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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE BOARD'S
INVESTIGATION REGARDING THE
RECLASSIFICATION OF INCUMBENT
LOCAL EXCHANGE CARRIER (ILEC)
SERVICES AS COMPETITIVE--
PHASE II

DOCKET NO.:
TX11090570

BEFORE: COMMISSIONER NICHOLAS ASSELTA,
 HEARING EXAMINER

 COMMISSIONER JEANNE M. FOX
 COMMISSIONER MARY-ANNA HOLDEN

 ALEX MOREAU, DEPUTY ATTORNEY GENERAL

TRANSCRIPT of the stenographic notes of the
proceedings in the above-entitled matter, held at the
office of the Board of Public Utilities,
44 South Clinton Avenue, Trenton, New Jersey 08625 on
July 17, 2012, commencing at 9:55 a.m.



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2 NUMBER	DESCRIPTION	I.D.	EVID.
3 CL-1	Initial Testimony of Mark D. Harper, public version	118	180
4 CL-2	Initial Testimony of Mark D. Harper, confidential version	118	180
5 CL-3	Reply Testimony of Mark D. Harper, public version	118	180
6 CL-4	Reply Testimony of Mark D. Harper, confidential version	118	180
7 CL-5	Rebuttal Testimony of Mark D. Harper, Public Version	118	180
8 CL-6	Rebuttal Testimony of Mark D. Harper, confidential version	118	180
9 RC-1	Initial Testimony of Susan M. Baldwin and Sarah M. Bosely, public version	27	180
10 RC-1A	Initial Testimony of Susan M. Baldwin and Sarah M. Bosely, confidential version	27	180
11 RC-2	Reply Testimony of Susan M. Baldwin and Sarah M. Bosely, public version	27	180
12 RC-2A	Reply Testimony of Susan M. Baldwin and Sarah M. Bosely, confidential version	27	180
13 RC-3	Rebuttal Testimony of Susan M. Baldwin and Sarah M. Bosely, public version	27	180
14 RC-3A	Rebuttal Testimony of Susan M. Baldwin and Sarah M. Bosely, confidential version	28	180
15 RC-4	Verizon mixed public and confidential discovery responses	28	180

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18 VNJ-01C	Direct Testimony of Paul B. Vasington, proprietary version	28	180
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20 VNJ-02C	Reply Testimony of Paul B. Vasington, proprietary version	29	180
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22 VNJ-03C	Rebuttal Testimony of Paul B. Vasington, proprietary version	29	180
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2 NUMBER	DESCRIPTION	I.D.	EVID.
3 RC-5	CenturyLink mixed public and confidential discovery responses	28	180
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14 RC-7	Selected Statistical Data Re Annual Reports Filed By CenturyLink	132	180
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<p style="text-align: right;">Page 6</p> <p>1 TRANSCRIPT REQUEST:</p> <p>2 DESCRIPTION PAGE</p> <p>3 Verizon annual reports filed with the BPU 46</p> <p>4 Verizon CLEC revenues reported in 10-Q and under what business entity 49</p> <p>5 Document Mr. Vasington referenced 85</p> <p>6 Identify and supply transcripts of proceedings where Mr. Harper and Dr. Stairh both provided testimony 129</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>Colloquy</p> <p>1 MR. SMITH: William D. Smith for Verizon, New Jersey.</p> <p>2</p> <p>3 MS. BENEDEK: Sue Benedek for CenturyLink.</p> <p>4 MR. WHITE: Christopher White, Jose Rivera-Benitez, and Maria Novas-Ruiz for rate counsel.</p> <p>5</p> <p>6 MR. WAND: Deputy Attorney General David Wand on behalf of board staff from the Division of Law.</p> <p>7</p> <p>8 MR. SMITH: With me today is Ava-Marie Madeas, counsel of record.</p> <p>9</p> <p>10 MS. BENEDEK: And with me, your Honor, is Colleen Foley from Saul Ewing.</p> <p>11</p> <p>12 HEARING EXAMINER ASSELTA: Are there any preliminary matters that need to be addressed before we begin?</p> <p>13</p> <p>14</p> <p>15 MR. WHITE: We have one, your Honor. We've met and discussed among the parties, we want to propose modifying the briefing schedule that is laid out in the procedural order and under that we would propose to change initial briefs to October 2nd and reply briefs to November 1st.</p> <p>16</p> <p>17</p> <p>18 This is due to several factors, including the order that was issued yesterday requiring certain documents be provided by July 25th. It would also enable the parties to further explore settlement negotiations between the parties and we'd ask your Honor</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 7</p> <p>Colloquy</p> <p>1 HEARING EXAMINER ASSELTA: Good morning, everyone. My name is Commissioner Nicholas Asselta and I will preside over these evidentiary hearings in the matter of the Board's investigation regarding the reclassification of incumbent local exchange carrier services as competitive, Docket No. TX11090570.</p> <p>2</p> <p>3 With me today is Deputy Attorney General Alex Moreau who will be advising me on this matter and also Commissioner Jeanne Fox is supposed to attend and Commissioner Holden may also attend. So we're not going to wait for them. We're going to begin.</p> <p>4</p> <p>5 Pursuant to N.J.S.A. 48:2-21.19B, the Board, prior to determining whether a service is competitive, must at a minimum evaluate, number one, ease of market entry; number two, presence of competitors; and, number three, the availability of like or substitute services in the relevant geographic area.</p> <p>6</p> <p>7 Should the Board ultimately deem any service to be competitive, the Board would no longer regulate the rates or terms and conditions of such services.</p> <p>8</p> <p>9 In addition to evidentiary hearings, the Board will schedule three public hearings in this matter in order to provide an opportunity for the public to comment.</p> <p>10</p> <p>11 May I have the appearances, please.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 9</p> <p>Opening Statement</p> <p>1 to approve that modification.</p> <p>2</p> <p>3 HEARING EXAMINER ASSELTA: Okay. Approved. Bill?</p> <p>4</p> <p>5 MR. SMITH: I have no objection.</p> <p>6 MS. BENEDEK: No objection.</p> <p>7 HEARING EXAMINER ASSELTA: Does any party wish to make a brief opening statement?</p> <p>8</p> <p>9 MR. SMITH: Verizon wishes to make an opening statement. We will keep it as brief as possible.</p> <p>10</p> <p>11 MS. BENEDEK: And CenturyLink as well.</p> <p>12 MR. WHITE: And rate counsel as well.</p> <p>13 HEARING EXAMINER ASSELTA: Mr. Smith.</p> <p>14 MR. SMITH: Good morning. My name is William Smith and I am an assistant general counsel for Verizon, New Jersey. We are here this morning for Phase II of the Board's investigation regarding reclassification of incumbent local exchange carrier services as competitive.</p> <p>15</p> <p>16 Thank you for giving me the opportunity to make this brief opening statement. During my statement, I will make reference to four confidential charts that we are now distributing to the parties that executed the non-disclosure agreements. I will not mention any</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p>Opening Statement Page 10</p> <p>1 confidential data during my statement.</p> <p>2 The purpose of Phase II of this proceeding</p> <p>3 is to reevaluate the competitiveness of certain services</p> <p>4 and products that were addressed in respective</p> <p>5 stipulations that the parties and the board staff</p> <p>6 reached at the conclusion of Phase I.</p> <p>7 Pursuant to the Verizon stipulation, all</p> <p>8 mass market retail services that were still subject to</p> <p>9 rate regulation were classified as competitive, except</p> <p>10 for four services: Residential basic exchange service,</p> <p>11 including usage; single-line basic exchange service;</p> <p>12 nonrecurring charges for installation of residential</p> <p>13 services; and residential DA services.</p> <p>14 These four services which we refer to in</p> <p>15 testimony as Verizon's legacy landline services remained</p> <p>16 rate regulated but were subject to certain stipulated</p> <p>17 allowed rate increases over a three-year period at the</p> <p>18 discretion of Verizon. The stipulation provided for a</p> <p>19 review of the classification of the four legacy landline</p> <p>20 services after three years which gave rise to this</p> <p>21 proceeding.</p> <p>22 This proceeding provides the Board with</p> <p>23 another opportunity to promote communications</p> <p>24 competition to the benefit of the New Jersey consumers</p> <p>25 and to further the Board's leadership in the</p>	<p>Opening Statement Page 12</p> <p>1 Comcast, Cablevision, and an ever-increasing array of</p> <p>2 other innovative competitors have continued to take tens</p> <p>3 of thousands of lines and DA calls from Verizon since</p> <p>4 the conclusion of the Phase I proceeding.</p> <p>5 For example, at the end of Phase I Verizon</p> <p>6 controlled 100 percent of the Lifeline customers in its</p> <p>7 territory and received 100 percent of Universal Service</p> <p>8 Funding for these customers. Today the picture has</p> <p>9 changed drastically as wireless ETCs have entered the</p> <p>10 market and are competing vigorously for these customers.</p> <p>11 As a result, Verizon now receives less than 25 percent</p> <p>12 of the USF Lifeline funding for Lifeline customers.</p> <p>13 More than twenty years ago when it passed</p> <p>14 the 1992 Telecommunications Act, the New Jersey</p> <p>15 legislature recognized that regulated carriers like</p> <p>16 Verizon would be facing this type of significant</p> <p>17 competition and should be allowed to compete on a level</p> <p>18 playing field with unregulated, nontraditional</p> <p>19 competitors.</p> <p>20 That is why the New Jersey legislature set</p> <p>21 up a simple but effective test to determine when, as a</p> <p>22 matter of economics and sound public policy, it makes</p> <p>23 sense to remove unnecessary rate regulation and allow</p> <p>24 the market to establish the appropriate rates for</p> <p>25 services that have been found to be competitive.</p>
<p>Opening Statement Page 11</p> <p>1 communications industry by continuing to recognize the</p> <p>2 profound impact that competition is having on the state.</p> <p>3 Almost four years ago in the order approving the</p> <p>4 stipulations, the Board specifically found that it is</p> <p>5 evident that sufficient competition exists to relieve</p> <p>6 both Verizon and Embarq from the Board's existing</p> <p>7 regulations for mass market retail services articulated</p> <p>8 in the stipulations.</p> <p>9 By the conclusion of this hearing, the</p> <p>10 evidence will demonstrate that there is now more</p> <p>11 competitive entry and growth, more competitors in the</p> <p>12 market, and more substitution for legacy landline and DA</p> <p>13 services than there were four years ago as customers</p> <p>14 have continued to adapt the technological innovations to</p> <p>15 their individual communications needs.</p> <p>16 The evidence will also make clear that the</p> <p>17 communications industry in New Jersey continues to be</p> <p>18 subject to an ever-increasing competitive pressures as</p> <p>19 traditional carriers, like Verizon, face direct and</p> <p>20 unrelenting competitive pressure from an array of</p> <p>21 established and new service providers and services,</p> <p>22 including cable television providers, wireless</p> <p>23 providers, VoIP providers, and well-established CLECs.</p> <p>24 These competitors which include Vonage,</p> <p>25 magicJack, Skype, a division of Microsoft, AT&T, Sprint,</p>	<p>Opening Statement Page 13</p> <p>1 That test has three prongs that the Board</p> <p>2 has repeatedly applied without addition or supplemental</p> <p>3 criteria in past reclassification proceedings.</p> <p>4 The first prong of the test, ease of market</p> <p>5 entry, is conclusively satisfied by the fact that</p> <p>6 existing and potential competitors have been successful</p> <p>7 in entering the market and expanding the scope of the</p> <p>8 services that they offer and increasing the scale of</p> <p>9 their businesses. As noted, the entry of the wireless</p> <p>10 ETCs since the conclusion of Phase I is just one good</p> <p>11 example of how innovative carriers have continued to</p> <p>12 seek competitive opportunities in New Jersey and are</p> <p>13 providing alternatives to Verizon's residential basic</p> <p>14 exchange service customers.</p> <p>15 The second prong of the test, the presence</p> <p>16 of competitors, is easily satisfied for Verizon New</p> <p>17 Jersey's legacy landline services. As I've already</p> <p>18 indicated, there is an array of both traditional and</p> <p>19 nontraditional competitors that are vigorously competing</p> <p>20 for Verizon's legacy landline and residential DA</p> <p>21 services. Competitive carriers, wireless carriers,</p> <p>22 cable companies, and VoIP providers are all present in</p> <p>23 New Jersey.</p> <p>24 The evidence in this case will demonstrate</p> <p>25 that these competitive carriers now control over</p>

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1 50 percent of the lines to New Jersey's 3 million plus
 2 households. This evidence is summarized in Chart A. As
 3 can be seen from a small red slice on the pie chart,
 4 only a small percentage of the households in New Jersey
 5 continue to purchase Verizon's legacy landline services
 6 that are the subject of this hearing.

7 The record will show that the third and
 8 final prong of the test, availability of like or
 9 substitute services is also easily satisfied. The
 10 evidence of Verizon's line losses to competitors
 11 demonstrates conclusively that substitute services are
 12 readily available for legacy landline services that are
 13 under review in this proceeding.

14 In fact, in the past ten years Verizon has
 15 lost four times more residential legacy landlines than
 16 it currently has in service. Chart B clearly
 17 demonstrates the significant loss of residential basic
 18 exchange lines. Chart C demonstrates the significant
 19 loss of single-line business basic exchange service
 20 lines and Chart D demonstrates the astounding decline in
 21 calls handled by Verizon's directory assistance
 22 operators.

23 This overwhelming evidence of competition
 24 also belies rate counsel's efforts to move policy
 25 backwards by arguing that certain competitive vertical

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1 services, such as call forwarding, should be
 2 reclassified as noncompetitive and subject to future
 3 rate regulation.

4 In fact, no matter what arguments rate
 5 counsel may seek to employ to confuse the issues in this
 6 case, it will be impossible to get around two simple
 7 facts:

8 First, the demand for traditional legacy
 9 landline and DA services had been dropping like a stone
 10 since the early 2000s and that trend has continued as
 11 new competitors and services enter the market. Indeed,
 12 if there were no substitutes available for Verizon's
 13 legacy landline services, as rate counsel contends, then
 14 the demand for those services would have been static or
 15 have grown along with the population in New Jersey. But
 16 the charts I have distributed clearly show that the
 17 demand for residential basic exchange service,
 18 single-line business basic exchange service, and
 19 residential DA services has declined sharply in recent
 20 years.

21 Second, the demand for substitute means of
 22 communication has been growing by leaps and bounds. In
 23 fact, even rate counsel recognizes that a fundamental
 24 revolution has reshaped the way in which customers
 25 communicate. It is readily apparent that customers are

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1 in charge and customers are driving companies to invest
 2 and innovate in figuring out how best to meet customers'
 3 evolving needs and demands. As a result, VoIP carriers,
 4 such as magicJack, and wireless carriers, like TracFone,
 5 have entered the market to compete for low income
 6 customers, while an array of established competitive
 7 carriers, such as Comcast, Cablevision, and AT&T
 8 wireless, continue to innovate and take lines from
 9 Verizon's legacy landline business as is demonstrated in
 10 the charts.

11 Finally, the scope of this proceeding must
 12 be kept in perspective. While outdated legacy rules and
 13 regulations should be eliminated so that incumbent
 14 companies can compete on a level playing field with
 15 their numerous nonregulated competitors, these are
 16 issues for another day.

17 The Board initiated Phase II for the sole
 18 purpose of evaluating whether any of the few remaining
 19 noncompetitive services should be declared competitive
 20 and free from rate regulation and whether any
 21 competitive services that rate counsel challenged should
 22 be found to be noncompetitive and subject to rate
 23 regulation in this phase.

24 Thus, this proceeding does not alter things
 25 such as Verizon's PAR-II obligations, tariffs, or the

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1 Board's telecommunications rules. All that happens if
 2 the Board finds, as it should, that Verizon legacy
 3 landline and residential DA services, as well as its
 4 vertical services, are competitive is that such services
 5 would not be subject to rate regulation.

6 Thank you. This ends my statement.
 7 HEARING EXAMINER ASSELTA: Thank you.
 8 Let the record show Commissioner Fox has
 9 entered the hearing.

10 COMMISSIONER FOX: And missed most of the
 11 testimony.

12 HEARING EXAMINER ASSELTA: Century.
 13 MS. BENEDEK: Thank you.
 14 Good morning, Commissioner Fox, Commissioner
 15 Asselta.

16 My name is Sue Benedek and I am senior
 17 counsel with CenturyLink New Jersey. We commend the
 18 Board for its continuing efforts to examine whether all
 19 participants in the telecommunication market, including
 20 my client, the ILEC, CenturyLink, which, along with its
 21 customers have -- that they have regulatory flexibility
 22 as authorized under New Jersey competitive
 23 classification statute.

24 We thank the Commissioners, we thank DAG,
 25 and staff for giving us this opportunity and this time

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1 to do an opening statement.
 2 I want to echo -- I have two points. I want
 3 to echo the comments made by Verizon regarding the three
 4 criteria. We believe that the statute -- that the New
 5 Jersey Board must ensure that the New Jersey competitive
 6 statute is honored as written. The criteria
 7 uncomplicated should not be expanded to include
 8 additional requirements, either directly or indirectly
 9 via how the criteria are applied as rate counsel has
 10 recommended.

11 Second point: The Board should continue to
 12 complete the work begun in the Phase I proceeding and
 13 deem the four remaining rate regulated services of
 14 CenturyLink, the R1, the B1, installation charges for
 15 the R1, and directory assistance competitive and keep
 16 the services that were deemed competitive from Phase I
 17 as competitive. That's the relief we are asking.

18 The reason we are asking for that is New
 19 Jersey today includes a vibrant and competitive
 20 telecommunications landscape consisting of a wide array
 21 of mass market competitors. As Verizon noted, we have
 22 traditional CLECs, cable companies, wireless carriers,
 23 VoIP providers.

24 By way of reference, CenturyLink in New
 25 Jersey, which serves the northwestern parts of the

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1 state, we have approximately today 118,000 access lines
 2 depending upon how you count an access line. When I
 3 started with the company eleven years ago, it was
 4 245,000.

5 CenturyLink now serves only a little more
 6 than 56 percent of the retail residential households
 7 within our northwestern portion of our footprint.
 8 That's Exhibit MDR-5 in the testimony of Mark Harper.

9 Thus, 44 percent of the households in our
 10 little service territory do not purchase any services
 11 from CenturyLink. Competitors with like or
 12 substitutable retail business services are present.
 13 That market has been preempt for many many years. And
 14 as demonstrated by the fact that we have eroded in our
 15 -- business access lines have eroded by approximately
 16 40 percent, as Mr. Harper testified in the prefiled
 17 testimony which you have, Commissioner, and also which I
 18 will get to Commissioner Fox shortly.

19 It defies logic and ignores reality that
 20 this decline in CenturyLink's residential and business
 21 lines results from any other reason than a thriving
 22 marketplace in New Jersey. Moreover, based upon the
 23 data provided by broadband providers and pertinent to
 24 New Jersey every CenturyLink exchange, that is every
 25 exchange had anywhere from three to nine wireline

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1 broadband providers and an average of seven, that is
 2 seven wireless broadband service providers available,
 3 every single one of our exchanges.

4 Comcast, Cablevision, Service Electric cover
 5 over 99 percent of the square miles within our
 6 exchanges. Wireless service is widely available
 7 throughout the service area with over 99 percent
 8 coverage in our New Jersey market.

9 Additionally, wireless Lifeline providers in
 10 New Jersey now receive 75 percent of the low income
 11 support from the federal Lifeline fund which ILECs
 12 receive only the remaining 25 percent. Noncable, VoIP
 13 providers are ubiquitously available and offer
 14 residential phone plans ranging from \$4.95 to \$19.95 per
 15 month based upon the features and other terms of
 16 offerings. They offer business plans ranging from \$15
 17 to \$39.95. We have that in Exhibit MDR-14.

18 The record demonstrates that declining
 19 access lines for both standalone and bundle services,
 20 that based upon reporting data since that Phase I
 21 proceeding, since the proceeding with the order that was
 22 entered in '08, consumers have been leaving CenturyLink
 23 in droves. It's been a steady flow of customers
 24 selecting other providers of substitutable services in
 25 our market.

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1 Contrary to rate counsel's assertions, the
 2 record clearly demonstrates that cable companies compete
 3 in the communications -- as the communications provider
 4 for any and all CenturyLink customers. They can serve
 5 irrespective of whether the customer currently purchases
 6 a bundle service or a standalone service from
 7 CenturyLink. And you will hear throughout this hearing
 8 what is the product market. the standalone concept
 9 versus a bundled service.

10 It is our position that cable competes for
 11 any and all. They're not out there competing for one.
 12 The market has to be defined to not be so narrow. Based
 13 on reporting data, meaning the data that customers when
 14 they leave us, we report numbers which is what we can
 15 know of what they leave, in Exhibit MDR-9. Cable
 16 companies are the top requestors of the number that goes
 17 with the customer for CenturyLink's customers.

18 Simply stated, every time a CenturyLink
 19 basic residential customer chooses to purchase XFINITY
 20 voice or a similar service from another cable provider,
 21 it demonstrates the service is substitutable, that they
 22 are in that same market.

23 Finally, numerous alternatives and methods
 24 of accessing DA services are available in New Jersey
 25 today. With the highest percentage of broadband

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1 connections in the nation, 78 percent, New Jersey
 2 consumers are well-suited to be familiar with and
 3 utilize internet based DA competitors. Moreover, with
 4 wireless phones nearly ubiquitous among the New Jersey
 5 population, the ability to dial 411 on a wireless phone
 6 on other networks other than the ILEC are familiar to
 7 many New Jersey citizens.

8 In sum, the Board should remain consistent
 9 with prior reclassification orders and apply only the
 10 three criteria as written, request to create new
 11 criteria or expand the existing criteria by squeezing in
 12 new requirements or how it's supplied should be promptly
 13 rejected.

14 As the record amply demonstrates, the rate
 15 regulated CenturyLink retail services, the four that I
 16 discussed earlier, plus what had been deemed competitive
 17 in Phase I, should be affirmed by this Board.

18 Thank you very much for this opportunity,
 19 Commissioners, and DAG, thank you.

20 HEARING EXAMINER ASSELTA: Let the record
 21 show that Commissioner Holden has now entered the
 22 hearing.

23 Mr. White.

24 MR. WHITE: Good morning, Commissioners.

25 HEARING EXAMINER ASSELTA: Good morning.

Opening Statement Page 23

1 MR. WHITE: Rate counsel believes that the
 2 four core services that are issued in this proceeding
 3 should remain rate regulated, that vertical features
 4 should be reclassified as rate regulated, that
 5 multi-line business of CenturyLink should be
 6 reclassified as rate regulated as well.

7 The relevant product market and geographic
 8 market should be limited as advocated by rate counsel.
 9 Rate regulated services are inelastic, and ILEC carriers
 10 have market power which is the ability to sustain price
 11 increases and any loss of customer does result in
 12 overall loss of revenue.

13 Competitive safeguards require carriers to
 14 offer standalone basic service which is a protected
 15 service under our statute. Rate regulated services when
 16 sold as part of a bundle, they have to offer standalone
 17 service to customers.

18 The elimination of rate regulation for these
 19 services would essentially end the obligation to offer
 20 standalone service to customers. There are a
 21 significant number of customers in New Jersey that only
 22 want standalone.

23 Verizon controls 97 percent of the
 24 standalone voice market, 84 percent of the standalone
 25 VoIP market. CenturyLink controls the vast majority of

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1 basic standalone markets. What is characterized as loss
 2 is after migration to another Verizon or CenturyLink
 3 product which does not provide competitive pressure.

4 Again, this is reflected in what we will
 5 show is the inelasticity of the services sought to be
 6 reclassified.

7 There needs to be a sizable core of legacy
 8 landlines that need protection. They include the
 9 elderly, fixed income, those in rural areas. They are
 10 vulnerable and they need the protection of this Board.

11 And we think when you look at the entire
 12 record as a whole that the four rate regulated services
 13 should remain rate regulated and additional services
 14 that are not competitive should be reclassified.

15 Thank you very much.

16 HEARING EXAMINER ASSELTA: Thank you.

17 Any questions, Commissioners?

18 MR. WHITE: Commissioner, I have extra sets
 19 for the other commissioners if they want to have
 20 binders.

21 HEARING EXAMINER ASSELTA: Sure.
 22 BPU staff, is there any opening statement?

23 MR. WAND: No opening statement,
 24 Commissioner.

25 HEARING EXAMINER ASSELTA: Thank you.

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1 COMMISSIONER FOX: The attorneys for
 2 companies, when Mr. White commented about standalone
 3 voice service, that elimination of rate regulation
 4 would eliminate landline voice services, do you have a
 5 position on that?

6 MR. SMITH: Can you repeat?

7 COMMISSIONER FOX: What Mr. White said was
 8 if we eliminate rate regulation for the basic service
 9 that you could, in fact, and I think this is true,
 10 eliminate standalone voice service that people might
 11 have to take a bundle.

12 MR. SMITH: Mr. Vasington is my witness
 13 addressing that in detail but, you know, basically what
 14 we will be doing is looking at what, you know, the
 15 marketplace is looking for as a way of products and
 16 services. If there's a market for standalone basic
 17 service, I would think that we would continue to provide
 18 it. And that's, you know -- the view of Mr. Vasington
 19 can opine more on it as our expert witness.

20 HEARING EXAMINER ASSELTA: Let's go to your
 21 witness.

22 MS. BENEDEK: May I, your Honor, real quick.
 23 As in terms of framing the answer to that question, the
 24 relationship between the Board and the ILEC, my client,
 25 or Verizon, doesn't go away with competitive

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1 classification. And so, you know, the regulations as
 2 applicable, the PAR plans that my client and Verizon
 3 have, there are other requirements. So I don't -- I
 4 don't know how to answer your question, I don't have a
 5 crystal ball, but that relationship would seem to
 6 preclude sort of drastic changes, but it would give
 7 us -- but would give us the pricing flexibility to
 8 compete I mean which we desperately need.

9 MR. SMITH: Right. And, Commissioner, may I
 10 also add, as I said also in my opening statement, and as
 11 Sue was just saying, we are subject to all of our
 12 obligations under PAR-II and we have the tariffs and
 13 what could be a complicated legal question, how to you
 14 untangled those current obligations which is certainly
 15 involved.

16 COMMISSIONER FOX: Thank you.

17 HEARING EXAMINER ASSELTA: Mr. Smith, would
 18 you like to call your witness?

19 MR. SMITH: Yes.

20 I would like to call Paul B. Vasington to
 21 the stand.

22 MR. WHITE: Commissioner, should we identify
 23 the exhibits that we've already premarked and given to
 24 you.

25 HEARING EXAMINER ASSELTA: Yes.

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1 MR. WHITE: For rate counsel Exhibit 1, 1A
 2 is the initial testimony. Exhibit 2, 2A is the reply.
 3 Exhibit 3, 3A is the rebuttal. The first one is the
 4 redacted and the second one is the confidential. We
 5 have discovery responses for CenturyLink which is
 6 Exhibit 4 and discovery responses for Verizon.

7 Excuse me. It's reversed. CenturyLink is
 8 five and Verizon is four. And those are our premarked
 9 exhibits.

10 And we had one change to the initial
 11 testimony which I distributed to you and Alex Moreau and
 12 the court reporter one small change.

13 (RC-1, Initial Testimony of Susan M. Baldwin
 14 and Sarah M. Bosely, public version, marked for
 15 identification.)

16 (RC-1A, Initial Testimony of Susan M.
 17 Baldwin and Sarah M. Bosely, confidential version,
 18 marked for identification.)

19 (RC-2, Reply Testimony of Susan M. Baldwin
 20 and Sarah M. Bosely, public version, marked for
 21 identification.)

22 (RC-2A, Reply Testimony of Susan M. Baldwin
 23 and Sarah M. Bosely, confidential version, marked for
 24 identification.)

25 (RC-3, Rebuttal Testimony of Susan M.

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1 Baldwin and Sarah M. Bosely, public version, marked for
 2 identification.)

3 (RC-3A, Rebuttal Testimony of Susan M.
 4 Baldwin and Sarah M. Bosely, confidential version,
 5 marked for identification.)

6 (RC-4, Verizon mixed public and confidential
 7 discovery responses, marked for identification.)

8 (RC-5, CenturyLink mixed public and
 9 confidential discovery responses, marked for
 10 identification.)

11 HEARING EXAMINER ASSELTA: Okay. Bill.

12 MR. SMITH: And, Commissioners, what you
 13 have in front of you for Verizon what Mr. Vasington has
 14 in front of him is his direct, reply, and rebuttal
 15 testimonies. You have the proprietary and the public
 16 versions. And if you look at the upper left-hand
 17 corner, you'll see the exhibit numbers that starts with
 18 exhibit Verizon New Jersey 01C for confidential and 01P
 19 for public and so forth. That's the testimony for
 20 Mr. Vasington.

21 (VNJ-01C, Direct Testimony of Paul B.
 22 Vasington, proprietary version, marked for
 23 identification.)

24 (VNJ-01P, Direct Testimony of Paul B.
 25 Vasington, public version, marked for identification.)

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1 (VNJ-02C, Reply Testimony of Paul B.
 2 Vasington, proprietary version, marked for
 3 identification.)

4 (VNJ-02P, Reply Testimony of Paul B.
 5 Vasington, public version, marked for identification.)

6 (VNJ-03C, Rebuttal Testimony of Paul B.
 7 Vasington, proprietary version, marked for
 8 identification.)

9 (VNJ-03P, Rebuttal Testimony of Paul B.
 10 Vasington, public version, marked for identification.)

11 PAUL B. VASINGTON, Director,
 12 State Public Policy for Verizon, having a business
 13 address of 125 High Street, Oliver Tower, Boston,
 14 Massachusetts 02110, having been duly sworn by the
 15 Notary, testified as follows:

16 DIRECT EXAMINATION OF MR. VASINGTON BY MR. SMITH:

17 Q. Mr. Vasington, state your full name, business
 18 address, and business title.

19 A. My name is Paul B., B as in boy, Vasington, V, as
 20 in Victor, a-s-i-n-g-t-o-n.

21 My business address the 125 High Street, Boston,
 22 Massachusetts. And my title is director, state public
 23 policy.

24 MR. SMITH: Mr. Vasington is available for
 25 cross-examination.

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1 CROSS-EXAMINATION OF MR. VASINGTON BY MR. WHITE:
 2 Q. Thank you.
 3 Good morning, Mr. Vasington. How are you?
 4 A. Good morning. Doing well.
 5 Q. Good.
 6 You filed direct, reply, and rebuttal testimony
 7 in this proceeding. Correct?
 8 A. Yes.
 9 Q. When were you contacted regarding providing
 10 testimony in this proceeding?
 11 A. It was in the fall. I don't recall what -- what
 12 month, but it was in the context of the provisions of
 13 the settlement approved by the Board in 2008 provided
 14 for a review three years later. So I was contacted with
 15 the indication that that time period was coming up and
 16 that the Board would probably be opening a new
 17 proceeding.
 18 Q. And when did you start preparing testimony for
 19 this proceeding?
 20 A. Boy, I don't recall an exact date. It was around
 21 the time that the docket was open. I don't remember
 22 exactly.
 23 Q. Subject to check that's about October?
 24 A. Subject to check, sure, that's sounds about
 25 right.

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1 Q. So shortly thereafter you started preparing to
 2 file testimony in this proceeding.
 3 A. Yeah. I mean we started preparing the data first
 4 and then I started writing testimony after that.
 5 Q. Okay. How many people did you have assist you in
 6 that?
 7 A. Well, the attorneys have some input into the
 8 drafting of testimony and there are probably half dozen
 9 other people who touched at some point data sets or
 10 editing with drafting.
 11 Q. But you started out with data sets. Correct?
 12 A. Started out with compiling data sets, yes.
 13 Q. How many people worked on that?
 14 A. I think in the first instance there were two
 15 people directly involved in that. I'm not sure how many
 16 people they contacted to also work on it.
 17 Q. So you delegated that to those individuals to
 18 compile data that you would need for this proceeding.
 19 Correct?
 20 A. Yes.
 21 Q. Did that number grow during the other phases of
 22 this proceeding?
 23 A. The number of people helping out?
 24 Q. Yes.
 25 A. Yeah, because once we started getting discovery

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1 from you, we have to look to various different people
 2 within Verizon to get responses. So in that process we
 3 have to identify other people who we need to seek
 4 information and data from.
 5 Q. Do you have an estimate of how many hours you've
 6 expended to basically compile your entire three pieces
 7 of testimony in this case?
 8 A. Oh, boy, no, not off the top of my head. I mean
 9 we had three pieces of testimony, several hundred pages
 10 of testimony, your witnesses' testimony was three pieces
 11 around a hundred pages or more each time so it was a lot
 12 of time spent reading and drafting. And the three time
 13 periods just before the filing of my three pieces of
 14 testimony, you could say full-time and then some for
 15 drafting. I couldn't tell you exactly how many hours
 16 that would be, but it's a lot of work.
 17 Q. Now, did -- did you draft all your own testimony
 18 or did you have assistance from people from your staff
 19 that did initial drafts and provided those to you for
 20 review and edits?
 21 A. No. I did all the initial drafts and then I
 22 provided it to other people for edits and review.
 23 Q. So essentially you were responsible and did, in
 24 fact, write each of the three pieces of testimony that
 25 you submitted here today. Correct?

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1 A. Yes.
 2 Q. Do you own stock in Verizon?
 3 A. Yes.
 4 Q. Do you participate in a -- in a bonus plan with
 5 Verizon?
 6 A. Yes.
 7 Q. Do you get --
 8 MR. SMITH: Objection, your Honor.
 9 HEARING EXAMINER ASSELTA: *Mr. White, let me*
 10 object also first. For clarification, Mr. Vasington,
 11 have you adopted all your testimony as filed?
 12 THE WITNESS: Yes, sir.
 13 HEARING EXAMINER ASSELTA: *Okay Great.*
 14 MR. SMITH: Your Honor, I object.
 15 I'm not quite sure what the relevance of
 16 this to any of his direct or reply or rebuttal. It
 17 seems to be outside of the scope of testimony.
 18 HEARING EXAMINER ASSELTA: *Explain that.*
 19 Why are you going that way?
 20 MR. WHITE: Well, to the extent that he has
 21 financial interest in Verizon stock, he has financial
 22 interest and that's appropriate to go into on
 23 cross-examination whether it could effect his testimony,
 24 whether he would profit depending on how this proceeding
 25 came out. So it's an area that's legitimately

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1 appropriate for cross-examination.
 2 HEARING EXAMINER ASSELTA: Sustained.
 3 Move forward.
 4 BY MR. WHITE:
 5 Q. Now, you participate in a bonus plan. Correct?
 6 A. Yes.
 7 Q. This is a different question.
 8 Do you -- as part of that bonus, did you get paid
 9 in stock?
 10 MR. SMITH: I'm going to object again. I
 11 thought you sustained instead of overruled my objection
 12 so.
 13 HEARING EXAMINER ASSELTA: Just answer it
 14 the best you can.
 15 A. No. My bonus is not paid in stock.
 16 Q. It's all paid in cash or deferred comp?
 17 HEARING EXAMINER ASSELTA: In some form of
 18 compensation let's say.
 19 Move forward, please.
 20 Q. That's fine.
 21 You state on page 2, lines 1 through 5 of your
 22 initial testimony that you looked at three criteria.
 23 Correct?
 24 A. Let me get there.
 25 Yes.

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1 Q. These are the only criteria that you looked at in
 2 your direct testimony. Is that correct?
 3 A. That is correct.
 4 Q. And you did not do any analysis of whether
 5 Verizon has market power, did you?
 6 A. Yes, I believe I did.
 7 Q. And where is that?
 8 A. My whole testimony. I clarified that in the
 9 rebuttal testimony where rate counsel's witness in their
 10 reply said that I didn't make any evaluations of market
 11 power and I addressed that pretty squarely in my final
 12 round of testimony.
 13 Q. Didn't -- you addressed residential service and
 14 whether or not you did analysis for residential.
 15 Correct?
 16 A. I did an analysis of all four of the legacy
 17 landline services, most of which are residential but
 18 also include single-line business.
 19 Q. And Ms. Baldwin did an analysis of business as
 20 well. Right?
 21 A. Yes. She did the four services at issue, plus
 22 discretionary services, plus multi-line business for
 23 CenturyLink.
 24 Q. And her determination of the multi-line business
 25 is it was inelastic and that you were able to properly

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1 increase rates, is that correct, for business cut lines,
 2 single-line business?
 3 A. Well, you started your question with multi-line
 4 and finished with single-line.
 5 Q. Well, single-line is what we're talking about for
 6 Verizon because multi-line is not in this case for
 7 Verizon. So let me rephrase that.
 8 Let's limit it to single-line business.
 9 Is it correct?
 10 A. Rephrase the question.
 11 HEARING EXAMINER ASSELTA: Rephrase the
 12 question again, Mr. White.
 13 Q. Ms. Baldwin did analysis for single-line business
 14 for Verizon. Correct?
 15 A. Yes.
 16 Q. And her conclusions about that, number one, was
 17 inelastic and also you were able to properly raise rates
 18 without losing revenue, is that correct, in her
 19 analysis?
 20 A. Her analysis in her rebuttal testimony was that
 21 the single-line business services is relatively
 22 inelastic and I think she said that we're both able to
 23 increase our revenues and to increase our profits which
 24 are not necessarily the same thing. I don't think that
 25 price elasticity is -- determines whether or not a

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1 service is competitive. But in any event if the purpose
 2 of that analysis is to say that we can raise rates to a
 3 level where we're going to generate monopoly profits, I
 4 think the Board shouldn't be concerned about that;
 5 because if you look at our business rates from the 2008
 6 stipulation, we were allowed to raise rates to certain
 7 levels in that stipulation and we didn't even take
 8 advantage of all that freedom for business services. So
 9 we left revenue on the table already for competitive
 10 reasons. So there really isn't a concern that we're
 11 going to be able to generate monopoly profits in the
 12 business or residential customers.
 13 Q. Market power is not one of the three criteria
 14 that you identified that should be looked at in this
 15 proceeding in your initial testimony. Is that correct?
 16 A. No, not really because I think what I said in
 17 my -- I know what I said in my testimony was that the
 18 three criteria together constitute a pretty good test of
 19 market power.
 20 Q. What about market share, is that relevant? Is
 21 that one -- strike that.
 22 Is market share one of the three designated
 23 criteria in the statute?
 24 A. No, it's not. And the Board has already said in
 25 earlier orders that market share has limited use in this

1 context of applying the statutory criteria. I explained
 2 in my testimony that market share information can be
 3 valuable to the extent that it demonstrates compliance
 4 with the three criteria. But in and of itself, it's a
 5 static picture of a point in time that has limited value
 6 in a market power study, especially when you're talking
 7 about an industry with rapid technological and market
 8 changes.
 9 Q. Okay. On page 2, lines 14 to 20, you state that
 10 the four services of which reclassification is sought
 11 are now referred to as legacy landline.
 12 Is that correct?
 13 A. Yes.
 14 Q. These four services are part of mass market
 15 services. Correct?
 16 A. Correct.
 17 Q. Did you forecast demand for services in the local
 18 market, including basic local service?
 19 A. No.
 20 Q. Did you produce elasticity studies and economic
 21 quantitative analysis for each of these four services?
 22 A. In effect the three criteria being evaluated are
 23 supply and demand elasticity studies. I did not do a
 24 quantitative assessment of price elasticity of demand.
 25 In other words, I didn't try to say if price goes up by

1 X percent, demand will decrease by Y percent.
 2 In these types of proceedings typically supply
 3 elasticity and demand elasticity are more qualitative
 4 assessments. Supply elasticity is the willingness and
 5 ability of competitors to provide additional services or
 6 additional scope and scale of services. Demand
 7 elasticity is the willingness of customers to switch to
 8 these other substitutes.
 9 So in the sense of the terms elasticity studies,
 10 I did do that for supply and demand elasticity. But for
 11 quantitatively trying to estimate the price quantity
 12 relationship, I did not do that.
 13 Q. And to determine whether a product is a
 14 substitute is some type of quantitative analysis
 15 required?
 16 A. No.
 17 Q. That's your opinion.
 18 A. Yeah. And that's been the precedent of the Board
 19 and other commissions that have done these types of
 20 evaluations.
 21 Q. Are you familiar with the term enterprise market
 22 services and government markets?
 23 A. I don't know that I've heard them used exactly
 24 that way. But I know what enterprise is generally
 25 industrial companies, big, big companies. And I know

1 what governments are.
 2 Q. See your direct testimony at pages 3 and 4.
 3 A. Okay.
 4 MR. SMITH: Do you have a specific,
 5 Mr. White, line references for those pages?
 6 MR. WHITE: No. I just have three and four.
 7 I am handing the witness some documents
 8 we're going to mark as Rate Counsel Exhibit 6 and there
 9 are four documents in here. 6A which is the Verizon SEC
 10 10-K, Verizon financial reports, Verizon quarterly
 11 reports, and CenturyLink 10-Q. This will be marked Rate
 12 Counsel Exhibit 6.
 13 If you give us a few minutes so we can
 14 distribute them.
 15 HEARING EXAMINER ASSELTA: Sure.
 16 (RC-6, Verizon SEC 10-K, Verizon financial
 17 reports, Verizon quarterly reports, and CenturyLink
 18 10-Q, marked for identification.)
 19 MR. SMITH: Mr. White, am I correct as far
 20 as the documents in front of me relate to Verizon that
 21 they are documents related to -- I see -- it's Verizon
 22 New Jersey, Inc.
 23 THE WITNESS: One of them.
 24 MR. SMITH: One of them. The other is
 25 Verizon Communications and the PowerPoint is --

1 MR. WHITE: Is the first quarter reports of
 2 2012 earnings of Verizon Corp.
 3 MR. SMITH: So two out of three are Verizon
 4 Corp. which is not a part of this proceeding.
 5 THE WITNESS: You gave me CenturyLink.
 6 MR. WHITE: Keep it, it's part of the
 7 exhibit.
 8 MS. BENEDEK: Maybe.
 9 MR. WHITE: Because the exhibit covers all
 10 three and I will use it again when CenturyLink is a
 11 witness.
 12 THE WITNESS: Fair enough.
 13 BY MR. WHITE:
 14 Q. Now, if you go to Verizon New Jersey document
 15 which should be identified as page 1 of 50 which is 6A
 16 and if you go to page 43 of that document.
 17 A. This is the one for the year end 2003.
 18 Q. Yes.
 19 A. What page again?
 20 Q. Forty-three.
 21 And to your knowledge, does Verizon New Jersey
 22 file 10Ks any longer?
 23 A. I don't know.
 24 Q. Take subject to check they do not.
 25 A. Subject to check.

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1 MR. SMITH: Subject to check.
 2 Q. Okay. If you go to page 43 that list identifies
 3 transactions with affiliates and it lists operating
 4 revenues. And also go to page 45 which is F-21 and over
 5 to page 46.
 6 And just to explain to everyone the reason that
 7 there's a skip in pages is because when you print this
 8 out on the printer, page 44 was blank so we just didn't
 9 include it in the package, but all the information in
 10 this filing are contained. There's nothing left out.
 11 HEARING EXAMINER ASSELTA: *any questions*
 12 for the witness?
 13 MR. WHITE: Yes.
 14 Q. I want you to identify, are all these affiliates
 15 still operating for Verizon; does Verizon New Jersey
 16 have transactions with these affiliates today?
 17 A. I have no idea.
 18 MR. WHITE: You will be providing rate
 19 counsel pursuant to an order of Commissioner Asselta all
 20 the affiliates that do operate here in New Jersey.
 21 Correct?
 22 MR. SMITH: You have made -- there's a
 23 discovery request. There was a motion to compel and
 24 there was an order and we will follow what the order has
 25 told us to do.

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1 the middle of the page?
 2 A. Yeah.
 3 Q. Got a heading wireline. It's got a total of
 4 4.103.
 5 A. Okay. Yep.
 6 Q. You add the two together.
 7 A. Yep. I see that now. Thank you.
 8 Q. Okay. It is confusing. I admit. You would
 9 think they would do it differently, but they didn't.
 10 And then under global enterprise, the strategic
 11 services in core and add up to 3.852. Do you see that?
 12 A. Yes.
 13 Q. Then you see that's under global enterprise and
 14 then global wholesale, you see that number which is
 15 1.861?
 16 A. Yes. Million.
 17 Q. And then you have other which is 129.
 18 Do you see that?
 19 A. Yes.
 20 Q. Now, if you go to the next page which is 27,
 21 under these definitions of mass market, global
 22 enterprise global wholesale, and others, there's a
 23 description of what services are, do you see that, and
 24 what services are included?
 25 A. You're going to have to give me a moment to read

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1 Mr. White, I would just like to point out
 2 that this document appears to be dated from December 31,
 3 2003. I'm not sure if you clarified that on the record.
 4 It's almost nine years old.
 5 MR. WHITE: Yes. It's the last annual
 6 report that Verizon New Jersey filed with the SEC.
 7 After that, they did not file annual reports any longer.
 8 But this is probably available on the Edgar website and
 9 reflects a synopsis of Verizon's business in 2003 which
 10 is right after the PAR-II was extended and identifies
 11 the affiliates that operated then.
 12 Q. If we go to the next document which is the 10-Q
 13 which is for the first quarter of 2012.
 14 A. Okay.
 15 Q. And you refer to page 20 -- what's page 27 of 38
 16 at the top, but at the bottom you'll see page 26.
 17 A. Oh, okay.
 18 Q. It identifies various groupings. What defines
 19 see where it says mass market?
 20 A. Yes.
 21 Q. Which is comprised of consumer retail and small
 22 business.
 23 A. Where does it say that?
 24 Q. Well, you put dollars and million, operating
 25 revenues and selected operating statistics. See that in

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1 them.
 2 Okay.
 3 MR. SMITH: Commissioner, at this time I
 4 would like to object. I'm really not quite sure where
 5 the line is going.
 6 HEARING EXAMINER ASSELTA: *Can you be*
 7 specific, Mr. White?
 8 MR. WHITE: This is essentially laying the
 9 foundation for later. Verizon has claimed that they're
 10 suffering overwhelming losses in the annual reports that
 11 they filed and specifically this thing will show that on
 12 a company-wide basis that they're showing positive
 13 EBITDA, which is earnings before interest, taxes,
 14 depreciation, and amortization and that they're actually
 15 showing a net profit which is actually skipped ahead.
 16 It might be easier, it's on page 29 of 38.
 17 It shows 1.6 operating income margin in EBITDA margin of
 18 22.6. And again what the table of content show is how
 19 they group their markets and what services are included.
 20 And our position is that this is directly relevant to
 21 their claim of losses, because if grouped together,
 22 they're making money. They have failed to explain why
 23 New Jersey would be any different than the composite of
 24 all their operations.
 25 MR. SMITH: I'm still going to renew my

1 objection. It seems very tenuous the relationship
 2 between Verizon Communications, Inc., on this basis of
 3 financial connection. There's no breakdown here that I
 4 can see Mr. White's pointed out for Verizon New Jersey,
 5 Inc., or any possible explanations and it's going to be
 6 pure speculation, hypothesis of the connection between
 7 what's reported in this document and the testimony that
 8 Mr. Vasington can supply.
 9 MR. WHITE: Can we ask for the annual
 10 reports? Their discovery response is see our investor
 11 reports. The next report is investor report. Investor
 12 report shows the same 22.6 and 1.6 percent.
 13 HEARING EXAMINER ASSELTA: And this is
 14 company-wide basis. Correct?
 15 MR. WHITE: This is company-wide and that's
 16 what they say to look at.
 17 MR. SMITH: Just clarify when we say
 18 company-wide, that term can be confusing sometimes.
 19 Verizon Corporation.
 20 MR. WHITE: Corporation which includes their
 21 wireline operation which includes Verizon New Jersey as
 22 well.
 23 HEARING EXAMINER ASSELTA: Okay.
 24 MR. WHITE: In fact, this might be a good
 25 time, I would make a transcript request that they

1 A. Global wholesale, yes, I see that.
 2 Q. Okay. And specifically this is -- this would be
 3 wholesale served revenue resolved from CLEC operations.
 4 Correct?
 5 A. No. This is primarily our global Internet
 6 backbone my understanding. When we merged with MCI, MCI
 7 was the fourth largest what they call Tier 1 -- Tier 1
 8 backbone provider for Internet services with facilities
 9 that MCI had obtained when MCI took over a company
 10 called UUNET a number of years ago. They have a global
 11 IP network that is used as a backbone for a lot of
 12 different services and I believe that global wholesale
 13 primarily refers to that, those services in that
 14 organization.
 15 Q. Do you see the reference in the second line,
 16 other carriers that use our facilities provide services
 17 to their customers?
 18 A. Yes.
 19 Q. Wouldn't that be CLECs that purchase UNEs or
 20 resale from Verizon?
 21 A. That might be also be in that but that is not all
 22 that it is. A lot of carriers would purchase dark fiber
 23 capacity or high capacity on our global IP network and
 24 could also fit into that description. So CLEC type
 25 services could be a part of it, but my understanding is

1 provide to us the annual reports that they filed with
 2 the Board for the years in which they're claiming
 3 losses. They did they not provide that information and
 4 I think it's appropriate if they're going to rely on the
 5 numbers they assert shows a loss that we have a full
 6 report so I ask for a transcript request.
 7 HEARING EXAMINER ASSELTA: I would grant
 8 that. That seems fair. Okay.
 9 MR. SMITH: Commissioner, I understand.
 10 Which years, asked by my backup staff?
 11 MR. WHITE: Personally the periods in which
 12 you reported losses in your testimony which is 2008,
 13 2009, 2010, and 2011.
 14 MR. SMITH: So the reports that comport with
 15 what part of the testimony is in the reply, whatever
 16 years may be.
 17 BY MR. WHITE:
 18 Q. I would like to refer you, Mr. Vasington, back --
 19 and again a lot of this is foundational and I apologize
 20 for going through it, but it will help later when we get
 21 to other issues and that is the reason why I'm raising
 22 it really is foundation now because it helps set the
 23 stage later.
 24 Global wholesale, do you see that description on
 25 page 28 at the top, page 27 at the bottom?

1 when you're talking about out global wholesale segment,
 2 if it's even included in that, would be a pretty small
 3 piece.
 4 MR. WHITE: Could we make a transcript
 5 request for them to identify where their CLEC revenues
 6 are reported in their 10-Q and under what business
 7 entity?
 8 HEARING EXAMINER ASSELTA: Can you provide
 9 that?
 10 MR. SMITH: Commissioner, I would have to
 11 check, I don't know if that is easily identifiable on
 12 the 10-Q. We would just have to take it back which may
 13 be we're not able to provide.
 14 Sitting here today, I am not familiar with
 15 all these documents. I can only see the SEC statements
 16 periodically. But it's something that we usually deal
 17 with in the regulatory realm.
 18 Q. Let me ask it a somewhat different way as well.
 19 The Board has set UNE rates here in New Jersey
 20 for Verizon New Jersey. Correct?
 21 A. Yes.
 22 Q. And there's approximately 130 CLECs that have
 23 been given authority to operate here in New Jersey.
 24 Correct?
 25 A. That sounds about right.

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1 Q. Do the revenues that Verizon receives from
 2 providing UNEs are those reported by Verizon New Jersey
 3 included by them or is the CLEC revenues they receive
 4 reported in a different affiliate of Verizon New Jersey
 5 here in New Jersey?
 6 MR. SMITH: Objection. The question seems
 7 ambiguous to me. Reported where?
 8 HEARING EXAMINER ASSELTA: *Rephrase it.*
 9 Q. Let me rephrase it.
 10 Does Verizon New Jersey include CLEC revenue when
 11 it reports revenue here in New Jersey?
 12 MR. SMITH: In the annual report.
 13 Q. Uh-uh. Forget whether it's in the annual report.
 14 How do they report CLEC revenue here in New
 15 Jersey?
 16 HEARING EXAMINER ASSELTA: *That's a better*
 17 way of saying.
 18 A. I'm not sure. Pretty sure it's not an affiliate.
 19 It's Verizon New Jersey, the telco, that provides the
 20 services. How it gets reported, I'm not sure.
 21 (START CONFIDENTIAL PORTION OF TRANSCRIPT.)
 22 Q. Let me go into this. Single-line business,
 23 you've identified a number in the course of this
 24 proceeding, subject to check I believe it's about 79,000
 25 lines or single-line business lines.

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1 (END CONFIDENTIAL PORTION OF TRANSCRIPT.)
 2 A. That is proprietary.
 3 Q. Yes. But everybody here has signed the
 4 proprietary agreement, I assume.
 5 MR. SMITH: I'm not so sure about that. Has
 6 everyone in the room signed a proprietary?
 7 MR. WHITE: The ones in the back row are
 8 interns so they'd be covered by rate counsel's.
 9 MR. SMITH: Has anyone not signed it?
 10 But the record should reflect so the
 11 transcript is going to be a public document so if we're
 12 getting into confidential information we will need to
 13 make that designation. I don't want to be presumptuous
 14 and speak for the Commissioners, but we make that
 15 request.
 16 Q. Now, if you have a single-line business customer,
 17 Mr. Vasington, Verizon New Jersey currently serves it.
 18 A. Is that a question?
 19 Q. Yes. Take that as a --
 20 A. Yes. We have single-line business customers that
 21 Verizon New Jersey currently serves.
 22 Q. That customer decides it wants to order a second
 23 business line.
 24 A. From Verizon New Jersey?
 25 Q. Yes.

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1 A. Yes.
 2 Q. Who provides that?
 3 A. Verizon New Jersey.
 4 Q. Or is it -- what about MCI doing business as
 5 Verizon business?
 6 A. Your premise to your question is you have a
 7 single-line customer obtaining service from Verizon New
 8 Jersey who asks Verizon New Jersey for a second line so
 9 Verizon New Jersey provides that second line, not MCI --
 10 not former MCI.
 11 Q. Let me ask it a different way.
 12 What services does --
 13 HEARING EXAMINER ASSELTA: *What was your*
 14 answer again?
 15 THE WITNESS: My answer was if Verizon New
 16 Jersey is providing a customer with their first business
 17 line and that that customer asks Verizon New Jersey for
 18 a second business line, then that second business line
 19 is also provided by Verizon New Jersey.
 20 HEARING EXAMINER ASSELTA: *Then that's the*
 21 answer, Mr. White.
 22 Can we move on to another question?
 23 MR. WHITE: I'm trying to get back to this
 24 point of Verizon -- I have another question.
 25 Q. Verizon business, do you know who that is, MCI

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1 Communication doing business as Verizon business
 2 services?
 3 A. Yes.
 4 Q. Do they provide business lines to customers?
 5 A. I believe so. I haven't looked at their tariff,
 6 but I believe they do.
 7 Q. And MCI would presumably purchase UNEs, correct,
 8 from Verizon New Jersey?
 9 MR. SMITH: Your Honor, I'm going to object
 10 based upon the Board's prior rulings that affiliates
 11 matters and transactions are really outside the scope of
 12 these reclassifications proceedings. I'm not quite sure
 13 where Mr. White is going with this as far as the
 14 criteria involved.
 15 MR. WHITE: Again, this in part, your Honor,
 16 relates to their issue of claimed losses. One way you
 17 can have losses is if revenue previously captured by
 18 Verizon New Jersey is now being captured by affiliates.
 19 And one of those areas is MCI doing business as Verizon
 20 business. And the question is what business lines do
 21 they provide.
 22 It is my understanding and I've heard
 23 different testimony to contrary that multi-line lines
 24 businesses are provided through Verizon business. If
 25 you have more than one line, that's a service you get

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1 from Verizon business which is MCI. And if it's a
 2 single-line, it's provided by Verizon. And the question
 3 is I would expect that the revenues would show up under
 4 MCI.

5 And, in fact, if you look at the assessments
 6 that are issued by this Board which we will get into
 7 later there are \$64 million of revenue associated with
 8 MCI and MCI Metro Access which is another MCI affiliate
 9 is roughly \$8 million. So the question is has revenue
 10 been shifted. And this is what I'm trying to lay
 11 foundation for. And that's why I think it's relevant to
 12 the scope of this proceeding because it impacts directly
 13 on whether or not there is claimed losses or, in fact,
 14 losses or just shifting of revenues and profits to other
 15 affiliates.

16 MR. SMITH: The whole issue of shifting of
 17 revenues would require almost a whole separate case to
 18 examine financial records, affiliates, and Verizon New
 19 Jersey, Inc., and it just seems to be totally outside
 20 the scope.

21 HEARING EXAMINER ASSELTA: I think it's
 22 inside the scope of trying to ascertain your
 23 profitability and whether this hearing is necessary or
 24 not and that's what he's trying to do here to establish
 25 that.

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1 It's a pretty simple answer. Either you
 2 assume this revenue or you subcontract it out to MCI.
 3 Mr. Vasington, do you or don't you?

4 THE WITNESS: If a customer is a customer of
 5 Verizon New Jersey, then the revenue goes to Verizon New
 6 Jersey. If they're customer of Verizon business which
 7 is former MCI, then it goes to that entity which is also
 8 losing money in New Jersey. So the notion that we're
 9 shifting revenue and somehow hiding profits is not true.

10 Q. Let me go through this. Consider this as a
 11 hypothetical.

12 MCI would purchase UNES from Verizon, correct,
 13 for New Jersey, services of Verizon in New Jersey?

14 A. I don't know that.

15 Q. For business lines.

16 A. No, I don't know that because I know before the
 17 merger MCI was both the facilities based provider and
 18 had a wholesale -- what we call a wholesale advantage
 19 agreement which is where you buy UNES through.

20 I'm not sure today if they still have a wholesale
 21 advantage agreement. They may, but I haven't looked at
 22 that as part of my evaluation.

23 Q. So you didn't exam that?

24 A. I didn't exam the wholesale advantage agreement.

25 Q. If there was a wholesale advantage agreement,

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1 they would purchase unbundled network elements from
 2 Verizon. Correct?

3 A. Yes.

4 Q. And one of the issues, the revenues generated
 5 from that purchase, we've already asked previously where
 6 does that revenue go and who reports it. Correct? And
 7 you don't know at this point in time. Correct?

8 A. Yeah, I don't know. But that number as we've
 9 seen in this proceeding and, as your witnesses have
 10 testified, is shrinking and is becoming a smaller part
 11 of the market that fewer and fewer people are using
 12 resale or wholesale advantage agreements to provide
 13 services to competitors.

14 Q. Let's go to the next statement under UNE
 15 arrangement, when unbundled network element, there's
 16 subscriber line charge. Are you familiar with that?

17 A. Yes. That's a retail charge.

18 Q. Yes. And who captures the subscriber line charge
 19 when a CLEC buys a UNE from Verizon and then sells it to
 20 their customer, who gets to keep the subscriber line
 21 charge?

22 A. The CLEC.

23 Q. And in resales environment when you just resale
 24 services to a CLEC, who gets to keep the subscriber line
 25 charge?

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1 A. A CLEC.

2 Q. No.

3 Would you take subject to check that in resale
 4 Verizon --

5 MR. SMITH: Mr. White.

6 Q. I'm trying to -- to get at that point.
 7 Do you believe there's a difference between
 8 resale and wholesale in terms of the subscriber line
 9 charge? Let me phrase it that way.

10 A. No. My understanding was that subscriber line
 11 charge is what the retail provider bills to their end
 12 user customer and they get the money. We're not the
 13 retail biller in that environment.

14 Q. In resale market is what you're saying.

15 A. Right.

16 Q. Next question in this line: If Verizon provides
 17 a single-line business line to its customer, Verizon
 18 keeps the subscriber line charge. Correct?

19 A. Yes. And be clear that's a federal charge. That
 20 federal charge is billed by the retail provider to its
 21 customer under federal tariffs and the company that
 22 bills that charge will keep that money.

23 Q. Okay. If we can go to 6C which is quarter 2000
 24 earnings report and if you go to page --
 25 MR. SMITH: Mr. White, the PowerPoint?

1 Q. The PowerPoint, page 11 and 12. Again, on
 2 page 11 it shows for the wireline revenue and
 3 profitability it shows a positive 22.6 EBITDA for
 4 Verizon wireline.
 5 Is that correct?
 6 A. Yes. That's -- roughly speaking that's a proxy
 7 for the cash flow margin, revenues in cash expenses.
 8 Q. And your loss analysis that you put in your
 9 testimony is based upon the annual reports which is --
 10 which in -- which is not based upon EBITDA, is it?
 11 A. No, it's not cash flow. Utility regulators have
 12 never used cash flows as a measure of earnings because
 13 money cost money and regulators have to ensure a return
 14 on investment for one thing, payment of interest for
 15 another thing.
 16 Annual reports whether they're filed by telephone
 17 companies, electric companies, or gas companies aren't
 18 measures of cash flow. They're measures of total
 19 overall earnings and whether the company is earning its
 20 cost of capital.
 21 Q. So it's your position that Verizon does not rely
 22 on EBITDA and average revenue per user as a proxy for
 23 the health of its operation.
 24 A. No, not at all. EBITDA is very important measure
 25 for a lot of reasons, but it's not telling you the whole

1 MR. SMITH: Objection. The document speaks
 2 for itself. Do you have a question related to those
 3 specific things? Do you want to point to the specific
 4 page?
 5 Q. My specific question when I got started was that
 6 the investor report refers to EBITDA, it does not have a
 7 number in it for like the 10-Q has with respect to
 8 actual operating income margin.
 9 MR. SMITH: Objection. It hasn't been
 10 established that this is the investor report. This is a
 11 PowerPoint that Fran Shammo uses perhaps as part of the
 12 investor report. When we refer to the investor
 13 report --
 14 HEARING EXAMINER ASSELTA: It's not
 15 specific. It's just a snapshot.
 16 MR. SMITH: And would be more details.
 17 MR. WHITE: This is a public document that
 18 was produced by Verizon given as part of their earnings
 19 release in the first quarter 2012 highlighting their
 20 performance. So it's part and partial of what's in the
 21 10-Q.
 22 MR. SMITH: We're not challenging obviously
 23 the adversity of what our company put out by our chief
 24 financial officer. What we're saying is that it could
 25 be taken out of context because we don't know what the

1 story. It's telling you whether or not on a
 2 forward-looking basis you're positive on your cash flow.
 3 It says nothing about whether or not you've actually
 4 earned a return on your invested capital, paid taxes, or
 5 paid your interest, for example, which is much different
 6 from what the traditional utility standard and the
 7 constitutional standard on utility regulations.
 8 Q. Well, then can you tell me why in their investor
 9 reports in the first quarter they only report EBITDA and
 10 they don't report net operating income?
 11 A. We don't report net operating income to the
 12 investors in our quarterly report?
 13 Q. Look at the report. Show me where it talks about
 14 net margin.
 15 A. Well, this isn't the report. This is a
 16 PowerPoint handout that goes along when our CFO and
 17 whoever else is reporting our quarterly earnings to
 18 investors reports a snapshot of some of the information
 19 which is included in a quarterly report.
 20 Q. In your quarterly. And your quarterly shows both
 21 the EBITDA and the gross margin from operations.
 22 Correct?
 23 A. The gross margins?
 24 Q. It shows the 22.6 and 1.6 percent net operating
 25 profit after all other expenses.

1 in total investor reports are and, quite frankly, what
 2 the connection is to the testimony that Mr. Vasington
 3 put in on the revenue situation based upon the reports
 4 filed by the Board. I believe it's getting pretty
 5 tenuous.
 6 COMMISSIONER FOX: I think what Mr. White is
 7 saying is this is used by your CFO to sell Verizon and
 8 in there it says there's 22.6 percent operating profit
 9 for the company. I think that would be relevant.
 10 THE WITNESS: EBITDA is a very important
 11 measure. A lot of investors look at. If you ever watch
 12 CNBC or listen to earnings calls and transcripts to
 13 folks who follow the stocks, always ask what happening
 14 to your EBITDA margin. So it's a very important number.
 15 So when our CFO is reporting on our earnings
 16 on a quarterly basis, he is answering ahead of time the
 17 questions that are going to come up from the investment
 18 analysts. He's not saying this is the only information
 19 that's important or relevant.
 20 If you go into the 10-Q, you'll find an
 21 income statement, you'll find a balance sheet, you'll
 22 find statement of cash flows. There's a lot of
 23 information that is relevant. But for this document,
 24 the PowerPoint, this is the presentation you're giving
 25 to investors. So he's trying to answer ahead of time

1 what questions they're normally going to answer -- or
 2 going to ask.
 3 HEARING EXAMINER ASSELTA: Mr. White.
 4 Q. Actually, if you go to page 12 again.
 5 MR. SMITH: Which document?
 6 MR. WHITE: This is the Verizon investor
 7 document, the black one.
 8 Q. Do you see the big black -- blackened column at
 9 the bottom that reads continued strong FiOS growth and
 10 lower line loss.
 11 A. Yes.
 12 Q. And then if you look at consumer ARPU, there's a
 13 number there only shows it's growing. See that?
 14 A. Yes. Our average revenue per user is growing
 15 primarily due to FiOS and our rate of loss, we're still
 16 losing lines, but our rate of loss is not quite as great
 17 as it was in the prior quarter, prior year. It's
 18 actually year over year in this show.
 19 Q. If you go to page 2, line 15 of your initial
 20 testimony, can you briefly describe what business
 21 services reclassify in each of the prior
 22 reclassification proceedings you reference in page 2,
 23 line 15?
 24 A. Probably be easier just to define it as
 25 everything but single-line business exchange service has

1 Q. Yes.
 2 A. Yes.
 3 Q. And five and more were all business lines.
 4 Right?
 5 A. Right. Five or more business lines were all
 6 business lines. Correct.
 7 Q. So based upon what the Board did previously, they
 8 considered that within -- would you say that within the
 9 business line marketplace that they drew distinctions
 10 between the relevant product market within the general
 11 category business lines?
 12 A. Yes.
 13 Q. On page 3, lines 1 to 13, can you state that
 14 three of the services are in the same product market and
 15 that product market is retail mass market?
 16 Is that correct?
 17 A. Yes.
 18 Q. And you treat DA as being a separate product
 19 market. Is that correct?
 20 A. That's correct.
 21 Q. So it is possible to have different product
 22 markets for different services. Correct?
 23 A. Is it possible, yes.
 24 Q. Okay. Do you know how the BPU treats bundled
 25 services?

1 been reclassified in prior proceedings.
 2 Q. Well, let's go -- let's start from the bottom.
 3 Prior to -- what was the level of lines that were rate
 4 regulated prior to single-line business being the only
 5 one that was rate regulated?
 6 A. I believe it was two or more, but I think I have
 7 discussion of the history in my testimony. I just want
 8 to confirm that if you could bear with me for a moment.
 9 Okay. On page 13 in my testimony I point out
 10 that in the PAR-II order in 2003 the Board reclassified
 11 business services for customers with more than five
 12 lines as competitive and 2005 the Board classified
 13 business services for customers with two to four lines
 14 as competitive. So prior to that, it would have been
 15 anything more than two was already classified as
 16 competitive. Prior to this is anything more than two
 17 lines.
 18 Q. Okay. And as part of that reclassification,
 19 those -- these dealt with the general subject of
 20 business lines. Correct?
 21 A. I'm not clear what you mean by the general
 22 subject of business lines.
 23 Q. They were all under business lines. Correct?
 24 A. The two to four -- the more than two business
 25 lines were all business lines?

1 A. They are classified as competitive.
 2 Q. And you refer to that as page 5, lines 1 through
 3 16. Correct?
 4 A. No. That would be on page 13 which gives you the
 5 history of the prior proceeding where everything but
 6 these four remaining services were classified as
 7 competitive.
 8 MR. WHITE: I'm going to happened out the
 9 next exhibit, bear with me a second. We're going mark
 10 this and what it is, let me identify it for the record.
 11 It's N.J.S.A. 42-21.17 (sic). It's also
 12 48:2-21.18. It's also 48:2-21.19. And it's also
 13 Section 254 of the Communications Act of 1934 and
 14 specifically as Subsection K. And we'll mark this --
 15 it's in the -- it's going take couple of minutes to pull
 16 these. And we're going to mark this as rate counsel
 17 Exhibit 12.
 18 (RC-12, N.J.S.A cites and Communications Act
 19 of 1934, marked for identification.)
 20 MR. SMITH: Do you have a set for me?
 21 MR. WHITE: Yes. Just bear with us.
 22 HEARING EXAMINER ASSELTA: Still handing out
 23 material?
 24 NEW SPEAKER: Yes, I am.
 25 (A discussion is held off the record.)

1 HEARING EXAMINER ASSELTA: Okay, Mr. White.
 2 are we ready to go?
 3 MR. WHITE: Yes.
 4 BY MR. WHITE:
 5 Q. Mr. Vasington, did you take a look at these
 6 documents which we've marked Rate Counsel Exhibit 12?
 7 If you turn to the second page, there's a
 8 definition of protected telephone service.
 9 Do you see that?
 10 A. Yes.
 11 Q. Okay. If you now go to the third page which is
 12 48:2-21.1(a), look at paragraph (c).
 13 A. 8(c)?
 14 Q. Yes.
 15 A. Okay.
 16 Q. Does that provide that no local exchange
 17 telecommunications company may use revenues earned or
 18 expenses incurred in conjunction with noncompetitive
 19 services to subsidize competitive services?
 20 A. You've read that correctly.
 21 Q. Now, you're claiming that Verizon New Jersey is
 22 incurring losses, substantial losses. Correct?
 23 A. Yes.
 24 Q. Is it your position that rate regulated services
 25 that are still rate regulated are PAR below cost?

1 And I'm trying to explore this with this witness
 2 whether, in fact, that is not, in fact, the case.
 3 Because the other side of that coin is I
 4 think we can also demonstrate that the rate regulated
 5 services are above costs. And if you look at UNE rates
 6 this Board established which is a statewide average is
 7 ten-twenty-one which included a reasonable profit, the
 8 rates that they're currently charging above that so the
 9 rate regulated services must be generating a profit.
 10 And if they're generating a profit and overall they're
 11 generating a loss, that means that they're subsidizing
 12 competitive services and that's in violation of the
 13 statute.
 14 HEARING EXAMINER ASSELTA: That's your
 15 expert opinion and assumption.
 16 MR. WHITE: Yes.
 17 HEARING EXAMINER ASSELTA: Okay.
 18 MR. SMITH: I continue to object based upon
 19 the fact that it was ruled that costs were outside the
 20 scope of the proceeding.
 21 COMMISSIONER FOX: You can't make the
 22 decision unless you know what the costs are.
 23 MR. SMITH: No. There was a ruling that the
 24 costs --
 25 COMMISSIONER FOX: Maybe the chair needs to

1 A. I haven't looked at it in this case.
 2 In the prior access case we did show that they
 3 were below cost in 2009. Cost meaning total cost.
 4 That's not the same as a subsidy test. If you're
 5 applying the statutory provision of the subsidy test,
 6 you only count direct costs for that. And there's a lot
 7 of Board orders and testimony discussing those
 8 distinctions.
 9 Q. So it's your position that rate regulated
 10 services are profitable, just the subset of rate
 11 regulated services.
 12 MR. SMITH: Commissioner, I'm going to
 13 object. Just the most recent rulings costs were
 14 determined to be outside the scope of the proceeding.
 15 I'm not sure where Mr. White is going. But it seems
 16 that he has entered into that area that is outside as
 17 opposed to inside the scope. So I object.
 18 MR. WHITE: Where I'm going with this is you
 19 have a statutory prohibition that rate regulated
 20 services can't subsidize competitive services. I submit
 21 that the losses that they're claiming they're incurring
 22 if you believe them means that their competitive
 23 services which is 90 percent of their services are
 24 competitive, they must be performing at a loss and,
 25 therefore, they're in violation of this prohibition.

1 reconsider that ruling if, in fact, we need the costs to
 2 be able to look at whether there's subsidization.
 3 MR. SMITH: But that is unfair to Verizon
 4 and CenturyLink because --
 5 HEARING EXAMINER ASSELTA: In this
 6 proceeding, as counsel has said, we can't go there and
 7 can't ask for that in this particular proceeding.
 8 COMMISSIONER FOX: So we can do our own
 9 proceeding --
 10 HEARING EXAMINER ASSELTA: Yes.
 11 COMMISSIONER FOX: -- to see if, in fact,
 12 they violated a Board order.
 13 HEARING EXAMINER ASSELTA: Correct.
 14 MR. WHITE: Then the only question I would
 15 have, your Honor, how do they bring losses into this
 16 case at all. If they're going to claim losses, then
 17 that -- that leads you to the next question is what
 18 services sustained those losses and are those losses
 19 consistent with statute.
 20 Now, we can brief that point and we're more
 21 than happy to do it and move on. But I would just
 22 suggest that that is, you know, that they can't have it
 23 both ways. They can't be claiming losses and then try
 24 to hide where the losses are and whether or not it's
 25 also a violation of statute.

1 MR. SMITH: We're providing the annual
 2 report to rate counsel. We've provided our tax returns
 3 to rate counsel. And it was ruled early on that the
 4 costs are outside of the proceeding. If Mr. White wants
 5 to brief it, let him brief it. We will respond in our
 6 briefs. We think it's outside of the scope.
 7 HEARING EXAMINER ASSELTA: *Do you want to*
 8 brief that?
 9 MR. WHITE: Yes, I'll brief it, and I'm
 10 happy to do that.
 11 Q. And then if you go to the last page of that
 12 exhibit, look at Subsection K of Section 254 of the
 13 Communications Act, do you see there's also a
 14 prohibition at the federal level that you can't use --
 15 there's a provision that says the carriers may not use
 16 services that are not competitive to subsidize service
 17 that are subject to competition?
 18 A. Again, you've read that correctly.
 19 Q. And did you do any analysis in this proceeding
 20 whether or not you complied with that?
 21 MR. SMITH: Again, I'm going to raise the
 22 same objection related to the scope of the proceeding.
 23 If the --
 24 MR. WHITE: We will brief that one as well.
 25 MR. SMITH: And we're going to reserve the

1 HEARING EXAMINER ASSELTA: Yes.
 2 MR. WHITE: In terms of this there was two
 3 days of hearing scheduled. I anticipated that today
 4 we'd spend most of the entire day on their witnesses.
 5 Ms. Baldwin is here today. Ms. Bosely is
 6 not coming in until tomorrow night, figuring that we
 7 would spend the full day. If we have time left over
 8 today, we are prepared to put Ms. Baldwin on without
 9 Ms. Bosely if that is acceptable to the other parties.
 10 MS. BENEDEK: It is acceptable to
 11 CenturyLink.
 12 MR. SMITH: It is acceptable.
 13 MR. WHITE: If it can be done. And we're
 14 also prepared to come back Thursday. I know that we'd
 15 have to convene hearings at one o'clock because of
 16 commitments that Anthony has to brief the Governor on an
 17 issue, and that's also fine with us. If it's necessary,
 18 it all depends on how far we get today. But my goal
 19 here today is to finish up with Mr. Vasington and
 20 Mr. Harper.
 21 HEARING EXAMINER ASSELTA: *Let's back for a*
 22 half hour. Okay. Thirty minutes.
 23 MR. WHITE: That's fine.
 24 (A lunch recess is taken.)
 25 HEARING EXAMINER ASSELTA: *I think we're*

1 right as part of the briefing of the process our first
 2 argument is going to be it's outside the scope of the
 3 proceeding.
 4 COMMISSIONER FOX: And we're going to take
 5 it from there as well.
 6 MR. SMITH: The Board has wide jurisdiction.
 7 MR. WHITE: Can we take a short break?
 8 Would that be all right?
 9 HEARING EXAMINER ASSELTA: *How much more do*
 10 you have?
 11 MR. WHITE: I've got probably I'd said 2 to
 12 3 hours on this. I expect, your Honor, to be able to
 13 get done today with both witnesses. That's my goal.
 14 HEARING EXAMINER ASSELTA: *That's our goal*
 15 too.
 16 MR. WHITE: And I'm willing to stay as late
 17 as necessary to do that. But I mean, you know, we are
 18 prepared to move this along and this thing should speed
 19 up.
 20 MS. BENEDEK: I'd like to know to what
 21 extent -- what do those statements mean relative to
 22 whether we get out of here today. We do have rate
 23 counsel witnesses that will be subject to cross and the
 24 question of whether we actually conclude today, if he
 25 wouldn't mind please elaborating.

1 ready to resume here, Mr. White.
 2 Mr. White, let's start with you again.
 3 MR. WHITE: Thank you, your Honor.
 4 I have a series of exhibits I'll identify
 5 them. Rate Counsel Exhibit 8, and it's a three part
 6 exhibit, it includes the list of companies by revenue
 7 based upon the assessments.
 8 Those are Rate Counsel CLEC Survey which 8B,
 9 and 8C is the assessment for cable companies in the
 10 state.
 11 Exhibit RC-10 is a colored document dealing
 12 with RC-VNG-34. It purports to address various
 13 categories of line loss.
 14 Exhibit 11 is the recent order by the
 15 Appellate Division, the access order case.
 16 Exhibit 13 is the NPS survey - retail -
 17 internal survey which was provided by Verizon in
 18 response to RC-VNJ-203.
 19 There's a Wall Street Journal article which
 20 identifies RC Exhibit 14.
 21 Exhibit 15 is legislation proposed in
 22 Massachusetts.
 23 And these are all documents I'll be asking
 24 the witness questions on.
 25 HEARING EXAMINER ASSELTA: Okay.

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1 (RC-8A, Only a Few Companies Dominate New
 2 Jersey's Telecommunications Markets, State Assessments:
 3 FY 2011-2012, marked for identification.)
 4 (RC-8B, RC-CLEC Survey, marked for
 5 identification.)
 6 (RC-8C, 2012 Cable Ratepayer Assessments,
 7 marked for identification.)
 8 (RC-10, Document re RC-VNG-34, marked for
 9 identification.)
 10 (RC-11, Access Order by Appellate Division,
 11 marked for identification.)
 12 (RC-13, NPS Survey - Retail DA - Internal
 13 Survey, marked for identification.)
 14 (RC-14, Article, Competition Worries Snag
 15 Verizon Deal on Airwaves, dated July 13, 2012, marked
 16 for identification.)
 17 (RC-15, The Commonwealth of Massachusetts,
 18 House Docket No. 04302, marked for identification.)
 19 BY MR. WHITE:
 20 Q. Mr. Vasington, tell me when you're ready we'll
 21 begin.
 22 A. I'm ready.
 23 Q. If we look at Exhibit 8A, B, and C.
 24 A. A is the assessment.
 25 Q. Yes.

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1 A. And the B is the CLEC survey.
 2 Q. Yes.
 3 A. And I don't know if I've seen C before.
 4 Q. C is the cable assessment.
 5 A. Can you explain?
 6 I don't know -- what is cable assessment?
 7 Q. Cable companies get assessed just like telephone
 8 companies.
 9 A. Oh, the Board assessment.
 10 Q. Yes.
 11 A. Okay. All right.
 12 Q. And if you go to the last page of Exhibit 8A,
 13 there's a total telecommunications revenue.
 14 Do you see that number?
 15 A. Total for intrastate services.
 16 Q. Yes. Correct. Exactly. Intrastate.
 17 A. Or wireless or VoIP.
 18 Q. Right.
 19 A. Right.
 20 Q. The only services revenue reported by these
 21 companies.
 22 A. Yes.
 23 Q. And you see that if you take the Verizon revenue
 24 which is roughly \$1.2 billion. Do you see that?
 25 A. Yes.

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1 Q. You have MCI as well, MCI Access.
 2 A. Yes. MCI Communications.
 3 Q. Right, which is 64.
 4 But then there's also Metro Access, MCI metro
 5 Access, further on down, 8 million 2.
 6 A. Okay.
 7 Q. You see AT&T on that list for 120 million,
 8 change?
 9 A. Yes.
 10 And does Teleport report separately because
 11 that's AT&T.
 12 Q. That's separate. You're correct.
 13 And subject to check, AT&T does not provide
 14 residential or business customers -- strike that.
 15 AT&T does not currently accept new customers for
 16 residential and single-line business customers.
 17 Is that correct?
 18 A. I don't know. I haven't looked at their tariff.
 19 Q. Subject to check, would you accept that as
 20 correct?
 21 A. Subject to check, yeah.
 22 You said residential and single-line, they don't
 23 take a single-line business customer that comes to them.
 24 Q. New customer.
 25 In fact, MCI has a provision in its tariff,

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1 doesn't it, that has grandfathered existing customers
 2 but not accepting new customers for residential
 3 services. Is that correct?
 4 A. Subject to check. I haven't looked at their
 5 tariff.
 6 Q. So as a percentage of gross revenue, Verizon's by
 7 and large is one of the -- is a significant provider of
 8 telecom services in New Jersey. Correct?
 9 A. Well, the statement is correct. But there's a
 10 limitation to this exhibit that I discussed in my reply
 11 testimony which is that it's not all telecommunication
 12 services. It's a subset of services. It does not
 13 include IP services which are all of the telephone
 14 services offered by the cable companies who are single
 15 largest competitor and also does not include wireless
 16 services which is another significant competitor to us.
 17 So within the context of this document, we're
 18 certainly a significant number. But I think the Board
 19 needs to be clear that this is only a subset of all
 20 telecommunication services in the state.
 21 Q. The second entry is Comcast Business
 22 Communications. Correct?
 23 A. Yes.
 24 Q. That could capture all telecommunications
 25 services, their intrastate services. Correct?

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1 A. Yes.

2 With clarification that VoIP, V-o-I-P, voice-over

3 Internet protocol, Internet protocol based services are

4 not categorized as intrastate. So when you say this

5 does not include intrastate services, you're essentially

6 saying it doesn't include a vast majority of their

7 telecommunication services.

8 COMMISSIONER FOX: Could I just clarify?

9 Are you saying that the voice-over -- does

10 Verizon have voice-over Internet protocol?

11 THE WITNESS: Yes.

12 COMMISSIONER FOX: That's the FiOS. Right?

13 THE WITNESS: Well, some of FiOS. FiOS

14 voice is provided in two ways. One is what we call

15 traditional circuit switched or to get real technical

16 time divisioned multiplexing. So some FiOS voice

17 customers get service over a circuit switch. It's just

18 the way they did in the past with copper wires. Other

19 FiOS voice customers get the service from a product that

20 we call FiOS digital voice. And FiOS digital voice is

21 an IEP, Internet protocol based service. So that's VoIP

22 more like cable companies provide VoIP.

23 COMMISSIONER FOX: Does Verizon provide more

24 VoIP than it does the traditional landline?

25 THE WITNESS: No. The numbers are in the

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1 record, Commissioner, if you want to look at them. We

2 have the number of FiOS digital voice customers in there

3 and the number of traditional landline, both from our

4 legacy landline and from other services.

5 COMMISSIONER FOX: Thank you.

6 THE WITNESS: You're welcome.

7 Q. Isn't it true that the FCC hasn't finally

8 determined what the proper classification of VoIP

9 traffic is in terms of interstate or intrastate?

10 A. For intercarrier compensation that's true. But

11 for purposes of regulatory jurisdiction, no, I don't

12 believe that's true.

13 Q. Well, isn't there a proceeding in 2005 that was

14 intended to address that? Are you aware of that

15 proceeding?

16 A. There have been a lot of proceedings that have

17 addressed that. I don't know which one you're referring

18 to in 2005. But I know that IP based services are not

19 state regulated in any state.

20 Q. But that's not true. I can give you an example.

21 In New Jersey we have a statute dealing with VoIP that

22 says it's not regulated. Correct?

23 A. I'm telling you my opinion and my understanding

24 is that there's no state that regulates VoIP service as

25 an intrastate service. It's not tariffed as an

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1 intrastate service anywhere.

2 Q. So this \$168 million reported for Comcast

3 Business Communications, what communications services

4 would they be other than VoIP?

5 A. I don't know. My understanding is they don't

6 have a tariff so I don't know what services they're

7 talking about there.

8 Q. And then there's also entry for Cablevision

9 Lightpath. Correct?

10 A. Yes.

11 Q. And that's 47 million.

12 A. Right.

13 Q. The second group of documents is Rate Counsel

14 Exhibit 8B which is our CLEC survey.

15 A. Okay.

16 Q. And this categorizes the various CLECs that

17 operate and the services they provide. Correct?

18 A. Yes. Rate counsel provided this with its

19 testimony.

20 Q. Okay. Now, I refer you to 8C, if you go to the

21 very last line, you see the entry?

22 A. Wait. Wait. I'm not there yet.

23 The last page, last line.

24 Q. Page 1 of Exhibit 8C.

25 A. Oh, page 1.

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1 Q. Yes.

2 A. ATC Outdoor DAS?

3 Q. Yes.

4 A. Okay.

5 Q. You see the last line?

6 A. Yep.

7 Q. There's a number for Verizon, \$476 million.

8 MR. SMITH: I'm going to object to the entry

9 of this exhibit because this is -- these are all files,

10 cable TV numbers, aren't they, if I understand you?

11 MR. WHITE: This is amount of video services

12 which they're assessed under Section 5A of the Cable

13 Act. This is reported intrastate cable revenue here in

14 New Jersey.

15 A. I apologize for one second, I was looking at the

16 CLEC survey.

17 MR. SMITH: I still object to the --

18 HEARING EXAMINER ASSELTA: You're not

19 accepting these numbers?

20 MR. SMITH: No. I'm objecting to the entry

21 of evidence related to FiOS television and video which

22 is outside the scope of the proceeding. It doesn't have

23 anything to do with the three criteria or the four

24 services that are being examined, five, if you get

25 discretionary.

<p>Cross - Vasington Page 82</p> <p>1 HEARING EXAMINER ASSELTA: Okay.</p> <p>2 Q. Mr. Vasington, isn't it true --</p> <p>3 MR. SMITH: I'm sorry. I didn't hear a</p> <p>4 ruling.</p> <p>5 HEARING EXAMINER ASSELTA: Why is this</p> <p>6 relevant?</p> <p>7 MR. WHITE: Two reasons, your Honor. First</p> <p>8 of all, the telecom plant that the cable plant they use</p> <p>9 to provide video is considered to be telecom plant so</p> <p>10 it's reflected as telecom plant under the statewide</p> <p>11 franchise. So, therefore, the cost associated with that</p> <p>12 is in their telephone plant. So if looking at their</p> <p>13 revenues and their profits or losses, you have to also</p> <p>14 portion out -- you've got to allocate out the revenue</p> <p>15 that's earned from video based upon the use of the</p> <p>16 telecom plant and this is what this thing enables you to</p> <p>17 do.</p> <p>18 HEARING EXAMINER ASSELTA: Brief it.</p> <p>19 MR. WHITE: What?</p> <p>20 HEARING EXAMINER ASSELTA: What you like to</p> <p>21 brief it?</p> <p>22 MR. SMITH: Thank you, we will just note our</p> <p>23 objection raised in the brief.</p> <p>24 Q. Next exhibit is RC-10, we're high-tech on this</p> <p>25 one. We have this in color. This is their response</p>	<p>Cross - Vasington Page 84</p> <p>1 landlines.</p> <p>2 Q. Now, competitive wins, those are -- could you</p> <p>3 explain what that is?</p> <p>4 A. My understanding from this document is it is</p> <p>5 generated by our customer service reps who have to</p> <p>6 categorize both additions and losses under some</p> <p>7 checkbox. And so if a -- if they believe a customer is</p> <p>8 coming from a competitor, then they check off the</p> <p>9 competitive win category. If it's just coming from</p> <p>10 growth, someone moving into the territory or calling to</p> <p>11 initiate a new service, they would click the growth box.</p> <p>12 Q. And what about competitive driven ports out?</p> <p>13 A. That would be where the customer's telephone</p> <p>14 number is being ported to a competitor where a</p> <p>15 competitor has initiated a transfer of that customer's</p> <p>16 telephone number to their own services so it's not a</p> <p>17 call from a customer itself, it's coming in from the</p> <p>18 competitive provider.</p> <p>19 Q. And, again, this would include both regulated and</p> <p>20 nonregulated residential service. Correct?</p> <p>21 A. Yes. It would even include wireless because</p> <p>22 numbers can be ported to wireless service.</p> <p>23 Q. Under customer-driven, there's a category there.</p> <p>24 A. Yep.</p> <p>25 Q. And there's some subcomponents listed, do you see</p>
<p>Cross - Vasington Page 83</p> <p>1 RC-VNJ-34 which purports to address line loss based upon</p> <p>2 inward and outward line loss.</p> <p>3 Are you familiar with this exhibit,</p> <p>4 Mr. Vasington?</p> <p>5 A. Yes, I am.</p> <p>6 Q. All right. Now, let's -- I'd like to go to</p> <p>7 page 4 first dealing with business access lines.</p> <p>8 A. Okay.</p> <p>9 Q. First of all, do these numbers include data on</p> <p>10 legacy lines as well?</p> <p>11 A. Single-line business customers?</p> <p>12 Q. Yes.</p> <p>13 A. I believe that it does not distinguish between --</p> <p>14 it's all business lines.</p> <p>15 Q. It's all business lines. So it's competitive and</p> <p>16 noncompetitive lines.</p> <p>17 A. Right.</p> <p>18 Q. All right. Now, let's go back to page 1.</p> <p>19 For residential at least you've got competitive</p> <p>20 wins and you go from January '09 to December '11 which</p> <p>21 is pages 1, 2 and 3 of the exhibit. Correct?</p> <p>22 A. And this also includes competitive and</p> <p>23 noncompetitive lines. As classified in New Jersey.</p> <p>24 Q. So it would include bundles.</p> <p>25 A. It includes packages, bundles, and legacy</p>	<p>Cross - Vasington Page 85</p> <p>1 that?</p> <p>2 A. Yes, I do.</p> <p>3 Q. Can you explain what is customer initiated?</p> <p>4 MR. SMITH: Can I just have one second with</p> <p>5 the witness?</p> <p>6 HEARING EXAMINER ASSELTA: Sure.</p> <p>7 MR. SMITH: Can we have just one moment</p> <p>8 because we have a document we would like to refer to.</p> <p>9 A. All right. Do you want me to go through the</p> <p>10 subcategories --</p> <p>11 Q. Yes.</p> <p>12 A. -- and explain what they are?</p> <p>13 Q. And what are you basing that on?</p> <p>14 A. I didn't know myself when reviewing this document</p> <p>15 so I asked the person we got the document from if he can</p> <p>16 define the terms for us.</p> <p>17 Q. Have you provided that document to rate counsel</p> <p>18 in discovery?</p> <p>19 A. No.</p> <p>20 MR. WHITE: Can I make a transcript request</p> <p>21 for that document, please.</p> <p>22 HEARING EXAMINER ASSELTA: Okay.</p> <p>23 Q. Okay. Go ahead.</p> <p>24 A. Customer initiated is the customer tells the</p> <p>25 service rep that they're moving within Verizon franchise</p>

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1 of Verizon territory but doesn't want Verizon at the new
 2 location. Substitution is when the customer tells the
 3 rep that they are going to use another service provider
 4 for their -- for their service. Customer is if moves
 5 lost is -- no, I apologize. I messed that up.
 6 Substitution is the customer tells the rep that
 7 they're going to use a different service provider. If
 8 moves lost is the customer tells the rep that they're
 9 moving within the Verizon territory but doesn't want
 10 Verizon at the new location. Uncontrollable is two
 11 things, either the customer is moving out of the Verizon
 12 service territory or there's the customer has died.
 13 Utilization adjustment is essentially a catchall -- my
 14 understanding is that it's a catchall for when the rep
 15 doesn't input a disconnect, a reason for doing it.
 16 Q. And the last category customer-driven nonpay.
 17 A. That's company-driven nonpay, that's for
 18 disconnect for nonpayment of service.
 19 Q. And you will notice that that's a pretty
 20 consistent number from '09 to December 2011, it ranges
 21 anywhere from -- well, you can see for yourself.
 22 A. Well, pretty consistent is a subjective term. I
 23 see there's --
 24 Q. It certainly exceeds on average 5,000 per month,
 25 doesn't it, on an average basis?

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1 A. Eyeball basis, yes, it looks like it.
 2 Q. And then if you take --
 3 A. Well, actually, I'm not sure about that because
 4 you get into 2011 and you have numbers in 3,000s and the
 5 2,000s and there's quite a few numbers under 5,000s so
 6 in the 4,000s.
 7 Q. All right. In terms of inward growth there's
 8 also that significant variation as well and it ramps up
 9 and then starts ramping down in April '10. Correct?
 10 A. I'm not sure you can make conclusions on trends
 11 based on this data. It appears to be fairly variable.
 12 I mean the numbers are what the numbers are.
 13 Q. Give you an example, for 2011, with the exception
 14 of August and December, the numbers are -- if you round
 15 up, they're 6,000 lines per month with the exception of
 16 July, August, and -- and October and November they're
 17 over five. Right?
 18 A. What year?
 19 Q. December 2011.
 20 A. Inward growth?
 21 Q. Yes. Total.
 22 A. Inward subtotal, total.
 23 Q. Subtotal. Yes.
 24 A. Yeah, on that I think it's very clear and it's
 25 consistent with the data we've shown in our testimony

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1 that we're adding fewer lines and we're losing many more
 2 lines and that trend continued all the way from 2009
 3 through 2011. That is why you see our number of lines
 4 shrinking.
 5 Q. Well, let's just take for an example, let's look
 6 at January '09.
 7 A. Okay. We gained 13,000 lines and we lost 38,000
 8 lines.
 9 Q. Well, you lost 15 to the competition. And then
 10 if you add back in the nonpay, which is not competition,
 11 is it?
 12 A. No.
 13 Q. And utilization adjustment can't be necessarily
 14 competition either. Right?
 15 A. No, it could be.
 16 Q. But you can't tell, can you?
 17 A. Right. The rep did not code anything in.
 18 Q. And you have the burden of proof in this
 19 proceeding, don't you, to establish a position?
 20 MR. SMITH: Objection. You're asking for a
 21 legal conclusion.
 22 Q. Is it your understanding that you have the burden
 23 of proof in this proceeding?
 24 A. Yes. And you'll also notice that the utilization
 25 adjustment number shrinks over time as we get into 2011.

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1 The reps did a better job of coding things because that
 2 number starts to go down quite a bit. Some of those
 3 could be competition, some of those may not be
 4 competition.
 5 Q. But again this is all lines, correct, both
 6 competitive and noncompetitive? Correct?
 7 A. Yeah. Our number of lines are shrinking in both
 8 our competitive category and our noncompetitive
 9 category. In fact, they're shrinking more in our
 10 noncompetitive category.
 11 Q. I'd like to show you Exhibit RC-11 next.
 12 A. Which -- can you identify which one?
 13 Q. It's the appellate decision in the matter of the
 14 investigation and review of local exchange intrastate
 15 exchange access rates.
 16 A. Okay.
 17 MR. SMITH: This --
 18 Q. I refer you to go to page 54.
 19 MR. SMITH: I'm going --
 20 Q. And 55.
 21 MR. SMITH: I'm going to object on the
 22 relevance grounds just because I don't think it's
 23 relevant because I don't have an understanding of what
 24 the purpose of the document is in this case.
 25 HEARING EXAMINER ASSELTA: Can you explain

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1 that?

2 MR. WHITE: What I'm going to point him to

3 the end of the decision where there were claims they

4 were losing money as a result of access charge reform.

5 And in here the Court specifically addressed the New

6 Jersey law and statute that basically says the

7 prohibition on subsidization of services only applies

8 from regulated subsidizing competitive, not competitive

9 subsidizing rate regulated.

10 MR. SMITH: Well, the document states what

11 it states and it stands for itself.

12 Q. Is that your understanding, Mr. Vasington?

13 MR. SMITH: Have you seen this before?

14 THE WITNESS: No.

15 Q. You didn't read this decision?

16 A. No.

17 Q. Were you involved in the access case in this

18 proceeding?

19 A. I was a witness in the evidentiary case before --

20 before the Board. Verizon doesn't let me write briefs

21 to appellate courts so I'm not involved in that portion

22 of the proceeding.

23 Q. So you didn't care what the outcome of those

24 appeals were?

25 MR. SMITH: Objection, your Honor. That's

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1 What the data are showing are 411 usage by age

2 and length of time. So, for example, what this is

3 showing is that for different age groups how many years

4 have you been using Verizon DA, not usage by age group.

5 It's measuring how many years you've been using it. And

6 naturally as you get older, the older people are the

7 more years they've been using the service.

8 And if you look at the script itself on the

9 following page, you can see that the question this is

10 referring to is Question 8, which is, for how long have

11 you been using Verizon 411 services. So whoever put

12 this chart together, I don't think the heading they put

13 on the chart actually matched the data that they were

14 referring to.

15 Q. You didn't correct that, did you, in your

16 testimony or in a subsequent letter to rate counsel?

17 A. It's not a correction. You asked for a document.

18 This is actually what the documents represents. My

19 opinion is the person who put the document together was

20 kind of sloppy in how they labeled things, but that's

21 not a correction.

22 Q. The next exhibit is RC Exhibit 14. This is an

23 article that appeared in the Wall Street Journal. I'm

24 going to refer you to page 29 in your rebuttal

25 testimony.

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1 argumentative.

2 HEARING EXAMINER ASSELTA: Sustained.

3 Q. Are you aware that Verizon appealed the decision?

4 A. Yes.

5 Q. Are you later aware that they withdrew it?

6 A. Yes.

7 Q. And -- fine. I'll move on.

8 I'm now going to go to Exhibit 13 which is a

9 response you did to RC-VNJ-203. It deals with directory

10 assistance.

11 A. Okay.

12 Q. This exhibit was also subject to the motion to

13 compel. But for this purposes, I'll refer you to the

14 last page, page 10.

15 A. The last page is the survey script.

16 Q. 411 usage by age group.

17 A. Yes.

18 Q. Do you see 65 plus?

19 A. Yes.

20 Q. It has the highest usage by age group. Correct?

21 A. Actually, no. Glad you brought this up, because

22 as I was reviewing this document, it became clear to me

23 that the heading of the graph on the bottom of the

24 sheet, the second half of the picture, does not actually

25 match what the data are showing.

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1 A. Wait a minute. Can I read the article, please?

2 MS. BENEDEK: What was the page reference?

3 Q. Page 29 and 30 of your rebuttal testimony.

4 When you're through reading the article, let me

5 know and then we can turn to your testimony.

6 MR. SMITH: Actually, we can turn to my

7 objection first because that's the appropriate

8 procedural order. We object to any line of questioning

9 that goes into the cross-marketing agreement between

10 Verizon affiliates.

11 The cross-marketing agreement doesn't

12 involve Verizon New Jersey, Inc., at all. Mr. Vasington

13 actually points that out on his testimony starting on

14 page 28. We don't see the relevance and we also note

15 that neither Mr. Vasington nor I certainly not involved

16 in the cross-marketing agreement case.

17 I know that there has been an exchange of

18 proprietary documents in that case. I know that rate

19 counsel and his witnesses have access to those. We

20 don't. So besides the fact that it's not relevant, out

21 of a matter of fairness, they have the upper hand on us

22 in the sense they know more than we do about this.

23 HEARING EXAMINER ASSELTA: Okay.

24 MR. WHITE: On page 29 and 30, they

25 specifically refute our position that this is relevant

<p>Cross - Vasington Page 94</p> <p>1 to the Board's analysis and they go into quite some 2 detail and they cite to an executive vice president and 3 general counsel for Verizon rational for Verizon to 4 enter the joint marketing agreements and we've raised 5 issues about whether joint marketing agreements distorts 6 competition. And, in fact, that it also effects the 7 level of competition across a whole range of services. 8 And they brought it into this proceeding. And this 9 article clearly supports rate counsel's position, 10 Department of Justice is seriously looking at this, the 11 anticompetitive effects. 12 MR. SMITH: Well, it's for the Department of 13 Justice and the FCC to make a determination. If you're 14 going to go to a newspaper article, we're not involved 15 in the nitty-gritty in the legal case. We get clips all 16 day saying that, you know, there may be conditions 17 imposed, it may be approved, but it's really in the 18 bailiwick of the Department of Justice and the FCC. 19 And if we have questioning here in two weeks 20 from now, they approve the deal without any conditions, 21 then we're -- we also, as I said, it's a matter of 22 fairness. Rate counsel and its witnesses they have 23 signed nondisclosure agreements in that case. They put 24 in comments. They know much more about underlying 25 agreements then we certainly do. And the essential</p>	<p>Cross - Vasington Page 96</p> <p>1 Q. Did you support it? 2 A. Yes. 3 Q. Okay. 4 A. I lobbied in favor of it. 5 Q. Okay. If you go to page 1 dealing with telecom 6 companies and common carrier offering telephone service. 7 Do you see that? 8 A. Yes. 9 Q. This legislation focused on an 10 exchange-by-exchange basis. Correct? 11 A. Legislation focused on a lot of things. The 12 primary thing it did was exempt wireless service from 13 regulation. In fact, the latest version of this 14 legislation -- proposed legislation was changed to be 15 only the provision in Section 8 to exempt wireless 16 service from regulation. 17 Q. So they decided to keep regulation of local 18 exchange service and same issue we have here in this 19 proceeding. Correct? 20 A. Back up for a second. First of all, this 21 legislation just had a hearing last week so nothing has 22 been decided by anybody. 23 Q. But you supported this legislation at the time. 24 Right? 25 A. Yeah.</p>
<p>Cross - Vasington Page 95</p> <p>1 thing is that it's not relevant. 2 MR. WHITE: This directly undermines the 3 witness's credibility, the statements in his rebuttal 4 testimony about significance of these marketing 5 agreements so it's relevant for those purposes and we 6 will brief it accordingly. 7 And even if they do come out with a 8 subsequent decision approving the transaction, they can 9 certainly allude -- they can point that out in their 10 briefs as well. It doesn't mean they're not going to 11 impose conditions on any deal that is ultimately done 12 and those conditions could also effect what the effect 13 here is in New Jersey and the independence of the 14 marketplace. 15 HEARING EXAMINER ASSELTA: Okay. 16 Q. Okay. The last exhibit which is Exhibit 15, this 17 is legislation that was proposed in Massachusetts. It's 18 some legislation that was proposed last year here in New 19 Jersey to have legislation declare services competitive. 20 Mr. Vasington, if you take a look at it, tell me 21 when you're finished and then I have questions for you. 22 A. I'm familiar with it. 23 Q. Did you participate in these Massachusetts 24 consideration of this Massachusetts legislation? 25 A. Yes.</p>	<p>Cross - Vasington Page 97</p> <p>1 Q. And you supported that if you're going to deal 2 with telecom regulation, you would look at 3 exchange-by-exchange basis. Is that correct or not? 4 A. What I would support as a legislative basis 5 doesn't mean I think it's necessarily the appropriate 6 economic way to evaluate things. This -- any 7 legislation is designed in context of what is feasible 8 and achievable in the legislative context which may be 9 very different from what I would advocate, say, as a 10 witness advocating for what I think the correct policy 11 is. The legislative arena is very different from an 12 administrative arena in my opinion. 13 HEARING EXAMINER ASSELTA: So your 14 establishment here is a similar piece of legislation 15 that passed the New Jersey State Legislature is also 16 working its way through the Massachusetts legislature 17 which exempts the regulatory powers of this body here. 18 MR. WHITE: Actually, it's a little broader 19 than, it's the fact that they attempted to get 20 regulatory relief through legislature. They were 21 unsuccessful here in New Jersey. And then they did 22 similar recently in Massachusetts, introduced 23 legislation. The significance of this legislation is it 24 counters the whole thing. You look at the whole state 25 as a market which is what their position has been in</p>

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1 their testimony. You don't look at the wire center or
 2 local exchange basis. And this legislation they
 3 supported, specifically addressing that you look at the
 4 local exchange and this counters and conflicts with his
 5 statements here and it's appropriate for
 6 cross-examination and the inconsistency can be used to
 7 undermine his credibility at this point.
 8 MR. SMITH: We don't obviously think it's
 9 another state, has no bearing on the particular
 10 standards. You know, we think it's not relevant to this
 11 proceeding. If we open the door for that, we're going
 12 to go out and survey fifty states and we're going to go
 13 through all of the states. What's before the Board are
 14 three statutory criteria.
 15 HEARING EXAMINER ASSELTA: How many
 16 questions do you have relative to this?
 17 MR. WHITE: I have no further questions. I
 18 just point out what it says.
 19 HEARING EXAMINER ASSELTA: All right.
 20 BY MR. WHITE:
 21 Q. Okay. Mr. Vasington, I want to refer you to
 22 Verizon New Jersey statistics and sources of
 23 information.
 24 You have a number that you set forth in
 25 RC-VNJ-166 for residential FiOS lines?

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1 A. I don't have that discovery in front of me.
 2 166?
 3 HEARING EXAMINER ASSELTA: Just a matter of
 4 record here regarding the briefings moved that are
 5 outside the scope of this Board order, I will later
 6 determine whether such briefings should occur even
 7 though we're agreeing now, we'll save that determination
 8 for later.
 9 MR. SMITH: Thank you.
 10 (START CONFIDENTIAL PORTION TRANSCRIPT.)
 11 Q. I can show -- I prepared an exhibit which I --
 12 MR. SMITH: What's the number again?
 13 Q. You reported 561,170 residential FiOS lines.
 14 (END CONFIDENTIAL PORTION TRANSCRIPT.)
 15 MR. SMITH: We're getting into the
 16 confidential.
 17 MR. WHITE: It is proprietary so we'll put
 18 it under seal.
 19 MR. SMITH: Is everyone in the room -- has
 20 anyone in the room not signed the nondisclosure
 21 agreement. Okay. Thank you.
 22 Q. The numbers will be confidential. After the
 23 numbers, then it ends and we'll go on to the next
 24 number.
 25 A. So these are form -- Form 477 submissions that

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1 Verizon provides to the FCC and which page are we
 2 looking at?
 3 Q. It deals with residential FiOS as reported. If I
 4 can show you an exhibit that we prepared.
 5 Let me back up. You identified number of
 6 households in the New Jersey in your testimony.
 7 Correct?
 8 A. We identified the number of households in our
 9 service territory.
 10 Q. Right. And you also identified retail primary
 11 residential lines in your testimony as well. Right?
 12 A. Yes.
 13 Q. And residential primary lines. Correct?
 14 A. I think those are the same things.
 15 What was the first question?
 16 Q. You have two different numbers. I can tell
 17 you --
 18 MR. SMITH: Page reference to the testimony?
 19 Q. One's attachment RC attachment RC-VNJ-6A, B, D,
 20 N-R, supplemental, March 19, 2012.
 21 The next category you had was residential primary
 22 lines which was different in the cite for that initial
 23 at 7 -- initial testimony at 7.
 24 A. Yes.
 25 My direct testimony was filed in February and we

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1 updated that response to 6 as of March 19, 2012. So the
 2 numbers might not correspond exactly.
 3 Q. No, I understand.
 4 The 477 reports, if you go to 2011 on page two of
 5 the report. You have it there?
 6 A. What do I have there?
 7 Q. Under broadband optimum fiber end user category
 8 total connections.
 9 A. You're going to have to slow down because I'm not
 10 familiar with Form 477 and it's very small and dense so
 11 help me out on what I'm looking at.
 12 Q. Do you have the 477 report?
 13 A. Yeah. And I have page 2 of 6. It says page 2 of
 14 6 on the top.
 15 Q. Yes.
 16 A. And where am I looking from there?
 17 Q. On page 3 of 6 go down to Part 1A, broadband,
 18 optical carrier.
 19 A. Okay.
 20 Q. Do you see the number that's there under grade
 21 equivalent measure?
 22 A. Under grade equivalent, the words grade
 23 equivalent.
 24 Q. Connections.
 25 A. Yes. Yes.

1 Q. And then if you go to Column 5, there's a percent
 2 of that which are residential users.
 3 A. Percentage. That first category that connect to
 4 residential end users and have information transfer
 5 rates succeeding 200 kilobits per second in both
 6 direction.
 7 Q. Right. And there's a percentage there. Right?
 8 A. Right.
 9 (START CONFIDENTIAL PORTION OF TRANSCRIPT.)
 10 Q. If you multiple -- subject to check, if you
 11 multiply that percentage times the number, you'll come
 12 out with approximately -- proprietary began --
 13 five-six-one-one-seven-oh. End proprietary.
 14 (END CONFIDENTIAL PORTION OF TRANSCRIPT.)
 15 A. Okay. Okay.
 16 Q. You also report FiOS digital voice lines in your
 17 testimony. Correct?
 18 A. More space.
 19 Yes, in my reply testimony.
 20 Q. I believe it's in your rebuttal.
 21 A. It's in both I think.
 22 MR. SMITH: Do you have a page number on the
 23 rebuttal testimony? I'm curious where this is, all
 24 going, Mr. White. I know it's your cross-examination
 25 but.

1 MR. WHITE: Page 33 of his rebuttal.
 2 MR. SMITH: Say again, please.
 3 MR. WHITE: Page 33 of his rebuttal.
 4 MR. SMITH: Mr. White, I'm going to object
 5 on relevancy because I don't see where this is going at
 6 this point. You're throwing out a lot of numbers.
 7 HEARING EXAMINER ASSELTA: *What point are*
 8 you trying make here, Mr. White?
 9 MR. WHITE: In his testimony originally said
 10 you don't include FiOS lines that they served. He
 11 subsequently changed that in his rebuttal and provided a
 12 number.
 13 Q. Now, the question I have is under the 477
 14 reports, there's this other number that we just went
 15 through, I'm trying to find out what is the difference.
 16 HEARING EXAMINER ASSELTA: *There you go.*
 17 A. The 477 is broadband service. This is FiOS
 18 digital voice. I'm saying this.
 19 Sorry about that, Commissioners.
 20 HEARING EXAMINER ASSELTA: *It's okay.*
 21 A. The 477 report is reporting broadband service so
 22 FiOS Internet, people buying FiOS Internet which gives
 23 them crazy fast speeds to use the Internet.
 24 In my reply testimony on page 8 is our number of
 25 FiOS digital voice lines. So the number of our lines

1 that are used for IP VoIP telephony from FiOS -- FiOS
 2 customers.
 3 HEARING EXAMINER ASSELTA: *Is that clear?*
 4 Mr. White, move on.
 5 Q. So the FiOS digital voice lines you now say
 6 should probably be included in the number of lines that
 7 Verizon provides. Correct?
 8 A. Well, what I said was that it depends on what
 9 question you're asking. If you're asking how many
 10 regulated telephone lines we have, then the numbers I
 11 had in my direct testimony were what they were.
 12 After reading rate counsel's reply testimony, I
 13 thought it would also be useful for the Board to see --
 14 to answer the question, how many primary -- how many
 15 telephone lines -- how many households in our service
 16 territory has Verizon telecom telephone line so I added
 17 in FiOS digital voice lines as well.
 18 Q. And again the Internet number that you provided,
 19 broadband, again that's provided over the plant and the
 20 equipment that Verizon New Jersey operates here in New
 21 Jersey. Correct?
 22 A. Well, it's provided over our FiOS network. The
 23 FiOS number in the 477 report is provided over our fiber
 24 optic network which is not same as our core copper
 25 network.

1 Q. But it is all part of Verizon New Jersey's plant
 2 and equipment under the statewide franchise statute.
 3 Correct?
 4 MR. SMITH: It's asking for a legal
 5 conclusion. I object.
 6 Q. You're understanding is that it's provided, that
 7 is what the requirement --
 8 MR. SMITH: Still objectionable. It's still
 9 asking for a legal conclusion.
 10 HEARING EXAMINER ASSELTA: *Okay, move on.*
 11 Q. I'll move on.
 12 Can you return to your rebuttal testimony,
 13 page 13, lines 19 through --
 14 A. I have a lot of testimonies. Hold on a second.
 15 Rebuttal?
 16 HEARING EXAMINER ASSELTA: *How much more*
 17 with this particular witness do you predict?
 18 MR. WHITE: I'm making pretty good progress.
 19 HEARING EXAMINER ASSELTA: *It's looking a*
 20 little haggard.
 21 (A discussion is held off the record.)
 22 A. Okay. Rebuttal testimony. Got it.
 23 Q. Page 13 and 14 on page 13, lines 19 to the end of
 24 page and on page 14, lines 1 through 12.
 25 A. Okay. Yes.

<p>Cross - Vasington Page 106</p> <p>1 Q. This is your position in this section that you're 2 basically unable to sustain any profits. Correct? 3 A. I'm not in the same place. Maybe I am getting 4 haggard. I'm in my rebuttal, page 13. 5 MR. SMITH: The question, please explain 6 what you mean when you say that rate counsel's position 7 has been muddled. That's what I have in the middle of 8 page 13. Do I have the right place? 9 MR. WHITE: No. We're going to have to get 10 a correct cite. 11 Q. You did an elasticity study, correct, for 12 residential basic local service? 13 MR. SMITH: I'm going to object. Asked and 14 answered. 15 HEARING EXAMINER ASSELTA: <i>Did that in the</i> 16 beginning. 17 MR. WHITE: What I'm trying to go do now 18 with this line of questioning is that if you -- that was 19 done in a subset of lines that they offer. And if you 20 include other lines, including the FiOS lines and other 21 types of lines, including the requirements that are 22 under state law that for bundles you have to include the 23 price of the basic local exchange service that his 24 analysis is -- that they are unprofitable is incorrect. 25 MR. SMITH: Objection. We're getting into</p>	<p>Cross - Vasington Page 108</p> <p>1 thinks adding in FiOS revenues is going to make us 2 profitable, we pointed out that in the last few years 3 where negative net income even on a total company basis 4 and that includes FiOS cost and revenues because both 5 intrastate and interstate. 6 MR. WHITE: He's again mixing revenues with 7 profits. We're talking about revenues now. The test 8 for market power is a revenue generated basis, not a 9 profit generated basis. 10 HEARING EXAMINER ASSELTA: <i>Market power.</i> 11 what's market power? Explain to me. 12 THE WITNESS: Market power is the ability to 13 sustain an above market price and earn monopoly profits 14 from that. Profits is different than revenue. You can 15 have a service that generates a ton of revenues. And if 16 it's got really high costs, you're not going to generate 17 any profits. You have another service that you only get 18 \$10 from and it costs you a dollar to provide, you're 19 going to have a lot of profits. So profits and revenues 20 aren't the same thing at all. 21 Q. I'm going to refer you to page 4 of your rebuttal 22 testimony. 23 A. Yep. 24 Q. Lines 1 through 12, that's the corrected cite and 25 I apologize for the erroneous cite previously.</p>
<p>Cross - Vasington Page 107</p> <p>1 issue of cost again. 2 MR. WHITE: This is not an issue of cost. 3 This directly relates to his testimony that it was 4 unprofitable. Unprofitable is not related to cost in 5 any way. It's a question of whether or not the revenues 6 that they earned when you take into account line loss is 7 still positive revenue. It has nothing to do with 8 whether it's a profit or loss. He's referring to it as 9 unable to sustain revenues, let alone profits is what 10 his initial testimony was on this. 11 So all I'm trying to do is go over what 12 happens to his analysis if you include other lines. 13 MR. SMITH: We're getting into issues of -- 14 MR. WHITE: Other revenues, what happens to 15 other revenues to his analysis. 16 HEARING EXAMINER ASSELTA: <i>Are you prepared</i> 17 to answer that? 18 THE WITNESS: That is a big word concerning 19 what he just said. I'm not really following what he's 20 talking about. He asking -- I provided testimony in my 21 reply testimony that in annual reports we show we are 22 negative net income for the past number of years. 23 HEARING EXAMINER ASSELTA: <i>You stand by that</i> 24 report. 25 THE WITNESS: I can clarify it. If he</p>	<p>Cross - Vasington Page 109</p> <p>1 A. Okay. I'm there. 2 MR. SMITH: Some of this is proprietary, 3 confidential. 4 MR. WHITE: I'm not going get into the 5 numbers. 6 (START CONFIDENTIAL PORTION OF TRANSCRIPT.) 7 Q. Other than the fact that your bottom line -- and 8 this a proprietary, begin proprietary, unable to sustain 9 revenues, let alone any profits, end proprietary. 10 (END CONFIDENTIAL PORTION OF TRANSCRIPT.) 11 A. Correct. And I testified earlier that our 12 expenses have declined at slower pace than our revenues 13 had. So if we're not even able to sustain revenues and 14 our expenses aren't declining by as much, that, by 15 definition, would decrease our profits. 16 Q. But again this analysis is based upon a subset of 17 lines. Correct? 18 A. Yeah. This analysis is the subset of lines that 19 are subject to this proceeding for residential services 20 for Verizon. 21 So I'm rebutting. Rate counsel is saying that we 22 would be able to generate monopoly profits from legacy 23 landline residential customers in this case. And I'm 24 pointing out that even when we had the rate increases 25 from the prior settlement, we weren't even able to</p>

<p>Cross - Vasington Page 110</p> <p>1 sustain our revenues, our revenues went down. And 2 because our expenses haven't been going down by the same 3 proportion, our profits -- our losses are increased. 4 Q. The year ending number for 2010 shown in your 5 testimony, do you see that? 6 A. Yes. 7 Q. Is that only legacy lines? 8 A. Yes, it is. 9 Those are the only lines that the rate increases 10 were applied to. 11 Q. In your opinion. 12 A. In our tariff. 13 Q. What about the statute that requires you to -- 14 MR. SMITH: Objection. 15 Q. -- impute the residential standalone rate in your 16 bundles? 17 MR. SMITH: Objection. He's asking for a 18 legal conclusion. We've also been over this ground 19 earlier today. 20 HEARING EXAMINER ASSELTA: Move on. 21 MR. WHITE: Okay. 22 MR. SMITH: Commissioner, is it all right 23 if we take 5 or 10 minutes break for, just 5 or 24 10 minutes. 25 (A short recess is taken.)</p>	<p>Cross - Vasington Page 112</p> <p>1 that were updated in the new FCC report. Off the top of 2 my head, I know what the numbers are if it would help to 3 update them. 4 Q. Yes. 5 A. In my testimony I refer to the FCC's local 6 competition report on the percentage of the wireline 7 market that is represented by CLECs in New Jersey. In 8 my testimony I said it was 46 percent. In the latest 9 FCC local competition report, it's 49 percent served by 10 CLECs. In other parts of my testimony, I quoted the 11 FCC's broadband report as showing that 78 percent of New 12 Jersey households have broadband service and that number 13 is now 80 percent as of FCC reports. 14 COMMISSIONER FOX: Actually have. 15 THE WITNESS: Actually have broadband 16 service, yes. 17 Q. So under that report the ILEC still service 18 51 percent of the market? 19 A. No. The ILECs -- 20 Q. For total switched access lines and VoIP 21 subscriptions? 22 A. That's not the market, quote, unquote. The 23 market is bigger than that, as I point out in my 24 testimony. 25 In that report that shows out of segment that</p>
<p>Cross - Vasington Page 111</p> <p>1 HEARING EXAMINER ASSELTA: All right. 2 Where were we, Mr. White? 3 Ready. Okay. 4 BY MR. WHITE: 5 Q. Okay. Mr. Vasington, are you aware that the FCC 6 issued another report on competition in the wireline 7 market? 8 A. Yes. 9 Q. Do you know the date of that report? 10 A. No. 11 Q. Would you take subject to check it was June 30th 12 of 2011? 13 A. That's the date as of June 30th, 2011, or date 14 issued the report? 15 Q. The report was issued June 30th, 2011. 16 A. I'm going to guess you mean to say '12. 17 Q. I mean 2012. Excuse me. 18 A. I'll take that subject to check, yes. 19 Q. Have you seen it? 20 A. Yes. 21 Q. Did you analyze it? 22 A. I looked to see if the -- I didn't analyze the 23 entire report. I looked to see if the numbers I quoted 24 in my testimonies from that report and the broadband 25 report were substantially different from the numbers</p>	<p>Cross - Vasington Page 113</p> <p>1 reports to the FCC, the publicly reported data which is 2 the regulated wireline market, CLEC still had -- CLECs 3 had 49 percent, we had 51 -- ILECs had 51 percent of the 4 market. 5 Now, even that data from the FCC is from an 6 earlier time period. I provided some data in my 7 testimony showing that as of end of 2011 we actually 8 served half -- less than half of even that wireline 9 subsegment. 10 MR. WHITE: I have no further questions, 11 your Honor. 12 HEARING EXAMINER ASSELTA: Okay. 13 MR. SMITH: Commissioners, if I may? 14 HEARING EXAMINER ASSELTA: Sure. 15 MR. SMITH: I have just one redirect 16 question for Mr. Vasington. 17 HEARING EXAMINER ASSELTA: Okay. 18 Hold on. 19 The scope of costs, profits, and revenues is 20 limited by our June 14th, 2012, order. 21 I just want to make that clear. 22 Go. 23 MR. SMITH: Thank you, as I said, 24 Commissioner, I just have one brief question on 25 redirect.</p>

<p>Redirect - Vasington Page 114</p> <p>1 REDIRECT EXAMINATION OF MR. VASINGTON BY MR. SMITH: 2 Q. Mr. Vasington, and it goes back to the very 3 beginning this morning when Commissioner Fox asked me a 4 question, and I gave my answer and I also deferred to 5 Mr. Vasington because Mr. Vasington has some testimony. 6 Now, Mr. Vasington, do you recall the question 7 the Commissioner asked you related to our lines? 8 A. Yes, I do. 9 Q. And it had to do with our basic standalone lines. 10 Correct? 11 A. That's correct. 12 Q. Do you want to add to my answer and provide your 13 opinion related to that issue? 14 A. Yes. 15 HEARING EXAMINER ASSELTA: All right. Let 16 me interject this. For the record, counsel's responses 17 are evidentiary for classifications -- I can't read your 18 writing. 19 MR. MOREAU: The testimony you had given 20 that's not evidentiary. 21 MR. SMITH: Right. It was my opinion as 22 back-and-forth between Commissioner and that's one of 23 the reasons why we were bringing it over to 24 Mr. Vasington to explain it further and touched on his 25 testimony.</p>	<p>Recross - Vasington Page 116</p> <p>1 HEARING EXAMINER ASSELTA: Redirect. 2 RECROSS EXAMINATION OF MR. VASINGTON BY MR. WHITE: 3 Q. Does Rhode Island have the same statutory 4 framework as New Jersey regarding that bundled 5 standalone has to be offered separately from a bundle? 6 MR. SMITH: I object. He's asking for a 7 legal conclusion. 8 MR. WHITE: He just testified to what 9 they've done in Rhode Island. He's a regulatory expert. 10 If he doesn't know, he can say he doesn't know. But if 11 he doesn't know, then I question how much of a 12 regulatory expert he is. 13 MR. SMITH: He's testifying to the facts, 14 even as the best regulatory ex-commissioner in the 15 United States which I think he's among, he still is not 16 a lawyer and he's not allowed to opine on legal issues. 17 HEARING EXAMINER ASSELTA: That's fair. 18 Q. Rhode Island -- Rhode Island is a completely 19 different state in terms of economics than New Jersey. 20 Isn't the correct? 21 A. A totally different state -- 22 Q. Economically. 23 A. No. Both relatively densely populated eastern 24 seaboard states. 25 Q. What's a relative income of Rhode Island versus</p>
<p>Redirect - Vasington Page 115</p> <p>1 THE WITNESS: My understanding of the 2 Commissioner's question was whether or not if the Board 3 grants competitive classification of legacy landline 4 services, what the possibility that we would no longer 5 provide legacy landline services. And I have some 6 testimony in response to some points made by rate 7 counsel pointing out that in State of Rhode Island where 8 we were given full pricing flexibility as long ago as 9 six years ago in 2006, today we actually serve a higher 10 percentage of our lines as legacy landline type services 11 in that state than we do in New Jersey. 12 So there's an example for six years we've 13 had an ability to effectively price and provide those 14 services in a manner that we want. And we not only 15 continue to provide them, but we actually provide them 16 as a higher proportion of our total services than we do 17 here today. 18 Q. And the rate increase was? 19 A. There was one rate increase in Rhode Island. 20 After we were given full pricing flexibility, there was 21 one rate increase that year in 2006 of \$1 and there 22 hasn't been any subsequent rate increases. 23 COMMISSIONER FOX: In Rhode Island. 24 THE WITNESS: In Rhode Island, yes. 25 MR. WHITE: Redirect.</p>	<p>Recross - Vasington Page 117</p> <p>1 New Jersey? 2 A. I don't know that. 3 Q. Think it's higher or lower than New Jersey? 4 A. Don't know that either. 5 Q. Do you know what unemployment rate in Rhode 6 Island is? 7 MR. SMITH: Objection. Going beyond the 8 scope of the redirect testimony. 9 HEARING EXAMINER ASSELTA: Thank you. 10 your point. 11 BY MR. WHITE: 12 Q. By the way, is Verizon losing money in Rhode 13 Island? 14 MR. SMITH: Objection. Beyond the scope. 15 HEARING EXAMINER ASSELTA: That's beyond the 16 scope. 17 MR. WHITE: Your Honor, the reason it's 18 relevant, he's pointed to Rhode Island that they kept 19 standalone. If they're not losing money, that's fine. 20 In New Jersey they're claiming to losing 21 money which means they have a different incentive here 22 in New Jersey to basically increase -- to require people 23 to buy bundles to overcome their alleged losses they're 24 claiming here and that's a distinction I'm trying to 25 bring out in whether or not we're having apples to</p>

<p>Recross - Vasington Page 118</p> <p>1 apples comparison between Rhode Island and New Jersey. 2 MR. SMITH: Still object on the relevancy. 3 HEARING EXAMINER ASSELTA: Do you have that 4 expertise? 5 THE WITNESS: I don't know. 6 MR. WHITE: Done. 7 HEARING EXAMINER ASSELTA: Next witness. 8 MS. BENEDEK: We are going to switch chairs. 9 Call Mark D. Harper. 10 CenturyLink calls Mark D. Harper. 11 (A short recess is taken.) 12 (CL-1, Initial Testimony of Mark D. Harper, 13 public version, marked for identification.) 14 (CL-2, Initial Testimony of Mark D. Harper, 15 confidential version, marked for identification.) 16 (CL-3, Reply Testimony of Mark D. Harper, 17 public version, marked for identification.) 18 (CL-4, Reply Testimony of Mark D. Harper, 19 confidential version, marked for identification.) 20 (CL-5, Rebuttal Testimony of Mark D. Harper, 21 Public Version, marked for identification.) 22 (CL-6, Rebuttal Testimony of Mark D. Harper, 23 confidential version, marked for identification.) 24 M A R K D. H A R P E R, Director, 25 Regulatory Operations and Policy, Embarq Management</p>	<p>Direct - Harper Page 120</p> <p>1 states and at least 27 different cases. 2 Q. And, Mr. Harper, are you familiar with the 3 Board's 2008 order in the first phase of this 4 proceeding? 5 A. Yes. I reviewed it in preparation. 6 Q. Now, as to your exhibits, what have been 7 premarked as Exhibits 1 and 2, do you have any changes, 8 corrections, additions, or deletions? 9 A. Yes, I do. I have several. 10 Q. Can you please turn to your first one. 11 A. Page 25 -- excuse me. 12 Page 24, line 15, the word our, should have been 13 or. 14 Page 26, line 2, strike the word directory and 15 just replace it with DA. 16 Page 30, line 12, the word are should have been 17 area, just add an "a". CenturyLink serving area. 18 Page 32, line 6, after the word wireless, the 19 word only should be inserted. 20 Page 36, line 8, everything should have instead 21 just been every. Strike thing. 22 Q. Now, with those corrections if I were to ask 23 you -- 24 A. Sue, there was one more. 25 Q. Oh, there's one more.</p>
<p>Direct - Harper Page 119</p> <p>1 Company, d/b/a CenturyLink, having a business at 2 100 CenturyLink Drive, Monroe, Louisiana 71203, having 3 been duly sworn by the Notary, testified as follows: 4 DIRECT EXAMINATION OF MR. HARPER BY MS. BENEDEK: 5 Q. Mr. Harper, with respect to -- let the record 6 reflect that we have previously provided to the 7 Commissioners and the court reporter copies of what has 8 been marked as CenturyLink Exhibits 1 through 6 9 consisting of the prefiled testimony of Mr. Mark D. 10 Harper. 11 Mr. Harper, with respect to what has been 12 identified as CenturyLink Exhibits 1 through and 13 including 6, your initial, reply, and rebuttal 14 testimonies, were those exhibits prepared by you under 15 your direct supervision and control? 16 A. Yes, they were. 17 Q. And, Mr. Harper, what is your present title? 18 A. Director of regulatory operations. 19 Q. And for how long have you been employed in the 20 telecommunications industry? 21 A. Twenty-nine years. 22 Q. Have you submitted written testimony or testified 23 in other state regulatory proceedings? 24 A. Yes. As identified in my testimony and my CV, 25 I've submitted testimony and been on the stand in seven</p>	<p>Direct - Harper Page 121</p> <p>1 A. There's one more. I'm sorry. 2 Page 38, line 9, after the word of it should read 3 competitors -- of competitors at a pace. The word 4 competitors was left out. 5 Q. Now, with those corrections, if I were to ask you 6 the same questions in your testimony today, would your 7 answers be the same? 8 A. Yes, they would. 9 Q. Now, with regard to your reply testimony, do you 10 have any corrections to your reply testimony? 11 A. Yes, just two. 12 In the reply testimony on page 33, line 17, we 13 should replace the word to, t-o, with it should not be. 14 I'm sorry leave off be. It should not. 15 And then, finally, just a simple change on line 16 35, mistakenly referred to reply testimony -- on 17 page 35, line 15, it should say reply instead of 18 initial. 19 Q. Now, if I were to ask you the questions in the 20 reply testimony, would your answers be the same? 21 A. Yes, they would. 22 Q. Now, finally, turning to your rebuttal testimony, 23 do you have any changes, corrections, additions, or 24 deletions? 25 A. Just two. On page 11, line 2, it should be --</p>

<p>Direct - Harper / Cross</p> <p>Page 122</p> <p>1 "s" should be inserted after offering. So it's 2 offerings from CLECs. 3 And on page 12, line 6, the word continued there 4 at the beginning should be struck. 5 MS. BENEDEK: Thank you, Mr. Harper. 6 Mr. Harper is available for 7 cross-examination. 8 HEARING EXAMINER ASSELTA: Mr. White. 9 CROSS-EXAMINATION OF MR. HARPER BY MR. WHITE: 10 Q. Good afternoon, Mr. Harper. 11 A. Hello, Mr. White. 12 Q. I'll start off, you filed direct, reply, and 13 rebuttal testimony in this proceeding. Correct? 14 A. Yes, I did. 15 Q. When were you contacted regarding providing 16 testimony in this proceeding? 17 A. As part of my job, I'm the support team for New 18 Jersey so during the regular course of our -- we have 19 weekly calls, talking about what's going on in the 20 region. And during that process, probably sometime in 21 the summer, fall, Dave Bonsick let me know this case was 22 going to come up again. It was time. 23 Q. Did you start collecting data to prepare 24 testimony in this case? 25 A. No, not at that time.</p>	<p>Cross - Harper</p> <p>Page 124</p> <p>1 A. Yes, subject to check. 2 Q. Now, what courses did you take dealing with 3 economics when you were in college? 4 A. That was a while ago. But when I was in college, 5 I took a number of economics courses. I was a finance 6 major. And it's part of the course of business, we had 7 to take micro, macroeconomics, various other classes. 8 Q. Do you have an advanced degree in economics? 9 A. No, I do not. 10 Q. Now, you referred to a number of regulatory 11 proceedings which you participated in. 12 A. Correct. 13 Q. I'd like to go over those for a minute. 14 A. Sure. Okay. I don't have a copy of it. 15 Q. Curriculum vitae. 16 A. It was provided in discovery I think it's -- 17 Q. It's RC -- 18 A. One fifty-four I think. 19 Q. One fifty-four. 20 MS. BENEDEK: May I approach the witness, 21 your Honor? 22 A. Thank you. 23 Yes, sir. 24 Q. Just for the ease of the Commissioners, you list 25 Kansas proceedings, Missouri proceedings, Nebraska</p>
<p>Cross - Harper</p> <p>Page 123</p> <p>1 Q. When did you start getting data to use in 2 preparation of your testimony? 3 A. I engaged in the data collecting after the -- 4 began in intensity after the final list of services were 5 submitted by ourselves and by rate counsel. 6 Q. That would be December 2011, subject to check. 7 A. I think would be about in that time line. 8 Q. Did you draft and prepare all your testimony? 9 A. Yes, I did. 10 Q. No one assisted you in preparation and drafting 11 of your testimony? 12 A. Drafting and preparing testimony, I work closely 13 with counsel on the sections dealing with the statutes 14 and how to interpret that to make sure that as a 15 nonlawyer that my discussion of that was accurate. 16 Q. Okay. Do you own CenturyLink stock? 17 A. Yes, I do. 18 Q. Now, you alluded to your educational experience. 19 Correct? 20 A. Yes, it was listed in my qualifications, CV. 21 Q. Do you know when your CV was provided to rate 22 counsel? 23 A. It was provided in discovery. I don't remember 24 the specific date. I'm sorry. 25 Q. Subject to check, would you -- July 13th, 2012?</p>	<p>Cross - Harper</p> <p>Page 125</p> <p>1 proceedings, New Jersey, Pennsylvania, Texas, and 2 Virginia. Is that correct? 3 A. Yes. 4 Q. In the first Kansas proceeding that you list that 5 dealt with Kansas USF and establishing a state fund for 6 USF. Correct? 7 A. Yes, it did. That was the primary subject of 8 that. 9 Q. It did not involve whether services be 10 reclassified as competitive. Correct? 11 A. Not specifically. The aspects of competition and 12 the need for support in rural areas certainly were an 13 aspect of that case. 14 Q. Focused on USF. Correct? 15 A. Yes. That was the outcome. That was the focus. 16 Q. That was in 1999. 17 A. That case continued for several years. '99 would 18 have been the year it was initiated. Their fiscal year, 19 as they count it, '99. 20 Q. And in the next docket that you list generic 21 investigation and recip comp should be paid to traffic 22 to an Internet service provider. 23 A. Right. 24 Q. That's also not dealing with reclassification. 25 Right?</p>

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1 A. No, not in that case. No.
 2 Q. In the next one that you list which is an '07
 3 docket, review of commissions federal USF certification
 4 requirements. That's doesn't deal with -- that deals
 5 with ETCs not --
 6 A. That dealt with ETCs and competitive equity of
 7 how federal support should be distributed.
 8 Q. And the last one listed on that page is
 9 interstate access charges. Correct?
 10 A. Intrastate access charges.
 11 Q. Intrastate access.
 12 A. That case had -- again you asked about
 13 classification, but it certainly had competitive
 14 aspects. A large part of the case was competition.
 15 Q. In the '06 case that's listed on the next page
 16 was a merger case.
 17 A. It was the separation of Embarq from Sprint.
 18 Q. Okay. And then the last docket was a '94 docket.
 19 A. Yes.
 20 Q. Which was an investigation, 1994, into the
 21 competition within the telecommunications industry in
 22 the State of Kansas.
 23 A. Right.
 24 Q. That proceeding did not involve reclassification
 25 of regulated services competitive, did it?

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1 A. That proceeding involved many different aspects,
 2 but one of which was the standards upon which exchanges
 3 could be reclassified, a following proceeding, a number
 4 of exchanges we petitioned and were granted competitive
 5 classification in Kansas for them.
 6 Q. But this reclassification occurred on
 7 exchange-by-exchange basis. Correct?
 8 A. That was the basis of the statute in Kansas, yes.
 9 Q. And you're advocating something different here in
 10 New Jersey. Correct?
 11 A. Yes.
 12 Q. Okay. And to move along, in the four proceedings
 13 you had in Missouri, again, the second one dealt
 14 essentially with exchanges in Missouri. Correct?
 15 A. Yes, it did. There was a statute that had been
 16 passed in Missouri that allowed exchanges to be
 17 essentially price deregulated with the presence of one
 18 cable -- or one facility base provider and one wireless
 19 provider. And we had to submit evidence and I supported
 20 evidence to show that we had that presence in each
 21 exchange.
 22 Q. Were you the one filing testimony in that
 23 proceeding on behalf of Sprint?
 24 A. You know, I don't recall. I mean I definitely
 25 was the lead witness in the case, but there may have

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1 been other people. We may have involved other witnesses
 2 and set with the initial case under that law.
 3 Q. Do you know a Dr. Stairh?
 4 A. Yes, I know Dr. Stairh.
 5 Q. Did any of these cases involve his testimony as
 6 well?
 7 A. It's hard to recall which ones. But at times,
 8 yes, we testified together.
 9 Q. I'd like a transcript request of those
 10 proceedings which you participated with him and provided
 11 testimony. And this would include any of these other
 12 states that you listed where you participated.
 13 A. Okay. Specifically dockets where both he and I
 14 testified?
 15 Q. Correct.
 16 A. Okay.
 17 Q. And copies of the testimony that you provided.
 18 A. I think --
 19 MS. BENEDEK: We will see if there is any.
 20 A. -- we have supplied some testimony in answer to
 21 another request, but I don't think any of Dr. Stairh's
 22 testimony.
 23 Q. Were you involved in the filing by CenturyLink
 24 for forbearance regarding enterprise Ethernet services
 25 before the FCC?

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1 A. No, I was not.
 2 Q. Are you generally involved in any FCC
 3 proceedings?
 4 A. Not in the actual -- I'm involved in the
 5 implementation if it impacts the states, very involved
 6 in the implementation of the ICC USF reform order we're
 7 going through now but not in the advocacy before the
 8 FCC.
 9 Q. Are there other parts of CenturyLink that do
 10 that?
 11 A. Yes. We have people that are dedicated to or
 12 their primary job responsibility is the federal
 13 jurisdiction.
 14 Q. That is not one of your responsibilities.
 15 A. No.
 16 Q. Now, the ILEC reclass Phase I, you didn't submit
 17 any testimony in that, did you?
 18 A. No. I believe Dr. Stairh was our witness in that
 19 case.
 20 Q. Did you assist him in preparation of his
 21 testimony in that case?
 22 A. I didn't in some aspects because at that time I
 23 did not have direct responsibility for New Jersey. But
 24 he and I had testified to similar issues in various
 25 states. We talked about -- collaborated about data that

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1 could be supplied sources of data. That type of thing.
 2 Q. Dr. Stairh was essentially CenturyLink's economic
 3 expert. Correct?
 4 A. That was one of the roles he played, yes.
 5 Q. On page 8, line 24 to 26 of your initial
 6 testimony, when you get there let me know and then I'll
 7 ask my question.
 8 A. I'm sorry. Which lines?
 9 Q. Should be lines 24 to 26.
 10 A. I am there.
 11 Q. Says you contend CenturyLink remains subject to
 12 outdated regulatory constraints that continue to inflict
 13 harm to New Jersey economic interest and to New Jersey
 14 consumers. Is that correct?
 15 A. Correct. That's what it says.
 16 Q. What studies, analysis, or factual support do you
 17 have for that statement?
 18 A. I don't have a specific study regarding -- I mean
 19 it's difficult to monetize harms. We're talking about
 20 one entity within the marketplace being restricted in
 21 terms of its pricing actions and responses.
 22 Q. On page 9, lines 12 to 20 on page 10 of your
 23 initial testimony.
 24 A. Yes.
 25 Q. You have figures that purport to show market

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1 share. Correct?
 2 A. Yes, I do.
 3 Q. So in your opinion market share is a factor to
 4 consider in evaluating whether a service should be
 5 reclassified as competitive or reclassified to rate
 6 regulated status. Correct?
 7 A. I think the market share in this case helps
 8 inform the success of and presence of substitutable
 9 products and demonstrates the decisions of our customers
 10 and the result.
 11 Q. On page 34 of your initial testimony --
 12 A. Yes.
 13 Q. -- you refer to -- you state that customers
 14 ported numbers to 12 different CLECs in the past
 15 14 months. Correct?
 16 A. Is that on line 14? Okay.
 17 Q. It's on page 34 somewhere.
 18 A. I think it's this line here.
 19 Yes, I see it.
 20 Q. Do you know what the total lines ported during
 21 that 14-month period was?
 22 A. I can add it up, but I don't know. I don't
 23 recall. It's on that schedule, but I don't recall the
 24 total.
 25 Q. Okay. And those CLECs purchased UNEs from

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1 CenturyLink. Is that correct?
 2 A. They may be purchasing UNEs. They may be
 3 customers that left. The CLEC provides its own
 4 facilities. Simply a measure of customers that left and
 5 wanted to take their telephone number to a competitor.
 6 MR. WHITE: I'm going to mark two exhibits.
 7 One is Exhibit RC-7 which is selected statistical data
 8 relating to annual reports filed by CenturyLink in this
 9 case. And the first four pages are summary sheets from
 10 within the report and behind it are the full reports.
 11 I'm also going to have proprietary exhibit,
 12 RC Exhibit 16, which is the 2011 477 report filed by
 13 CenturyLink.
 14 MS. BENEDEK: May I ask a question, Counsel?
 15 On the top you have Verizon FCC 10-Q on the
 16 right-hand corner.
 17 MR. WHITE: Just ignore it.
 18 MS. BENEDEK: Thank you.
 19 (RC-7, Selected Statistical Data Re Annual
 20 Reports Filed By CenturyLink, marked for
 21 identification.)
 22 (RC-16, 2011 477 Report Filed By
 23 CenturyLink, marked for identification.)
 24 BY MR. WHITE:
 25 Q. Do you have copies of those before you?

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1 A. Yes, I do.
 2 MR. WHITE: Commissioners, have them as
 3 well? Okay.
 4 Q. Let's go to Exhibit 16, go to the second page and
 5 if you go to the far right-hand portion of the page, you
 6 got -- you got a row that starts off with five digit zip
 7 codes and goes down all the UNE-L, UNE-P-2.
 8 Do you see that?
 9 A. Yes, I do.
 10 Q. Do you know what VGE stands for?
 11 A. Voice grade equivalent.
 12 Q. And there's a total at the bottom. Correct?
 13 MS. BENEDEK: Which is confidential.
 14 A. Yes.
 15 MR. WHITE: Yes. I'm going to try to go
 16 through this without addressing with confidential
 17 because you guys all have copies.
 18 MS. BENEDEK: Thank you.
 19 Q. And then there's various breakdowns.
 20 Do you see that?
 21 A. Yes.
 22 Q. And if you go down where you have single-line
 23 business by zip?
 24 A. Yes, I see that.
 25 Q. And there's a number at the bottom of that as

<p>Cross - Harper Page 134</p> <p>1 well. Right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Now, I want to refer you to RC Exhibit 17.</p> <p>4 MS. BENEDEK: Seven?</p> <p>5 A. Seven you mean?</p> <p>6 Q. Seven. Excuse me.</p> <p>7 You're wearing me out, Sue.</p> <p>8 MS. BENEDEK: About time.</p> <p>9 Q. All right. If you look at the number of access</p> <p>10 lines -- business access lines that are reported --</p> <p>11 A. Correct.</p> <p>12 Q. -- in 2011 you -- and this is proprietary.</p> <p>13 Correct?</p> <p>14 MS. BENEDEK: Hold on. I don't --</p> <p>15 Q. It's not marked, but I believe annual reports are</p> <p>16 considered proprietary and not public.</p> <p>17 MS. BENEDEK: Yes, we have.</p> <p>18 I am getting a nod from Mr. Roberts in the</p> <p>19 back so, yes, they are.</p> <p>20 Q. But you see the number there, there's a higher</p> <p>21 number for 2010. Correct?</p> <p>22 A. Yes. Yes.</p> <p>23 Q. Okay. There's a lower number for 2009.</p> <p>24 A. Yes.</p> <p>25 Q. And for 2011, 2009, 2010, you were able to</p>	<p>Cross - Harper Page 136</p> <p>1 But that's why you see this anomaly in business</p> <p>2 rates, our lines looking like they dropped and then went</p> <p>3 back up again when, in fact, they did not. It was</p> <p>4 during that time period that people doing the report</p> <p>5 mistakenly left off trunks and other types of business</p> <p>6 services.</p> <p>7 MS. BENEDEK: That is your initial testimony</p> <p>8 you referenced at page 22.</p> <p>9 THE WITNESS: I'm sorry. Yes, it is.</p> <p>10 HEARING EXAMINER ASSELTA: Would it be</p> <p>11 corrected?</p> <p>12 THE WITNESS: In the annual reports.</p> <p>13 MS. BENEDEK: We can correct the annual</p> <p>14 reports, certainly.</p> <p>15 Q. If they are corrected, would the numbers go up or</p> <p>16 down?</p> <p>17 A. The numbers would go up.</p> <p>18 Q. So you would have more lines than you claim.</p> <p>19 A. I understand that. But it would not reflect that</p> <p>20 we gained lines during a time of increasing prices. In</p> <p>21 fact, lines went down every year.</p> <p>22 Q. Which lines went down every year?</p> <p>23 A. The 2010 and 2011 numbers are inclusive of all</p> <p>24 lines. They were done correctly. 2009 and 2008 numbers</p> <p>25 were not. So it's a misleading trend using that data.</p>
<p>Cross - Harper Page 135</p> <p>1 increase your rates for your business lines, correct,</p> <p>2 under the stipulation that was entered into?</p> <p>3 A. Yes, we were.</p> <p>4 Q. Okay. And then if you go to 2008 --</p> <p>5 A. Yes.</p> <p>6 Q. -- there's another number which is pretty much</p> <p>7 equivalent to the number in 2011 you listed for business</p> <p>8 lines. Is that correct?</p> <p>9 A. Right.</p> <p>10 Now -- I mean I'd like to explain something about</p> <p>11 the reports.</p> <p>12 Q. Okay.</p> <p>13 A. Okay. Is that I've determined after doing</p> <p>14 reviews similar to what you've done here is that we had</p> <p>15 either interpretational difference or some</p> <p>16 misunderstanding of the instructions in the 2008, 2009</p> <p>17 period. Those line counts for number of business access</p> <p>18 line do not include our trunk numbers.</p> <p>19 A better measure, more accurate measure is the</p> <p>20 table that's on page 22 on my testimony. When I went</p> <p>21 back and tried to reconcile this in preparation for the</p> <p>22 hearing, these are, in fact, what were put on the annual</p> <p>23 reports but data is missing a piece of our business</p> <p>24 lines. I provided the full data in MDH-6 and on page 22</p> <p>25 of the testimony.</p>	<p>Cross - Harper Page 137</p> <p>1 Q. Well, are the average residential monthly bill</p> <p>2 and average business bill correct, the numbers in each</p> <p>3 of these reports?</p> <p>4 A. To the best of my knowledge, they are. The only</p> <p>5 line where I discovered an anomaly is the business</p> <p>6 access lines.</p> <p>7 Q. I'm going to transition back to Exhibit 16 now,</p> <p>8 under the column total service retail residential lines.</p> <p>9 A. Total service resell?</p> <p>10 Q. Resale residential lines.</p> <p>11 A. Yes.</p> <p>12 Q. Third -- third column from the bottom.</p> <p>13 A. I see it.</p> <p>14 Q. If you want to call it a row or a column.</p> <p>15 A. I see it.</p> <p>16 Q. You see the number there?</p> <p>17 A. Yes, I do, the total.</p> <p>18 Q. Do you see the next one over subtotal service</p> <p>19 resell?</p> <p>20 A. For business.</p> <p>21 Q. For business.</p> <p>22 A. Yes, I do.</p> <p>23 Q. And do you see UNE-L, UNE-P lines --</p> <p>24 A. Yes, I do.</p> <p>25 Q. -- next one over?</p>

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1 Would you agree that those total less than one
 2 percent of your total access lines?
 3 A. For that specific count, yes, of lines provided
 4 under resell or UNE, yes.
 5 Q. So the CLECs that do operate in your service
 6 territory essentially are providing these number of
 7 lines under resale or UNEs?
 8 A. Those two are not equivalent. They clearly have
 9 their own facilities and they can purchase facilities
 10 from each other and other wholesale providers which they
 11 regularly do in the marketplace. This is just a
 12 demonstration of where they've utilized my network to
 13 provide their services.
 14 Q. A good example is Level 3, isn't it?
 15 A. Yes. Level 3 is a wholesale provider, as well as
 16 a retail provider.
 17 Q. And then Level 3, at least according to our CLEC
 18 survey, does not serve the residential and single-line
 19 business market. Is that correct?
 20 A. If the question is does Level 3 from a retail
 21 perspective focus on the marketplace, the answer is no.
 22 Does a Level 3 facilitate other companies to provide
 23 service to residential and single-line business, yes.
 24 Q. Do you know what the current number of standalone
 25 business lines that are -- let me back up.

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1 Do you have the number -- most recent data on how
 2 many residential customers only have standalone
 3 residential service?
 4 A. I -- the most recent number I have is the number
 5 I provided in my initial testimony on page 25 as of
 6 November 2011.
 7 Q. And you have no updated numbers --
 8 A. No.
 9 Q. -- at this point in time?
 10 A. No. I have not updated that number.
 11 Q. Now, if we go back to your table on Exhibit 7 --
 12 or Exhibit 16, excuse me, these other columns starting
 13 with the third, they really differentiate between lines
 14 that are a bundled component. In fact, if you look at
 15 lines with both inter and intra LD service.
 16 Do you see that?
 17 A. Yes, I see that line -- column.
 18 Q. And you have a total down at bottom is which
 19 approximately 90 percent or more of the total of what's
 20 there under column -- Column 1.
 21 A. That does not equate to customers with bundles.
 22 Q. Well, doesn't the Board consider --
 23 A. I'm sorry. Go ahead.
 24 Q. Are you aware whether the Board considers
 25 residential service bundled -- or residential service

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1 toll and long distance when sold as a package as a
 2 bundle?
 3 A. But this doesn't necessarily imply or does not
 4 imply that these are sold as packages. You can buy
 5 standalone residential service. You can buy toll
 6 separately, but not as a bundle. So this is everybody
 7 whether they're bundled, standalone, or not that has
 8 long distance service in the manner indicated, should be
 9 high proportion of customers.
 10 Q. Doesn't the data line say lines with inter and
 11 intra long distance service?
 12 MS. BENEDEK: Objection.
 13 A. It would be highly unusual for customers not to
 14 have any long distance service.
 15 Q. That's a bundle, isn't it?
 16 MS. BENEDEK: Objection. Asked and
 17 answered.
 18 Q. What do you define as a bundle?
 19 A. Bundle would be the combination of those products
 20 at a single price. This does not say that. It just
 21 says you have the capability to make intrastate and
 22 interstate long distance calls and you have local
 23 service.
 24 HEARING EXAMINER ASSELTA: Mark on He's
 25 answered it.

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1 Q. Can we go to residential for a second. The lines
 2 with both inter and intraLATA service, these lines would
 3 have both toll and long distance service. Correct?
 4 A. Yeah. I think that's what that indicates. Now
 5 that is not -- another reason that line is higher too is
 6 because that's business and residence that particular
 7 row. Because the next column over is residential
 8 equivalent lines by zip code and it shows a smaller
 9 number. But I think we talked about it before that that
 10 column is people that have a line and have a capability
 11 of making interstate and intrastate long distance calls.
 12 Q. Which means they would have a toll carrier and a
 13 long distance carrier on the line. Correct?
 14 A. Correct.
 15 Q. They would have made a selection of their
 16 carrier.
 17 A. Right. Not necessarily be CenturyLink and would
 18 not necessarily be in a bundle.
 19 Q. Do you know how many of your -- these are your
 20 customers, right, the amount of total that is showed
 21 through the VGE lines, those are your customers. Right?
 22 A. Correct.
 23 Q. You have what percentage of your customers
 24 subscribe to both long distance and toll?
 25 A. I have not done that analysis. I know the rough

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1 percentage of our customers that have bundles versus
 2 standalone, but I didn't look at it from the perspective
 3 of toll.
 4 Q. Okay. On page 28 of your testimony.
 5 MS. BENEDEK: Initial?
 6 MR. WHITE: What?
 7 MS. BENEDEK: Initial testimony?
 8 MR. WHITE: Initial testimony.
 9 A. Yes.
 10 Q. You have data on the two top competitors.
 11 Correct?
 12 A. Yeah, I note who the two top competitors were
 13 from reporting data.
 14 Q. Cable companies do not offer standalone service,
 15 do they?
 16 A. They primarily offer bundled service, yes.
 17 Q. They require you to purchase toll and long
 18 distance as well as their basic phone service. Correct?
 19 A. I didn't investigate every one of their offerings
 20 so I'm not sure if they do have something that looks
 21 like a standalone product offering. What I'm
 22 demonstrating here is our customers are going to cable
 23 companies regardless of what products that they offer,
 24 including our standalone customers.
 25 Q. Now, the cable companies offer a VoIP product.

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1 Right?
 2 A. Yes.
 3 Q. And to utilize a VoIP product, you also have to
 4 have Internet access. Correct?
 5 MS. BENEDEK: Objection. Is he talking
 6 about what cable companies offer and therefore is he
 7 knowledgeable about it; or is he talking generally, does
 8 the witness have any knowledge about how cable companies
 9 provision VoIP?
 10 Q. First of all, do cable companies provide VoIP
 11 services in CenturyLink's territory?
 12 A. Yes. They provide an interconnective VoIP
 13 service. Yes.
 14 Q. Do you know whether that runs over -- you need
 15 Internet connection to have a voice service in
 16 CenturyLink's territory?
 17 A. You know, I am not -- I'm sitting here thinking
 18 about the ads I read and the various information. I
 19 think generally, but there may be some that offer voice
 20 on a separate basis, as long as you buy their video. I
 21 am not certain.
 22 Q. Okay. I'm going to go to your reply testimony.
 23 You state on page 4 that the scope of this proceeding is
 24 limited to three statutory criteria. Correct?
 25 A. I'm sorry. What was it?

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1 Q. Page 4.
 2 A. Thank you.
 3 Q. In your reply testimony.
 4 A. Right there at the top. Yes.
 5 Q. Did you review the order of Verizon/CenturyLink's
 6 motion to strike rate counsel's testimony in this case?
 7 A. Yes, I did read that order.
 8 Q. That order doesn't limited the criteria to just
 9 three, does it?
 10 MS. BENEDEK: Objection. He's asking for a
 11 conclusion regarding the order and he can ask whether
 12 he's read it, but he's not an attorney.
 13 Q. What's your understanding of that order?
 14 A. I think that order left open the possibility of
 15 other items in addition or to enhance the three
 16 criteria. But I'd have to go back and reread it in
 17 total.
 18 Q. Your testimony points to line loss as evidence of
 19 competition. Is that correct?
 20 A. I utilize line loss, reporting data which
 21 determines specifically what customers left and where
 22 they went.
 23 Q. On page 8, lines 1 through 9 of your reply
 24 testimony, you submit that affordable economic
 25 substitute is an academic exercise and not part of the

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1 three criteria. Is that correct?
 2 A. I submit that the evidence of our customers
 3 finding substitutes in competitor's products is a
 4 demonstration that there are like or substitute
 5 products. The exercise of separately trying to
 6 determine of what an affordable economic substitute is,
 7 is not necessary when you've got the facts that
 8 demonstrate that people are making the choice to move
 9 their services to competitors.
 10 Q. You do refer to it as academic exercise, right,
 11 and not part of the three criteria. Right?
 12 A. Yes, I did.
 13 Q. Did you review any economic literature in making
 14 that determination?
 15 A. No, I did not.
 16 Q. When was the last time that you reviewed economic
 17 literature dealing with economic principals as it
 18 relates to -- hold on --
 19 MS. BENEDEK: Can you define economic
 20 literature? Is it the economist? The magazine?
 21 MR. WHITE: See if he can answer the
 22 question, then we can go into the next phase.
 23 HEARING EXAMINER ASSELTA: CHAS. REPUBLICAN
 24 it.
 25 A. A bit of a pause. I don't remember now what you

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1 asked.

2 Q. What economic literature have you reviewed

3 relating to cross elasticity of demand and substitutes?

4 A. I didn't choose to review economic literature. I

5 chose to look at the statistics and facts of what

6 happened in the marketplace. I didn't feel like in this

7 case it was necessary to get into those types of

8 arguments to demonstrate that customers are making

9 choices.

10 Q. Are you aware of the Department of Justice --

11 U.S. Department of Justice defines relevant product

12 markets?

13 A. I didn't see that criteria in the statutory

14 criteria that I was reviewing. I didn't review that. I

15 mean your witness mentioned it. I read through it.

16 Q. So you're not familiar with the treatise by

17 Thomas and Harrison entitled Understanding Antitrust Law

18 and Its Economic Implications, third edition, 1998.

19 A. No. I didn't hold myself out as being familiar

20 with that. I'm familiar with what's happening in New

21 Jersey regarding our customers.

22 Q. And you would assume you're not familiar with

23 Dennis W. Carlton and Jeffrey M. Perloff, Modern

24 Industrial Organization, third edition of 2000.

25 Correct?

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1 A. No.

2 Q. Or Scherer, F.M. Scherer and David R. Ross,

3 Industrial Market Share and Economic Performance, third

4 edition, 1990?

5 A. No.

6 Q. You suspect Mr. Stairh would be aware of these?

7 MS. BENEDEK: Objection. Mr. Stairh is not

8 in this room nor is he being offered as a witness.

9 Q. I'm asking --

10 A. I don't know. He's no longer an employee of

11 CenturyLink. I don't know what he's doing these days.

12 Q. All right. I want to -- I have some questions

13 for you. If you go to your initial testimony page 22

14 and page 25 and Exhibit 6 of your initial testimony.

15 A. Yes.

16 Q. Also go to CenturyLink response to one --

17 RC-CTL-179. And also CenturyLink's response to

18 RC-CTL-94 which are the annual reports which we

19 previously identified here as.

20 A. I've got those, 179.

21 MS. BENEDEK: These are --

22 THE WITNESS: One seventy-nine.

23 Q. Now, my understanding this number on page 22 is

24 public. Is that correct?

25 A. Yes.

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1 Q. You've had a business line count of 44,578?

2 A. As of November of 2011.

3 Q. Now, turning to page 25 the same testimony, you

4 have numbers for nonbundled and business bundled line

5 counts.

6 A. Correct.

7 Q. And that totals twenty-eight-five-twenty-six.

8 A. Yes.

9 Q. And let's turn to Exhibit MDH-6, page 1.

10 A. Yes.

11 Q. And you explain why there's a difference between

12 the two numbers. Correct?

13 A. Can I explain?

14 Q. No, you do explain.

15 MS. BENEDEK: In MDH-6. Clarification of

16 what was requested?

17 Q. If you go to your confidential Exhibit MD-6 --

18 A. Yes.

19 Q. -- look under November 11.

20 A. Yes.

21 Q. Do you have the B1 service listed and then you

22 have other types of services that gets you to the

23 forty-four-five-seventy-eight number. Correct?

24 A. I see it, yes.

25 Q. It includes PBX, ISDN, Payphone, Centrex, and

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1 FXXL, and there's also a key systems.

2 A. Yes, I see that designation. I see that.

3 Q. Okay.

4 HEARING EXAMINER ASSELTA: Is there a

5 question associated with that?

6 Q. No. Just that he's verifying it.

7 HEARING EXAMINER ASSELTA: Just verifying

8 it. Okay.

9 Q. Yes.

10 Now, what is your understanding of the quantity

11 of business lines that are an issue in this proceeding?

12 A. If I understand the -- okay.

13 Let's go simple. It's the single-line, B1, and

14 then B1 is provided at two or more in total using MDH-6

15 it would be in this -- in that number of 2011 column, it

16 would be 28,723.

17 I'm sorry. That was confidential.

18 MS. BENEDEK: The number of the top row

19 there under total in right-hand column.

20 A. The confidential data on MDH-6 was divided by

21 exchange. The totals we chose for the purpose of the

22 proceeding to try to be open as possible and have totals

23 being used. Normally, we don't go around with product

24 set numbers, but competitors would like to see what I

25 offer in every exchange and we try to keep that

<p>Cross - Harper Page 150</p> <p>1 confidential.</p> <p>2 MS. BENEDEK: Okay. Your Honor, to clarify</p> <p>3 for the record the 28,000 is not confidential. We need</p> <p>4 not put that in there. It's the numbers -- and for</p> <p>5 counsel -- for rate counsel, it's the information on the</p> <p>6 left-hand side of this exhibit that causes this to</p> <p>7 become confidential.</p> <p>8 MR. WHITE: But we didn't identify what</p> <p>9 those numbers were.</p> <p>10 MS. BENEDEK: Correct.</p> <p>11 Q. Okay. The 14,542 nonbundled business lines --</p> <p>12 A. Yes, on page 25.</p> <p>13 Q. -- are those the business lines that are at issue</p> <p>14 in this proceeding?</p> <p>15 A. I didn't understand your earlier question.</p> <p>16 Yes. I'm sorry.</p> <p>17 Q. So that's the subset of lines that you think are</p> <p>18 relevant to this --</p> <p>19 A. Thank you for asking again.</p> <p>20 That would be the one that are in bundles would</p> <p>21 be considered competitive still are not subject to</p> <p>22 the...</p> <p>23 Q. Nonbundles?</p> <p>24 A. Nonbundles are noncompetitive now.</p> <p>25 Q. And it's also possible that a customer may have a</p>	<p>Cross - Harper Page 152</p> <p>1 A. I'm not sure they're using the same definition.</p> <p>2 Q. Have you ever performed an elasticity study?</p> <p>3 A. No.</p> <p>4 Q. Do you know how to?</p> <p>5 A. Do I know how to?</p> <p>6 Q. Yes.</p> <p>7 A. I'd have to read up on how to do it. I know</p> <p>8 roughly what it's going to measure, but, no, I have not</p> <p>9 done.</p> <p>10 Q. I'm going to run you through an exercise.</p> <p>11 A. Okay.</p> <p>12 Q. In 2008 there were --</p> <p>13 Point of clarification, are the number of</p> <p>14 business lines proprietary or no?</p> <p>15 MS. BENEDEK: Not in total.</p> <p>16 Q. Not in total.</p> <p>17 You list 55,580 business lines, take that subject</p> <p>18 to check?</p> <p>19 A. Which schedule are you looking at now?</p> <p>20 MS. BENEDEK: And which year?</p> <p>21 Q. 2008.</p> <p>22 HEARING EXAMINER ASSELTA: What --</p> <p>23 Q. Page 22 of your testimony.</p> <p>24 HEARING EXAMINER ASSELTA: What do you want</p> <p>25 to prove with this exercise?</p>
<p>Cross - Harper Page 151</p> <p>1 single-line in multiple locations such as a chain of</p> <p>2 pizza shops. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. Because -- is it your understanding that if a</p> <p>5 single location, a single customer has two business</p> <p>6 lines that those business lines are deemed competitive?</p> <p>7 A. Yes. They are today.</p> <p>8 Q. If we address the quantity of single-line</p> <p>9 business lines only, none of these are bundles, right,</p> <p>10 the numbers that you specify for those. Correct?</p> <p>11 A. I'm not sure which number you're looking at,</p> <p>12 Mr. White.</p> <p>13 Q. Single-line business lines that you report on</p> <p>14 RC-CTL-179.</p> <p>15 A. I haven't looked at that yet. Give me a minute.</p> <p>16 Your question was?</p> <p>17 Q. Single-line businesses -- shows the quantity of</p> <p>18 single-line business lines is a proprietary number.</p> <p>19 Correct?</p> <p>20 A. Yes.</p> <p>21 Q. And it's somewhat higher than the number shown on</p> <p>22 the 477 that we reviewed?</p> <p>23 A. Yeah, but you're using different data sources</p> <p>24 with different definitions.</p> <p>25 Q. I understand.</p>	<p>Cross - Harper Page 153</p> <p>1 MR. WHITE: The net result of this will show</p> <p>2 that for both residential and business lines in</p> <p>3 CenturyLink territory, there's a negative inelasticity</p> <p>4 of demand which means that these services are inelastic.</p> <p>5 We'll also show as we go through this exercise that the</p> <p>6 revenues that -- they've had positive revenues resulting</p> <p>7 from the increases in rates notwithstanding their</p> <p>8 alleged line loss.</p> <p>9 HEARING EXAMINER ASSELTA: Do you agree with</p> <p>10 that exercise?</p> <p>11 MS. BENEDEK: Not to the extent that he has</p> <p>12 articulated. The witness has identified that he has not</p> <p>13 done an elasticity study. He can certainly write that</p> <p>14 in his brief and say my witness doesn't know anything</p> <p>15 about elasticity studies. But now he's getting into is</p> <p>16 a demonstration of what would be an elasticity study,</p> <p>17 again, using his hypotheticals and using whatever data</p> <p>18 he has. So I think it's a mismatch here of what he's</p> <p>19 intending to prove to somebody and my witness has</p> <p>20 indicated he has not done such a study.</p> <p>21 MR. WHITE: My position here is this witness</p> <p>22 was offered as their witness. And it's clear to me that</p> <p>23 he's not an expert in economic matters. And the issues</p> <p>24 before this Board are economic. You're entitled to give</p> <p>25 his testimony whatever weight you deem is appropriate.</p>

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1 I'm perfectly willing to brief the elasticity studies
 2 because the numbers upon which it's based are all on the
 3 record. Based upon what we put in, I can save some time
 4 and effort in that regard.
 5 I think the bottom line here is this witness
 6 does not have a sufficient economic background to opine
 7 on the satisfaction of the three criteria. That is
 8 going to rate counsel's position.
 9 HEARING EXAMINER ASSELTA: *Would you agree*
 10 with that?
 11 MS. BENEDEK: I can't agree with that. My
 12 witness has never offered himself to be an economist in
 13 this case. He hasn't submitted testimony so what he's
 14 saying is --
 15 HEARING EXAMINER ASSELTA: Correct.
 16 MS. BENEDEK: -- something that my witness
 17 isn't here to provide. He has provided data,
 18 information about the three criteria. That is where I
 19 can't agree with Mr. White.
 20 COMMISSIONER FOX: But those types of
 21 studies are relevant. He might not be an expert, but I
 22 would think that your company should have some evidence
 23 about whether it is elastic or not.
 24 MS. BENEDEK: And they have asked us for
 25 that information -- or they have asked us whether we've

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1 morning which seems like a lifetime ago.
 2 Q. I will start off if you go to page 21 of 84.
 3 A. Yes, I'm there.
 4 Q. This talks about how your business is organized.
 5 You've got regional markets. You've got business
 6 markets, wholesale markets, and you have the Savvis
 7 operations.
 8 A. Correct.
 9 Q. Is that a yes?
 10 A. Yes.
 11 Q. If turn to page 23 of 84 at the top which is
 12 marked 21 at the bottom, you see the margin percentage
 13 that's listed there?
 14 A. Yes, I did.
 15 Q. It's 58 percent. Correct?
 16 A. Yes. As the margin refined, yes.
 17 Q. And would that be an EBITDA?
 18 A. No.
 19 Q. What's your understanding the difference between
 20 EBITDA and how you express margin in your 10-Q report?
 21 A. Again, I'm -- I haven't studied the document, but
 22 if I'm looking at page 22, it talks about direct
 23 expenses, specific incremental expenses incurred as a
 24 direct result of providing services and products to
 25 segment customers. It doesn't talk about allocated

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1 done elasticity studies and we said no. So what he is
 2 getting into now the third time asking the same
 3 question.
 4 COMMISSIONER FOX: I think the point has
 5 been made that you have not provided us with any
 6 information on elasticity.
 7 MS. BENEDEK: We have not.
 8 COMMISSIONER FOX: So we have to rely on --
 9 MS. BENEDEK: The testimony.
 10 COMMISSIONER FOX: -- the testimony of
 11 others.
 12 MS. BENEDEK: But I can't agree with
 13 characterization of what that means as Mr. White has
 14 testified or stated.
 15 HEARING EXAMINER ASSELTA: *Let's move*
 16 forward. You've made your point.
 17 BY MR. WHITE:
 18 Q. We're going to go back to Exhibit 6 which is
 19 CenturyLink's annual 10-Q that was filed. It's
 20 Exhibit 6D of the package I handed out earlier.
 21 Do you have that available to you?
 22 A. Yes, I do.
 23 MS. BENEDEK: I missed that.
 24 MR. WHITE: It's 6D, 10-Q, part of the four
 25 sets of documents that I handed out way earlier this

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1 expenses. So it's looking for direct costs associated
 2 with the segment but not the general overhead costs that
 3 get allocated from the corporation.
 4 Q. There's a percent -- margin percentage for
 5 business as well.
 6 A. Yes, there is.
 7 Q. In wholesale.
 8 A. Yes, there is.
 9 Q. And for Savvis as well?
 10 A. Yes.
 11 Q. And company-wide that average is 54 percent.
 12 A. That's what the exhibit says.
 13 Q. That concludes my questions on this exhibit.
 14 Can I purchase installation services from another
 15 entity if I want CenturyLink's local service?
 16 A. No, you cannot.
 17 Q. And can I purchase vertical features?
 18 A. No. No, there's not a market for vertical
 19 features on standalone basis.
 20 Q. Now, is it your understanding that CenturyLink is
 21 subject to an alternate form of regulation here New
 22 Jersey?
 23 A. Yes. Subject to a PAR plan.
 24 Q. If DA was declared competitive as a result of
 25 this proceeding, would that be an exogenous event under

<p>Cross - Harper Page 158</p> <p>1 your plan of alternative regulation? 2 MS. BENEDEK: Objection. That is pure legal 3 conclusion. 4 MR. WHITE: What about his understanding? 5 MS. BENEDEK: What is his understanding 6 about whether it is? 7 MR. WHITE: Yes. 8 MS. BENEDEK: Again, I renew the objection. 9 Q. How is that legal -- 10 HEARING EXAMINER ASSELTA: <i>Rephrase it.</i> 11 COMMISSIONER FOX: It's not legal. He's a 12 smart man. 13 Q. Under your plan of alternative regulation is -- 14 do you understand there's an exogenous event clause in 15 your PAR? 16 A. Yes. 17 Q. Do you know what that exogenous event clause is 18 triggered by? 19 A. You know, I've read it and I have an 20 understanding of what I think it means. Again, it's not 21 been to my knowledge tested at this point by us or 22 anybody and New Jersey to know exactly, but I have not 23 thought of -- generally exogenous events are events 24 where it's beyond the company's control, something 25 happens to it, either through a cost, an act of God,</p>	<p>Cross - Harper Page 160</p> <p>1 calls. Correct? 2 A. No, the number was higher. During the course of 3 the plan, the plan allowed us to lower the number of 4 free DA calls to two. 5 Q. To two. 6 So you had a higher amount initially. 7 A. Yes. 8 Q. And now you're providing two free? 9 A. Yes. 10 Q. And you're seeking to reclassify that as rate 11 regulated? 12 A. Yes, we are. 13 Q. Do you think that your basic service rates would 14 have to be adjusted for an exogenous event if the Board 15 changes a regulatory treatment of DA services? 16 MS. BENEDEK: I renew my objection. I don't 17 think this witness is qualified to answer whether a 18 particular happenstance qualifies under specific terms 19 of our PAR agreement. 20 MR. WHITE: Well, first of all, he 21 identified regulatory changes. 22 HEARING EXAMINER ASSELTA: He's not 23 qualified to answer that question. 24 MR. WHITE: That's fine. I asked it and 25 that's all.</p>
<p>Cross - Harper Page 159</p> <p>1 through a rule change at the FCC. That type of thing. 2 Q. It could also be a tax change. Correct? 3 A. Yeah. It's been used for tax changes back in the 4 past. But as far as a service being deemed competitive, 5 it's difficult for me to connect that with an exogenous 6 event and what action that would take in a PAR. 7 Q. Now, when your basic local exchange services were 8 set, were free DA calls part of the -- free DA calls 9 part of basic service package at that time. 10 Correct? 11 A. Are you talking about way back when there was a 12 rate case the last time? 13 HEARING EXAMINER ASSELTA: <i>How far back?</i> 14 Q. When they were originally set under your last 15 rate case. 16 A. I don't have -- I don't have that history. I can 17 answer it in general based upon experience in other 18 states, yes, in a rate case it would recognize all the 19 services being offered and generally free DA or an 20 allowance for a given number of calls as part of that 21 mix. 22 Q. In 2008 you entered into an alternate plan of 23 regulation. Correct? 24 A. Yes. 25 Q. Prior to that plan, you were giving two free DA</p>	<p>Cross - Harper Page 161</p> <p>1 Q. On page 23 of your reply testimony you discuss 2 home phone connect service. Correct? 3 A. Yes. 4 Q. Do you know how many CenturyLink customers have 5 subscribed to that service? 6 A. No. We have no ability to determine specifically 7 what product is purchased when they leave. 8 Q. On page 20 you discuss Lifeline and number of 9 wireless providers. Is that correct? 10 A. Yes. 11 Q. You're not seeking reclassification of Lifeline 12 in this proceeding, are you? 13 A. No. We're not seeking anything related to -- 14 changes related to Lifeline in this proceeding. 15 Q. It's not a service identified by you for which 16 reclassification is sought. Correct? 17 A. Correct. 18 Q. On page 15 of your rebuttal, 15, 16, you claim 19 that the inability to quantify the harms of rate 20 regulation is maintained is not one of the -- is not 21 maintained I think is not one of the three criteria. 22 Is that what you say? 23 A. That's a fair summary of that series of 24 sentences, yes. 25 Q. And you provide no quantification. Correct?</p>

<p>Cross - Harper Page 162</p> <p>1 A. We talked about before, my testimony initial and 2 various rounds talks about the harm, but I don't have 3 any specific monetary quantification. 4 Q. You have no study analysis. 5 A. Yes -- no. 6 MR. WHITE: If I could have five minutes to 7 go over, see if I have any additional questions. 8 Otherwise, I may be done. 9 (A short recess is taken.) 10 HEARING EXAMINER ASSELTA: <i>Mr. White, do you</i> 11 have anymore questions? 12 MR. WHITE: No more questions. 13 HEARING EXAMINER ASSELTA: <i>You're excused</i> 14 Staff, do you have any questions? 15 COMMISSIONER FOX: Copper lines, how much 16 remain in your system of copper lines? Copper lines 17 from my opinion are safe. How do copper lines fit into 18 I guess this position, petition because I think a lot of 19 seniors want copper lines because of that security 20 issue? 21 MR. VASINGTON: We haven't eliminated any 22 copper facilities, but they remain out there. They're 23 less full than used to be because so many customers have 24 dropped us. When the customer drops us, we don't take 25 away the copper drop. It's a drop from the line to the</p>	<p>Colloquy Page 164</p> <p>1 situation where a customer moves into a house and 2 decides what service they want. When they call the 3 service rep, the 1(800) Verizon service rep, I don't 4 know if we ask them which do you prefer, FiOS or copper? 5 MR. HARPER: Answer similar, we don't have 6 FiOS related product in the marketplace here and our 7 primary method is to try and get fiber closer to the 8 homes, fiber to the node so the copper link at the end 9 stays into the customer's home. So the idea of being 10 able to get power to copper where it's important to 11 people, it's there. In fact, we just had an issue with 12 some good press from Hunterdon County when there was a 13 big storm and the power company was out, somebody said 14 in the article but my phone works. 15 COMMISSIONER FOX: I don't bundle because of 16 that. 17 Another question, another topic. Service 18 quality. My personal belief is having talked to our 19 customer assistance people and have talked to a lot of 20 people who complained to me about service quality that 21 Verizon has a lot of complaints and, in fact, one of the 22 issues seems to be if you want to get your regular old 23 phone service repaired or get installed it takes two 24 weeks to do that. And so my personal belief is having 25 talking to a lot of people about this, well, I can just</p>
<p>Colloquy Page 163</p> <p>1 customer's house so we leave it in place. So we haven't 2 removed any copper facility even though they're 3 currently not being used to the extent that they were. 4 COMMISSIONER FOX: <i>Say somebody wants to go</i> 5 back in, say somebody has FiOS and sell homes and want 6 the copper back, can they have the copper back? 7 MR. VASINGTON: The copper is still there. 8 We have to roll a truck to switch from the terminal on 9 the house. A fiber served customer is served by what we 10 call an optical network terminal, an ONT, on the side of 11 the customer's house, and that has got a fiber optic 12 cable going into that ONT which then serves that 13 customer. If they previously had copper service with 14 us, that copper service is still hooked up to the 15 network interface device, or NID. So if that customer's 16 location wants to switch back to copper, we have to roll 17 a truck back to the house so a technician can hook up 18 that copper line. 19 COMMISSIONER FOX: Do you offer that as an 20 alternative or would they have to ask for it? 21 MR. VASINGTON: You mean do we say to the 22 customer -- 23 COMMISSIONER FOX: You want a landline or 24 you want FiOS, you say that? 25 MR. VASINGTON: We're talking about a</p>	<p>Colloquy Page 165</p> <p>1 use cell phone then because I've lived for two weeks 2 without it and I don't need. It's also a real pain in 3 the neck for people because they have to literally wait 4 two weeks at least to get that service. 5 Do you have any feeling how that might 6 impact your line loss? 7 MR. VASINGTON: To the extent that the 8 customer is dissatisfied with us and all the myriad 9 options that they have in the marketplace and 10 substitutes certainly doesn't help us if we haven't 11 satisfied their concerns over our service quality. They 12 can go to other places. 13 For purposes of this proceeding, we know you 14 have another docket open on Verizon service quality. 15 For purposes of this proceeding, we clarified that none 16 of the PAR-II requirements would change for us if we 17 were to be reclassified as competitive services here. 18 That those service quality requirements that exist in 19 PAR-II don't go away simply as a result of 20 reclassification. 21 COMMISSIONER FOX: In the PAR-II 22 requirements, do we actually know how much time we have 23 to respond if somebody wants to hook up a phone service 24 or if they have a problem with the phone and need 25 somebody to come out in the truck and repair it? I</p>

<p>Colloquy Page 166</p> <p>1 don't think that is there, is it? 2 MR. VASINGTON: I don't know. There's a 3 list of metrics in the PAR-II order. 4 MR. SMITH: We have 21 or 22 PAR-II metrics 5 and I think installation is one of them. Off the top of 6 my head, I can't recall what it is. But there are -- 7 there's 21 metrics, 22 metrics, a lot of metrics to be 8 evaluated. 9 MR. HARPER: First, from a complaint 10 perspective, we haven't had very many, particularly 11 related to this issue, although I would agree that 12 quality is one of the aspects a customer is going to 13 consider in choosing their provider, clearly we're 14 driven in a competitive marketplace to provide what the 15 customer needs. 16 COMMISSIONER FOX: Verizon's numbers are 17 pretty good. Okay. Thank you. 18 HEARING EXAMINER ASSELTA: <small>Before you know</small> 19 as a matter of record and just to let Verizon know that 20 I know the Board here and I know my fellow commissioners 21 really do care about copper wire and landlines and rate 22 counsel probably shares that same belief. 23 How important it is was illustrated about 24 two weeks in my home town. We went through a horrible 25 storm. We were devastated. A community of about 70,000</p>	<p>Colloquy Page 168</p> <p>1 MR. HARPER: Certainly. And I like to 2 preface it with I'm not an attorney interpreting the PAR 3 plan, but I've certainly read it and I believe we would 4 remain under the PAR conditions. We'd have to file 5 competitive tariffs. We have that relationship or that 6 need to go through the commission if we were to want to 7 remove basic service. 8 What I can say, we talked about in some of 9 the testimony, there's a number of states where we've 10 been able to gain price deregulation or even pretty much 11 total deregulation of basic service. And throughout our 12 37 state footprint, we have not filed anywhere to remove 13 the provision of standalone basic service today. 14 COMMISSIONER FOX: Directory assistance, you 15 both provide two free calls for residential for 16 directory assistance and it went down from what it was 17 before. Do you have in your testimony or in the 18 appendices to it regarding directory assistance who are 19 the customer classes who use it -- not the customer 20 classes -- who are the individuals who use it, seniors, 21 that kind of thing, who uses those two calls? 22 MR. VASINGTON: We don't have that 23 information in our testimony and Verizon doesn't have 24 it. 25 COMMISSIONER FOX: Do you have any</p>
<p>Colloquy Page 167</p> <p>1 people, total electricity blackout for eight days and 2 the only thing that worked was the copper line and the 3 only way we could communicate outside of our community 4 was those copper lines that were still in some people's 5 homes, in this case my mother's home. 6 It's still a valuable asset to have. We 7 know where technology is going, but we still think and 8 we feel that we want to maintain that copper line as 9 long as possible, just in case of those emergency 10 situations so I want to let you know that. 11 MS. BENEDEK: May I ask, I thought you were 12 going to go there on the initial question you asked when 13 this hearing opened. 14 COMMISSIONER FOX: That would be good except 15 I can't remember exactly what it was so if you can, 16 Counsel. 17 MS. BENEDEK: Just because we're counsel, I 18 responded which is not evidence so I want my witness to 19 respond. 20 Would you eliminate the R1, that standalone 21 line, if we deemed -- if you deemed the service as 22 competitive, I believe was your question. And to make 23 sure that we do have an answer for the record, would 24 you, Mr. Harper, like to respond to Commissioner Fox's 25 question?</p>	<p>Colloquy Page 169</p> <p>1 information from Verizon on who uses those two free 2 calls? 3 MR. HARPER: Not really. 4 MR. VASINGTON: The only evidence we have is 5 the study that Mr. White referred to earlier that you 6 saw that looked at how many years have you been using by 7 demographic. 8 COMMISSIONER FOX: Do you have information 9 on other states in directory assistance? I know we had 10 that five years ago, whenever we did the last program. 11 MR. HARPER: In terms of the status of 12 regulation and the number of free calls, we can do a 13 survey. 14 MS. BENEDEK: We will look. 15 COMMISSIONER FOX: It would be nice to know. 16 Staff got it together for us, whenever it 17 was, five years ago, but it would be nice to have that. 18 MS. BENEDEK: So the question is the use of 19 the two free -- 20 COMMISSIONER FOX: What are the status of 21 other states for directory assistance that are free or 22 that are competitive -- or not competitive -- that are 23 not competitive? What is the status of noncompetitive 24 DA in the states where you operate? 25 HEARING EXAMINER ASSELTA: <small>Mr. White's</small></p>

<p>Direct - Baldwin Page 170</p> <p>1 witness.</p> <p>2 MS. BENEDEK: Two minutes. We may not have</p> <p>3 cross.</p> <p>4 HEARING EXAMINER ASSELTA: A briefing?</p> <p>5 MR. SMITH: No. We just want to talk about</p> <p>6 the DA question.</p> <p>7 MS. BENEDEK: And I want to double-check</p> <p>8 whether I have cross.</p> <p>9 MR. SMITH: But in the meantime are our</p> <p>10 witnesses excused for today?</p> <p>11 HEARING EXAMINER ASSELTA: Yes.</p> <p>12 (A short recess is taken.)</p> <p>13 SUSAN M. BALDWIN, 17 Arlington</p> <p>14 Street, Newburyport, Massachusetts 01950, having been</p> <p>15 duly sworn by the Notary, testified as follows:</p> <p>16 DIRECT EXAMINATION OF MS. BALDWIN BY MR. WHITE:</p> <p>17 THE WITNESS: Mr. White, should I have all</p> <p>18 my pieces of testimony here so I can make corrections?</p> <p>19 Q. Make corrections, any modifications, corrections</p> <p>20 that you need to make. And they need to put you under</p> <p>21 oath?</p> <p>22 A. I was just put under oath.</p> <p>23 Yes, I do have a few corrections. And I'd like</p> <p>24 to start with my initial testimony and I believe a</p> <p>25 document has been distributed. Rate counsel could</p>	<p>Direct - Baldwin Page 172</p> <p>1 residential DA, there's an end parenthesis should go</p> <p>2 after the word DA. And end parenthesis similarly on</p> <p>3 pages 11, line 7, page 13, line 10. That's the</p> <p>4 identical change.</p> <p>5 We've talked about pages 21 and 22 so let's turn</p> <p>6 to page 96 of my initial testimony. The changes I</p> <p>7 discussed a few moments ago about pages 21 and 22 and</p> <p>8 the lack of information on the quantity of business</p> <p>9 customers that Verizon serves in New Jersey, this</p> <p>10 ripples through lines 6 through 15 on page 96,</p> <p>11 specifically on line 8 there's a confidential number</p> <p>12 that should be replaced with the word unknown. Line 11</p> <p>13 the confidential number should be replaced with the word</p> <p>14 unknown, and line 13 the confidential number should be</p> <p>15 replaced with the word unknown.</p> <p>16 Turning next to page 100, line 8, the word form</p> <p>17 at the end of the line should say from.</p> <p>18 Turning to 113, line 13, let me read the sentence</p> <p>19 that begins on page 12. I'm going to be changing on</p> <p>20 line 13 the word that says want to the word that says</p> <p>21 to, but this is substantive change so I want to make</p> <p>22 sure I got this correctly here.</p> <p>23 Table 23 below summarizes monthly rates for some</p> <p>24 of Verizon's New Jersey discretionary features and shows</p> <p>25 that for all but two of the features Verizon NJ charges</p>
<p>Direct - Baldwin Page 171</p> <p>1 perhaps advise me of the exhibit number which replaces</p> <p>2 pages 21 and 22 of my initial testimony.</p> <p>3 Q. There's not an exhibit number for it, we just</p> <p>4 distributed an errata sheet added to the testimony.</p> <p>5 A. What I've done there is to reline the changes</p> <p>6 that appear on the text of page 21 of my initial</p> <p>7 testimony. And if you turn to page 22 of that document,</p> <p>8 I will not be divulging any proprietary information,</p> <p>9 Table C1, entitled Verizon New Jersey Business</p> <p>10 Customers, you'll notice that the difference between</p> <p>11 this errata Table C1 and my original C1 that I put the</p> <p>12 words not available in several spots, several</p> <p>13 categories, because upon further reflection of the</p> <p>14 source of the information, I determined that I could not</p> <p>15 tell the unique number of business customers. I was not</p> <p>16 able to find out in the record of this proceeding how</p> <p>17 many unique business customers Verizon serves. So based</p> <p>18 on that revised understanding, I revised that table.</p> <p>19 Now, what I'd like to do is go back to the</p> <p>20 initial testimony as filed and make changes, most of</p> <p>21 which are simply typos. If you turn to page 5, now</p> <p>22 we're going to find out if my pagination is the same as</p> <p>23 yours, and if it is not, I'd like to take a second to</p> <p>24 get the same version you have.</p> <p>25 Page 5, line 13 begins residential services and</p>	<p>Direct - Baldwin Page 173</p> <p>1 residential customers more than it does business</p> <p>2 customers.</p> <p>3 Turning next to page 115, footnote 186.</p> <p>4 HEARING EXAMINER ASSELTA: <i>Could you hold</i></p> <p>5 one second. We need to before we go any further, rate</p> <p>6 counsel needs to address the unavailability Sarah Bosely</p> <p>7 for the record.</p> <p>8 MR. WHITE: Right. Just the understanding</p> <p>9 that we're making Ms. Baldwin available today for cross</p> <p>10 on the assumption it does not effect the panel testimony</p> <p>11 offered by Ms. Baldwin and Ms. Bosely and that it</p> <p>12 remains in the case as joint testimony and that their</p> <p>13 waiver of the cross of Susan is also waiver of their</p> <p>14 cross of Ms. Bosely.</p> <p>15 THE WITNESS: And, Commissioner, if it's</p> <p>16 helpful, on page 5 of -- if it's helpful, on page 5 of</p> <p>17 our initial testimony, line 8, we say each member of the</p> <p>18 panel has reviewed and supports the testimony in its</p> <p>19 entirety.</p> <p>20 HEARING EXAMINER ASSELTA: <i>Thank you</i></p> <p>21 THE WITNESS: Shall I continue on?</p> <p>22 HEARING EXAMINER ASSELTA: Yes.</p> <p>23 THE WITNESS: Just a few more corrections.</p> <p>24 So in footnote 186, on page 115 the word</p> <p>25 confidential should precede the word exhibit. It's</p>

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1 confidential Exhibit SMB-30.
 2 On page 121 the question that begins on
 3 line 4, instead of saying that it offers, the question
 4 should read that they offer to residential customers.
 5 On 123, line 16, instead of use, it should
 6 say used, u-s-e-d.
 7 And, finally, for the initial testimony on
 8 page 131, the line 7 the question that begins on line 7,
 9 toward the end of the line it should say still have the
 10 option. So have should be inserted after still.
 11 And I just have two minor edits on reply and
 12 I will be finished with the corrections to the three
 13 pieces of testimony.
 14 Turning to reply testimony, page 8, line 2,
 15 that line should read CenturyLink was unable to quantify
 16 the harms of continued rate regulation or the benefit,
 17 instead of, of the benefit.
 18 Further down that page on line 10, the word
 19 "a" that precedes competition should come out, should be
 20 deleted.
 21 And with those corrections, the testimony is
 22 accurate to the best of my knowledge and belief.
 23 BY MR. WHITE:
 24 Q. Ms. Baldwin, I refer you to RC Exhibit 13 which
 25 is NPS survey retail DA that we previously discussed.

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1 You have some comments where respect to page 10 that
 2 you'd like to share with the hearing officer?
 3 A. Yes. And to be clear this is the document that
 4 we've included as confidential rebuttal Exhibit SMB-C-3
 5 and it's dated December 2011.
 6 Earlier we heard discussion by Mr. Vasington of a
 7 chart that appears on page 10 about the possibly
 8 confusing presentation of the data from the survey. And
 9 I have a slightly different understanding of what the
 10 numbers are.
 11 As Mr. Vasington says, the numbers are the
 12 numbers, but the way I read them is a bit different from
 13 the way Mr. Vasington does.
 14 Specifically, if we ignore for a moment what the
 15 intention of the author was which was to focus on how
 16 long have you been using this service and that grand
 17 total column is captured in a chart. Let's not look at
 18 the chart. I mean, let's not look at the line chart.
 19 Let's not look at the grand total. Let's assume that
 20 all the other data is accurate, however, and let's talk
 21 about the four individual columns which correspond with
 22 how long you've used 411 service. Maybe you've used it
 23 between zero and one years, that is first column. Maybe
 24 used it between one and five years, that's a second
 25 column and so on. Maybe you've used it more than ten

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1 years, and that's fourth column.
 2 Now, if go to the rows, that's how old you are,
 3 presumably a responsive survey, and you can see that for
 4 each of these four stratifications, each of these four
 5 categories, in every instance the probability of you
 6 using DA increases as you get older. So to me, the
 7 statistics are very clear. Elderly people are more
 8 likely to rely on DA and this is not surprising. We all
 9 know elderly people and they all grew up using DA. So I
 10 don't think that that's a startling fact, but it's
 11 certainly empirical evidence.
 12 So I wanted to add my different interpretation of
 13 these data to the record for the benefit of the Board.
 14 HEARING EXAMINER ASSELTA: Thank you.
 15 MR. WHITE: We're done.
 16 HEARING EXAMINER ASSELTA: Anything else?
 17 MR. WHITE: We are done.
 18 HEARING EXAMINER ASSELTA: Questions?
 19 COMMISSIONER FOX: Question about directory
 20 assistance.
 21 THE WITNESS: That was the question, thank
 22 you, Commissioner.
 23 COMMISSIONER FOX: Do you know of any other
 24 information out there about directory assistance?
 25 THE WITNESS: This is exactly the concern I

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1 have throughout this proceeding whether it's the
 2 directory assistance or whether it's the legacy. Who
 3 are they?
 4 The Board in my view has a strong
 5 responsibility to protect the most vulnerable citizens
 6 in the state, whether using DA or legacy service and
 7 neither Verizon or CenturyLink has been able to shed
 8 light on this demographic. And this is a sizable number
 9 of customers who use DA and use legacy landline and I
 10 would be concerned if we stopped protecting them without
 11 knowing more about it, would be turning our backs on
 12 them.
 13 COMMISSIONER FOX: That's always a concern
 14 to legacy service used by seniors and probably first
 15 generation ethnic groups, by poor, working class people
 16 who are not Lifeline and I would assume -- maybe I'm
 17 wrong -- that if the numbers proved out well for
 18 Verizon, we would have a study.
 19 THE WITNESS: Actually, I would like to
 20 clarify, there is some data that bears on this
 21 proceeding that we do have on demographics that may be
 22 helpful to the Board and we include that in our
 23 testimony.
 24 For example, Verizon is quick to point out
 25 that the incremental cost of adding voice if you have

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1 broadband that is what you should look at. And I have
 2 various issues with bundles verses standalone and that I
 3 won't go over, but on the demographic issue based on --
 4 on the FCC data we have about 41 percent of elderly
 5 subscribe to broadband verses 80 percent based on the
 6 new FCC local competition report. So income also
 7 directly attracts broadband adoption, the lower the
 8 income, the less likely the broadband adoption. The
 9 lowest income decile is about 35, 36 percent. The
 10 highest income decile is about 79 percent.
 11 So to the extent that one were, and I don't
 12 think you should, look at the incremental cost of adding
 13 VoIP to your triple play, to your broadband, well, if
 14 you don't have broadband, you're looking at the full
 15 cost. So that is relevant demographic information.
 16 Thank you.
 17 HEARING EXAMINER ASSELTA: Any other
 18 questions? Anybody? Okay.
 19 This concludes the evidentiary portion.
 20 I agree with the parties offer of the filing
 21 of the initial briefs on October 2nd and then the reply
 22 briefs by November 1st. I think we are all in agreement
 23 with that.
 24 MR. WHITE: We need to move all the exhibits
 25 into evidence.

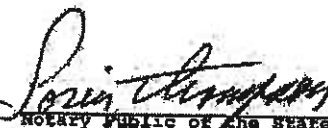
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1 MR. SMITH: Be allowed in.
 2 HEARING EXAMINER ASSELTA: --be allowed in
 3 and we'll move forward from there.
 4 MR. SMITH: Thank you.
 5 HEARING EXAMINER ASSELTA: Thank you.
 6 everybody, for coming.
 7 (Verizon, CenturyLink, and Rate Counsel, all
 8 exhibits moved into evidence.)
 9 (Proceedings concluded at 2:56 p.m.)
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1 HEARING EXAMINER ASSELTA: And other than
 2 that, I encourage everyone to keep communicating and
 3 let's come to some kind of resolution in the very near
 4 future.
 5 MR. SMITH: Commissioner, we definitely plan
 6 on communicating. But the Board move all the exhibits
 7 in, we still would like to based upon the comment
 8 earlier related to cost object to the admission of
 9 Exhibit 6B which is Verizon Communications, Inc., Form
 10 10-G, and the investor report which both are for an
 11 affiliate which is Verizon Communications, Inc., not a
 12 party to this proceeding.
 13 COMMISSIONER FOX: Mr. Chairman, can I?
 14 I looked at the order, it's not going to do
 15 costs. It says no cost study. It doesn't say no
 16 discussion of costs.
 17 MR. SMITH: Another order said no costs.
 18 COMMISSIONER FOX: We have the order here.
 19 I read it to read no cost studies. It didn't say no
 20 discussion of costs.
 21 MR. SMITH: Basically, this a rejection on
 22 the affiliate aspect. This is Verizon Communications,
 23 Inc., is an affiliate.
 24 HEARING EXAMINER ASSELTA: I think it's in
 25 everybody's best interests that everything --

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1 CERTIFICATE
 2
 3 I, Lorin Thompson, a Notary Public and
 4 Shorthand Reporter of the State of New Jersey, do hereby
 5 certify that prior to the commencement of the
 6 examination PAUL B. VASINGTON, MARK D. HARPER, SUSAN M.
 7 BALDWIN, were duly sworn to testify the truth, the whole
 8 truth and nothing but the truth.
 9 I DO FURTHER CERTIFY that the foregoing is a
 10 true and accurate transcript of the testimony as taken
 11 stenographically by and before me at the time, place and
 12 on the date hereinbefore set forth.
 13 I DO FURTHER CERTIFY that I am neither a
 14 relative nor employee nor attorney nor counsel of any of
 15 the parties to this action, and that I am neither a
 16 relative nor employee of such attorney or counsel, and
 17 that I am not financially interested in the action.
 18
 19
 20
 21
 22 
 23 Notary Public of the State of New Jersey
 My commission expires July 26, 2016
 24
 25 Dated: July 17, 2012

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