

MC GINNIS & ASSOCIATES, INC.
COLUMBUS, OHIO (614)431-1344

PUBLIC UTILITIES COMMISSION

STATE OF OHIO

- - -

Westside Cellular, Inc.,)
d/b/a Cellnet,)

Complainant,)

vs.)

GTE Mobilnet, Inc., et al.,)

Respondents.)

Case No. 93-1758-RC-CSS

- - -

Continued deposition of Gregg Gorelick, a
Witness herein, called by the Complainant for
examination under the statute, taken before me,
Kristi N. Darst (Holmberg), Registered Professional
Reporter and Notary Public in and for the State of
Ohio, pursuant to notice and agreement, at the offices
of Hahn, Loeser & Parks, 431 East Broad Street,
Columbus, Ohio on Thursday, October 20, 1994,
beginning at 10:30 o'clock a.m., and concluding on the
same day.

- - -

CONFIDENTIAL TRANSCRIPT

- - -

VOLUME II

- - -

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1 APPEARANCES:

2 ON BEHALF OF THE COMPLAINANT:

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8 (216) 621-0150

9 ON BEHALF OF THE RESPONDENT - NEW PAR
10 COMPANIES:

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19

20 ALSO PRESENT: Michael A. Tricarchi

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1 Thursday, October 20, 1994
2 Morning Session

3 - - -

4 STIPULATIONS

5 It is stipulated by and among counsel for the
6 respective parties herein that the continued
7 deposition of Gregg Gorelick, a Witness herein, called
8 by the Complainant for examination under the statute,
9 may be taken at this time and reduced to writing in
10 stenotype by the Notary, whose notes may thereafter be
11 transcribed out of the presence of the witness; that
12 proof of the official character and qualifications of
13 the Notary is waived; that the witness may sign the
14 transcript of his deposition before a Notary other
15 than the Notary taking his deposition; said deposition
16 to have the same force and effect as though the
17 witness had signed the transcript of this deposition
18 before the Notary taking it.

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WITNESS:

PAGE NO.

Gregg Gorelick
Examination (Cont'd) by Mr. Hart

5

EXHIBITS:

MARKED

Gorelick Exhibit No. 3
Workpapers used in the preparation
of the 1992 PUCO annual report

25

Gorelick Exhibit No. 4
Spreadsheets where intra-Ohio
wholesale revenue is reported

47

Gorelick Exhibit No. 5
1993 intra-Ohio wholesale revenues of
the Cleveland market

79

1 GREGG GORELICK
2 of lawful age, being by me previously duly sworn to
3 testify to the truth, the whole truth, and nothing but
4 the truth, as hereinafter certified, testified as
5 follows:

6 EXAMINATION (CONT'D)

7 BY MR. HART:

8 Q. Mr. Gorelick, we are back on Thursday --

9 MR. HART: Is today the 20th?

10 MR. TRICARCHI: Today is the 20th.

11 BY MR. HART:

12 Q. -- the 20th of October. You're still under
13 oath.

14 A. Yes.

15 Q. Okay. I want to make sure that I'm clear.
16 Yesterday, you indicated that there was a document
17 that I may be able to use to generate the document
18 that we have in Exhibit 1 at page 320, and I thought
19 you said that that was the combined income statement.

20 MS. BLOOMFIELD: Could we go back and
21 just pull the documents out?

22 MR. HART: Yeah.

23 This is not on the record.

24 (Discussion held off the record.)

25 MR. HART: Back on.

1 BY MR. HART:

2 Q. Mr. Gorelick, I wanted to make -- I wanted
3 to be clear on this. If you look at page 320, it's
4 Bates Stamp 320 within your Exhibit 1, I thought you
5 told me yesterday that you could use -- you could
6 possibly use an income statement to prepare this
7 document, and I wasn't sure whether it was a combined
8 income statement that you were talking about or a
9 consolidated income statement; do you remember?

10 A. Yes.

11 Q. Do you know what I'm talking about?

12 A. Yes.

13 Q. Okay. Which was it?

14 A. The -- It's called the combined income
15 statement, and it is a consolidated New Par income
16 statement.

17 Q. It's called the combined income statement,
18 though?

19 A. Correct.

20 Q. That was a document that I asked you if I
21 had, and I asked you to see if you could go back last
22 night or this morning and see if I had it -- if you
23 had given it to me.

24 A. I don't think that's what you asked me to go
25 back --

1 Q. What did you go back to look for?

2 A. I thought we were going back to look for at
3 the bottom of "Direct Expenses" where it says less
4 expenses.

5 Q. The "Kentucky," et cetera?

6 A. That's what we were looking for yesterday.

7 Q. That was what I asked you to look for?

8 Do you know if I have the combined income
9 statement?

10 A. I know that you don't have the combined
11 income statement. However, for 1991, you showed me --

12 MR. TRICARCHI: 418 is, I think, the
13 one we used.

14 BY MR. HART:

15 Q. We showed you what we had Bates Stamped as
16 418.

17 A. Correct. It's actually 418 through 442.

18 Q. And this is a continuation?

19 A. Right. At least through 19 -- I'm sorry,
20 through 474 as long as they are all stapled the way
21 they were originally. You had pointed out to me that
22 you also had these documents. I didn't recall
23 yesterday what exactly we -- I had provided to our
24 counsel. And at least for '91, this is what -- this
25 is, in effect, the combined income statement and what

1 you would need.

2 Q. The 418 all the way through to 474?

3 A. Right. Actually, notice part is going
4 through July, and the other part is August to
5 December.

6 Q. The August to December, which we started at
7 Bates Stamp 443 through 474 that your counsel provided
8 us, are these year-end totals?

9 A. They're going to be August through December
10 totals. If you recall, yesterday I mentioned that in
11 '91 we had to have a closing on July 31, and then we
12 started up again.

13 Q. So I would add the totals that I have in the
14 12-31-91 documents to the totals on the 7-31-91
15 documents to get a year-end?

16 A. I believe that's what you would do, yes.

17 Q. Now, I did ask you to go back and see if you
18 had -- We were talking about total expenses less that
19 which was reported to Kentucky, Indiana, Ashtabula and
20 CCIRSA, Inc. I didn't have any of the workpapers that
21 would show me what those were or I didn't think I did.
22 Did you check to see if you had already given that to
23 me?

24 A. Yes.

25 Q. Have you?

1 A. What I determined from looking at our -- at
2 the copies that my counsel has, the only workpaper
3 that we've provided to respond to your inquiry is the
4 one that's numbered 319. So it's the just prior page.

5 And under "Notes to 1991 Ohio PUCO
6 Workpapers," when you read through the notes, you'll
7 see that there are notes there indicating how expenses
8 for Kentucky or for Indiana or Ashtabula were
9 determined.

10 Q. So just so I'm clear, for the Kentucky,
11 Indiana, Ashtabula and CCIRSA expenses, you're
12 allocating those costs based on a percentage of
13 revenue?

14 A. I'd have to read through all the notes to
15 make sure "on a percentage of revenue" is correct, but
16 the part about allocation is correct.

17 Q. What notes would you have to look through?

18 A. I think it's No. 5, No. 6, No. 7.

19 Q. Are those documents that are separate and
20 apart from these that you would have to look through?

21 A. No. What I meant was this morning I had an
22 opportunity to go through our workpapers. I noticed
23 on page 319 there were notes that described the
24 expenses that you had inquired about yesterday, but
25 what I didn't have enough time to do this morning was

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1 read through them and make sure I was clear on what
2 those notes said.

3 Q. So there are -- when you're talking about
4 the notes that you would have to read through, do I
5 have those?

6 A. For instance, what I didn't have an
7 opportunity to do this morning was -- Let's take page
8 319, No. 5, "Kentucky wholesale revenues are as
9 reported to Kentucky PSC. Retail revenues and
10 expenses are recorded at the Kentucky wholesale
11 percentages." I didn't have enough opportunity this
12 morning to think about this sentence and what it meant
13 in order to respond to your inquiry.

14 Q. How would you trace back to on page 320 the
15 amount that's "Less reported to Kentucky"?

16 There are actually two amounts. There is a
17 wholesale and retail amount. How did No. 5 -- was No.
18 5 -- All this was necessary to respond to your
19 original question related to page 320?

20 A. I could do --

21 Q. Was it?

22 A. I could do that now if you want.

23 Q. Go ahead.

24 (Pause.)

25 A. Okay. I'm ready.

1 Q. Can you determine -- How is it that you
2 determine the amount that you're going to report to --
3 or that you're going to back out reported to Kentucky,
4 Indiana, Ashtabula, CCIRSA, Inc.?

5 Can you walk me through that?

6 A. Yes.

7 Q. Okay.

8 A. For Kentucky, using page 319 as a guide,
9 page 319, the notes there say that there was an
10 allocation to determine Kentucky expenses, and it was
11 based on ref -- it was based on the revenues, which we
12 did do an actual calculation -- a more specific
13 calculation.

14 So the percentage of wholesale revenues to
15 the total revenue for the State of Kentucky was used
16 to determine Kentucky expenses. And that percentage
17 appears to actually appear on this page 319 where it
18 says, "Kentucky wholesale to total wholesale 3.38."

19 To truly know for certain, what I think
20 would be required would be to go back to page 320
21 which is actually a printout of a Lotus spreadsheet.
22 If we went to the Lotus spreadsheet itself and looked
23 at it, my guess here is that there are formulas built
24 into the cells in Lotus that are doing the
25 calculation, where on this printout we see a dollar

1 figure.

2 My guess is, in actuality, in the
3 spreadsheet today, there is a formula that you would
4 really also need besides page 319 to truly get to the
5 expense number that you are inquiring about.

6 Q. Does that spreadsheet exist in paper?

7 A. It doesn't -- Right now I think it just
8 exists on a disk.

9 Q. On a disk?

10 A. Right.

11 Q. How far back do you keep them?

12 A. I believe we have '91 --

13 Q. You do?

14 A. -- still available.

15 Q. Just so I'm clear, you took whatever the
16 total amount of Kentucky revenue is; you're breaking
17 the revenue out wholesale and retail for Kentucky,
18 also?

19 A. Correct.

20 Q. Okay. And you're -- You then figured out
21 your percentages -- Is the method for figuring out
22 your percentages based on the same method that you're
23 using to do your Ohio revenue percentages?

24 For instance, when we allocated -- when you
25 showed me how you allocated the expenses for Ohio, you

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1 took a percentage based on the percentage of wholesale
2 revenues to total revenues, et cetera.

3 A. Right.

4 Q. Do you remember that?

5 A. Yes.

6 Q. We went through that yesterday.

7 A. Yes.

8 Q. Is that the same method that you used to do
9 the Kentucky expenses?

10 A. I mean, except that it would have used
11 Kentucky only revenue instead of, in the other case,
12 the Ohio only revenue.

13 Q. The formula is the same?

14 A. Right.

15 Q. The method of calculating is the same; is
16 that right?

17 A. Yes.

18 Q. Okay.

19 A. I believe so.

20 Q. So that's based on percentages -- Your
21 expenses you're basing on percentages of revenue that
22 go to wholesale and retail, and you can't know for
23 certain whether those are accurate, can you?

24 A. I could speculate in a way that -- a way
25 that we could be more ac -- or we -- I'm not sure what

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1 I'm trying to say. There -- My guess is there would
2 be a way to be more accurate than that.

3 Q. Okay. How would you do that?

4 What would you have to do?

5 A. Uhm --

6 Q. More accurate than the way you did it,
7 you're saying?

8 A. Right.

9 Q. And how would you do that?

10 A. Well, for instance, we -- one possibility
11 would be to go through paid bills and determine which
12 ones apply to Kentucky only as opposed to Kentucky and
13 Ohio. In instances where we made a payment to a
14 vendor or whatever and it could have applied to more
15 than one state, then I think an allocation would be
16 the only way to make an assessment or to make a
17 determination.

18 There possibly are expenses that were
19 strictly incurred in the State of Kentucky, and if we
20 went through all our paid bills to look for them, we
21 could possibly find some.

22 Q. The method that you used for Kentucky in the
23 formulas that you're using to calculate these amounts
24 that you're backing out of the total expenses, does
25 the same formula apply for Indiana, Ashtabula and

1 CCIRSA, Inc.?

2 A. When I look at page 319, No. 6, No. 6, to
3 me, is contrasted with No. 5. It's -- it -- it's
4 possibly saying that Indiana, which is No. 6, is
5 somehow different from No. 5. And I'm not, today,
6 exactly certain what that difference is.

7 Q. Who would I be able to ask about what that
8 difference is?

9 A. I would ask David Shanks. Well, if there is
10 a difference. I'm just saying it appears to me there
11 is some sort of difference between what's reported in
12 No. 5 and what's reported in No. 6. I'm not certain
13 there truly is. It's just written differently. It
14 appears to be different.

15 Q. Is it because the two lines aren't identical
16 in words; is that what you're saying?

17 A. Yes.

18 Q. That's what's giving you the idea that it
19 may be different?

20 A. Yes.

21 Q. Do you know whether the Ashtabula one and
22 the CCIRSA are computed differently?

23 A. I'm not sure.

24 Q. Differently from the Kentucky?

25 A. Right.

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1 Q. You're not sure?

2 A. I assumed that's what you meant. Maybe I
3 shouldn't have assumed that, but still I'm not sure.

4 Q. Do you know why the wholesale -- or I'm
5 sorry, why the revenue percentage for Ashtabula is
6 zero?

7 A. My guess is that that's just because they're
8 rounding. I mean, it's probably -- if you round to
9 two decimal places, it rounds to zero, but if you went
10 further, it wouldn't be. I'm guessing that, because
11 Ashtabula certainly had revenues that it reported to
12 the PUCO in 1991 so there's -- so the percentage
13 shouldn't be zero.

14 Q. If you were going to prepare this report at
15 320 for today, would you be backing out the Kentucky,
16 Indiana, Ashtabula and CCIRSA, Inc. expenses in the
17 same manner?

18 A. Today there would be no need to do the -- to
19 do any sort of adjustment for Ashtabula Cellular
20 Corporation or CCIRSA, Inc. That was just a -- that
21 was only necessary in '91 because of the situations
22 that existed in '91 but don't currently exist.

23 Kentucky and Indiana would -- There is still
24 business done in Kentucky and Indiana so there would
25 still be a need to segregate Kentucky business and

1 Indiana business from Ohio business to report Ohio
2 only revenue and expense.

3 Q. If I were to ask you to sit here and prepare
4 a report similar to 320 as of the end of '93, would
5 your adjustment for Kentucky and Indiana on the
6 expense side be based on the same formula that you
7 used in '91?

8 A. It might be.

9 Q. What would -- You're saying "might," so I'm
10 sensing that there is a reason why it might not be.
11 Can you tell me what's leading you to not be able to
12 give a firm answer?

13 A. I might choose to adjust the allocation
14 methods; I might not choose to adjust the allocation
15 methods. Sitting here today, I would say that I
16 would -- unless we had a change in '92 for some
17 reason, which I did not go through the '92 workpapers
18 specifically to look for that so I couldn't say, I'd
19 probably do what I did in -- I would probably carry
20 forward what was done in '91.

21 Q. There's an amount on here. It's in the
22 "Direct Expenses" category titled "COSSI/COSSC
23 Expenses." Do you see that?

24 A. Right.

25 Q. What goes into that number?

1 A. I believe it was all the -- it was costs
2 associated with sales and service centers.

3 Q. Would that include the personnel that are in
4 the sales and service centers?

5 A. Yes.

6 Q. And the service centers themselves?

7 A. I think facilities type of expenses, rents,
8 utilities, I believe, would be included there, yes.

9 Q. Would I be able to tell if I looked at the
10 general ledger?

11 A. Yes.

12 Q. Would I be able to tell what the makeup of
13 that expense is in total from the general ledger?

14 A. I believe so.

15 Q. Okay. Where is the general ledger kept?

16 A. It's at -- it's at my office or it might
17 be -- a printout might be in storage if there is a
18 printout. If there isn't a printout, then there is a
19 computer tape since it's computerized, and those would
20 be in storage somewhere.

21 Q. Do you, on occasion, get a chance to see a
22 hard copy of the general ledger, paper?

23 A. I see paper copies of components of the
24 general ledger on a monthly basis.

25 Q. Okay. If you wanted to see the whole

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1 general ledger in paper, do you have the capability of
2 doing that?

3 A. Yes.

4 Q. For the -- Still on the "COSSI/COSSC," what
5 does COSSI stand for, C-O-S-S-I?

6 A. Cellular One Sales and Service,
7 Incorporated.

8 Q. What does the other one stand for?

9 A. Cellular One Sales and Service Company.

10 Q. There are two separate companies?

11 A. Yes.

12 Q. Are those companies affiliated with New Par?

13 A. Cellular One Sales and Service Company is a
14 partnership. It's partners are Northern Ohio Cellular
15 Telephone Company and Southern Ohio Telephone Company.
16 So, yes, for the former Cellular One Sales and Service
17 Company.

18 Cellular One Sales and Service, Inc. is now
19 a partner in -- is one of the New Par partners, and it
20 is no longer doing the business that it was doing for
21 a portion of '91, and instead all it does now is hold
22 the partnership interest in New Par.

23 Q. Cellular One Sales and Service Centers, Inc.
24 doesn't conduct any business; it just holds an
25 ownership interest in the partnership business?

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1 A. Today?

2 Q. Today.

3 A. That's correct.

4 Q. And Cellular One Sales and Service Center --

5 A. There is no "Center" in there.

6 Q. Okay. Cellular One Sales and Service

7 Company, that's a partnership which is owned by

8 Northern Ohio Cellular Telephone Company and Southern

9 Ohio Cellular Telephone Company?

10 A. Right.

11 Q. That's what you're telling me?

12 A. Right.

13 Q. What does that company do?

14 A. It operated the sales and service centers.

15 Q. Does it just operate the sales and service
16 centers with respect to Northern Ohio Cellular
17 Telephone Company and Southern Ohio Cellular Telephone
18 Company or does it operate anybody else's sales and
19 service centers?

20 A. It operates other sales and service centers.

21 Q. Other than --

22 A. Actually, let me clarify that.

23 Actually, can we repeat the question?

24 MR. HART: Go ahead.

25 (Question read back as requested.)

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1 THE WITNESS: I take back my
2 answer to that question because your question --
3 BY MR. HART:

4 Q. I'm not sure I had an answer to my question.
5 Which question do you want to take back the answer to?

6 MS. SFERRA: That was the
7 question, right?

8 THE WITNESS: I may not have
9 answered it. You asked me if Cellular One Sales and
10 Service Company operates the sales and service centers
11 for Northern Ohio Cellular Telephone Company and
12 Southern Ohio Cellular Telephone Company or if it
13 operates other companies sales and service centers.

14 BY MR. HART:

15 Q. Southern Ohio Cellular Telephone Company?

16 A. No. There's no "Cellular."

17 Q. There is no "Cellular" in the name?

18 A. It's an anomaly. Northern Ohio Cellular
19 Telephone Company and Southern Ohio Telephone Company
20 don't have sales and service centers. They're just
21 partners in Cellular One Sales and Service Company.

22 Q. Okay. Who has sales and service centers?

23 A. Cellular One Sales and Service Company.

24 Q. Okay. But the -- the Cellular One Sales and
25 Service Company, they have all the cellular service

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1 centers around the state for New Par affiliates?

2 A. Cellular One Sales and Service Company,
3 either itself or as the successor to the business that
4 Cellular One Sales and Service, Inc. started, has --
5 it is the lessor for those buildings -- is the owner
6 and lessor for those buildings or at least it should
7 be. I mean, my recollection is that that's the case.

8 Q. Who pays the salary or the wages of the
9 employees that work in the sales and service centers?

10 A. Today, the Columbus Cellular Telephone
11 Company.

12 Q. So the Columbus Cellular Telephone Company
13 is paying the wages and salary of the people working
14 in sales and service centers that are owned by
15 Cellular One Sales and Service Company which is owned
16 by Southern Ohio Telephone Company and Northern Ohio
17 Cellular Telephone Company?

18 A. Yes.

19 Q. Okay. Cellular One Sales and Service, Inc.,
20 you're telling me is, and correct me if I'm wrong, a
21 partner in New Par?

22 A. Correct.

23 Q. Who are the other partners?

24 A. Of New Par?

25 Q. Correct.

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1 A. There is a long list.

2 MS. SFERRA: If you know.

3 THE WITNESS: I will -- I think I
4 know them all. I'll do my best to remember them all.

5 BY MR. HART:

6 Q. Obviously, you can't tell me what you don't
7 remember.

8 A. I mean, I'm going to try my best to
9 remember. If I don't remember, I didn't mean to leave
10 somebody out -- one of those companies out. There is
11 Cellular Communications of Cleveland, Inc.; Cellular
12 Communications of Akron, Inc.; Cellular Communications
13 of Canton, Inc.; Lorain/Elyria Cellular Telephone
14 Company; Cellular Communications of Mansfield, Inc.
15 Cellular Communications of Columbus, Inc.;
16 Cellular Communications of Dayton, Inc.; Cellular
17 Communications of Cincinnati, Inc.; Cellular
18 Communications of Hamilton, Inc.; Cellular One Sales
19 and Service, Inc.; Star-Cell, Inc.; E&J Mobile Radio,
20 Inc.; and Midwest Mobile Phone of Cincinnati, Inc.

21 And then I'm not certain of the current
22 names, but they were called PacTel Cellular, Inc. of
23 Michigan; PacTel Cellular, Inc. -- PacTel Cellular,
24 Inc. of something or other. Oh, boy. There are three
25 more. I can't remember the names.

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1 Q. You know them by number?

2 Do you know a specific number of partners?

3 A. Yeah. I'm fairly certain that there's 5
4 corporations that are -- there are 5 plus 13. 18
5 total.

6 Q. Are the 5 different than the other 13?

7 A. Yes.

8 Q. How so?

9 A. There are 5 who are subsidiaries of AirTouch
10 Communications, and the 13 are subsidiaries of
11 Cellular Communications, Inc.

12 Q. Star-Cell is a subsidiary of Cellular
13 Communications, Inc.?

14 A. Right.

15 Q. What do they do?

16 A. They're a partner in New Par. That's all
17 they do.

18 Q. That's it?

19 A. (Witness nods head.)

20 Q. Did they ever have a business separate from
21 that that you know of?

22 A. Yes.

23 Q. They did?

24 A. Yes.

25 Q. What was that?

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1 A. They were partners in Dayton Cellular
2 Telephone Company.

3 Q. And E&J Mobile Radio, what do they do?

4 A. It -- Star-Cell was a partner in Canton
5 Cellular Telephone Company.

6 Q. E&J Mobile Radio?

7 A. Is a partner in New Par.

8 Q. Currently?

9 A. Currently.

10 Q. Did they ever have a business that was
11 separate from that that you know of?

12 A. Yes.

13 Q. What was that?

14 A. That corporation was a partner in Dayton
15 Cellular Telephone Company.

16 Q. Okay.

17 MR. HART: I just need one
18 second.

19 (Recess taken.)

20 - - -

21 Thereupon, Gorelick Exhibit No. 3 was
22 marked for purposes of identification.

23 - - -

24 MR. HART: We're back on.

25 BY MR. HART:

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1 Q. Mr. Gorelick, I've handed you what we have
2 marked as Gorelick deposition Exhibit 3. It's got
3 numbers which your counsel Bates Stamped for us as
4 009934 to 00944. I'll refer to them as 934 to 944
5 leaving out the zeros when I refer to them.

6 Can you tell me, have you ever seen this
7 document before?

8 A. Yes.

9 Q. This set of documents, I should say.

10 A. Yes.

11 Q. Okay. What is this set?

12 Can you tell me what the set is?

13 A. Workpapers used in the preparation of the
14 1992 PUCO annual report.

15 Q. Let me ask you this: We looked through the
16 annual report, the '91 annual income statement we
17 looked through a few minutes ago, Exhibit 1. Is there
18 a balance sheet for that year?

19 A. Yes.

20 Q. Is the balance sheet broken out by wholesale
21 and retail?

22 A. I -- My recollection is that it's not
23 between wholesale and retail.

24 Q. Do you know whether today you keep balance
25 sheets on a wholesale and retail basis?

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1 A. Yes, I know.

2 Q. What is the answer to that?

3 A. The general ledger, which is the source of
4 the balance sheet, is not broken down wholesale --
5 does not have wholesale, retail specifically
6 indicated.

7 Q. And you don't keep a balance sheet in the
8 regular course of your business that shows wholesale
9 and retail figures, do you?

10 A. In the regular course of business, there
11 hasn't been a need for such a thing.

12 Q. I just want to know if you do. Disregard
13 whether there is a need for it. I just want to know
14 whether you do keep one in the regular course of
15 business. The answer is no?

16 A. No.

17 Q. I'm correct?

18 A. Yes, you're correct. The answer is no.

19 Q. Now, if you look on page 936, this document
20 on page 936 looked to me like an income statement. Is
21 that what it is?

22 A. Yes.

23 Q. Okay. And this is for New Par?

24 A. It's for New Par Ohio intrastate business.

25 Q. So it's New Par and all of its Ohio

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1 affiliates -- all of New Par's Ohio business?

2 A. Right. Yes.

3 Q. Does this document that we have at 936
4 correspond to the document that we were looking at
5 previously in Exhibit 1 at page 320?

6 A. Yes.

7 Q. This is the '92 version of that document; is
8 that right?

9 A. Yes.

10 Q. Okay. This one, when you get to the
11 "Allocated Expenses," it looks a little different than
12 what we had on page 320 in that there's a -- next to
13 the -- to the left of the accounts, there are
14 notations of regions, and underneath that for certain
15 accounts it states "Entity Wide"; do you see that?

16 A. Yes.

17 Q. Okay. Can you tell me why some would be
18 based on regions and some would be entity wide?

19 A. Yes.

20 Q. Okay. Please do so.

21 A. There are certain cost centers that are New
22 Par wide cost centers and others that are regional,
23 and this spreadsheet or schedule reflects that.

24 Q. I'm not sure that I'm clear. Are you
25 telling me that -- are you telling me that, for

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1 instance, if I take "Quality Assurance," that that is
2 an entity-wide figure?

3 A. Yes.

4 Q. And if I contrast that with "Customer
5 Operations," that is, "Central & Southern Region," is
6 that number -- is that taking into account things on a
7 geographical basis that the central and southern
8 region wouldn't be taking into account on customer
9 operations?

10 A. I'm not sure what you mean.

11 Q. Okay. "Customer Operations" is showing that
12 it's for the "Central & Southern Regions." So based
13 on what you told me yesterday, that would include
14 Northern Ohio down to, I think, Mansfield, you told
15 me, for the central region?

16 A. Right.

17 Q. And then below Mansfield was the southern
18 region --

19 A. Right.

20 Q. -- is that right?

21 A. Correct.

22 Q. So for "Customer Operations, 9,818,504," for
23 the number here, that would be for that area from
24 Northern Ohio to Mansfield and then Mansfield down, so
25 it would be the entire State of Ohio, correct?

1 A. Yes.

2 Q. Okay. With respect to "Quality Assurance,"
3 which you have got a notation that says "Entity Wide"
4 next to it --

5 A. Yes.

6 Q. -- would that be for the same geographical
7 region, or would that be encompassing more than that?

8 If you would like to go off the record for a
9 second and look at the notes, there are notes on the
10 first page if that will help you. We can do that. Is
11 that something you would like to do?

12 A. Yes.

13 Q. Okay.

14 (Pause.)

15 A. Okay. I'm ready.

16 Q. Okay. Do you understand what I'm asking
17 you?

18 A. I understand. Could you just repeat the
19 question, though?

20 Q. As an example, I'm using "Customer
21 Operations" account and "Allocated Expenses" and
22 "Quality Assurance" account. And the "Quality
23 Assurance" account has a notation next to it that says
24 "Entity Wide." Do you see that?

25 A. Yes.

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1 Q. And the "Customer Operations" has "Central &
2 Southern Region." Do you see that?

3 A. Yes.

4 Q. We went through, and you told me that the
5 "Central & Southern Region" would encompass the entire
6 State of Ohio only.

7 A. Yes.

8 Q. I'm not sure that -- My own question to
9 myself is, I'm looking at "Entity Wide," and I can't
10 tell whether that's the entire State of Ohio only as
11 the "Customer Operations" is or whether that
12 encompasses more. I want you to tell me.

13 A. It's actually just like all of the expenses.
14 The State of Ohio, plus there's Indiana and Kentucky.

15 Q. Grouped into that?

16 A. Right.

17 Q. Then you back them out below?

18 A. Correct.

19 Q. Michigan is not in there?

20 A. Correct.

21 Q. Now, we went through yesterday what made up
22 the wholesale revenue and what made up the retail
23 revenue. Just so I'm clear, you indicated that the
24 wholesale revenue had bad debt taken out?

25 A. Correct.

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1 Q. The bottom --

2 A. Yes.

3 Q. That's correct?

4 A. That's what I indicated, yes.

5 Q. The bottom line number there would have that
6 taken out. What I want to know is on retail -- on the
7 retail side, we also went through that yesterday, you
8 indicated that the retail side had already taken out
9 the cost based on the tariff -- wholesale cost of the
10 service based on the tariff; is that right?

11 A. I --

12 MS. SFERRA: Do you understand
13 the question?

14 THE WITNESS: I understand. I
15 mean, I agree with what we said yesterday.

16 BY MR. HART:

17 Q. Right. Just as a point of reference.

18 A. Yes.

19 Q. Now, if we were to do the calculation --
20 Well, strike that.

21 The calculations that you've done for your
22 allocated expenses on page 936, those are based on the
23 same assumptions and the same formula that you used to
24 allocate expenses on page 320 of Exhibit 1?

25 (Pause.)

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1 Do you need a calculator?

2 A. No.

3 MS. SFERRA: Randy, did you say
4 the same assumptions and something else?

5 MR. HART: Formula.

6 BY MR. HART:

7 Q. In other words, are you using the same
8 formula to allocate as you did in '91?

9 A. I believe so.

10 Q. Okay. Now, in the -- Strike that.
11 You were responsible for the '92 income
12 statement?

13 A. Yes.

14 Q. That's part of your job responsibility?

15 A. Yes.

16 Q. What I want to do with this document is I
17 want -- I'm trying to come up with a retail equivalent
18 on the revenue to what the wholesale revenue is.
19 Okay?

20 A. I think so.

21 Q. Now, yesterday -- given that you aren't
22 backing out any costs on the retail -- I'm sorry, on
23 the wholesale side but you are on the retail side, if
24 we treated the wholesale and retail as separate
25 companies, would you be able to make a calculation

1 that we would be able to compare?

2 MS. SFERRA: Objection to the
3 form of the question.

4 BY MR. HART:

5 Q. Do you understand the question?

6 A. Yes.

7 Q. Okay. Would you be able to do that?

8 A. Yes.

9 Q. Okay. Now, would I be -- if I'm looking at
10 the companies as separate companies, the wholesale
11 side as one company and the retail side as another
12 company, and I'm accounting for my revenue, and I want
13 to start out in a normal -- what I would consider to
14 be a normal accounting model, and you tell me this is
15 not a normal accounting, which would be revenues less
16 cost of goods sold would equal your gross margin; is
17 that correct?

18 A. Yes.

19 Q. If I start out with my revenue on the retail
20 side, what would be my total revenue that I would want
21 to report if I'm keeping them separate, one retail and
22 one wholesale? Keeping in mind the model that I want
23 to use.

24 A. Right. I understand. Without giving this a
25 lot of thought as to -- well, without giving this too

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1 much thought, I think the answer is we would add from
2 page 936 under the "Wholesale" column "110,972 -- I
3 think we would add "110,972,671" to under the "Retail"
4 column "48,221,896," and that total would be the
5 amount that you were looking for.

6 Q. On the retail side?

7 A. On the retail side.

8 Q. Because that's the total amount that the
9 retail side would be billing its customers?

10 A. That would -- Yes.

11 Q. Is that right?

12 A. Yes.

13 Q. So let's start with that point.

14 A. All right.

15 Q. I'm going to give you a calculator. Do you
16 have a calculator?

17 A. I didn't bring one, no.

18 Q. I'm going to give you a calculator. If you
19 can't work it, I can get a simpler calculator.

20 A. I hate --

21 Q. I'd like to take time. I want to do this.

22 MR. TRICARCHI: The court reporter
23 has a simpler calculator.

24 BY MR. HART:

25 Q. I want to try to calculate using your '92

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1 document. I want to calculate out a retail side and
2 the wholesale side.

3 A. All right.

4 Q. So you're telling me that the revenues --
5 We'll start with the retail side. Okay?

6 A. Yes.

7 Q. My top line would be "Revenues," using an
8 accounting model, and I would take "110,972,671" and
9 add that to "48,221,896," correct?

10 A. I think so, yes.

11 Q. Okay. If the math on this document is
12 correct, then that would total "159,194,567"; is that
13 correct?

14 A. Yes.

15 Q. Do you want to do the math to check that, or
16 would you agree with me that that's accurate?

17 A. I think we could just add 110 million and 48
18 million and get 159 million -- actually 158 million,
19 but --

20 Q. So that would be your gross revenue; is that
21 right?

22 A. Right.

23 Q. And then you would back out of that the cost
24 of the goods that you purchased, which would be -- you
25 would want to do that on a tariff basis; is that

1 right?

2 A. I think that would be the right way to do
3 it.

4 Q. Okay. What would that amount be?

5 A. If you don't mind, why don't we just say a
6 round number of \$111 million.

7 Q. Okay. That would leave you with a gross
8 margin of what?

9 A. \$48 million.

10 Q. Now, we're going to do the same calculation
11 for the wholesale side, because I want to be able to
12 compare the two sides.

13 (Attorney/client discussion held off
14 the record.)

15 BY MR. HART:

16 Q. The percentages that you are using to
17 allocate expenses on this document are based on the
18 gross figure -- it would be based on the gross revenue
19 of 110,972 versus the 48 million. That is the --

20 MR. TRICARCHI: Net.

21 BY MR. HART:

22 Q. -- net figure on the retail side; is that
23 right?

24 MS. SFERRA: Objection to the
25 form of the question.

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1 THE WITNESS: Are you asking what
2 percentage --

3 BY MR. HART:

4 Q. Let me redo the question. I'm trying to get
5 a retail side that compares with your wholesale side
6 here.

7 A. Okay.

8 Q. So the wholesale side is at 110,972,671.
9 Okay?

10 A. Yeah.

11 Q. 111 million, roughly in that range, right?

12 A. So far we have said that's the gross revenue
13 wholesale side.

14 Q. Okay. Now, you're allocating your expenses
15 based on that gross revenue number, that 110 -- you're
16 allocating your allocated expenses using the
17 percentage of your gross wholesale number less bad
18 debt, whatever percentage that is, to the 159,194,567;
19 is that right?

20 A. To just summarize what you said, rounding
21 numbers 111 million over 159 million gives you a
22 percentage, and that would be the wholesale -- the
23 percentage for allocating to wholesale.

24 Q. Okay. If you wanted to -- if you're going
25 to use the gross number of 110 million to allocate on

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1 the wholesale side, wouldn't you use the 159 million
2 to allocate on the retail side plus bad debt?

3 A. Wouldn't you? Well, I would say no because
4 I didn't.

5 Q. Wouldn't I be able to compare my wholesale
6 and retail more accurately if I did that, if I were to
7 have two separate companies?

8 MS. SFERRA: Objection to the
9 form of the question.

10 BY MR. HART:

11 Q. You can answer it.

12 MS. SFERRA: Compare more
13 accurately to what, I guess?

14 BY MR. HART:

15 Q. Do you understand what I'm asking you?

16 A. Yes.

17 Q. Okay.

18 A. I understand what you're asking me. Why
19 don't you just give me a second here.

20 (Pause.)

21 Q. You understand what I'm saying; that you're
22 using a gross number on the wholesale side and the net
23 number on the retail side, correct?

24 A. I understand that part, yes.

25 Q. Okay. If you use the gross number for both

1 sides --

2 A. If you did, yes.

3 Q. -- wouldn't that be more accurate?

4 MS. SFERRA: Objection.

5 THE WITNESS: I think you should
6 also -- Well, it might be. I --

7 BY MR. HART:

8 Q. You're saying "might." So I'll ask you,
9 what reason would it not be?

10 MS. SFERRA: Objection.

11 BY MR. HART:

12 Q. As an accountant and as a prior auditor,
13 when you're auditing books, you would want to compare
14 the same things; you would want to know where the
15 numbers came from. So if I want to compare the
16 wholesale against the retail, wouldn't I need to do it
17 the same way?

18 A. As a matter of comparison, I agree with you.

19 Q. You can't compare them if you don't do that?

20 A. As on -- To make a comparison as you have
21 described, I agree that's what you would do.

22 Q. Okay. Now, if we take them as two separate
23 companies, the wholesale and retail, and the gross
24 revenue on the retail side is going to be 159 million,
25 as we just went through, correct --

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1 A. (Witness nods head.)

2 Q. That's correct?

3 A. Yes.

4 Q. -- and on the wholesale side, our gross
5 revenue is 111 million --

6 A. Yes.

7 Q. -- less whatever bad debt that was in there.
8 Okay?

9 A. Yes.

10 Q. Okay. If we do that comparison, the total
11 of those two, then, the total of the retail gross
12 revenue and the wholesale gross revenue, would be 270
13 million?

14 A. Yes.

15 Q. Now, the percentage of retail revenue to the
16 total revenue would be what?

17 A. 159 divided by 270. 58.9 percent.

18 Q. And the percentage of wholesale to the total
19 would be what?

20 A. 41.1.

21 Q. Okay. If I wanted to compare, then, the
22 wholesale side versus the retail side, would I get a
23 more accurate allocation of expenses if I now apply --
24 Using the formula that you used before to allocate
25 expenses, wouldn't I get a more accurate allocation

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1 using the percentages that we just came up with?

2 MS. SFERRA: Objection.

3 BY MR. HART:

4 Q. You can answer.

5 A. I don't know.

6 Q. Okay. What variables are there that cause
7 you not to know this answer?

8 A. I don't know what the real -- I don't know
9 what, as a matter of time spent, as a matter of square
10 footage used, as a matter of assets utilized, the
11 actual wholesale usage versus retail usage is for
12 allocated expenses.

13 Q. So am I --

14 A. Let me finish.

15 Q. Go ahead.

16 A. So I can't tell you if the methodology
17 you're describing is a more accurate methodology than
18 the methodology used because we don't know, neither of
19 us, what the -- neither of us know what the result
20 would be had we had that type of information. So
21 without -- I believe without an end point, I don't
22 know what the answer is to your question.

23 Q. So you couldn't tell me whether this -- the
24 method that I'm suggesting is more or less accurate
25 than the method that you used; is that what you're

1 saying?

2 You can't tell me that?

3 A. If we want to agree that we are going to
4 define "accurate" as a --

5 Q. Absolute number that some scientific basis
6 could determine.

7 A. I don't want to use the word "scientific."
8 If we wanted to have a different type of
9 determination, more in line with what I just described
10 in my response to your last question, if we wanted to
11 say that was defined as "accurate" -- I forgot your
12 question.

13 Q. Let me ask it this way: If you have two
14 separate companies; you have a retail company and a
15 wholesale company --

16 A. Yes.

17 Q. -- and you wanted to -- and each side would
18 incur what I would term as actual expenses, you
19 wouldn't have to do an allocation. There would be two
20 totally separate companies with separate people doing
21 separate things and separate operations so there would
22 be an actual number, correct, in theory?

23 A. Yes.

24 Q. What I want to know is if you're going to
25 not have those separate -- if you're not going to know

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1 the actual numbers and you're going to use an
2 allocation method, and you want to allocate based on a
3 percentage of the gross revenue on the wholesale side,
4 wouldn't we need to use my percentages to come up with
5 a retail side number --

6 MS. SFERRA: Objection to the
7 form of the question.

8 BY MR. HART:

9 Q. -- that's equal to the wholesale side?

10 MS. SFERRA: Same objection.

11 THE WITNESS: I agree with you
12 that if we wanted to use -- if we wanted to do a
13 calculation in the form that we've just gone through
14 on that piece of paper there, then, yes, you would use
15 those percentages.

16 BY MR. HART:

17 Q. The percentages that we just came up with,
18 the 59.9 on the retail side and the 41.1 on the
19 wholesale side?

20 A. It was 58.9.

21 Q. 58.9. Excuse me.

22 Just so I'm clear here, if the allocation
23 method that I'm suggesting here, the 58.9 on the
24 retail side and the 41.1 on the wholesale side, as we
25 sit here today and with the term "accurate" would be a

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1 perfect world, in my view, where you have two separate
2 companies, you can't tell me whether my calculation
3 gets any closer to the accuracy of the expenses in
4 those two separate companies as opposed to your
5 calculation that you made in your document, can you?

6 You can't tell me that, can you?

7 A. No, I can't.

8 Q. You don't know?

9 You don't know which one is more accurate?

10 A. Based on how we just defined it, no, I
11 don't.

12 Q. Okay. I'd like to take a minute here.
13 Let's take one under "Direct Expenses," and we'll
14 start with -- we'll use, as an example, the top one,
15 "Selling Expenses." Do you see that on the '92
16 document on page 936?

17 A. Yes.

18 Q. Do you see that?

19 A. Yes.

20 Q. Okay. In the items that you have seen that
21 you gave to your counsel, have you given me supporting
22 papers that I would be able to find that number -- do
23 some calculations to determine that number?

24 I want to try to tie it out. I want to see
25 how we walk through it.

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1 A. I think so.

2 Q. Okay. Can you tell me what I -- I'll bring
3 them out if you can tell me what I might need or if
4 you want to look through the documents.

5 A. Can I?

6 Q. We can take a few minutes to do that. And
7 we can pick any one of these expenses. I don't care.
8 I just want to be able to tie them out.

9 A. Okay. Why don't you stop and give me which
10 documents you want me to look at.

11 MR. TRICARCHI: Well, you have to
12 tell us.

13 BY MR. HART:

14 Q. I want you to walk me through which
15 documents that you would be tying out one of the
16 expenses with.

17 A. Why don't we start with 937 because I think
18 we gave you yours in order.

19 Q. 937 should be the next page?

20 A. That's right.

21 Why don't we start with 945.

22 MR. TRICARCHI: 945 is here. You
23 don't have 945 in front of you, though.

24 THE WITNESS: No. 944 is what
25 this is (indicating).

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1 MR. TRICARCHI: Hang on. I'll get
2 the 945.

3 MR. HART: Can you mark this as
4 Exhibit 4?

5 - - -

6 Thereupon, Gorelick Exhibit No. 4 was
7 marked for purposes of identification.

8 - - -

9 (Discussion held off the record.)

10 (Luncheon recess taken.)

11 - - -

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P R O C E E D I N G S

- - -

Thursday, October 20, 1994

Afternoon Session

- - -

BY MR. HART:

Q. Mr. Gorelick, we are back after lunch. You realize you're still under oath?

A. Yes.

Q. Okay. Before we went to lunch, in reference to page 936 of Exhibit --

A. 3.

Q. -- 3, I had asked you to take one of the expenses in the "Direct Expense" category, and I asked you if I have other documents that -- Actually, I asked you to look through the documents that we have and tell me whether you could walk me through those documents to tie out underlying workpapers to that amount, didn't I?

A. Yes.

Q. Okay. And were you able to do that?

A. No.

Q. Okay. Are there any underlying workpapers that would tie out that number that's on page 936?

A. Yes.

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1 Q. Are there workpapers for all the expenses?

2 A. There's a source document or some sort of
3 document that would underlie all of these, yes, "all
4 of these" meaning the direct expenses on page 936.

5 Q. When you say "a source document," what are
6 you referring to?

7 A. I was referring to a general ledger, perhaps
8 a payroll register, perhaps fixed asset depreciation
9 records.

10 Q. There are records, other than the check, I
11 guess, that would have been written on the particular
12 invoice, right?

13 A. There would be invoices and canceled checks
14 and accounts payable journal as well.

15 Q. But aside from -- Those would be the base
16 documents, right?

17 Those would be the first level of documents?

18 A. Yes.

19 Q. That would support the numbers?

20 A. Okay.

21 Q. Is that right?

22 A. Yes.

23 Q. Then there would be some reports or other
24 documents that were prepared using those?

25 A. Yes.

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1 Q. That's what I don't have?

2 A. Yes.

3 Q. Where would those exist?

4 A. They would either be at my office, or they
5 potentially are in storage.

6 Q. Where do you keep your stored documents?

7 A. There's various places.

8 Q. When you say "storage," is that based on a
9 particular year?

10 In other words, do you keep certain
11 information that would be more current in your office
12 or in the offices that you work out of, and then other
13 information would be in storage that would be more
14 outdated information?

15 A. Yes.

16 Q. Is any of the storage that you use for those
17 documents located outside of the State of Ohio?

18 A. I don't think so.

19 Q. Is it all in the Columbus area?

20 A. I -- I know our hard copy storage is in
21 Columbus.

22 Q. Okay. If I needed to get computer tapes,
23 which is possible since some of the documents are
24 computerized --

25 A. I'm not certain where our storage facility

1 for computer tapes is, but I doubt it's outside the
2 State of Ohio.

3 Q. Okay. I then asked you while we were on the
4 break if you would be able to tie out the revenue
5 amounts to other documents; is that right?

6 A. Yes.

7 Q. And did you tell me you could do that?

8 A. Yes.

9 Q. Except I think you told me, and we agreed
10 that you would do it excluding Toledo/Lima intrastate
11 toll -- and intrastate toll. Is that what you agreed
12 to, or is that not right?

13 A. We agreed on that as well as you pointed out
14 that -- I mean, now we are looking at page 937. The
15 very last line there, the "Allocated Net Bad Debt
16 Writeoffs," you were aware that you had supporting
17 workpapers for that.

18 Q. The workpapers that I have that support the
19 "Allocated Net Bad Debt Writeoffs," do you know if
20 there are other workpapers underlying those?

21 A. There's at least, what I called earlier, a
22 source document that were workpapers that you have.
23 They would have at least had to have been derived from
24 them. If there's another set of interim documents,
25 I'm not certain.

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1 Q. Page -- The document that we have in Exhibit
2 3, it's on page 937, what is that document?

3 A. This is the -- this summarizes the
4 intra-Ohio wholesale revenue.

5 Q. Is page 937 the document that you would use
6 to tie out the revenues on the preceding page, 936?

7 A. I would use that -- I would use page 937 for
8 that purpose, yes.

9 Q. What would you use to come up with the
10 numbers on page 937?

11 A. (Indicating.)

12 Q. Okay. You're pointing to --

13 A. I didn't know if I should say Exhibit 4.

14 Q. You can point to it. That's okay. I'll get
15 it to you. You are pointing to what we have marked as
16 Gorelick Exhibit No. 4; is that right?

17 A. Right.

18 Q. And this exhibit is not -- is a number of
19 pages that are stapled together, correct?

20 A. Yes.

21 Q. I can tell you that we stapled these pages
22 together, and they are not stapled in the same manner
23 that they came from your counsel. What we did is we
24 stapled pages that we got from your counsel, pages
25 973 -- 00973 through 00988, together to form Exhibit

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1 No. 4. Okay?

2 Can you take a look at Exhibit No. 4?

3 MS. SFERRA: It's just through
4 988?

5 MR. TRICARCHI: That's the wrong
6 one. It should be through 989. 989 is a note sheet
7 that we didn't have copied for some reason.

8 That's the one you want to give him,
9 the one in your hand.

10 MR. HART: I'll just take this
11 page off and attach it. It's already marked.

12 MS. SFERRA: That's Exhibit 4?

13 MR. HART: I'm going to include
14 into Exhibit 4 page 989 because it was the last page.
15 It had some footnotes on it.

16 BY MR. HART:

17 Q. Footnotes would make it more clear to you?

18 A. Yes.

19 MR. HART: Are you guys with
20 me?

21 MS. SFERRA: Uh-huh.

22 BY MR. HART:

23 Q. Okay. Can you tell me what Exhibit 4 is?

24 A. Exhibit 4 is spreadsheets where wholesale --
25 where intra-Ohio wholesale revenue is reported.

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1 Q. Okay. Before we really get into the
2 document in any great detail, I wonder if you could
3 tell me who prepared -- this has a -- On the first
4 page, page 973, in the upper right-hand corner it
5 says, "Prepared By," and then it says, "MLM" in caps.
6 Who is that?

7 A. That's Michelle Montgomery.

8 Q. What does she do?

9 A. Today she's actually in the Information
10 Services Department as a system analyst.

11 Q. What did she do at this point in time?
12 "This" is as of April of '93.

13 A. She was a staff accountant in my department.

14 Q. Okay. Who is -- On page 975 -- Are you with
15 me?

16 A. Yes.

17 Q. In the same spot on page 975 that we were
18 just referring to on 973 it says "CEF." Can you tell
19 me who that is?

20 A. Cathy Fowler. Now her name is Cathy
21 Alexander.

22 Q. Is she still with the company?

23 A. Yes.

24 Q. What does she do today?

25 A. She's staff accountant in my department.

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1 Q. What did she do in April of '93?

2 A. Same thing.

3 Q. Okay. On page 00981?

4 A. Yes.

5 Q. I want to ask you the same question. In the
6 upper right-hand corner it says, "TAB." Can you tell
7 me who that is?

8 A. No.

9 Q. You can't?

10 A. I can't think of who -- there is no TAB
11 today in my department. I can't think of who TAB was
12 back in '93.

13 Q. Okay. If I can ask you if you either have
14 the records back at your office or if you can just let
15 your counsel know who that may be, and maybe she can
16 tell me who that is at some point after today. Is
17 that okay?

18 A. Oh, sure.

19 Q. I don't need you to find out right this
20 minute.

21 Let's talk about the documents that we've
22 got grouped in Exhibit 4. Take me through and tell me
23 what the numbers are representing. We'll start with
24 the first line, "Beginning Subscribers A." What is
25 that showing me?

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1 A. We are on page 973, correct?

2 Q. Yeah. Can I assume that the pages that
3 follow that that look identical would have the same
4 meaning?

5 A. Yes.

6 Q. Tell me what "Beginning Subscribers A" would
7 refer to, the first line?

8 A. Subscribers of the -- Page 973 happens to be
9 Akron market, the top left corner, so this would be
10 beginning subscribers for the month in question of the
11 Akron market.

12 Q. Okay. Then what would the next line be,
13 "Gross New Subscribers"?

14 A. Additions. Subscribers added during the
15 month.

16 Q. Okay. I was going to have you go through
17 each line, but what I'd like to do is you indicated
18 that this would give you some ability to tie out the
19 numbers that are on page 937.

20 A. (Witness nods head.)

21 Q. That's a "yes"?

22 A. Yes. Sorry.

23 Q. Tell me how you would do that. You can take
24 any market you want and show me how it would work.

25 A. Why don't we look at page 974.

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1 Q. Is this Akron?

2 A. This is the second page of Akron. On page
3 974, the bottom right corner -- this is a Xerox
4 copy -- you can see this is an adding machine tape, or
5 I'll tell you that's an adding machine tape at the
6 bottom right-hand corner.

7 Q. Okay.

8 A. The dollar figures started on page 973 and
9 carried forward to 974 are repeated in that adding
10 machine tape. I think on the Xeroxs it may be hard to
11 tell, but the bottom line figure is the total on the
12 adding machine tape.

13 Q. I see the "135,960," and then I see the
14 "3,150," which is right below that on page 973; is
15 that correct?

16 A. Correct.

17 Q. So I'm going down. Okay. You're
18 calculating the total going down -- If I'm correct,
19 you're calculating the "Total" column, which is the
20 far right-hand column, below the phrase "Income
21 Statement"?

22 A. That's correct.

23 Q. That's correct. And the total of those is 7
24 million 967 and some odd dollars?

25 A. Correct.

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1 Q. And then that number comes over to page 973?

2 A. Correct.

3 Q. Okay. Let's go to those numbers, and let's
4 take the "135,960" number which is the line titled
5 "Activation Fees." Do you see that?

6 A. Yes.

7 Q. How do you come up with that number?

8 A. Activation fees is the tariff -- or the rate
9 to use for activation --

10 Q. It's \$15?

11 A. -- or the tariff rate for activation fees is
12 \$15. You can see that right there. Then the
13 activation fee is \$15 for occurrence or reactivation
14 or deactivation of subscribers. That information was
15 above. If you look above the "Income Statement"
16 section, you can see those -- the lines there.

17 Q. You're multiplying \$15 times something to
18 ultimately get 135,960?

19 A. And then multiplying and adding, but yes.

20 Q. Take me through the calculations. Take me
21 through the document, a road map, if you will. Kind
22 of show me where you're going on the document.

23 A. This also needs to be Ohio only activations,
24 Ohio only reactivations and Ohio only deactivations so
25 we do that based on billed to address.

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1 Q. That's where you're billing the customer?

2 A. Well, an end user's address.

3 Q. The home address or wherever you're sending
4 the bill to?

5 A. Wherever the bill is. So if you don't mind,
6 I'm just going to add and multiply.

7 Q. Tell me what you're adding and multiplying
8 so I can follow you.

9 A. Sure. I'm in the January column.

10 Q. This is below the "Income Statement" line?

11 A. No. Actually, it's above. I just added
12 422, 51 and 214.

13 Q. Those are three separate numbers, 422, 51
14 and 214?

15 A. "Subscriber Reactivations 51" and
16 "Subscriber Deactivations 214."

17 Q. You add those three together?

18 A. Correct. I'm going to multiply that sum by
19 \$15, and I get 10,305.

20 Q. That was in that "A" group?

21 A. I think the letter "A" is referring to
22 beginning -- It might be referring to the other line.
23 Well, it's referring to the other line. So the "A"
24 group is "Beginning Subscribers, Gross New
25 Subscribers, Subscriber Reactivations, Subscriber

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1 Deactivations and Ending Subscribers," but this
2 calculation of activation fee only took into effect
3 Gross New Subscribers, Subscriber Reactivations and
4 Subscriber Deactivations.

5 Q. Okay.

6 A. Moving on. "Service Activation Fee."

7 Q. Yeah.

8 A. Service activation fee is the fee for the
9 purchase of blocks of 100 numbers. You can see the
10 fee \$100. What you don't see as an input is the
11 number -- the number of blocks purchased in a given
12 month. All you see on this spreadsheet is the result.

13 Q. Where would the result be?

14 A. For instance, under the "January" column
15 looking across the "Service Activation Fee," there's
16 "100." So that would mean that in the month of
17 January, there was the purchase of one block of 100
18 numbers. So one times \$100 was \$100.

19 Q. Wouldn't you have activated 422 new numbers
20 that month if the gross new subscribers equals 422?

21 A. Yes.

22 Q. So wouldn't that be four blocks of 100?

23 A. No, because there very likely was already an
24 inventory of numbers purchased. So in 1991, there
25 would have been numbers purchased -- We are looking at

1 January.'92 so that's why I'm saying in 1991 there
2 would have been numbers purchased to show that there
3 was an inventory maintained.

4 Q. So you're saying that as long as they're --
5 Well, let me ask you this: Are you saying that the
6 service activation fee only takes into account new
7 blocks of 100 that aren't already in inventory?

8 A. Right. The purchase of a block.

9 Q. Who is the block purchased from?

10 A. The wholesale arm.

11 Q. And then when it's purchased, does it go
12 into inventory at that point?

13 A. Yes.

14 Q. So then until it's purchased, it doesn't
15 show up in inventory?

16 A. Well -- Yes.

17 Q. If you had a balance sheet for wholesale
18 versus retail, it would show up in the wholesale
19 balance sheet asset account for inventory before it
20 was purchased?

21 A. Before it was purchased?

22 Q. Yeah.

23 A. Assuming the wholesale side -- wholesale had
24 purchased the numbers from whomever it buys them from,
25 then there would be an inventory of numbers on the

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1 wholesale side.

2 Q. Then it would go over to the retail side
3 once it was purchased?

4 A. The retail side would then show purchased
5 numbers.

6 MR. TRICARCHI: Can we go off the
7 record for one second?

8 (Discussion held off the record.)

9 BY MR. HART:

10 Q. Let me ask you this: Is this document that
11 we have at 973, is this prepared on Lotus?

12 A. That's right.

13 Q. Would there have been a field that was
14 filled in that had the number that you were
15 calculating times 100?

16 A. Yes.

17 Q. This wouldn't be the actual Lotus output,
18 would it?

19 A. This is a printout of that file, but
20 calculations are embed -- I mean, we can't see
21 formulas on this printout.

22 Q. Okay. Go to the next line, then. Tell me
23 how you get those numbers.

24 A. "Access Charges"?

25 Q. Yes.

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1 A. "Executive" and "Occasional"?

2 Q. Uh-huh.

3 A. The access charges are just the monthly
4 charge for having service. Executive and occasional
5 represent the two types of plans that were in
6 existence at the time.

7 Q. Okay. And the next two lines?

8 A. "Peak Airtime."

9 Q. What's the multiplication of the "\$28"
10 figure? What are you multiplying that with to get
11 "138,992"?

12 Do you see where I'm at?

13 A. Uh-huh. The multiplication there is at the
14 top. There's a line that says, "Average Subscribers."
15 It's a few lines from the very top.

16 Q. For "January, 10,589"?

17 A. That's correct. And then just below that is
18 a line "Occasional Subscribers" for "January, 5,625."

19 Q. Okay.

20 A. We should be able to multiply \$28 times
21 10,589 and find that this results in the "138,992."

22 MR. TRICARCHI: That's not what I
23 got. What number are you using, Gregg?

24 BY MR. HART:

25 Q. You want to multiply \$28 times 10,589?

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1 A. That's what I thought. Let me try that.
2 It's 296 --

3 MR. TRICARCHI: 296,492.

4 THE WITNESS: Well, I'm not
5 acquainted with how the multiplication works.

6 (Attorney/client discussion held off
7 the record.)

8 BY MR. HART:

9 Q. Do the "Occasional" number for me. Can you
10 do that calculation?

11 A. Sure.

12 Q. "\$11.50" times something?

13 A. Right. \$11.50 times, if we go up to the
14 top, the "Occasional Subscribers 5,625" in the month
15 of January.

16 Q. Okay.

17 A. It's 64,687.

18 Q. Okay. So that ones ties out, but the other
19 one doesn't. You wouldn't know why that is.

20 MR. TRICARCHI: Not even close.

21 THE WITNESS: Offhand, I can't
22 tell you, but I'm sure there is a reason. I could
23 research it and find out.

24 BY MR. HART:

25 Q. Can we try a different month and see what we

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1 get?

2 A. I can see it's not going to work.

3 (Discussion held off the record.)

4 THE WITNESS: That would have been
5 \$304,000.

6 BY MR. HART:

7 Q. We were just sitting here, and you've
8 learned how the calculation would be made.

9 A. It came to me.

10 Q. Somehow?

11 A. Yeah.

12 Q. Can you just tell us how that calculation
13 would be made to come up with the executive access
14 charges?

15 A. Yes. It's "Average Subscribers, 10,589"
16 less "Occasional Subscribers, 5,625," and that
17 difference multiplied by the "\$28" results in
18 "138,992."

19 Q. Okay. I'm not understanding why that -- why
20 you back out the occasional subscribers from the
21 average subscribers.

22 A. There's a different access rate for
23 occasional separate from executive. And there's only
24 two rates -- or at least in 1992 there were only two
25 rates, so the subscriber base that wasn't occasional

1 is going to be executive.

2 Q. So you are saying the actual subscribers
3 included occasional subscribers?

4 A. I believe so.

5 Q. And you're backing those people out and
6 multiplying it times the executive number?

7 A. Correct.

8 Q. Now, the "Peak Airtime (Executive) and
9 (Occasional)" is the next set of numbers. Do you see
10 that?

11 A. Yes.

12 Q. And can you tell me what you're multiplying
13 on the executive side to come up with "219,195"?

14 A. Yes.

15 Q. Okay.

16 A. Above the "Income Statement" section there
17 are lines "Peak Minutes (Executive)" and "Peak Minutes
18 (Occasional)." So the "Peak Minutes (Executive),
19 782,838" multiplied by "28" cents is "\$219,195."

20 Q. Okay. And you would do the same calculation
21 using the "Peak Minutes (Occasional)" for the "Peak
22 Airtime (occasional), 48" cents times "87,649"?

23 A. Yes.

24 Q. Okay. On the next page, there's a line
25 going across the top that says, "Off-Peak Airtime."

1 A. Yes.

2 Q. And you're using as the base of your
3 calculation 16 cents?

4 A. Yes.

5 Q. What are you multiplying that by?

6 A. "Off-Peak Minutes, 224,894" for the month of
7 January.

8 Q. Okay. And then under the "Features"
9 section, what is "First Feature"?

10 A. First feature is the customers -- If we are
11 looking at page 974, it's a dollar figure, and it
12 represents customer -- it represents features when
13 there is only one feature for that mobile number;
14 whereas -- That's what first feature is.

15 Q. Subsequent features are \$1.50, correct?

16 A. Yes.

17 Q. So under this Exhibit 4, I'm getting the
18 first feature at \$2, and then any subsequent feature
19 I'm getting at a \$1.50?

20 A. My recollection of the tariff is that if you
21 have more than one feature, they are all at \$1.50.

22 Q. Okay. And you're multiplying the first
23 feature number "\$2" times what?

24 A. Actually, if you go to the "First Feature"
25 line above the "Income Statement, 1,642" in the month

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1 of January, that's actually already a dollar figure.
2 It's already the dollar amount for customers that had
3 only one feature.

4 Q. So that would be the amount with subsequent
5 features you have already calculated out?

6 I understand the first feature because it's
7 the same, and you are telling me that's actually been
8 calculated out already, but what about the subsequent
9 features at \$1.50?

10 A. The subsequent features at \$1.50 is taking
11 subsequent features in the months of January of
12 "2,308," which is on page 973, dividing by \$2 and then
13 multiplying by \$1.50. It's because, again, the
14 "2,308" is a dollar figure. In that case, rather than
15 determine the number of customers with features, we
16 actually determine dollars billed to end users for
17 either having one feature or for having multiple
18 features.

19 Q. Why did you subtract the \$2?

20 A. I divided by \$2.

21 Q. Why did you divide by \$2?

22 A. My recollection of 1992 was if you had -- it
23 didn't -- end users paid \$2 per feature regardless.
24 So once we determined how many dollars had been billed
25 for customers with one feature versus customers with

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1 more than one feature, you could back into the number
2 of customers with more than one feature by taking that
3 dollar figure, dividing it by \$2 to get a number of
4 customers, multiplying it by \$1.50.

5 Q. The features that we are talking about
6 here -- Actually, of the whole sheet, are we talking
7 about wholesale customers or retail customers or both?

8 A. Under the "Income Statement" section, we
9 have wholesale dollars.

10 Q. Okay. That everything under where it says
11 "Income Statement" is wholesale dollars?

12 A. Correct.

13 Q. What about above that; is that based on
14 wholesale subscribers and retail subscribers or both;
15 do you know?

16 A. The input could be both and then adjusted to
17 get to wholesale only, or they could be wholesale only
18 to begin with.

19 Q. Okay. Well, the subscribers is at least
20 retail, isn't it, because you have got more than
21 three?

22 A. Yes.

23 Q. If it were just wholesale, there would only
24 be the resellers and your own operations, right?

25 A. Well, if you are talking about how many

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1 wholesale customers, you're right, but how many end
2 users the wholesale customers had, then you would have
3 a different figure.

4 Q. Do you know if the numbers that are on the
5 top half of this page are representing the total
6 number of end users for your customers or whether
7 they're your customers only?

8 A. Subscriber numbers are end users.

9 Q. So resellers' end users would be included in
10 that document?

11 A. Resellers' mobile numbers are included in
12 that document. I guess I can't -- I don't necessarily
13 know that that mobile number is active with the
14 customer, but, then again, it's not important for me
15 to know that.

16 Q. Would you be including this number, though,
17 in your calculation of income --

18 A. I would be including that --

19 Q. -- your reseller customers, if your reseller
20 customers are included in the top half?

21 A. Right.

22 Q. You aren't necessarily including those
23 customers when you're calculating your income?

24 A. In the calculation of wholesale revenues,
25 which is from the Income Statement below, I'm

1 including whatever I need to get to the wholesale
2 revenues.

3 Q. Is that a component?

4 Are you using -- Is there an element of your
5 resellers' customers included in the wholesale
6 revenue?

7 A. I think the answer is, of course there is.

8 Q. Okay. If we go further on the next page,
9 "Cellular Search Set-up," what are you multiplying
10 that by?

11 I see you got a zero all the way across. Is
12 there a --

13 A. In '92, Cellular Search wasn't offered any
14 longer so it's just zeros.

15 Q. And the same thing for the next item?

16 A. "Cellular Search MRC," monthly recurrent
17 charge?

18 Q. Yeah.

19 A. That's correct.

20 Q. On page 973, there is an item that says,
21 "Cellular Search Subscribers." Does that correspond
22 with "Cellular Search MRC"?

23 A. Cellular search wasn't offered in '92 so it
24 doesn't really matter if it does or doesn't.

25 Q. I know. I'm just trying to tie out all the

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1 items. If you had that, is that where you would
2 multiply it by, the numbers that would show up in
3 "Cellular Search Subscribers," \$5 times that?

4 A. I don't remember.

5 (Attorney/client discussion held off
6 the record.)

7 BY MR. HART:

8 Q. The "OhioLink," you're multiplying the \$1.96
9 times what?

10 A. I think it's "\$1.46."

11 Q. "\$1.46."

12 A. The "\$1.46" multiplied by, on the input
13 portion, "5,130, OhioLink Subscribers."

14 Q. Okay. In "NationLink," you're multiplying
15 the "\$3.65" times what?

16 A. For "OhioLink/NationLink -- Although it says
17 "NationLink" only, they were actually offered
18 together. The "OhioLink/NationLink Subscribers" of
19 "2,241" multiplied by "\$3.65" is "8,180."

20 MR. HART: Give us two seconds.

21 (Recess taken.)

22 MR. HART: We are back on.

23 BY MR. HART:

24 Q. Mr. Gorelick, the physical bill goes to the
25 reseller for the air time they generate; is that

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1 right?

2 A. Yes.

3 Q. Is that one of the source documents that's
4 used to create 973?

5 A. I think in 1992, which is the year for 973,
6 I think we did not look at reseller invoices and
7 instead used just data right out of billing.

8 Q. What kind of data out of billing?

9 A. Number of directories in everybody's minutes
10 of use peak and off peak by rate plan, et cetera.

11 Q. For your own customers -- I'm sorry, for the
12 retail side, apart from the resellers that you have,
13 is there a bill that is sent to the retail side for
14 their air time they generate?

15 A. No.

16 Q. Are their numbers reflected on 973?

17 A. Yes.

18 Q. And how do you get those numbers?

19 How is that determined?

20 A. Through the billing system.

21 Q. What documents are used in the billing
22 system that would do that?

23 MS. SFERRA: If you know.

24 THE WITNESS: I don't think I can
25 name them all. There are various documents.

1 BY MR. HART:

2 Q. Name the ones that you do know.

3 A. To prepare page 973, as an example, there is
4 a report called the activation by state report; there
5 is one called the switch termination report; there are
6 reports called -- What are they called? Today they
7 are called bill cycle summaries, but I think in '92
8 they had a different name. Those are the ones that I
9 remember.

10 Q. Do they show you the actual amount that's
11 billed to the retail operations?

12 A. Well, we just said that there is no bill.

13 Q. There is no actual bill?

14 A. Right.

15 Q. Like you would send to the reseller?

16 A. Right.

17 Q. But there is an amount that you're billing
18 the retail side, isn't there?

19 A. Yes.

20 Q. Okay. And how do you get that number, I
21 guess is what I'm asking you?

22 A. Through billing system reports.

23 Q. Is 973 one of those reports?

24 A. 973 has various other documents that are
25 used as sources for input.

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1 Q. But 973 isn't one of the documents that you
2 would use to calculate the amount that your retail
3 operations would be incurring?

4 A. 973 calculates retail -- it calculates at
5 wholesale rates all the activity.

6 Q. Okay. If you were going to bill your retail
7 operations in a manner similar to the bill that you
8 sent to resellers, what information would you use to
9 bill them?

10 MS. SFERRA: Objection. That
11 calls for speculation.

12 BY MR. HART:

13 Q. Let me ask it this way: Do you know any
14 information that you use to bill a reseller?

15 A. Generally. I don't think I can name every
16 specific report that -- or every specific item that we
17 would -- that is used out of the billing system to
18 bill a reseller.

19 Q. Would you know what the source documents are
20 that are used to bill a reseller?

21 A. That's what I was trying to say that I'm not
22 certain of. I don't believe I know all of them.

23 Q. Which ones do you know?

24 A. I can't think of its name. I can visualize
25 the report that is attached to a reseller's invoice,

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1 but offhand I just can't think of what it's called.
2 That report includes some of the items that are
3 billed, and I believe it includes air time, monthly
4 service charges, discounts, those are things that I
5 can remember.

6 Q. Now, if aside from the resellers I wanted
7 you to bill the retail operations with a bill, would
8 you have a similar idea of source documents that you
9 would use for that purpose?

10 A. My guess is if I wanted to do that, I would
11 follow the exact same process that is used for
12 resellers.

13 Q. You would use the same input that you use
14 for a reseller?

15 A. My guess is I would --

16 Q. Do you know if it -- Go ahead. I don't want
17 to cut you off.

18 A. I was going to say, my guess is I would
19 have -- I'm not -- I really would want to walk through
20 the process to make sure, but my guess right now is
21 that that's how it would be done.

22 Q. The accounting that goes along with the
23 billing, is that underneath one of your functions?

24 A. Yes.

25 Q. Okay. So you would be able to tell me --

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1 Strike that.

2 And that's billing for your retail side and
3 your wholesale side?

4 A. The accounting for that billing is one of my
5 responsibilities, yes.

6 Q. Okay. But you're telling me that you can't
7 tell me today what all the source documents would
8 be -- If you were looking at a bill to determine if
9 the bill was correct, you couldn't tell me what
10 documents you would look at to do that?

11 A. That's right. I can't recall the documents
12 that I would need.

13 Q. If I were to ask someone at Cellular One to
14 do that, that would be something that would be under
15 your command?

16 A. Yes.

17 Q. You would be responsible for that
18 information?

19 A. Yes.

20 Q. Okay. And I'm assuming, then, and correct
21 me if I'm wrong, that there would be somebody
22 underneath you that would know that information if you
23 don't know it?

24 A. I'd like to believe that's correct.

25 Q. And who do you believe that person would be?

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1 A. I think we would start with DalAnn Long.

2 Q. And that would be with respect to a
3 reseller's bill?

4 A. Yes.

5 Q. Okay. Now if I wanted the same information
6 to construct a retail bill, what person would I go to
7 to get the information?

8 A. The same person.

9 Q. The same person. And you believe that she
10 would have that information?

11 A. Yes.

12 Q. Okay. She doesn't report that information
13 to you; is that correct?

14 A. I don't see that on a regular -- I don't
15 regularly see that on a monthly basis, no.

16 Q. Okay. Is there a -- any regular basis that
17 you see that information on?

18 You said "monthly." Is there quarterly,
19 yearly?

20 A. No.

21 Q. Any regular periodic basis?

22 A. No.

23 Q. Okay.

24

25

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1 Thereupon, Gorelick Exhibit No. 5 was
2 marked for purposes of identification.

3 - - -

4 BY MR. HART:

5 Q. Mr. Gorelick, I handed you a document which
6 we have marked as Exhibit 5 to the Gorelick
7 deposition. It says "CEA" at the top. See that top
8 right-hand side, "Prepared By"?

9 A. Yes.

10 Q. Is that the same person that we referred to
11 as CEF?

12 A. Yes.

13 Q. Can you tell me what this document is?

14 A. This is for 1993 intra-Ohio wholesale
15 revenues of the Cleveland market.

16 Q. This is similar to the document that we were
17 just looking at?

18 A. Yes.

19 Q. It represents the same information, just for
20 a different area and a different time?

21 A. Right.

22 Q. Okay. I want you to look below where it
23 says, "Income Statement." Do you see that?

24 A. Yes.

25 Q. The portion below that, three lines down, it

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1 says, "Access Charges." I'm looking across, and
2 there's an indication that says, "Per Tariff." Do you
3 see that?

4 A. Yes.

5 Q. What multiplier would have been used in that
6 spot?

7 A. For this year, the tariff rates were more
8 complicated than '92 that we were previously looking
9 at. So if I remember correctly, the access rates were
10 on some sort of tiering basis so there's not just a
11 rate to use -- to use to multiply like there was in
12 '92.

13 Q. Would this document have been prepared using
14 Lotus, also?

15 A. Yes.

16 Q. Would you have had separate fields that you
17 put the tiering in?

18 A. It was actually -- The tiering data is
19 actually a special report that was generated out of
20 the billing system programmed to do -- to capture the
21 information in order to create the tiering. So in the
22 Lotus file, you're not going to see a number input
23 applied by a dollar figure.

24 Q. On the Lotus spreadsheet for January, the
25 number that's going to be listed there is going to be

1 "1,728,319"; is that right?

2 A. That's right.

3 Q. Okay. When that number was put on the Lotus
4 spreadsheet, was that -- it was just put in just like
5 that?

6 It wasn't a formula that arrived at that?

7 A. There is a formula.

8 Q. I understand there is a formula. What I
9 want to know is when you were doing the calculation
10 for the spreadsheet, did you just put the number in?

11 A. No.

12 Q. You didn't?

13 A. No.

14 Q. When you were using the Lotus spreadsheet,
15 you were actually using a formula in the field?

16 A. Yes.

17 Q. Okay. It wasn't another document that you
18 were using to come up with the 1,728 figure?

19 A. There's a document that I had been referring
20 to that was the source for one of the inputs into the
21 formula that then derived the 1,728 figure.

22 Q. If you look on page 1126 in the notes "M"
23 and "N" --

24 A. Yes.

25 Q. -- do those two notes have any bearing on

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1 the information that is contained in the "Access
2 Charges" item?

3 A. Note "M" has a bearing on access charges on
4 page 1124.

5 Q. In that note, it says, "Detail for the gross
6 calculation is available from I/S on request." Is
7 that the document you're referring to?

8 A. Yes.

9 Q. What's that document called?

10 A. I don't know offhand. It's -- it has a
11 name. I don't know what it's called.

12 Q. If I wanted to get that from you, what would
13 I ask you for?

14 A. You would ask me for the document referenced
15 in note M.

16 Q. If you look on that line, the "Access
17 Charges," if we take April to May --

18 A. Yes.

19 Q. -- the income in the "May" field is less
20 than half of the number in the "April" field, correct?

21 A. Yes.

22 Q. What do you attribute that to?

23 A. A change in the tariffed rates that would
24 have occurred in -- somewhere in that time frame which
25 resulted in a lower tariffed rate.

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1 Q. Do you know what that change was?

2 A. I don't recall offhand, no.

3 Q. Would you have been involved in the decision
4 to change the rate?

5 A. No.

6 Q. Who would have been involved in that?

7 A. Well, I believe -- my guess is that Lee Wood
8 for sure, possibly Scott Falconer, and then after that
9 I don't --

10 Q. That's where you would go if you wanted to
11 find that out?

12 A. Yes.

13 Q. Okay. The number that you've got there,
14 you're multiplying some number that's in the tariff,
15 correct?

16 A. Which are we referring to?

17 Q. The "Access Charges" numbers.

18 A. I'm -- Can you be a little more specific?

19 Q. I will try.

20 (Ann Marie Sferra, Esq. exited
21 the conference room.)

22 MS. BLOOMFIELD: Randy, I'm lost.

23 MR. HART: Okay. Around the
24 "Access Charges" line. Are you with me?

25 MS. BLOOMFIELD: Yes.

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1 BY MR. HART:

2 Q. What I'm trying to figure out is for the
3 "Access Charges," you're multiplying some number per
4 the tariff -- notice where it says "Per Tariff" --
5 times another number in this document to come up with
6 the access charges; is that accurate?

7 A. I think so, yes.

8 Q. I don't want to know the specific tariff
9 number. What I want to know is what number are you
10 multiplying it times to get that figure?

11 A. It's going to be one -- it would be a
12 subscriber number that --

13 (Attorney/client discussion held off
14 the record.)

15 THE WITNESS: I heard that.

16 BY MR. HART:

17 Q. Mike Tricarchi said he thought it was the
18 average subscribers. Is that accurate?

19 A. It's accurate that that's what I heard.

20 Q. Okay. Is he correct?

21 A. I think that that's correct, but I'm not --
22 I'm not 100 percent certain of that just because, you
23 know, with this tariff -- with the tariff having the
24 added complications in '93 that didn't exist in '92,
25 it may not be so simple as, you know, some sort of

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1 tariffed rate that takes into account the tiers and
2 just that average subscriber number. It may be that
3 subscribers were pinpointed to the right tier.

4 Q. Okay. Let's just take one month. Let's say
5 June, "839,073" in your "Access Charges" field.

6 A. Right.

7 Q. And I just asked you how -- what you're
8 calculating the tariff amount times to get that, and
9 you're telling me that you're not positive; is that
10 right?

11 A. That's right. I'm telling you I'm not
12 positive.

13 Q. Okay. Now, if you wanted to become
14 positive, what would you look at to determine that?

15 A. I would start with the actual Lotus
16 spreadsheet and look in that particular cell and see
17 what the formula was. And I believe that by doing
18 that, I could give, with a lot more certainty, how it
19 was calculated.

20 Q. Okay. And does that Lotus spreadsheet exist
21 that would have that information in the cell?

22 A. Yes.

23 Q. And is that in disk form or tape form or on
24 paper?

25 A. Disk.

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1 Q. Disk. Is that kept in Columbus here?

2 A. Yes.

3 Q. Okay. Your office?

4 A. Yes.

5 Q. Okay. If you look at the November figure at
6 "892,988" and the December figure at "744,014," do you
7 know what would cause the number to go down for
8 December from the previous month?

9 A. I believe that it would have been another
10 tariff change.

11 Q. Another tariff change in December?

12 A. Right.

13 Q. And to be certain on that, you would have to
14 look at the Lotus spreadsheet?

15 A. Yes.

16 Q. Okay. Who would be responsible for the
17 tariff change, the same people that you told me you
18 would ask about the rates?

19 A. Right. I would start by -- I think Lee Wood
20 and possibly Scott Falconer would have been
21 responsible.

22 (Ann Marie Sferra, Esq. entered
23 the conference room.)

24 BY MR. HART:

25 Q. Mr..Gorelick, are you familiar with the

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1 rental of cellular phones?

2 A. I'm familiar with that there is such a
3 thing.

4 Q. Are you familiar with the rental phones out
5 of your sales and service centers?

6 A. Yes.

7 Q. Okay. Do you have any -- Is the rental
8 phones anything that you have responsibility over?

9 A. Beyond accounting for them, no.

10 Q. So you don't have any input in policies or
11 procedures with respect to rental of phones?

12 A. I have, in the past, had input into some
13 policies and procedures, but more related to
14 maintaining control over them and avoiding losses.

15 Q. For the purposes of your financial data, who
16 owns the phones that you use to rent?

17 Is it a retail function or a wholesale
18 function?

19 A. Retail.

20 Q. Retail side would own the phones?

21 A. Yes.

22 Q. Does the retail side purchase the phones
23 from somewhere?

24 A. Yes.

25 Q. Where do they purchase the phones?

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1 A. Vendors.

2 Q. Directly from the vendors?

3 A. Yes.

4 Q. Okay. And --

5 MS. SFERRA: Randy, we are going
6 to enter an objection to this whole line of
7 questioning because it's something that the PUCO
8 doesn't have jurisdiction over.

9 BY MR. HART:

10 Q. On your income statement -- on any of the
11 income statements that we looked at today, either the
12 one from '91 or the one from '92, would there be an
13 expense for the phones that are sold by the retail
14 side?

15 A. Why don't you clarify "expense" for me.

16 Q. We went through what the allocated expenses
17 were and what the direct expenses were on the income
18 statements that we looked at prior; is that correct?

19 A. Yes.

20 Q. Would there be a direct expense related to
21 the cost of the phones that the retail side either
22 sells or rents?

23 A. Okay. There would be a cost of sales in the
24 event of a sale. If it's rented, there's not a cost
25 of sales.

1 Q. The retail side would be buying the phone
2 from the vendor as we said before, right?

3 A. Correct.

4 Q. Where would that expense show up?

5 A. Well, the purchase of a phone doesn't
6 generate an expense. It actually generates an
7 addition to inventory.

8 Q. So you put it on the inventory. What do you
9 do, capitalize it?

10 A. Well, inventory is -- I wouldn't use the
11 term "capitalize," but it's the same effect. It
12 becomes a balance sheet item.

13 Q. Let's take the rental program as opposed to
14 the sale of phones. In your capacity with the
15 companies that you work for, do you know whether the
16 revenues that are generated through the rental of
17 phones are greater than or less than the cost to the
18 company of purchasing the phones?

19 MS. SFERRA: Objection.

20 THE WITNESS: Yes.

21 BY MR. HART:

22 Q. Okay. Which is it?

23 A. It's going to depend on the monthly rent on
24 the revenue side and then the length of time that the
25 phone is rented and generating monthly rental revenue.

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1 Q. I want to take it on an aggregate basis,
2 okay, all the phones. If you took it on an aggregate
3 basis for, let's say, last year, '93, do you know
4 whether the revenues that you received from those
5 rental phones would cover the cost of those rental
6 phones?

7 A. I don't know.

8 Q. Is that information something that you would
9 be responsible for?

10 A. Yes.

11 Q. Okay. Is there somebody under you that
12 would know that information?

13 A. I don't think so.

14 Q. Okay. So you would be responsible for it,
15 but you don't know it; is that what you're telling me?

16 A. Yes, that's what I'm telling you.

17 Q. What would you have to look at to determine
18 that information?

19 A. I think I would need to look at the
20 purchases of phones and then the aggregate dollars to
21 purchase them over the time period you mentioned, and
22 then the monthly rent generated for those phones over
23 the time period you mentioned.

24 Q. Do you have an opinion based on whatever you
25 want to base it on -- I just want to know what your

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1 opinion is. Do you have an opinion as to, and this is
2 as to the time period you have been employed with the
3 company, whether the company has received more in
4 revenues on the rental program than the cost of the
5 rental program?

6 MS. SFERRA: You're talking all
7 phones for all time?

8 MR. HART: Correct. Since he's
9 been there.

10 BY MR. HART:

11 Q. You're not going to tell me prior to your
12 being there, so I want to know since you have been
13 there.

14 MS. SFERRA: You're asking if he
15 has an opinion on that?

16 MR. HART: That's what I want
17 to know.

18 THE WITNESS: Yes, I have an
19 opinion.

20 BY MR. HART:

21 Q. What's your opinion?

22 A. My opinion would be that no, the revenue
23 generated -- the monthly rental revenue did not exceed
24 the cost.

25 Q. Okay.

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1 A. You know, actually, though, you made it a
2 very broad period of time. There is a possibility
3 that in that broad period of time, it may have, in
4 fact -- revenue may have exceeded the cost.

5 Q. I want your opinion in this broad period of
6 time whether you believe that the rental program
7 received revenues greater than its expenses?

8 A. No. My --

9 MS. SFERRA: If you have an
10 opinion.

11 THE WITNESS: Right. And my
12 opinion -- or my best guess would be no.

13 BY MR. HART:

14 Q. Okay. Have you ever communicated that
15 opinion to anybody at any of the companies you've
16 worked for?

17 A. I don't recall.

18 Q. Nobody has ever asked you that
19 information -- for that information?

20 A. I can't recall.

21 Q. Do you know if there are any documents that
22 would reflect that opinion?

23 A. Could you ask that again?

24 Q. Let me ask it this way: What do you base
25 your opinion on?

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1 A. What do I base my opinion on?

2 Q. Uh-huh.

3 A. It's based on my estimates since I don't
4 have, at the top of my head, the revenues generated
5 for all those years in question and the dollars in the
6 aggregate for the purchases in all those years in
7 question. I have some sense for those figures, and
8 that's how I base my opinion.

9 Q. Are there any documents that I would be able
10 to look at that would tell me for certain whether that
11 were true?

12 A. I think so.

13 Q. Okay. What would those documents be?

14 A. I think we could examine fiscal income
15 statements for those period -- income statements for
16 those periods that showed rental revenue. And on the
17 purchases side, we could examine changes in balance
18 sheet accounts from balance sheets or we might examine
19 purchasing records or vendor invoices.

20 Q. Do you know whether any of the companies
21 that you do work for have a rental program today?

22 A. Yes.

23 Q. Okay.

24 A. Yes, I know.

25 Q. Okay. Tell me whether they do or not.

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1 A. Yes.

2 Q. Are you aware of an installment sales
3 program with respect to telephone equipment?

4 A. Yes.

5 Q. Okay. Is that a relatively recent program?

6 A. Yes.

7 Q. Was that instituted in '94?

8 A. I think it was actually very late '93.

9 Q. Certainly less than a year ago?

10 A. Yes.

11 Q. Is that program still in effect today?

12 A. Yes.

13 Q. Okay. Do you account for the revenues that
14 are generated from the installment sales program?

15 A. It's -- Yes, I do.

16 Q. Can you tell me whether the accounting
17 treatment is any different for the installment sales
18 program with respect -- as opposed to the rental
19 program?

20 A. Yes, I can tell you that.

21 Q. Okay. Tell me.

22 A. It is different.

23 Q. How does it differ?

24 A. The installment sales program is the sale of
25 equipment with -- with the ability to pay over time;

1 whereas, the rental program is -- has not ruled in a
2 sale. It's a rental.

3 Q. What I've asked, though, is how is the
4 accounting treatment different?

5 A. Since the installment sale is a sale, at the
6 time of sale, we recognize revenue from the sale of
7 the equipment and create a receivable for the
8 subsequent payments.

9 Q. As the payments are made, how are they
10 accounted for?

11 A. Payments would be deductions of the
12 receivable.

13 Q. Okay. Were you involved in the decision to
14 implement the installment sales program?

15 A. I was only involved in determining the
16 accounting treatment.

17 Q. Do you know whether any projections were
18 made with respect to the revenues that would be
19 generated from the installment sales program?

20 A. Yes.

21 Q. Okay. And tell me whether any were made.

22 A. Yes.

23 Q. Okay. Were you involved in making those
24 projections?

25 A. No.

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1 Q. Was your department responsible for making
2 those projections?

3 A. No.

4 Q. So nobody that you oversee was responsible
5 for those projections?

6 A. That's correct.

7 Q. Have you ever seen the projections?

8 (Pause.)

9 A. No.

10 Q. It seemed like you were having a little
11 trouble with that question. Is there a problem?

12 A. I've seen 1994's budget or plan. As a
13 component of that, the installment sale revenue is
14 included, but I haven't seen specifically the
15 installment sale revenue on its own projected for '94.

16 Q. I just want to know if you have seen it in
17 any form.

18 A. Yes.

19 Q. And that's in the budget for '94?

20 A. Yes.

21 Q. And would that also show the expenses
22 associated with the implementation of that plan?

23 A. Yes, it would.

24 Q. Okay. Is there a budgeted profit or loss
25 for the installment plan?

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1 A. Yes.

2 Q. And for 1994, is the company budgeting a
3 profit or loss for that plan?

4 A. '94, there's a loss.

5 Q. Okay. And do you know what percentage that
6 loss would be?

7 A. No.

8 Q. Do you know whether there's a -- Well,
9 strike that.

10 Are they on your budget?

11 A. There are four out years.

12 Q. Excuse me?

13 A. It's more than a one-year budget.

14 Q. It goes through '98?

15 A. Yes.

16 Q. And do the projections go out through that
17 time period, through '98?

18 A. Yes.

19 Q. Okay. And is the budget showing a profit or
20 loss for the installment sales program through '98?

21 MS. SFERRA: Objection, again, to
22 this whole line of questioning which really doesn't
23 have anything to do with this.

24 BY MR. HART:

25 Q. Go ahead.

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1 A. I actually can't recall.

2 Q. How far out do you know whether there is a
3 poverty or loss budgeted?

4 A. Just through '94.

5 Q. Is there a profit or loss budgeted for the
6 rental program in the same budget?

7 A. That I -- I don't think it really applies
8 because remember the -- Well, I guess we could.

9 MS. SFERRA: Did you understand
10 the question, Gregg?

11 THE WITNESS: I understood the
12 question. I was going to -- I was thinking that it's
13 a fixed asset so -- Rental funds are fixed assets.
14 There's not a cost of sales associated. Then I
15 stopped because I started thinking we could talk about
16 depreciation if we wanted.

17 BY MR. HART:

18 Q. Which would be in the income statement?

19 A. Which would be in the income statement.

20 Q. Okay.

21 A. So now given those parameters, I can't
22 remember.

23 Q. Okay. What's the budget called that
24 includes the profit or loss for the installment sales
25 program?

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1 A. It's referred to as the "plan."

2 Q. The "plan"?

3 A. Yeah.

4 Q. Does the budget break out -- is the budget
5 broken out wholesale versus retail?

6 A. No.

7 Q. It's just one company plan?

8 A. Correct.

9 Q. For New Par?

10 A. Correct.

11 Q. Does it include all of New Par's affiliated
12 companies?

13 A. Yes.

14 Q. Are those borne out separately within the
15 plan or no?

16 A. No.

17 Q. Okay. So for any given item, there's going
18 to be one number?

19 A. Yes.

20 Q. Okay. Are you familiar with dealers and
21 agents of Cellular One service?

22 A. Yes.

23 Q. Okay. Is there any accounting treatment
24 that specifically applies to dealers or agents?

25 A. How do you mean "accounting treatment"?

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1 Q. Accounting treatment for income or revenue.

2 A. Income --

3 Q. Or expenses? Is there any income statement
4 accounting treatment that is specific to dealer
5 agents?

6 A. Yes.

7 Q. What would that be?

8 A. Dealer agents have commissions and
9 residuals. Some have -- What do we call it? --
10 activation coupons -- Is that what we call them? --
11 air time vouchers, and there's a co-op advertising or
12 it's also called market development fund.

13 Q. Do you know whether any of the dealer agents
14 have demo phones?

15 A. Yes, I know.

16 Q. What is the answer to that?

17 A. I'm aware that some have demo phone lines.

18 Q. How are those demo phone lines accounted
19 for?

20 MR. HART: Let's go off the
21 record for just a few minutes.

22 (Recess taken.)

23 MR. HART: Could you read back
24 the last question?

25 (Question read back as requested.)

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1 THE WITNESS: We bill -- I'm
2 sorry, agents or dealers are billed for their demo
3 phone line usage, and they pay for them in cash, or
4 they can pay for them with the air time coupons that
5 some of them received for activations.

6 BY MR. HART:

7 Q. Don't they only get billed, though, for
8 recurring charges?

9 They don't get billed for the air time usage
10 on the demo line, do they?

11 A. I can't say for certain.

12 Q. You don't know that?

13 A. No, I don't know.

14 Q. So you wouldn't be able to tell me where you
15 would book the air time that's used on a demo phone or
16 if you book it at all?

17 A. Well, I can tell you that if we bill it,
18 it's booked as revenue.

19 Q. If you bill it to the dealer?

20 A. Right. If it's being billed, we record it
21 as revenue.

22 Q. What if you don't bill it to the dealer?

23 A. Then we wouldn't be recording it as revenue.

24 Q. Would you be recording it at all?

25 A. No.

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1 Q. And you wouldn't be recording the costs
2 associated with the generation of that air time?

3 A. Well, costs such as -- costs from outside
4 vendors, yes, I would.

5 Q. So you would be -- you wouldn't show the
6 revenue, but you would be showing a cost of the air
7 time that you wouldn't be billing?

8 A. In the scenario that you're describing, yes.

9 Q. Okay. Now, if we wanted to know if that was
10 accurate, what would we need to look at?

11 A. I suppose we would want to determine all the
12 different demo phone lines for the agents and then see
13 what service packages those line -- those lines have
14 in the billing system.

15 Q. Okay. I don't want to -- I want to see if
16 we cannot guess. Let me show you a document that we
17 used in the Barclay Knapp deposition, and we marked it
18 as deposition Exhibit 8 in Barclay Knapp's deposition.

19 Well, let me show it to you and your counsel
20 first, and then you can give it back to me, and I'll
21 ask you questions about it. Counsel may want to see
22 if before you see it.

23 (Pause.)

24 For the questions I'm going to ask you, I'm
25 mostly concerned with page 22. You can look through

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1 the document as detailed as you want, but I'm just
2 telling you that's where I'm going to point you to.

3 MS. SFERRA: He hasn't identified
4 this yet, right?

5 MR. HART: No.

6 THE WITNESS: You can take it. I
7 don't need to look at it anymore, I don't think.

8 BY MR. HART:

9 Q. Do you know what that document is?

10 A. It looks like an agent agreement with
11 PROCELL.

12 Q. Have you ever seen an agreement similar to
13 that?

14 A. Yes.

15 Q. Have you ever seen that particular agreement
16 before?

17 A. No, I don't believe so.

18 Q. Okay. On page 22, there's an item that's
19 marked "Exhibit F" on the top. And I'm going to come
20 around for just a second. There's -- The big
21 paragraph on the page, have you read that?

22 A. I'm reading it now.

23 Q. Please read it now, and then let me know
24 when we can talk about it.

25 (Pause.)

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1 A. Okay.

2 Q. Okay. The particular provision you have
3 just read, have you ever seen a provision like that
4 before?

5 A. I don't believe so.

6 Q. Okay. You haven't. I'm reading it, and my
7 reading of it doesn't show any payment for -- by the
8 dealer for air time. It has provisions for monthly
9 recurring charges, toll charges, roaming charges, long
10 distance charges, applicable taxes and third party
11 charges. Did your reading of that paragraph show air
12 time charges for the demo lines?

13 A. No.

14 Q. Okay. So if this dealer that's represented
15 in Barclay Knapp Exhibit 8 is not paying any money for
16 the air time charges, and it specifically says, "A
17 demo line is a cellular phone line that incurs no
18 charges for local airtime," if that's the case, is
19 your testimony that you don't account for the revenue
20 from that air time?

21 MS. SFERRA: Objection.

22 BY MR. HART:

23 Q. Is that your testimony?

24 A. I still think it's still going to depend on
25 how we -- how it gets billed. If it's billed -- Why

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1 don't we leave it at that.

2 Q. You don't know how it gets billed?

3 A. I can see where it says there's -- you're
4 going to incur no air time charges. I don't know that
5 that means that we won't -- that it's not -- I don't
6 know how that's put into practice.

7 Q. Who would I go to to find that out?

8 A. I know PROCELL is an agent in Cleveland so
9 Paul Nelson.

10 Q. Do you know whether you -- Well, strike
11 that.

12 Do you know what a residual is?

13 A. Yes.

14 Q. Tell me how you define a residual.

15 A. Residual is a payment to an agent based on
16 the revenues generated by their customer base.

17 Q. Okay. How do you account for the residual
18 payments that are made?

19 A. That's an expense.

20 Q. Okay. And advertising co-op is also an
21 expense?

22 A. Correct.

23 Q. Advertising co-op represents an amount that
24 you pay to the dealers for advertising?

25 A. There's a little bit more to it than that,

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1 but yes.

2 Q. Tell me what else is more to that.

3 A. For some agents, maybe for all agents, it's
4 not a dollar-for-dollar payment, and, also, agents
5 have to earn the dollars that go into their particular
6 fund based on the accusations. But the gist of it is
7 there is amounts paid for advertising.

8 Q. In the Barclay Knapp Exhibit 8, I'll tell
9 you there is an amount for \$65 for co-op. Would you
10 find that -- I'm sorry, per activations, there is a
11 \$65 amount being paid to the dealer. Is that amount
12 something that would be a normal amount that you would
13 pay?

14 MS. SFERRA: Objection.

15 BY MR. HART:

16 Q. Let me ask it this way: I'm going to show
17 you page 21 of the Barclay Knapp Exhibit 8. Do you
18 see up on the top few lines you're providing a \$65 per
19 subscriber co-op?

20 A. Yes.

21 Q. Okay. Is that something that is found more
22 often than not in your contracts?

23 MS. SFERRA: Objection. I don't
24 know there has been any foundation that this witness
25 knows about these contracts.

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1 BY MR. HART:

2 Q. Do you know?

3 A. Yes.

4 Q. Okay. Then tell me.

5 A. Actually, in '94, there's a new contract.

6 Q. Okay.

7 A. And my understanding is that the new
8 contract still includes a co-op advertising
9 arrangement, and I think the terms are much different
10 than what we are looking at as Exhibit 8.

11 Q. What do you think the terms are now?

12 MS. SFERRA: Objection.

13 BY MR. HART:

14 Q. Go ahead.

15 A. I think -- or my belief is the terms now
16 include -- I think the dollar amount has changed --
17 has been reduced.

18 Q. To what?

19 A. My guess is \$50. And then in the middle of
20 the paragraph it says there will be a 100 percent
21 reimbursement. My belief there is that that's been
22 changed to a 50 percent reimbursement.

23 Q. Okay. Do you know the length of time that
24 residuals are paid to dealers?

25 A. I'm not certain.

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1 Q. Okay. Do you know whether it would be more
2 than a year?

3 A. I'm not certain.

4 Q. Do you know whether it would be more than
5 two years?

6 A. I'm not certain.

7 Q. Okay. Are you familiar with the term
8 "commission" --

9 A. Yes.

10 Q. -- as it relates to dealer agents?

11 A. Yes.

12 Q. What is your understanding of that term?

13 A. Commission refers to an amount paid for
14 activations.

15 Q. Where does that show up in the accounting?

16 A. That's an expense.

17 Q. Is that a wholesale or retail expense?

18 A. It's a retail expense.

19 Q. Okay. Do you know what the commissions
20 represent?

21 A. I don't understand.

22 Q. What would be the basis for paying somebody
23 a commission?

24 Do you know what would trigger the payment
25 of the commission?

1 A. Yes.

2 Q. What is that?

3 A. An activation of a new subscriber, new
4 mobile number. It doesn't have to be new mobile
5 number. It's just a new subscriber.

6 Q. Okay. I've gone through with you residuals,
7 advertising co-ops, commissions, demo phone lines. Do
8 you know whether there are any other items that are
9 provided to dealer agents?

10 A. Yes.

11 Q. You do know?

12 A. Yes.

13 Q. Okay. And what is your answer to that?

14 A. At least at one time, some agents received
15 air time vouchers.

16 Q. Do you know if that's a current practice?

17 A. I'm not certain.

18 Q. When was the last time you knew that to be a
19 practice?

20 A. Oh, that's a good question. In 1991, 1992.
21 I'm not certain. I'm guessing.

22 Q. Do you know the average length of time that
23 an end user signs a contract for?

24 A. No.

25 Q. Do you have an opinion?

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1 A. Not really.

2 Q. If I suggested to you that the average
3 length of time was two years, would you find that --
4 would you know whether that was right or wrong?

5 A. I know that customers are requested to sign
6 contracts of either one, two or three years. I don't
7 know to what extent they go ahead and do that.

8 Q. You don't know which one is done the most
9 often?

10 A. That's right.

11 Q. Okay. If you take all of the items that I
12 mentioned, and I'll mention them again right now,
13 residuals, advertising co-op, the commissions, demo
14 phone lines and air time vouchers, do you know how
15 long it would take to recoup those costs using air
16 time charges to do so?

17 MS. SFERRA: Objection. Are you
18 talking in the aggregate?

19 MR. HART: Correct.

20 THE WITNESS: I think an average
21 could be calculated.

22 BY MR. HART:

23 Q. Do you know if that calculation exists any
24 where?

25 A. I don't know.

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1 Q. Have you ever been asked to do that
2 calculation?

3 A. No.

4 Q. Do you know whether anybody has been asked
5 to calculate how long it takes to recoup those costs?

6 A. No, I don't know if anybody has been asked
7 that.

8 Q. Okay. Do you have the capability of doing
9 that?

10 A. Making certain assumptions about the revenue
11 side, I think it could be done.

12 Q. What assumptions would you make?

13 A. Well, you're saying you want to take cost
14 and divide by revenue?

15 Q. Less expenses.

16 A. Pardon?

17 Q. You want to take out expenses, too.

18 A. Which expenses?

19 Q. We want to look at what the air time is, and
20 I want to know whether the air time costs are going to
21 cover the costs of putting a customer on the system --
22 the costs associated with the dealer network?

23 A. Okay. What was the question again?

24 Q. Could you do that?

25 Is there documentation that you could do

1 that calculation?

2 A. Right. I said if we made certain
3 assumptions about the denominator, I think we could do
4 it, yes.

5 Q. Okay. What documents would I need to do it?

6 A. I'm assuming -- Maybe I shouldn't assume,
7 but I'm assuming we want to do this in the aggregate.
8 We don't intend to do it customer by customer?

9 Q. That is correct.

10 A. In the aggregate then, we would want to
11 compile for some period of time the expenses that we
12 were saying in the numerator. You would do that from
13 the combined income statement. In the denominator,
14 you -- the combined income statement would give you
15 the dollar figures you needed, but since you want to
16 do this on a per customer basis -- maybe you don't.

17 Q. I want to do it on an aggregate basis.

18 A. All right. Then the income statement would
19 do it.

20 Q. Do you know whether the costs associated
21 with the dealer network, the companies that you're
22 involved with, are greater or less than the income
23 that's derived from the dealer network on the retail
24 side?

25 A. I don't recall.

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1 Q. Do you know if that information is kept
2 anywhere?

3 A. Yes.

4 Q. Is it?

5 A. Yes.

6 Q. Okay. What document would that be in?

7 A. Although it might require a little more
8 information than what you had, I think the starting
9 point would be the schedules that we have been looking
10 at over the course of the last -- today and yesterday.

11 Q. What schedules are those?

12 A. We were looking at the wholesale/retail
13 income statements for '91, '92.

14 Q. You would be able to tell from those
15 documents?

16 A. I think we might need some information to
17 breakdown the selling cost, but I think as a starting
18 point, we would go there.

19 Q. Okay. Is that a budgeted item?

20 A. Is what a --

21 Q. Does the company budget its costs and income
22 from its -- from the dealer network?

23 A. Yes.

24 Q. As a separate line item?

25 A. Costs aside.

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1 Q. So if I'm looking at the budget, there would
2 be costs that would have a specific line item for the
3 dealer agents?

4 A. Yes.

5 Q. And there wouldn't be a separate revenue
6 number for that?

7 A. I believe revenue is budgeted more in the
8 aggregate so it's more -- it's not really here is how
9 much revenue will come from here versus there. It's
10 more there will be this number of end users generating
11 this amount of monthly revenue.

12 Q. Has there been a dealer agent network since
13 you have been with the company?

14 A. Yes.

15 Q. Okay. In the entire time that you have been
16 with the company, used as an aggregate, do you know
17 whether the revenues associated with the dealer
18 network have been greater or less than the expenses
19 associated with the dealer network?

20 MS. SFERRA: Objection.

21 THE WITNESS: I don't know.

22 BY MR. HART:

23 Q. Do you have an opinion?

24 A. No, I don't.

25 Q. You have no idea?

1 A. Right.

2 Q. Okay. Would you be able to determine that
3 from anything?

4 A. I don't think so.

5 Q. What would be the impediment to that?

6 A. I think it would be difficult -- I think we
7 would have difficulty in determining the revenue from
8 the end users activated by the agent/dealer network.

9 Q. Because you don't have any accounting that
10 would show that?

11 A. I don't have any accounting. It's -- Right.

12 Q. Do you know, do you provide the dealers with
13 information that they would be able to account for
14 that?

15 A. Yes.

16 Q. When you pay your residuals --

17 A. We just said that.

18 Q. -- how do you do it with residuals?

19 A. That's why I just said yes.

20 Q. So you're saying you do have the
21 information?

22 A. I was thinking out of the general ledger.
23 As you're pointing out, the information for the
24 residual calculation would be the revenue information
25 that you're -- that would go into the calculation that

1 you described.

2 Q. And you do keep an expense amount that would
3 show me what expenses were associated with the dealer
4 network, correct?

5 A. Yes.

6 Q. So I would just be able to use those numbers
7 and figure out my calculation?

8 A. Yes.

9 Q. Do I have documents here that would let me
10 do this?

11 A. No.

12 Q. Okay. What documents would I need?

13 A. On the expense side, the combined income
14 statements. And as you pointed out on the revenue
15 side, the reports for -- that are used to calculate
16 residuals.

17 Q. In Cleveland, there's a radio station that
18 will take calls. If I hit star 1300 on my car phone,
19 it will go directly to that radio station. Are you
20 aware of similar programs that you have?

21 A. I'm aware that that exists, yes.

22 Q. Okay. The cellular user isn't charged for
23 those calls, right, the end user?

24 A. Yes, I think that's correct.

25 Q. The entity that's receiving the calls, do

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1 they get charged for those?

2 For instance, I pick up my phone and call
3 the radio station using star 1300, is the radio
4 station going to get billed for that call?

5 A. I don't think so.

6 Q. Do you know whether there is any accounting
7 treatment for those calls?

8 A. I don't know.

9 Q. Who would know that?

10 A. I guess we could check with someone in
11 information services in the billing department. They
12 keep tables of who is not going to be billed.

13 Q. Who determines what's not going to be
14 billed?

15 Whose job function is that?

16 A. I'm not certain.

17 Q. It's not something that you're involved
18 with?

19 A. No.

20 Q. Do you have cellular phones that are located
21 within your building?

22 MS. SFERRA: Objection.

23 THE WITNESS: Yes. I'm aware of
24 at least a cellular phone that's kept in the building
25 I'm in.

1 BY MR. HART:

2 Q. Does your company have their own cellular
3 phones that they use for business purposes?

4 A. There are people in the company who have
5 phones that are used for business purposes.

6 Q. Do they pay for the calls on those phones?

7 MS. SFERRA: Objection.

8 THE WITNESS: For the most part,
9 they're paying for those, yes.

10 BY MR. HART:

11 Q. Does that billing show up as an accounting
12 item?

13 A. Yes.

14 Q. Where does it show up?

15 A. The revenue billed will appear in the
16 revenue, and then -- That answers your question.

17 Q. Where would the expense show up?

18 A. There isn't necessarily going to be an
19 expense. If a person has been billed for business
20 purposes, they can do an expense report, and then the
21 company will reimburse them for the cost -- what they
22 were billed for business phone calls.

23 Q. Okay. Are you involved at all in the
24 rerating of roaming calls?

25 A. I know that it exists, and I account for it.

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1 Q. What's the accounting treatment that's done?

2 A. On the rerate side, the amount that the
3 roaming partner serving company bills is the expense,
4 and then on the amount that is billed to the end user
5 is a revenue.

6 Q. Okay. Is the expense a wholesale or retail
7 expense?

8 A. The amount that the serving company bills is
9 a wholesale expense.

10 Q. And where does the income show up?

11 A. The -- well, amounts billed to end users is
12 retail revenue. They will be a wholesale component,
13 though.

14 Q. Where does the difference show up between
15 the amount that would be billed by one company versus
16 the amount that would be billed by Cellular One?

17 If you take the Youngstown example where
18 Youngstown is billing 60 cents and Cellular One is
19 billing 35 cents, where would that difference be
20 accounted for?

21 MS. SFERRA: Objection.

22 MS. BLOOMFIELD: Have you
23 distinguished retail and wholesale? I don't
24 understand if you're --

25 MR. HART: I'm not asking for

1 it on that basis right now.

2 BY MR. HART:

3 Q. Can you answer the question?

4 A. I think so.

5 Q. Okay.

6 A. The difference would be an expense.

7 Q. Now, would the difference be a retail
8 expense or a wholesale expense?

9 A. That difference would be retail expense.

10 Q. With respect to the land line telephones
11 that are at your own sales and service centers, where
12 does the cost of those land line phones show up?

13 MS. SFERRA: Objection.

14 THE WITNESS: Could you clarify
15 what you mean there?

16 BY MR. HART:

17 Q. If they are going to one of your stores, is
18 there a land line telephone?

19 A. Yes.

20 Q. Yes?

21 A. Yes.

22 Q. Who pays for that?

23 A. Are you asking me is it wholesale or retail?

24 Q. Correct.

25 A. Okay. Thank you. Retail.

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1 Q. Where would that show up in the retail
2 accounting?

3 A. On the expense side.

4 Q. What item would that be included in?

5 A. Oh, I don't remember. I'm going to refer
6 back to the workpapers we were talking about
7 previously.

8 Q. Okay. Do you want one in particular?

9 A. If you want me to.

10 Q. If it will help you.

11 A. On Exhibit 1, page 320, it would be on the
12 line "COSSI/COSSC Expenses." At least to my best
13 recollection, that's where it's going to be.

14 Q. Do you know where they buy the service from?

15 A. Where they buy the service from? Ohio Bell.

16 Q. It would be the local exchange carrier?

17 MS. SFERRA: If you know.

18 BY MR. HART:

19 Q. Do you know?

20 A. Why don't you start over.

21 Q. Would it be the local telephone company?

22 A. You're asking me --

23 Q. The land line telephone, where do you get
24 your service?

25 A. Where does Cellular One get its service?

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1 Whoever the local telephone company is.

2 Q. That would be with respect to lines that --
3 Well, are there any dedicated lines that go directly
4 from each sales and service center directly to the
5 headquarters?

6 A. Yes.

7 Q. Are those also bought from the local
8 telephone company?

9 A. I'm not certain.

10 Q. Do you know what you pay for those lines in
11 an accounting sense?

12 Are they accounted for?

13 A. I'm certain if we are being billed by a
14 vendor, we are accounting for them.

15 Q. Do you know whether the company puts their
16 own dedicated lines in between their retail stores and
17 the headquarters?

18 MS. SFERRA: Objection.

19 THE WITNESS: I don't think I
20 understand your question.

21 BY MR. HART:

22 Q. Do you know whether they do that on their
23 own by passing a local telephone company, whether they
24 put their own facilities in to create the direct
25 access?

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1 Do they have their own network?

2 A. I don't think that's how it's done, no.

3 Q. If I wanted to find that out, where would I
4 go?

5 A. Patty Flynt.

6 Q. Excuse me?

7 A. A person named Patty Flynt.

8 Q. What department is she in?

9 A. She's senior vice-president of the
10 Information Services.

11 Q. Mr. Gorelick, have you ever seen this
12 document before (indicating)?

13 A. Yes.

14 Q. Okay. And it has a subpoena duces tecum
15 stated on the top?

16 A. Yes.

17 Q. And it's addressed to you?

18 A. Yes.

19 Q. This document had asked you to bring with
20 you certain documents to your deposition; is that
21 correct?

22 A. Yes.

23 Q. Okay. Did you bring any documents with you?

24 A. I provided documents to my counsel.

25 Q. In response to this duces tecum?

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1 A. Correct.

2 Q. And do we have all of those?

3 MS. SFERRA: Sally, do you have
4 those?

5 MS. BLOOMFIELD: Yes.

6 MR. HART: Are there any other
7 documents, other than what we have already been given
8 in discovery, that exist in response to this duces
9 tecum?

10 MS. SFERRA: That's correct.

11 MR. HART: When will I get
12 those?

13 MS. BLOOMFIELD: When you ask for
14 them.

15 MR. HART: There were some
16 identified in this deposition, and I will provide a
17 letter to your counsel.

18 MS. BLOOMFIELD: We've got them. You
19 can have them.

20 MR. HART: You have them right
21 now?

22 MS. BLOOMFIELD: Right. If we read
23 those requests correctly, we had provided you all but
24 the responses to two of them in your general -- in
25 your first discovery.

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1 MR. HART: So you have other
2 ones with you today?

3 MS. BLOOMFIELD: Yes.

4 MR. HART: Can I have them?

5 MS. BLOOMFIELD: Yes.

6 MR. TRICARCHI: You had previously
7 provided them or you provided them here or when?

8 MS. BLOOMFIELD: We provided -- we
9 went through the list and your discovery list. Your
10 first set of interrogatories was identical to those
11 save for two items, and the two items that we did not
12 provide you we brought today.

13 MR. TRICARCHI: Does that include
14 the items that you objected to?

15 MS. BLOOMFIELD: No. The items that
16 we objected to, we have continuing objections to
17 providing those, so that applies to other than those.

18 MR. TRICARCHI: Maybe you should ask
19 these questions. Why am I asking these questions?

20 MR. HART: You're talking.

21 MS. SFERRA: Sally is not being
22 deposed. She's just explaining them to you.

23 MS. BLOOMFIELD: You have everything
24 there that you have asked for.

25 MR. HART: We had asked you for

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1 a number of documents in the duces tecum that were
2 also asked for in the initial discovery. We do not
3 have any motion to quash the duces tecum with respect
4 to any of the other items, and we will take the
5 position that you are under a duty to provide them,
6 and absent any objection, which I'm not aware of, to
7 the duces tecum, you should have provided them.

8 Also, and I don't know what I'm going
9 to get from you right now so this may change depending
10 on what I get from you in the next few minutes, there
11 were a number of documents which you identified today
12 and yesterday. Chiefly, No. 7: Backup workpapers
13 which provide any detail for summarized accounting
14 contained in reports filed with the FCC.

15 MS. BLOOMFIELD: We don't have those.

16 MR. HART: And PUC is No. 8:
17 All financial reports filed with the PUC, and the
18 backup workpapers for those in No. 9. And we went
19 through some of those today, and you told me that I
20 hadn't been provided with those documents, the backup
21 workpapers. And as for those, I don't know of any
22 objection that was posed on the initial discovery let
23 alone an objection on the duces tecum.

24 MS. BLOOMFIELD: Well, we take the
25 position that we provided you the workpapers just as

1 we would have provided them to -- Suppose the PUCO
2 would have asked for the workpapers, we would have
3 given them what we gave you. Sometimes what happens
4 is they look at the workpapers, and they say, "Okay.
5 I want to see this item or this item that supports
6 that." I mean, where do you draw the line? So we
7 provided you what we would have provided auditors.

8 If there is more, and they ask for
9 more, "Go get "x," then that's a different question,
10 but we -- in good faith, we provided you what we
11 believed this question required (indicating).

12 MS. SFERRA: She's pointing to
13 No. 8.

14 MS. BLOOMFIELD: I'm pointing to No.
15 8.

16 MR. HART: And 9.

17 MS. BLOOMFIELD: And 9. Right.

18 MR. HART: Well, I can tell you
19 that I will be requesting those as we went through
20 the -- I will be further requesting them as we have
21 gone through the deposition, but our position is that
22 we asked for those, and they should have been provided
23 initially, and that will be an issue probably that
24 will be resolved by the Commission.

25 MS. BLOOMFIELD: Yeah. You can take

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1 that position.

2 MR. HART: What numbers are you
3 providing me documents for?

4 MS. BLOOMFIELD: 15. And didn't you
5 say -- I don't know that you had anything for 16.

6 THE WITNESS: Can I see?

7 MS. BLOOMFIELD: Yeah.

8 MR. HART: Can I ask you: This
9 item No. 27 we ask for all documents referring,
10 relating or referencing GTE Mobilnet Tele-Go program.
11 Do you have any -- Are there any internal documents
12 that you have done calculations on that show that --
13 show anything with respect to your competitor's
14 service with respect to Tele-Go?

15 A. No.

16 Q. Never analyzed that to see how it relates to
17 services that you're offering?

18 A. I'm not even familiar with Tele-Go.

19 Q. You're not?

20 A. No.

21 Q. Would you know it by Tele-Go, T-e-l-e-G-o?

22 A. No.

23 Q. You have never heard of the service at all?

24 A. No.

25 Q. Or anything that even sounds like that?

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1 A. What is it?

2 Q. Okay.

3 MS. SFERRA: The answer is no.

4 MR. TRICARCHI: We are not
5 testifying today.

6 BY MR. HART:

7 Q. I just wanted to know whether you had
8 anything that related to that.

9 MR. HART: Did you stamp these?

10 MS. BLOOMFIELD: Yes. We started
11 with Bates Stamps from 1 again, but we put a GG in
12 front of them so they related to Gregg Gorelick's
13 deposition.

14 MR. HART: Okay. Just give me
15 a second to look through these.

16 (Pause.)

17 BY MR. HART:

18 Q. Mr. Gorelick, are you aware as to whether
19 Cellnet was a participant in the rental program?

20 A. Yes, I'm aware.

21 Q. And were they?

22 A. Well, still are, actually.

23 Q. Okay.

24 MS. SFERRA: Randy, I was out
25 earlier when you started talking about the rental

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1 program. Have you defined what anybody means by
2 "rental program"?

3 BY MR. HART:

4 Q. Do you know what the rental program means
5 that we have been talking about today?

6 A. I think I do.

7 Q. Tell me what your definition is.

8 A. The program whereby cellular telephones are
9 made available to end users for a monthly rent.

10 Q. Is that the definition you have been using
11 throughout your testimony today?

12 A. Yeah.

13 Q. Okay.

14 A. Yes.

15 Q. Now, the phones that Cellnet uses for its
16 rental program, do you know where those come from?

17 A. Yes.

18 Q. Okay. Where?

19 A. Cellnet rents them from us.

20 Q. Okay. And who -- is the owner of those the
21 retail side or the wholesale side?

22 A. The retail side. My recollection is that
23 it's the retail side. I don't recall, but I believe
24 it's retail side.

25 Q. What gives you that belief?

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1 A. The rental program is really a -- it's not a
2 provision or cellular service so I believe that it
3 falls outside the definition -- I believe it falls
4 outside the definition that I use for wholesale.

5 Q. Okay. If you wanted to determine precisely
6 whether those phones were accounted for in the retail
7 or wholesale side, where would you turn?

8 A. There are the workpapers -- Either within
9 workpapers that you have or possibly in others that
10 support the annual report, I would be able -- I
11 believe I would be able to determine -- make that
12 determination.

13 Q. Okay. Is there a department that is
14 responsible for customer retention?

15 A. Yes.

16 Q. Okay. Who is in charge of that department?

17 A. I think there are regional departments so --
18 Well, I guess -- I'm not certain if they fall within
19 what we call our regional operations or if they fall
20 under customer operations.

21 Q. How do you account for the cost associated
22 with the retention of customers?

23 Is that a wholesale function or a retail
24 function?

25 A. It's one of those that's both.

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1 Q. Okay. Would that be an allocated cost?

2 A. Correct.

3 Q. And you would use calculations we've gone
4 through previously for the allocated costs?

5 A. That's correct.

6 MR. HART: Okay. I don't have
7 anything else of the witness.

8 I am going to put on the record that we
9 did serve you with a subpoena duces tecum, and we've
10 gone through the items. It is true that a number of
11 the items were requested in a document production
12 request in which you have objected to certain of those
13 items; however, the duces tecum is another document,
14 and we are not aware of any objection that you posed
15 to the duces tecum, and for that reason, we would
16 request responses to the duces tecum.

17 And in addition, we believe that based
18 on the testimony given today and yesterday, that there
19 are a number of backup workpapers, principally the
20 general ledger which Mr. Gorelick relies on in his
21 testimony, and we believe that we've already asked for
22 those documents, and we believe we have a right to
23 them.

24 I'm sure that this will be a matter
25 which will be dealt with outside of this room, and

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1 once that determination is made, we would certainly
2 reserve our right to bring you back if the Commission
3 agrees with us that we are entitled to the documents.

4 MS. SFERRA: In response to the
5 duces tecum, I want to say that we are not aware of
6 any requirement that we respond in writing. And the
7 response today would be that everything we already
8 provided in response to the request for production of
9 documents, those responses would also pertain to this
10 except for the two items that we brought the documents
11 with us today which were not included in the request
12 for production of documents. Is that correct, Sally?

13 MS. BLOOMFIELD: Yes.

14 MS. SFERRA: So if you want us to
15 do something more formal than that, let us know, but
16 basically our response is the same as the response was
17 for those identical questions that were asked in the
18 request for production of documents.

19 I also want to make a statement that
20 this whole deposition is going to be under -- pursuant
21 to the protective order that has been entered in that
22 case, and, therefore, it should be marked as
23 confidential and kept under seal.

24 MR. HART: Until I see the
25 transcript, I can't remember each question that I've

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1 asked as we sit here today so I can't, at this point,
2 agree with all of that. I'm sure that some of it
3 would be.

4 MS. SFERRA: You said that
5 yesterday.

6 MS. BLOOMFIELD: You said in the
7 beginning you consider the whole thing confidential.
8 That's my recollection.

9 MS. SFERRA: You said that
10 yesterday.

11 MR. HART: If that's on the
12 transcript, I'll abide by it.

13 MS. SFERRA: I don't know if it's
14 on the record when you said it or not.

15 MR. HART: Let me say this: If
16 there is any information that is already public
17 information, to that extent, we would disagree it
18 would be confidential. If it's not already public
19 information, I have no problem with keeping it
20 confidential.

21 MS. SFERRA: We can go off the
22 record for this.

23 (Discussion held off the record.)

24 MR. HART: Go back on.

25 MS. SFERRA: Gregg, you have the

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1 opportunity to read this deposition if it's
2 transcribed or you can waive that right, and you have
3 to tell the court reporter verbally what you would
4 like to do.

5 THE WITNESS: I would read the
6 deposition.

7 (Signature not waived.)

8 - - -

9 (Thereupon, the continued deposition
10 was concluded at 3:55 o'clock p.m.
11 on Thursday, October 20, 1994.)

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A F F I D A V I T

- - -

STATE OF OHIO,)
COUNTY OF _____) SS:

Gregg Gorelick, having been duly sworn and
cautioned, deposes and says that:

I have read the transcript of my continued
deposition taken on Thursday, October 20, 1994, and
made all necessary changes and/or corrections as noted
on the attached correction sheet, if any.

Gregg Gorelick

Sworn to before me and subscribed in my
presence this _____ day of _____, 1994.

Notary Public

My Commission expires: _____.

- - -

C E R T I F I C A T E

The State of Ohio,)
County of Franklin,) SS:

I, Kristi N. Darst-Holmberg, Registered Professional Reporter and Notary Public within and for the State of Ohio, hereby certify that the foregoing is a true and accurate transcript of the deposition testimony, taken under oath on the date hereinbefore set forth, of

GREGG GORELICK

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which the deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.

Kristi N. Darst-Holmberg

Kristi N. Darst-Holmberg,
Registered Professional Reporter
and Notary Public in and for the
State of Ohio.

My Commission expires:
November 28, 1994.