of
21 use, that the cost of those two is the same?

22 A. I'm with you.

23 Q. And now if I change the price per minute of use to, let's
24 say, half a cent, that now I need two thousand minutes of use
25 before dedicated facilities are cheaper?

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1 A. And moving from one cent to a half a cent, we're still
2 calling that switched access?

3 Q. Yes.

4 A. Yes.

5 Q. Which is the same thing as common transport, isn't it?

6 A. I don't see a distinction between them at this point.

7 Q. Okay. Now, if the price of end office to end office common
8 transport is, just for sake of argument, one-tenth of a cent,
9 should the economics of access tandem to end office common
10 transport be influenced by end office to end office prices?

11 THE WITNESS: May I have that question read back,
12 please.

13 (Record read back as requested.)

14 THE WITNESS: I don't see this issue being about a
15 trade off between switched and dedicated access and common
16 transport. I see it only about defining the service and the
17 cross structure as per the FCC's definition. Now, if it turns
18 out that those numbers are, in fact, disparity, and that the
19 one-tenth of a cent is reflective of common transport throughout
20 the entire network, first of all, I would suggest to you that
21 switch and dedicated access are probably too expensive, but the
22 result of that would be perhaps that the common transport is
23 used not only for traffic exchanged between local offices, but
24 also for access to interexchange traffic.

25 BY MR. HART:

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1 Q. Well, you understand these are entirely hypothetical
2 numbers, this isn't intended to represent an actual cost?

3 A. Okay.

4 Q. And in fact, they are exaggerated for purposes of
5 illustration.

6 A. I accept that.

7 Q. The question for you is the fact that end office to end
8 office common transport costs a tenth of a percent, does that
9 mean as an economic proposition that those people who use end
10 office to access tandem common transport should suddenly pay
11 something less than one cent, which is its cost?

12 A. Well, those people would be the same people that are using
13 the whole of common transport and on average they would be
14 paying the cost for the whole of common transport.

15 Q. Would you agree with me that it's likely that there will be
16 some carriers who will focus more heavily on end office to
17 access tandem transport and there will be others who will focus
18 more on end office to end office transport?

19 A. That may certainly be the case, but the beauty of an
20 averaged rate in this circumstance is that it would capture the
21 volume differences.

22 Q. It would also cause people who only use end office to end
23 office common transport to pay for part of the access tandem,
24 wouldn't it?

25 A. And those people are probably the same people.

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1 Q. And the people who use the access tandem to access
2 Cincinnati Bell's end offices would end up paying less than the
3 actual cost because these other people are helping share the
4 cost of the access tandem; is that right?

5 A. In that hypothetical on the board, that is possible.

6 MR. HART: Your Honor, this is probably as good a
7 place as any to break for lunch.

8 (Luncheon recess.)

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P R O C E E D I N G S

- - -

Monday, March 22, 1999

Afternoon Session

- - -

THE EXAMINER: Let's go back on the record.
Mr. Hart.

- - -

CROSS-EXAMINATION (continued)

BY MR. HART:

Q. Mr. Webber, I just have one more question for you about
common transport.

If you could set aside your interpretation of the FCC's
third report, I understand it may be difficult for you to do
that, but if you could try to do that, and tell me if there is
an economic reason why common transport between the access
tandem and the rest of the network should be priced the same as
common transport between end offices.

A. Setting aside my hang-up with the FCC's definition of
common transport, and also the notion that those costs ought to
be similar, we'll just assume they are not, and that the cost
studies are appropriate, to the extent that there are two
identifiable groups and two identifiable costs, I can't think of
an economic rationale other than savings in terms of
establishing separate rate elements and measuring and recording

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1 differently to have two groups in the rate structure why those
2 two categories couldn't be priced separately.

3 Q. Thank you.

4 Let me ask you about fill now. Before we do that, I guess
5 we need to talk a little bit about your interpretation of
6 TELRIC.

7 Would you agree with me, first of all, that TELRIC is
8 intended to try to calculate prices that would exist if we had
9 competition?

10 A. I would clarify that we define TELRIC as a cost standard
11 and that you could set prices equal to TELRIC, which then may
12 include shared and common costs; so with that caveat, yes.

13 Q. Okay. And does TELRIC assume that we have a competitive
14 environment even if we don't have one?

15 A. Because it seeks to mimic the results of the competitive
16 process, yes.

17 Q. Okay. And I guess you mentioned in your deposition there's
18 one exception to that, and that is the FCC said to leave the
19 switch locations where they are?

20 A. I think it said leave the switch locations and the
21 customers where they are.

22 Q. Okay. Well, the customers go where they are anyway, don't
23 they? We don't get the luxury of moving them, do we?

24 A. Is that a rhetorical --

25 Q. Well, did the FCC alter what would otherwise happen by

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1 assuming the customers are where they are?

2 A. I think what the FCC said, just so we can be clear and have
3 a common understanding, is that you're supposed to be
4 redesigning a network rather than costing the embedded network,
5 which is partially depreciated, redesign a forward-looking
6 network that is least-cost, most efficient, with the assumptions
7 that the existing switches are in the same place where they are
8 today, and that the end users aren't randomly moving about town.

9 Q. All right. And would you also agree with me that the rates
10 that you generate by applying the TELRIC study are intended to
11 provide the correct economic signals as to whether additional
12 firms should enter that market?

13 A. I won't dispute that; and I would add that one question is
14 whether they should enter, and the next question is how they
15 should enter. In essence, what the FCC is trying to do by
16 establishing a cost-based methodology is they are trying to
17 cause society to allocate its resources appropriately.

18 So for example, you wouldn't want to use an embedded cost
19 for a loop, necessarily, because the loop cost then would be
20 relatively inexpensive, compared to TELRIC, and if you did that,
21 then the competitors would come in and be artificially
22 encouraged by loops rather than, perhaps, erect their own
23 facilities.

24 Q. That can happen the other way around, too, that they may be
25 artificially induced to build facilities when they shouldn't be,

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1 or --

2 A. Correct.

3 Q. -- or to buy facilities when they ought to build their own?

4 A. The error could happen on both sides. If the price signal
5 is higher than the true economic cost, then you'll be
6 discouraged from buying, and if it's lower, then you'll be
7 improperly encouraged to buy.

8 Q. Should the price signals indicate what that firm's costs
9 would be to enter?

10 A. When you say "that", who do you mean?

11 Q. The new entrant, to give them the right price signal,
12 should that price mimic the cost that they would incur if they
13 were to enter themselves?

14 A. I think what you're talking about is a carrier situated
15 similarly to the incumbent providing the same services to the
16 same end users out of the same switch locations, and whether
17 it's that carrier or some other carrier that is similarly
18 situated, I don't know that there would be any differences.

19 Q. Okay. Now, when we attempt to put a price on this most
20 efficient, least-cost network, would you agree that one thing we
21 need to do is determine what that network would look like?

22 A. Yes.

23 Q. Have you done anything to try to model what a least-cost,
24 most efficient network would look like in Cincinnati Bell's
25 territory?

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1 A. No.

2 Q. Now, when we attempt to design this network, isn't it a
3 fact that we should plan for some amount of growth in the
4 future?

5 A. I don't believe so. I think what we're trying to do is
6 determine the cost of building a network today to meet today's
7 demands based upon the most efficient, least-cost,
8 forward-looking technologies.

9 Q. Could you explain to me how we do a five-year cost study if
10 all demand is limited to what we have today?

11 A. Your reference to five-year, I'll make the assumption, ties
12 to the 845 guidelines, and I think what the 845 guidelines say
13 is that we develop a cost study and, hence, rates, and that
14 those rates should follow for five years. And what I'm
15 suggesting is that if we do a TELRIC study and figure out what
16 the cost for an unbundled loop is, for example, today, that that
17 cost would then flow into a rate element and that rate element
18 would survive for five years.

19 We're not, as I understand it, trying to have a cost and a
20 rate and have a new one every single day for five years.

21 Q. Well, if we designed a network that only met today's
22 demand, wouldn't the cost to add to that network to satisfy
23 tomorrow's demand be unaccounted for in that study?

24 A. Recognizing that in my opinion you're abstracting from what
25 TELRIC is, and given that your network fill factors remain

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1 constant over time, and that is to suggest that growth occurs
2 where there isn't already facilities, I would say that the
3 answer to that question is probably no.

4 Q. Well, growth occurs both where there are facilities and
5 where there are not facilities, doesn't it?

6 A. I haven't seen any evidence that would contradict that
7 statement; however, given that network utilization rates are
8 stable, it makes that point moot because the per-unit cost
9 remains constant.

10 Q. Well, I'm not talking about Cincinnati Bell's actual
11 network, I'm talking about theory for TELRIC.

12 Can you explain to me how the TELRIC theory as you've
13 interpreted it as being current demand takes into account any
14 future costs to add to that network?

15 A. As I stated, I believe when you're doing a TELRIC study,
16 that you do the cost study and you come up with a per-unit cost,
17 and that's the cost, and that you're not establishing a dynamic
18 process whereby you come up with a new cost every day, rather
19 you develop a cost study, you let that number survive for some
20 period of time, and then perhaps we look at it again at another
21 point in time and establish a new cost and a new tariff.

22 This Commission, I believe, in the 845 guidelines has said
23 that the time period over which the TELRIC cost study
24 establishes rates for will be five years.

25 Q. When I do this network design, don't I need to have an idea

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- 1 of what the ultimate demand in an area will be?
- 2 A. If by ultimate demand you mean the demand that we're
3 building to to meet today's customers, then yes.
- 4 Q. Is that what you mean by ultimate demand is today's demand?
- 5 A. I'm simply using the phrase that you established.
- 6 Q. Well, actually, I believe you used it in your deposition.
7 Do you have that handy?
- 8 A. Sure.
- 9 Q. I'm at the bottom of Page 75. I asked you this question
10 "Do you know what engineering" --
- 11 A. Could you wait until I get there, please?
- 12 Q. Sure.
- 13 A. Thank you.
- 14 Q. Are you there?
- 15 A. 75?
- 16 Q. Yes.
- 17 A. Yes, sir.
- 18 Q. Line 23, Question: "Do you know what engineering criteria
19 would be used in order to design such a network?" Answer:
20 "Within the context of fill factors that we're talking about
21 here, I think that you would have to have a sense of, first of
22 all, what your ultimate demand for all the networks elements are
23 and how you best meet that demand most efficiently." Is that
24 what you said?
- 25 A. That's an accurate reading of the statement.

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1 Q. Okay. When you use the term "ultimate demand" there, were
2 you using that in the sense of current demand?

3 A. I was using "ultimate demand" there in reference to the
4 discussion that we were having regarding Mr. Mette's methodology
5 in which he proposed that you would start at one fill factor
6 level and move to another fill factor level, and my
7 understanding of that point is that you would get to the
8 ultimate demand at that end.

9 Q. And the ultimate demand would be the end point, not the
10 beginning point, right?

11 A. Within the context of Mr. Mette's discussion, that's
12 correct.

13 Q. Now, the -- Don't the Commission's guidelines on fill say
14 that we're supposed to use the fill that we reasonably expect to
15 occur in a facility?

16 A. Yes; and I think that was within the context of rebuilding
17 your newly redesigned and efficient network, and what you're
18 figuring out is that percentage of this new network facility
19 that is filled, because what you ultimately do is come up with a
20 total investment to meet all of your demand and you divide that
21 investment over the number of units that are ultimately sold at
22 that point in time of the demand.

23 Q. At what point in time?

24 A. The time at which you do the study.

25 Q. If that's the case, then why would you ever have to

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1 estimate what the fill would be, wouldn't you know exactly what
2 it is?

3 A. The distinction I think that the Commission is making is
4 that -- and this is actually affirmed in the Commission's order
5 with respect to Ameritech and its Entry on Rehearing -- that
6 while the network may have a current fill rate, the TELRIC fill
7 rate might be different. I think that's what it goes to.

8 Q. No, my question is in the guidelines, forget Ameritech ever
9 happened, don't the guidelines say that we have to come up with
10 a reasonable estimate of fill?

11 MR. TRABARIS: Maybe it would speed things along,
12 Mr. Hart, if you showed the guidelines to the witness and you
13 guys can know exactly what they say, what the words are. Do you
14 have a copy with you?

15 MR. HART: I think if the witness needs to see it, he
16 can do that.

17 THE EXAMINER: Do you want to --

18 MR. TRABARIS: Is it of any help?

19 THE WITNESS: I'm fine.

20 MR. TRABARIS: Okay.

21 BY MR. HART:

22 Q. Don't they say "reasonable estimate"?

23 A. Reasonable estimate -- and I don't have the guidelines
24 sitting in front of me -- out of the portion of the network
25 that's filled, and if you design a network based upon

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1 least-cost, forward-looking technologies that are efficiently
2 sized, the percent of that network that's filled is not
3 necessarily going to be the percent of the network that had been
4 filled or that is filled in the current network, and that's what
5 I think it goes to.

6 Q. Does the guidelines say is filled or will be filled?

7 A. It says will be filled within the context of the redesigned
8 network, distinguishing in my opinion something different than
9 the current network.

10 Like I said before, I believe that the Commission affirmed
11 that position in the TELRIC order and also in the entry on
12 rehearing in Ameritech's TELRIC order.

13 Q. Now, the Ameritech case, didn't the decision use a fill
14 factor that was calculated to be the maximum usable capacity?

15 A. Maximum usable capacity was defined in that case, and
16 that's what the Commission used.

17 Q. And that's not what was actually expected to be the fill,
18 is it?

19 A. I believe that's what the Commission said would be filled
20 if the network was designed appropriately.

21 Q. Did it say that, or did it say that Ameritech had failed to
22 prove what the fill would be?

23 A. I believe it said more specifically that it failed to prove
24 that a deviation from maximum usable, which it had been using
25 for quite some time, is appropriate within the context of the

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1 TELRIC study.

2 Q. Is it your testimony that maximum usable fill is what the
3 guidelines intended to use?

4 A. I believe that's consistent with the guidelines, and I
5 believe it's consistent with the FCC's order.

6 Q. Do you also believe that this so-called maximum usable fill
7 should be calculated based on the existing customer base?

8 A. If you're doing your TELRIC study for today rather than,
9 say, next year, then the answer would be yes.

10 Q. And do you assume that the designer of this network has
11 perfect knowledge of where the customers are going to be?

12 A. I believe that's consistent with the TELRIC construct.

13 Q. Would you show me anywhere where either the FCC or the Ohio
14 Commission have said that the ILEC should assume that he has
15 perfect knowledge of where the customers will be?

16 A. I doubt that I could find those exact words, but the notion
17 that you know where your switches are and you know where your
18 existing customers are implies exactly that.

19 Q. Doesn't estimate imply that you don't have perfect
20 knowledge?

21 A. I think estimate applies to the percentage of the network
22 that's filled. Once you redesign the network and you have the
23 facilities theoretically in place, you have to take an estimate
24 as to that redesigned facility, what portion of its fill will
25 demand, so I don't believe it talks about estimating demand, it

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1 talks about estimating the percent of the network that is filled
2 because of the demand that you put in the study.

3 Q. Well, if I design my network and I know what I've designed
4 and I know where my customers are, wouldn't I know exactly what
5 the fill would be?

6 A. If you were to go to every single point in the network,
7 look at one point in isolation, that answer is yes. But when
8 you're coming up with an aggregated number, for example, what's
9 the fill for all feeder, you have to put a number associated
10 with all the chances in the feeder distribution plant, you come
11 up with an estimate of the total or an average number. I
12 believe that's what we're talking about.

13 Q. So your testimony is that the guideline that talks about an
14 estimate means to estimate the average as opposed to estimate
15 what the demand will be?

16 A. I believe you know what the demand is, and my testimony is
17 as I stated.

18 Q. So do we know what the demand will be in five years?

19 A. I don't.

20 Q. Do you expect that the ILEC will know what it will be?

21 A. They have better information than I would.

22 Q. Do you think they will have perfect information of what
23 that demand would be?

24 A. No.

25 Q. Answer this for me: What's more prudent in designing a

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1 network, to design it only for the capacity I have today, or to
2 design it with some room for growth?

3 A. Are you abstracting from TELRIC and you're talking about
4 the real not embedded and partially depreciated network?

5 Q. I'm asking you if I was going to really build a telephone
6 network, would I simply build it to satisfy the customers I have
7 today, or would it be more prudent to plan for some growth?

8 A. Well, you'd have to consider two factors. First of all, if
9 there is growth and demand, that doesn't mean growth,
10 necessarily network utilization rates, so in that sense you
11 wouldn't have to plan for the additional growth because it
12 wouldn't cause the additional utilization -- it wouldn't cause
13 changes in utilization in the network.

14 If that were untrue, and that hasn't been demonstrated to
15 be the case here, but if it were untrue and you were trying to
16 build a network, you might plan for growth for some period of
17 time to the extent that it would be more costly to augment the
18 network down the road.

19 Q. So if I was to try to cost a network that's going to last
20 for some period of time, would you agree with me that I ought to
21 consider what's going to happen over that period of time?

22 A. I believe that's consistent with what I've stated.

23 Q. Okay. And I think you've just alluded to the fact that it
24 might cost more to come back later and reinforce that network
25 than if I build it larger in the first place; is that right?

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1 A. That's a possible outcome; however, the evidence that I've
2 seen here suggests that that hasn't been contemplated within the
3 context of these TELRIC studies, and I don't believe it to be
4 true.

5 Q. You haven't done anything to analyze that with numbers,
6 have you?

7 A. I've looked for benefit/cost analyses within the context of
8 this case that get to that fact, to prove up, for example, that
9 a 35 percent fill in distribution would be appropriate, and I
10 haven't seen any analyses to that effect, so it's kind of hard
11 to do that.

12 Q. My question for you is: Have you personally done any kind
13 of a cost/benefit analysis that compares different outlays of
14 physical plant?

15 A. Yes.

16 Q. When did you do that?

17 A. Last night on the airplane.

18 Q. Okay. And you haven't put that in your testimony, have
19 you?

20 A. Nope.

21 Q. Now, your testimony here is to recommend that the Ameritech
22 fills be applied to Cincinnati Bell?

23 A. And to be more specific, the fill factors that the
24 Commission approved for being consistent with the TELRIC
25 methodology, both under the Local Competition Guidelines and, I

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1 believe, under the FCC's rules.

2 Q. Is it fair to say that you couldn't explain to us how to
3 design a network that would result in those fills?

4 THE WITNESS: I'm sorry, could I have that question
5 back, please?

6 (Question read back as requested.)

7 THE WITNESS: Within the context of the TELRIC
8 studies, I think you could modify a few of the existing
9 assumptions in those cost studies, and you'd see the numbers
10 moving much closer to, if not equal to, the numbers that are in
11 the ACAR approved by the Commission for Ameritech.

12 BY MR. HART:

13 Q. Well, how do we design a network that achieves those fills
14 then?

15 A. Say, for example, if you look at Mr. Meier's testimony, his
16 September 28th, 1998 testimony, at Page 5 he's got an example
17 there where he has a 200-lot subdivision which says ultimately
18 required 420 cable pairs. He then goes on to say since 400
19 pairs are too small, 600 pairs would be the minimum that you
20 would buy. Ultimately, this is -- he offers up his proof for a
21 fill factor and distribution that's a lot lower than I would
22 propose, and it's based upon a couple assumptions that I, quite
23 frankly, don't think belong in a TELRIC study.

24 The first one is that you would necessarily --

25 Q. I'm asking you how would you design that work, not what

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1 Mr. Meier testified to, how do you design a network to achieve,
2 for example, 85 distribution fill?

3 MR. TRABARIS: I'm going to have to object to the
4 interruption. I believe the witness is explaining that very
5 issue. I think you should wait for him to finish answering and
6 if you want to ask further questions, go ahead.

7 MR. HART: Your Honor, I think --

8 THE EXAMINER: Can you answer the question that was
9 posed, how would you design the network as Mr. Hart put it?

10 THE WITNESS: My understanding of the example in this
11 testimony is that it's based upon how CBT's network is designed,
12 and what I'm suggesting is that in their cost study, and if we
13 were really to go build this in reality, would you simply change
14 some of the assumptions that are illustrated here, and thereby
15 build this TELRIC network and change the cost study
16 appropriately. Within the context of this discussion as it
17 applies to distribution, I would not put in two distribution
18 pair for every single household, rather I would put in something
19 like 110 percent times the number of households, or 120 percent
20 times the number of households, because we know that in CBT's
21 network there's only about a 10 percent take rate on second
22 lines.

23 So as to the real network, and as to the cost study, I
24 would change this assumption in the way they put the
25 distribution plant into the ground.

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1 In addition to that, I would buy cable differently
2 than CBT demonstrates they buy it here.

3 BY MR. HART:

4 Q. Well, if we have a 210-house subdivision, what size of
5 cable would you put in?

6 A. I'd put in one cable at 200 and one at 50, which would get
7 me to a fill at 92.4 percent.

8 Q. And what's the cost of putting in a 200-pair cable plus a
9 50-pair cable as opposed to one 300-pair cable?

10 A. The cable costs are going to be less expensive. Trenching
11 costs aren't going to be different. Generally, I think it would
12 be lower and you would be better utilizing your network.

13 Q. Have you ever calculated that to see if that's true?

14 A. No. Further, I haven't seen an analysis in this case that
15 would demonstrate that it's not true, and I don't know that the
16 company has contemplated whether it is, in fact, true or false.

17 Q. Well, let's say we put in 250 lines for a 210-household
18 subdivision, and we have 10 percent take rate on second lines.
19 Does that mean I have 231 lines being served?

20 A. Yes, sir.

21 Q. Okay. So I've got 19 spares?

22 A. I believe that math works out.

23 Q. Where do I make those spares appear in that subdivision?

24 A. There would be some at ultimately each of the drop
25 terminals.

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- 1 Q. Well, how many drop terminals are there in a 210-house
2 subdivision?
- 3 A. Depends how you laid it out.
- 4 Q. Isn't it typically four houses to a drop terminal?
- 5 A. I wouldn't think so.
- 6 Q. Well, how many would you design?
- 7 A. It depends on how it was laid out.
- 8 Q. Well, give me the alternatives.
- 9 A. To sit here and contemplate every possibility would be
10 extraordinarily difficult.
- 11 Q. Well, let's go with an assumption that's four, just for my
12 example. You agree there would be more than 50 drop terminals
13 in that subdivision?
- 14 A. If it, in fact, is four per terminal, you couldn't even
15 build the network that way. You would ultimately have 11
16 unused distribution pair at every single drop terminal.
- 17 Q. How do you figure that?
- 18 A. Smallest size of distribution cable, as I understand it to
19 be, is 25; and, in fact, I think Mr. Meier testified that the
20 fact that the drop terminals run anywhere from 25 to 200 in
21 size.
- 22 Q. I'm talking about the cables now. How many terminals would
23 be in a subdivision if I have four houses served by each drop
24 terminal?
- 25 A. Well, I disagree with your assumption, but I'll do the math

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- 1 for you. There would be 52.5 drop terminals.
- 2 Q. Let me just ask, since you say you disagree with that
3 assumption, how many houses do you want to assume per drop
4 terminal?
- 5 A. You could arrange them at 10 terminals serving a maximum of
6 25 lines each, so backing off the 25, 22 or 23 houses.
- 7 Q. Does that mean --
- 8 A. Twenty-two or 23 lines, I should say.
- 9 Q. Does that mean 23 drops from different houses would all
10 come together at the same point?
- 11 A. Yes.
- 12 Q. Have you ever seen a network that was built that way?
- 13 A. I don't know.
- 14 Q. How long would the drops be if we put 23 homes on one drop
15 terminal?
- 16 A. In the neighborhood of 900 feet.
- 17 Q. Are the drops assumed in the cost study 900 feet long?
- 18 A. I don't know how long they are.
- 19 Q. Does 150 feet sound more reasonable to you?
- 20 A. You could do it that way and you'd have more drop
21 terminals.
- 22 Q. And if we put in 900-foot drops, we would increase the cost
23 of drops six-fold?
- 24 A. And in that sense you'd also cut down the distribution.
25 There's many ways you could arrange these drop terminals.

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1 Q. And you're not a network engineer, are you?

2 A. Nope.

3 Q. And you've never actually designed a subdivision, have you?

4 A. That's correct. But I can tell you the assumption that you
5 would run two to every house, even though you only know there's
6 going to be an additional 10 percent take rate, doesn't make
7 sense in simple economics. It's like saying you're going to
8 take a bunch of friends to a baseball game and you're going to
9 invite ten people and you know that ten percent, or one, is
10 going to bring another person, but instead of buying 11 tickets,
11 you'd go out and buy 20 tickets for the game. You shouldn't do
12 that, it doesn't make sense. My understanding is that when they
13 designed -- CBT designs their distribution and drop for
14 business, they actually try and estimate exactly how many lines
15 are going to be there and they go and build to that.

16 Q. Well, do you recommend that we put in single pair drops,
17 then?

18 A. We're talking about distribution, but if you know exactly
19 where your demand is going to be and you can buy a single pair
20 drop and it's cheaper, you can do that. I think your cost
21 studies reflect two pair.

22 Q. Well, I'm asking you, should we put in two-pair drops
23 everywhere, or should we put in one-pair drops where people
24 don't have second lines?

25 A. First of all, let me indicate that I haven't disputed your

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1 fill on drops, and I haven't disputed your cost on drops.
2 Setting that aside, if you know exactly where your demand is
3 going to be and you know which of the drops have two lines, then
4 you could put two in there and one everywhere else.

5 Q. Now --

6 A. And, in fact, that would be the most economic thing to do.

7 Q. And what that would mean then is if somebody ordered a
8 second line who didn't have one, we would have to replace their
9 drop, right?

10 A. Within the context of the TELRIC study, that wouldn't
11 happen.

12 Q. Well, isn't the TELRIC study supposed to mimic the actual
13 costs the LEC will incur in the future?

14 A. The costs that the LEC would incur when its building a
15 network to a known quantity. And if you know where the end user
16 is, there's not suddenly a surprise in this construct that said,
17 "Oops, I forgot about this demand". You're supposed to build to
18 the demand that's there ". That's sort of the trade-off when
19 you're doing a TELRIC study and you're modeling the theoretical,
20 most efficient, forward-looking network rather than costing out
21 the embedded network that's half paid for.

22 Q. Well, when we build the distribution network to this
23 hypothetical 210-home subdivision, do we know which one of those
24 homes are going to take second lines in the future?

25 A. Now you're abstracting from TELRIC, correct?

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1 Q. I'm asking you just a practical question. When I build my
2 telephone network, how do I know where the second lines are
3 going to go?

4 A. And I'm asking you in that statement then, necessarily you
5 and I are in agreement, I'm going to give you the answer to that
6 question, that we're abstracting from TELRIC?

7 Q. I don't know if we are or not, but you tell me.

8 A. In that sense, I think you're abstracting from TELRIC.

9 Q. Okay. Isn't that what phone companies really have to do
10 when they build networks, is to anticipate where demand is going
11 to be?

12 A. Not for purposes of conducting a TELRIC study, other than
13 the known customers that exist today and for which you're
14 building the network.

15 Q. So in your mind TELRIC ignores how we would actually build
16 the network?

17 A. Like it ignores that the network is half paid for already.

18 Q. Okay. Now, let's say we're outside of TELRIC, if that's
19 what you think we have to do.

20 A. Okay.

21 Q. Does the telephone company know where the second line
22 demand is going to be?

23 A. No, which is why I suggested you would build into your
24 distribution network something like 110 percent, or 120 percent
25 of the homes, so for every distribution leg leading up to a drop

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1 terminal, off of which you're going to have a certain number of
2 houses, whether it's four or 25 for this discussion doesn't
3 matter.

4 Let's say, for example, it's four -- Let's say it's 25.
5 You know there's 25 houses and that you're going to have an
6 additional 10 percent take rate, so then you would go ahead and
7 put in enough such that you've got 25 plus the 10 percent take
8 rate.

9 Q. I thought there was 25 terminals in the post?

10 A. Then you put in a larger terminal.

11 Q. Well, what if they come in increments of 25, would we serve
12 less than 25 homes from that post?

13 A. You could arrange them then separately so that you got two
14 posts.

15 Q. Well, would they each be 25, then?

16 A. In that example, they wouldn't be.

17 Q. So where do I provision my 19 spares that I have; what
18 terminals do they appear on?

19 A. Well, you'd want to make sure that you have spares at all
20 the terminals.

21 Q. What if your 10 percent doesn't give me enough to do that?

22 A. Then I would say that you decided based upon where the
23 houses were actually arranged and where you place your
24 terminals, to place your terminals at the wrong point.

25 Q. Or the 10 percent is not enough, right?

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1 A. I don't see how that would happen. If you know where the
2 houses are and you want to provide an extra 10 percent to each
3 terminal, you can do that.

4 Q. In your construct of how this network would be designed,
5 have you taken into account any additional costs that would be
6 incurred in order to make the spares appear in the correct
7 locations when customers order service?

8 A. Like I said before, I haven't done the benefit/cost
9 analysis to try and figure out how you would arrange your
10 distribution network to figure out where you would put every
11 terminal, without having the layout to look out, and without
12 sitting down with an engineer, you can't do that. And how that
13 would compare with the cost that is in the cost study, unless
14 you actually sit down and do that trade off, you don't know, and
15 we haven't seen one in this case.

16 Q. And you haven't done one either, have you?

17 A. That's correct.

18 Q. And you can't explain to us here, can you, how Ameritech
19 designed the fills that appear in its ACAR, can you?

20 A. I would suggest that you look at all the testimony in
21 Ameritech's case, that you look at the transcripts, particularly
22 Mr. Palmer's transcripts from the Illinois case, I think you and
23 I talked about that, for a good exposition as to how all that
24 was done, and I would also refer you to orders in Michigan and
25 Indiana where the commissions have said, for distribution or for

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1 all outside plant, for example, that you should do 80 percent,
2 or for electronics that you should do 90.

3 Q. I asked you whether you could explain here today how
4 Ameritech developed its fill numbers in the ACAR?

5 MR. TRABARIS: Objection. Asked and answered. The
6 witness explained where the information can be found.

7 MR. HART: Your Honor, I don't think he's answered the
8 question. He said go look at some other things that he hasn't
9 explained personally how it's done.

10 MR. TRABARIS: Is he asking has the witness brought
11 the entire record of those cases here, or their testimony, or
12 proprietary information from those cases that he's not permitted
13 to reveal? If that's the question, I think it's almost
14 rhetorical.

15 THE EXAMINER: Well, he can answer whether he can
16 himself explain it, and then further propound that's where he
17 found it. He's already given that explanation, but I think it's
18 a fair question to ask him, and if he can give a representation
19 of how it would be conducted. So I'll overrule the objection.

20 THE WITNESS: I sit here today testifying as an
21 economist, not as a network engineer who is going to design this
22 network, and I bring to this Commission offers of evidence that
23 pertain to what other commissions have done and what they have
24 found to be efficient. And to the extent that you can save on
25 initial investments and still provide the network facilities,

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1 what you're doing is providing a least-cost and most efficient
2 network.

3 This Commission has found with respect to distribution
4 that 85 percent can be achieved. Other commissions similarly
5 have found that 80 percent can be achieved, and what I'm
6 suggesting is that to the extent you can do that and save money,
7 that's what you should do.

8 But I can't sit in this room now and talk about a
9 hypothetical X-number-of-lot subdivision and draw a network
10 design to make that happen. I can only state that the
11 commissions around the midwest that I have seen believe that 85
12 or 80 percent is an appropriate number, and that 35 percent is
13 lower than anything that I've seen proposed, substantially.

14 BY MR. HART:

15 Q. So the answer to my question is no, you cannot explain how
16 Ameritech devised its fills?

17 A. I can tell you where to look to go get that information.

18 Q. Have you read Mr. Gose's testimony?

19 A. No.

20 Q. Do you realize that Mr. Gose cited to an order of the New
21 York Commission in the New York Telephone case where it approved
22 a 50 percent fill for distribution?

23 MR. TRABARIS: Objection. Counsel is testifying.

24 THE EXAMINER: Sustained. The record will speak for
25 itself. He's indicated he was not familiar with Mr. Gose's

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1 testimony.

2 BY MR. HART:

3 Q. Well, let me ask a different way. Are you aware of the
4 Commission's order approving 50 percent?

5 A. No.

6 Q. Would that change your mind about what an appropriate
7 distribution fill is?

8 A. It would give me additional data points demonstrating that
9 35 is too low.

10 Q. Are you aware of a commission that has approved a 48
11 percent fill?

12 A. No, sir.

13 Q. Now, when we talk about fill factors for distribution, how
14 are you defining that?

15 A. The percentage of the cables that are ultimately used.

16 Q. By pair --

17 A. Yes.

18 Q. So if I have a distribution cable of a hundred pairs and 50
19 of them are in use, is that 50 percent fill?

20 A. Yes.

21 Q. Are you familiar with how Cincinnati Bell's loop cost
22 studies use fill factors?

23 A. Somewhat.

24 Q. Okay. Let me attempt to walk the steps through with you
25 and tell me if you know this or not.

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1 Let me ask if you would agree that one of the first steps
2 of the Cincinnati Bell loop study is to develop the cost of
3 cable per pair foot?

4 A. I don't know if that's the starting point, but if it is, it
5 doesn't make sense to me.

6 Q. Okay. What's wrong with that?

7 A. First have to figure out where your customers are.

8 Q. Well, let's assume we have designed our network and now
9 we're going to develop its cost, okay? How would I do that?

10 A. You have to figure out what plant that you're going to put
11 in the ground to meet your demand.

12 Q. Okay. Say I've done that, now how do I determine its cost?

13 A. Could do something like that, and if that's in the loop
14 study, then it's in the loop study. I don't know that it is or
15 isn't.

16 Q. Okay. Well, I'm asking you how would you do a cost study
17 if you wouldn't price it on a pair-foot basis?

18 A. I didn't say that I wouldn't.

19 Q. Okay. Do you think this is a reasonable way to start?

20 A. Sure.

21 Q. Okay. And do I then have to --

22 A. Before we go on. You've prefaced point number one, cable
23 cost per pair foot based upon existing wire centers, existing
24 customers, and that you have put something in the ground to meet
25 that demands?

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- 1 Q. Right.
- 2 A. Okay.
- 3 Q. So we have got a cable plant out there and we estimate it
- 4 costs so much per pair foot?
- 5 A. Yeah. I'm just trying to make sure we don't miss each
- 6 other like we did this morning.
- 7 Q. And the next, to price a loop, do I need to model a typical
- 8 loop?
- 9 A. Or groups or types. Say, for example, I don't know that
- 10 you would model the typical group because you've at least got
- 11 two different types, very clearly distinct type loops, some
- 12 serve digitally -- I should say digital loop carriers and others
- 13 not.
- 14 Q. Let's say we're looking at just the distribution piece for
- 15 a minute. Would they be different?
- 16 A. They could, but in a practical application I really
- 17 wouldn't think so.
- 18 Q. I want to talk right now about the distribution part of the
- 19 loop?
- 20 A. So we're talking copper distribution?
- 21 Q. Right.
- 22 A. Okay.
- 23 Q. Would we pick out an average loop, is that how you do it?
- 24 A. That would be reasonable.
- 25 Q. Okay. And then thirdly, we would, I guess, multiply the

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1 cost times the length, and the cost is expressed in pair feet
2 and the length is expressed in feet?

3 A. And I would add a parenthetical, because we're talking
4 about distribution, copper distribution.

5 Q. Okay. Well, let me just title this whole thing copper --

6 A. Okay.

7 Q. -- distribution.

8 A. Thank you.

9 Q. Now, is step three what you would do, multiply one and two
10 together?

11 A. Sure.

12 Q. Now, where does the fill factor come in?

13 A. Once you have that average investment per foot, in order to
14 unitize, you could take the dollars per foot over that portion
15 of that facility that's used, and I would say if you're talking
16 about distribution, understanding that where you measure your
17 distribution plant, you may actually see something unused
18 because that cable has been broken out and used elsewhere.

19 So what you try and do is figure out, say it's a
20 hundred-pair cable, you would want to know ultimately how many
21 strands within that cable -- how many pair within that cable are
22 actually providing dialtone somewhere.

23 Q. Okay. Now, once I've priced my typical loop that's
24 actually in use, how do I unitize the costs to them using the
25 fill factor?

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- 1 A. I thought I just said that. You take the dollar per foot
2 over fill.
- 3 Q. Am I dividing number three by fill?
- 4 A. Yes. Because number three now is dollars per feet.
- 5 Q. Well, actually, it's dollars per loop, isn't it? Don't the
6 feet cancel out and I've got --
- 7 A. Yeah, you're right.
- 8 Q. So I want to make sure you're with me here.
- 9 A. I'm with you. Thank you.
- 10 Q. So this is the cost per a typical loop, number three right?
- 11 A. Right.
- 12 Q. And number four, I would divide that by a fill factor to
13 unitize that to the loops in use?
- 14 A. So in other words, what you've done, say, for example, at
15 three, we're recognizing that 50 percent of the cables are used,
16 you've now grossed up the cost so that it's double, to make sure
17 that you've captured the full investment, and that assumes that
18 50 percent is the fill and that's where I get all that stuff.
- 19 Q. Whatever the fill happens to be, I divide by that to gross
20 it up?
- 21 A. Right.
- 22 Q. If the fill was 75 percent, I would divide by 75 percent?
- 23 A. Correct. Which would have the effect of ultimately 133
24 percent of the investment per loop now would be recovered on
25 each loop that's actually sold.

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1 Q. Okay. Now, let's say I've got a -- we're in my
2 neighborhood where I'm building a cable, and let's say I have a
3 thousand-foot cable, that it's a hundred pairs, okay? This is a
4 typical cable.

5 A. Okay.

6 Q. All right. Now, what's the average distribution segment
7 going to be over that cable?

8 A. It depends on the placement of all the drop terminals. And
9 we were talking about this before, you can identify any grouping
10 that you want based upon how that actually looks, that may be a
11 cul-de-sac, you may be serving two cul-de-sacs back to back, you
12 may be running straight down a street. So it really depends on
13 the geography, how you would go ahead and place all your drop
14 terminals and how many terminals you'd ultimately use.

15 Q. Would you expect them to be kind of uniformly distributed
16 here?

17 A. You can make that assumption for this discussion.

18 Q. Okay.

19 A. I wouldn't expect that they would all be at one point,
20 because if that were the case you probably would have put the
21 SAI in a different place.

22 Q. Exactly. So typically, they would either be spread evenly
23 or they might be more heavily weighted towards the SAI, wouldn't
24 they?

25 A. Again, it really depends on the lay of the land. And it

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1 depends how long you want to run your drops, and there are a lot
2 of considerations.

3 Q. Let's assume for sake of argument that it's evenly
4 distributed. Would you agree the average would be around 500
5 feet?

6 A. In this example, yes.

7 Q. Okay. Now, let's assume that just for sake of an example
8 that we're talking about 10 cents a pair foot for the cable,
9 okay?

10 A. Okay.

11 Q. Just to use a number, you can pick any number you want if
12 you don't like a dime. The typical loop distribution length
13 here is 500 feet, so the cost for that 500 feet is, what, \$50?

14 A. Okay.

15 Q. You know, what fill should we use here? Pick a fill. I
16 don't care what it is.

17 A. Let's say 100.

18 Q. A hundred percent?

19 A. Makes the math easy; sure.

20 Q. So if it's a hundred percent full, my loop rate is \$50, and
21 this is just investment again, but \$50 is the investment per
22 loop?

23 A. Investment.

24 Q. And I have a hundred customers; is that right?

25 A. I think that's where we started.

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1 Q. Okay. So a hundred pair, at a hundred percent is a hundred
2 customers. If I took my hundred customers and charged them all
3 \$50, you agree that would yield \$5,000?

4 A. Yes.

5 Q. Now, if I take this thousand-pair cable and multiply it
6 times ten cents, times 100 pairs, that's \$10,000, isn't it?

7 A. Yes.

8 Q. So if I charged \$50, I don't recover all my costs, do I?

9 A. It looks to be correct and I can't figure out why right
10 now.

11 Q. Well, let me suggest the reason to you. If you measure
12 fill at one end of the cable, all those cables are terminated
13 there, right?

14 A. Uh-huh.

15 Q. If I go the other end of the cable, I've got a lot of dead
16 stubs, don't I, because those loops have already terminated
17 somewhere in the middle?

18 A. That's interesting.

19 Q. Is that right?

20 A. Yeah. And I'm just trying to figure out how that
21 interplays with the 10 cent per pair foot figure that we started
22 with.

23 Q. Well, let's give you an example. Say I'm at 400 feet here
24 and I drop off some loops, say there's ten customers that I drop
25 off there, would you agree with me that the cable -- those ten

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1 pairs continue in that cable, don't they?

2 A. That's correct.

3 Q. But if I only treat that as a 400 foot loop, I'm not
4 recovering any of the cost of that 600 foot tail, right?

5 A. It seems to me that the problem in this analysis is that
6 you didn't -- when you came up with the 10 cent per pair foot of
7 investment, you didn't take into consideration average loop
8 length.

9 Q. Do you know if Cincinnati Bell's loop studies take into
10 account average loop length in determining the investment per
11 pair?

12 A. As I stated when we started this analysis, I'm not that
13 familiar with how they came up with the numbers.

14 Q. Okay. Now, in your testimony, aren't you suggesting that
15 Cincinnati Bell take 85 percent and substitute that in its cost
16 studies for its 35 percent fill?

17 A. I'm suggesting that they use an 85 percent fill. They're
18 designed to ultimately come up to a cost figure.

19 Q. Okay. And that -- I didn't put a percentage by it, but in
20 Cincinnati Bell's cost study, step No. 4 uses 35 percent and you
21 suggest that ought to be 85 percent, right?

22 A. I think you should use 85 percent when you're out
23 designing, which is before step No. 1. And keep in mind that
24 what I'm trying to have happen is that you recover all of your
25 investment.

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1 Q. Well, what I'm asking you is whether you're suggesting that
2 the 85 be substituted wherever the 35 is in the existing study?

3 A. Before No. 1 when you're designing the investment, yes.

4 Q. I'm not asking you if that's where it should be. I'm
5 asking if you're saying we should substitute that for Cincinnati
6 Bell's fills?

7 A. We're missing each other for some reason. What I'm
8 suggesting is that you design the network to run at 85 percent
9 in distribution. Now, if it's a matter of fact that you're
10 putting in 35 percent, that last step, that's because you
11 designed the network before No. 1 to run at 35 percent. What
12 I'm suggesting is that you put in 85 percent, redesign the
13 network based on that and come up with a per unit cost.

14 Q. Well, in your example we used 100 percent fill, right?

15 A. Yes.

16 Q. Is that distribution cable designed for 100 percent fill?

17 A. In that example, yes.

18 Q. And if the cost at 100 percent fill was 2 cents, that would
19 change Item No. 1 to 2 cents, right?

20 A. Yes.

21 Q. And that would change Item No. 3 to \$10 instead of 50,
22 right?

23 A. What was the 500 again?

24 Q. 500 is the length of the average distribution segment on a
25 loop?

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- 1 A. And so what you're suggesting is that that number that goes
2 in at No. 2 is not the length of the distribution cable, but the
3 length of the used distribution cable?
- 4 Q. Length of the loop that's in use, yes.
- 5 A. The length of the used distribution cable.
- 6 Q. Right.
- 7 A. Okay. And that's what's in the cost study.
- 8 Q. Well, do you know or not?
- 9 A. No, I don't know, that's why I'm asking.
- 10 Q. Okay. Let's assume it is for this example.
- 11 A. Okay.
- 12 Q. I still end up only recovering \$10 times 50 or times 100 is
13 a thousand, right, but the cable in that case cost 2,000?
- 14 A. Yes.
- 15 Q. Would you agree with me then that the -- the factor here
16 isn't the cost of the cable, but it's the length of the loop
17 compared to the cable?
- 18 A. It's the factor of how you state your investment and you
19 stated it in this example on a per used foot basis rather than
20 the whole distribution length. Recognizing that issue, I don't
21 know why that would be in the cost study like that.
- 22 Q. Well, if my actual average loop was 500 feet, wouldn't that
23 be what I would need to price?
- 24 A. You should be pricing so that you recover your distribution
25 investment.

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1 Q. And so I use -- I need to use a fill which will convert my
2 average loop into my cost of my cable, right?

3 A. Can I have that back? I'm sorry.

4 (Question read back as requested.)

5 THE WITNESS: Can you rephrase that? I'm sorry.

6 BY MR. HART:

7 Q. Well, let me try it a different way. If my average loop
8 was 500 feet, but the cable that contains that 500 feet is a
9 thousand feet, I need to somehow take that into account when I
10 price that loop, don't I?

11 A. I would suggest that's back up at number two, not at the
12 fill factor calculation.

13 Q. Okay.

14 A. If you divide by .35, you're going to end up with a number
15 that's bigger than 1, I believe.

16 Q. If I divide by .35?

17 A. If you take investment divided by .35.

18 Q. Before we do that, if I used .35, how many customers do I
19 have?

20 A. I'm sorry, I don't see the relationship between the .35 and
21 the number of customers.

22 Q. Isn't that the fill factor?

23 A. Yes.

24 Q. And didn't --

25 A. That's the fill factor that you're assuming would exist,

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- 1 but that's not necessarily the number of customers.
- 2 Q. Didn't you define earlier that fill was the number of lines
3 in use compared to the number of lines in the cable?
- 4 A. Yes.
- 5 Q. So if I have 100-pair cable, doesn't that mean on average I
6 have 35 customers?
- 7 A. You just said we had 100 customers, though.
- 8 Q. I wouldn't use .35 if I had 100, would I?
- 9 A. Hence, my confusion.
- 10 Q. Okay. Okay.
- 11 A. I'm sorry.
- 12 Q. Okay. Don't I need -- Would you agree with me that the
13 fill times the cable size should yield the number of lines the
14 way you're defining fill?
- 15 A. The fill rate times the number of pair in the cable should
16 equal the number of demand units or number of customers.
- 17 Q. Okay. So if I were to use 35 as my fill factor, I would
18 also have to use 35 as my number of customers when I determine
19 whether that rate is going to recover my investment, wouldn't I?
- 20 A. We're back on the same page.
- 21 Q. Okay.
- 22 A. Thank you.
- 23 Q. If I divide by .35 and multiple times 35, aren't I going to
24 end up with the same relative result here?
- 25 A. Yes.

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1 Q. Okay.

2 A. I still think the problem is with your No. 2.

3 Q. That's because you're using a fill factor as a number of
4 pair in use as opposed to the number of pair feet that are in
5 use; is that right?

6 A. That's because No. 2 is stated the way it is.

7 Q. How would you state it?

8 A. What I would do, and let's be real clear about this, I
9 would try and make certain that the distribution cable that is
10 placed in the ground -- Say, for example, there were a thousand
11 dollars worth of investments, and the fill rate were 75 percent,
12 so the numbers work out easily, I would then try and get so that
13 the relative price would ultimately be 1,333 across the 75
14 percent units that are sold so that you would get back up to the
15 full investment number.

16 And, like I said before, as to the mechanics of what CBT's
17 cost studies do with these numbers, I'm not familiar, but what
18 I'm trying to do is get so that the whole investment is based
19 upon an appropriate fill factor and appropriate cable placement
20 in the ground is recovered. And I would argue that the
21 principle element that brings the 35 percent into play here is
22 two distribution pairs per house rather than something more like
23 100 or 120 percent, something in that range of actual number of
24 houses.

25 Q. Well, I'm trying to isolate on how the fill factor affects

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1 the cost recovery and I'm still not sure what you're telling me
2 I should do differently at step 2?

3 Q. Should I treat every loop as if it's a thousand a feet if
4 it's in a thousand foot cable?

5 A. Looks like that would get you back up to 100 percent of
6 your investment being recovered based upon whatever fill rate we
7 decide.

8 Q. Okay.

9 A. Again, what we're talking about here is -- is the
10 mathematical calculations embedded within a cost study with
11 which I'm not familiar. What I'm disputing is the choice to
12 fill the cables that are in the ground at 85 percent versus 35
13 percent. I'm not saying that Mr. Mette's group or himself did
14 his calculations wrong because I don't know what they are.
15 Simply saying the decision to fill the network at 35 percent
16 versus 85 percent is inappropriate, it's consistent with what I
17 believe TELRIC is and what I believe that this Commission
18 requires Ameritech to do. I think Ameritech is similarly
19 situated.

20 Q. Well, would you agree with me that simply substituting
21 85 percent for 35 percent doesn't cure the problem we've
22 discovered with how many feet we contribute -- how many feet we
23 attribute to a given loop?

24 A. In this set of calculations, substituting 35 for 85 or 85
25 for 35 at step 3 wouldn't be the right thing to do. As I was

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- 1 saying earlier, you make that decision before step 1 and that is
2 when you're putting the stuff into the ground.
- 3 Q. Now, if the steps I've outlined here are the way Cincinnati
4 Bell actually did its cost studies, 35 percent doesn't
5 necessarily mean I only have 35 customers here, does it?
- 6 A. I have to sit down and look at the calculations. I'm
7 really not sure.
- 8 Q. Okay.
- 9 A. And I want to be absolutely clear so that you and I are
10 understanding one another. I'm not talking about the cost
11 studies being affected in between Lines 3 and 4, 35 percent and
12 85 percent, I'm talking about the decision to place the cables
13 such that they're not filled somewhere around 85 percent, which
14 is what I've seen in the midwest.
- 15 Q. Okay.
- 16 A. So if I have 100 cables, you expect there to be 85 in use
17 and 15 spares, right?
- 18 A. I prefer to use the word "unused".
- 19 Q. Okay.
- 20 A. But yes, 85 of them would be used; that's what I'm trying
21 to achieve.
- 22 Q. So these 85 customers not only pay for the loop they use,
23 they have to pay for a piece of the 15 loops that nobody is
24 using?
- 25 A. Agreed.

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1 Q. Okay. Now, first of all, don't we have to make sure that
2 these 85 customers are actually paying the whole cost of the
3 loop that they're using?

4 A. Yes.

5 Q. And --

6 A. And, before, when we were talking about there being a
7 thousand dollars worth of investment and a 75 percent
8 utilization rate, what I said is implicitly you would gross the
9 investment up to \$1,333 and divide that over the 75 percent
10 utilization rate; however many customers, that's not relevant.

11 Q. Same with 85?

12 A. Yes. I can't do the math in my head.

13 Q. That's in order to recover the other 15, isn't it?

14 A. That's correct.

15 Q. Let's just talk about the 85 now. We first need to make
16 sure the 85 customers are covering their own costs, don't we?

17 A. Yes.

18 Q. And if that particular customer happens to terminate at 550
19 feet, would you agree with me that one of the costs of serving
20 that customer is the other 450 of cable that can't be used now?

21 A. If it truly can't be used, that's correct. And that's --
22 that's what we've said when we said we would take the whole
23 thousand dollars.

24 Now, there also exists the possibility that on this
25 hypothetical distribution segment, that you would be running

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1 multiple cables within the group and that you would terminate
2 that one right there and that you wouldn't carry it forward.

3 Q. But that requires me to have more than one cable going out
4 in the first part, right?

5 A. Yeah. When you got the trench open, you might put in 100
6 pair, 150 pair, break them out so you wouldn't have the unused
7 stuff trailing about.

8 Q. Well, any amount of cable I have is going to have some of
9 that, isn't it? As soon as I drop that off, the remainder of
10 the cable has that unusable pair?

11 A. Unless you drop them on the discrete point, but that isn't
12 typically done. It may be done in a few of the cables, but not
13 all of them.

14 Q. It's pretty insufficient to strip out the pairs. It's
15 easier to leave them there, isn't it?

16 A. If you're running a bigger cable. What I'm suggesting is,
17 for example, let's say, you know, at the middle of this point,
18 you have a very large cluster, and let's say that the whole
19 thing is going to serve 100 customers and for some reason 50 of
20 them are right there, there's an apartment building or something
21 like that, you might run a cable just into that building and
22 then not run along the rest of that distribution segment.

23 Q. Okay. But you would agree that there is a loss due to
24 these tail ends of cables that become unusable?

25 A. That will happen in some circumstances, yes.

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1 Q. And for the 85 customers to cover their own costs, they not
2 only have to pay the part from the SAI to their drop terminal,
3 they would also have to pay for the cost of the rest of that
4 pair in that cable sheath?

5 A. And, hence, the rationale for grossing up the thousand to
6 1,333 like I stated before.

7 Q. Okay. Now, is there another inefficiency caused by the
8 fact that cable sizes come in discrete sizes?

9 A. Yes.

10 Q. So if I need to put 26 pairs out, I can't use a pair --
11 25-pair cable, I have to go up to the next size?

12 A. Yes.

13 Q. And to a large degree, that's unavoidable because customers
14 come in whatever number they happen to be, right?

15 A. I would say to some degree it's avoidable. We were talking
16 about earlier how you would arrange your terminals to serve the
17 210-household area. I think what you would try and do when the
18 network engineers actually walk out there and see what's there
19 is that they would try and arrange those facilities so they
20 could minimize those problems; in other words, they would group
21 the cable sizes and the terminal sizes to be as consistent as
22 possible with the layout of the houses or apartments or strip
23 malls, whatever may be out there. So you would try and take all
24 of that into consideration when you're designing your network.

25 I think the terminology or the term of art that you're

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1 talking about is breakage, and I remember specifically in
2 Ameritech's case that issue was encapsulated within the 85
3 percent for distribution.

4 Q. So some part of that 15 percent loss was due to breakage?

5 A. That's correct. And some of it may be for testing and that
6 sort of thing.

7 Q. Okay. And there's another trade-off, too, isn't there, to
8 try to avoid breakage in that you may have to deploy longer
9 cables in order to get that cable to enough customers to avoid
10 the breakage?

11 A. Can you help me out a little bit on that?

12 Q. Let me give you an example. Say I have a street that has
13 26 customers on it and I have an adjacent street that has
14 another 20 customers, if I wanted to include all of those
15 customers on one cable, I'd have to use one longer cable to get
16 to both of them, wouldn't I?

17 A. If your design criteria was that you would put those two
18 groups of customers in one distribution cable, you could, for
19 example, run a 50-pair cable out, hit a pedestal or a drop
20 terminal that is able to accommodate 25, or maybe you would
21 break it out in a couple of groups, it depends on the location,
22 then you would drag the others or let the others continue along
23 and hit those at that next terminal or multiple terminals,
24 depending upon how the arrangement was.

25 It might be that the first point, the drop-off point is an

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1 apartment building; you know, you drop off a bundle right there.

2 Q. But it might be that I continue the same size cable just a
3 little bit longer to pick up a few more customers?

4 A. I think that's what we just said.

5 Q. Okay. Now, let's say my cost study is designed
6 appropriately so that I would recover all my investment by
7 simply substituting a fill.

8 Would you agree that if I use a larger fill in such a
9 study, that I really need to use a different network design?

10 A. You need to use the network as efficiently as possible. I
11 think Mr. Meier testified at hearings in this proceeding that if
12 you knew where the customers were, and he could redesign the
13 network such that the SAIs were bigger and distribution areas
14 were bigger, that he could build a better network or more
15 efficient network that would utilize the plant far more
16 efficiently and we could achieve a higher number rather than
17 lower number.

18 Q. That's not what I'm asking you.

19 If I built this 100-pair cable and I only had 35 customers
20 to serve, you're suggesting if I use a higher fill, that I would
21 use a smaller cable, wouldn't you?

22 A. I'm suggesting that because you have 35 customers, you
23 would recognize that and use a smaller cable, the result of
24 which is that your fill is higher.

25 Q. Okay.

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1 A. So it's the -- it's the tendency toward the least-cost,
2 most efficient design that drives the result, which is the fill
3 factor.

4 Q. You made a very good point here, which is that fill factors
5 don't cause the design, they result from it, don't they?

6 A. Yes.

7 Q. Okay. And if I'm going to substitute a fill factor in a
8 cost study, I can't assume I would have designed the network the
9 same way, or else I wouldn't have achieved that fill; is that
10 fair?

11 A. As an example, sticking with distribution, if the fill is
12 50 percent, ultimately resulting from the design that's in the
13 network, and you designed the network more efficiently, such
14 that you use half as much cable, the fill rate could be 100
15 percent, and that's based upon your decision to design it more
16 efficiently that drives the fill rate.

17 Q. And that --

18 A. Did I answer your question?

19 Q. That second design would use smaller cables than the first
20 design, wouldn't it?

21 A. Smaller number of strands and potentially different
22 groupings, different lengths, larger distribution areas, larger
23 SAIs, perhaps more strategic placements of drop terminals and
24 those sorts of things.

25 Q. Okay. So if I were to try to adjust a fill factor in a

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1 cost study, I might distort the actual cost of that network if I
2 didn't also redesign the network itself; is that right?

3 A. Probably less so than leaving it at an inefficient level.
4 I'm not suggesting that -- Again, to go back to this example in
5 between step 3 and 4 that you can necessarily just replace 35
6 with 85 and then everything is perfect. It would be better than
7 where you're at with respect to 35, but probably not perfect.

8 Q. Because when I go to smaller cable sizes, my cost per pair
9 foot actually goes up, doesn't it?

10 A. The total cost goes down.

11 Q. But my cost per pair foot goes up?

12 A. Yes, it may.

13 Q. And since my cost study begins with cost per pair foot, if
14 I don't adjust that, then the whole study is going to be
15 understated, isn't it?

16 A. The cost per pair foot probably assumes the specific cable
17 size price and you would need to change at that point for the
18 new cable size.

19 Q. Right.

20 So there's not a linear relationship between fill and
21 ultimate price, is there?

22 A. Probably not.

23 Q. In fact, there's not a linear relationship between cable
24 size and cost per pair foot, is there?

25 A. I don't know that the relationship is not linear, but I

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1 don't think it's one-to-one.

2 Q. Well --

3 A. So, for example, if you were to double your cable capacity,
4 the numbers that I've seen would suggest that the cost may only
5 increase by 80 percent. There's some economies associated with
6 getting bigger cables.

7 Q. One thing I would have to do in common would be trenching,
8 for example, for buried cables?

9 A. Yes.

10 Q. I would do the same trench for a 50-pair cable as I would
11 for 100-pair cable?

12 A. Yes.

13 Q. And the cost of placing that cable, physical labor of
14 people putting it in the ground is probably about the same, too?

15 A. Might be a little bit smaller, because the smaller cables
16 come on smaller spools, you've got fewer trucks coming in and
17 that sort of thing. I wouldn't expect the results to be
18 radically different.

19 Q. If I've got cable up on a pole, it costs the same amount
20 for those poles whether there's 50-pair cable or 100-pair cable
21 hanging on the pole, right?

22 A. The pole cost is probably the same, but the placement cost
23 is probably somewhat lower. Again, the cable is easier to deal
24 with. You have -- Say, for example, for a certain length you
25 would have fewer spools to deal with, fewer deliveries, things

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1 like that, so I'm expecting that you would see some savings in
2 placements, but not a one-for-one reduction.

3 Q. Okay. Do you know how the Ameritech cost studies used fill
4 factors?

5 A. So like in this example on the board, do I know whether
6 they have a step that's in between 3 and 4 that works exactly
7 like that in conjunction with step No. 2?

8 Q. Right.

9 A. That answer is no.

10 Q. You don't know?

11 A. Correct; I don't know.

12 Q. Or they don't?

13 A. And may I interrupt for a second?

14 Q. Sure.

15 A. I would like to go to the restroom, if it's possible.

16 THE EXAMINER: Let's take a ten-minute break.

17 (Short recess taken.)

18 THE EXAMINER: Okay. Back on the record.

19 Mr. Hart.

20 MR. HART: Thank you, your Honor.

21 BY MR. HART:

22 Q. Mr. Webber, let me ask you briefly about some other fills
23 that you were recommending.

24 Am I correct that you're recommending that the same fill be
25 used for copper feeder as for copper distribution?

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1 A. It's my recollection that copper facilities on the average
2 in Ameritech's network were dealt with on four out of six
3 strands being used, I think you'll find that.

4 Q. For copper?

5 A. Fiber, I'm sorry.

6 Q. I asked you about copper.

7 A. All right. Can I have that question again? Sorry.

8 Q. Are your fill recommendations the same for copper feeder
9 and copper distribution?

10 A. I believe the Commission accepted 85 percent for both of
11 them. My recommendation is what the Commission accepted for
12 Ameritech. I believe they're the same.

13 Q. You're basing your recommendation on that order as opposed
14 to any independent analysis you've done of what the fills should
15 or should not be?

16 A. As I stated before, I'm testifying here as an economist and
17 what this Commission has found to be consistent with the notion
18 of least-cost, forward-looking cost studies, is that number 85
19 percent. And to the extent that that's correct and this
20 Commission has found that's correct, I don't see why it
21 shouldn't be correct for CBT, and if it results in a lower cost
22 for network that can be operated efficiently and maintained
23 appropriately, then it should be used.

24 Q. Do you know of any technical reason why feeder and
25 distribution fills should be the same?

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1 A. I don't know why they should be the same or different.

2 Q. So you have no knowledge either way?

3 A. I have no knowledge that they should be the same or
4 different.

5 Q. Okay. Now, you mentioned fiber fill a moment ago. What is
6 your recommendation for fiber fill?

7 A. Shall I actually give you the answer for copper this time?

8 Q. No, please don't.

9 A. All right. My recollection is that the Commission accepted
10 the use of four strands out of six, whatever that number is, I
11 think it's 67 percent for Ameritech. I think that's what the
12 staff recommended in its report in this case that was filed
13 roughly in September of '97, maybe November. I don't know.

14 Q. Do you have any independent reason for selecting that as a
15 fiber fill other than the fact that that's what the Commission
16 did in the Ameritech case?

17 A. Well, again, my purpose is to provide the Commission with
18 an understanding of what TELRIC is. And that is a network
19 that's efficiently managed and utilized, and if it's true that
20 you can provide the services that are demanded with fewer
21 facilities being used and not jeopardize the quality of the
22 network, you should do that.

23 So my purpose is to demonstrate or to say that the
24 Commission accepts this number as appropriate and lower costs;
25 so it should be used here.

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1 Q. Would you agree with me that the Commission most likely
2 already knows why it decided the Ameritech case the way it did?

3 A. Yes.

4 Q. And are you providing any new reasons in this case why the
5 Ameritech fills are appropriate?

6 A. Other than the fact that the -- this Commission's orders
7 are similar to the orders that I've seen, two orders in
8 Michigan, and one in Indiana with respect to companies that are
9 more -- I should say less densely populated and much smaller,
10 no.

11 Q. How does Cincinnati Bell compare to New York Telephone so
12 far as density?

13 A. It might average out to be the same. I don't know. But
14 we're talking about Cincinnati Bell is a company that provides
15 service to one metropolitan area, hence, it's relatively dense
16 compared to GTE in Indiana, for example, who provides service
17 almost to the whole state of Indiana, yet has about the same
18 number of lines and they, for example, in distribution are
19 supposed to achieve an 80 percent for purposes of their cost
20 studies and, in fact, they propose 55.

21 Q. Now, can you tell me how GTE's cost studies use fill?
22 We've talked about Ameritech's. How do theirs use them?

23 A. Again, looking at this diagram and the steps that we've
24 talked about in between 3 and 4, I don't know the mechanics of
25 how their number works out.

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1 Q. When you borrow a fill from one decision, apply it to
2 another company, wouldn't it be helpful to know exactly how the
3 fill is measured and where it is used in the cost study?

4 A. I don't believe it's necessary. What we're talking about
5 here is not modifying a particular line of your cost study, what
6 we're saying is fill the network to a particular level. How you
7 apply the mathematics of getting the per unit cost isn't all
8 that important, so long as your mathematics turn out to be
9 correct.

10 Q. Didn't we find it to be awfully important whether we
11 considered the average loop to be 500 feet long or a thousand
12 feet long in that example?

13 A. That's an application of what -- the way you're
14 demonstrating the way you believe Mr. Mette's mathematics work
15 out. I'm not suggesting that you go back to the example and
16 simply plug a number in in between points 3 and 4. Rather, I'm
17 suggesting that you fill the network when you're coming up with
18 your investments at 85 rather than 35. We're not trying to pull
19 a fast one and say you could put a number into the cost study
20 and bias the results wrong. We're trying to put in the cost
21 study model an efficient network that's been sized
22 appropriately.

23 Q. What I'm asking is if we were to say 85 percent was the
24 design fill, wouldn't you agree with me this example would
25 suggest maybe we should be using 40 percent for our cost study

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1 calculation?

2 A. No.

3 Q. So I should use 80 percent with the same attempt -- with
4 the same series of equations here?

5 A. You should recover your investment over the 80 percent
6 that's used. As to the exact mathematics of how you go about
7 doing it, the only thing that's important is that you would take
8 in that example of 80, divide the whole network over the 80
9 lines. I'm not suggesting -- And I think perhaps we keep
10 talking past one another. I'm not suggesting that you go to a
11 line in Mr. Mette's study and replace one number and insert
12 another number; that's not what I'm trying to suggest. I'm
13 suggesting you model a network that's filled at 85 percent and
14 cover those costs.

15 Q. Okay. Within Mr. Mette's construct, do you know what
16 number we should use in the calculation for fills?

17 A. No.

18 Q. We talked a little bit about the cost of different sizes of
19 copper cables. Do the same principles apply to fiber cables?

20 A. I'm sorry, I don't understand your question.

21 Q. Let's say I were to place a 24-fiber cable and maybe as an
22 alternate I might place a 48-fiber cable. Is the cost of
23 placing the 48-fiber cable twice what the cost of the 24-fiber
24 cable is?

25 A. No. I wouldn't expect that it would be.

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1 Q. So it's not entirely linear; there are some costs that are
2 common to both?

3 A. There may be a linear relationship. It doesn't mean it's
4 one-to-one.

5 Q. So just like we discussed with the copper fills, just
6 inserting a different fill in a cost calculation won't
7 necessarily use the correct costs; is that right?

8 A. That's probably better than having the wrong number in it,
9 but it's not necessarily the precise correct number.

10 Q. Okay. Now, would you agree with me that in determining
11 the most efficient network, you would need to consider different
12 deployment schedules and what the net present value would be of
13 those different schedules?

14 A. No.

15 Q. So why wouldn't I simply use 100 percent fill and size the
16 network exactly to the size of my current customer base?

17 A. For the purpose of conducting a TELRIC study, you could do
18 that so long as you wouldn't need anything to account for things
19 like breakage and testing and other administrative purposes.

20 And, in fact, Mr. Meier testified that he has seen in
21 distribution plant the network that's at 100 percent.

22 Q. He has seen a cable at 100 percent, right?

23 A. I think he said that he has seen examples where it's like
24 that, not that the whole network is like that.

25 Q. My question for you then is: If I were to design my

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1 network in that fashion, is the cost of adding a loop to that
2 network the same as the cost of the loops that are in that
3 network?

4 A. What you're talking about then is a different time period
5 and a different TELRIC study, and although we're in a declining
6 cost industry, the costs on average may decrease slightly over
7 time and as long as you're not doing the studies too far apart,
8 the results may not be all that different.

9 So, for example, if you come up with a loop study that says
10 the loop is 5 bucks today for the current demand and you do a
11 new study in a couple years, maybe it will turn out that it's
12 4.80, but that difference isn't tremendous.

13 Q. Well, let's say I -- I build my network to current demand
14 and a competitive carrier comes into the area and orders an
15 unbundled loop to a brand new customer who was not considered in
16 my demand. How do I establish the cost of serving that new
17 customer?

18 A. That's an issue for a new TELRIC study much like in the
19 case when we did a rate case that you would have an answer and
20 that you would use it for a period of time, and then you would
21 develop a new answer.

22 We can't sit in these proceedings for a year at a time and
23 come up with a new cost study that's effective for every single
24 day; it's not practical.

25 Q. If we're going to do a five-year study, shouldn't we

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1 account for the growth that we would expect to see during those
2 five years?

3 A. In terms of conducting a TELRIC study, I don't think that
4 you have to do that. I don't think that you're supposed to do
5 that.

6 Q. And that's because we have perfect knowledge of the demand?

7 A. Although it probably cuts against my interest, that's
8 correct. If we were to redo a cost study each year for the next
9 five years, ultimately when we're buying loops five years out,
10 we may be paying a little bit less than we are today, but in a
11 practical sense, I think that we should just get the cost study
12 done consistent with TELRIC and be done with it for awhile and
13 get to the business of doing business.

14 Q. Are you suggesting that if we were to do another TELRIC
15 study in a year, that we would consider the network that we
16 designed in this TELRIC study to be an embedded network and
17 ignore it?

18 A. Your switch locations would probably still be the same.
19 You may have some new customers that you would want to model,
20 buying additional cable and those sorts of things may run your
21 average costs down, but I'm not suggesting that we do a study
22 next year.

23 My understanding is that this study is supposed to be good
24 in terms of rates for the next five years.

25 Q. I guess what I'm asking you is the next time we do a TELRIC

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1 study, do we simply discard everything we assumed about the
2 network for this study and start from scratch as if it didn't
3 exist again?

4 A. I'm wrestling with your question because it almost sounds
5 like you're talking about a scorched earth notion, which would
6 suggest that the switch locations now aren't relevant.

7 Q. I'm leaving those in. I guess scratch everything except
8 the switch locations and start over again.

9 A. Yes. You would, in essence, model a new network much like
10 you did today.

11 Now, is it true that the network is going to change
12 radically and that the least-cost, forward-looking design would
13 change radically in a year, probably not.

14 Q. But the demands might be a little different, right?

15 A. It might be.

16 Q. So under your notion of TELRIC, we wouldn't take into
17 account at all the future cost of reinforcing an area?

18 A. Correct.

19 Q. We would just pretend like we're never going to have to do
20 that?

21 A. Yes.

22 Q. And you know in real life that if we were to size networks
23 at maximum possible fill, we would, in fact, be reinforcing?

24 A. With respect to feeder, you may be. We've seen no evidence
25 of that with respect to distribution of drop.

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1 Q. No. I said if we design a network to achieve maximum
2 usable fill, wouldn't we in real life expect to be reinforcing
3 that plant?

4 A. My answer is as I stated.

5 Q. Well, could you just tell me what it was because I'm not
6 sure when you stated it?

7 A. I'm sorry. Could I have the question and answer read back?

8 (Record read back as requested.)

9 MR. TRABARIS: I guess I would just object and say
10 asked and answered.

11 BY MR. HART:

12 Q. Well, you gave a different answer for distribution and
13 feeder. I'm asking whether the principle applies to both if you
14 designed for maximum usable fill.

15 A. Well, that sounds to me like a new question. With respect
16 to the distribution plant, we found that your network
17 utilization rates are the same across time and that is probably
18 because you're seeing growth and demand and growth in the usage
19 of cable facilities in areas where there hadn't previously been
20 facilities, so it's like adding a new branch to a tree. It
21 doesn't mean that the fill rate in the old branches changes,
22 hence, my answer when I said that I wouldn't expect there to be
23 a change doesn't change.

24 Q. Well, you're answering as to the experience of the actual
25 network. I'm trying to go to your version of TELRIC which you

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1 said was we design it as of the current demand. So what I'm
2 asking you is if we were to design a network for TELRIC purposes
3 to achieve maximum fill, would you expect that we would need to
4 reinforce that network? Within the context of the TELRIC study,
5 you wouldn't have demand cropping up that you don't know about,
6 so that wouldn't become an issue, but if it were an issue taking
7 data from your real network with respect to distribution, the
8 answer is still no, you wouldn't need to reinforce because your
9 growth is elsewhere. Like I said, it's like adding a new branch
10 to the same tree.

11 Q. If we built a real-life network the way you say a TELRIC
12 study should be conducted in real life, would we never have to
13 reinforce that network?

14 A. If growth and utilization rates are as they have been, the
15 answer is no, we wouldn't.

16 MR. HART: No more questions.

17 THE EXAMINER: Mr. Reilly.

18 MR. REILLY: We don't have any, your Honor.

19 THE EXAMINER: All right. Any redirect?

20 MR. TRABARIS: Can I have ten seconds?

21 THE EXAMINER: Sure.

22 (Discussion held off the record.)

23 MR. TRABARIS: I have just have a couple of questions.

24 THE EXAMINER: Okay.

25 REDIRECT EXAMINATION

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1

2 BY MR. TRABARIS:

3 Q. Mr. Webber, you were asked a series of questions and I
4 believe you and counsel discussed an organization called MECA.

5 A. That's correct.

6 Q. Can you just tell us who and where these MECA companies
7 are?8 A. MECA stands for -- It's an acronym. It stands for Michigan
9 Exchange Carrier Association and that is a group of rural
10 telephone companies in Michigan who, for the purposes of
11 conducting TSLRIC and TELRIC studies, collaborated on the joint
12 design and presentation of a cost study.13 The companies range in size from 600 to about 50,000
14 network access lines, and they're very rural, low population
15 density-type carriers.16 Q. You answered some questions or discussed some issues
17 relating to the fill factor of those companies?

18 A. That's correct.

19 Q. What were the results in Michigan?

20 MR. HART: Objection. This goes beyond cross. I
21 didn't ask him anything about Michigan.22 MR. TRABARIS: He was making comparisons to other
23 states. I believe counsel mentioned New York and some other
24 states, the witness discussed Michigan, and this is an
25 elaboration on that.

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1 THE EXAMINER: Well, when he brought up Michigan,
2 Mr. Hart didn't pursue that line of questioning any further and
3 ask him about his knowledge of it, so I'll sustain the
4 objection.

5 MR. TRABARIS: No further questions.

6 THE EXAMINER: All right.

7 MR. HART: Nothing further.

8 THE EXAMINER: Thank you, Mr. Webber. You're excused.

9 THE WITNESS: Thank you, your Honor.

10 (Witness excused.)

11 THE EXAMINER: Any objection to the admission of AT&T
12 Exhibits 10, 11 and 11-A?

13 MR. HART: I guess I'll make my standard objection to
14 the use of the Ameritech fills.

15 THE EXAMINER: Okay. Your objection is noted on the
16 record and those exhibits will be admitted at this time.

17 - - -

18 Thereupon, AT&T Exhibit Nos. 10, 11 and
19 11-A were received in evidence.

20 - - -

21 THE EXAMINER: Okay. Let's go off the record.

22 (Discussion held off the record.)

23 THE EXAMINER: We're going to adjourn until tomorrow
24 morning at 9:00.

25 - - -

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1 (Thereupon, the hearing was adjourned at
2 3:10 o'clock p.m. on Monday, March 22, 1999,
3 to be reconvened at 9:00 o'clock a.m. on
4 Tuesday, March 23, 1999.)
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C E R T I F I C A T E

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We, Valerie J. Grubaugh, Registered Merit Reporter,
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WITNESS		PAGE
Richard B. Lee		
Direct examination by Mr. Tabaris		XI-5
Cross-examination by Mr. Hart		XI-7
James D. Webber		
Direct examination by Mr. Tabaris		XI-56
Cross-examination by Mr. Hart		XI-59
Redirect examination by Mr. Tabaris		XI-153
- - -		
EXHIBIT	MARKED	RECEIVED
MCI/AT&T Exhibit No. 1 -	XI-4	XI-54
Direct testimony of Richard B. Lee		
CONFIDENTIAL DOCUMENT		
MCI/AT&T Exhibit No. 2 -	XI-4	XI-54
Rebuttal testimony of Richard B. Lee		
CONFIDENTIAL DOCUMENT		
AT&T Exhibit No. 10 -	XI-55	XI-155
Direct testimony of James D. Webber		
AT&T Exhibit 11 -	XI-55	XI-155
Rebuttal testimony of James D. Webber		
Dated December 23, 1998		
AT&T Exhibit 11A -	XI-55	XI-155
Rebuttal testimony of James D. Webber		
CONFIDENTIAL DOCUMENT		