

1 what we're doing here. Okay. Then your next document which  
2 will be Number 6 for identification.

3 MR. BECKNER: And that's Tab 11 in the notebook.  
4 And that is another inventory of 18 gigahertz licenses from  
5 Jennifer Richter dated January 6th, 1994. And that consists  
6 of -- let me see the number of pages here. Let me see,  
7 that's 35 pages.

8 JUDGE SIPPEL: That's -- that will be marked for  
9 identification by the Reporter then as TW/CV Number 6.

10 (The document referred to was  
11 marked for identification as  
12 TW/CV Exhibit Number 6.)

13 Is there any objection to it being received?

14 MR. BEGLEITER: There is none, Your Honor.

15 JUDGE SIPPEL: All right. Then that document,  
16 number -- that has been marked for identification as Number  
17 6 is received in evidence at this time as TW/CV Number 6.

18 (The document referred to,  
19 previously marked for  
20 identification as TW/CV  
21 Exhibit Number 6, was received  
22 in evidence.)

23 And then your next document?

24 MR. BECKNER: Okay. This is -- this will be  
25 marked -- this will be Number 7. And it's at Tab 12 in the

1 notebook. It's a one page document, a memo from Behrooz  
2 Nourain to Edward Milstein, dated January 13, 1994. And  
3 again, this -- this is a cross examination document and I'd  
4 like to reserve the right to offer it in cross examination -  
5 - or to show its relevance in cross examination.

6 JUDGE SIPPEL: Any objection to it being received  
7 now?

8 MR. BEGLEITER: Yes, there is, Your Honor.

9 JUDGE SIPPEL: All right. Same ruling then as  
10 with respect to Number 5. TW/CV Number 7 for identification  
11 is identified but is rejected as evidence at this time with  
12 the right to re-offer.

13 (The document referred to was  
14 marked for identification as  
15 TW/CV Exhibit Number 7 and was  
16 rejected.)

17 MR. BECKNER: Okay. All right.

18 JUDGE SIPPEL: And your next one will be Number 8.

19 MR. BECKNER: Number 8 is at Tab 13 in the  
20 notebook. And it is a one page memo from Behrooz Nourain to  
21 Peter Price, dated April 20, 1994. And as with the previous  
22 exhibit, I would like to reserve the opportunity to make a  
23 showing of relevance at the time of cross examining the  
24 witness.

25 MR. BEGLEITER: I have no objection to the

1 document going in, Your Honor.

2 JUDGE SIPPPEL: It comes in. All right. Number 8,  
3 that has been identified as TW/CV Number 8, is not received  
4 in evidence as your Exhibit 8.

5 (The document referred to was  
6 marked for identification as  
7 TW/CV Exhibit Number 8 and was  
8 received in evidence.)

9 MR. BECKNER: All right. Number 9 is at Tab 14 in  
10 our notebook. And it also is a one page document. It's a  
11 memo from Bertina Ceccarelli to Behrooz Nourain, dated May  
12 17, 1994. And, again, as with the previous two exhibits,  
13 I'd like to reserve the right to make the showing of  
14 relevance at the time of examination of the witness.

15 JUDGE SIPPPEL: Any objection to it being received  
16 now?

17 MR. BEGLEITER: Yes, it's irrelevant, Your Honor.

18 JUDGE SIPPPEL: You have an objection on relevance?

19 MR. BEGLEITER: Yes.

20 JUDGE SIPPPEL: All right. Then it's rejected for  
21 the time being with the right to re-offer it at the hearing.

22 (The document referred to was  
23 marked for identification as  
24 TW/CV Exhibit Number 9 and was  
25 rejected.)

1           And your next document?

2           MR. BECKNER: All right. Our Exhibit 10 is at Tab  
3 15 in the notebook. And it is a five page document, a memo  
4 from Bertina Ceccarelli to Howard and Edward Milstein dated  
5 June 3rd, 1994. And as with the previous ones that we've  
6 been discussing, I would like to reserve the opportunity to  
7 make a showing of relevance at the time of examination of  
8 witnesses.

9           JUDGE SIPPEL: And, let's see, how many pages on  
10 this one?

11          MR. BECKNER: Five pages, Your Honor. And --

12          JUDGE SIPPEL: All right. I want to be sure that  
13 I'm keeping track. This -- this will be -- the mark for  
14 identification is TW/CV Number 10, and it's the memo dated  
15 June 3rd, 1994.

16          MR. BECKNER: Your Honor, I made a mistake. It's  
17 -- yes, there are two documents actually -- three documents  
18 that we've put together as a collected exhibit. So I should  
19 re-identify them for the record. I apologize.

20          JUDGE SIPPEL: All right. Why don't you identify  
21 them one at a time.

22          MR. BECKNER: Yes. I mean, they relate to each  
23 other and that's why we've grouped them as one exhibit.

24          JUDGE SIPPEL: All right.

25          MR. BECKNER: The first -- the first page of the

1 exhibit is in fact the memorandum I described previously  
2 from Bertina Ceccarelli to Howard and Edward Milstein dated  
3 June 3rd, 1994. The second page of the exhibit is another  
4 memorandum from Bertina Ceccarelli to Howard and Edward  
5 Milstein, also dated June 3rd, 1994. It is different than  
6 the first one that I identified.

7 JUDGE SIPPEL: All right. But both of those memos  
8 refer to the 114 East Seventy-second Street property,  
9 correct?

10 MR. BECKNER: Yes, sir.

11 JUDGE SIPPEL: And what's your third document in  
12 there?

13 MR. BECKNER: The third document in Exhibit -- and  
14 that's the last three pages of the exhibit -- is a  
15 memorandum from Bertina Ceccarelli to Howard and Edward  
16 Milstein, dated July 15, 1994, again, concerning 114 East  
17 Seventy-second Street.

18 JUDGE SIPPEL: Okay. All those documents then  
19 collectively are marked for identification as TW/CV Exhibit  
20 Number 10.

21 (The document referred to was  
22 marked for identification as  
23 TW/CV Exhibit Number 10.)

24 Now, Mr. Begleiter, is there any objection to  
25 receiving one or any or all?

1 MR. BEGLEITER: All for relevance, Your Honor. I  
2 have no clue why these are being offered.

3 JUDGE SIPPEL: And they're rejected and with the  
4 right to re-offer.

5 (The document referred to,  
6 previously marked for  
7 identification as TW/CV  
8 Exhibit Number 10, was  
9 rejected.)

10 Okay. Then your next will be Number 11.

11 MR. BECKNER: Yes. One moment. Yes, the next  
12 document is Exhibit 11. And it is at Tab 16 in the  
13 notebook. And let me see the number of pages here. This is  
14 46 pages. And what it is is several of Liberty's technical  
15 operations reports attached together for the dates of April  
16 4, 1996; October 5th, 19 --

17 MR. BEGLEITER: April 4, 19 --? I'm sorry. I'm  
18 sorry.

19 MR. BECKNER: It may not be right, but it's what  
20 on the paper.

21 MR. BEGLEITER: No, you're right. I'm sorry.

22 MR. BECKNER: October 5th, 1995; April 6th, 1995;  
23 and October 6th, 1994. This -- I'll note for the record,  
24 this -- this is a redacted version of the document and this  
25 is the form in which it was produced to us.

1 JUDGE SIPPEL: All right.

2 MR. BECKNER: And it was identified by Mr.  
3 Ontiveros at his deposition.

4 JUDGE SIPPEL: All right. This will be marked for  
5 identification then as TW/CV Number 11.

6 Is there any objection, Mr. Begleiter?

7 MR. BEGLEITER: No -- wait, Your Honor.

8 JUDGE SIPPEL: Let's go off the record a minute.

9 (A discussion was held off the record.)

10 JUDGE SIPPEL: Back on the record.

11 MR. BEGLEITER: Your Honor, we object to one of  
12 the documents which is the -- the 1996 document only because  
13 it is post the transaction. And we don't believe it has any  
14 -- it has any relevance at this point. The other documents  
15 we'll have no objection to.

16 MR. BECKNER: One moment, Your Honor.

17 JUDGE SIPPEL: Let's go off the record a moment.

18 (A discussion was held off the record.)

19 JUDGE SIPPEL: We'll go back on the record.

20 MR. BECKNER: We have no problem with removing  
21 from this exhibit the April 4, 1996 installation progress  
22 report. The reason that we included it is because, as you  
23 can see, this entire document was a single deposition  
24 exhibit. And that's how it was handled there. But it -- if  
25 it would cure counsel's objection to remove the April 4,

1 1996 portion of this exhibit, we'll be glad to do that. And  
2 I think that goes through page 15480.

3 JUDGE SIPPEL: Go off the record.

4 (A discussion was held off the record.)

5 JUDGE SIPPEL: We're back on the record. What has  
6 been marked as -- what will be marked as TW/CV Number 11  
7 will be these redacted versions of technical operations  
8 reports, all the ones listed by Mr. Beckner with the  
9 exception of the one for April 4, 1996. And the stamped  
10 numbers will run from 0029 to 0061. And that will be marked  
11 as TW/CV Number 11.

12 (The document referred to was  
13 marked for identification as  
14 TW/CV Exhibit Number 11.)

15 And I understand, Mr. Begleiter, you don't have  
16 any objection to receiving that?

17 MR. BEGLEITER: None at all.

18 JUDGE SIPPEL: And it's now received in evidence  
19 as TW/CV 11.

20 (The document referred to,  
21 previously marked for  
22 identification as TW/CV  
23 Exhibit Number 11, was  
24 received in evidence.)

25 And your next exhibit.

1 JUDGE SIPPPEL: All right. Exhibit 12 is at Tab 17  
2 in the notebook. It's a one page memo from Bertina  
3 Ceccarelli to Edward Milstein, dated 1/30/95. And as with  
4 the other Ceccarelli memos that I have offered, I would  
5 prefer to make the showing of relevance at the time of  
6 examination of the witness.

7 JUDGE SIPPPEL: All right. Then that one page  
8 document as you've described it is marked for identification  
9 as TW/CV Number 12.

10 (The document referred to was  
11 marked for identification as  
12 TW/CV Exhibit Number 12.)

13 Objection?

14 MR. BEGLEITER: No objection, Your Honor.

15 JUDGE SIPPPEL: It's in -- it's received in  
16 evidence then as TW/CV 12.

17 (The document referred to,  
18 previously marked for  
19 identification as TW/CV  
20 Exhibit Number 12, was  
21 received in evidence.)

22 Okay. Your next document, Mr. Beckner.

23 MR. BECKNER: Okay. The next document is TW/CV 13  
24 and it's a copy of the affidavit of Behrooz Nourain which  
25 was filed in the case styled Liberty Cable Company versus

1 the City of New York in the Southern District of New York.

2 And the affidavit is dated February 21, 1995.

3 JUDGE SIPPEL: How many pages is that?

4 MR. BECKNER: And that -- including the cover page  
5 which says, "Attachment to", it is five pages.

6 JUDGE SIPPEL: All right. That's marked for  
7 identification as TW/CV 13. Is there any objection?

8 MR. BEGLEITER: Yes, Your Honor. We -- in Your  
9 Honor's delineation of the issues in this case and for this  
10 hearing next week, Your Honor did not include the issue of  
11 the -- the Behrooz Nourain affidavits. It's irrelevant.

12 MR. BECKNER: Well, Your Honor, the -- the -- Mr.  
13 Begleiter is correct. But I think his statement is  
14 incomplete. The -- the hearing as I understand is an  
15 attempt to try to sort out when, to use the old phrase from  
16 Watergate, what did they know and when did they know it, and  
17 in particular when Mr. Nourain knew about various things  
18 with respect to the licensing status of Liberty's microwave  
19 operations.

20 This affidavit reflects certain knowledge about  
21 the fact that Liberty had -- that it had made certain  
22 applications and that Time Warner had opposed them. And,  
23 you know, it is part of a series of statements -- of prior  
24 statements that Mr. Nourain has made about the state of his  
25 knowledge in the first quarter of 1995 concerning the status

1 of Liberty's FCC licenses, the oppositions to those licenses  
2 and -- and his understanding of what was happening at the  
3 FCC.

4 JUDGE SIPPEL: Can you show me where it says that?  
5 What part are you referring to?

6 MR. BECKNER: If you look at paragraph 5 which is  
7 on page -- page 0092, at the bottom of the page.

8 JUDGE SIPPEL: Well, it would seem to me that the  
9 only thing that's relevant there would be that as of the  
10 date of his affidavit which is, what, February the 21st,  
11 1995, he -- he -- that is, Mr. Nourain was advised that Time  
12 Warner has opposed pending applications on the 18 gigahertz.  
13 That's -- that's really basically all that it says is  
14 relevant to what we're trying to determine in this hearing -  
15 - the hearing phase of this.

16 MR. BECKNER: Well, he filed a later declaration  
17 which -- with the FCC in May of 1995 --

18 JUDGE SIPPEL: Right.

19 MR. BECKNER: -- which would appear to be  
20 inconsistent with this declaration. In fact, this is --  
21 this declaration is specifically mentioned in the HDO. And  
22 that inconsistency is specifically mentioned in the HDO.

23 JUDGE SIPPEL: Well, that's true, but that goes to  
24 -- it doesn't go to the -- it's -- the problem there is  
25 directly related with whether or not there was

1 misrepresentation to the Commission with respect to the --  
2 the illegal -- the illegal wiring in New York City without  
3 getting the franchises. That's what we're talking about in  
4 this hearing phase, is the credibility with respect to what  
5 was represented to the Commission in connection with seeking  
6 the STA authority for the -- the unauthorized activations.

7 MR. BECKNER: Well, the -- well, what I'd like to  
8 do without going through the whole cross here, I would just  
9 say that the -- the problem is is that -- is that in his  
10 declaration filed in May, Mr. Nourain professed to unaware  
11 of certain things relating to the unauthorized activation of  
12 microwave paths. And this -- this exhibit that we're  
13 tendering is inconsistent with that statement. And I'm not  
14 using it for any purpose relating to the unfranchised cable  
15 connections. I mean, that's what this case was about in  
16 which the affidavit was filed.

17 But the relevance of the affidavit to this  
18 proceeding doesn't depend on anything to do with  
19 unauthorized cable connections. It has to do with what Mr.  
20 Nourain told the Commission was the reason why he had turned  
21 on these microwave facilities without licenses. And he gave  
22 the Commission an explanation. And this document would  
23 appear to be inconsistent with that explanation.

24 JUDGE SIPPEL: Well, I'm not going to -- you've  
25 convinced me enough that it's worthy of certainly at least

1 being marked for identification. Are there any unrelated  
2 paragraphs in this affidavit that you could -- that could be  
3 stricken?

4 MR. BECKNER: If you give me a moment to go  
5 through it, I could do that.

6 JUDGE SIPPEL: Well, do that.

7 MR. BEGLEITER: Your Honor, if it's going to go  
8 into evidence, I'd prefer the whole thing go into evidence.

9 JUDGE SIPPEL: All right. And that's no problem.

10 MR. BEGLEITER: Right.

11 JUDGE SIPPEL: But it's not going to go -- I'm not  
12 going to rule -- well then we don't have to go through that  
13 procedure. What we're going to do though is you're  
14 objecting to it, right?

15 MR. BEGLEITER: Yes, Your Honor.

16 JUDGE SIPPEL: Then we're going to wait as we did  
17 with the others. We'll mark it now and you can re-offer it.  
18 I'm going to reject it now, but you can re-offer it.

19 MR. BECKNER: That's fine.

20 JUDGE SIPPEL: This is Exhibit 13?

21 MR. BECKNER: Yes.

22 JUDGE SIPPEL: A five page affidavit of Mr.  
23 Nourain dated February the 21st, 1995. That is marked for  
24 identification as TW/CV Number 13. It is today rejected  
25 with the right to renew at cross examination.

1 (The document referred to was  
2 marked for identification as  
3 TW/CV Exhibit Number 13 and  
4 was rejected.)

5 Next one.

6 MR. BECKNER: Okay. Exhibit 14 that we're going  
7 to offer is at Tab 19 in the notebook. And it is a copy of  
8 the installation progress report for February 23rd, 1995.  
9 And it's an 11 page document. And this document I'll note  
10 for the record does not appear to be redacted unlike the  
11 other ones.

12 JUDGE SIPPEL: All right. It's stamped up above,  
13 "Confidential, Attorneys' Eyes Only." But there's been a  
14 general stipulation that there's not going to be any  
15 confidentiality claim with respect to all this evidence. Is  
16 that correct, Mr. Begleiter?

17 MR. BEGLEITER: That's -- for these limited  
18 documents, that is right, for the purpose of the public  
19 interest of this proceeding.

20 JUDGE SIPPEL: Thank you. Okay.

21 MR. BEGLEITER: And we have no objection to the  
22 document being moved into evidence.

23 JUDGE SIPPEL: And it's marked as TW/CV Number 14,  
24 that is, this -- the document entitled, "Installation  
25 Progress Report." It's 11 pages. There being no objection,

1 it's identified and received in evidence as TW/CV Number 14.

2 (The document referred to was  
3 marked for identification as  
4 TW/CV Exhibit Number 14 and  
5 was received in evidence.)

6 MR. BECKNER: Okay. Number 15 -- Exhibit 15 is  
7 another -- is a technical operations report. And that's at  
8 Tab 21 in the notebook. And it's also an 11 page document.  
9 It's a technical operations report dated March 2, 1995.

10 JUDGE SIPPEL: That's identified then at this  
11 time. The Reporter will identify that document as TW/CV  
12 Number 15.

13 (The document referred to was  
14 marked for identification as  
15 TW/CV Exhibit Number 15.)

16 Any objection?

17 MR. BEGLEITER: No objection, Your Honor.

18 JUDGE SIPPEL: It's received into evidence as  
19 TW/CV Number 15.

20 (The document referred to,  
21 previously marked for  
22 identification as TW/CV  
23 Exhibit Number 15, was  
24 received in evidence.)

25 MR. BECKNER: Okay.

1 JUDGE SIPPEL: How many pages was that again?

2 MR. BECKNER: Eleven pages I believe.

3 JUDGE SIPPEL: Thank you.

4 MR. BECKNER: I'm sorry, Your Honor. I misspoke.  
5 It's 12 pages.

6 JUDGE SIPPEL: Twelve pages, all right. Number 14  
7 was 11 pages.

8 MR. BECKNER: Yes.

9 JUDGE SIPPEL: Got you. Okay. Your next exhibit?

10 MR. BECKNER: Okay. Number 16 -- Exhibit 16 is at  
11 Tab 22 in the notebook. And it is a memorandum from MJL,  
12 which has been identified as Mike Lehmkuhl, to HJB, 18085,  
13 dated April 5, 1995. And the number of pages that's in this  
14 document is 15 pages.

15 JUDGE SIPPEL: That document will be marked for  
16 identification TW/CV Number 16.

17 (The document referred to was  
18 marked for identification as  
19 TW/CV Exhibit Number 16.)

20 Any objection, Mr. Begleiter?

21 MR. BEGLEITER: None, Your Honor.

22 JUDGE SIPPEL: It's received in evidence as Number  
23 16.

24 //

25 //

1 (The document referred to,  
2 previously marked for  
3 identification as TW/CV  
4 Exhibit Number 16, was  
5 received in evidence.)

6 And your next exhibit.

7 MR. BECKNER: Number 17, which is at Tab 23 in the  
8 notebook, is a copy including the transmittal letter of STA  
9 requests filed by Liberty Cable on May 4, 1995. And I'll  
10 note that this copy includes granted stamps on some of the  
11 requests.

12 JUDGE SIPPEL: Oh, I see that. How many pages is  
13 this document?

14 MR. BECKNER: Yes, this is not numbered. This is  
15 not from a produce, so I'd have to count the pages.

16 JUDGE SIPPEL: Well, don't take the time to do it  
17 now. But it's a -- it's a -- it's got a considerable number  
18 of pages.

19 MR. BECKNER: Yes, it is.

20 JUDGE SIPPEL: And the cover page is dated May 4,  
21 1995. It's on the stationary of Pepper & Corazzini  
22 addressed to the Commission.

23 MR. BEGLEITER: We've not seen that document.

24 MR. BECKNER: Tab 23?

25 JUDGE SIPPEL: All right. Let's go off the

1 record.

2 (A discussion was held off the record.)

3 JUDGE SIPPEL: Back on the record. Let me be sure  
4 that this is marked now. This is going to be marked as  
5 TW/CV Number 17. There is no objection from Mr. Begleiter.  
6 So it will be received in evidence at this time as TW/CV  
7 Number 17. And what it is is it's a multi-page document  
8 which includes STA authorizations. And it's -- the first  
9 page is a cover letter from Mr. Lehmkuhl of Pepper &  
10 Corazzini addressed to the Commission. And it's dated May  
11 4, 1995. And that is now in evidence.

12 (The document referred to was  
13 marked for identification as  
14 TW/CV Exhibit Number 17 and  
15 was received in evidence.)

16 And you'll get a copy of this in its completion,  
17 I'm sure, by the end of the day, Mr. Begleiter.

18 MR. BEGLEITER: Thank you.

19 JUDGE SIPPEL: Now, Number -- your next one.

20 MR. BECKNER: The next one is Number -- Exhibit  
21 18. This Tab 24 in the notebook. And it is a copy of the  
22 surreply filed by Liberty Cable with the FCC and dated May  
23 17, 1995. It includes a one page declaration of Peter Price  
24 and a one page declaration of Behrooz Nourain.

25 JUDGE SIPPEL: Okay. How many pages are we

1 dealing with there?

2 MR. BECKNER: And the page -- it's --

3 JUDGE SIPPEL: Eight pages?

4 MR. BECKNER: Yes, eight pages.

5 JUDGE SIPPEL: That will be marked for  
6 identification as TW/CV Number 18.

7 (The document referred to was  
8 marked for identification as  
9 TW/CV Exhibit Number 18.)

10 Is there any objection?

11 MR. BEGLEITER: No, none, Your Honor. None, Your  
12 Honor.

13 JUDGE SIPPEL: Then it is now received into  
14 evidence as TW/CV Number 18.

15 (The document referred to,  
16 previously marked for  
17 identification as TW/CV  
18 Exhibit Number 18, was  
19 received in evidence.)

20 Next document?

21 MR. BECKNER: Okay. Number 19 is at Tab 25 in the  
22 notebook. And it is a copy of the reply to opposition to  
23 request for special temporary authority filed by Liberty  
24 Cable Company and dated May 26th, 1995. And it includes a  
25 declaration of Peter Price. Pardon me. And let me just

1 count the pages here. It's 11 pages total.

2 JUDGE SIPPEL: Okay. That 11 page document will  
3 be marked for identification as TW/CV Number 19.

4 (The document referred to was  
5 marked for identification as  
6 TW/CV Exhibit Number 19.)

7 Any objection, Mr. Begleiter?

8 MR. BEGLEITER: None, Your Honor.

9 JUDGE SIPPEL: It's received in evidence as TW/CV  
10 Number 19.

11 (The document referred to,  
12 previously marked for  
13 identification as TW/CV  
14 Exhibit Number 19, was  
15 received in evidence.)

16 Your next document, Mr. Beckner.

17 MR. BECKNER: All right. Number -- Exhibit Number  
18 20 is a copy of -- this time we sandbagged ourselves, Your  
19 Honor. The second page of the letter is missing.

20 MR. BEGLEITER: I'll lend you ours, Mr. Beckner.

21 MR. WEBER: We're missing a second page, as well.

22 MR. BEGLEITER: We're not.

23 JUDGE SIPPEL: I'm also missing a second page.

24 MR. BEGLEITER: Your Honor, we have it.

25 JUDGE SIPPEL: And Mr. Begleiter has it.

1 MR. BECKNER: Yes, this definitely calls for an  
2 investigation.

3 MR. BEGLEITER: I'll show it to Mr. Beckner, but -  
4 - you have a copy? All right.

5 JUDGE SIPPEL: All right. Let's get it identified  
6 anyway. It's a two page document?

7 MR. BECKNER: It's a two page document. And  
8 it's -- it's a letter from -- no, it's from Michael Hayden  
9 of the FCC dated June 9, 1995 and addressed to Mr. Howard  
10 Barr and Mr. Henry Rivera, lawyers for Liberty Cable. And I  
11 think I could without objection characterize it as a Section  
12 308(b) request.

13 JUDGE SIPPEL: All right. That will be marked for  
14 identification as TW/CV Number 20.

15 (The document referred to was  
16 marked for identification as  
17 TW/CV Exhibit Number 20.)

18 And I take it you have no objection to that, Mr.  
19 Begleiter?

20 MR. BEGLEITER: Well, actually I do, Your Honor.

21 JUDGE SIPPEL: You do.

22 MR. BEGLEITER: I don't think it's probative and I  
23 don't think it's relevant.

24 JUDGE SIPPEL: All right. Do you want to make a  
25 proffer at this time or do you want to wait on that, Mr.

1 Beckner?

2 MR. BECKNER: Well, I'm not going to -- I --  
3 there's a response to this request --

4 JUDGE SIPPEL: Yes, let me -- let me --

5 MR. BECKNER: -- which we're going to offer.

6 JUDGE SIPPEL: Let me short-cut the discussion on  
7 this one. But I do want -- I consider this also as being  
8 necessary to have a -- a full and complete complement of  
9 what related to a -- a Liberty exhibit that we took in that  
10 also relates to a 308.

11 MR. BECKNER: Liberty Exhibit 2 I think it is was  
12 part of the response to this request that I'm tendering.

13 JUDGE SIPPEL: All right. That's enough reason  
14 for me. I want to be able to see this correspondence in its  
15 entirety.

16 MR. BECKNER: I'm sorry. It was Liberty Exhibit  
17 3. It was the letter from Peter Price, dated June 16, is a  
18 response -- is a part of a -- is part of a response to this  
19 request.

20 JUDGE SIPPEL: And that's Liberty/Bureau Exhibit  
21 3.

22 MR. BECKNER: Yes. Thank you, Your Honor.

23 JUDGE SIPPEL: All right. Then I'll overrule the  
24 objection. It's going to be -- the document that you've  
25 described, the two page document when we all get the second

1 page, will be received in evidence as -- is received into  
2 evidence at this time as TW/CV Number 20.

3 (The document referred to,  
4 previously marked for  
5 identification as TW/CV  
6 Exhibit Number 20, was  
7 received in evidence.)

8 MR. BECKNER: Okay. And with the kind assistance  
9 of counsel for Liberty, we do have the second page in the  
10 version that's going to be marked by the Reporter.

11 JUDGE SIPPEL: All right. That's fine. Your next  
12 document?

13 MR. BECKNER: Just give me a second. Okay. This  
14 would be Exhibit 21, right? Exhibit 21 is a copy of the  
15 declaration of Behrooz Nourain. It's a three page  
16 declaration dated June 12, 1995 which was included with --  
17 with the -- with the -- the letter that's already been  
18 brought into evidence as Liberty/Bureau Exhibit 3.

19 MR. BEGLEITER: To short circuit things, Your  
20 Honor, we'll have no objection to this going in.

21 JUDGE SIPPEL: All right. It's identified then as  
22 TW/CV Number 21.

23 MR. BEGLEITER: I will note to Your Honor that it  
24 is reproduced again in the next exhibit. I mean, it's the  
25 same exact thing. I don't know if you want to clutter the

1 record with two of the -- precisely the same document.  
2 That's up to Mr. -- Mr. Beckner I guess. But I don't know  
3 why we have the document here twice.

4 MR. BECKNER: Well, I don't have a strong  
5 preference one way or the other. Mr. Begleiter's statement  
6 is correct. I thought for purposes of examining Mr.  
7 Nourain, it would be handier to have -- instead of showing  
8 him three pages out of this thick document, to show him just  
9 the declaration. But if you'd prefer just to have the  
10 larger exhibit that includes this made as one exhibit, we  
11 can do that, as well.

12 JUDGE SIPPEL: I would rather -- yes, I would  
13 rather -- I really want to keep duplication to a minimum  
14 because we might understand in this hearing. But if it gets  
15 up to another level of something, it might start to confuse  
16 people.

17 MR. BECKNER: All right. Well, then what I'd like  
18 to do is withdraw Exhibit 21.

19 (The document referred to,  
20 previously marked for  
21 identification as TW/CV  
22 Exhibit Number 21, was  
23 withdrawn.)

24 JUDGE SIPPEL: All right.

25 MR. BECKNER: That was the Exhibit 21 that was

1 previously tendered. And instead --

2 JUDGE SIPPEL: The Reporter will note that. It  
3 will be properly withdrawn. And now you're going to use  
4 that Number 21 for another document?

5 MR. BECKNER: Yes.

6 JUDGE SIPPEL: And that will be -- what is that?  
7 Is that your Tab 27(b)?

8 MR. BECKNER: This is Tab 27(b) which is the June  
9 16, 1995 letter to Mr. Hayden from Howard Barr with  
10 attachments. Let me just make sure -- I want to make sure  
11 everything is here.

12 JUDGE SIPPEL: Go right ahead. Let's go off the  
13 record.

14 (A discussion was held off the record.)

15 MR. BECKNER: All right. Exhibit 21 is going to  
16 be the letter of Howard Barr to Michael Hayden dated June  
17 16, 1996 including attachments. And it has production  
18 number 109 on the first page and 0149 on the last page with  
19 all the numbers in between.

20 JUDGE SIPPEL: All right. That will be marked for  
21 identification then as TW/CV Number 21.

22 (The document referred to was  
23 marked for identification as  
24 TW/CV Exhibit Number 21.)

25 Is there any objection, Mr. Begleiter?