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Dena A. Bradshaw

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TRANSCRIPT OF PROCEEDINGS

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF:

PR DOCKET NO. 93-231

Charleston, West Virginia

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MAR 8 - 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

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In the matter of:)
)
CAPITOL RADIOTELEPHONE COMPANY, INC.)
a/k/a CAPITOL RADIOTELEPHONE, INC.)
or CAPITOL RADIO TELEPHONE, INC.)
d/b/a CAPITOL PAGING AND)
RAM TECHNOLOGIES, INC.)
)
Charleston, West Virginia)
-----)

PR DOCKET NO. 93-231

The above-entitled matter came on for hearing pursuant to
Notice before Judge Joseph Chachkin, Administrative Law Judge,
2000 L Street, Washington, D.C., 20554, in Courtroom 3 on
Wednesday, February 9, 1994, at 9:30 a.m.

APPEARANCES:

On behalf of Capitol Radio Telephone:

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I N D E X

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<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
J. Michael Raymond				
By Ms. Laden		1297		
James G. Walker				
By Ms. Foelak				1438
By Mr. Joyce				1461
By Mr. Hardman			1474	

E X H I B I T S

<u>Exhibits</u>	<u>Identified</u>	<u>Received</u>	<u>Rejected</u>
CAP Exhibit No. 19		1435	
PRB Exhibit No. 18	1298		

Hearing began: 9:30 a.m. Hearing Ended: 3:25 p.m.
 Lunch Break Began: 12:30 p.m. Lunch Break Ended: 1:30 p.m.

P R O C E E D I N G S

1
2 JUDGE CHACHKIN: On the record. Mr. Raymond, it's
3 your time to come back here. The Bureau was, it was time for
4 the Bureau to conduct their cross-examination.

5 MS. LADEN: That's correct, Your Honor.

6 JUDGE CHACHKIN: Mr. Raymond, I would just hope that
7 the Bureau covers all of the subjects included in the
8 designation order and so we get the responses of management on
9 those issues.

10 MS. LADEN: Your Honor, I did want to point out that
11 we, there are things in the direct written testimony of
12 Mr. Raymond --

13 JUDGE CHACHKIN: Yes.

14 MS. LADEN: -- that are relevant to the designation
15 order.

16 JUDGE CHACHKIN: All right. Well, I --

17 MS. LADEN: We're not going to cover, it was not our
18 intention to ask him questions that are already in his direct
19 testimony.

20 JUDGE CHACHKIN: If you are satisfied with the
21 direct examination, then obviously there would be no purpose
22 to.

23 MS. LADEN: That's not to say that we agree with it,
24 Your Honor. I, I don't want to suggest that we concede
25 anything. But, but my cross-examination was designed to

1 | explore areas where I felt there were, questions would be.

2 | JUDGE CHACHKIN: All right. Fine. I mean if, the
3 | fact is that the Bureau has the burden of proceeding and the
4 | burden of proof on revocation, and so the Bureau understands
5 | its role and the importance of covering all these areas. For
6 | one thing, I notice, in this context, that although one of,
7 | one of the misrepresentation issues and violation issues
8 | concerns the, the volunteer fire department, Greenup County
9 | Rescue Squad, as far as I could see, the Bureau has not put in
10 | any evidence on that subject and anything contradicting
11 | Capitol's assertions that the fact was a bona fide request for
12 | service from the Greenup Rescue Squad, and I would just note a
13 | misrepresentation issue, there is a misrepresentation issue
14 | concerning such alleged service. I think it should be pointed
15 | out, at this stage.

16 | MR. HARDMAN: Yes, Your Honor. Thank you.

17 | JUDGE CHACHKIN: So I don't know if the Bureau is
18 | now conceding that there wasn't any misrepresentation in that
19 | area, since there is no evidence to the contrary.

20 | MS. LADEN: I'm, I'm not --

21 | JUDGE CHACHKIN: As far as Greenup County, I'm
22 | saying the Bureau did not put on, on, on the stand, any
23 | official from Greenup County, which controverts the testimony
24 | of Capitol witnesses that, in fact, there was a bona fide
25 | request for service and that they were exploring efforts to

1 provide this service. Okay. Go ahead, counsel.

2 CROSS-EXAMINATION

3 BY MS. LADEN:

4 Q Pardon me. Mr. Raymond, yesterday there was some
5 testimony by Mr. Peters about, for the translator locations
6 for Capitol, and I wanted to ask you this, do your paging
7 customers, are they pretty much in the downtown area or are
8 they, when they receive their pages, are they throughout a
9 large, some larger area?

10 JUDGE CHACHKIN: Which pagers are you talking about,
11 MCC or what kind of --

12 MS. LADEN: The, that's, that's a good point, Your
13 Honor, the private carrier paging customers.

14 MR. RAYMOND: Well, this was something that we were
15 exploring, as far as where the pagers would, per se, alert and
16 give the message. But this was basically require, or we
17 called it a local paging system. Now everyone's definition of
18 local can be different. To me, that was the downtown area.
19 And the surrounding area is not, per se, confined to a five-
20 mile radius. We went as far as we could, be it, calling it
21 local, so it would expand beyond the downtown area, yes,
22 ma'am.

23 MS. LADEN: Your Honor, may I approach --

24 JUDGE CHACHKIN: Yes.

25 MS. LADEN: -- the witness? Thank you.

1 MR. RAYMOND: Thank you.

2 MS. LADEN: Your Honor, I'd like to have this
3 document marked for identification as Private Radio Bureau
4 Exhibit Number 18.

5 JUDGE CHACHKIN: Now would you describe the
6 document, please.

7 MS. LADEN: Yes, Your Honor. The document is a, is
8 a copy of the tariff rates, rules, and regulations for
9 furnishing telephone service, filed with the Public Service
10 Commission of West Virginia by Capital Radio Telephone
11 Company, Inc. It consists of 15 pages.

12 JUDGE CHACHKIN: The document described is marked
13 for identification is part of the Radio Bureau Exhibit 18.

14 (Whereupon, the document referred to
15 as Radio Bureau Exhibit 18 was marked
16 for identification.)

17 BY MS. LADEN:

18 Q Mr. Raymond, could you look at page ten of this
19 document.

20 A Yes, ma'am.

21 Q Now there you see the, do you not see a listing of
22 the rates, of the service rates --

23 A That is correct, Your Honor.

24 Q -- for Capitol?

25 A Yes, ma'am.

1 Q Now does it not say there that these rates are
2 maximums?

3 A Yes, ma'am, it does.

4 Q Okay. Does this mean that this is the maximum rate
5 that can be charged?

6 A Starting December 4th of 1993, if you look at the
7 bottom of the page, it says an effective date, ma'am. This
8 cancelled our, I'd worked in, and this is my personal worked,
9 I worked on this tariff for two years with the Public Service
10 Commission in Charleston, West Virginia, in getting some rates
11 in line. We, we have many things that we do. We had an
12 original 1965 tariff that, I believe, was modified to
13 encompass some other service areas in 1990. This one -- for
14 '89 or '90. This one cancelled that one out and became
15 effective December 4th of 1993. This was two years of work
16 that is involved into getting this tariff filed, certificated.
17 As a matter of fact, it went on so very, very long, there are,
18 in, in West Virginia Public Service Commission it is required
19 to go out publicly to the newspapers and all the counties we
20 served, as I recollect I'd earlier testified, and allow every
21 RCC to object or go along with this. Due to the length of
22 getting this application filed through Mr. Danny Walker, the
23 Public Service Commission representative that I deal with, in
24 the final conclusions, which you don't seem to have here, they
25 waived those, the advertisement-type regulations that were

1 required because this is two years worth of work.

2 JUDGE CHACHKIN: In any event, since it's effective
3 some of, what, 1993, which is after they no longer are able to
4 use the private radio service, I don't know what bearing this
5 has on the case.

6 MS. LADEN: Your Honor, my questions have to do with
7 the, how the tariff rates are set for an RCC. I, I showed
8 this to Mr. Raymond just as an example. I did want to ask him
9 more questions about how tariff rates are set.

10 JUDGE CHACHKIN: Go ahead.

11 BY MS. LADEN:

12 Q My question was really not about this particular
13 tariff, but I noted that it indicates that the tariff here is
14 a maximum, the rate to be charged here is a maximum.

15 A Yes, ma'am. This was the first of its type in, in
16 the entire state of West Virginia. This, once again, was a
17 test case. It's, it sets a lot of precedence, because we have
18 never had this type of tariff ever in the state of West
19 Virginia.

20 Q Are you saying that before this, the tariffs were
21 not maximums but were set?

22 A We had set tariffs as, as, and I, I'm speaking for
23 me, for Capitol, excuse me. We had set tariffs, such as \$15
24 for voice, which then would allow us to give a ten-percent
25 discount of three or more pages. Approximately three years

1 ago, American Mobile Phone, the other RCC within our area,
2 filed a tariff which did not give them, and, and I'm going to
3 use the term flexible bracing as this one does, they used a
4 stair-step. As maybe you can recollect, in my earlier
5 testimony on Monday, I, I would say that, for an example, and
6 I was using this as an example, American Mobile Phone in the
7 Huntington area may go down and bid \$6 on a bidding situation
8 and a private carrier could change maybe his rate to \$20 or
9 whatever, to whomever, but by knowing that tariff, it allowed
10 them to bid \$5.95 and beat them on price. Now once again,
11 this was with, for the RCC's. We were trying to get in line
12 with our competition as well.

13 Q Are you saying that before 1993, you could not
14 charge a lower rate than the tariff rate?

15 A As the tariffed rate. We are required by law to
16 charge a tariffed rate, yes, ma'am. That is correct.

17 Q And you cannot charge any less than that?

18 A That is correct, for air time, ma'am. Please do not
19 confuse our tariff on rental and air time.

20 Q I understand. I believe --

21 A Yes, ma'am.

22 Q -- you testified as to the distinction on that.

23 A That is correct, ma'am.

24 Q Now you, when did the PCP station go, actually go on
25 the air?

1 A My recollection is I believe we received our license
2 in September of '90, if I am correct. It was the following
3 March.

4 Q Now was that when you, by on the air, do you mean
5 when you started to serve customers?

6 A That is when we were able to "get on the air" in
7 hopes to serve customers, yes, ma'am. As --

8 Q And did you --

9 A -- I'm --

10 Q -- did you do any testing before March of 1991?

11 A No, ma'am. There, there was some evidence put in
12 that, that you all requested, to prove that. As a matter of
13 fact, in my, one of my letters or one of my declarations, I,
14 on March the 9th, that was a call that came to my home from
15 Mr. Capehart, I think he may be even agreed to that, talking
16 about a religious broadcasting station that was interfering
17 with them, and I still to this moment do not understand why he
18 would call Capitol, and at that time I explained to him that
19 we were planning on going on the air Monday, March the 9th.
20 Due to technical problems and so forth, I believe we got on
21 the air March the 12th, and, at that time, we -- prior, in
22 his, in his conversation with me and in my declaration, I, I
23 had mentioned that he had told us that he took his off the air
24 inhibitor off to overcome this religious broadcasting. I
25 requested to him that he have it back on by Monday. On

1 Tuesday, when we went on, it was quite obvious, as my
2 declaration will so state, that it was not on. That is when I
3 called him and requested that he put it on, which followed up
4 the letter of the 19th with this interconnect and, and, of
5 course, he wanted to blame what interference we were having on
6 collisions. Our was always malicious, I have noticed, but he
7 wanted to explain to me all about collisions, and I was quite
8 aware of collisions.

9 Q What, what are collisions?

10 A When the transmitters seize the air at the very same
11 time and then two, two signals could collide. And that is
12 possible whether it be hardline, as I believe, if I recollect
13 right, there has been testimony from several people on
14 hardline that, that they have it just because of timing
15 delays, they have the opportunity to collide, as well as an
16 off air inhibitor can collide.

17 JUDGE CHACHKIN: So you're saying you didn't turn
18 the, that system on until March of 1991, is that correct?

19 MR. RAYMOND: That is, that is correct.

20 JUDGE CHACHKIN: So where the Bureau charges you and
21 Ram (Phonetic), based on Ram's complaints that test
22 transmissions were conducted in 1990, you are stating that
23 didn't happen. Is that correct?

24 MR. RAYMOND: If, if I am correct in saying that our
25 license was issued in September of '90, and, and if I may

1 refer to my, to the license here?

2 JUDGE CHACHKIN: Go ahead, refer to anything.

3 MR. RAYMOND: That will be under Cap 15.

4 JUDGE CHACHKIN: All right.

5 MR. RAYMOND: And that was issued 9/12 of '90, so my
6 dates are correct.

7 JUDGE CHACHKIN: So you didn't go on the air, didn't
8 turn on the system until March of '91, so the charge by Ram,
9 as far as you're concerned, is baseless, is that correct?

10 MR. RAYMOND: That among, yes, sir, that is correct.

11 JUDGE CHACHKIN: Does the Bureau have any evidence
12 that the, the P.C.C. was on the air in 1990, November, 1990?

13 MS. LADEN: I'm not sure.

14 JUDGE CHACHKIN: Besides upon the assertions of Ram,
15 Ram didn't support any evidence showing the distinction was
16 P.C.C. was on the air in 1990.

17 MS. LADEN: There was an inquiry that was done when
18 that complaint came in, Your Honor, and I think there was some
19 testimony about it earlier. The response from Capitol does
20 not say that the station is not on the air.

21 JUDGE CHACHKIN: It just says do you cause
22 interference, but the charge also, I believe, had to do with
23 the RCC

24 MS. LADEN: Yes. Yes, Your Honor.

25 JUDGE CHACHKIN: But do you have any evidence that

1 they were, in fact, on the air, operating in that period of
2 time?

3 MS. LADEN: I don't. Just what we've heard here.

4 JUDGE CHACHKIN: Well, all right. Let's proceed.

5 BY MS. LADEN:

6 Q You, I believe you indicated in your testimony
7 earlier that after the notice of, after you received your
8 notice of apparent liability, you, yourself, did not monitor
9 Capitol's system.

10 A I don't completely understand your question, but --

11 JUDGE CHACHKIN: What is the date of the notice of
12 apparent liability? It might help things if you've got a date
13 someplace.

14 MS. LADEN: I believe it's July of '92.

15 MR. HARDMAN: July 30, 1992.

16 JUDGE CHACHKIN: All right. Let's use that as a
17 date now --

18 MR. RAYMOND: If I completely understand your
19 question, we continued to use our off air, our inhibitor.

20 BY MS. LADEN:

21 Q I understand.

22 A Yes, ma'am.

23 Q My question is, as you know, there has been an
24 allegation that there was, there would be peak transmissions
25 in August and in October of 1992, which would be after the

1 notice of apparently liability.

2 A Yes, ma'am.

3 Q What I am trying to determine is whether you
4 monitored, and you indicated earlier, I believe, that you were
5 not aware at that time about those retransmissions. My
6 question is after you received the notice of apparent
7 liability, did you monitor the frequencies, the 152.48
8 frequency, for compliance?

9 A Yes, ma'am. And, and when I'm saying, when I speak
10 of monitoring, we have a, a separate room, somewhat of trying
11 to get it into security now especially, that are commonwealth
12 terminal. It is in, and what, that is where the inhibitor is
13 in. Now we would be monitoring, and of course I work on the
14 commonwealth. If something goes down, I am the hands of the
15 technicians from, from Ashland, Virginia. And so I would be
16 in that room quite often, just checking, or cleaning, or
17 studying, so I would see the inhibitor and the sequence of
18 lights to show that when, when the system was busy with other
19 transmissions and, and then ours in backup, waiting to go out
20 when the system was clear, I would see them go out, yes,
21 ma'am.

22 MR. HARDMAN: Your Honor?

23 JUDGE CHACHKIN: Yes?

24 MR. HARDMAN: As for clarification, the, the witness
25 earlier testified, and I think Ms. Laden agreed, that the,

1 that the inhibitor was continuing to be used after the July 30
2 date, and the question, nonetheless, was whether Capitol
3 monitored, and I'm completely confused by the, what the, what
4 question is being asked. What --

5 JUDGE CHACHKIN: The issue calls for whether Capitol
6 transmitted on frequency 152.48 megahertz for purposes other
7 than completing private carrier pages, and whether the
8 contents of these transmissions included common carrier paging
9 traffic. That's what the issue calls for.

10 MS. LADEN: That's correct. What I'm trying to
11 determine --

12 JUDGE CHACHKIN: What, what's monitoring have to do
13 with that?

14 MS. LADEN: What I'm trying to determine, I'm not
15 talking about monitoring to, as, as with the inhibitor.
16 Perhaps I was not clear. What I'm trying to determine is
17 whether you ever heard, maybe I should ask you. Did you ever
18 hear any of those retransmissions?

19 MR. RAYMOND: Well, ma'am, if, if my recollection
20 serves me right, I believe everyone that's testified has
21 talked that they were digital transmissions. Now in this
22 moment, this second, you could not bring me in and say listen
23 to this digital transmission and tell me if it's yours or, or
24 any other company's. So I, I would, I, I wouldn't know --

25 MS. LADEN: Doesn't --

1 MR. RAYMOND: -- even if I heard.

2 MS. LADEN: Thank you for clarifying that for me.

3 MR. RAYMOND: Yes, ma'am.

4 JUDGE CHACHKIN: Well, what about the issue here in
5 the designation letter as to whether Capitol transmitted on
6 its frequency for purposes other than completing private
7 carrier pages? And we're talking about the period on or about
8 August 27th, 1992, and says and continuing to the present.
9 What do you have to say about that?

10 MR. RAYMOND: Sir, are you asking me?

11 JUDGE CHACHKIN: Yes.

12 MR. RAYMOND: Oh, I'm sorry. Did we do it? No,
13 sir, we did not.

14 JUDGE CHACHKIN: And it also asks the question
15 whether the contents of the transmissions included common
16 carrier paging traffic. What, what is your response to that?

17 MR. RAYMOND: No, sir, we did not.

18 JUDGE CHACHKIN: So what were you transmitting in
19 the period we're talking about, in 1992 and -- were you, were
20 you transmitting pages at that period of time?

21 MR. RAYMOND: Yes, sir, we --

22 JUDGE CHACHKIN: Private carrier pages?

23 MR. RAYMOND: Yes, sir, we were.

24 JUDGE CHACHKIN: Were you using it for any other
25 purpose?

1 MR. RAYMOND: Not any other purpose other than
2 private carrier usage, no, sir.

3 JUDGE CHACHKIN: And transmitting pages?

4 MR. RAYMOND: Transmitting pages, and, and we would
5 conduct tests, as well.

6 JUDGE CHACHKIN: Go ahead, Ms. Laden.

7 MS. LADEN: Now do you recall the FCC engineers
8 testifying that when they were in town, they repeatedly heard
9 a sequence of tones coming over the air?

10 JUDGE CHACHKIN: Now what period are we talking
11 about now?

12 MS. LADEN: August of 1991.

13 JUDGE CHACHKIN: All right.

14 MR. RAYMOND: Yes, ma'am, I do.

15 BY MS. LADEN:

16 Q And that they determined those tones were coming
17 from Capitol's transmitter, do you remember that?

18 A My recollection serves, I believe they said that
19 the, the tones were coming from Capitol. I do not know where
20 they specifically specified.

21 Q Now in your declaration, one of them is at Capitol
22 Exhibit 1, the other one is Private Radio Bureau Exhibit 10,
23 in those declarations, you state that at that time --

24 A Excuse me, can my, can I turn to your Exhibit 10. I
25 know what I said in mine.

- 1 Q Yes.
- 2 A Yes, ma'am.
- 3 Q Your, Exhibit 10 is a copy, I believe, of a
4 statement that you sent to the Commission.
- 5 A Well, Exhibit 10?
- 6 JUDGE CHACHKIN: Not Exhibit 10.
- 7 MR. RAYMOND: No, I, I'm, I have a letter that I,
8 that we did not receive from Mr. Shiben. Oh, I'm sorry, this
9 was the Capitol Radio exhibit.
- 10 MR. HARDMAN: I, I believe counsel's referring to
11 PRB Exhibit 11, the response to the --
- 12 MR. RAYMOND: Yes --
- 13 MR. HARDMAN: -- 308b inquiry.
- 14 JUDGE CHACHKIN: Okay. 10 is the letter from --
- 15 MS. LADEN: That's correct. Thank you very much,
16 Mr. Hardman.
- 17 MR. RAYMOND: Yes, ma'am, I see the, I see the
18 Bureau exhibit.
- 19 BY MS. LADEN:
- 20 Q Now in those two declarations, you indicate that at
21 that time, meaning August of 1991, you were engaging in a lot
22 of testing. Is that correct?
- 23 A When the inspector, that is the period the
24 inspectors were in, is that, am I correct?
- 25 Q Yes.

1 A Yes, ma'am.

2 Q That's right. Now in those declarations, you also
3 discuss the reasons that you were doing the testing. Would
4 you describe what the reasons were that you were doing testing
5 then again, please?

6 A Yes, ma'am. I'm, I'm, I'm very glad that you asked
7 that question because it seems to me that maybe that's not
8 been clarified due to whomever. I believe we, everyone's got
9 into tunnel vision on this type thing. I, I've heard many
10 different thing, you test for range, you test for a link, you
11 test, all that's true, but you, you test for all of it. You
12 don't, I'm not necessarily saying that, that we test to see if
13 a link's working. There would be circumstances that you would
14 test to see if the link's working, if you're having a link
15 problem. But when you are testing for range, that is also
16 telling you, well, we're testing for range and we're testing
17 for this and we're testing for that. So, yes, there is a
18 considerable amount of testing going on, to test out the, and,
19 and to put this in a broad scope, the system, which is every
20 detail of the system, which is range, which is quality, which
21 is dependability, which is the equipment functions, are they
22 functioning properly, referring to your link that, that, that
23 has been talked so much about. So many combinations of
24 things, penetration in the building, penetration out, you
25 know, outside of a building. So it's a wide scope, and, and,

1 and to paraphrase it, it's a big piece of pie, and we don't
2 pick a single piece of pie out and say this is exactly what
3 we're testing unless we were specifically having that problem.

4 Q Well, in August of 1991, was there a specific reason
5 that you were conducting tests?

6 A It would be that pie that I'm discussing.

7 Q Are you --

8 A We --

9 Q -- are you saying you tested all the time?

10 A Ma'am, even in our RCC division, we test all the
11 time. We test daily. There is not a day goes by that someone
12 is not running tests. We test when a customer requires to
13 have a pager, when they come into sign one, we test that pager
14 to make sure it works. When someone brings a pager in for,
15 let's say that it's not working, we must test it to find out,
16 first of all, is it broken, it, is it maybe just the battery
17 dead. I mean we turn it on and off and listen for the, the,
18 the low cell indicator. If, if that's not it, then we test
19 that pager to find out what's exactly wrong with it.

20 Q Is that --

21 A Then we, would give them -- please let me finish.

22 Q Sure.

23 A Then we would give them a new pager, if we found out
24 this one is not working, and then we must test that pager to
25 show them that it is, it is working. Okay?

1 Q Are those tests that you are describing consistent
2 with what the engineers heard, the two-tone sequence?

3 A No, I, I didn't say that what the engineer heard was
4 for a customer, giving that person a -- I'm just giving you
5 some of the reasons and how things are tested. We're back to
6 the pie now, if, if, if we may.

7 Q But I would like to know, what I asked you and what
8 I would like to know is when the engineers heard that two-tone
9 sequence, you indicated to the Commission in declarations that
10 you made to the Commission and in your testimony here, you
11 indicated that that might have been testing.

12 A Oh, absolutely.

13 Q And I would like to know what you were testing for.

14 A Okay. Maybe, and, and excuse me if I didn't answer
15 it or, or maybe you didn't understand my answer. We would be
16 testing for range. We would be testing for dependability. We
17 would be testing for link problems, which it, it is quite
18 evidence that there were several with all the links that had
19 to be coordinated through NABER. We were testing for, once
20 again, dependability. We were testing for individual
21 customers. This customer says, I, I, I need this area, and
22 I'm using this as an example, but if we don't know if works
23 there, we have to go find out. It's not up to the customer to
24 find out.

25 Q So are you saying that in August of 1991, when the

1 engineers heard these repeated tests, that this was the way,
2 that this was a regular, a regular thing?

3 A I, I don't understand what you mean when you, you
4 use the word regular thing.

5 Q Well, you indicate that you test all the time and
6 that you test for different purposes, and that, and I'm just
7 wonder if, when the engineers were in town, and they listened
8 to those tones which you later described as testing --

9 A Yes, ma'am.

10 Q -- I would like to know whether you did that kind of
11 testing all the time?

12 A Personally, I, I do not. I instruct my people to do
13 testing of that nature quite often, and especially in a new
14 system, in a new system that, that has had problems all along.
15 So testing, yes. We tested for all of those reasons and more.

16 Q Now --

17 JUDGE CHACHKIN: She hasn't asked you about your
18 general testing. She's asked you about these specific tones
19 at the time that the inspectors were there.

20 MR. RAYMOND: Okay.

21 JUDGE CHACHKIN: Can you tell us why, what was the
22 nature, what was the reason for that particular testing?

23 MR. RAYMOND: We used the tones to test for all that
24 I had stated prior to. We prefer to use tones to do our
25 testing, rather than as you all call dial up and say

1 something. I'm not saying that that isn't a, an option used.
2 If a customer comes in and wants to rent a pager, you would
3 put over, this is a, this is a test pager, we may say please
4 call your office. But in our testing, we always use tones.

5 JUDGE CHACHKIN: Why?

6 MR. RAYMOND: Why? For several reasons. To the
7 contrary of, of what some people have said, one, if, if we
8 used a voice message per se, and I believe my recollection
9 goes back to the, I believe one of counsel asked me this
10 question, a voice message on a shared frequency can take up to
11 a maximum of 20 seconds, the 10 second with a 10 second
12 repeat. This is a shared frequency. A tone takes
13 approximately, by the, the testimony of, of the field
14 engineers, and I believe they said they heard three sequences
15 of tones which would take, dividing 3 into 20, you're coming
16 up with, we'll give you the benefit of the doubt, of 7 seconds
17 we were able to alert three different pagers. Now to do that
18 over a voice message, we would really have utilized a lot of
19 air time, because that could have been a 20 second page, which
20 then by doing 3, could have been a 60 second page. So in
21 efforts to reduce the air time on a shared frequency, because
22 we don't need to, per se, necessarily hear the message, did
23 it, the tones will alert a pager, will make it go beep. And I
24 think this was a confusion yesterday with RAM's attorney. I
25 don't, I don't think he ever got it, that we can set a voice

1 pager off. It doesn't necessarily have to have a voice
2 message. You can set a digital pager off. You do not
3 necessarily have to enter a number. The pager will go beep,
4 and that's what we were, were concerned with, will it go beep.

5 BY MS. LADEN:

6 Q What I'm trying to determine is in August of 1991,
7 during those three days, August 12th to the 15th, four days
8 that the engineers were in town, do you know specifically why
9 you were testing the system?

10 A I'm sorry, I, I thought I've answered that.

11 Q I think you've indicated that you test for a number
12 of reasons. I would like to know what you were testing on
13 those days.

14 A All those numbers of reasons or any of those number
15 of reasons, ma'am. I cannot go back and specify that
16 particular day, or even yesterday, because different people,
17 different staff, different of our associates will test for
18 different things, depending on what they are requiring at that
19 specific time. If a, and I, I'll, I'll try to explain it real
20 easy. If a customer says will your pager go beep in this
21 area, and we don't know, then we will test that particular
22 function. All right?

23 Q Now when you test that particular function --

24 A Um-hum.

25 Q -- do you set, do you have the system automatically