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THURSDAY, OCTOBER 10, 2002
P R O C E E D I N G S

0001
TRANSCRIPT OF PROCEEDINGS
BEFORE THE
STATE OFFICE OF ADMINISTRATIVE HEARINGS
(FOR THE PUBLIC UTILITY COMMISSION OF TEXAS)
3
4 COMPLAINT, REQUEST FOR EXPEDITED)
5 RULING, REQUEST FOR INTERIM (SOAH DOCKET NO.
6 ACTION OF ASAP PAGING, INC) PUC DOCKET NO
7 AGAINST CENTURYTEL OF SAN) 25673
8 MARCOS, INC)
9
10 HE IT REMEMBERED THAT at 9 06 a m , on
11 Thursday, the 10th day of October 2002, the
12 above-entitled matter came on for hearing at the
13 State Office of Administrative Hearings, William
14 P. Clements Building, 300 West 15th Street, Room
15 402, Austin, Texas, before THOMAS WALSTON,
16 Administrative Law Judge; and the following
17 proceedings were reported by Evelyn Coder, a
18 Certified Shorthand Reporter of
19 Volume 1
20 Pages 1 - 314
21
22
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0002
APPEARANCES
1
2 MR. M SCOTT MCCOLLOUGH, Stumpf,
3 Craddock, Massey & Pulman, 1801 North Lamar,
4 Suite 104, Austin, Texas 78701, (512)485-7920,
5 appearing on behalf of ASAP PAGING, INC.
6
7 MS BROOK BENNETT BROWN, McGinnis,
8 Lochridge & Kilgore, 1300 Capitol Center, 919
9 Congress Avenue, Austin, Texas 78701,
10 (512)495-6093, appearing on behalf of CENTURYTEL
11 OF SAN MARCOS, INC
12
13 MR ROGER STEWART, Attorney, Legal
14 Division, Public Utility Commission of Texas,
15 1701 North Congress Avenue, Post Office Box
16 13326, Austin, Texas 78711-3236, (512) 936-7296,
17 appearing on behalf of THE PUBLIC INTEREST
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18 Florida Public Service Commission Recommendation 832 850
19 Affidavit of Ted Gaellen 875 875
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001
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3 (9 06 a m)
4 (ASAP Exhibit Nos. 9 through 11
5 marked)
6 (Staff Exhibit No 1 marked)
7 JUDGE WALSTON: We'll go ahead and
8 go on the record at this time Good morning.
9 My name is Tom Walston. I'm the Administrative
10 Law Judge with the State Office of
11 Administrative Hearings that will hear this
12 case.
13 I will call SOAH Docket No.
14 473-02-2503, PUC Docket No. 25673, complaint,
15 request for expedited ruling, request for
16 interim ruling and request for emergency action
17 of ASAP Paging, Inc against CenturyTel of San
18 Marcos, Inc., and will counsel for each of the
19 parties announce their appearance, please?
20 MR McCOLLOUGH Good morning.
21 Your Honor.
22 JUDGE WALSTON You can remain
23 seated
24 MR. McCOLLOUGH: Good morning,
25 Your Honor My name is Scott McCollough,
0004
1 counsel for ASAP Paging, Inc
2 MR STEWART Good morning, Your
3 Honor Roger Stewart for Commission staff
4 representing the public interest
5 MS BROWN Your Honor, Brook
6 Brown renting CenturyTel of San Marcos.
7 JUDGE WALSTON Obviously, as
8 everyone knows, we're here for a hearing on the
9 merits I'll let the parties know, if it will
10 help your presentations, I've read all the
11 prefiled testimony I've read most of
12 Mr Novack's deposition I'll confess I didn't
13 quite complete it, and I think I have a pretty
14 good understanding of all the issues in the
15 case.
16 I'll also confess Mr Novack's
17 deposition was confusing at times I'm not sure
18 how much of it I understood The only other --
19 another area I have a little bit of uncertainty
20 on is the testimony concerning the ISDN and 64
21 kps So if in your presentations you have an
22 opportunity to explain that a little bit for me,
23 it will help
24 The first thing we have is we had some
25 motions filed to strike testimony of -- I think
0005
1 of every witness that's been -- prefiled
2 testimony On the one hand, I was tempted to
3 grant all those motions
4 (Laughter)
5 JUDGE WALSTON We would be out of
6 here by ten o'clock, but I'm not going to do
7 that, but I would like to make a couple of
8 comments, and I'll announce my rulings on them.
9 I think all of the testimony contains
10 quite a few legal opinions or mixed opinions of

11 law and fact Technically, pure legal opinions
12 are inadmissible, but there's also a lot of case
13 law that says testimony concerning legal
14 opinions aren't binding on a Judge or won't be
15 binding on the PUC, in any event So I'll give
16 them the weight it's due For the most part,
17 I've denied all of those objections
18 I think there was some objections to
19 qualifications of the experts I will let you
20 know in a minute I plan to deny those, but if
21 the parties have some concern about the amount
22 of background testimony to qualify their
23 experts, if they wish to do some voir dire
24 questioning to bolster their qualifications,
25 they'll be free to do so, even though I'm going
0006
1 to deny the objections
2 I will say -- going back to the
3 testimony about legal opinions, I will give it
4 the weight it's due As I said, it's not
5 binding, but I would encourage the lawyers not
6 to rely just on the testimony that's in the case
7 concerning legal opinions when they prepare
8 their briefs You know, we need to have some
9 authority to support some of the opinions
10 So with that in mind, if the parties
11 have -- I guess first ASAP's -- excuse me --
12 CenturyTel's objections to ASAP's direct
13 testimony of Fred Goldstein and Ted Gaetjen --
14 I'm just going to go down paragraph by paragraph
15 and tell you what my rulings are
16 I would also say at this point I
17 haven't had time to go over CenturyTel's
18 objections to the rebuttal, but since that will
19 come in later, I'll look at that before we get
20 to that part of the testimony, but concerning
21 CenturyTel's objections to the testimony of Fred
22 Goldstein and Ted Gaetjen, Paragraph 1, denied
23 I'm just going paragraph by paragraph of the
24 motion Paragraph 1, denied, Paragraph 2,
25 denied
0007
1 MS BROWN Are you starting with
2 Goldstein or Gaetjen?
3 JUDGE WALSTON Goldstein
4 Although, as I said, Mr. McCollough, if you wish
5 to put on voir dire testimony about his
6 qualifications, you can do that
7 MR McCOLLOUGH All right
8 JUDGE WALSTON No 3, denied
9 Although it may not be directly relevant, I
10 think it gives background and context to the
11 case, 4 denied, 5 denied, 6 denied, 7, I'll
12 grant the motion to strike with respect to
13 Paragraph 7 I think that's argumentative and
14 somewhat speculative on that testimony
15 MR McCOLLOUGH Can I have just a
16 minute, Your Honor, to identify that in the
17 particular testimony?
18 JUDGE WALSTON Yes It's Page 5,
-6

1 that's argumentative.
2 Paragraph 17 is denied, Paragraph 18
3 denied, Paragraph 19 denied, Paragraph 16
4 denied, Paragraph 17 denied, Paragraph 19 of
5 denied, Paragraph 17 denied, Paragraph 19 of
6 Footnote 4 of Mr. Gaetten's testimony
7 Paragraph 20 is denied, Paragraph 21
8 Paragraph 22 denied, Paragraph 23
9 denied, Paragraph 24 denied, Paragraph 25 of
10 the motion to strike, I'll grant it, it's page
11 11, line 24, beginning with the statement, "The
12 ILECS simply do not like," through Page 12, line
13 5 I believe that's argumentative
14 MR McCollough: If I can just
15 catch up, Your Honor
16 JUDGE WALSTON: This is Paragraph
17 25 of her motion to strike, it's page 11, line
18 24, through Page 12, line 5
19 MR McCollough: The striking
20 picks up with "The ILECS"
21 JUDGE WALSTON: "The ILECS simply
22 do not like "
23 MR McCollough: I need a moment to get
24 that
25 JUDGE WALSTON: Okay, Your Honor, I may
26 have just done everybody a favor and marked up
27 the record copy with your striking
28 JUDGE WALSTON: Okay, I didn't
29 bring -- because I was going through this, I
30 forgot to bring any boxes down here, but we'll
31 just make stacks for now
32 MR McCollough: Would you prefer
33 that the exhibit copy actually have the
34 strike-throughs on them?
35 JUDGE WALSTON: I would, yes
36 MR McCollough: I believe I did
37 that properly, if anybody wishes to check me.
38 We can take care of that then
39 JUDGE WALSTON: Okay, and in
40 Mr McCollough's motion to strike, each
41 paragraph is numbered, but then we also have
42 some headings that are numbered, and the numbers
43 0012
44 I'm going to be calling out actually deal with
45 these headings and they begin -- I'm just going
46 to go into the specific objections. They begin
47 on page 10 of the motion to strike dealing with
48 the specific objections to Wesley Robinson.
49 I guess, looking through it, the
50 objections that are numbered 1 through 16 are
51 all denied -- excuse me, 1 through 17 are all

19 Lines 2 through 8, about what the ILECS seem to
20 think they have divine rights to do, that
21 testimony Paragraph 8 is denied, Paragraph 9
22 denied, Paragraph 10 denied, Paragraph 11
23 denied Paragraph 12, I'll grant that motion to
24 strike That's Page 6, Lines 10 through 24, and
25 this is the testimony of Mr Gaetten I believe
0008
1 that's argumentative.
2 Paragraph 17 is denied, Paragraph 18
3 denied, Paragraph 19 denied, Paragraph 16
4 denied, Paragraph 17 denied, Paragraph 19 of
5 denied, Paragraph 17 denied, Paragraph 19 of
6 Footnote 4 of Mr. Gaetten's testimony
7 Paragraph 20 is denied, Paragraph 21
8 Paragraph 22 denied, Paragraph 23
9 denied, Paragraph 24 denied, Paragraph 25 of
10 the motion to strike, I'll grant it, it's page
11 11, line 24, beginning with the statement, "The
12 ILECS simply do not like," through Page 12, line
13 5 I believe that's argumentative
14 MR McCollough: If I can just
15 catch up, Your Honor
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18 24, through Page 12, line 5
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20 picks up with "The ILECS"
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22 do not like "
23 MR McCollough: I need a moment to get
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25 JUDGE WALSTON: Okay, Your Honor, I may
26 have just done everybody a favor and marked up
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29 bring -- because I was going through this, I
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34 strike-throughs on them?
35 JUDGE WALSTON: I would, yes
36 MR McCollough: I believe I did
37 that properly, if anybody wishes to check me.
38 We can take care of that then
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40 Mr McCollough's motion to strike, each
41 paragraph is numbered, but then we also have
42 some headings that are numbered, and the numbers
43 0012
44 I'm going to be calling out actually deal with
45 these headings and they begin -- I'm just going
46 to go into the specific objections. They begin
47 on page 10 of the motion to strike dealing with
48 the specific objections to Wesley Robinson.
49 I guess, looking through it, the
50 objections that are numbered 1 through 16 are
51 all denied -- excuse me, 1 through 17 are all

0010
certain answers in discovery, and I didn't take
Mr Gaetten about CenturyTel not providing
There's several statements in here by
denied, and I do want to make a comment on that
denied, Paragraph 43 denied, Paragraph 44
denied, Paragraph 41 denied, Paragraph 42
Paragraph 39 is denied, Paragraph 40
Paragraph 38
rest of that motion to strike contained in
Paragraph 38
Paragraph 38, this deals with Gaetten
Paragraph 37 denied
denied, Paragraph 37 denied, Paragraph 36
denied, Paragraph 35 denied, Paragraph 36
denied, Paragraph 33 denied, Paragraph 34
denied, Paragraph 31 denied, Paragraph 32
denied, Paragraph 29 denied, Paragraph 30
is denied, Paragraph 27 denied, Paragraph 28
JUDGE WALSTON: Yes Paragraph 26
through the end of the paragraph?
MR McCollough: It continues
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do not like "

9 denied I will grant the objection No. 18.
10 This is on Page 19 of the motion It's Pages
11 34, Line 15, through Page 35, Line 11, of
12 Mr Robinson's testimony that that's
13 argumentative
14 Picking up next on the specific
15 objections to Mr. Navarrette's testimony, there
16 were 19 objections, and I've denied all of
17 those, 1 through 19
18 On Susan Smith's testimony, this begins
19 on Page 29, there are 11 objections, and I've
20 denied all of those objections
21 On Page 35, the testimony of Mr Sam
22 Terracina -- I hope I'm pronouncing that
23 right -- I'm just going to have to defer any
24 ruling on that I haven't seen the exhibit yet,
25 so I can't really rule on that

0013

1 MR. MCCOLLOUGH By the way, Your
2 Honor, just so you'll know, Mr. Terracina is
3 going to testify by telephone I've agreed to
4 work with Ms Brown on that We're hopeful,
5 with your concurrence, that we can put him on
6 after lunch

7 MS. BROWN Well, I think we may
8 want to talk about that a little bit
9 Mr. Stewart has to be at the final order meeting
10 at some point this afternoon, and in talking
11 with Mr Stewart this morning, what we might try
12 to do is schedule Mr Terracina when Mr Stewart
13 will be gone because he does not think he has
14 much cross for him

15 We could continue on with the hearing
16 in Mr Stewart's absence in that event So what
17 Mr Stewart and I had talked about is perhaps
18 checking at lunch time and seeing if he can get
19 a feel for when his matter will be up in front
20 of the Commission and then schedule
21 Mr Terracina for the slot when Mr. Stewart will
22 be gone.

23 JUDGE WALSTON Okay That will
24 be fine We'll work around it

25 MR MCCOLLOUGH I just wanted to
0014

1 let you know we've agreed to break our case up
2 to accommodate her witness, and he will likely
3 show up sometime today, just for your
4 preparation.

5 JUDGE WALSTON That will be fine
6 MS BROWN Your Honor, with
7 respect to Mr Terracina's exhibit, it is a
8 confidential exhibit

9 JUDGE WALSTON Right. I knew
10 that I knew that's why I hadn't received it
11 yet, but since I haven't seen it or looked at
12 it, I can't really rule on the motion because it
13 refers to the exhibit in the motion

14 MS. BROWN Would you like -- I
15 have copies of that, and I'll be glad to -- you
16 know, I have the copies that I would introduce

17 into the record, and I can furnish that to you
18 this morning

19 JUDGE WALSTON Sure, at a
20 break -- when we have a break, we'll do that
21 The last objection was to Mr Kelsaw --
22 or the last group of objections, beginning on
23 Page 36 I'll deny those objections I'll take
24 note that -- I didn't check the dates -- but
25 apparently the deposition -- or the prefiled

0015

1 testimony was filed a couple of days after the
2 deadline, but as I recall, I think there's
3 rebuttal testimony that addresses his testimony

4 MR MCCOLLOUGH There is, Your
5 Honor

6 JUDGE WALSTON. So I'll go ahead
7 and allow Mr Kelsaw's testimony to be admitted,
8 even though it was filed a couple of days late
9 If you had somehow not had an opportunity to
10 respond to it, I might look at it differently

11 MR MCCOLLOUGH Understood

12 JUDGE WALSTON Okay Are there
13 any other preliminary matters the parties are
14 aware of that we need to take up?

15 MS BROWN Your Honor, I have one
16 preliminary matter We have a supplement to
17 Mr Robinson's testimony that I would like to
18 distribute to the parties this morning and take
19 it up when it's appropriate

20 JUDGE WALSTON Okay Since I
21 assume Mr McCollough hasn't seen this before,
22 we won't take it up right now

23 MS BROWN Right

24 JUDGE WALSTON We'll consider it
25 later when he's had a chance to review it Any

0016

1 other preliminary matters the parties are aware
2 of?

3 (No response)

4 JUDGE WALSTON Let me ask you
5 this Mr McCollough or Ms Brown or
6 Mr Stewart, do you-all wish to make any type of
7 opening statement or do you just want to proceed
8 directly to the evidence?

9 MR MCCOLLOUGH We have decided
10 to let the witnesses talk, Your Honor

11 JUDGE WALSTON That would be
12 fine Then, Mr McCollough, you can proceed

13 MR MCCOLLOUGH ASAP PAGING OPERS
14 ITS DIRECT CASE BY CALLING TED GAETJEN

15 JUDGE WALSTON Mr Gaetjen, if
16 you'll step forward

17 (Witness sworn)

18 PRESENTATION ON BEHALF OF ASAP PAGING

19 JUDGE WALSTON Will you state
20 your full name for the record?

21 A My name is Augustine R Gaetjen

22 JUDGE WALSTON Mr McCollough?

23 MR MCCOLLOUGH Thank you Just
24 for the record, I was incorrect I was not

25 marking up the record copy What we can do
0017
1 during a break is make sure that your rulings
2 are incorporated into the exhibit that will be
3 in the record
4 JUDGE WALSTON That will be fine
5 TED GAETJEN,
6 having been first duly sworn, testified as
7 follows
8 DIRECT EXAMINATION
9 BY MR. McCOLLOUGH
10 Q Sir, you've already stated your name
11 By whom are you employed and in what capacity?
12 A ASAP Paging, Incorporated, as the
13 president and general manager
14 Q Have you caused to be prepared direct
15 testimony with attached exhibits, the testimony
16 constituting 20 pages of prefiled written
17 testimony?
18 A Yes, I have
19 Q Was this testimony prepared by you or
20 under your direction and control?
21 A Yes
22 Q If I were to ask you live today the
23 questions that are contained in what's been
24 marked ASAP Exhibit No 1, would your answers be
25 the same?
0018
1 A Yes, they would.
2 Q Is the information contained in ASAP
3 Exhibit No 1 true and correct to your knowledge
4 and belief?
5 A To the best of my knowledge, it is
6 correct
7 Q Have you identified any changes that
8 you need to make to the testimony?
9 A I have not identified any changes
10 MR. McCOLLOUGH. We offer ASAP
11 Exhibit 1, Your Honor
12 JUDGE WALSTON Any objections?
13 MS BROWN No objection
14 JUDGE WALSTON We already had our
15 objections
16 MS BROWN We've already had our
17 objections Your Honor, I had anticipated that
18 the record that was made at the interim hearing
19 would continue on and be a part of the record
20 for your decision on the merits, and there were
21 exhibits marked at that time, ASAP 1 through, I
22 believe, 9 So I'm wondering if we need to mark
23 these exhibits beginning with the next number or
24 make some other designation so we're not
25 confused about it, maybe Hearing on the Merits
0019
1 Exhibit 1 or something like that
2 JUDGE WALSTON Do you have any
3 preference?
4 MR McCOLLOUGH: Well, first of
5 all, I agree that the evidence at the interim
6 hearing is evidence in this case and properly

7 considered For records keeping purposes, it
8 really doesn't matter to me We have premarked
9 three exhibits, and we can renumber them
10 JUDGE WALSTON. Why don't we do
11 that, go ahead and make them start with -- you
12 said there were nine exhibits? I did not bring
13 that material with me.
14 MS BROWN: I think I have that.
15 I think I can find it 1 through 8 were marked
16 as ASAP exhibits at the interim hearing
17 JUDGE WALSTON: Then why don't we
18 go ahead and make Mr Gaetjen's direct testimony
19 Exhibit 9 Subject to the rulings I previously
20 announced on the motion to strike, Exhibit 9
21 will be admitted
22 (ASAP Exhibit No 9 admitted)
23 MR McCOLLOUGH Thank you, Your
24 Honor We tender the witness for cross
25 JUDGE WALSTON Ms Brown?
0020
1 MS BROWN Thank you
2 CROSS-EXAMINATION
3 BY MS BROWN
4 Q Good morning, Mr Gaetjen.
5 A How are you this morning?
6 Q I'm fine How are you? Mr Gaetjen,
7 would you agree with me that the issue we have
8 before us in this hearing is whether calls from
9 CenturyTel end users in San Marcos to three
10 prefixes, the 512-384, 512-265 and 512-580,
11 should be treated as toll or local calls?
12 A That they should be treated as toll or
13 local?
14 Q That's the question before us today
15 A Yes, I would agree with that
16 Q Would you agree with me that CenturyTel
17 has not refused to terminate calls to these
18 numbers, but the issue is the rate to be charged
19 by CenturyTel to its own end user when a call is
20 placed to one of those numbers?
21 A I would think that the question would
22 be more or less whether there is to be a rate
23 charged or not, or whether it would be a local
24 call
25 Q Right, but there's not a question --
0021
1 CenturyTel has not refused to terminate the
2 call The issue is the rate?
3 A I believe that's correct.
4 Q Now, I would like to ask your
5 indulgence if we could use the paper board here
6 to do somewhat of a diagram of what your network
7 looks like
8 A Sure You want me to help you?
9 Q I'll ask some questions, and I'll try
10 to draw what I'm describing on the board, and if
11 I'm wrong, would you correct me?
12 A Yes, I will
13 Q As I understand from your testimony,
14 you have a switch in Austin?

15 A That's correct
16 Q That's actually at 9th and Brazos?
17 A The switch has been moved It's at 610
18 Brazos now
19 Q 610 Brazos, okay. It's at 6th and
20 Brazos. Now, then you have what's called a
21 terminal at that same location Is that right?
22 A We have a paging terminal, that's
23 correct
24 Q That paging terminal sends signals to
25 the transmitters that you have around the Austin
0022
1 area. Is that right?
2 A Yes, it is
3 Q Where are -- I believe in the testimony
4 you said that there are approximately 25
5 transmitters
6 A In the Austin area, that's correct.
7 Q Can we list those locations? I'll read
8 down a list, and if you would, tell me yes or no
9 that's one of your locations
10 A Sure
11 Q Would those be Smithville in Bastrop
12 County?
13 A That's correct
14 Q Giddings in Lee County?
15 A That's correct
16 Q Bastrop in Bastrop county?
17 A That's correct
18 Q San Marcos in Hays County?
19 A That's correct
20 Q LaGrange in Fayette County?
21 A That's correct
22 Q Wimberley in Hays County?
23 A That's correct
24 Q Lockhart in Caldwell County?
25 A Correct
0023
1 Q Burnet in Burnet County?
2 A I do not have a transmitter in Burnet
3 Q Okay. Columbus in Colorado County?
4 A That's correct
5 Q Hallettsville in Lavaca County?
6 A I have a transmitter there
7 JUDGE WALSTON I couldn't hear
8 you
9 A I have a transmitter in Hallettsville.
10 Q (By Ms Brown) Saturn in Gonzales
11 County?
12 A That's correct
13 Q Sealy in Austin County?
14 A That's correct
15 Q Navasota in Grimes County?
16 A The transmitter in Navasota in Grimes
17 County is owned and maintained by Texas
18 Communications, but for the purposes of our
19 coverage, it's considered ASAP Paging's
20 transmitter.
21 Q Bryan in Brazos County?
22 A The Bryan transmitter is the same as

23 the Navasota transmitter
24 Q Brenham in Washington County?
25 A That's correct
0024
1 Q Georgetown in Williamson County?
2 A That's correct
3 Q Buda in Hays County?
4 A That's correct
5 Q Rockdale in Milam County?
6 A That's correct
7 Q Now, are there any other transmitters
8 that are served by your Austin terminal?
9 A We have a transmitter at West Lake
10 Hills
11 Q That would be Travis County?
12 A Then we also have a transmitter at
13 approximately 620 and 183
14 Q That would also be Travis County?
15 A That's correct
16 Q Any more?
17 A Let me go over the list We have a
18 transmitter in Columbus
19 JUDGE WALSTON I think you have
20 it on your list, at least I wrote it down
21 Q (By Ms Brown) Yes, Columbus is here
22 A Okay That appears to be most of them
23 Without having my list in front of me, it would
24 be hard to --
25 Q If you think of another one or if
0025
1 there's one that at a later date in the hearing
2 you determine that's not on this list, then
3 would you let us know?
4 A Sure
5 Q Now, the signal from your terminal to
6 these transmitters, how do you signal the
7 transmitters? Is that signal carried by
8 wireless facilities?
9 A Yes, it is
10 Q So the connection from your terminal to
11 each of these transmitters would be by radio?
12 A Partially
13 Q Okay Tell me how else they would be
14 handled
15 A The Internet is an integral part of our
16 operation As the pages are collected by our
17 paging terminal, we send the data via the
18 Internet to a gateway in Chicago In Chicago,
19 it's handed off to Spacecom
20 Spacecom puts the data one or --
21 actually on two different satellites -- on a
22 single channel on each of the two different
23 satellites Every one of those transmitter
24 locations has a satellite dish The information
25 then is received, wireless from the satellite
0026
1 dish to the transmitters, and the transmitters
2 are then keyed
3 Q Now, the -- for a typical page -- if
4 I'm just doing a plain vanilla page, how would

5 that signal be carried from your terminal to the
6 pager served by these transmitters?
7 A The page would come in from the public
8 switched telephone network to my paging
9 terminal. It would be batched in the paging
10 terminal, sent to Chicago via the internet,
11 handed to Spacocom at their facility, put on the
12 satellite channel, received by the transmitter
13 at its location and then sent out over the
14 frequency that it corresponded to, to the pager.
15 Q So all of your pages use the satellite
16 medium as the way -- all of your terminals?
17 A All of my paging traffic relies on the
18 internet to get to Chicago to be handed to
19 Spacocom to be put on the satellite dish
20 Q So the connection between your terminal
21 in Austin and the transmitters that we've just
22 listed is via satellite -- via the internet and
23 satellite?
24 A Via the internet and then satellite
25 Q I believe you testified before that all
1 of these transmitters that we listed here would
2 be fired at the same time with the incoming
3 telephone paging number -- incoming paging
4 number?
5 A All of those transmitters would be
6 keyed plus, depending on the zone of the pager
7 where it's going to, we actually are affiliates
8 of a statewide organization. We have some
9 global zones that where transmitters from about
10 Georgetown all the way to the lower Rio Grande
11 Valley and Hattigen, and from Laredo over to
12 the El Campo area, all of the transmitters are
13 keyed simultaneous as long as a specific zone is
14 required.
15 Q So let's add that. So in addition to a
16 page being received by one of these terminals,
17 where else could a page be received?
18 A A page could be received anywhere
19 from -- now, let me back up a minute
20 Are you asking where a page could be
21 received or where it would be transmitted?
22 Q Well, let's -- I don't know how you use
23 those terms. I understand from your previous
24 testimony -- --
25 A We offer our customers -- --

13 Q So you have options. You have service
14 area options?
15 A That's correct.
16 Q Let's describe -- first of all, what
17 would be the widest coverage that a customer
18 could receive?
19 A Nationwide.
20 Q Now, what would be the options smaller
21 than nationwide?
22 A The next option smaller than that that
23 we offer would be a zone that would include
24 New Mexico, Texas, Louisiana, Arkansas,
25 Kansas -- --
1 Q Supposedly all of Texas?
2 A -- Oklahoma
3 Q Oklahoma. All of Texas?
4 A All of Texas.
5 Q Then is there a smaller area than that?
6 A At that point, we can break the zones
7 out into the individual states or any
8 combination of the states.
9 Q Any one state?
10 A Any one state or any combination of the
11 states.
12 Q Any smaller options than that?
13 A From there, we could go to what we
14 would call our north and south zone.
15 Q What is your north zone?
16 A Generally speaking, the area from Waco
17 north to Oklahoma and east to Louisiana.
18 Q Your south zone?
19 A Would be from Georgetown, east to
20 Louisiana, south to the Mexican border.
21 Q Okay. Does your north zone and south
22 zone correspond to the north zone and south zone
23 in Texas dove hunting season?
24 A No, that's I-10
25 (Laughter)
1 Q (By Ms. Brown) Now, are there pricing
2 variables for these options?
3 A Yes, there are.
4 Q I assume your nationwide coverage is
5 more expensive than your limited zone coverage?
6 A That's correct. We do have smaller
7 zones.
8 Q Oh, okay. We've got more options.
9 What are the -- what are your --
10 A The smallest zone would be just the
11 transmitters that ASAP Paging owns and
12 maintains.
13 Q That's the smallest?
14 A That's the smallest zone.
15 Q Is there something between your north
16 and south zone and that smallest option?
17 A Not that -- well, it's possible for us
18 to do, but we don't.
19 Q So you do have an option just for --
20 for just the ASAP transmitters?

0028

0030

0027

21 A That's correct
22 Q When you say "just the ASAP
23 transmitters," it would be those -- the ones we
24 listed earlier?
25 A That's correct
0031
1 Q Now, with respect to the transmitters,
2 do you have facilities where you can receive a
3 call at any one of those transmitters?
4 A It's not necessary for one-way paging
5 Q Well, do you have facilities to receive
6 a call?
7 A No, we don't
8 Q Now, your next step in this -- or my
9 next step in the diagram would be to describe
10 your connection at this switch in Austin for
11 incoming calls, and as I understand, your Austin
12 switch is connected to the Southwestern Bell
13 Greenwood tandem and the Southwestern Bell
14 Homestead tandem
15 A That was the election that we made --
16 when we initiated service with Southwestern
17 Bell, we were permitted to choose the connection
18 that we wanted, and we chose the tandem
19 connection
20 Q The Greenwood tandem is in downtown
21 Austin?
22 A I believe so
23 Q The Homestead tandem is out off of
24 Lamar somewhere, north -- north Austin?
25 A It's north Austin
0032
1 Q Now, are there trunks between the
2 Greenwood tandem and your switch?
3 A Yes, there are
4 Q Do you own those trunks, or are those
5 Southwestern Bell trunks?
6 A That would be a matter of opinion
7 Southwestern Bell installed the trunks They
8 refer to them as ASAP Paging's trunks
9 Q Do you pay a fee on a monthly basis to
10 Southwestern Bell for those trunks?
11 A Up until December of '97, we paid a
12 fee At that point, we were told that -- as
13 being a peer of the ILECs that we no longer had
14 to pay for access because we were a co-carrier
15 Q So there are trunks coming to you from
16 Greenwood -- to your Austin switch What about
17 from Homestead? Do those come directly to your
18 Austin switch, or do they go through the
19 Greenwood tandem?
20 A They come directly from the Homestead
21 Q So when landline customers or other
22 mobile customers call one of your paging units,
23 all of that traffic would come through either
24 the Homestead or the Greenwood tandem to your
25 Austin switch?
0033
1 A For the Austin area, that's correct
2 Q Now, in the case of San Marcos --

3 CenturyTel of San Marcos, if a user in San
4 Marcos calls one of your paging units, would
5 that call go to the CenturyTel end office in --
6 CenturyTel end office switch, the CenturyTel
7 tandem switch and then to the Greenwood tandem
8 switch?
9 A I'm not privy to CenturyTel's network
10 Q So you don't know?
11 A I do not know
12 Q Have you read the -- either the Novack
13 deposition or Mr Navarrette's testimony?
14 A I briefly read them
15 Q Now, when a call is made from -- let's
16 just represent the NPA-NXXs at issue The
17 512-384 NPA-NXX, you've associated that with
18 Lockhart Right?
19 A The 384 NXX has been designated as
20 Lockhart rate center.
21 Q Then you have the 512-265, which is
22 designated as Kyle or Fentress Is that right?
23 A I believe 265 is the Fentress rate
24 center
25 Q Then the Kyle is 512-580?
0034
1 A That's correct
2 Q Now, if an end user in Lockhart dials
3 512-384 and that call comes in to your switch in
4 Austin to be received by one of your paging
5 units, could that paging unit be anywhere in
6 these areas that we've described in blue and be
7 received by that paging customer?
8 A That's correct The page would be
9 transmitted by every transmitter
10 Q So that page would not complete just to
11 the Lockhart area A page dialed 512-384 would
12 not complete just to Lockhart?
13 A It would complete to the zone that it
14 was programmed on in our paging terminal
15 Q That could be anywhere within this --
16 the blue geographic area?
17 A That's correct
18 Q Now, would it also be correct that that
19 page would not have to originate -- the call
20 would not have to originate in San Marcos or
21 Lockhart -- a call to the 512-384 pager?
22 A Most of our pages are originated on the
23 public switched telephone network You can call
24 from Washington, D C and get our paging
25 terminal and a page could be generated
0035
1 Q Now, I notice, Mr Gaetjen, that you
2 don't have a transmitter either at Kyle or at
3 Fentress Is that correct?
4 A That's correct
5 Q Now, how does a paging customer receive
6 a page if they're in Kyle or Fentress?
7 A From one of the existing transmitters
8 Q Owned by another company with whom you
9 have an agreement?
10 A Owned by ASAP Paging

19 So I wanted to ask you to identify which NXXs
 20 then you would consider that to be your point of
 21 interconnection.
 22 A I would consider that to be my point of
 23 interconnection with Southwestern Bell for the
 24 traffic that I receive from Southwestern Bell
 25 Q Okay what about traffic from San
 0038
 1 Marcos?
 2 A San Marcos, I understand correctly,
 3 since the San Marcos Internet is connected to
 4 Southwestern Bell with San Marcos proper, that
 5 by default my interconnection with CenturyTel
 6 would be Southwestern Bell's interconnection
 7 point.
 8 Q With CenturyTel?
 9 A That's correct, as I understand it.
 10 Q Now, do you have in Austin -- or let me
 11 ask it this way Do you have a 512-222 NPA-NXX?
 12 A Yes, I do.
 13 Q Would you agree with me that that
 14 512-222 NPA-NXX is one that you have under an
 15 agreement for area-wide calling with
 16 Southwestern Bell?
 17 A That's correct.
 18 Q You're still using that area-wide
 19 calling. Is that correct?
 20 A That's correct.
 21 Q Do you agree that some of the paging
 22 customers in San Marcos are assigned that
 23 512-222 NPA-NXX?
 24 A I wouldn't restrict it to San Marcos.
 25 We have paging customers all throughout the
 0039
 1 Austin LATA
 2 Q That have one of those numbers?
 3 A That's correct.
 4 Q Now, when a customer in -- let me ask
 5 you this. Initially that number belonged to
 6 Southwestern Bell, but have they subsequently
 7 transferred that number to ASAP?
 8 A It's listed as my number
 9 Q That's a yes?
 10 A Under my understanding, it is
 11 considered ASAP paging's number
 12 Q By using that number, the customer can
 13 dial a seven-digit call to one of your paging
 14 customers -- the end user can dial a seven-digit
 15 call to one of your pagers?
 16 A Within the Austin LATA
 17 Q Was it necessary for you to also enter
 18 into an agreement with CenturyTel for area-wide
 19 calling to that 512-222 number?
 20 A Yes, it was.
 21 Q Any other LECs with whom you have a
 22 reverse billing agreement for that 512-222
 23 number?
 24 A I had one with GTE, now Verizon.
 25 Q Any others besides those three,
 0040

11 Now, which transmitter would serve
 12 Kyle?
 13 A Since our system is designed to
 14 simulcast so that all transmitters are keyed at
 15 the same time, the footprint of our
 16 transmitters, depending on terrain, covers an
 17 area roughly 20 to 35 miles. As long as a
 18 customer is within range of where the
 19 transmitter is, they will get the page.
 20 Q Now, which one of the transmitters is
 21 within that geographic area to Kyle?
 22 A It depends on the terrain, but
 23 Lockhart, Gonzales and San Marcos all would
 24 penetrate that area with their signal.
 25 Q To some degree?
 0036
 1 A To some degree.
 2 Q What about Ferriss? which
 3 terminal would be in the scope of --
 4 A Ferriss is in the same area.
 5 Q I beg your pardon?
 6 A Ferriss is in the same general area
 7 Now, one more question. Where would
 8 you describe your point of interconnection to
 9 the public switched network? Would you describe
 10 that as being at the Southwestern Bell tandem or
 11 would that be at your switch?
 12 A For the Austin area?
 13 Q Yes, sir.
 14 A For the Austin LATA
 15 Well, is there a difference?
 16 A My switch is connected to the Greenwood
 17 tandem and the Homestead tandem.
 18 Q Yes, sir.
 19 A So I would consider the point of
 20 interconnection, which is what the -- under my
 21 understanding of the FCC rules was that we could
 22 have one point of interconnection in the LATA
 23 and that that was all that was necessary
 24 Q Would you describe that point being at
 25 your switch then?
 0037
 1 A For the Austin NXXs, I would describe
 2 that point of interconnect as with the Austin --
 3 Southwestern Bell tandems for the Austin NXXs.
 4 Q What about the other -- and what do you
 5 call your Austin NXXs?
 6 A I have an NXX for Austin
 7 Q Is that -- what's the number?
 8 A 202.
 9 Q Any others?
 10 A For the Austin NXX --
 11 well, I'm just trying to identify
 12 what --
 13 A My point of interconnection with
 14 Southwestern Bell would be considered the
 15 Greenwood and the Homestead tandem with
 16 Southwestern Bell.
 17 Q Okay, but I thought your response was
 18 limited in some fashion to some of your NXXs

1 Southwestern Bell, GTE and San Marcos?
2 A Those are the three main ones that I'm
3 aware of
4 Q You've had that number in service since
5 1995?
6 A I believe so.
7 Q Now, how many paging customers do you
8 have that use the 512-222 number?
9 A I couldn't tell you that at this time
10 Q Would it be hundreds?
11 A I couldn't tell you that We have had
12 a concerted effort to take people off of our
13 area-wide calling plan numbers due to the costs
14 involved.
15 Q You don't have an idea of how many
16 numbers that would be that use that NPA-NXX?
17 A If I were to give you a number right
18 now, I couldn't substantiate it
19 Q Do you know roughly?
20 A I would not even venture a guess
21 Q Do you recall responding to discovery
22 on that question?
23 A Yes, I do
24 MS BROWN: Your Honor, I have
25 premarked my testimony -- CenturyTel's
0041
1 testimony, and so I'll give the court reporter a
2 number to mark this if you'll give me a second.
3 JUDGE WALSTON Okay.
4 MS BROWN I would ask the court
5 reporter to mark the exhibit as CenturyTel 6
6 (CenturyTel Exhibit No 6 marked)
7 MS BROWN Your Honor, the pages
8 attached -- what I've done in this exhibit is to
9 attach the Bates numbered pages that are
10 referenced in the RFI response -- to the RFI
11 response, and I'll advise you that these pages
12 have been marked confidential, and I have
13 envelopes here for the parties to secure the
14 confidentiality of this exhibit once we've
15 addressed it.
16 JUDGE WALSTON Okay That would
17 be fine.
18 Q (By Ms Brown) Mr Gaetjen, do you
19 have before you what's been marked as CenturyTel
20 Exhibit 6?
21 A Yes, I do.
22 Q Could you confirm for me that the first
23 page is the response that you prepared to
24 CenturyTel's first RFI No 35?
25 A That's correct
0042
1 Q In this response, do you identify
2 certain Bates numbered pages?
3 A Did I identify what?
4 Q In the third line of the response, do
5 you say, "See list of active numbers,
6 confidential Bates numbered 000062-000073 and
7 000126-000132?"
8 A Yes

9 Q Then later on in the bottom paragraph,
10 the third line, it references Bates Nos 00074
11 to 00075 Do you see that?
12 A Yes, I do
13 Q Would you look at the attached pages
14 and confirm that the attached pages correspond
15 to those Bates numbers?
16 A Yes
17 Q Do you recall in this response that you
18 were asked to provide the NPA-NXXs assigned to
19 paging customers for certain NPA-NXXs?
20 A Yes, I do
21 Q Could you look at the second page of
22 the exhibit, which begins with Bates number
23 000062, and tell me if at the left-hand column
24 on that page, does that show a number -- in this
25 case, 2222022?
0043
1 A That's correct
2 Q Would that indicate a 512-222 NPA-NXX
3 assigned to a paging customer?
4 A That's correct
5 Q If you turn -- do the first eight
6 pages -- from Page 000062 to Page 000070, does
7 that list the 512-222 NPA-NXXs assigned to a
8 person who uses a paging device?
9 A That's some of the numbers
10 Q That's only some -- well, I'm asking
11 the about the 512-222
12 A If you'll go to Page 000126, you'll see
13 a continuation of the 222 numbers
14 Q But would you confirm for me that the
15 NPA-NXXs shown on Pages 000062 to 000070 are
16 NPA-NXXs out of the 512-222 NPA-NXX that are
17 assigned to a paging customer?
18 A That's correct
19 Q Then we have -- on Pages 000071 to
20 000073, are these NPA-NXXs out of the 512-384
21 NPA-NXX that are assigned to paging customers?
22 A That's correct
23 Q Then at Page 000126 through 000128, we
24 go back to NPA-NXXs out of the 512-222 NPA-NXX
25 that are assigned to paging customers?
0044
1 A That's correct
2 Q Page 000129 and 000130, 000131 and
3 000132 reflect NPA-NXXs out of the 512-384
4 assigned to paging customers?
5 A That's correct
6 Q Then on 000074, there are a few more
7 assigned to the 512-222 number Right?
8 A Yes
9 Q Several more assigned to the 512-384
10 NPA -- assigned out of the 512-384 NPA-NXX Is
11 that correct?
12 A That's correct
13 Q So would you agree with me, based on
14 this response to discovery, that you have a
15 significant number of customers that have a
16 512-222 NPA-NXX?

17 A When this report was printed, these numbers were correct

18 Q Have you supplemented this discovery response?

19 A I haven't been asked to

20 MS BROWN Your Honor, I would

21 move the admission of CT Exhibit 6

22 JUDGE WALSTON Any objection?

23 MR MCCOLLUGH With the

24 JUDGE WALSTON

25 understanding it is marked confidential and we do not waive confidentiality, no other objections

1 JUDGE WALSTON Exhibits 6-11

2 be admitted, and it is noted that it is a

3 confidential response and should be kept

4 confidential

5 MS BROWN Your Honor, I'll

6 turnst an envelope for that I won't -- I'll

7 leave up to Mr. McCollough if he would like to

8 seal that at this point or at a later time

9 (CenturyTel Exhibit No. 6

10 admitted)

11 (By Ms. Brown) Now, Mr. Gaerjen, your

12 response to discover did not indicate that any

13 of the -- that any of the 512-265 -- the

14 features of the Kyle NPA-NXXs had been assigned

15 to paging customers. Is that true?

16 A At the time, that was probably true

17 Q Is it true today?

18 A I would have to pull the report from

19 our paging terminal to verify whether or not we

20 have actually issued any numbers

21 Q So you don't know if you have -- the

22 last time you checked, there weren't any?

23 A I would assume that there have been

24 because of our -- initially the 265 and the 580

25 exchanges were not put into service at the same

26 time the 384 numbers were put in

27 Q Do you know for a fact whether any

28 paging customer has been assigned an NPA-NXX out

29 of 512-265 or 512-580?

30 A I do not personally have knowledge of

31 Q Now, have you assigned 512-265 and

32 512-580 numbers to internet service providers?

33 A I think we have assigned some 384 and

34 265 numbers. At this point, I'm not even sure

35 about the 580. I would have to verify that with

36 my technician

37 Q Now, is it correct that you've not

38 assigned any numbers out of the 512-222 number

39 block to ISPs?

40 A That is correct

41 Q Why have you not assigned any numbers

42 out of the 512-222 to internet service

43 providers?

44 A The 512-222 NXX is usage sensitive. I

45 could not afford to have internet providers

1 using those numbers. The paging customers who

2 use those numbers are obligated to pay an extra

3 surcharge to us to compensate us for the minutes

4 of usage that we're required to pay.

5 Q What is that surcharge?

6 A It's banded.

7 Q Banded?

8 A What is normally a local call in

9 Austin, there is no charge to call a LATWade

10 number. At the farthest point from Austin in

11 the band for the LATWA, I believe the charge is

12 in the neighborhood of 47 cents a minute.

13 Q Do you record the calls -- the pages

14 that are received by band in order to bill the

15 customers that use that -- the 512-222 numbers?

16 A That would be much too complicated

17 Q So how do you charge your customer if

18 they have calls -- if your rate is based on

19 bands, how do you charge your customer if you

20 don't record how many calls come in from or

21 terminate to them based on band?

22 A We record the number of calls

23 Q So you record the number of calls. Do

24 you record the number of calls by band?

25 A No, we don't

26 Q Okay. Then what do you do to transfer

27 that number of calls to the band -- the

28 appropriate price for that band?

29 A We do not break it down into bands for

30 our customers.

31 Q So if I have one of these numbers and I

32 have ten calls in Band 0 and ten calls in the

33 band and ten in the last band, there would be no

34 additional charges

35 Q What would that base rate be?

36 A Our current retail rates

37 Q What is the number? How much is it?

38 A If I told you what it was right now, I

39 would be misstating because I'm not directly

40 associated in the retail end

41 Q You don't know what the rate is?

42 A If I had a customer ask me today, I

43 would refer them to our sales department.

44 Q You're saying there's no additional

45 charge for the usage. It's just that one

46 flat-month rate?

47 A That will allow the customer to receive

48 approximately 100 pages

49 Q So it's a flat rate for 100 pages?

50 A I believe that's true

51 Q Then what does the -- the customer pays

17 A When this report was printed, these

18 numbers were correct

19 Q Have you supplemented this discovery

20 response?

21 A I haven't been asked to

22 MS BROWN Your Honor, I would

23 move the admission of CT Exhibit 6

24 JUDGE WALSTON Any objection?

25 MR MCCOLLUGH With the

26 JUDGE WALSTON

27 understanding it is marked confidential and we

28 do not waive confidentiality, no other

29 objections

30 JUDGE WALSTON Exhibits 6-11

31 be admitted, and it is noted that it is a

32 confidential response and should be kept

33 confidential

34 MS BROWN Your Honor, I'll

35 turnst an envelope for that I won't -- I'll

36 leave up to Mr. McCollough if he would like to

37 seal that at this point or at a later time

38 (CenturyTel Exhibit No. 6

39 admitted)

40 (By Ms. Brown) Now, Mr. Gaerjen, your

41 response to discover did not indicate that any

42 of the -- that any of the 512-265 -- the

43 features of the Kyle NPA-NXXs had been assigned

44 to paging customers. Is that true?

45 A At the time, that was probably true

46 Q Is it true today?

47 A I would have to pull the report from

48 our paging terminal to verify whether or not we

49 have actually issued any numbers

50 Q So you don't know if you have -- the

51 last time you checked, there weren't any?

52 A I would assume that there have been

53 because of our -- initially the 265 and the 580

54 exchanges were not put into service at the same

55 time the 384 numbers were put in

56 Q Do you know for a fact whether any

57 paging customer has been assigned an NPA-NXX out

58 of 512-265 or 512-580?

59 A I do not personally have knowledge of

60 Q Now, have you assigned 512-265 and

61 512-580 numbers to internet service providers?

62 A I think we have assigned some 384 and

63 265 numbers. At this point, I'm not even sure

64 about the 580. I would have to verify that with

65 my technician

66 Q Now, is it correct that you've not

67 assigned any numbers out of the 512-222 number

68 block to ISPs?

69 A That is correct

70 Q Why have you not assigned any numbers

71 out of the 512-222 to internet service

72 providers?

73 A The 512-222 NXX is usage sensitive. I

74 could not afford to have internet providers

7 a usage rate for each page over that?
8 A That's correct
9 Q The banded rates you were talking
10 about, that's what you're billed. Is that
11 right?
12 A From the ILECs.
13 Q I misunderstood I thought that might
14 be what you were billing your customer I
15 apologize for that
16 Now, if the customer uses a 512-384
17 number -- the paging customer, if they use one
18 of those numbers, is the rate that you charge
19 for that pager less?
20 A The rate is more dependent upon the
21 area of coverage than the NXX that the customer
22 is using
23 Q Okay. So for the 512-384, you might
24 have a customer with the same coverage that
25 would have a 512-222 number?

0050

1 A Is that a question?
2 Q Yes, sir
3 A Ask it again, please
4 Q Could you have one customer using a
5 512-384 number and another customer using a
6 512-222 number with the same coverage?
7 A Yes, we could
8 Q Would the rate be the same to both
9 customers?
10 A It would not
11 Q What would be the difference in your
12 charges to the customer, depending on --
13 A The customer with the area-wide calling
14 plan number would pay more
15 Q Then let me ask this What is the area
16 of coverage for a customer using a 512-384
17 number?
18 A When the customer comes into the store
19 and desires a pager, our first question is,
20 "Where are you going to be when you need to
21 receive a page," and then we design his coverage
22 around his needs
23 Q Okay So if I have -- can a customer
24 with a 512-384 number get the same coverage as a
25 customer with a 512-222 number?

0051

1 A Yes, they can
2 Q If they do, is there a difference in
3 your charge to the customer?
4 A Yes, there is
5 Q What is the difference in rate?
6 A The approximate difference in rate is
7 in the neighborhood of three dollars a month
8 Q Now, could a customer with a 512-384
9 number get coverage as broad as what we've
10 described in blue on the exhibit we described on
11 the board previously?
12 A Yes, they could
13 Q What is -- would the same be true for a
14 customer using a 512-265 or a 512-580 number?

15 A That's correct
16 MS BROWN Your Honor, what I
17 would like to do at this time is mark the
18 diagram that is on the newsprint board, and I
19 would mark that as an exhibit, and what I would
20 offer to do over the break or over the evening
21 is to reduce that to a letter-sized page that
22 conforms to the large exhibit
23 JUDGE WALSTON That would be
24 fine Do you have any objection?
25 MR McCOLLOUGH Subject to

0052

1 comparing the duplicate with the original --
2 would the offer be for the truth of the matter
3 asserted or merely to indicate the
4 cross-examination?
5 MS BROWN To aid in the
6 cross-examination
7 MR McCOLLOUGH With that
8 limitation, and subject to comparison, no
9 objection
10 JUDGE WALSTON Do you know what
11 you're going to number this?
12 MS BROWN Let's number it CT-7
13 (CenturyTel Exhibit No 7 marked)
14 JUDGE WALSTON CT-7, which is the
15 chart Ms Brown has made while cross-examining
16 Mr Gaetjen, will be admitted to help explain
17 the cross-examination, and it will be admitted
18 subject to comparing the reduced copy of it to
19 the original for accuracy
20 MS BROWN Thank you
21 (CenturyTel Exhibit No 7
22 admitted)
23 Q (By Ms Brown) Going back to the
24 diagram on the board, CT-7, when -- is it true
25 that the ISPs who use the ASAP NPA-NXXs have

0053

1 facilities that come in at your Austin switch?
2 A Yes, it is
3 Q Would those facilities use your
4 terminal in any way?
5 A Our switch?
6 Q No, would the ISP use your terminal in
7 any way?
8 A The terminal is considered an integral
9 part of the switch Calls come into the
10 terminal via the switch
11 Q All right Do calls to ISPs -- when a
12 call to an ISP -- a call to an ISP would come
13 into your switch from either the Greenwood or
14 the Homestead tandem Would that be correct?
15 A That's correct
16 Q Now, when they leave your switch, they
17 go to a facility that's owned by the ISP Is
18 that correct?
19 A That's correct
20 Q Now, is that facility -- your terminal,
21 you say, is an integral part of your switch?
22 A That's correct

23 Q What does your terminal do? Doesn't it
24 send the signal to your address transmitter?
0054 A When we got our service from
1 southwestern Bell, we also asked for and
2 received SS-7 links. Our paging terminal does
3 not have the capability to handle the calls via
4 the SS-7 links. We wanted full digital service
5 from the phone company so we consider the
6 switch as a front end to our paging terminal.
7 Q Okay. I believe my question had to do
8 with the Internet service providers --
9 A Okay.
10 Q -- and where they would receive a call
11 once it leaves your switch.
12 A We consider the switch as part of our
13 paging terminal.
14 Q I understand that issue. My question
15 to you is where does the Internet service
16 provider connect with your switch?
17 A They connect to the switch.
18 Q Now, what does your terminal do in
19 connection with any Internet service call? Does
20 it do any function with respect to an
21 Internet -- or a call bound to one of your
22 Internet service customers?
23 A If a page is received --
24 Q Just a moment.
25 A Okay.

0055 Q I'm asking about a call that is
3 directed to one of your Internet service
2 providers. I am not talking about a
4 page to one of your paging numbers. I'm asking
5 about a call that is received by one of your
6 Internet service providers. Okay?
7 A Okay.
8 Q Does that type of call use any
9 functions of your terminal?
10 A It may.
11 Q In what circumstances?
12 A If an Internet customer wishes to send
13 a page via the Internet, they would dial up the
14 Internet service provider.
15 Q So that would be an Internet service
16 customer making a paging call.
17 A You didn't let me finish.
18 MR MCCOLLOUGH: If Ms. Brown
19 would allow the witness --
20 Q (By Ms. Brown) I apologize. I didn't
21 understand that you weren't finished.
22 A When an Internet customer calls their
23 ISP and wishes to send an alpha text message to
24 a paging customer, they call the ISP. Then they
25 connect via the Internet to our paging gateway.
0056 Q Our paging gateway is connected directly to our
2 paging terminal. We receive the alpha page via
3 the Internet into our gateway to our terminal.
4 That is another instance.

5 Q Perhaps my call -- my question was
6 unclear.
7 MR MCCOLLOUGH: Your Honor, she
8 cut him off again. I request that the witness
9 be allowed to complete his answer.
10 JUDGE WALSTON: Were you finished
11 with your answer?
12 A Not totally.
13 JUDGE WALSTON: Go ahead and
14 finish your answer.
15 A There are many ways to use the Internet
16 to page, to seek information. There are many
17 ways to use a pager via the Internet, and you
18 can't have tunnel vision when you're talking
19 about the Internet and paging because they are
20 almost totally integrated at this point.
21 Q (By Ms. Brown) Are you finished?
22 A Yes, I am.
23 Q I would like to ask you to respond to
24 this question, and the question is, when a call
25 is placed to one of the Internet service
0057 providers that used one of your NPA-NXXs, and
1 the call is for the purpose of accessing the
2 Internet and not for the purpose of paging one
3 of your customers, would that call in any way
4 use your terminal?
5 A No, it would not.
6 Q So would it be appropriate -- do the
7 Internet service providers that use your paging
8 numbers have facilities at your location at 610
9 Brazos? Do they meet you at 610 Brazos?
10 A Yes, they do.
11 MR MCCOLLOUGH: The question is
12 multilateral. She started out by saying "Would
13 it be appropriate," and I don't know whether
14 she's asking about appropriateness or is seeking
15 a fact.
16 MS BROWN: I'll rephrase
17 Q (By Ms. Brown) Do the Internet service
18 providers to whom you provide service, are their
19 facilities -- do their facilities meet you
20 facilities at your 610 Brazos location?
21 A Some of their facilities meet my
22 facilities.
23 Q Where?
24 A At 610 Brazos. We consider it where
25 they connect with us.
1 Q That's what I'm asking. Thank you, so
2 on this diagram, could I put ISEs as a red box
3 within the box for your -- that shows your
4 Austin ASAP switch?
5 A What would be the intention of putting
6 the ISEs there? Because, in my opinion, the
7 ISEs have equipment there, but they are not
8 located there.
9 Q I'm asking where they meet your
10 facilities.
11 A They meet my facilities -- if your

13 little red box is for the purposes of where they
14 plug into me, yes, that would be correct.
15 Q Thank you Do all of the ISPs that
16 serve meet you at your 610 Brazos location?
17 A Yes, they do
18 (CenturyTel Exhibit No 8 marked)
19 Q (By Ms Brown) Mr Gaetjen, do you
20 have before you what's been marked as CenturyTel
21 Exhibit 8?
22 A Yes, I do.
23 Q Is that a copy of your response to
24 CenturyTel First Request No 21?
25 A Yes, it is
0059
1 Q The second page of that, is that your
2 response to CenturyTel Request No 23?
3 A Yes, it is
4 MS BROWN: Your Honor, I would
5 move the introduction of CT Exhibit 8
6 JUDGE WALSTON Any objection?
7 MR McCOLLOUGH No objection.
8 JUDGE WALSTON Okay. CT-8 will
9 be admitted
10 (CenturyTel Exhibit No 8
11 admitted)
12 (CenturyTel Exhibit Nos 9 and 9A
13 marked)
14 Q (By Ms. Brown) Mr Gaetjen, do you
15 have before you what's been marked as CT Exhibit
16 9 --
17 A Yes, I do
18 Q -- and CT Exhibit 9A?
19 A Yes
20 Q Is this the response that you prepared
21 to CenturyTel First Request 20, 22 and 24? Is
22 CT-9 the response that you prepared to these
23 three requests?
24 A Yes, it is
25 Q Does CT-9A contain the two pages --
0060
1 CT-9 is the envelope -- what's in the envelope.
2 A Yes, it is
3 Q Would you confirm for me on CT-9A that
4 the first page of that that's Bates stamped
5 000061 is a list of the NPA-NXXs used by
6 Internet service provider customers of ASAP at
7 the time that that response was first prepared?
8 A That's correct.
9 Q Does the second page, which is Bates
10 stamped 007216, reflect a supplement to that
11 initial response?
12 A That's correct
13 Q Would you confirm for me that these two
14 responses indicate that you have Internet
15 service provider customers using the 512-580
16 NPA-NXX, the 512-384 NPA-NXX, and the 512-265
17 NPA-NXX?
18 A That's correct
19 MS BROWN Your Honor, I would
20 move the admission of CT Exhibit 9 and 9A

21 JUDGE WALSTON Any objection?
22 MR McCOLLOUGH With the
23 understanding that the -- what's 9A is
24 confidential and we do not at this time waive
25 confidentiality, no objection.
0061
1 JUDGE WALSTON Exhibits 9 and 9A
2 will be admitted with the notation that Exhibit
3 9A remains a confidential exhibit at this time
4 (CenturyTel Exhibit Nos 9 and 9A
5 admitted)
6 (CenturyTel Exhibit No 10 marked)
7 Q (By Ms Brown) Mr Gaetjen, do you
8 have before you what has been marked as CT
9 Exhibit 10?
10 A Yes
11 Q Is that -- is this exhibit responses
12 you prepared to CenturyTel's Second Request 2.19
13 and 2 18?
14 A Yes, it is.
15 MS BROWN: Your Honor, I would
16 move the admission of CT Exhibit 10.
17 MR McCOLLOUGH No objection
18 JUDGE WALSTON Exhibit CT-10 will
19 be admitted
20 (CenturyTel Exhibit No 10
21 admitted)
22 (CenturyTel Exhibit No 11 marked)
23 Q (By Ms Brown) Mr Gaetjen, do you
24 have before you what's been marked as Exhibit
25 CT-11?
0062
1 A Yes, I do
2 Q Are these pages from a voluminous
3 response -- or a discovery response prepared by
4 you that was voluminous and prepared in response
5 to a number of requests for information from
6 CenturyTel?
7 A Yes
8 MS. BROWN Your Honor, I would
9 move the admission of CT-11
10 JUDGE WALSTON Any objection?
11 MR McCOLLOUGH With the
12 understanding that it is confidential and we do
13 not waive confidentiality, no objection
14 JUDGE WALSTON CT-11 will be
15 admitted, and it will remain confidential
16 (CenturyTel Exhibit No 11
17 admitted,
18 Q (By Ms Brown) Mr Gaetjen, I would
19 like to ask you a few questions about CT-11, and
20 I appreciate that this information is
21 confidential, and if my question or your
22 response would reveal confidential information,
23 then would you please say in response that that
24 would be confidential information or that you
25 cannot respond because it would be confidential
0063
1 information?
2 I will try to phrase my questions so

11 that I found it and haven't looked at it since I
12 gave it to Mr. McCollough.
13 Q Did you determine whether it was
14 responsive to the request, or did you simply
15 produce it as a -- or for what purpose did you
16 produce it?
17 A I produced it in response to the RFI
18 from CenturyTel to Mr. McCollough to see if, in
19 his opinion, it was necessary or pertinent.
20 Q Did he make that judgment then?
21 A I believe so.
22 Q Does he know what this data reveals?
23 A I never asked him.
24 Q If we come across the page, we then see
25 a second series of numbers, and for this first
0067 line, the first number would be a 17. Then
1 there's a colon. There's a second set of
2 numbers and a third set of two-digit numbers.
3 Would that indicate the time of day a call was
4 placed?
5 A I'm not familiar with the software that
6 produced this report, had never seen this report
7 until the day that I put it on a copy for
8 Mr. McCollough, and while I could assume that
9 that would be it, I do not know how the Excel
10 switch produced it or by which software it
11 produced it.
12 Q Let's look at the second set,
13 beginning -- or the next set of numbers begins
14 with a 00, a colon, another two digits, a colon
15 and the last two digits. Would that indicate
16 the length of a call?
17 A I have no way of verifying that it does
18 or it doesn't.
19 Q Now, the next set of numbers,
20 512-265-2000, do you believe that would be one
21 of your 512-265-2000 NPA-NXXs?
22 A That number is one of the reasons why I
23 kept the report.
24 Q Your testimony here today is you
0068 have -- you do not know what any of this data
1 shows?
2 A I cannot verify how the Excel switch
3 produced this data and what it shows. As I
4 said, I never saw this report until the day that
5 I discovered it, and I presented it to
6 Mr. McCollough to see if it would be pertinent
7 to the questions that CenturyTel was asking it
8 was not necessary in our day-to-day operations,
9 and we never saw it before.
10 Q All right. Now, if we go back to CT
11 Exhibit 8, your response indicates that there
12 were no customers who carry a pager that use the
13 512-265 number or the 512-580 number. Is that
14 correct?
15 A That's correct.
16 Q Do you know if that -- if there's any
17 different information today? Do you have any

3 that no confidential information from this
4 exhibit is revealed.
5 A Okay.
6 Q Does CT Exhibit 11 come from a report
7 prepared by ASAP to show the volume of calls
8 placed to various NPA-NXXs that are ASAP
9 numbers?
10 A No.
11 Q Okay. Can you tell me what this report
12 is from?
13 A This is a default of our Excel switch,
14 and in an attempt to make sure that I did not
15 overlook anything in response to the RFI from
16 CenturyTel, I went into the root directory of
17 the computer on the switch and found this file
18 Q What does the file reveal?
19 A I have no idea. I cannot read this
20 file. I do not know what the numbers mean, have
21 never bothered to call Excel because it wasn't
22 necessary in our day-to-day operations -- weren't there
23 so you just produced -- weren't there
24 ten or twenty five-inch volumes of data?
25 A That's correct.
0069 Q You have no clue what this data shows?
1 A As I said, this was a default in the
2 original set-ups of our Excel switch. We've
3 never used this information, and I was not even
4 aware of it being in there.
5 Q What did you believe it was when you
6 produced it in response to a discovery request?
7 A The discovery request asked for
8 information about our DID numbers, our NXXs and
9 when I saw the file and opened it, knew that
10 this was -- it was pertinent to the information
11 that you were seeking.
12 Q How did you know that?
13 A Because of the numbers of the NXXs that
14 were listed.
15 Q Well, let me walk you through it
16 we'll see what you know. If we look at the top
17 series of numbers, do you see a series of
18 numbers that would indicate a date a call was
19 made?
20 A I'll take your word on this.
21 Q So you don't know what -- who within
22 your company would know what this report shows?
23 A We've never used this report.
24 Q Who within your company would know
0070 what --
1 A No one. As I said, this was a default
2 that the switch did.
3 Q So you don't know if the -- looking at
4 the top line, you don't know if the third set of
5 numbers that would appear to reveal a month,
6 date and year -- do you know if that is what
7 that reveals?
8 A I would assume that it would be, but as
9 I said, I never saw this report before the day

19 different information today?
20 A There is different information, but it
21 would necessitate pulling another report from
22 the paging terminal.
23 Q As you sit on the stand, do you believe
24 your answer, as you've presented it in CT-8, is
25 or is not correct as of today?

0068
1 A As of today, I would not say that it is
2 correct

3 Q But you don't know?
4 A I don't know
5 Q You haven't updated your response?
6 A Have not updated --

7 MR McCOLLOUGH Objection, Your
8 Honor. The question asks for number customers
9 as of March 1, 2000 There was no obligation to
10 update the response

11 Q (By Ms Brown) For this response, that
12 information was correct when it was presented?

13 A That's correct

14 Q Do you know if you have -- and I
15 believe we touched on this before Do you know
16 as a fact sitting there today whether there are
17 in fact any paging customers assigned to 512-265
18 or 512-580?

19 A As fact -- personal knowledge, I have
20 no knowledge of it.

21 Q All right. Could you look at CT
22 Exhibit 10? In CT Exhibit 10, you state that,
23 "ASAP has no ASAP-owned facilities between
24 Fentress and ASAP's Austin switch or between
25 Kyle and ASAP's Austin switch " Is that true as

0069
1 of today?

2 A That's correct.

3 Q Mr Gaetjen, could you turn to your
4 prefiled testimony at Page 5?

5 JUDGE WALSTON Ms Brown, we've
6 been going about an hour and 45 minutes Why
7 don't we go ahead and take a break.

8 MS BROWN I'm glad you asked

9 JUDGE WALSTON We'll take a
10 15-minute break, or we'll just resume at 11
11 o'clock.

12 (Recess: 10 44 a.m to 11:02 a.m)

13 JUDGE WALSTON We'll go back on
14 the record at this time. Ms Brown, you can
15 continue

16 MS BROWN Okay

17 Q (By Ms. Brown) Mr Gaetjen, are you
18 familiar with the term "metropolitan trading
19 area"?

20 A MTA; yes, I am

21 Q Does the MTA define the -- in part,
22 your service area as the CMRS carrier?

23 A Does it define my service area?

24 Q Under your license Do CMRS licenses
25 cross MTA boundaries?

0070

1 A My CMRS license is not contingent upon
2 any type of MTA

3 Q So your CMRS license would cross MTA
4 boundaries?

5 A Yes.

6 Q Are you familiar -- would you agree
7 with me that some of your transmitters are in
8 the Austin MTA -- excuse me -- the Dallas MTA,
9 some are in the Houston MTA, and some are in the
10 San Antonio MTA?

11 A Not being familiar with the exact
12 lines, I would assume that they would be

13 Q Can you confirm for each of your
14 transmitters what MTA they would be located in?

15 A I couldn't confirm it

16 MR McCOLLOUGH Just for
17 clarification, I'm hearing MPA

18 MS. BROWN MTA

19 MR McCOLLOUGH Okay Thank you
20 MS BROWN MTA

21 Q (By Ms Brown) Are you familiar that
22 under the FCC's rules calls where -- that are
23 originated within one MTA to a cellular customer
24 and terminated in another MTA where the -- let
25 me rephrase

0071

1 Are you familiar that the MTA
2 boundaries define the area in which, for
3 interconnection purposes, a cellular carrier may
4 receive incoming traffic on a local basis?

5 A Say that again, please

6 Q Okay Are you familiar with FCC rules
7 that describe the metropolitan trading area, the
8 MTA, as the geographic area within which a CMRS
9 provider may receive incoming calls as if those
10 calls were local calls for purposes --

11 A I believe so

12 Q Are you then familiar with the FCC
13 rules that say if a call -- if the end user
14 originating a call is in one MTA and the end
15 user receiving the call is in another MTA that
16 that is considered an interexchange call, or not
17 a local call, for intercarrier compensation
18 purposes?

19 A I believe there is a rule

20 Q That would be the rule?

21 A That would be the rule

22 Q Would you agree with me that with
23 respect to the calling scope you afford your
24 paging customers that they can receive calls --
25 receive pages originating within the Austin --

0072

1 excuse me -- the Dallas MTA and terminating
2 within another MTA?

3 A You said "calls," and then you said
4 "pages "

5 Q Okay May -- I'll rephrase Would you
6 agree with me that an end user in one MTA can
7 complete a page to one of your paging units
8 crossing an MTA boundary where the paging unit

9 is located in another MTA?
10 A This is the way our network is
11 designed, and this is the way the FCC has
12 recognized that paging networks work
13 Q So the answer is yes
14 A That's correct
15 Q You've deliberately designed your
16 network in that fashion?
17 A As far as the person carrying the
18 pager, as I stated in one of my prefiled
19 testimonies, service and coverage are the two
20 main considerations when people are looking for
21 a pager. So we designed our system to give the
22 person carrying the pager what they desired
23 Q Is the answer to my question yes?
24 A I believe so
25 Q That's permissible under the rules?
0073
1 A That's permissible
2 Q Now, for purposes of this proceeding,
3 do you expect that there be no compensation paid
4 by you to CenturyTel of San Marcos with respect
5 to any form of call that might be originated
6 from their territory and terminated to any of
7 your pagers?
8 A No, I don't assume that I have a
9 LATAwide calling arrangement with CenturyTel,
10 and I pay them for the LATAwide calls that are
11 generated through their end users
12 Q That would be just with respect to the
13 512-222 NPA-NXX?
14 A That's correct
15 Q With respect to all other calls
16 originated from San Marcos and terminated to one
17 of your pagers, is it your position that there
18 is no compensation due San Marcos -- CenturyTel
19 of San Marcos regardless of whether that call
20 terminates inside or outside the MTA?
21 A If an end user of CenturyTel in San
22 Marcos, by the ELC scope, is defined as a local
23 call --
24 MS BROWN Your Honor, I'm going
25 to interrupt the witness and ask that he be
0074
1 directed to respond to my specific question
2 MR MCCOLLOUGH I think he was
3 trying to, Your Honor, before he was
4 interrupted.
5 JUDGE WALSTON I think he was
6 qualifying his answer. I don't think he's
7 trying to avoid your answer. I think he's
8 trying to explain it. Maybe you need to
9 rephrase the question. Go ahead and answer it,
10 Mr. Gaetjen.
11 A If a San Marcos CenturyTel customer
12 makes a call to one of the paging numbers, the
13 NXXs that I have that is ordinarily a local call
14 to them, then there would be no compensation due
15 CenturyTel from ASAP.
16 Q (By Ms. Brown) My question was

17 directed to the geographic area in which that
18 pager might be when the call is received by the
19 pager. Could you respond to that?
20 If that pager is in New York City when
21 it receives that call from 512-384, do you
22 expect there to be any compensation you would
23 pay CenturyTel of San Marcos?
24 A Certainly not
25 Q With respect to -- would this be true?
0075
1 With respect to 512-384 and 512-265 and 512-580,
2 do you -- is it your position that no
3 compensation is owed to CenturyTel of San Marcos
4 regardless of where a page to one of those calls
5 might be received by the paging unit?
6 A That's correct
7 Q Now, would you also agree, Mr. Gaetjen,
8 that you have informed CenturyTel on several
9 different occasions that you will -- that you
10 refuse to enter into any form of agreement with
11 them with respect to your paging traffic?
12 A That is not correct
13 Q Okay. Is that correct with respect to
14 every NPA-NXX, except the 512-222 number?
15 A That is not correct
16 Q Okay. In October 10 of 2001, did you
17 say -- in response to a letter from Gary Barker,
18 did you say the following: "ASAP Paging, Inc.
19 does not need an agreement with CenturyTel for
20 CenturyTel to honor ELCS which have been voted
21 in by the cities in or adjacent to its areas?"
22 A Yes, I did say that
23 Q Did you say on March 4, 2002, "The FCC
24 has ruled we do not have to have an agreement?"
25 A I believe I did say that
0076
1 Q In response, were you tendered an
2 agreement by CenturyTel?
3 A I was offered an agreement by
4 CenturyTel and told to sign it or else, no
5 negotiations
6 Q Did you respond with any alternative
7 form of agreement?
8 A I indicated that I was willing to enter
9 negotiations with them but that I would not be
10 willing to contract outside the law and give up
11 any of the rights or privileges afforded me by
12 the FCC
13 Q Did you respond with any alternative
14 form of agreement?
15 A I responded that that agreement was not
16 satisfactory
17 Q You responded that the CenturyTel
18 agreement was not satisfactory?
19 A That's correct
20 Q Did you furnish CenturyTel any proposed
21 agreement?
22 A I did not
23 Q Could you turn to your testimony at
24 Page 5? At Line 12, you say, "The FCC has

25 indicated that for so long as we use

0077

1 interconnection trunks to provide
2 telecommunications service, we can also provide
3 information service " What is your source for
4 that statement?

5 A I believe in some of the research that
6 I have done and some of the conversations that
7 I've had with some of my associates in the
8 paging business and Mr McCollough

9 Q What is the source for that statement?
10 A That specific statement has come from a
11 myriad of sources

12 Q You cannot cite --

13 A I cannot quote you a cite -- cite you a
14 specific ruling.

15 Q Let me read you something and see if
16 this triggers your memory Well, let me ask you
17 this. When the FCC said that so long as you use
18 interconnection trunks to provide
19 telecommunications that you could also provide
20 information service, did you understand that to
21 be with respect to use of the facilities
22 themselves, that if you had trunks, for example,
23 between Greenwood tandem and your ASAP switch,
24 that you could use those trunks for both types
25 of traffic?

0078

1 A Yes, I did

2 Q Okay. Did that statement, as you
3 understand it, say anything about the
4 compensation with respect to the different types
5 of traffic?

6 A I don't recollect the statement at this
7 time.

8 Q So you're not indicating from this
9 source that -- okay Strike that question
10 Now, two lines below it says, "At the
11 same time, however, carriers are supposed to
12 route calls to ISPs like local calls, since ISPs
13 are treated as end-use customers and not IXCs "

14 What is the source for that statement?
15 A Again, it was the substantial
16 information that I had reviewed and some of the
17 information that before we did this indicated to
18 us that what we were doing was not only legal
19 but encouraged by the FCC

20 Q You cannot give me a cite though for --

21 A Not at the present time

22 Q Now, would you agree with me that with
23 respect to CenturyTel you have no
24 interconnection agreement except for -- the only
25 agreement you have with them is the 512-222

0079

1 reverse billing arrangement?

2 A That's correct

3 Q Would you agree with me that with
4 respect to any other service you provide you
5 have no interconnection agreement with
6 CenturyTel?

7 A That's correct

8 Q You do not purchase any services from
9 CenturyTel pursuant to tariff?

10 A I do not

11 JUDGE WALSTON I didn't hear your
12 answer

13 A I do not.

14 Q (By Ms Brown) Now, are you familiar
15 with the ISP order on remand?

16 A Somewhat

17 Q Would you agree with me that under that
18 order that Internet service bound traffic is
19 treated differently than other traffic for
20 interconnection purposes?

21 A For interconnection purposes?

22 Q Yes, sir

23 A I would have to review it to be more
24 specific with it, but I'll assume that you know
25 what you're talking about

0080

1 Q I'm asking you what you know

2 A Rephrase the question

3 Q Would you agree with me that under that
4 order Internet service provider traffic is
5 treated differently than other forms of traffic
6 for interconnection purposes?

7 A I would have to reread the order

8 Q Are you familiar that that order set up
9 a bill-and-keep arrangement for Internet bound
10 traffic and that other forms of traffic a CLEC
11 might exchange with an ILEC would be subject to
12 reciprocal compensation?

13 A I seem to remember reading some of
14 these issues, but I also seem to remember that
15 some of these issues are still before the FCC

16 Q So you're just unclear about that order
17 in that respect?

18 A In that respect, yes

19 Q Now, at Page 5, Lines 15 and 16, you
20 say carriers are supposed to route calls to ISPs
21 like local calls

22 A Page 5, which lines?

23 Q Lines 15 to 16

24 A Is this in the direct testimony or the
25 rebuttal?

0081

1 Q Page 5, Lines 15 to 16

2 MR MCCOLLOUGH Your direct

3 Q (By Ms Brown) Your direct

4 A Okay

5 Q Do you see your statement, "At the same
6 time, however, carriers are supposed to route
7 calls to ISPs like local calls, since ISPs are
8 treated like end-use customers, and not IXCs"?

9 A Yes, that is what I believe

10 Q Would you agree with me that what the
11 FCC has said is that if I'm in San Marcos and I
12 call a seven-digit number to a local ISP in San
13 Marcos, that CenturyTel in San Marcos is to
14 treat that call as a local call --

15 A That's what I believe
 16 Q -- and not like a call to an
 17 interexchange provider that might be providing
 18 long distance service out of San Marcos?
 19 A Say that again
 20 Q They're to treat -- CenturyTel is to
 21 treat the call to the ISP as if the ISP were an
 22 end user in San Marcos, not as if the ISP were
 23 an Internet -- an interexchange carrier in San
 24 Marcos
 25 A I've never seen anything that
 0082
 1 distinguishing how a call would be treated or
 2 rated based on who it's going to or the content
 3 of the call. Most of the information that I had
 4 access to referred to rate centers and NXXs
 5 Q Well, what do you mean in your
 6 statement then when you say that you're to route
 7 calls to ISPs like local calls and not like
 8 IXCs?
 9 A If it's a local call, it's a local
 10 call. It don't make any difference whether it's
 11 an ISP, a paging customer or the sheriff's
 12 department
 13 Q So it -- do you understand how
 14 interexchange carrier compensation works?
 15 A Somewhat
 16 Q If AT&T were an interexchange provider
 17 in San Marcos and the end user called AT&T to
 18 place a long distance call, do you believe that
 19 call from the end user to AT&T in San Marcos
 20 should be rated the same as the call from the
 21 end user to the ISP in San Marcos?
 22 MR MCCOLLUGH I'm going to
 23 object to the question. It's unclear if Ms
 24 Brown is asking if a call is to an IXC for
 25 purposes of a long distance call. Is Ms Brown
 0083
 1 asking whether -- when somebody tries to make a
 2 long distance call the customer is calling the
 3 IXC?
 4 JUDGE WALSTON. Do you understand
 5 that question, Mr Galtjen?
 6 A I'm afraid I didn't. A long distance
 7 call is a long distance call and there would be
 8 toll charges. A local call is a local call, and
 9 there would be no toll charges
 10 Q (By Ms Brown) When you made this
 11 statement at Page 5, Lines 15 to 16, that
 12 carriers are supposed to treat -- route calls to
 13 like ISPs to local calls, since ISP customers
 14 are treated as end-use customers and not IXCs,
 15 how would you treat an IXC in that example, or
 16 do you know?
 17 A If it is a local call, there would be
 18 no toll. If it was a toll call, that would be a
 19 toll. The content of the call, or the end --
 20 the remaining person or entity does not affect
 21 how the call is rated
 22 Q Do you know what an access charge is?

23 A Yes, I do
 24 Q Do you know that CenturyTel -- a
 25 CenturyTel end user places a call to AT&T and

1 AT&T is located -- receives that call at a
 2 switch in San Marcos that an access charge is
 3 paid by AT&T to CenturyTel?
 4 A I believe this would also have
 5 something to do with the reciprocal compensation
 6 that then would be due to AT&T
 7 Q You believe interexchange carriers
 8 receive reciprocal compensation?
 9 A I don't know because I haven't been
 10 privilage to any of their agreements
 11 Q Do you know what charges a local
 12 exchange carrier is permitted to charge an
 13 interexchange carrier?
 14 A No, I don't
 15 Q So when you make the statement that
 16 carriers are supposed to route calls to ISPs
 17 like local calls, since ISPs are treated as
 18 end-use customers and not IXCs, you don't know
 19 what -- you don't know how IXCs are treated?
 20 A This statement --
 21 MR. MCCOLLUGH The problem here
 22 is Ms Brown keeps talking about a call to an
 23 IXC. You don't call an IXC when you're making a
 24 long distance call. You're calling another end
 25 user on the PST end, and the IXC is an
 0085
 1 intermediary providing transit, as Mr Goldstein
 2 explains.
 3 If Ms. Brown will ask about a San
 4 Marcos user making a call to someone in a
 5 different rate center using an IXC, he might be
 6 able to answer the question.
 7 JUDGE WALSTON: Let's just -- let
 8 he can answer the question, he can. If he
 9 can't, the way it's asked, then he'll just say,
 10 "I can't answer the question."
 11 Q (By Ms. Brown) I'm directing you back
 12 to your testimony
 13 A Okay
 14 Q When you say carriers are supposed to
 15 route calls to ISPs like local calls, since ISPs
 16 are treated as end use customers and not IXCs,
 17 what do you understand the treatment to be that
 18 an IXC -- that you're trying to compare the ISP
 19 to the IXC? What would the treatment be to the
 20 IXC, or do you know?
 21 A I do not know
 22 Q Now, what would be your understanding
 23 if I am a customer -- end-use customer in San
 24 Marcos, and I place a call to an ISP located in
 25 New York City, would that -- would CenturyTel be
 0086
 1 required to treat that call as a local call, or
 2 do you know?
 3 A If a person in San Marcos calls an ISP
 4 to an NXX in New York City, since the NXX in New

5 York City -- it's not a local call to San
6 Marcos -- there would be charges for that call,
7 toll charges.
8 Q What if I'm in San Marcos and I call an
9 ISP in Austin? Does San Marcos telephone
10 company treat that call as a local call?
11 A The calls are not rated or tolled on
12 who they're calling. It's my understanding that
13 the calls are rated or tolled on the NXX that's
14 being called.
15 If the NXX is a local call, there would
16 no toll charges. If the NXX is not a local
17 call, then there would be charges.
18 Q Well, why wouldn't every carrier do
19 what you've done then? Why wouldn't the ISP in
20 New York call its NPA-NXX a San Marcos NPA-NXX?
21 A The ISP does is not a peer to the
22 ILECs.
23 Q Well, they're a carrier.
24 A The ISP is a carrier?
25 Q The carrier serving the ISP
0087
1 A The carrier serving the ISP could very
2 well get an NXX associated with the San Marcos
3 exchange.
4 Q Would you agree with me that what you
5 are asking in this proceeding is that CenturyTel
6 of San Marcos take a call from a San Marcos end
7 user to your switch in Austin and treat that as
8 a local call?
9 A No, I would not agree with that
10 statement.
11 Q Where does that call go? Isn't it true
12 that all the calls to the three NXXs at issue go
13 from -- with respect to CenturyTel end users
14 would go from CenturyTel to your switch in
15 Austin?
16 A That's correct.
17 Q You want those calls -- all of those
18 calls to be treated as a local call?
19 A I want CenturyTel to honor the
20 state-mandated ELC that exists between San
21 Marcos and Lockhart and Fentress and Kyle.
22 Q The result of that is that you want
23 those calls treated as local calls?
24 A They are local calls -- yes.
25 Q Now, when you permit Internet service
0088
1 providers to use those NPA-NXXs, you would also
2 want CenturyTel of San Marcos to treat the calls
3 using those NPA-NXXs to Internet service
4 providers as local calls. Is that right?
5 A A local call is a local call, yes.
6 Q Now, do you make a profit when you sell
7 your NPA-NXXs to ISPs with this in-bound
8 calling --
9 MR McCOLLOUGH Objection.
10 assumes a fact and conclusion not in evidence.
11 The witness has not testified that he sells his
12 number.

13 JUDGE WALSTON Go ahead and ask
14 your question again.
15 Q (By MS Brown) What do you call your
16 service to -- that you sell to Internet service
17 providers?
18 A As a telecommunications service
19 provider, I'm using my interconnection trunks to
20 allow the ISPs access to the PSTN.
21 Q What do you call the agreement that you
22 have with the Internet service provider? What
23 is the title of that agreement?
24 A I believe it's a number reseller
25 agreement, if I'm not mistaken.
0089
1 Q So do you make a profit with your
2 number resale agreement?
3 A I haven't yet.
4 Q Do you charge a fee?
5 A Yes, I do.
6 Q You're saying it's below cost?
7 A I'm saying that I haven't made a profit
8 yet.
9 Q Is your fee below cost?
10 A Is my fee below cost? No.
11 Q Is the charge contained in that
12 agreement with the Internet service provider
13 below your cost?
14 A No, but you asked me if I made a
15 profit.
16 Q Now, at Page 2, Lines 8 and 9, you say
17 that you were incorporated in 1990 and that
18 almost immediately you discovered that the
19 second most important thing after service itself
20 is wide coverage. Do you see that statement?
21 A Yes, I do.
22 Q So would you agree with me that wide
23 coverage has a value to your customers?
24 A Yes, it does.
25 Q You price accordingly?
0090
1 A Yes, I do.
2 Q As we've discussed this morning, your
3 customers have a choice of your coverage plan?
4 A That's correct.
5 Q Do you make a profit from your paging
6 services?
7 A Yes, I do.
8 Q Do you make a profit from your 512-222
9 paging customers?
10 A That's debatable. It would, at best,
11 be a very slim margin.
12 Q But you still -- you've had that
13 service in place for a long time, and you've not
14 discontinued it?
15 A That's correct.
16 Q At Page 6, your Footnote 6 -- I'm
17 sorry -- Footnote 2 -- it continues at the
18 bottom of Page 6. In that footnote, you say,
19 "CenturyTel and Southwestern Bell appear to be
20 trying to prevent CMRS carriers from using

21 interconnection trunks for this purpose, or at least to make it extremely costly and cumbersome to do so."

24 Now, I believe you've agreed with me before that CenturyTel has not refused to terminate any traffic to you, have they?

1 terminate any traffic to you, have they?

2 A They have not refused to terminate traffic. They're just trying to make it cost me more.

4 more.

5 Q They're trying to charge you what they believe to be the appropriate rate, and there's a disagreement about the rate?

7 A There's a definite disagreement in opinion.

9 opinion.

10 Q Now, what rate do you pay -- what is the usage rate you pay on the 512-222 NPA-NXX?

12 A The 512-222 NPA has a rate center of Austin so whatever is normally a local call in Austin is a local call, and it's free. There's no toll involved in it as the distance from the rate center increases, as I said before, it's banded and the charge to me from the ILEC would go up.

18 That's from something -- about 4 cents?

19 Q I think it's 4 7 cents.

20 A How does that compare to the rate that CenturyTel charges you with respect to the 512-222 number?

23 A I believe that they're charging me the maximum allowed.

25 Q What is the rate?

1 I'm going to have to assume at this point, without actually looking at a bill, that it's 4 7 cents a minute.

4 Q What would CenturyTel -- have you had discussions with CenturyTel about what usage rate they would apply if you were to enter into an interconnection agreement with them for these NPA-NXXs?

9 A Rephrase that question, please.

10 Q Have you determined what rate CenturyTel would charge you were you to negotiate an interconnection agreement with them?

14 A For interconnection --

15 A Well, I would assume that since they're a local call that there would be no charge so you're just refusing to have an agreement with them, even though they would not charge you any compensation under that agreement?

22 A No, ma'am. One of the agreements they sent me was to make those exchanges LATWade calling.

25 Q Yes, sir. What would be the rate under that agreement?

3 A Well, if I interpret Southwestern Bell's agreement correctly, and CenturyTel opted into Southwestern Bell's agreement for LATWade calling, whatever is a local call normally is still a local call.

8 So if Entress and Kyle and Lockhart are ordinarily a local call from San Marcos, then under a LATWade agreement, they would still be a local call, and there would be no toll.

12 Q Okay, and I believe what your answer assumes was that Southwestern Bell would have to be involved in some respect?

15 A Pardon?

16 Q Well, you started off by saying something about --

18 A I said that CenturyTel --

20 Q May I finish?

21 JUDGE WALSTON Let her finish her question, Mr. Gaetjen.

22 Q (By Ms. Brown) You started off your response by saying about Southwestern Bell. So I will ask my question again.

25 The agreement that Gary Barker tendered to you from CenturyTel of San Marcos, what was your understanding of what rate you would pay under that agreement?

4 A Mr. Barker was assuming that there would be toll charges associated with calls to those exchanges.

7 Q CenturyTel would charge you toll?

8 A That was the way I understood it.

10 Q All right. Didn't he suggest that there be a reverse billing arrangement?

11 A Yes, he did.

12 Q What would be the charge to you under the reverse billing arrangement?

14 A Again --

15 Q You believed it to be a toll charge?

16 A I believe that under a reverse billing agreement, whatever is ordinarily a local call would be a local call and there would be no toll charge. So if I entered into a reverse billing agreement with CenturyTel for those exchanges and they were ordinarily a local call from San Marcos, there would be no tolls associated with those calls.

24 Q Even then you refused to enter into an agreement. Right?

1 I did not refuse to enter an agreement. I said that I would be glad to negotiate an agreement with him.

4 Q In this statement, when you say that CenturyTel is attempting to make it extremely costly for you to do business, what is your understanding of what rate is -- they would charge you?

9 A I don't believe the negotiations ever

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11 got to that point
12 Q All right. Thank you. Now, if -- do
13 you have an agreement with Southwestern Bell --
14 does your agreement with Southwestern Bell
15 distinguish between the intraMTA calls and
16 interMTA calls, the compensation you pay
17 Southwestern Bell?

18 A No, it does not.

19 Q Would you understand that that would be
20 an appropriate term of any agreement based on
21 the calling scope you afford your paging
22 customers?

23 A An appropriate term would be something
24 that both sides would agree to.

25 Q Do you believe that your interMTA calls

0096
1 should be treated as local calls for purpose of
2 any intercarrier compensation?

3 A Define "inter ". Give me an example,
4 please

5 Q If you and CenturyTel were to enter
6 into an agreement, would ASAP recognize that the
7 paging calls that are placed where the
8 originating caller is in one MTA and the paging
9 unit receives that call when it is located in a
10 different MTA, would you understand -- or would
11 you be agreeable to paying compensation for that
12 as an interMTA nonlocal call?

13 A I'm trying to understand the question
14 if a user in San Marcos makes a call to a paging
15 number and that pager is, say, in Dallas, and
16 you're saying that I should -- that CenturyTel
17 should have the opportunity to put toll on that
18 call?

19 Q In your example -- I will rephrase the
20 question because your example uses a Dallas
21 location. Do you understand that San Marcos is
22 in part in the Dallas MTA, or do you know?

23 A I'm not familiar, but if you say so,
24 I'll assume that

25 Q Let's assume that the San Marcos is in

0097
1 the Dallas MTA and they place a call to a paging
2 unit that's in Bryan -- the pager is in Bryan,
3 and let's assume that the Bryan -- that Bryan is
4 in the Houston MTA

5 A Okay.

6 Q Would ASAP recognize that call as
7 nonlocal and subject to compensation to the
8 carrier that originated the call?

9 A The only way that ASAP Paging would
10 recognize that call as nonlocal is if CenturyTel
11 would be willing to pay me reciprocal
12 compensation for transmitting the call from
13 Austin to Bryan over my wireless network, which
14 is ludicrous

15 Q Can you answer the question with a yes
16 or no?

17 A No, we would not expect to pay toll on
18 that call

19 Q When you say "not expect to pay toll,"
20 you mean any form of compensation?

21 A Any form of compensation

22 Q Okay. On Page 7, Lines 2 to 4, you say
23 that issue really boils down to whether extended
24 local calling between two towns with a community
25 of interest works when -- only when both the

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1 calling and the called parties are customers of
2 an incumbent. Do you see that statement?

3 A Yes, I do

4 Q Do you understand that in the
5 circumstance with respect to Lockhart that
6 people in Lockhart petitioned for ELCS to San
7 Marcos?

8 A That's correct

9 Q So the people who determined whether or
10 not they would -- do you understand there's a
11 fee associated with the ELCS calling --

12 A Yes, I understand

13 Q -- to those customers in Lockhart?

14 A Yes

15 Q Okay. So when the Lockhart customers
16 voted for ELCS, do you think they voted to
17 enable a San Marcos customer to call a paging
18 unit in Bryan for free?

19 MR MCCOLLOUGH Objection, ca-ils
20 for speculation

21 JUDGE WALSTON Okay. Let her
22 finish asking her question. Can you restate
23 your question?

24 Q (By Ms Brown) Do you understand
25 that -- you say here the real issue is when

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1 ELCS -- it boils down to whether ELCS between
2 two towns with a community of interest works
3 only when the calling and called parties are
4 customers of the incumbent. Do you see that?

5 A Yes

6 Q Now, you say that's reason for you,
7 ASAP Paging, to be able to receive calls to your
8 paging units and to your Internet service
9 provider customers without compensation to
10 CenturyTel of San Marcos

11 A I think I'm assuming too much if I go
12 along with that question. The calls are not to
13 the paging unit. The calls are to the rate
14 center, the NXX

15 Q Well, doesn't the CenturyTel customer
16 that calls that paging number want to send a
17 signal to the paging unit?

18 A That's true

19 Q The signal goes to the paging unit
20 ultimately?

21 A That's true

22 Q So when a Lockhart customer voted for
23 ELCS, did that Lockhart customer vote for a San
24 Marcos customer to be able to call an
25 Austin-based Internet service provider?

0100

1 A Since we're doing a lot of assuming
2 here, I'm going to assume that when the lockhart
3 people voted in EICS that they knew that it was
4 a reciprocal deal, that not only could they call
5 San Marcos, that San Marcos could call them.
6 Q But did they understand that when they
7 voted for that that a San Marcos customer would
8 be able to call a paying unit in Bryan or
9 Georgetown?
10 A I don't believe that was on the ballot
11 Q Then on page 7, lines 5 to 6, you say,
12 "CenturyTel and Southwestern Bell are basically
13 attempting to establish a regime where calls to
14 customers of competitors are long distance, but
15 calls to customers of incumbents are local and
16 no toll applies." Do you see that statement?
17 A Yes, I do.
18 Q So in your opinion, the rules are being
19 applied differently to you than as between
20 CenturyTel and Southwestern Bell?
21 A I believe that most heatedly.
22 Q You want all carriers to be treated
23 equally?
24 A I think that that would be a good
25 thing
1 Q Do you understand that, with respect to
2 EICS, CenturyTel has built facilities to a
3 certain point and Southwestern Bell has built
4 facilities to a certain point that carry that
5 EICS traffic?
6 A This is what I have been told
7 Q Do you understand that those carriers
8 actually own and maintain and operate those
9 facilities?
10 A I would assume they would, yes
11 Q So if you wanted to be treated by
12 CenturyTel like they treat Southwestern Bell,
13 are you going to build facilities so that your
14 calls can be carried between San Marcos and
15 Lockhart and San Marcos and Kyle or San Marcos
16 and Fortness, or even San Marcos and your switch
17 in Austin?
18 A I'm not obligated to build those
19 facilities
20 Q So in that respect, you don't want be
21 treated equally to Southwestern Bell?
22 A I wanted to be treated equally for the
23 purposes of the EIC calling scopes
24 Q But you don't want to build -- but you
25 don't believe that you ought to be required to
1 build the same facilities as Southwestern Bell
2 has done with respect to EICS services?
3 A Southwestern Bell, not CenturyTel, came
4 to me for input on the design of their networks,
5 and I did not seek their advice on the design of
6 my network.
7 The rules that -- I understand them to
8 say that I can have one point of interconnect in

9 A LATA I do. It's my understanding that the
10 calls should be routed according to the LERG
11 how CenturyTel and how Southwestern Bell design
12 their networks as none of my business.
13 Q But you wanted to be treated equally
14 with Southwestern Bell in terms of EICS calling
15 Right?
16 A That's correct
17 Q But you don't believe that obligates
18 you to build the same sort of facilities that
19 Southwestern Bell has built to exchange that
20 EICS traffic?
21 A I believe that I'm -- with my point of
22 interconnection, I'm using Southwestern Bell's
23 facilities, and the question of whether I'm
24 being treated evenly or equally should also
25 involve whether the customers in San Marcos and
1 Lockhart are being treated equally. Are the
2 customers in San Marcos being treated equally
3 according to the state mandatory EIC rules?
4 MS BROWN. Your Honor, I will ask
5 that that response be stricken and that the
6 witness be directed to answer the question that
7 was asked.
8 JUDGE WALSTON. I'll sustain that
9 It's not responsive. As best you can,
10 Mr. Gaetjen, just answer the question that's
11 asked you.
12 A Would you mind, please, rephrasing the
13 question?
14 MS BROWN. I think we can go on
15 MR MCCOLLDOUGH. Your Honor, did
16 you strike the entire answer or just the last
17 couple of sentences? Because my understanding
18 of Mr. Brown's objection was the last couple of
19 sentences talking about the users in Lockhart
20 quite frankly, I think the first part
21 of his answer was responsive. He indicated he
22 was using SBC's facilities to get to CenturyTel
23 in San Marcos, and that was how he was meeting
24 Ms. Brown's interpretation of the EIC rules.
25 JUDGE WALSTON. Well, I think the
1 original question was about being treated
2 equally, and it went beyond that, and I think
3 it's repetitive, and I understand where the
4 witness is and what the positions are. So we
5 can move on to the next question.
6 Q (By Ms. Brown) Now, at page 7, line
7 14, you say that with respect to San Marcos
8 Internet that they have -- they can choose
9 service from CenturyTel, Southwestern Bell,
10 Verizon or Grande if they can't use your
11 service. Do you see that statement?
12 A Yes.
13 Q Do you believe that the same rules
14 should apply to ASAP with respect to the service
15 you provide to an Internet service provider as
16 applies when Southwestern Bell, Verizon or

17 Grande would serve that Internet service
18 provider?
19 A I don't understand the question
20 Q Well, as I understand your statement
21 here, you believe you're competing with
22 Southwestern Bell, Verizon and Grande to provide
23 service to San Marcos Internet
24 A Okay.
25 Q Do you believe the same rules should

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1 apply to you with respect to the service you
2 provide to San Marcos Internet as would apply to
3 Southwestern Bell or Verizon or Grande with
4 respect to the service they provide to San
5 Marcos Internet?

6 MR McCOLLOUGH Object to the
7 question It's vague. Ms Brown needs to be
8 much more specific about what rules. Is she
9 talking about rules on calling scope? Is she
10 talking about rules on retail charges? Is she
11 talking about regulatory rules, certification
12 rules, USF rules? It's just far too vague for
13 the witness to be able to respond.

14 JUDGE WALSTON Did you have any
15 specific area in mind?

16 MS BROWN: The landline wireline
17 compensation rules

18 Q (By Ms. Brown) The same landline
19 wireline compensation rules that apply to those
20 other carriers as apply to ASAP when it provides
21 the service it provides to those Internet
22 service providers

23 A I don't believe that CMRS providers are
24 treated the same as the ILECs

25 Q So you believe that the CMRS rules

0106

1 should apply to the service you provide to San
2 Marcos Internet?

3 A I would defer to the FCC on this one.

4 Q I'm just asking your opinion

5 A Well, it depends upon the specific rule
6 that asking about

7 Q When you said just now the CMRS rules
8 should apply, what did you mean?

9 A I meant that the rules are different
10 for the ILECs, the CLECs and the CMRS providers

11 Q With respect to San Marcos Internet, do
12 you mean to imply that the CMRS rules should
13 apply to the services you provide to the San
14 Marcos Internet?

15 A To the service I provide, period

16 Q Does that include the service you
17 provide to San Marcos Internet?

18 A Well, it encompasses all of the
19 services that I provide

20 Q So you believe that the -- I'm just
21 trying to be clear I'm not trying to be
22 clever I'm just trying to be clear You
23 believe the CMRS rules should apply to the
24 services you provide to San Marcos Internet?

25 A There are rules that would apply to
0107

1 CMRS providers, and then there are other rules
2 that -- from the FCC, and then there are other
3 rules that the state has jurisdiction over

4 Q For your service, the service you
5 provide to San Marcos Internet, should the ILEC
6 rules apply? Should the CLEC rules apply?
7 Should the CMRS rules apply, or do you have an
8 opinion?

9 A The service that I provide to San
10 Marcos Internet is information access, if I'm
11 not mistaken, and those would come underneath
12 the ruling of the FCC

13 Q For CMRS providers or for wireline
14 providers?

15 A I'm a CMRS, so I would assume that the
16 rules that pertain to CMRS providers would
17 apply

18 Q You understand those to be different
19 than the rules that apply to wireline services?

20 A I believe they are

21 Q So in that respect, you're not seeking
22 equal treatment, are you, Mr Gaetjen?

23 A I'm seeking equal treatment under the
24 state's ELC's mandatory calling scopes

25 Q Now, at Page 11, Lines 18 and 19,

0108

1 you're talking about you provide a valuable
2 service to your customers, and you say,
3 beginning on Line 17, "Other customers, such as
4 San Marcos Internet, were able to connect to the
5 PSTN" -- is that public switched telephone
6 network --

7 A Yes, it is

8 Q -- "at significantly lower prices than
9 are charged by ILECs such as CenturyTel "

10 Now, are you saying there that your
11 price to San Marcos Internet for connection to
12 the public switched network is lower than the
13 price charged by CenturyTel to San Marcos
14 Internet for connection to the public switched
15 network?

16 A I believe it is

17 Q What services do these other carriers
18 like CenturyTel offer that you compete against?

19 A I believe CenturyTel has voice
20 messaging

21 Q With respect to Internet service
22 providers I'm sorry to interrupt, but maybe
23 you misunderstood my question

24 A Let's start the question again

25 Q Okay What service do you compete --
0109

1 when you provide service to San Marcos Internet,
2 what services of CenturyTel are you competing
3 against?

4 A That question assumes that I set out to
5 compete against CenturyTel, and what I did was
6 set out to offer interconnection for ISPs, and I

7 did not have CenturyTel as a target
 8 Q Well, you say you're able to connect --
 9 you're able to offer them a service at
 10 significantly lower prices than charged by ILBCS
 11 such as CenturyTel
 12 A That's true
 13 Q All I'm asking is what's the service?
 14 A The service is connection to the
 15 backbone of the Internet through the public
 16 switched telephone network
 17 A What does CenturyTel call that
 18 competing service? What does CenturyTel call
 19 their service that you compete against?
 20 A I don't know the specific term that
 21 they use
 22 Q Do you know what the charges are?
 23 A I was going to say, some people call it
 24 expensive
 25 Q Okay, what are the rates?
 1 I'm not aware of the specific rates
 2 Q You're not aware of what the rates are. Is
 3 it you're not aware of what the rates are. Is
 4 that your testimony here today?
 5 A That's my testimony.
 6 Q How did you decide what rate you would
 7 charge San Marcos Internet?
 8 A I sat down and looked at the cost of
 9 some of my equipment, tried to figure out a
 10 break-even point -- at a certain point I had
 11 enough services.
 12 Q How do you know that they're less than
 13 what CenturyTel charges?
 14 A Third-party information has told me
 15 that my rates were significantly lower
 16 Q But you didn't do a side-by-side
 17 comparison?
 18 A I'm not on a real friendly relationship
 19 with CenturyTel. I can't pick up the phone and
 20 call them and tell them -- ask them
 21 Q Don't they have published tariffs?
 22 A They probably do.
 23 Q Now, if we go back to CenturyTel
 24 Exhibit 7, what is it you provide the ISP?
 25 A I provide --

15 provider?
 16 A I provide them the interconnection.
 17 Q So do you provide any of the facilities
 18 between San Marcos, Texas and your switch in
 19 Austin to get the call to your switch in Austin?
 20 A Through Southwestern Bell, yes
 21 Q Those are the facilities between the
 22 Greenwood tandem and your switch?
 23 A I would assume that my default point of
 24 interconnect would take it all the way back to
 25 the point of interconnect in the San Marcos area
 1 between Southwestern Bell and CenturyTel
 2 Q Okay, let's do it that way. Let's
 3 describe how that call would be routed. All
 4 right?
 5 A That's fine.
 6 Q I think your answer just now implied
 7 that somehow the call to 512-384 and the
 8 Internet service provider in Austin gets back to
 9 San Marcos. Didn't your answer imply that?
 10 A The user in San Marcos is calling a
 11 Lockhart NXX
 12 Q Well, isn't it true that the ISP
 13 obtains that call at your switch in Austin and
 14 that's where the ISP then does whatever it does
 15 with it?
 16 A That is true.
 17 Q Okay, so let's focus on just the
 18 facilities to get the call to the ISP location
 19 in your switch. Okay?
 20 A The ISP connection in my switch.
 21 Q Connection in your switch, okay.
 22 A Correct.
 23 Q Okay, so do you have any of the
 24 facilities between San Marcos and the Greenwood
 25 tandem?
 1 Through Southwestern Bell, I do.
 2 Q You have facilities from San Marcos to
 3 the Greenwood tandem from Southwestern Bell?
 4 A By default
 5 Q What do you mean, "by default"?
 6 A The rules permitted me to pick and
 7 office connections or tandem connections. The
 8 rules permitted me to have one point of
 9 interconnection in the LATA. I chose the
 10 tandem.
 11 Q What do you pay for that?
 12 A I do not pay for it because I'm
 13 considered a peer of the ILBCS
 14 Q As a CMBN carrier?
 15 A That's correct
 16 Q What do you pay for the connection
 17 between the Greenwood tandem and the red box
 18 where the ISP is at your switch in Austin?
 19 MR MCCOLLIGOH Object: the
 20 question mischaracterizes the witness'
 21 testimony. He has never agreed that the ISP is
 22 located at the switch in Austin. He's very

1 Let's set up an example. A customer in
 2 San Marcos dials 512-384 and it goes from
 3 512-384-2000, and that's a published number from
 4 San Marcos Internet. That's not a secret, is
 5 it?
 6 A Okay.
 7 Q Do you agree with me?
 8 A Yes.
 9 Q What is the number used by San Marcos
 10 Internet, 512-384-2000?
 11 A Yes, yes.
 12 Q Now, that San Marcos customer, when
 13 that San Marcos end user places that call, what
 14 is it that you provide the Internet service

23 carefully said "connection."
 24 Q (By Ms Brown) What do you pay for the
 25 facility between the Greenwood tandem and the
 0114
 1 ISP connection at your switch in Austin?
 2 A As a peer, through the CHRS FCC rules
 3 and regulations, I do not have to pay for that
 4 Q So you pay nothing?
 5 A I pay nothing.
 6 Q The ISP -- is it true that the ISP,
 7 Austin to the ISP customer, the ISP customer's
 8 facilities then take that call wherever it's
 9 going to go?
 10 A This is true.
 11 JUDGE WALSTON: I didn't hear your
 12 last question, I heard him say, "This is true,"
 13 but I didn't hear what the question was that you
 14 asked.
 15 MS. BROWN: When the ISP receives
 16 that call at its connection at the switch, does
 17 the call then go on whatever facilities the ISP
 18 has made arrangements for
 19 correct?
 20 JUDGE WALSTON, Okay That's
 21 correct?
 22 A That's correct
 23 JUDGE WALSTON. Are you at a good
 24 point to take a break, Ms. Brown?
 25 MS BROWN Yes, sir, I am.
 0115
 1 JUDGE WALSTON: How long do the
 2 parties need for lunch?
 3 MS BROWN What I --
 4 JUDGE WALSTON: Is an hour enough
 5 or do you want an hour and a half or -- we can
 6 go off the record.
 7 (Recess 12:05 p.m. to 1:11 p.m.)
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 0116
 1 AFTERNOON SESSION
 2 THURSDAY, OCTOBER 10, 2002
 3 (1:11 p.m.)
 4 (CenturyTel Exhibit Nos 2, 2A and

5 2B marked)
 6 JUDGE WALSTON We'll go back on
 7 the record at this time. We are temporarily
 8 interrupting the testimony of Mr. Gertjen to
 9 allow Mr. Sam Terracina to testify out of order
 10 on behalf of CenturyTel.
 11 Let the record also reflect that
 12 Mr. Stewart, who represents the Commission in
 13 this proceeding, is absent, and he said it would
 14 be fine to proceed in his absence. He has gone
 15 over to an open meeting and will be back here in
 16 a few minutes. So we'll proceed with the
 17 testimony of Mr. Sam Terracina, and
 18 Mr. Terracina, will you raise your right hand?
 19 A Yes.
 20 (Witness sworn)
 21 JUDGE WALSTON Will you state
 22 your full name for the record?
 23 A My name is Samuel Joseph Terracina
 24 JUDGE WALSTON Thank you, Mr.
 25 Terracina, and, Ms. Brown, you can proceed.
 0117
 1 PRESENTATION ON BEHALF OF
 2 CENTURYTEL OF SAN MARCOS, INC
 3 SAMUEL TERRACINA,
 4 having been first duly sworn, testified via
 5 telephone as follows
 6 DIRECT EXAMINATION
 7 BY MS BROWN
 8 Q All right Mr. Terracina, do you have
 9 in front of you the document which is marked as
 10 your direct testimony?
 11 A Yes, I do.
 12 Q Do you have attached to that testimony
 13 an exhibit that is labeled Exhibit ST-1?
 14 A Yes, I do.
 15 Q Do you also have an additional two
 16 pages that reflect an August ASAF traffic
 17 report?
 18 A What was that, Brook? Somebody walked
 19 in my office.
 20 Q Do you have an additional two -- the
 21 last two pages of the document you have, do they
 22 reflect August ASAF traffic?
 23 A Let me double check. Yes, they do.
 24 have June, July and August
 25 Q Mr. Terracina, if I were to ask you the
 0118
 1 questions that are posed in your prefiled direct
 2 testimony today, would your responses be the
 3 same?
 4 A Yes, they would.
 5 Q Do you have any changes or corrections?
 6 A The only change you've alluded to
 7 already would be on page 2, line 11. We do have
 8 June, July and August.
 9 Q Okay. So we should insert "and August
 10 2002" on line 11, page 2?
 11 A That's correct.
 12 Q All right. With that change -- that is

13 the only change you have?
14 A That is correct
15 MS BROWN I offer what has been
16 marked as CenturyTel Exhibits 2, 2A and 2B
17 JUDGE WALSTON Okay, and I meant
18 to state this before we went on -- or before we
19 began with the questioning that earlier in the
20 hearing I took under advisement ASAP's motion to
21 strike the testimony of Mr Sam Terracina
22 because I hadn't seen the exhibits
23 During the lunch hour, I had an
24 opportunity to look at the exhibits, and based
25 on that review, I'll deny the motion to strike

0119

1 Mr Terracina's testimony
2 MR McCOLLOUGH. Your Honor, I can
3 understand perhaps that ruling with regard to
4 our challenge to his expertise However, I
5 would like to have the opportunity to take the
6 witness on voir dire before your ruling on
7 admissibility with regard to my Objection Nos
8 135 and 137

9 JUDGE WALSTON Okay Well, what
10 I was about to say is I thought your objections
11 did go to more to what you might elicit in
12 cross-examination, but I'll withhold ruling at
13 this time, and I'll allow you to do
14 cross-examination, but I will go ahead and admit
15 the testimony at this time, and I'll withhold
16 ruling on the attached exhibits at this time
17 until you're finished So exhibit -- what is
18 the testimony marked, ST-1?

19 MS BROWN It's CenturyTel 2
20 JUDGE WALSTON Exhibit CenturyTel
21 2, without the attached exhibits, will be
22 admitted at this time

23 (CenturyTel Exhibit No 2
24 admitted)
25 JUDGE WALSTON I'll withhold

0120

1 ruling on the exhibits themselves Anything
2 else, Ms. Brown, that you have for the witness?

3 MS BROWN I have nothing further
4 at this time, Your Honor

5 JUDGE WALSTON Mr McCollough?
6 CROSS-EXAMINATION

7 BY MR McCOLLOUGH

8 Q Mr Terracina, can you hear me?

9 A I sure can

10 Q I would like to ask you a couple of
11 questions -- some foundation questions about
12 your study.

13 A Sure

14 Q First of all, you did not personally
15 conduct this study Isn't that correct?

16 A That is correct I am a manager I
17 have people that work for me

18 Q This was a contract person who
19 performed the study?

20 A Contract programmer

21 Q What kind of instructions did you give
22 to that person?

23 A Basically I told him what files to use
24 and what to look for. We've been using this
25 company for about four years, and they know our
0121

1 systems pretty well, but at the same time,
2 because they do charge us by the hour, I
3 sometimes kind of point them in the right
4 direction

5 Q So this was -- first of all, the study
6 was not performed by a CenturyTel employee.
7 Correct?

8 A It was not performed by a CenturyTel
9 employee

10 Q Were the records that were analyzed for
11 purposes of this study generated by CenturyTel?

12 A That is correct

13 Q So the contract person analyzed
14 CenturyTel records?

15 A That is correct

16 Q Where were these records maintained?

17 A The records come off the switch in San
18 Marcos, and they're maintained here at the
19 mainframe facility in Louisiana

20 Q Was the information pulled off of the
21 switch, or was it pulled from some other file
22 location?

23 A It was pulled from the switch You
24 could say -- yes, it was. The information was
25 pulled from the switch in the AMA format

0122

1 Q So this came from AMA information?

2 A Originally, yes

3 Q What does AMA stand for?

4 A Automated message accounting, if I'm
5 not mistaken

6 Q After the AMA records were generated by
7 the switch, where were they stored?

8 A Here on the mainframe in Louisiana

9 Q So the switch in San Marcos generates
10 AMA information, and it is then transmitted to a
11 mainframe computer in Louisiana?

12 A In Louisiana, yes -- in Marion,
13 Louisiana.

14 Q Is it stored in any manner after it is
15 generated off of the switch?

16 A We store it -- we keep a back-up of the
17 AMA data, and the first thing we do when it
18 comes in the door is we convert it to another
19 format that all phone companies use It's
20 called EMI format, and that is stored, too

21 Q So these are 010102 records?

22 A Not 010102, 02 but they would be like
23 an 010101

24 Q 010101?

25 A Right, which is a normal toll call

0123

1 Q So the information is generated by the
2 switch when a call is made Is it stored in the