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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable Ralph King Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2020-000983
Trial Court Case No. 17-ALJ-17-0237-CC

Clarendon County, Florence County, Lee County,
Sumter County, Williamsburg County, Williamsburg County School
District, Clarendon School District Two, Florence School District
One, Florence School District Three, Sumter County School District,
Clarendon County Hospital District, Lee County School District,
and Clarendon School District One Appellants-Respondents,

v.

South Carolina Department of Revenue, Farmers Telephone
Cooperative, Inc., FTC Communications, LLC, and FTC Diversified
Services, LLC, ... Respondents,

Of Which, Farmers Telephone Cooperative, Inc., FTC Communications,
LLC and FTC Diversified Services, LLC, are the Respondents-Appellants.

RECORD ON APPEAL - VOLUME 5 OF 10

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1 the Farmer's Network have any property that
2 would provide telephone service using that
3 definition?

4 A: Now, today?

5 Q: Today.

6 A: Probably. I would assume that they have some
7 analog stuff out there, but I'm -- again, just
8 to be clear, I'm not saying that it has to be
9 delivered over an analog service.

10 Q: Right.

11 A: It could be telephone service. I'm just saying
12 that probably still exists somewhere in the
13 network.

14 Q: Probably the most likely in the last mile if
15 anywhere?

16 A: Way out in the country somewhere probably.
17 Yeah.

18 Q: That clarifies what I where I was going. Okay.
19 Thank you. Those are all the questions I have.

20 **MR. CARTIN:** Just a little bit of redirect, Your
21 Honor, as you might imagine.

22 **MR. MOSS - REDIRECT EXAMINATION BY MR. CARTIN:**

23 Q: We mentioned the SIP concept and you were
24 giving an answer that you were cut off on. Can
25 you please continue?



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ROA 001951

1 A: Well, I mean, I was just wanting to clarify the
2 terms. The SIP is actually not what carries the
3 voice. It's just the -- a little technicality,
4 but it really is important to understand
5 because to understand how IP protocol --
6 internet protocol handles traffic, we have to
7 understand that it's being transported in these
8 packets addressed with that Session Initiation
9 Protocol. And then, content haul in the real
10 time -- the RTP and all that plays in to the
11 whole -- there are various -- as I -- as I
12 mentioned earlier, what's referred to as codex.
13 Code -- decode scanned. And all -- and that --
14 the SIP interacts with the codec to route the
15 call. So, that's all. I mean, that -- I just
16 wanted to make sure we had our terminology
17 straight on that one.

18 Q: Okay. And you mentioned some information about
19 codex. What do you understand the impact of a
20 codex to be on this case?

21 A: Well, the discussion would be -- and Mr. Wyatt
22 raised the concern in his deposition about my
23 use of 56 kilobits as the voice -- the volume
24 consumed by bandwidth. And I think earlier on
25 in my testimony, I had mentioned that that's



1 the standard generally accepted definition of a
2 voice grade circuit in this country. It's 56
3 kilobits. And the concern is -- the concern is
4 raised that this network might not be
5 transmitting at 56 kilobits. When I did my
6 calculation, when I did the analysis, I had no
7 idea what codex they're using. And I --
8 somewhere in the papers that I had to turn in,
9 I have a copy of a Cisco white paper that I
10 consulted on that. And it lists out -- I don't
11 know maybe -- that particular white paper
12 probably listed about 12 codex, I think. There
13 may be more -- I'm really not -- I might not be
14 aware of every single one, but a codec is a
15 compression scheme. It's -- again, we have to
16 remember -- just keep in mind the whole thing
17 with -- with internet protocol or voice over IP
18 is efficiency. We want it to be efficient.
19 So, some of these codecs allow voice calls to
20 be compressed down -- anywhere down from -- as
21 I said, that G.711 is the largest I could find
22 and it calls for 64 kilobit voice payload. The
23 smallest -- most of them are smaller than 56
24 kilobits. I think it's G.723 maybe. That's
25 like 7 kilobits. So, when I was undertaking my



1 analysis, not knowing which codec is being
2 used, and knowing that the only -- there was
3 only one that was larger than 56 and none that
4 were smaller, I felt comfortable going with 56.
5 Now, we also need to remember ---

6 **THE COURT:** Now, when you went -- and I don't want
7 you to lose your train of thought, but when you
8 went with 56, was that resulted in a number
9 that was more fair to Farmer's or less fair to
10 Farmer's?

11 A: That -- that's the numbers that did result --
12 the results that you saw resulted from my use
13 of 56. So, in my opinion, especially at the
14 time when I didn't know which codec they were
15 using, in my mind, I was being exceptionally
16 generous because I moved -- there's 12 out
17 there. There's only one that's larger. I'm
18 going to go with 56 and give them the benefit
19 of the doubt of the other 11. And some of them
20 are significantly smaller. Like I said, 7
21 kilobits per second. So, again -- so, I mean
22 -- maybe we're using G.711. There may even be
23 one that I'm not even aware of that's 100
24 kilobits. I don't know. But I do know -- I
25 mentioned briefly earlier the whole voice



1 suppression thing. So, based on that Cisco
2 white paper, they estimate that silence -- I
3 said voice suppression. I'm sorry. I should
4 have said silent suppression. The silent
5 suppression function of a voice over IP call
6 results in a general average according to Cisco
7 of about 35 percent. So, in other words, if --
8 if it's in fact 100 kilobits and if we're
9 utilizing silence suppression, then the actual
10 bits being transferred are going to be 100
11 minus 35 -- I guess what? About 65 kilobits.
12 So, there about -- and again, that's an
13 average. IP -- IP networks operate at such
14 small time integrals that -- really the only
15 way you can deal with anything is in averages
16 because we're talking about milliseconds,
17 right? So, that's why -- that's why Cisco says
18 it's results in average savings of 35 percent.
19 Some calls are going to save a whole lot more.
20 Just like I mentioned earlier, a call I made
21 probably is going to be about 50 percent. So,
22 the numbers -- by using 56 -- the other reason
23 I felt comfortable using 56 is that I'm
24 allowing the full bandwidth, the full -- I'm
25 not counting silence suppression in that. So,



1 I'm giving the full 56 kilobits. And the last
2 point on that is this is -- this is more than
3 just a common sense point rather than
4 mathematics. I mean, we -- the reason to
5 implement a voice over IP network is to take
6 advantage of the efficiencies it offers. There
7 would be no reason to spend all the money to
8 built a voice over IP network and then, use a
9 codec that uses more bandwidth than you were
10 using on your sonic network. Why -- why would
11 you do that? That doesn't even -- I don't know
12 why anybody would ever do that. And Farmer's
13 is a better manager. They wouldn't -- I mean,
14 I -- I can't speak to -- you know. I just know
15 it's a well managed network. And there would
16 be no reason to utilize voice over IP if it's
17 going to consume more bandwidth than a sonic
18 circuit's going to consume. So -- and that --
19 for that reason, I felt comfortable using 56
20 and I still do. I think -- unless some --
21 unless somebody can prove me wrong, I think
22 that's a valid number.

23 Q: Mr. Wyatt, just got a couple more easy
24 questions.

25 MS. GEER: Moss.



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ROA 001956

1 Q: Mr. Luther -- what's that?

2 MS. GEER: Mr. Moss.

3 MS. CARTIN: Mr. Moss. What did I call him?

4 MS. GEER: Mr. Wyatt.

5 Q: Mr. Moss.

6 THE COURT: He's jumping ahead.

7 Q: Just a few more ---

8 MR. CARTIN: Champing at the bit.

9 A: I think that that's the best compliment that
10 I've had all day.

11 Q: Mr. Moss, a few more easy questions for you.
12 Mr. Luther mentioned how a telephone was used
13 and looking at some definition.

14 A: Right.

15 Q: In 1980, how would a rural telephone
16 cooperative customer have accessed to landline
17 system?

18 A: You would pick up the telephone -- 1918?

19 Q: '80.

20 A: '80. I'm sorry. Excuse me. Still need to
21 pick up the telephone and dial the number. It
22 would be routed based on the telephone number
23 to the switch. And from there out to the PSTN.

24 Q: Okay. In 2019, a rural telephone cooperative
25 customer in rural, say Sumter County ---



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ROA 001957

1 A: Uh-huh.

2 Q: --- how would they make a landline call?

3 A: Exact same way. They'd pick up the telephone,
4 dial a number. They don't realize that the
5 call is going from there out all over the
6 network just like I described earlier in all
7 the packets in stuff. Although -- all they
8 know is they pick up the phone and they're
9 talking to their cousin on the other end just
10 like the guy in 1980.

11 Q: Okay. If they're picking up a handheld device
12 in a -- and they're in a rural telephone
13 cooperative's area, what can you tell about
14 their physical geography at that moment in
15 time.

16 A: Well, if they're in the ILEC's area, they would
17 be within the ILEC's defined geographic
18 boundary.

19 Q: Okay. And that would be the same in 1980 and
20 today?

21 A: Yeah. As far as I know, the boundary has not
22 changed.

23 Q: Okay. And with regard to wireless, if a person
24 from New York City traveled through I-95 and
25 had an appropriate agreement that allowed them



1 to access a wireless network, would that person
2 be able to make a wireless telephone call going
3 70 miles per hour down I-95?

4 A: Absolutely. Sure. Not to rehash it, but it's
5 going to switch from tower to tower to tower.
6 They could start a conversation before they
7 entered a territory, talk the whole time
8 they're in it and still be talking when they
9 leave. So, yeah.

10 Q: In 1980, could that traveler from New York in
11 the ILEC area serviced by Farmer's have done
12 that?

13 A: No, sir.

14 Q: That's it.

15 MR. CARTIN: That's all I have, Your Honor. I
16 believe our next witness unless there's some --
17 -

18 MS. GEER: I don't have anything further.

19 MR. CARTIN: Okay.

20 THE COURT: Well, I didn't get your point on the
21 last one, but I'll guess you'll explain it
22 later. But you may step down.

23 MS. GEER: Your Honor, we do have one sort of
24 sensitive issue to address. The -- in Mr.
25 Moss' direct testimony at the beginning, there



1 was reference to several proprietary pieces of
2 equipment by like specific make and model
3 number. And in the deposition process we had
4 designated that as confidential. So, I'm not
5 sure --

6 **THE COURT:** Well, what ---

7 **MS. GEER:** --- of the Court's procedure as to ---

8 **THE COURT:** Well ---

9 **MS. GEER:** --- make sure that's not ---

10 **THE COURT:** I would say that we -- that you -- when
11 the transcript is prepared ---

12 **MS. GEER:** Yes.

13 **THE COURT:** --- that you find those references.

14 **MS. GEER:** Yes.

15 **THE COURT:** Make a motion ---

16 **MS. GEER:** Okay.

17 **THE COURT:** --- of which I will grant to seal that
18 unless somebody has some extraordinary ---

19 **MR. CARTIN:** No objection from us.

20 **MS. GEER:** Thank you.

21 **THE COURT:** Oh, okay. I -- so ---

22 **MS. GEER:** So, we're going to get a motion to seal
23 the transcript or we're just redacting putting
24 in a ---

25 **THE COURT:** Well, see here -- well, you can go



1 either way.

2 **MS. GEER:** Okay.

3 **THE COURT:** Okay. I -- if it's not -- if it's not
4 functional for me to make a decision, we -- we
5 can just go with redaction.

6 **MS. GEER:** Okay.

7 **THE COURT:** So, how about if -- I want everybody to
8 get the transcript at the same time. But is
9 there any way that you can inform the Court
10 Reporter ---

11 **MS. GEER:** Uh-huh.

12 **THE COURT:** --- what specifics have we ---

13 **MS. GEER:** Yes. Yes. We can.

14 **THE COURT:** All right. Well, how about do that.
15 Let's just inform him. Have it redacted.

16 **MS. GEER:** Okay.

17 **THE COURT:** And by that I mean, you can just grey it
18 out. Would that be ---

19 **MS. GEER:** Yes.

20 **THE COURT:** --- fair? And -- and then if you give
21 the transcript and we haven't sufficiently
22 taken care of that ---

23 **MS. GEER:** Okay.

24 **THE COURT:** --- let me know, but I think we -- we
25 all can take care of that. So -- because we're



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ROA 001961

1 doing this all on the open record.

2 **MS. GEER:** Yes.

3 **THE COURT:** I think we're good on it. Y'all -- is
4 that ---

5 **MR. CARTIN:** Yes, sir. I think that'll work.

6 **THE COURT:** You haven't responded. You shook your -
7 --

8 **MR. LUTHER:** Yes. That works for us.

9 **THE COURT:** There you go. Words. Okay.

10 **MR. CARTIN:** Your Honor, our next witness will be
11 here Thursday morning and so I think Farmer's
12 was going to start there's ---

13 **THE COURT:** All right. And remember we're going to
14 take a -- or y'all will get to take a two-hour
15 lunch tomorrow.

16 **MS. GEER:** Okay.

17 **THE COURT:** But ---

18 **MR. CARTIN:** Can we take a brief restroom?

19 **THE COURT:** Oh, we -- oh, so you going to call the
20 witness now?

21 **MS. GEER:** Yes.

22 **MR. VON LEHE:** Yes, Your Honor. We would like to
23 call -- to begin calling our witnesses. Maybe
24 a 10-minute or a 5-minute break.

25 **THE COURT:** Yeah. How late are we going to go



1 tonight?

2 **MR. VON LEHE:** I don't think this is going to take -
3 - I would say this should end around 5:00 --
4 5:00 to 5:30.

5 **THE COURT:** Oh, okay. Okay. All right. Thank you.

6 **(Off the Record)**

7 **THE COURT:** Y'all can be seated.

8 **MR. VON LEHE:** Thank you, Your Honor. We'd like to
9 begin with the direct examination of Mr. Jeff
10 Lawrimore. If I could please call him to the
11 stand.

12 **THE COURT:** Oh, okay.

13 **JEFFREY LAWRIMORE,** having been duly sworn, testifies
14 as follows:

15 **THE COURT:** Before you proceed, what time are we
16 going to start tomorrow?

17 **MR. VON LEHE:** 10:00 o'clock is what I understood.

18 **THE COURT:** Will we still be on schedule given that
19 I'm going to -- we're going to have a longer
20 break during lunch?

21 **MR. CARTIN:** I would think so.

22 **MS. GEER:** Does on schedule mean finished by
23 Thursday or finished by Friday?

24 **MR. CARTIN:** I thought Friday.

25 **MS. GEER:** Okay. I mean, earlier I thought we might



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ROA 001963

1 finish up Thursday, but now I think -- because,
2 I mean, we'll still be able to finish by
3 Friday. But I'm thinking we might go into
4 Friday.

5 **THE COURT:** Well, do y'all want to start earlier to
6 try to finish by Thursday? I mean, it's up to
7 y'all.

8 **MS. GEER:** I honestly don't.

9 **THE COURT:** Okay.

10 **MR. CARTIN:** It's helpful to me, Your Honor ---

11 **MR. GEER:** Yes.

12 **MR. CARTIN:** --- to have some open ---

13 **THE COURT:** Okay.

14 **MR. CARTIN:** --- prep.

15 **THE COURT:** Okay. Okay.

16 **MR. CARTIN:** Thank you, Your Honor.

17 **THE COURT:** Let's proceed.

18 **MR. VON LEHE:** Thank you, Your Honor.

19 **MR. LAWRIKORE - DIRECT EXAMINATION BY MR. VON LEHE:**

20 Q: Mr. Lawrimore, good afternoon.

21 A: Hey.

22 Q: Please briefly describe to the Court what your
23 role was in Farmer's applications for property
24 tax exemption.

25 A: I supervised the preparation of property tax



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ROA 001964

1 returns. Then I communicated with our legal
2 council on filing the appeals.

3 Q: All right. And his name was?

4 A: Jeff Allen.

5 Q: Thank you. Tell us briefly in summation your
6 educational and work history background.

7 A: Well, I attended the University of South
8 Carolina graduated in 1975 with a Bachelor of
9 Science Degree with a major in Accounting. And
10 I went to work immediately thereafter at the
11 Public Service Commission of South Carolina
12 Utilities Division as an Auditor, I think was
13 my title or Accountant. I think it was
14 actually Accountant I was my terminology. And
15 then, I left there after about two and a half,
16 three years and went to work at Griffin,
17 Lighthurst, and Wade CPA Firm in Walterboro,
18 South Carolina where we did mainly electric co-
19 ops, small telephone companies. And that would
20 be telephone co-ops and private telephone
21 companies. And then, I left there in 1980 to
22 go into business with my brother in a CPA Firm,
23 Lawrimore and Lawrimore CPAs. And I stayed
24 there until 1998. And in July of '98, I went
25 to work at Farmer's Telephone Cooperative as



1 Chief Financial Officer for the co-op and its
2 subsidiaries.

3 Q: All right. So, you've been there every since?

4 A: Ever since.

5 Q: You're currently employed there in that
6 capacity?

7 A: Currently employed there in that capacity.

8 Q: I'm going to ask you about these three entities
9 about Farmer's Cooperative -- Farmer's
10 Telephone -- Farmer's Rural Telephone
11 Cooperative, Inc., FTC Communications, LLC and
12 FTC Diversified, LLC. Are you the Chief
13 Financial Officer of each of those entities?

14 A: Yes. I am.

15 Q: All right. Well, with regard to the co-op
16 itself, when and where was Farmer's Cooperative
17 established?

18 A: It was established in 1952 in Kingstree, South
19 Carolina.

20 Q: Now what is Farmer's Telephone Cooperative?

21 A: Well, it's a rural telephone cooperative which
22 provides service in Williamsburg, Clarendon,
23 Sumter, Lee, and Lower Florence Counties. I
24 don't think we cover the complete counties on
25 any of them, except Clarendon County, but we --



1 the majority of the county, we do. And of
2 course, the telephone co-op -- well, that's ---

3 Q: What is -- what is a telephone cooperative?

4 A: A telephone cooperative is a non-profit
5 organization that is owned by it's members.
6 It's members become members by purchasing
7 services from the cooperative. And whatever
8 the tenants of co-op law is, the co-ops operate
9 at cost, so that a co-op charges -- makes,
10 operates at greater than cost, it has to return
11 that capital to its members.

12 Q: All right. So, generally speaking, do
13 customers -- do their customers have to be
14 members?

15 A: To be -- to receive services from the telephone
16 cooperative, you have to be a member.

17 Q: Okay. What was the reason Farmer's Cooperative
18 was created?

19 A: There was no telephone service in the rural
20 areas of those counties and some of the towns
21 had telephone service, but folks out -- the
22 farmers and the other folks who lived outside
23 of town did not have telephone service. And
24 the people out there viewed it as critical that
25 they have telephone service. And I believe



1 under the 1934 -- or some act of the REA,
2 telephone service was brought in as part of the
3 Rural Electrification -- started off as part of
4 Rural Electrification Association. And we --
5 money and encouragement to deploy those
6 services in those areas was provided.

7 Q: All right. So, in addition to rural land line
8 telephone service, does the co-op provide other
9 services?

10 A: The co-op itself provides -- we have what we
11 call -- well, we provide -- in addition to
12 that, we sell internet service to our
13 customers. We also have T.V. services for our
14 customers. We also offer security alarm
15 services for our customers.

16 Q: And what is the reason, if you know it -- what
17 is the reason that the co-op has expanded to
18 offer these other services in addition to
19 landline telephone?

20 A: Well, just like landline telephone service was
21 and still is in parts of our area, there is no
22 provider to really provide those services or if
23 they are, they're not of a quality that will be
24 beneficial. It is possible maybe to get the
25 satellite dish to put on your house to get T.V.



1 services, but it's -- you're not going to get
2 a quality internet service that way. You've
3 got to have a line -- our customers want that
4 service. We supply that service wherever we
5 can supply it.

6 Q: All right.

7 A: And it's obvious they buy from us, so they want
8 it.

9 Q: And would competition be a factor in this and
10 if so, how?

11 A: Well, competition has been allowed to come in
12 to our area unlike what was said earlier that
13 we have a monopolistic right. We do not. A --
14 a -- particularly, the cable T.V. customers
15 have come in and provide T.V. service, internet
16 service and some voice service. And they come
17 in to about -- I would think -- somebody else
18 might can give a better number than this, but
19 it's about 20 percent of our service area, they
20 can get in and serve. They have facilities.
21 They have their own networks and they can get
22 in there and they can serve as customers there.
23 That leaves probably about 2,400 square miles
24 that we -- they don't cover, that we have to
25 cover completely on our own.



1 Q: All right.

2 A: And it makes a problem because they will take
3 the customers who are less expensive to serve.
4 That leaves us those higher costs customers to
5 serve and makes it more difficult on us.

6 Q: Okay. What type of -- what type of funding are
7 available to rural telephone cooperatives that
8 might not be available to other entities?

9 A: Well, rural telephone cooperatives and other
10 private companies who provide rural telephone
11 service, are able to receive Universal Service
12 Funding through the federal government and --
13 for high cost areas. And we have a high cost
14 area to serve, we have to complete cost studies
15 and all kind of other documentation that we
16 submit to the -- that ends up being submitted
17 to the federal government and they determine
18 how much money we can receive and we get that
19 money. We also have availability -- as I said,
20 that started through REA and then actually
21 moved over to what they call a Rural Utility
22 Service. We can also access -- apply for
23 government loans through Rural Utility Service
24 and the Rural Telephone Bank, and get lower
25 costs funds that some people could in order to



1 expand our network.

2 Q: What -- from a financial standpoint and with
3 regard to what you know about it, what are the
4 workings of the universal -- what's a Universal
5 Service Fund, how does it impact Farmer's?

6 A: Well, it impacts us dramatically. But the
7 Universal Service Fund was created by the
8 federal government because the federal
9 government in its wisdom decided that it was in
10 the best interest of everyone in the country
11 that everybody have access to a telephone. And
12 through that, they decided that there would be
13 a fee that would be assessed on every telephone
14 line and that fee would then be remitted to the
15 federal government and they would then
16 redistribute that money back out to those
17 providers who were trying to serve in high cost
18 areas. And we received a substantial amount of
19 money from that.

20 Q: All right. So, I'm going to ask you about
21 FTCC, which is -- full name, FTC Diversified
22 Services, LLC. What is it?

23 A: FTCC?

24 Q: Yes.

25 A: FTC Communications. It's FTC Communications.



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ROA 001971

1 Q: And what is it?

2 A: It is a -- it is a wholly owned subsidiary of
3 Farmer's Telephone Cooperative. It provides
4 wireless services primarily. It also has what
5 we call an operator center, which primarily
6 provides operate- -- answering type services
7 for the co-op and I think some other individual
8 companies that used to provide answering
9 services for some electric co-ops too --
10 emergency services, you know. My electricity's
11 out, etcetera. That type of thing.

12 Q: Gotcha. Without getting overly legal here, is
13 it -- is it a single member LLC?

14 A: Yes. It is a single member LLC.

15 Q: And what is the single member?

16 A: The single member is Farmer's Telephone
17 Cooperative.

18 Q: All right. So, you're saying that FTCC
19 primarily provides wireless telephone services,
20 is that what you just said?

21 A: That's correct.

22 Q: All right. But it does provide other services,
23 which you just mentioned.

24 A: Yes.

25 Q: Is that correct?



1 A: That's correct.

2 Q: And those were?

3 A: That was the what we called the operator
4 center, which is -- provides answering service.
5 And it may do a little operator services, but
6 that's for the companies located out of state
7 that's primarily in the hotel-motel business.
8 For instance, some hotels, if you go there and
9 you want to use the telephone in the room to
10 make a long distance call, that routes -- if
11 you -- that company is providing it, then that
12 might actually route to Farmer's Telephone
13 Operator Center.

14 Q: Is this a minor part of the business?

15 A: Minor.

16 Q: All right.

17 A: Minor. Minor. Minor.

18 Q: Please explain for us what the wireless
19 telephone services entail?

20 A: Well, we offer -- there's two major components.
21 The major is the voice service, where you make
22 and dial -- you pick up your phone and you
23 place a call and it's answered or whatever to
24 somebody else. The other part is it does -- it
25 all -- all of our phones pretty much anymore,



1 there's internet capability attached that
2 network also. So, you can reach the internet,
3 send emails, check emails, surf the web,
4 whatever you want to ---

5 Q: All right. So, it's both voice and data?

6 A: It's voice and data network.

7 Q: All right. And what do these wireless
8 telephone services allow the -- its customers
9 to do?

10 A: Well, as I said, it allows you to place calls
11 in our -- in our area or place if you're in
12 another area, you -- as long as you have access
13 to the AT&T network, you can place a call on
14 that in other areas. It allows you to -- if
15 your phone is enabled to do so, you can, like
16 is said, check emails or do other types of
17 services like that, order something off Amazon,
18 watch a ballgame or whatever, listen to the
19 radio, play Pandora. Any of those millions of
20 things these little apps on these phones do.

21 Q: With regard to FTCC, what's its association,
22 connection, etcetera with the Universal Service
23 Fund?

24 A: FTC Communications was the first company in
25 South Carolina to receive high cost support for



1 wireless telephone service. We applied for
2 that through the South Carolina Public Service
3 Commission. They determined -- made their
4 determinations. By law, they have to -- in
5 South Carolina, they have to recommend to the
6 FTCC that we qualify -- meet qualifications to
7 receive that funding. They did so and we
8 received funding under that.

9 Q: All right. So, its subject to an extent -- it
10 is subject to the Universal Service Fund?

11 A: Yes. It is. We have to pay -- our customers
12 pay into the fund and we -- FTC -- FTCC's
13 customers are accessed a fee just like a
14 landline customer is. That goes into the fund
15 and the company then is able to draw back money
16 out of the Universal Service Fund.

17 Q: All right. Tell us about the creation of
18 Diversified.

19 A: Diversified Services, LLC is also a single
20 member LLC, who the single member is Farmer's
21 Telephone Cooperative. It is -- it was created
22 in order to provide landline telephone service
23 in the rural communities that we serve.

24 Q: All right.

25 A: Well, in the rural communities, the cooperative



1 does not serve.

2 Q: And in addition to ---

3 **THE COURT:** It's the in rural communities that
4 cooperative does not serve?

5 A: Well, for instance if you look at map, Your
6 Honor, of our service area, you will see -- we
7 call them donut holes. And it'll be an area
8 like Summerton, South Carolina. That -- it has
9 an Incumbent Local Exchange Company, that's
10 Frontier Communications and those were areas
11 that had telephone service back in 1952, where
12 the people living outside of Summerton did not
13 have it. And we -- we now offer services in
14 those communities also. Summerton being in
15 Lake City, Sumter, Hemmingway, Johnsonville,
16 Olanta. I may be missing some others. But
17 those were areas that Frontier serves, we serve
18 also.

19 **THE COURT:** Okay.

20 Q: Now, do you also in addition to landline
21 telephones, does Diversified provide other
22 services?

23 A: FTC Diversified -- well, of course, to its
24 customers it provides internet and T.V.
25 services, security alarm service just like the



1 co-op does.

2 Q: All right.

3 A: In addition to that, it owns a video head-in,
4 which is the company -- which is the equipment
5 that receives signals and codes those signals
6 from the video providers in the sky are off of
7 an antenna to get local channels. And they
8 code that and then they offer to us -- offer to
9 the co-op and to the regular Diversified
10 Services to supply to its members. It also has
11 an internet service provider, which does --
12 which allows our customers to -- we pay
13 Diversified Services for that and it goes out
14 and connects to the world so our customers can
15 access the internet. It has an email server.
16 So, if our customers want email from FTC, they
17 can get that through Diversified Services.

18 Q: All right, sir. I want to take you into the
19 briar patch for a few minutes.

20 A: All right, sir.

21 Q: And property tax returns.

22 A: Okay.

23 Q: General background, how are Farmer's
24 Cooperative, FTCC, and Diversified treated for
25 property tax purposes? How are they treated?



1 A: How are they treated?

2 Q: How are they treated?

3 A: Well, they are treated as a rural -- as of the
4 settlement, we've been treated as a rural
5 telephone service provider and some of the
6 assets -- the majority of the assets -- well,
7 all of the assets used in providing telephone
8 services are exhibited.

9 Q: All right, sir. Has it -- has it always been
10 treated -- have these three entities always
11 been treated as a utility?

12 A: Yes. They have all been treated as a utility.

13 Q: All right. And they have always filed some
14 type of utility property tax return?

15 A: They have either -- they all file PT-420 and
16 they either four -- file a 427 or a 429.

17 Q: All right.

18 A: Always have.

19 Q: Okay. And what forms do you file -- you just
20 mentioned it, but give me the three forms again
21 that are filed by the entities.

22 A: There's a PT-420.

23 Q: All right. And what is that?

24 A: I would have to look at the actual Exhibit to
25 know what the label is.



1 Q: I'll ask you this. Is it a Utility Property
2 Tax Return?

3 A: Yes. It is.

4 Q: All right. And what else do they file?

5 A: And a PT-427.

6 Q: All right.

7 A: Which is a distribution report of some kind for
8 that. And a PT-429, which is another form,
9 which is nearly identical and it provides --
10 it's some other type of distribution form.

11 Q: All right, sir. And to the best of your
12 knowledge, what are the -- what purpose do
13 these returns serve, so far as ---

14 A: It is ---

15 Q: --- the property concerned?

16 A: The purpose is to report our assets that we
17 consider -- that we have to the Department of
18 Revenue, so they can determine what appropriate
19 -- the level -- what's exempt, what's not
20 exempt, what our appropriate level of
21 assessment and taxation -- ultimately taxation.

22 Q: All right, sir. They've already been shown
23 yesterday, but -- but in the interest of time
24 -- and they'll be shown again today, but are
25 the PT-427 and PT-429 forms virtually



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ROA 001979

1 identical?

2 A: There -- there is two minor differences. A 427
3 has a main station column. Main stations are
4 the telephone lines or access lines as we call
5 them. In other words, it asks how many
6 telephones are located in certain areas such at
7 what county and if they're in a municipality,
8 how many are in the municipality. And then the
9 -- also, on the 429 or is the 427? Which one
10 did I say? Also, on that same form, there is
11 a column that says exempt, do no write in this
12 column.

13 Q: It says exempt, but it says don't write in this
14 column?

15 A: Yes.

16 Q: Is that correct?

17 A: Yes. And that's the only two differences.

18 Q: All right.

19 A: But we supply the main -- they ask for the main
20 stations -- the Department of Revenue for a
21 separate schedule for main stations on -- when
22 we file the 429.

23 Q: Okay. I wanted to ask you about the tax return
24 filings for the cooperative ---

25 A: Okay.



1 Q: --- for Farmer's Cooperative. For what period
2 of time has Farmer's Cooperative applied for
3 the rural telephone service exemption --
4 property tax exemption -- over what period of
5 time has it applied for it?

6 A: Well, I've only been there since 1998. So,
7 we've done it ever since I've been here.

8 Q: All right.

9 A: And before, they were doing it because the
10 employees who were there knew how to do it.

11 Q: Okay. How do you apply for this exemption?

12 A: We list our asset -- we fill out the form
13 listing our assets in the format, which they
14 requested and we submit any information that
15 they ask for and send it in.

16 Q: All right. Has the co-op been granted this
17 exemption?

18 A: It's been granted this exemption every time
19 that I'm aware of.

20 Q: Okay.

21 A: Never been challenged.

22 Q: All right, sir. Let's work through a sample
23 cooperative return.

24 **MR. VON LEHE:** If I may have some assistance.

25 **MR. CARTIN:** Ms. Fair, can you give Ms. Mitchell



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ROA 001981

1 access?

2 Q: Exhibit Number 1.

3 A: Can I open this book and look at Number 1 by
4 the way?

5 Q: You can see it up -- you certainly may, but
6 you'll see it up on the screen. Whatever's
7 easier ---

8 A: Sometime's it's easier and sometime's it's not.

9 Q: Oh, yeah. Understood. Whatever you prefer.
10 Whatever you prefer. Take a look at it. What
11 is it?

12 A: That is a PT-420, a Utility and Railroad
13 Company's property return for year ending 2010.

14 Q: All right. And it is for what entity?

15 A: Farmer's Telephone Cooperative.

16 **MR. VON LEHE:** All right. And would you scroll down
17 one more please to the next -- to the next
18 page. Continue going, please.

19 Q: All right. What is this?

20 A: That is our listing of our assets. First
21 column is the distribution information. That
22 is the PT-427.

23 Q: All right.

24 **MR. VON LEHE:** And would you scroll own one more,
25 please?



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ROA 001982

1 Q: What's that?

2 A: That is the -- a little further, but I'm
3 presuming it's still a four -- that's 429 for
4 Farmer's Telephone Cooperative. It lists the
5 -- the county, the municipality or tax -- the
6 municipal tax district and the total main
7 stations. And the gross property -- real
8 property gross investment -- personal property
9 gross investment. Then it has a column says
10 exempt property, leave blank.

11 Q: All right.

12 A: And then the gross taxable investment.

13 Q: Okay. So, you don't fill anything -- fill out
14 anything in that column that says leave it
15 blank? You leave it blank, is that correct?

16 A: Yeah. That's -- as far as I know, that's what
17 -- yes. That's what we always do.

18 Q: What the form says to do is what you do.

19 A: That's -- that's what we do.

20 Q: All right. Now, what percentage of the assets
21 does Farmer's -- did Farmer's Cooperative claim
22 or exempt?

23 A: The Farmer's Telephone Cooperative claimed 100
24 percent of its assets are used in rural --
25 providing rural telephone service.



1 Q: All right. And that's always been granted.

2 A: Yes. And it's always been granted.

3 Q: Okay. I'm going to talk about the tax return
4 filings for FTCC and Diversified for the tax
5 years in issue. And could you please put up
6 Exhibit Number 20?

7 A: Number 20.

8 Q: She's going to put it up. Yeah.

9 A: Yeah. Well, I still to look at it. All right.

10 Q: All right. And that's Exhibit Number 20. I
11 think we went over this yesterday. I don't
12 want to go over plowed ground here, but what is
13 it?

14 A: It is a letter from Linda Baltenbach. She's
15 our Accounting -- was our Accounting Manager
16 who reports to me and she and I discussed this
17 letter and it was to tell Mr. Crowe that we had
18 filed our utility property tax return, our PT-
19 420, included all of these assets or these
20 companies. They were a single member LLC. The
21 co-op is exempt and since we're underneath --
22 since FTC Communications is now under the
23 Farmer's Telephone Cooperative, Inc. umbrella,
24 they should not have been assessed taxes. And
25 we asked for a revised or reposed assessment.



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ROA 001984

1 Q: All right. So, the letter of course will speak
2 for itself, but you supervised that it's asking
3 for the exemption? Is that ---

4 A: That's what we do. And Linda signed it because
5 Linda actually has talked -- she actually on a
6 routine basis talked to Mr. Crowe or Mr.
7 Ingram. And so, we just let her -- we usually
8 have these discussions I'll say, well, you want
9 to sign it or do you want me to sign it. And
10 she probably said, I want to sign it.

11 Q: And that letter was sent with what year's tax
12 return?

13 A: Well, that was on July of 20 -- July 2012. So,
14 that would have been -- we would have filed the
15 December 20 -- it would have been -- the one
16 that was filed in April of 2012.

17 Q: Okay.

18 A: Well, you can -- in April of 2012, we filed
19 the returns. That's correct. And they would
20 have sent us an assessment. Obviously, sent us
21 assessment, taxing us FTC Communications, LLC
22 and wrote them back saying we didn't agree and
23 we thought we should be exempt.

24 Q: All right. And this only applies to FTCC and
25 not Diversified at this point and time?



1 A: That's correct.

2 Q: What's the reason for that, may I ask?

3 A: FTC -- FTC Diversified Services, LLC was not in
4 existence.

5 Q: Wasn't in existence at the time. All right.
6 Exhibit -- Exhibit 21 if you please. And this
7 is another letter. What is this?

8 A: This is a letter from Mr. Crowe back to Linda
9 Baltenbach.

10 Q: Okay. Is he saying, you don't qualify? Is
11 that basically what he's saying about these two
12 entities or about this entity?

13 A: It says -- the last sentence -- well, the
14 second sentence at the very first paragraph
15 says, FTC Communications, LLC does not qualify
16 for rural telephone exemption from property
17 taxes.

18 Q: Okay.

19 A: Which we disagree.

20 Q: All right. I wanted to ask you about FTCC's
21 tax years 2010 and 2011.

22 A: Okay.

23 Q: 2010 and 2011.

24 **MR. VON LEHE:** If we could have Exhibit 9, please.

25 Q: Exhibit 9. See it.



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ROA 001986

1 (Joint Exhibit Number 9 was introduced into the
2 record at this time.)

3 A: I have it.

4 Q: Okay. And you filed a return. You supervised
5 the filing of the return?

6 A: Yes. I supervised the filing of the return.

7 Q: All right. Did you list the assets of the
8 entity on the return?

9 A: We lists the assets of the entity on the
10 return.

11 Q: All right.

12 A: Just like we always did.

13 Q: I want to ask you about Exhibit 13, please.

14 **MR. VON LEHE:** Exhibit 13.

15 Q: Exhibit 13?

16 A: Yes.

17 Q: Okay. How did FTCC report its assets on this
18 return?

19 A: We listed them on the return just like we had
20 listed them on the return every other year.

21 Q: All right. Then, what is this in the same way
22 that the co-op listed its assets?

23 A: It's all -- it's all part and parcel, we do it
24 identical.

25 Q: So, were you assessed taxes for this year?



1 A: Yes. We were. We received an assessment for
2 this.

3 Q: And this was -- this was for both 2010 and
4 again, for 2011?

5 A: That's correct.

6 Q: And what did you do with regard to those taxes?

7 A: We paid them.

8 Q: Right. Now, did something occur after the
9 filing of these two returns and if so what,
10 that clarified the -- the position that these
11 assets might be exempted?

12 A: We learned of a case -- and I might say it
13 wrong. A -- it was CFRE versus Greenville
14 County. And I don't know the case number and
15 I don't know whether it was Supreme Court
16 decision, but I think it was, which in essence
17 said that any benefits accruing to a parent
18 could flow through -- parent company could flow
19 through to a single member -- wholly owned
20 single member LLC underneath that parent
21 because it is -- and I don't know all the
22 reason, it made sense because it's a
23 disregarded identify for tax purposes.

24 Q: All right. So, you were informed of this case
25 by whom, by Jeff Allen?



1 A: It was -- it was -- I actually had the
2 discussion with John Bowen at McNair Law Firm.

3 Q: All right. So, his partner?

4 A: His partner or whatever he was.

5 Q: So, then -- on advice of your counsel, what did
6 you do next for FTCC?

7 A: We prepared our -- well, we had already
8 prepared our 2012 return.

9 Q: Okay.

10 A: That would have been -- I think that we just
11 looked earlier. Well, when we had the letter
12 from Linda Baltenbach.

13 Q: Yes.

14 A: We had already prepared and submitted that
15 return. And that was when we decided we would
16 write the letter. And when we got the letter
17 back from Samuel Crowe saying we did not
18 qualify, we -- we went back to Jeff Allen and
19 told him that we wanted to protest this and ask
20 him if he would represent us in this matter or
21 we may have already asked him if we got turned
22 down would you represent us in this area.

23 Q: Okay.

24 **MR. VON LEHE:** Could we see Exhibit 18, please?

25 Q: Exhibit 18. What is it?



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ROA 001989

1 (Joint Exhibit Number 18 was introduced into the
2 record at this time.)

3 A: That's it the PT-420 for FTC Communications
4 LLC.

5 Q: Okay. And -- so, for that particular year and
6 perhaps you've already addressed this, you
7 filed a 2012 return. You were, I assume,
8 assessed for taxes.

9 A: That's correct.

10 Q: And then what did you do?

11 A: Linda Baltenbach wrote the letter saying we
12 wanted to be -- we thought we should be
13 exempted. Samuel Crowe sent back a letter
14 saying that we weren't -- didn't qualify. We
15 contacted Jeff Allen. Jeff Allen prepared a
16 protest for 2012 and then, provided -- went
17 back and prepared a protest for 2010 and 2011
18 because the 36 months had not run out on those
19 returns.

20 Q: All right. I'm going to try to compress some
21 of these returns. But how -- in your opinion,
22 how did FTCC and Diversified apply for
23 exemption for the years 2013 and 2015?

24 A: Which years again now?

25 Q: 2013 and 2015 for both FTCC and Diversified.



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ROA 001990

1 A: We fill out the PT-420 and the 427 or 29,
2 whichever one it is. And -- 429. List our
3 assets on those returns in the format required,
4 provide all the information and send it in as
5 -- and we -- and hopefully expected to get the
6 exemption.

7 Q: All right. But -- but in fact what happened?

8 A: We received an assessment just like we had done
9 back in 2010, 2011, 2012. We received 100
10 percent -- we -- they were deemed taxable and
11 then we turned around, we filed a protest on
12 that assessment, we got back a letter stating
13 -- a revised assessment saying that this was
14 under protest. That we would have an 80
15 percent assessment rate. Then we got tax bills
16 that reflected the 80 percent assessment. And
17 we paid it.

18 Q: All right. So, and did -- did you file this
19 protest for each of these years for 2013 ---

20 A: 2013 ---

21 Q: --- '14, and '15?

22 A: --- we got the assessment. We protested. Got
23 the 80 percent. 2014, we filed a return just
24 like we always did, protest -- got the
25 assessment, protested, got the 80 percent and



1 it's right on down the line. That continues --
2 that continued for an extensive period of time.

3 Q: Say that last -- that -- you trailed off a
4 little. What did you say the last part?

5 A: I said, that -- that continued through some
6 point.

7 Q: All right. And let's take a look at the tax
8 year 2016 with you. If we could have for FTCC
9 that would be number 49. Take a look at that
10 first and then, we'll look at Diversified.

11 **(Joint Exhibit Number 49 was introduced into the**
12 **record at this time.)**

13 A: Okay. All right.

14 Q: All right. Is that the 2016 property tax
15 return that you filed?

16 A: Yes.

17 **MR. VON LEHE:** Okay. And can we take a look at now
18 next 70, please? Exhibit 70.

19 Q: Okay. And Exhibit 70 shows what year and for
20 what company?

21 **(Joint Exhibit Number 70 was introduced into the**
22 **record at this time.)**

23 A: Exhibit 70 -- if that's -- that says for FTC
24 Diversified Services for the tax year 2016.

25 Q: All right. And what did you do for 2016?



1 A: Did the same thing we've been doing. We filed
2 a return. We listed all our assets, provided
3 all the information they asked for and
4 submitted it to the Department of Revenue.

5 Q: Okay. Something different happened though or
6 did it? Did something different happen and if
7 so, what for 2016?

8 A: 2016 we reached a settlement ---

9 Q: Okay.

10 A: --- with the Department of Revenue.

11 Q: All right.

12 A: And as a result of that settlement -- which the
13 settlement speaks for itself. We've already
14 that, I think, introduced. We were complied
15 with the terms of the settlement and some of
16 our assets we all agreed were taxable and some
17 we agreed -- and the rest -- we didn't never
18 agree that they weren't. I don't think the
19 settlement ever said they agreed with what we'd
20 done, but they were going to settle it and we
21 would not pay tax on those assets we claimed as
22 rural telephone service.

23 Q: All right. Now, you've -- you filed your 2017
24 tax returns?

25 A: Yes.



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ROA 001993

1 Q: For both of the entities?

2 A: For both of the entities.

3 Q: Okay. And if you did, how did you apply for
4 the exemption for 2017?

5 A: We applied for the exemption the exact same way
6 we've always applied for the exemption.

7 Q: Which was how?

8 A: We filled out returns. We listed our assets.

9 Q: All right.

10 A: And gave them all of the information they
11 required. We did make one change. We went
12 through and clearly labeled the assets that we
13 had agreed were taxable and marked those on
14 that return so that they would know right off
15 the bat what the taxable assets were.

16 Q: All right. So, I take it ---

17 A: There was no dispute over those assets.

18 Q: You no longer claimed exemption for those
19 assets?

20 A: That's correct. We were not claiming full --
21 were claiming and not claiming was very clear
22 and delineated.

23 Q: All right. For 2018, how did FTCC and
24 Diversified apply for the exemption?

25 A: Exactly like we did in 20 -- it was identical



1 to 2017.

2 Q: All right.

3 A: We listed the assets. We indicated which ones
4 we were not claiming the exemption for because
5 we did not feel those provided rural telephone
6 services.

7 Q: I wanted to ask you about the -- well, this has
8 been brought before the Court yesterday in some
9 extensive -- extensively, but what's your
10 understanding of what an 80 percent notice is?

11 A: It is -- it's my understanding than when a
12 protest is filed over a property tax
13 assessment, it is routine for the Department of
14 Revenue to reduce the assessment and defer part
15 of those taxes until it's reserved -- resolved.
16 And I think the law says they can give up to an
17 80 percent. They can reduce it as much as 20
18 percent. I think that's what it says. I'm not
19 sure.

20 Q: All right.

21 A: But there is a reason for that. Whatever it
22 is, they gave us a 20 percent reduction.

23 Q: You got the notice.

24 A: I got a notice saying we got 20 percent
25 reduction. So, that results to an 80 percent



1 -- we had to pay taxes on 80 percent.

2 Q: And was this true for -- for tax years 2012
3 through 2015? 2012, 2013 ---

4 A: Yes, sir. Yes.

5 Q: --- 2014, 2015.

6 A: Yes.

7 Q: Was this the sequence that occurred?

8 A: Yes. That was the sequence that occurred.

9 Q: And is it your understanding that letters of
10 protest were written in each of those years?

11 A: Yes.

12 Q: Okay.

13 A: Our -- our attorney -- our legal council was
14 instructed to protest every year.

15 Q: Okay. And what notice to the best of your
16 knowledge -- what notice, if any, did the
17 county auditors receive that FTCC and
18 Diversified was protesting your assessments?

19 A: To my knowledge, they received the exact same
20 letter that we got. We get a revised -- we get
21 an assessment. We get a proposed assessment
22 from the Department of Revenue. We protest.
23 There's a letter that comes out and says FTC
24 Communications has protested and we are giving
25 them an 80 percent assessment and that should



1 be going to the county auditors to my
2 knowledge.

3 Q: All right. I want to ask you a little bit
4 about the settlement agreement, which is
5 Exhibit 91, if we could put it up. Okay. Do
6 you recognize this?

7 A: Yes, I do.

8 Q: Okay. Is it a settlement agreement?

9 A: It is the settlement agreement.

10 Q: Okay. And 2.2 of that agreement.

11 A: 2.2. All right.

12 Q: Read it please.

13 A: 2.2 of that agreement says, amended property
14 tax returns. FTCC and Diversified shall amend
15 -- shall file amended property tax returns with
16 the appropriate supplemental data with the
17 property division for every applicable year
18 during the audit period so that the property
19 division may calculate and certify to the
20 applicable counties in revised assessment.

21 Q: All right. And did you do that?

22 A: Yes. We did.

23 Q: All right. Please turn to 2.3 and read it.

24 A: 2.3 ---

25 **MR. CARTIN:** Objection, Your Honor. Which 2.3 are



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ROA 001997

1 we talking about? There's ---

2 **MR. VON LEHE:** Well, there are two 2.3s. This is
3 the one that says the parties have not agreed
4 on an amount, blah, blah, blah. Do you see
5 that one?

6 A: I see that one.

7 Q: All right. Read that one.

8 A: Right under 2.2.

9 Q: Please read it.

10 A: 2.3, the parties will work together in good
11 faith. The parties have not agreed to the
12 amount of any revised assessment. FTCC,
13 Diversified and the property tax division will
14 work together in good faith to determine what
15 information is needed from FTCC and Diversified
16 and the process necessary for the property tax
17 -- for the property division to make the
18 appropriate assessments.

19 Q: All right. And did you do that?

20 A: Yes. We -- we did that. I never heard that we
21 do not act in good faith.

22 Q: All right. To the best of your knowledge.

23 A: Yes, sir.

24 Q: And did the Department of Revenue ---

25 A: To the best of my knowledge, we acted in good



1 faith and everything was accepted.

2 Q: And did they act in good faith to best of your
3 knowledge?

4 A: Oh, yes.

5 Q: All right. They granted the exemptions ---

6 A: They granted the exemptions. It was all
7 properly computed in our minds.

8 Q: All right, sir. I wanted to ask you some
9 general questions. Call them global questions,
10 if you will. You have ---

11 **THE COURT:** Can I stop you a second here?

12 **MR. VON LEHE:** Yes.

13 **THE COURT:** Where I can understand.

14 **MR. VON LEHE:** Yes.

15 **THE COURT:** Can you explain to me, you made your
16 motion with summary of judgement and regarding
17 the settlement agreement. When I look at this
18 settlement agreement, it settles that the
19 parties have made an effort to make a
20 determination outside of the settlement
21 agreement it appears to me because the
22 settlement agreement doesn't give anything
23 specific. So, is that an issue that is --
24 would that no be an issue that's left open for
25 this Court to determine potentially?



1 A: So ---

2 **THE COURT:** I'm just asking you for our perspective.

3 **MR. LUTHER:** As I -- as we understand the settlement
4 agreement, it's solely decided the legal
5 question of whether a particular class of
6 assets were exempt.

7 **THE COURT:** Okay.

8 **MR. LUTHER:** There's still the math that comes from
9 ---

10 **THE COURT:** Yeah.

11 **MR. LUTHER:** --- determining the assessment.

12 **THE COURT:** Okay.

13 **MR. VON LEHE:** Your Honor, I'd like to also comment
14 on that settlement agreement.

15 **THE COURT:** Mr. Cartin does too. Go ahead.

16 **MR. VON LEHE:** May I go first? Yeah. As many
17 agreements are, Your Honor -- are -- it sets up
18 a certain sequence of events, ministerial
19 events I would call them that have to take
20 place. And that event was that -- that a
21 amended returns were to be filed and if those
22 amended returns showed assets, which were
23 satisfactory to the Department of Revenue, then
24 the -- it would -- the book was closed. The
25 agreement was reached.



1 **THE COURT:** But the part -- but subsequent to the
2 settlement agree -- settlement agreement, the
3 Department had to make an evaluation about
4 whether or not ---

5 **MR. VON LEHE:** And they did -- and they did make
6 that evaluation.

7 **THE COURT:** Okay.

8 **MR. VON LEHE:** They did make that evaluation and the
9 matter was closed.

10 **MR. CARTIN:** And Your Honor, we believe this isn't a
11 settlement of anything. You just heard the
12 witness that they didn't agree that these --
13 these non-exempt items were even non-exempt at
14 all. And in addition, there was a lot that had
15 to be done and there very well could have been
16 a disagreement.

17 **THE COURT:** Right.

18 **MR. CARTIN:** They had -- the good fortune is that
19 there wasn't a disagreement.

20 **THE COURT:** Well, I just -- I wanted to generally
21 get an idea. We don't -- I don't want to go --
22 I didn't mean to interrupt.

23 **MR. VON LEHE:** I understand. Sorry. Understood,
24 Your Honor.

25 **THE COURT:** I just wanted to be able follow your



1 examination ---

2 **MR. VON LEHE:** I understood, Your Honor.

3 **THE COURT:** --- and understand it.

4 **MR. VON LEHE:** Well, yes. You may comment on that.

5 On the settlement agreement. It's set there
6 before you.

7 A: During the discussion between our legal counsel
8 and the Department of Revenue, which I believe
9 our legal counsel will testify to later, the --
10 we relayed information to -- it was relayed to
11 the Department of Revenue that there were a
12 group of assets and we specifically named what
13 -- in general -- generally saying what those
14 assets were. And we said we would provide them
15 that information. So, they knew before they
16 ever discussed -- before this happened that
17 there was more information to come. It could
18 have been -- if they had asked before we got
19 the settlement agreement to say, send us those
20 assets, we would have been delighted to send
21 them those assets.

22 Q: All right.

23 A: There was no secret. We just -- it was already
24 disclosed to them. They knew there something
25 that would have to be mathematically



1 calculated.

2 Q: Okay.

3 **MR. VON LEHE:** Could we have Exhibit 136 put up
4 please?

5 **(Joint Exhibit Number 136 was introduced into the**
6 **record at this time.)**

7 Q: Now, these are rather global questions that I
8 wanted to ask you in conclusion here. To the
9 best of your knowledge, do you believe you made
10 application for exemption?

11 A: Yes. I do.

12 Q: All right. And -- well, let me ask you this.
13 With regard to the -- you're aware that the
14 counties have raised an issue of whether the
15 assets in question are used primarily for
16 providing rural telephone services, do you
17 understand that the counties have raised an
18 issue about this?

19 A: Yes.

20 Q: We just heard a lot of testimony about it.

21 A: Yes. We've heard a lot of testimony on that.

22 Q: Okay. Now, in addition to being the Accountant
23 there -- all right -- the CPA there, the Chief
24 Financial Officer, are you knowledgeable about
25 what these assets are, not from an engineering



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ROA 002003

1 perspective, but from their function?

2 A: Yes.

3 Q: All right.

4 **MR. CARTIN:** I'm going to object as to vagueness
5 just because we're talking about these assets.
6 Are we talking about Farmer's Telephone Co-op
7 or FTC Communications, LLC or FTC Diversified,
8 LLC?

9 **MR. VON LEHE:** I'll make that specific. We're
10 talking about the assets of FTCC and those of
11 Diversified.

12 Q: Are you familiar with the function of those
13 assets?

14 A: Yes.

15 Q: All right. I'll -- now, with regard to how
16 they are used, whether they are used primarily
17 for telephone service or they are used
18 substantially or minimally, what is your
19 response to that and what is a reason for it?

20 **MR. CARTIN:** Objection, Your Honor. I think this is
21 causing for -- calling for some sort of a lay
22 opinion. This is the CFO is clearly
23 identified. He can -- he can use -- he can
24 talk about what's in his personal knowledge if
25 he knows what percent the assets are used for



1 or something like that, that'd be fair. But to
2 use a legal term like that, he's basically
3 being asked to help bolster a legal argument
4 using a specific legal term like primarily or
5 exclusively or ---

6 **MR. VON LEHE:** There's no question about that, Your
7 Honor. That's definitely why I'm asking it.

8 **THE COURT:** Yeah.

9 **MR. VON LEHE:** But I have a good reason to ask
10 because we want to get the facts before the
11 Court. He knows -- he knows what these assets
12 are used for. He can tell us and I'd like for
13 him to say so and why.

14 **THE COURT:** Well, you -- you asked him specifically
15 -- the legal term is issued here whether they
16 were substantially used to ---

17 **MR. VON LEHE:** I'm just asking him -- well, there's
18 not such terminology in the statute as you
19 know.

20 **THE COURT:** Oh, it isn't? Okay.

21 **MR. VON LEHE:** There is no terminology in the
22 statute. It just says using telephone service.
23 They are the ones that have put the terminology
24 in the statute, but I just -- I just want to
25 know what does he know about them. That's all



1 I want to know.

2 **MR. CARTIN:** I guess maybe my objection is more
3 leading than anything, but it was suggesting
4 what his answer should be.

5 **THE COURT:** Well ---

6 **MR. CARTIN:** If you ask an open-ended question, I
7 think that's perfectly ---

8 **MR. VON LEHE:** I will ask an open-ended question,
9 Your Honor, if I may.

10 Q: What do you know about the function of these
11 assets?

12 A: These -- these assets are -- are used to
13 provide rural telephone service that's why we
14 ask for the exemption. We have millions of
15 hours of people talking on the telephone. I
16 don't know what else provides telephone
17 service. Fourteen million hours of people
18 talking on wireless telephone.

19 Q: Fourteen million ---

20 A: A year.

21 Q: A year?

22 A: Per year. Fourteen million hours ---

23 Q: Okay.

24 A: --- of people talking on the phone. If that's
25 not rural telephone service, I don't know what



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ROA 002006

1 is.

2 Q: Well ---

3 A: Because we live in a rural area. Everyone of
4 those human beings was in a rural area.

5 Q: All right, sir. And you have, I believe in the
6 past, drawn a picture of -- of a rural service.
7 Tell the Court what that entails? You've been
8 there, how long did you say at the company now,
9 12 ---

10 A: It's almost -- in fact, I've been there 20
11 years.

12 Q: 20 years. All right.

13 A: 20 years.

14 Q: What is the rural service ---

15 A: 2019.

16 Q: --- consisted of?

17 A: Rural telephone service consists of people
18 talking on a telephone.

19 Q: Okay.

20 A: And it goes across the lines or goes across the
21 air, whatever it does, and it ends up with
22 another person on another end.

23 Q: All right. So, in your capacity as Chief
24 Financial Officer, do you -- do you know what
25 your customer's are being billed for?



1 A: Yes.

2 Q: All right. Exhibit 136, which is -- do you
3 recognize it?

4 (Joint Exhibit Number 136 was introduced into the
5 record at this time.)

6 A: That is my second affidavit.

7 Q: Okay. I've got some questions to ask you. But
8 if you will, read from your affidavit that part
9 of the affidavit which pertains to revenues
10 associated with voice services and data
11 services for FTCC and for Diversified and for
12 the consolidating group, what are the
13 percentages that of these revenues, how do they
14 exist?

15 A: All right. It's on -- it's item Number 12 on
16 this -- on this ---

17 MR. CARTIN: Your Honor, I'll object. This is
18 already in evidence. We've already allowed
19 this to come in so they can cite to it. I
20 don't know that this ---

21 THE COURT: Well, he can ask to publish an Exhibit.

22 MR. VON LEHE: Thank you, Your Honor.

23 Q: Please go ahead.

24 A: All right. Starting with Number 12. FTCC's
25 assets that are the subject of the exemption



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ROA 002008

1 request at issue are substantially and not
2 incidentally used to providing rural telephone
3 service. In addition, although the FTCC assets
4 at Farmer's has claimed as exempt are also used
5 for telephone data service. They are
6 substantially and not incidentally used for
7 voice services. For physical year 2017, FTCC's
8 revenue associated with its voice services was
9 approximately 75 percent of its total revenue.
10 While revenue from its data services was only
11 approximately 25 percent of its total revenue.
12 And then I go over here to Number 14 and that
13 covers Diversified. Diversified assets that
14 are the subject of the exemption request at
15 issue are substantially and not incidentally
16 used as providing rural telephone service.
17 Diversified has more telephone services,
18 accounts, and television, internet or security
19 services accounts. Additionally, revenue from
20 telephone services is greater than revenue from
21 all other services. For example, for the
22 fiscal year 2017, almost 58 percent of its
23 revenue came from telephone service. And then,
24 in Number 15, as previously stated, Farmer's
25 Telephone Co-op files a consolidated return.



1 And I'll add parenthetically that's an income
2 tax return -- which includes wholly owned LLCs,
3 FTCC and Diversified, are viewed as disregarded
4 entities for tax purposes. The revenue from
5 telephone service and the Farmer's Co-op
6 consolidated return for the fiscal year 2017 is
7 approximately 73 percent versus 27 percent for
8 all services. And then one more time, Number
9 16, in the telephone business, the type of
10 telephone communication that existed at the
11 tele -- the time of the telephone invention is
12 often referred to as Plain Old Telephone
13 Service or POTS. For the fiscal year 2017, 71
14 percent of FTCC's revenue is from POTS or POTS-
15 like services. 52 percent of Diversified's
16 revenue is from POTS and 69 percent of Farmer's
17 consolidated revenue is from POTS or POTS-like
18 services.

19 Q: All right, sir. Thank you. No further
20 questions, Your Honor.

21 **MR. LAWRIKORE - CROSS-EXAMINATION BY MR. LUTHER:**

22 Q: Mr. Lawrimore, just very briefly. You
23 testified earlier that Farmer's Cooperative,
24 the parent company, has claimed the exemption
25 on 100 percent of its assets as long as you've



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ROA 002010

1 been there, is that correct?

2 A: That's correct.

3 Q: And as a result of CFRE, you believe that that
4 benefit flowed through to the two LLCs,
5 correct?

6 A: That's correct.

7 Q: And so, when you initially filed the returns
8 and requested the exemption for FTCC, did you
9 believe that 100 percent of their assets were
10 exempt? Let me rephrase the question. I think
11 that was confusing. I understand the
12 application of the return may have come at a
13 different time.

14 A: Yes.

15 Q: At the time that you requested the exemption
16 for FTCC, was it your belief that 100 percent
17 of their assets were exempt just like the
18 parent company?

19 A: No.

20 Q: Okay.

21 A: I just did the -- I just -- it went right over
22 my head that operator center might not be
23 exempt.

24 Q: All right. But initially, you were claiming
25 100 percent ---



1 A: Initially, we listed it in such a way, it would
2 look like 100 percent.

3 Q: Okay. And the same for Diversified?

4 A: The same for Diversified.

5 Q: And as a result of the settlement agreement,
6 only some assets were exempted, not all of
7 them?

8 A: That's correct. We discussed with counsel and
9 at some point, he revealed to the Department of
10 Revenue that they're -- that we wanted them to
11 be aware that we were not claiming 100 percent.
12 That we intended to rectify that in such a way.

13 Q: Was that part of the reason why because the
14 settlement agreement determined -- made a
15 decision to exempt some assets, but not others
16 that you had to file amended returns ---

17 A: That's correct.

18 Q: --- correctly identifying which were exempt
19 and which weren't?

20 A: That's exactly right.

21 Q: Thank you.

22 **MR. LAWRIK - CROSS-EXAMINATION BY MR. CARTIN:**

23 Q: I just want to make sure I understand your
24 testimony, Mr. Lawrimore. Cable services,
25 telephone, television services, and Wi-fi



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ROA 002012

1 services for FTC Communication, LLC and FTC
2 Diversified, LLC have not been claimed as
3 exempt, correct?

4 A: Cable services -- give it to me again.

5 Q: Internet services.

6 A: Internet services. Any assets that -- that
7 exclusively provide those services are not
8 exempt.

9 Q: Farmer's Telephone Cooperative, Inc. ---

10 A: Yes.

11 Q: --- you listed the services that it provides.

12 A: That's correct.

13 Q: Okay. Can you state what those are one more
14 time?

15 A: We provide telephone service, internet service,
16 T.V. service, and security service.

17 Q: And you've claimed that 100 percent of the Co-
18 op's property is exempt for every year since
19 you've been there?

20 A: That's correct.

21 Q: Notwithstanding the fact that used those for
22 purposes that you have agreed are non-exempt
23 with regard to FTC Comm and Diversified?

24 A: We use those services for provision of tele- --
25 those assets for provision of telephone



1 service.

2 Q: I understand your ---

3 A: And that's what we considered to be exempt.

4 Q: I understand your position on that.

5 A: The fact that they provide other things is not,
6 in our mind, enough to make a difference.

7 Q: Do you have a cell phone?

8 A: I sure do.

9 Q: Are you an FTC Communications LLC customer?

10 A: I am.

11 Q: I was going to hope so. Mr. Erwin's going to
12 get on you if you weren't. How long have you
13 been in Columbia?

14 A: Today?

15 Q: This week?

16 A: This week. I got here Sunday evening about
17 3:00 o'clock.

18 Q: Okay. Have you made a phone call since you've
19 been here?

20 A: Oh, yes.

21 Q: Okay. And it went through just fine.

22 A: Just fine.

23 Q: Okay. And that's rural telephone service
24 sitting right here in downtown Columbia making
25 a telephone call?



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ROA 002014

1 A: No.

2 Q: Okay.

3 A: But that ---

4 Q: But here ---

5 A: But that call didn't touch the Farmer's
6 Telephone Network either.

7 Q: You ever been to New York City?

8 A: Yes. I have.

9 Q: Okay. You ever made a phone call with your
10 Farmer's -- your FTC Communications LLC
11 telephone there?

12 A: Yes. I did.

13 Q: Okay. And your plan allows you to make a call
14 that can be transmitted there, is that correct?

15 A: That's correct.

16 Q: All right. And someone from New York came to
17 visit you while you were at home in Kingstree,
18 is that right?

19 A: That's correct.

20 Q: Okay. And they had cell phones, they have an
21 AT&T cell phone, all right? That New York City
22 resident would be able to use their cell phone
23 to make a call, right?

24 A: They would be able to take advantage of rural
25 telephone service in Kingstree, so in -- in our



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1 area.

2 Q: All right. You're familiar with the term last
3 mile, is that correct?

4 A: There is a term called last mile.

5 Q: What's your understanding of what that term
6 means?

7 A: The last mile is generally the last piece of
8 the network that gets to the customer premise.

9 Q: Okay. Regardless of the type of service being
10 provided, those services are generally
11 traveling over the last mile of infrastructure,
12 is that right?

13 A: That's correct.

14 Q: Okay. We talked a little bit about the co-op's
15 membership, can someone who is only an FTC
16 Diversified Services, LLC customer be a member
17 of the co-op?

18 A: No.

19 Q: Okay. Can someone who is only an FTC
20 Communications, LLC customer be a member of the
21 co-op?

22 A: No.

23 Q: Okay. And the co-op you talked about returning
24 profits to your members, do you recall that
25 conversation?



1 A: Yes.

2 Q: Okay. But the co-op actually keeps the money
3 for around, what, 15 years or so?

4 A: We can keep it. We generally -- we have two
5 methods of payment. One is to wait 15 years.
6 The other is a -- what we call a present pay
7 method, where we allow customers to -- we have
8 a revenue ruling from the Internal Revenue
9 Service that says we can pay it out currently.

10 Q: Okay. And how often do you do that?

11 A: Every year.

12 Q: Okay. Is it on -- based on 15 years ago what
13 they're getting?

14 A: In what case?

15 Q: Yeah.

16 A: If you -- if you're on the -- if you're on the
17 -- I forget what we -- first in, first out
18 method, then you get you money from 15 years
19 ago.

20 Q: Okay. The new customer signed up today, would
21 they have to wait 15 years to get money?

22 A: If they want to.

23 Q: If they want to wait 15 years?

24 A: Yeah.

25 Q: Does anybody want to wait 15 years to get



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ROA 002017

1 money?

2 A: Yeah. About a third of our customers wait 15
3 years to get their money.

4 Q: They make you hold -- you hold onto the money
5 for 15 years for them, if ---

6 A: Yes. We have -- we keep a record of every dime
7 that's been allocated to members and it sits
8 right there. And if something happens and we
9 can't find it, we have procedures through state
10 law, we depose of it.

11 Q: All right. In the 1990s, my understanding is
12 that FTC Communications acted as a reseller for
13 Bell South Mobility, is that correct?

14 A: That was prior to my time, but generally,
15 you're correct.

16 Q: Okay. And it didn't really own it's own
17 wireless network at that point, right?

18 A: That's correct.

19 Q: Okay. But it was selling to customers in the
20 ILEC service area, is that fair?

21 A: I don't really know.

22 Q: Okay.

23 A: I really couldn't tell you.

24 Q: You'd sell them a phone and a plan though under
25 this general scheme?



1 A: You know, I would rather -- I mean, I could say
2 generally, yes, but it -- you'd have to go to
3 somebody who was here who could tell you
4 specifically how all that worked.

5 Q: I know you said it in your deposition, which is
6 why I asked.

7 A: Oh, I did say that?

8 Q: You did. Yes, sir.

9 A: Well, I'm not trying to hedge. If I said it,
10 then I will count it as I said it.

11 Q: Okay. And Diversified started as a corporation
12 around 2001, does that sound right to you?

13 A: Diversified started as a corp -- around 2001.
14 Yes, sir.

15 Q: Okay. And it did much of the same work as the
16 co-op, is that right?

17 A: That's correct.

18 Q: Okay. And it was established for competitive
19 purposes though?

20 A: It was sub -- it was established for
21 competitive purposes.

22 Q: Because unlike an ILEC, a CLEC actually allows
23 for competition within an area, correct?

24 A: The ILEC cannot go out of its area. The CLEC
25 can go wherever it has authority from the state



1 of South Carolina -- in South Carolina can go
2 wherever the state of South Carolina authorizes
3 him to go.

4 Q: Okay. And so, that CLEC can go -- is it
5 normally the case that that CLEC will operate
6 the same area as other CLECs are operating
7 trying to compete for customers?

8 A: I don't know that. I may -- I don't know that
9 there are other CLECs or not.

10 Q: Okay.

11 A: I did say that. But -- but they would be in
12 another ILEC's territory, if that's what you're
13 asking me.

14 Q: Yes. So, there are multiple carriers in that
15 particular area.

16 A: That's correct.

17 Q: Okay. My -- my definition of being a
18 competitive, you gotta have somebody ---

19 A: You got to have somebody to compete against.

20 Q: Right. So, there's no -- so, in contrast to an
21 ILEC, which needs an incentive in order to help
22 establish sort of a basic level of service, a
23 CLEC is more a voluntary discretionary thing,
24 is that fair?

25 A: That's correct.



1 Q: Okay. And a co-op, meaning Farmer's Telephone
2 Cooperative, Inc., would not have been able to
3 participate as a CLEC, is that correct?

4 A: That's correct.

5 Q: Because there's an incumbent local exchange
6 carrier they receive certain protection from
7 competition, right?

8 A: I'm not exactly the person to ask on this, but
9 I wish we did receive -- we -- really there is
10 no restriction anymore. I mean, that's -- you
11 know, somebody else would be the proper person
12 to discuss all that in detail, but I can tell
13 you we have competitors.

14 Q: You mentioned -- I'll ask Mr. Erwin. You
15 mentioned ---

16 **THE COURT:** When you say we?

17 A: Farmer's Telephone Cooperative has competitors.
18 Excuse me, Your Honor.

19 Q: Who are those competitors?

20 A: Gosh. It's probably some I don't even know
21 about, but I can tell you that for a fact
22 Charter Communications, which is a cable
23 company, they compete in our service area.

24 Q: Within the CLEC?

25 A: The ILEC -- the ILEC service area. They are



1 competing with us very actively. Segra, which
2 is -- used to be Spirit Communications, now
3 Segra -- sold out to Segra. It competes with
4 the cooperative.

5 Q: Okay. Let's talk ---

6 **THE COURT:** When you say that -- so, I can just
7 understand. Is that competing with rural
8 telephone service or is that in with another --
9 -

10 A: It's -- it's in the rural telephone service.
11 They offer telephone voice. They offer voice
12 communications and everything. When I say
13 that, that's what I'm talking about. And
14 they're not just offering -- in the case of
15 Charter, they're not just offering T.V. or
16 they're not just offering internet. They offer
17 a whole suite of services comparable to what we
18 offer in certain -- in parts of our network.
19 And we call that cherry picking in our network.
20 In -- us small town folk companies call them
21 cherry picking. They go in to where there's an
22 apartment building being built somewhere or a
23 subdivisions, we only have one community
24 probably or a few communities in Clarendon
25 County probably around a lake where they've got



1 subdivisions. And Charter will go in there and
2 they'll serve and that -- they leave us the
3 trailers and the stuff out there, way out that
4 nobody wants to get to. And that's -- that's
5 why we try so hard to compete with them for
6 those services.

7 Q: Let me talk about the financials of the
8 cooperative. Is that something you over see as
9 CFO?

10 A: Yes.

11 Q: Okay. And I understand you consolidate all
12 over your financial statements, is that right?

13 A: We file -- yes. We have a consolidated audit
14 and we file a consolidated income tax return.

15 Q: Okay. As I understand your last fiscal year's
16 revenue was around 119 million dollars, is that
17 right?

18 A: What year was that?

19 Q: I can check from your deposition. I think it
20 was maybe '17.

21 A: Yes.

22 Q: Okay. And a portion attributable to FTC
23 communications was about 40 million, is that
24 correct?

25 A: That's correct.



1 Q: And of 20 million was attributable to revenue
2 from Diversified, is that correct?

3 A: You know, I -- I think when I gave my
4 deposition, I told you I wasn't real great with
5 calling numbers off the top of my head, but
6 I'll say that that's correct if that's what I
7 said in my deposition.

8 Q: Okay. And was some portion of that net -- of
9 that revenue attributable to your sale of the
10 interest in Spirit Communications?

11 A: Not in 2017. No, sir.

12 Q: Okay. And what year did you sell your interest
13 in Spirit Communications?

14 A: That would have fallen into the fiscal year
15 2018.

16 Q: Okay. And it's my understanding that the net
17 income of the co-op is typically -- on a
18 consolidated basis, it's typically between 3 to
19 7 million dollars, right?

20 A: Yes. That would be a fair statement.

21 Q: Okay. And that -- when we talk about the
22 service line sort of contribution to the bottom
23 line, internet services provide around 15
24 million dollars in revenue, is that consistent
25 with your ---



1 A: That would -- that would probably be around
2 right.

3 Q: All right. Television services provide around
4 12 to 13 million dollars a year, does that
5 sound right?

6 A: That sounds about right.

7 Q: Okay. And security services, we're probably in
8 the 3 to 5 million dollar range, is that
9 correct?

10 A: That would probably be about right.

11 Q: Okay. And the co-op provides ethernet services
12 from time to time, is that correct?

13 A: Yes. Those are access services. Yes.

14 Q: Okay. And would those ethernet services be
15 included in the internet service revenue or
16 would they be separate?

17 A: Those would be access revenues. If I'm
18 correct. Mr. Erwin probably is a little better
19 at that than I am. If those are access, that
20 would be the telephone network.

21 Q: Okay. Can you say again for the record what
22 POTS is?

23 A: POTS is what they -- it's an acronym for Plain
24 Old Telephone Service.

25 Q: And you believe that wireless service is a



1 POTS-like service, is that correct?

2 A: Right. People will tell you -- an engineer
3 will tell you that you can't have POTS on a
4 wireless line, but you can provide a service,
5 which is telephone service, which is similar to
6 POTS service. I don't really understand what
7 it is and that's why I call it POTS-like.

8 Q: Okay. Most people in the industry would not
9 consider wireless to be POTS service, is that
10 fair?

11 A: I would say that engineers might tell you that.

12 Q: Okay. And POTS was traditionally provided over
13 copper cable, is that correct?

14 A: Yes. I suppose so, yes.

15 Q: Let's talk about the capital investment in your
16 network. My understanding is from a capital
17 perspective landline telephone service or
18 wireline to use the interchangeable term is the
19 most expensive service you provide from an
20 infrastructure investment standpoint?

21 A: It's very capital intensive. Yes.

22 Q: Okay. And your landline services are not
23 profitable?

24 A: They are either not or very -- or barely
25 profitable.



1 Q: But it is profitable to provide internet
2 services, is that correct?

3 A: Internet services I would tell you -- I've told
4 you in my deposition, in my opinion we make
5 money on the internet.

6 Q: And wireless is a profitable business, right?

7 A: So far.

8 Q: Okay. And your typical margin in the wireless
9 business is around, what? Five million dollars
10 a year, does that sound right?

11 A: That has traditionally been about right.

12 Q: Okay. And practically, that's about all of
13 your net income?

14 A: That's correct.

15 Q: And we talk about the capital investment in
16 like a landline network, there's a lot of
17 variables I think you told me in your
18 deposition, does that sound correct?

19 A: Yeah. I guess so.

20 Q: So, it costs a lot of money to run a landline
21 out to farmer who's 20 miles in the country,
22 does that sound correct?

23 A: Yes it can. Yes it can.

24 Q: Okay. But if you're in the city limits in the
25 subdivision where a line or ray exists, you



1 just really need to drop to the house, is that
2 correct?

3 A: Where a line already exist, you need to drop to
4 the house.

5 Q: So, the incremental costs of picking up a new
6 customer in the city is much less than it is in
7 the rural areas?

8 A: Once you get the line out there, the drop is a
9 smaller percentage, yes.

10 Q: And those users in urban areas will add revenue
11 to your bottom line a little more efficiently
12 than adding a new customer in the country, is
13 that a fair characterization?

14 A: That's fair.

15 Q: Okay. And once you have a landline run to your
16 house, is it possible to -- for your -- the co-
17 op and its subsidiaries to provide additional
18 services once that landline has been run to a
19 house?

20 A: Yes.

21 Q: Okay. And depending on the type of equipment
22 at the house, you can do that pretty easily,
23 does that sound correct?

24 A: Yes. Most all of the equipment is actually
25 there, I think.



1 Q: Okay. And so you just basically got to turn on
2 the hose in some respects to, right, to open up
3 different services?

4 A: That may be understating it, but basically,
5 yes.

6 Q: Okay.

7 A: It's there. We may have to -- if you want
8 T.V., you've got to have a set top box so that
9 we would have to bring you a set top box. But,
10 you know, otherwise, you know we might add a
11 little something, but it's -- it's there.

12 Q: And my understanding is that up until a year or
13 so, you had to have a landline to be a
14 Farmer's' customer and that's at the co-op, is
15 that correct?

16 A: Yes. I don't know when it was, but the board
17 did make a change in that. But yes. It was
18 required to have a land line to have service.

19 Q: And that was a Universal Service Fund
20 requirement, correct?

21 A: Tech -- it wasn't really a requirement, but
22 Universal Service Fund would not support
23 anything but a voice line. So, in order for us
24 to get -- to be able to afford to do it, we had
25 to have the customer take a telephone line



1 because Universal Service Fund would not pay
2 for us to go out to that customer otherwise.
3 We could not get -- get money back on the
4 investment. If it costs us \$10,000 to go out
5 there, at \$20.00 a month, we'd never get out
6 money back.

7 Q: So ---

8 A: But by getting the landline there, it qualified
9 that cost for Universal Service support.

10 Q: Okay. So, for that particular scenario where
11 you're running a line out to a rural customer,
12 you may get money from the Universal Service
13 Fund to pay for that, correct?

14 A: The cost gets added in for that line and we get
15 recovery from Universal Service on that. Yes.

16 Q: Okay. And you'd get a tax exemption on the
17 value of that landline equipment, is that fair?

18 A: That's correct. That's fair.

19 Q: Okay. And your demand for landline, as I
20 understand it, phone is going down, is that a
21 fair characterization?

22 A: We have fewer landlines now than we used to
23 have.

24 Q: All right. And I'm sorry to skip around. I'm
25 trying not too much.



1 A: No. I haven't had trouble following you.

2 Q: Bandwidth -- it takes more bandwidth to provide
3 internet and video services than it does POTS,
4 is that a fair statement?

5 A: Yes.

6 Q: Let's talk about the wireless in your area.
7 There are other wireless carriers who operate
8 in your area. And when I say the area, I mean
9 the Farmer's ILEC area, is that correct?

10 A: Yes.

11 Q: All right. And who -- who are the other
12 providers, wireless carriers, that you're
13 familiar with that operate in the Farmer's ILEC
14 area?

15 A: Well, my knowledge can be a little bit limited,
16 so I'd like to explain a little bit.

17 Q: Sure.

18 A: There are primary -- you have primary carriers
19 out there who are -- who are -- well, Verizon
20 is a primary carrier and then, you have
21 secondary companies out there that they call
22 MVNOs, Mobile Virtual Network Operators. And
23 they really lease or they have some arrangement
24 with Verizon or AT&T to use their network.
25 Okay?



1 Q: Okay.

2 A: So -- but what I consider a competitor who
3 provides service, it would be Verizon, Sprint
4 and T-Mobile would be the main one. Well,
5 Verizon and T-Mobile into a much lesser extent
6 Sprint would be ---

7 Q: What about AT&T, do you consider them a
8 competitor?

9 A: AT&T does not -- is not serving our area.

10 Q: Okay. If -- it sounds like that's a
11 competitive line of business, the wireless
12 business in your service area?

13 A: It's competitive. Yes, sir.

14 Q: Okay. And other providers want to put in
15 wireless infrastructures so they can serve
16 their customers there, is that a fair
17 statement?

18 A: Other providers have stuff in our net -- in --
19 in our service area, so ---

20 Q: Why ---

21 A: --- equipment ---

22 Q: Right.

23 A: --- to provide wireless service.

24 Q: Wireless towers, right?

25 A: They -- they don't generally don't own their



1 own towers. They usually rent from a much
2 bigger company like SBA or Crown Castle,
3 somebody like that. They put up the towers and
4 they rent from them, generally.

5 Q: Radio receivers ---

6 A: They put out radio receivers and the coaxial
7 cable and the antennas up the tower.

8 Q: Okay. And that's help those other wireless
9 carriers serve their customers better, is that
10 a fair characterization?

11 A: Oh yeah. They provide service. Yeah.

12 Q: Okay. And so, it sounds like a number of
13 different services -- well, you -- you heard
14 the testimony of Mr. Moss earlier. Would you
15 agree with the statement that wireless depends
16 upon landline in order to operate?

17 A: That's correct.

18 Q: Okay. And so, when a customer like from AT&T
19 or let's say Verizon or some of the ones that
20 you mentioned, Sprint. Let's say they own some
21 equipment in your area and one of those
22 customers makes a call and it hits that radio
23 signal. It goes down into the landline
24 infrastructure. Is Farmer's or any of its
25 entities compensated for the use of the network



1 by these other carriers?

2 A: Sometimes.

3 Q: Okay. What types of arrange -- can you
4 describe for the Court the types of
5 arrangements -- the way other carriers pay you
6 to use your network?

7 A: If they use our network, they use -- we would
8 get -- they order a special access circuit and
9 that circuit is -- provides them connectivity
10 through our network back to wherever they want
11 it to go.

12 Q: What type -- you know, is there a -- name in
13 the industry for the types of fees you receive?

14 A: Access fees.

15 Q: Okay. And do you know, generally, each year
16 what your access fees are?

17 A: Do I know what -- how much money we receive in
18 access, is that what you're asking?

19 Q: Yeah.

20 A: I really couldn't call a number because it's --
21 it's very convoluted. I hate to say it like
22 that, but it is.

23 Q: My understanding is that you get around 9
24 million dollars a year from AT&T for the use of
25 your network, does that sound right?



1 A: They pay us 9 million dollars a year in order
2 to roam on our network. Yes.

3 Q: Okay. And you receive co-location revenue, is
4 that right?

5 A: If somebody places antennas and radios and
6 etcetera, another wireless carrier places that
7 -- its stuff on our tower, we receive co-
8 location.

9 Q: It's kind of like rent for using your tower.

10 A: They get to rent on our tower. We have to rent
11 to them.

12 Q: And that's for taxes on that tower that they're
13 using, right?

14 A: It will be, hopefully.

15 Q: And you rent out almost of your towers, don't
16 you?

17 A: I think we average about one and a half tenants
18 per tower and us being one.

19 Q: Okay. But you rent out almost all of your
20 towers to some other -- somebody else, some
21 other competitor, right?

22 A: Well, if one and a half would be -- we would
23 rent half of our towers wouldn't it to somebody
24 else? That's -- that's the way I understand
25 it.



1 Q: Right. That's probably an average of the
2 number of people that you have there spread
3 across the number of towers that you have.

4 A: Right. You have three on one and none on
5 several.

6 Q: Right. Okay. But all of them are up for rent
7 for the right price, right?

8 A: Yes. They -- we would rent. Yes. We would
9 rent to anybody.

10 Q: And it's my understanding that the co-op leases
11 fiber optic cable to other parties, is that
12 right?

13 A: We lease fiber optic cable.

14 Q: Like a lit fiber agreement.

15 A: Yeah. You can have a lit fiber agreement.
16 Yes.

17 Q: Okay. And so, you receive revenue for renting
18 out parts of your network, is that correct?

19 A: That's access revenues there. I wish I could
20 say I was very familiar with that. Mr. Erwin
21 used to do a lot -- that use to be his
22 bailiwick and he can probably describe it a lot
23 better than I can. But we do have a lit fiber
24 agreements.

25 Q: Okay. And you -- my understanding is you



1 collect rent from your subsidiaries, you being
2 the co-op collect rent from FTC Communications
3 and from Diversified, is that right?

4 A: Yes. We do.

5 Q: And those subsidiaries occupy buildings that
6 are owned by the co-op, is that right?

7 A: FTC Communications does in fact and I guess to
8 a lesser extent Diversified does. They have
9 some equipment in our buildings and they pay
10 rent on that.

11 Q: Co-op claims property tax exemptions for
12 certain of those buildings, doesn't it?

13 A: I'm sure we claim property tax exemption on all
14 those buildings.

15 Q: So, let me just get this right. If Diversified
16 or FTC Communications, LLC, occupied a building
17 owned by the co-op, the co-op would have
18 claimed a tax exemption for that building?

19 A: That's -- they -- that's right.

20 Q: The rural telephone service exemption, correct?

21 A: That's correct. Because it's -- they only
22 occupy a small part of the building.

23 Q: Okay. And that's -- that would be the case
24 even if we talk about a building that might be
25 used by Diversified for say a non-exempt



1 purpose, right?

2 A: Yeah. I guess so. The tandem -- they keep
3 their ISP in the tandem and the tandem is a
4 separate building and it contains all of our --
5 the co-op's stuff. Yeah.

6 Q: And my ---

7 A: So, that -- that stuff is non-exempt.

8 Q: And my understanding is that you don't have any
9 kind of a schematic that shows the breakdown as
10 to -- what parts of the co-op's building are
11 getting occupied by different people doing
12 certain non-exempt type services, like
13 providing cable or you know, servicing the
14 internet network.

15 A: A schematic. I don't know about a schematic,
16 but when we do our cost studies, we have to put
17 down what areas we -- I mean, we do square foot
18 -- square footage information and things like
19 that. So, if you said to me, Mr. Lawrimore, I
20 want to know how many -- if you had asked how
21 many square feet does Diversified Services use
22 up, I probably could have got you that number.

23 Q: But down -- but down to the level of -- you
24 agree with me that not all of Diversified
25 assets have been claimed as exempt, correct?



1 A: Yeah. I mean, I agree with you. That's what
2 we -- yeah. We agreed to that. We said that
3 wasn't. We readily admit that not all of their
4 assets are exempt.

5 Q: Okay. Yet -- you may be able to show a
6 breakdown between FTC Communications and
7 Diversified, what percentage of the building
8 they're -- they're occupying, but you couldn't
9 tell me what percentage of the building they
10 might be using for a non-exempt purpose?

11 A: I don't know. We could probably go measure the
12 ISP stuff. It's probably -- you know, it's
13 probably about as big as that desk.

14 Q: I guess my point is ---

15 A: Maybe it's two -- a couple of desks.

16 Q: I guess my point is you haven't done that, have
17 you?

18 A: Nobody asked me to.

19 Q: Okay. But you were just claiming it as exempt
20 on ---

21 A: Yes.

22 Q: --- your telephone co-op?

23 A: Because it provides telephone service.

24 Q: All right. You get roamer revenue too as well.
25 Does that sound right?



1 A: On the wireless side, we get roamer revenue?
2 The only roamer revenue -- well, we get the
3 nine million dollars from AT&T. We receive
4 maybe 50 to 100 dollars a -- I'll say a month,
5 but that might be being generous for foreign
6 roamers or something that don't really have --
7 in the past, I used to see a report from AT&T
8 that would come in and it would be these
9 European or South American companies that
10 apparently had some agreement with AT&T, but
11 they would -- it was on a per -- must have been
12 on a per use basis because AT&T would remit
13 that money to us.

14 Q: Okay.

15 A: They collected it and remitted to us. So,
16 that's minuscule in the grand scheme of nine
17 million dollars a year.

18 Q: So ---

19 A: That's our roamer revenue.

20 Q: Gotcha. With regard to lit fiber agreements,
21 my understanding is that when someone has use
22 of your fiber, they control the content that
23 goes over that fiber, right?

24 A: I don't know that I agree with that. We have
25 the electronics on both ends.



1 MR. CARTIN: Do you have his deposition transcript?

2 Yeah. I have the original deposition
3 transcript I'm willing to open up.

4 A: Did I say that?

5 Q: Yes. I don't want you to take my word for it.

6 A: I -- I don't know what I was talking about.

7 Q: Well just let me confirm the page line
8 reference real quick. I'm going to read --
9 I'll just read this to you.

10 A: Read it to me.

11 Q: It's your testimony. This is from Page 72.
12 Question: Okay, you've got the least fiber
13 optic number against 708. Is that again sort
14 of the dark fiber revenue? Answer: We do not
15 -- we don't do dark fiber.

16 A: That's correct.

17 Q: Question: Okay. Answer: It's lit fiber.
18 Question: So, it's actually -- it's in use by
19 you for other things, but there's -- Answer: We
20 may have fibers in the sheath that we're using,
21 but we're actually -- we actually -- somebody
22 will say we need two fibers to get from --
23 typically, a prime example is it's from
24 Jamestown up to -- they've got to get from
25 Jamestown to Georgetown and they've cable



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1 coming to the river -- to the Santee River or
2 either they're leasing from somebody else and
3 then, they lease from us to get to our
4 territory, you know, and they really control
5 what they put on it. All we do is pass it
6 through.

7 A: So, semantically, we do not -- we do not
8 control it, but we have the electronics on each
9 end, so there is -- we know what they're
10 putting on it and so -- I really don't know how
11 to say it. We control it, but we don't control
12 it.

13 Q: All right. So, if they -- if a pornographer
14 were to ---

15 A: No. It's not like that. It's not like a
16 pornographer.

17 Q: Would you have any oversight of what content
18 goes through there?

19 A: I really couldn't say.

20 Q: Okay.

21 A: I -- as I understand it, we have some control.
22 I'll just go back and say, well we really -- I
23 mean, if there -- I'll just say it like this.
24 If they are passing voice traffic through that
25 and internet traffic through that, we would not



1 know -- I'm not sure we would know how much was
2 voice and how much was internet ---

3 Q: Understood.

4 A: --- on something like that. But we would know
5 that that was -- we would know that there was
6 stuff going through there.

7 Q: And my understanding that fiber optic cables
8 contain, what you might refer to as a sheath,
9 is that right?

10 A: Yeah. I'm not expert in all that, but yeah.

11 Q: In a bundle. We can use a colloquial term.
12 They're in a bundle.

13 A: I think somebody else showed us a piece of
14 fiber, yeah. But it's -- you know, there's --
15 you know.

16 Q: It's sort of a bunch of it.

17 A: There's a bunch of them together. It's
18 protected in a -- in a sheath. I guess that's
19 what that is.

20 Q: Well, could we use a South Carolina term?
21 They're all bunched up.

22 A: They're all bunched up together in a -- in a
23 wire.

24 Q: Now, you would agree with me that if you rented
25 a fiber within that bundle to someone else,



1 Farmer's Telephone Cooperative, Inc., would
2 have claimed the tax exemption for that entire
3 sheath or bundle or collection ---

4 A: Yeah.

5 Q: --- of fiber optic cables, right?

6 A: Yes. We would have.

7 Q: Okay. And my understanding is you get data
8 revenue too, does that sound right?

9 A: Data revenue.

10 Q: Data used on cell phones.

11 A: Yeah. You can buy a data plan and pay for data
12 or you can use adhoc and pay by use, pay by the
13 kilobyte.

14 Q: So, that's the -- do y'all do like Verizon does
15 and charge me 15 bucks yesterday because I went
16 over my -- my gigabytes for the month or is
17 that ---

18 A: Yeah. We charge for overages. Yes.

19 Q: Okay. And my understanding is that data number
20 comes out to - I don't know about six million
21 dollars a year. Does that sound right?

22 A: That sounds about right.

23 Q: Let me see one second.

24 **MR. CARTIN:** Your Honor, I think that's all I have
25 for this witness.



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1 THE COURT: Redirect?

2 MR. VON LEHE: No redirect, Your Honor.

3 MR. LUTHER: Nothing from the Department.

4 THE COURT: All right. You may step down.

5 MR. VON LEHE: Your Honor, we have no additional
6 witnesses to call today.

7 THE COURT: Well, we're going to start back at 10:00
8 tomorrow. So I'll see you tomorrow.

9 (DAY TWO of the administrative hearing adjourned at
10 5:46 p.m.)

11 (DAY THREE - WEDNESDAY, MAY 22, 2019. The
12 administrative hearing reconvened at 10:03 a.m.)

13 THE COURT: I'm ready.

14 MS. GEER: Okay. Farmer's would like to call Brad
15 Erwin to the stand.

16 BRAD ERWIN, having been duly sworn, testifies as
17 follows:

18 MR. ERWIN - DIRECT EXAMINATION BY MS. GEER:

19 Q: Good morning, Mr. Erwin.

20 A: Good morning.

21 Q: Would you please state your full name for the
22 record?

23 A: Frank Bradley Erwin.

24 Q: And what is your current position?

25 A: Chief Executive Officer of Farmer's Telephone



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ROA 002045

1 Cooperative and Subsidiaries.

2 Q: Okay. Are two of those subsidiaries involved
3 in this matter?

4 A: Yes, FTC Communications and FTC Diversified.

5 Q: And how long have you been in that position?

6 A: Since 2006.

7 Q: Can you please give the Court just a brief
8 summary about your educational background?

9 A: I graduated from Presbyterian College in 1982
10 with a bachelors degree in business management.

11 Q: And then if you could please walk us through
12 your employment history?

13 A: After graduation I went to work for
14 Clinckscales & Associates. I had worked for
15 them three years prior part-time while I was at
16 school and went to work for them full-time two
17 years after college. After that I went to work
18 for C.R. Jackson out of Columbia, South
19 Carolina. I then went to work ---

20 Q: What did you do for C.R. Jackson?

21 A: I was a project manager for water and sewer
22 utilities construction projects.

23 Q: Okay.

24 A: After C.R. Jackson -- I worked there for three
25 years and then went to work for Farmer's



1 Telephone Cooperative in 1988.

2 Q: Okay. And where did you -- what did you start
3 out doing at Farmer's?

4 A: I was a carrier access billing analyst.

5 Q: Can you tell us what that means? What did you
6 do?

7 A: Carrier access billing was new to the company
8 overall at that point in time as a result of
9 the monopoly break up of AT&T that occurred in
10 1986. As a result of that small companies,
11 small rural companies had to develop access
12 mediums by which to provide inner exchange
13 company access for landline telephone service
14 for all the networks interconnected and
15 interrelated for somebody to be able to call
16 from our service territory to New York for
17 example.

18 Q: And you may have said this, how long did you do
19 that position?

20 A: I think about four years.

21 Q: Okay. And what was your next position?

22 A: It was access services administrator. As the
23 growth in the carrier access billing arena grew
24 -- continued to grow we needed to establish a
25 liaison for all the interconnection agreements



1 and relationships with other carriers, and I
2 took on that role when somebody else replaced
3 me as -- in the analyst position at that point
4 in time.

5 Q: Okay. And how long were you the access
6 services administrator approximately?

7 A: Probably another four years.

8 Q: Okay. And what was next?

9 A: I became marketing manager of Farmer's
10 Telephone Cooperative.

11 Q: And what did that involve?

12 A: That involved marketing, advertising, public
13 relations efforts for the -- for Farmer's
14 Telephone Cooperative and all its subsidiaries.

15 Q: Okay. And about how many years did you do
16 that?

17 A: I think I held that role for seven years up
18 until 2003.

19 Q: Okay. Then what did you do next?

20 A: 2003 I took on the role of general manager,
21 reported directly to the Chief Executive
22 Officer at that point in time.

23 Q: Okay. And you were general manager of which
24 entities?

25 A: All of them.



1 Q: Okay. And how long were you in that position?

2 A: Three years ---

3 Q: And ---

4 A: --- and upon the retirement of the current
5 Chief Executive Officer at that point in time
6 I became the CEO.

7 Q: Okay. And if you could just describe your
8 general duties as CEO of Farmer's for us?

9 A: You know, it's oversight and management of all
10 the functions and operations of Cooperative and
11 all of its subsidiaries in our effort to
12 provide services to our customers. There --
13 unfortunately there are daily personnel issues
14 you have to deal with, but there's also the
15 planning and monitoring of where we are in our
16 service offerings at the current time, where we
17 see growth, where we don't see growth, what can
18 we do to make changes in various aspects of our
19 operations, and primarily where's the future
20 taking us and how do we take the steps
21 necessary to be prepared to meet the consumer
22 demands for the future.

23 Q: Are there any boards that you serve on?

24 A: I serve on South Carolina Telephone and
25 Broadband Association Board.



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1 Q: What is that organization do?

2 A: That is a state organization of independent
3 telephone companies.

4 Q: Okay. Any others?

5 A: The National Telephone Cooperative Association
6 and Retirement Security Trust Committee which
7 is a savings trust for all 17, 18,000
8 participants in the plan.

9 Q: Okay. Are all the folks that participate in
10 that plan members of the co-op?

11 A: Yeah, they are members of the National
12 Telephone Cooperative Association, yes.

13 Q: Okay. Any other boards?

14 A: Williamsburg Regional Hospital Board.

15 Q: Now Mr. Lawrimore told us a little bit about
16 Farmer's entities yesterday. I want to ask you
17 a little bit of follow-up on that. What
18 services did Farmer's co-op provide when it
19 started? You weren't there then right?

20 A: Yeah, I wasn't there.

21 Q: What is your knowledge of what type of services
22 the co-op started off with?

23 A: Rural telephone service. Primarily voice.

24 Q: Okay. And we also heard some discussions about
25 the technology that was used. What was being



1 used at that time.

2 A: It was pure analog technology in 1978.
3 Mechanical switching and copper facilities.

4 Q: And what was the mission of Farmer's co-op when
5 it started?

6 A: The mission of Farmer's Telephone Cooperative
7 was to provide service in rural ancillary areas
8 where no one else is willing serve. You know,
9 as a result of the 1934 Telecommunications Act
10 there were a number of areas that got left out
11 of the communications arena through
12 provisioning of service because you couldn't
13 make an economic case to go there.
14 Cooperatives were established to be able to
15 provide a mechanism for service provision of
16 telephone service because everybody thought it
17 was important for people in these rural areas
18 to have the same opportunities as those in the
19 more larger metropolitan areas to have access
20 to telephone service.

21 Q: And how did the services provided by the
22 Cooperative change over time?

23 A: They've -- you know, they've evolved with
24 technology, and consumer demand drives that
25 technology as much as anything else. They've



1 gone from, you know, just pure telephone
2 service to broadband services. Of course, you
3 know, we understand -- I think everyone in this
4 court understands what we provide.
5 Broadband/broadband internet services. We
6 provide IPTV. We provide security services.
7 We provide wireless services.

8 Q: When did you add for example the broadband?

9 A: Broadband in its -- we had a dial up internet
10 in 1995.

11 Q: Okay.

12 A: Broadband of course is the buzz word of the
13 day. This is what is being pushed by the
14 federal government, particularly the FCC. We
15 have requirements that we have to meet with
16 respect to the level of broadband service we
17 are able to provide to our customers.

18 Q: Okay. So you said you started with dial up
19 internet. When would that have been?

20 A: 1995.

21 Q: And then when would you say you moved to
22 broadband?

23 A: Well I also use broadband for the inclusion of
24 all data services ---

25 Q: Okay.



1 A: --- other than the internet. Private line data
2 services, spacial access circuits, all type of
3 intra-corporate data services, connecting point
4 to point type locations, those are all
5 broadband type services in our industry.

6 Q: Okay.

7 A: But broadband from the aspect of everybody
8 should have access to broadband as you see even
9 in the newspaper this morning is conceptually
10 internet is what the general concept is in that
11 arena.

12 Q: Okay.

13 A: But it's a much broad category than just
14 internet.

15 Q: And you mentioned the private line data and the
16 special access service -- circuits. How long
17 have those been around?

18 A: You know, from a financial transaction
19 perspective, from a intra-company with multiple
20 locations private line circuits those have been
21 going on at some level back into the '70s.
22 I'll even go so far as to say -- the internet
23 itself was invented -- whatever the right --
24 not by Al Gore but by the military in 1964. It
25 was called Arpanet ---



1 Q: Uh-huh.

2 A: --- and there were private line special access
3 circuits established at that point in time for
4 the transmission of that date albeit it didn't
5 become publicly available for almost 30, 31
6 years later.

7 Q: Uh-huh. And what were companies using those
8 type of access lines for?

9 A: Financial transactions, y'all law firms in
10 multiple locations may transmit data and
11 information between one another. You know,
12 this was pre-internet and e-mail. You couldn't
13 put everything in an e-mail and send it to one
14 another. You had dedicated transmission pass
15 to send it back and forth.

16 Q: And what type of lines were those?

17 A: Primarily T-1 lines back then.

18 Q: Okay.

19 A: But they were, you know, it was copper
20 facilities with electronics on each end of it
21 that allowed for the transmission of that data.
22 They were classified at T-1 lines.

23 Q: And is a T-1 line -- how does that compare to
24 say a telephone line?

25 A: It is a copper facility that is dedicated to



1 transmit that data path.

2 Q: Okay.

3 A: We use T-1s for the telephone voice
4 communications as well though ---

5 Q: Okay.

6 A: --- and that a T-1 can be broken down into 24
7 various channels and each one of those channels
8 can carry a transmission path on it, voice or
9 data.

10 Q: Okay. All right. So we've talked about the
11 broadband. What about the TBN Security
12 Services? When did those begin for the Co-op?

13 A: I'd say we got into the security business in
14 2006 and IPTV I believe 2012. '11 or '12,
15 somewhere in there.

16 Q: Okay.

17 **THE COURT:** You said IPTV?

18 A: Yes. Internet Protocol Television.

19 **THE COURT:** Okay.

20 A: It's the -- you know, we've heard the term in
21 here used a number of time. Cable services.
22 It's not cable TV per se. It is a internet
23 protocol transmission path of television
24 services whereas general cable TV works off of
25 a DOCSIS 30 platform over coax and/or fiber.



1 **THE COURT:** And that was what year?

2 A: 2011 or '12. I can't remember exactly.

3 **THE COURT:** Okay.

4 Q: All right. And what type of lines do you
5 provide -- does the co-op provide TV and
6 security services over?

7 A: They're provided over the existing telephone
8 infrastructure. Security is a -- you know,
9 from my perspective it is a voice service. You
10 may have security equipment in your house but
11 your connection to our net that you could buy
12 from anybody, but your connection to our
13 network is nothing but a voice line that dials
14 out when that alarm is triggered.

15 Q: All right. And so when did FTCC and
16 Diversified come into the picture?

17 A: FTCC was actually established in 1986. It had
18 under its umbrella Farmer's Long Distance ---

19 Q: Uh-huh.

20 A: --- which again was a result of the break-up of
21 the Bell companies and divestiture in which we
22 chose to become our -- have our own long
23 distance subsidiary providing that service. It
24 also provided operator services at that point
25 in time.



1 Q: Okay. And when you say landline service do you
2 mean landline -- I'm sorry when you say long
3 distance ---

4 A: The long distance was for provisioning over
5 landline voice services, yes.

6 Q: Thank you. And what are operator services?

7 A: Operator services are, you know, operator can
8 use -- you know, we provide directory
9 assistance services in that arena. We provide
10 answering services, but the purest of operator
11 services are zero plus calls, one plus calls
12 that you need a operator to actually connect
13 you. International calls, etcetera.

14 Q: Got it. All right. And what about
15 Diversified? When did they come into the
16 picture?

17 A: Diversified was 2001 I believe.

18 Q: Okay. And what services did Diversified
19 provide when it first started?

20 A: Rural telephone service. They also provided,
21 you know, we had migrated through the other
22 iterations within the co-op at that point in
23 time. They also -- we were already doing
24 internet services so they provided that at that
25 point in time as well.



1 Q: Okay. And -- all right, so you said FTCC
2 started out with landline, long distance and
3 operator. Did it -- how did that change over
4 time?

5 A: 1986 to 1994 they stayed in their lane with
6 respect to long distance services and operator
7 services. In 1994 we began reselling wireless
8 services under our Bell South Mobility
9 umbrella, and that's where we established that
10 function within the FTC communications. Right
11 around 2000 we moved out from under that
12 umbrella through an agreement and arrangement
13 with then AT&T and began to build our own
14 independent wireless network.

15 Q: And what about Diversified? Did it add to its
16 initial services which you said were landline,
17 voice and internet?

18 A: And internet?

19 Q: Uh-huh.

20 A: Yes, as we entered the security business world
21 in '06 Diversified Services also offered that
22 service and as we moved into IPTV the --
23 Diversified also offered that.

24 Q: Okay. And you sort of alluded to this earlier
25 but I just want you to give the -- a little



1 more detail on why did these additional
2 services get added along the way for all of
3 these entities?

4 A: Consumer demand primarily. You know, we serve
5 not in a vacuum. While in 1951 we might have
6 been the only game in town, but we have
7 competition in our marketplaces today. Our
8 primarily competitor from a landline
9 perspective is Spectrum, was Charter, was Time
10 Warner. But they are our primary competitor
11 today and they offer the suite of internet,
12 voice and television services. To hang on to
13 your customer base people want to do business
14 with one entity believe it or not if they can
15 within reason. And so if we wanted to stay
16 competitive and hang on to as much of our
17 market share as we could we had to offer all
18 these services so that if we couldn't offer a
19 video product they would go somewhere else and
20 then take their internet and their voice with
21 them.

22 Q: Do FTCC and Diversified provide telephone
23 exchange service?

24 A: Yes.

25 Q: What is that?



1 A: Telephone exchange service is industry word for
2 landline voice communication. It's not
3 necessarily landline to voice -- I'll word try
4 to -- it's for voice communication. Voice
5 telephone service.

6 Q: Voice telephone. Does it make any distinction
7 between local and long distance?

8 A: It does not.

9 Q: What about exchange access? What is that?

10 A: Exchange access would be specific to long
11 distance. As a function exchange access is the
12 ability for your customers to access an inner
13 exchange carrier.

14 Q: Okay. And do Diversified and FTCC provide
15 that?

16 A: Yes.

17 Q: Tell us about why is rural telephone service
18 important?

19 A: Rural telephone service is important from both
20 a business and social perspective. It's
21 important that people be able to communicate
22 with friends and family who are not living in
23 -- you know, in the old days where you could
24 ride your horse and buggy down the road to talk
25 to somebody but today, you know, they've left



1 home and they've gone to New York or wherever
2 they might be living so they have the
3 opportunity to communicate. From an economic
4 development perspective it's important that to
5 promote business in the arena that in area that
6 people have the opportunity to communicate with
7 businesses that might not be in a neighboring
8 community or nearby in any shape, form or
9 fashion. You know, a business -- if -- purely
10 in economic development if you're trying to
11 attract a business to our area if you do not
12 have sufficient telephone and broadband service
13 availability they would not come.

14 Q: What about emergency services?

15 A: 911, let's go straight to that one. That is a
16 basic premise of -- and requirement -- to
17 provide access to 911 service in providing
18 telephone services. We have customers today on
19 both the landline and the wireless side who
20 have a landline or a wireless phone solely for
21 that emergency purpose.

22 Q: Have you heard of the term the five nines of
23 reliability?

24 A: Yeah, that is -- we use that quite often in the
25 telephone industry. It is specific to voice



1 communications. Five nines of reliability
2 reflects 99.999 percent of the time the network
3 has to be available. Meaning if you pick up
4 your handset that 99.99 percent of the time you
5 get a dial tone and you can place a phone call.
6 You have to build your network to be able to
7 meet that requirement.

8 Q: And can Farmer's entities choose whether they
9 provide that level of reliability or not?

10 A: No.

11 Q: Why is that?

12 A: In the co-op and in DSI it is a requirement.
13 In communications, yeah, we could choose not to
14 build that level or reliability.

15 Q: And who is it ---

16 A: That's an SEC ---

17 Q: --- mandated?

18 A: --- requirement.

19 Q: Okay.

20 A: For life line service qualification.

21 Q: All right. And you said it only applies to
22 voice. What do you mean by that? What about
23 the other services you provide?

24 A: Data is secondary in any telephony network.
25 Voice takes priority over any other



1 transmission that goes down the path. Voice
2 takes priority over any -- in our set up voice
3 takes priority over internet, internet takes
4 priority over IPTV.

5 Q: Okay.

6 A: So if there's IPTV in the way it gets cleared
7 out. The packetized data you've heard of
8 allows it in most cases not to be impacted but
9 it is slowed down. To clear the roads a
10 bulldozer -- voice has a bulldozer run through
11 pushing everything else aside to get it to the
12 other end. It has to be of the highest quality
13 and it has to take priority to reach that other
14 end. You wouldn't want if you were making a
15 911 call you wouldn't want somebody's TV
16 transmission or internet transmission to be in
17 the way of your 911 call going through.

18 Q: All right. I want to talk to you about the
19 communities that are served by FTCC and
20 Diversified. How would you describe those
21 communities?

22 A: Rural. Small. Poor.

23 Q: How are ---

24 A: We serve two of the counties -- Lee and
25 Leesburg County are two the poorest counties in



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1 the state.

2 Q: How large are the communities on a population
3 basis?

4 A: The smallest community we serve is my own of
5 Greeleyville of 382, the largest is Sumter with
6 I think it's at 38,000 on the last census
7 count.

8 Q: We've heard the term access line. What exactly
9 is an access line? What does that mean?

10 A: Access line is a voice telephone line.

11 Q: Okay. How many access lines does diversified
12 have per community if you know?

13 A: I don't know on a per community basis but
14 collectively there's 6800 access lines give or
15 take a few in Diversified.

16 Q: Okay. What about FTCC? How many access lines?

17 A: They have 23,000 and some change.

18 Q: Tell us about what are the challenges that
19 Farmer's entities face in providing rural
20 telephone service?

21 A: Well I think Mr. Lawrimore referred yesterday,
22 this is a capital intensive operation so first
23 off is the initial deployment of the network.
24 Then comes the function of maintaining the
25 network. We have fiber cuts every day or



1 copper cable cuts, either one, every day in our
2 network and they, you know, our mantra is to go
3 out and fix that immediately. Per regulation
4 we have 10 days to get it fixed but our goal is
5 to get it done in 24 hours primarily because of
6 the lifeline 911 requirement.

7 Q: So every construction project that's going on
8 that might ---

9 A: Yep.

10 Q: --- cut a line you got to get out there?

11 A: The Water Department might cut a line.
12 Whatever -- you know, their old Joe down the
13 road's digging up a tree in his yard and he
14 cuts a line. I mean, those types of things
15 happen every day. Somebody else is building
16 other facilities and they cut a line. So, you
17 know, we have to react to that. Maintaining
18 the network with respect to just general
19 troubles and believe it or not as technology
20 has advanced many troubles are generated by
21 operator error and I mean user error not
22 operator center error. But by user error as
23 opposed to actually other issues and so you
24 have to work through those wrinkles as well.
25 Then there's the cost of the continuous



1 evolution and the updates to the network to
2 meet the customer demands. You also have the
3 competitive pressures as ---

4 Q: Hold on. Let me stop you there. On the
5 maintenance changes does technology factor in
6 at all as to what your maintenance costs are?

7 A: Sure.

8 Q: Okay. So tell me about that. How ...

9 A: Well part of the model today -- in today's
10 world -- it used to be you bought a piece of
11 equipment and you maintained it. Well in this
12 computerized world we're in today you buy a
13 platform and you're payin' for the software is
14 what you're really payin' for. And you pay
15 license fees, you pay user fees, you pay annual
16 maintenance fees on the cost of these items to
17 continue to be able to use and to upgrade it
18 into the latest revisions of that opportunity.

19 Q: And how frequently are you having to switch to
20 the next system?

21 A: Well, you know, dependin' on the system you
22 look at it five years is a long time at this
23 industry.

24 Q: Uh-huh.

25 A: I will use modems in the customer's home for



1 instances. The -- for internet access and for
2 voice service and voiceover IP services, those
3 modems change at least every two years.

4 Q: All right. Now you were getting ready to talk
5 about competition when I interrupted you.

6 A: Oh, yes. Thank you for the reminder.
7 Competition is certainly a factor of the high
8 cost of maintaining the network -- and it's not
9 necessarily maintaining the network but it's a
10 factor in your revenue streams in that as I
11 mentioned earlier competition can take not only
12 this video service, this internet service
13 and/or this voice service away from you, and
14 all that does is push -- you have to have this
15 network regardless whether you have, you know
16 -- this is probably an exaggeration -- but
17 whether it's when you have one customer or
18 100,000 customers you have to have basically
19 the same network. And so if you have fewer and
20 fewer a shrinking number of customers you have
21 fewer people to share in the cost of
22 maintaining that network and as a membership
23 cooperative we're owned by our members we
24 operate at cost. You also have wireless
25 substitution. The FCC has -- and the South



1 Carolina Public Service Commission -- both have
2 qualified wireless as a substitution for
3 landline and as an equivalent service.

4 Q: So is that impacting your ...

5 A: Sure we have some people who only have a
6 wireless phone.

7 Q: Uh-huh. Now were you in the courtroom when Mr.
8 Moss commented that he thought that the
9 wireless industry was very competitive in the
10 areas you serve?

11 A: Yes.

12 Q: How would you respond to that?

13 A: Yes, wireless is competitive. Our mission as
14 a cooperative once again back to that is to
15 provide service where no one else does, and
16 that's what we do in the wireless arena as
17 well. We provide coverage, wireless coverage,
18 to areas that no other competitor provides to
19 on the scale that we do. Yes, Verizon is in
20 our market place. T-Mobile's in portions of
21 our marketplace, and Sprint is in our
22 marketplace. I would contend that Verizon
23 probably has a level equivalent to 80 percent
24 of the coverage we have, T-Mobile 50 percent,
25 and Sprint 10 percent.



1 Q: And so what do all those numbers mean in terms
2 of the people in your communities?

3 A: That we provide the best wireless coverage of
4 any. If wireless coverage is important to them
5 -- which it obviously is by the amount of
6 traffic that's on this network -- that we
7 provide the best coverage. We provide, you
8 know, wireless provides 911 services as well.
9 It is a qualifying lifeline service per the
10 FCC. It's ---

11 Q: So why are these other wireless carriers not
12 serving all of the customers in the area like
13 you are?

14 A: They can't meet their profit requirements in
15 these high cost, low penetration areas.
16 There's not enough density of customers for
17 them to be able to meet their metrics for
18 profitability.

19 **THE COURT:** When you say that Verizon's got 80
20 percent and then Sprint and the other ones have
21 percentages is -- are you competing in every
22 area of your coverage area?

23 A: No, sir. There is where we are the only
24 provider.

25 **THE COURT:** Okay. How much of the percentage is



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ROA 002069

1 that?

2 A: 20.

3 Q: Do natural disasters have any impact on FTCC
4 and Diversified?

5 A: Certainly. You know, that goes back to I guess
6 the cost of maintaining the network. We're
7 kind of in a hurricane alley. We have multiple
8 hurricane evacuation routes through our network
9 which again relate to the importance of
10 wireless communications on those paths as
11 people leave from -- try to leave from danger
12 you can end up in us and you'll still be in
13 danger. We've been impacted by three
14 hurricanes and one flood in the last five
15 years.

16 Q: Mr. Lawrimore discussed FTCC having an
17 estimated yearly net income of five million.

18 A: Yes.

19 Q: Do you recall that testimony? Where is that
20 money going? Are you and Mr. Lawrimore getting
21 some fat bonuses.

22 A: No, I would love to but I'm not unfortunately.

23 Q: Okay. Then where is it going?

24 A: That money gets -- you heard him talking about
25 providing back to the membership. We have a



1 capital credit system whereby operating income
2 earned in the company is given back to the
3 membership but it's also plowed back into the
4 network for capital investment and maintenance
5 purposes. They are not hoarding money
6 anywhere.

7 Q: What about are the -- or the co-op and
8 Diversified profit role?

9 A: The Co-op varies from -- it teeters on the plus
10 and minus of zero depending on the year but
11 generally I'd say no and the light shining down
12 the road will not continue to make you think it
13 would become that way because of just the high
14 cost of maintaining this network and the need
15 to continue to invest in the network.
16 Diversified services is generally not
17 profitable as a function primarily of providing
18 video services. The high cost of content for
19 video services is an enormous burden on the
20 cost structure.

21 Q: And are the profits of FTCC used in any way to
22 offset those losses?

23 A: Yes. I mean, you know, the money we make in
24 FTC Communications goes back into the
25 Cooperative. It's -- I think it's worthy to



1 say too that if you -- if you are member of the
2 Cooperative and you have our wireless services
3 a portion of that profit is attributed to your
4 capital credit account so your capital credits
5 are increased if you are both a co-op customer
6 and a wireless customer.

7 Q: Okay. What would happen to the business as a
8 whole if FTC ---

9 **MR. CARTIN:** Objection, Your Honor -- I'm sorry she
10 didn't get to finish the question.

11 **THE COURT:** Yes, you can finish.

12 Q: What would happen to the business as a whole if
13 FTC was not profitable.

14 **MR. CARTIN:** Objection, Your Honor. I think we're
15 in the same territory where we were the
16 relevance where the Court said that Mr. Anthony
17 was not allowed to testify about the impact on
18 the counties from the loss of revenue, and I
19 would presume that the testimony here will just
20 be we'll have to pay taxes.

21 **MS. GEER:** I actually am not asking at all related
22 to the exemption. The inference was that
23 FTCC's got this mountain of profits that ---

24 **THE COURT:** Well ---

25 **MS. GEER:** Go ahead.



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ROA 002072

1 **THE COURT:** --- I'll tell you what. Rephrase 'cause
2 you're clarifying the intent for your question.

3 **MS. GEER:** Yeah.

4 **THE COURT:** The simpler approach would be just to
5 clarify the question.

6 **MS. GEER:** Thank you, Your Honor.

7 **Q:** Are the businesses of -- how are the businesses
8 of the co-op and Diversified dependent on the
9 business of FTCC?

10 **A:** The ultimate outcome if you were at zero or
11 negative margin year after year after year is
12 you can't continue to exist, and the end game
13 of that is the Cooperative could potentially
14 not exist under that arena and therefore there
15 are significant areas of the -- well the whole
16 area we serve would not be served by FTC
17 anymore. You go back in history these larger
18 companies only want to go where the density is.
19 They wouldn't come to my house. I live a mile
20 down a dirt road and there's nobody else down
21 there, they're not comin'. So there would be
22 significant people left without telephone
23 service, without 911 service, etcetera.

24 **Q:** Let's see if we can give you a chart to look
25 at.



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ROA 002073

1 **THE COURT:** While she's setting that up I want to
2 make sure my notes are correct.

3 A: Yes, sir.

4 **THE COURT:** You said that you've got both security
5 and IPTV.

6 A: Yes, sir.

7 **THE COURT:** And I thought you said both are provided
8 over the voice line, is that correct?

9 A: They are.

10 **THE COURT:** Okay.

11 A: They're all provided over the same network.

12 **THE COURT:** Well what's the difference between same
13 network and voice line?

14 A: The line that your voice comes one is the same
15 line that those services come on. Yes, sir.

16 **MS. GEER:** I don't know how I'm going to set this up
17 to get everybody to see it but ...

18 **THE COURT:** Well I can move.

19 (Off the Record)

20 **MR. GEER:** All right. And, Your Honor, for this
21 portion if you wouldn't mind I would like for
22 the witness to be able to come up and kind of
23 point some things out on this diagram if that's
24 okay.

25 **THE COURT:** Certainly.



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ROA 002074

1 Q: Okay.

2 **THE COURT:** Old school. Now if you do have that on
3 the -- you could put it on the Elmo if you
4 wanted and then you could point.

5 Q: All right. So we've looked at -- this is the
6 -- just for the information of everybody --
7 this diagram is also an Exhibit. It just has
8 a few extra little demonstrative things added
9 to it and it's Exhibit -- is it 152? I think
10 it's 152. I can confirm.

11 **THE COURT:** Y'all can come around here if you want.

12 Q: Yep, 152. All right. Mr. Erwin, I would like
13 for you to just sort of walk us through what
14 the different squares with letters and numbers
15 on them are in your system.

16 A: This is the core network diagram that's been
17 discussed yesterday, but we've added some
18 points on here just to reflect customer
19 locations. This Scranton 701, Scranton 702,
20 Pocalla 701 are digital loop carriers in our
21 network. There are 467 of those in our
22 network. I took the liberty not to put on all
23 467 of them on there.

24 Q: And can you just tell us very -- in very simple
25 terms what is a digital loop carrier?



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1 A: The digital loop carrier -- customers can
2 connect based on their distance the customer
3 can connect directly to a central office. Each
4 of these MXs we've been referring to is in a
5 central office location. So a customer can
6 connect directly to the central office but if
7 they're further out in the network you put a
8 digital loop carrier out there to provision
9 service to them.

10 Q: Okay.

11 A: So that's the function of those digital loop
12 carriers out there in the network. This
13 diagram also reflects the gateway locations
14 which are the connectivity and interface to the
15 metaswitch in Horry Retail Home Company.
16 There's a gateway on North Kingstree. Every
17 Scranton customer, every Kingstree customer,
18 every North Manning customer all home in on the
19 Kingstree gateway. Every Pinewood, Pocalla,
20 North Sumter customer, there are Bishopville
21 customers, there are Turbeville customers, but
22 these are the central office locations -- they
23 all home in on their respective gateway as
24 well. The gateway in tandem -- this is where
25 the tandem is (indicating). The gateway in the



1 tandem in Sumter, Sumter tandem. That's what
2 it stands there for.

3 Q: Why don't you come this way so they can see.

4 A: Okay. Excuse me, sir. The gateway in the
5 tandem is where all interexchange carrier
6 access occurs. There's some call diagram on
7 here but I'm gonna let Mr. Wyatt discuss that
8 a little later on. Did I miss any relevant
9 points?

10 Q: I don't think you did.

11 A: It's just tryin' to example to show that it's
12 much broader than this right here and it
13 extends out in many facets in the total network
14 that anything and all there is is just that
15 core and I know you know that.

16 Q: All right. And then -- I don't -- you may want
17 to stand up for a minute longer. I don't know,
18 you might want to point to it, you might not.
19 You heard Mr. Moss talk about how data would
20 travel -- and I'm not sure exactly of his
21 terminology -- but basically like the least
22 cost route or something along those terms.

23 A: Okay.

24 Q: Tell me how that works in your network?

25 **THE COURT:** Most efficient route?



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ROA 002077

1 Q: Most efficient route? Was that it? Yeah.
2 Most efficient.

3 A: Because respective areas are forced to home off
4 of their gateway -- primarily because the voice
5 traffic is the priority -- there is -- I'm not
6 gonna say that we're not efficient by any
7 stretch but we force routing of every call
8 and/or every data session goes to its gateway
9 first and then is directed after that. So any
10 call that comes in has to hit the gateway and
11 then go back and take its route around so it
12 doesn't have Free Willy choice of where it's
13 gonna go. Now I will caveat that in the
14 instance of a fiber cut if there was a cut
15 right there (indicating) this would then go
16 like that to get there, but its general routing
17 protocol forces it down this route first but
18 there is redundancy built into this network as
19 well.

20 Q: Okay. And do you track -- is there data out
21 there where we could see how many calls a day
22 are happening on this network?

23 A: 623,000 calls a day.

24 Q: Okay. So is there something where we could see
25 the path that each of those 623,000 calls took?



1 A: You know, no, there's nothing to see that.

2 Q: Uh-huh.

3 A: Somebody could sit down and analyze all 623,000
4 calls and project what that path would be sort
5 of onerous I believe.

6 Q: Yeah. Joe Moss is nodding for the record. All
7 right. That sounds like a lot of calls to try
8 to figure out the paths of each day. All
9 right. All right. I think I'm done with this
10 chart for now so for everybody who wants to get
11 more comfortable. All right. The next thing
12 I want to talk to you about is about the type
13 of assets that Farmer's has claimed is exempt
14 in this matter and I want to do that by showing
15 you some pictures and I sent you ---

16 A: Uh-huh.

17 Q: --- these yesterday and we're not actually
18 using all of them but ---

19 **MR. CARTIN:** Did you get them on the Elmo or ---

20 **MS GEER:** Yeah, I got them on the Elmo but we don't
21 have any that we didn't send to you. All
22 right. So let me see if I can -- y'all are
23 testing my technology capabilities this week.
24 Easel, I found that's beyond me. All right.
25 Let's see.



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ROA 002079

1 Q: Tell us what this first picture is?

2 A: Oh, it's right there.

3 Q: You got it?

4 A: Yes.

5 Q: Okay.

6 A: This is a digital loop carrier.

7 Q: Okay. So you mentioned that earlier and
8 actually I don't know, I kind of want you to
9 show us where it is on the chart as well ---

10 A: That's Grant and 701, 702 ---

11 Q: Yeah.

12 A: --- or Pocalla 701 down here ---

13 Q: Okay.

14 A: --- or these locations represent those digital
15 loop carriers.

16 Q: Okay. And what about -- and whose -- who owns
17 this asset?

18 A: That's a Diversified asset.

19 Q: All right. What about this one?

20 A: That is the inside of that digital loop carrier
21 cabinet.

22 Q: Okay.

23 A: This reflects the card interfaces, the jumper
24 interfaces going on inside that cabinet in
25 those ---



1 Q: So this is private?

2 A: Yes, that's the front.

3 Q: And that's the inside?

4 A: Yes.

5 Q: Okay.

6 A: With the jumpers and card interfaces on the
7 left hand side those -- on the right hand side
8 are routers that are inside that location.

9 Q: Okay. So does Diversified own what's inside
10 the carrier as well?

11 A: Yes.

12 Q: Okay. What about this one?

13 A: So these cabinets open both front and back.
14 That's the back. That's all the incoming cable
15 into that carrier system from various locations
16 throughout the incoming and outgoing cable from
17 various locations throughout the network ---

18 Q: Got it.

19 A: And its connectivity is provided on the front
20 interface of that.

21 Q: What about this one?

22 A: That's a blow up of that right hand side of
23 that carrier that is just a close up of ---

24 Q: Okay.

25 A: --- those router systems.



1 Q: So the picture we just looked at this is just
2 a closer ---

3 A: Yes. Yes.

4 Q: So still Diversified?

5 A: Yes, ma'am.

6 Q: All right. What do we have here?

7 A: That is a base of a wireless tower. Of course
8 you see this is a monopole structure here. We
9 have monopole structures, lattice structures
10 and guidewired structures throughout our
11 wireless network. On the left-hand side this
12 shelter small building looking thing houses the
13 electronics inside that facility.

14 Q: Okay. And who owns these assets?

15 A: FTC Communications.

16 Q: Okay.

17 A: That's the top of that same tower, couldn't put
18 it all in one picture.

19 Q: Okay.

20 A: And of course up at the top are the radios and
21 antennas up there.

22 Q: Okay. And whose asset is this?

23 A: That's Communications.

24 Q: Okay. I think I'm putting this one the right
25 way. Tell me.



1 A: Yes.

2 Q: Okay. What is that.

3 A: That's the -- we call it a bank. Inside that
4 it's a rack in there that all these various
5 electronic elements go in. These elements are
6 used in bringing the wireless -- or the RS
7 signal down the coax into this where it's then
8 converted and put on the fiber and sent out to
9 the mobile telephone switching office on back
10 haul fiber.

11 Q: Okay. So this asset?

12 A: Communications.

13 Q: And the last?

14 A: This is actually -- the bottom is a 24 pair
15 copper cable.

16 Q: Yep.

17 A: The top is a 24 pair fiber cable.

18 Q: Okay.

19 A: And I think we have some actual hands-on items
20 of those.

21 Q: Oh, yeah, where might I find those?

22 **THE COURT:** So the bottom one was a T-line?

23 A: It's copper. You see 24 channel.

24 **THE COURT:** You say 24 pair?

25 A: 24 pair, yes, sir. It could be provided for a



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1 T-1 if you wanted to use that -- a T-1 through
2 electronics is -- only uses two copper pair.
3 A T-1 only uses two copper pair but there's a
4 piece of electronics that channelizes it into
5 24 channels. This result here would be you
6 could serve 24 houses with that one piece of
7 cable right there. A single pair.

8 **MS. GEER:** Your Honor, may I approach the witness?

9 Q: So if you could just describe for us.

10 A: Okay. Again this is a 24 pair copper cable.
11 I just don't want anybody to touch it. It has
12 a greasy element to it.

13 **MS. GEER:** We will pass it around for anyone that
14 wants to touch it but you did not want to touch
15 the ...

16 A: You just don't want to grab that if you can
17 help it.

18 Q: Yeah.

19 A: But that splits up into 24 different copper
20 pair. Comparatively this is a 24 fiber and I
21 will tell you you can spend quite a while
22 tryin' to split it into all 24 pieces and keep
23 them separate, but this produces the light
24 wave across the network. Electronics on the
25 end of it shoot the light wave across the



1 network and can carry enormous amounts of
2 signaling.

3 Q: So what's the difference capacity wise between
4 what we're looking at here? You'd leave that
5 to ---

6 A: I'll leave the word to enormous. I'll let an
7 engineer ...

8 **MS. GEER:** Are you writing down a list of your
9 homework?

10 Q: Do the bundles of the copper, how big can they
11 get?

12 A: We have some six hundred pair in our network.
13 I don't think you would want me to bring those
14 in with me.

15 Q: No, I didn't want you to bring that one unless
16 you were going to carry it.

17 A: No.

18 Q: All right. So that demonstrative plus the
19 pictures, what are those assets used for?

20 A: Providing rural telephone service.

21 Q: We've talked a lot about copper versus fiber.
22 Diversified, how much of its network is copper
23 versus fiber?

24 A: Diversified is probably 90 percent copper, 10
25 percent fiber.



1 Q: Okay. And what about FTCC?

2 A: FTCC is a wireless -- it has -- it does not
3 have either the back haul is fiber in every
4 location but they're generally provided by the
5 Cooperative or Diversified services.

6 Q: Okay. Are there any assets -- I mean, what
7 we've given as sort of a -- how -- as far as
8 the -- you have the universe of assets that
9 Diversified and FTCC are asking for. What
10 percentage do those pictures represent of the
11 total amount of assets we're talking about?
12 Are there a bunch of other assets out there
13 that we haven't spoken of?

14 A: No.

15 Q: Okay. So those are representative of the bulk
16 of the assets ---

17 A: Yes.

18 Q: --- that are being requested?

19 A: Yes.

20 Q: And any of the assets that we have not
21 specifically mentioned that there's a component
22 here or there that we didn't discuss just now
23 what are those assets used for?

24 A: They would not be exempt.

25 Q: No, no, no. I'm saying if there is a random



1 piece of equipment that we haven't discussed in
2 the pictures but you are claiming the exemption
3 for ---

4 A: Oh, it's all ---

5 Q: --- what is it for?

6 A: --- it's all in providing rural telephone
7 service.

8 Q: What assets has Diversified carved out as not
9 exempt?

10 A: The ISP, internet service provider equipment
11 and the head end for IPTV.

12 Q: And what are those carved out?

13 A: Because they're -- they don't -- they're not
14 used in providing telephone service.

15 Q: Okay. And same question for FTCC. What have
16 you carved out for FTCC as not ---

17 A: The operator center functions.

18 Q: Is there also some answering services?

19 A: Yes.

20 Q: Okay.

21 A: Yes. Yes. There are platforms in there that
22 provide for operator services and answering
23 service platforms that are carved out. Yes.

24 Q: All right. Now I know that we're here today
25 based on exemption claims of only Diversified



1 and FTCC but there were a couple questions
2 yesterday asked about the co-op and I just want
3 to get some clarification on those. Does the
4 co-op request the exemption for all of its
5 assets?

6 A: Yes.

7 Q: Okay. And what does it not have any that are
8 carved out like FTC and Diversified has?

9 A: Because a hundred percent of its assets are
10 used in providing rural telephone service.

11 Q: Okay. So for example you said a head end is
12 taken out for Diversified. Does co-op not have
13 a head end?

14 A: The do not.

15 Q: Okay. And what about the ISP equipment that's
16 taken out by ---

17 A: They don't have an ISP. We contract with
18 Diversified for head end and ISP services.

19 Q: Okay. All right. And I want to talk very
20 briefly -- we had a lot of testimony yesterday
21 on the historical changes in technology, and
22 you actually had mentioned -- have already pre-
23 answered some of my questions in your earlier
24 testimony so I'm going to try not to repeat ---

25 A: We'll get through that much sooner.



1 Q: I just want to make sure we did understand when
2 these changes took place for Farmer's so I
3 apologize if I repeat any, but when was the
4 transition made by Diversified -- or what
5 transitions were made by Diversified?

6 A: In service offerings?

7 Q: In technologies.

8 A: Well understanding that Diversified came into
9 the world in 2000 -- in our world in 2001 I
10 think -- we were already under digital platform
11 at that point in time ---

12 Q: Okay.

13 A: --- so there weren't -- the evolutions to go
14 through in a sense evolved into the IP, voice
15 over IP world.

16 Q: Okay.

17 A: And it subsequently added security services and
18 we evolved in that in '06 I think and IPTV in
19 2011, '12 whatever that was.

20 Q: And then how have the changes in technology
21 affected FTCC?

22 A: You know, the wireless evolution is notable as
23 well. When we began to build our own network
24 that had already reached the 2G version of
25 wireless technology so we have migrated through



1 -- we worked in 2G for a number of years and
2 we've migrated through the transition to 3G and
3 now 4G. Fourth generation.

4 Q: Let me get you to turn to Exhibit 169.

5 A: 159 or ---

6 Q: 69.

7 A: --- 69?

8 **MS. GEER:** Ms. Mitchell would it be possible for me
9 to have a favor and get that up?

10 **MS. MITCHELL:** They need to switch over to me, but,
11 yes.

12 **MS. GEER:** I really appreciate it. Thank you.

13 Q: All right. So you can either look on your
14 screen or in your book, whichever's easier.
15 Tell me what this chart shows?

16 A: This chart reflects voice connections, internet
17 connections, video connections and security
18 connections among our customers separated by
19 those for the Cooperative and those for
20 Diversified Services.

21 Q: Okay. So you've got a phone only category.
22 What does that mean?

23 A: Phone only are those people who want nothing
24 but a telephone line. They do not subscribe to
25 any of the internet, video or security



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1 services.

2 Q: Okay. And what about the total voice? What
3 does that include?

4 A: Total voice would include phone only plus those
5 who subscribe to phone as well as internet,
6 video and security services.

7 Q: Okay. And then the internet services, does
8 that mean they only get internet? Or does that
9 mean they get -- they could be in the total
10 voice category as well?

11 A: They're in the total voice category as well
12 generally.

13 Q: Okay. All right. So which category do you
14 have the most subscribers in?

15 A: Voice.

16 Q: All right. I got a couple dictionary questions
17 for you. Are you ready?

18 A: Uh oh.

19 Q: All right. In the telephone industry what does
20 the term telephone mean?

21 **MR. CARTIN:** Objection, Your Honor. I think we're
22 at this point asking for an expert opinion and
23 he hasn't been qualified. He can say what his
24 understanding of what telephone service means
25 or telephone means but ---



1 **MS. GEER:** I'm just asking what does it mean in his
2 industry.

3 **MR. CARTIN:** That's asking him to speak on behalf of
4 a lot of people who aren't here. An expert can
5 do that and I'm certain Mr. Wyatt's going to do
6 that, but he can say what's his understanding
7 of it.

8 **THE COURT:** He can't -- he's not qualified as an
9 expert so he can just -- you can just ask him
10 in his industry. Well I just -- I think he can
11 testify to his perspective of what they use the
12 term for.

13 **MR. CARTIN:** Understood.

14 **Q:** So, Mr. Wyatt, in your industry, the telephone
15 industry, what does the term telephone mean.

16 **A:** Telephone is a device by which you communicate
17 over distance.

18 **Q:** And what does telephone service mean in the
19 telephone industry?

20 **A:** The provisioning of the ability to communicate
21 over distance.

22 **Q:** And in the telephone business what do people in
23 the telephone business consider a smart phone
24 or an iPhone to be?

25 **A:** It's a telephone. It's a phone.



1 Q: And in the telephone business what is a
2 landline telephone considered to be?

3 A: It's a telephone.

4 Q: Does the type of technology that is used does
5 that ever play into what a telephone or what
6 telephone service is in your industry?

7 A: No.

8 Q: All right. We heard some talk yesterday about
9 minutes of use. Tell me what does minutes of
10 use mean in your industry?

11 A: Minutes of use is a primary measurement of
12 voice traffic. Once again we're required to
13 build our network for five nine's of our
14 liability and in doing so that means that
15 people can have network accessibility and
16 network retainability. That you make the call
17 and that the call stays up. Certainly 911
18 service is a primary focus of this so minutes
19 of use is the primary component in evaluating
20 how to build the network to meet the consumer
21 demand at its peak time. You know, some of us
22 may remember the day when radio station 107.5
23 would do a you can win a thousand dollars if
24 your 107th caller. You could lock up the
25 telephone network with that thing. And



1 there've been some movements to mitigate that
2 threat to the telephone network to shut it down
3 because of the importance of it. So it's just
4 primary focus on which we use to measure and
5 build a network to meet the consumer demand for
6 voice traffic.

7 Q: And how are those minutes of use -- how would
8 that be used in building your network? You're
9 -- if your building a network -- or you don't
10 have a network yet ---

11 A: Yeah.

12 Q: --- what minutes of use are you looking at?

13 A: Well, you know, if you're building a brand new
14 network you go try to figure out the number of
15 potential customers you may capture. You know,
16 if you look in a particular market area are
17 there 10,000 customers, are the 100,000
18 customers? What's your market share gonna be.
19 Do you get 40 percent, 50 percent of that? And
20 there are certainly -- you -- if you're in the
21 business or you're consulting with people in
22 the business you go find out what your average
23 call times are, what your average hold times
24 are and those type things to be able to build
25 your network to meet those demands.



1 Q: Okay. And then once it's up and running how
2 are you using minutes of use once it's up?

3 A: We track them on a weekly basis. Our switch
4 engineer looks at a report every Monday to see
5 what the traffic was on a per trunk group basis
6 over the previous week to determine if we need
7 to make adjustments to the network to meet the
8 traffic demand.

9 MS. GEER: Okay. Ms. Mitchell, would you mind
10 pulling up 179 for us please?

11 Q: If you want to turn in your book we're going to
12 move to 179 or you can look at the screen.
13 What is this?

14 A: This is an ISUP report. ISDN user part trunk
15 group totals report. It reflects the various
16 trunk groups on our network across which voice
17 traffic traverses.

18 Q: And does it tell you anything about the time
19 use of the network?

20 A: Yeah, well certainly total usage of minutes in
21 the very first column reflects on each trunk
22 group the amount of usage that's goin' across
23 there. So, you know, the engineer's gonna look
24 at this and say where do I have, you know,
25 parameters that make me say I need to increase



1 trunk groups or I'm good and stable where I am.
2 But he's also looking at total minutes of use
3 and if you were to go to the last page of this
4 document I've added myself I took it and added
5 some, just some totals and summarization down
6 there. The total minutes of use of all of
7 those columns equates to 118,000,347 minutes of
8 use. Now this is a snap shot across a 70 day,
9 10 week period on the landline network. That
10 equates to 100 -- excuse me 1,690,671 minutes
11 per day. Take that to a year. People are
12 talking 10,000 -- 10,000,000 -- excuse me --
13 let me reemphasize that -- 10,000,000 hours of
14 voice traffic goin' across this network on an
15 annual basis and you can see the reflection of
16 624,000 calls per day people are makin'.

17 Q: And you heard Mr. Moss talking about bandwidth.
18 What does bandwidth mean in your industry?

19 A: Bandwidth is the transmission of data across
20 the network.

21 Q: Okay. And so if your engineers didn't have
22 these minutes of use reports could they make
23 use of a bandwidth report to make their
24 decisions about how many trunk lines need to be
25 added?



1 A: Not to design a voice network, no.

2 Q: Now do you have -- the information you have you
3 said you had a 70 day period. Do you have that
4 information for the entire years at issue in
5 the case?

6 A: I do not. This is -- you think about a call
7 record for every call that's made on the
8 network at a rate of 624,000 calls a day. The
9 server -- we don't have the server capacity to
10 keep those nor do we see the need to implement
11 it. Once -- after you review it -- we keep it
12 on a 10 week running basis -- but once you
13 review it we don't need to look at it anymore.
14 You reviewed it, you made adjustments, you move
15 on.

16 Q: Got it. All right. And so as I understood
17 your testimony these all pertain to Diversified
18 analysis right? You don't use these for FTCC
19 do you?

20 A: Yeah, this is ---

21 Q: Okay. So what about ---

22 A: --- the landline network.

23 Q: What about FTCC? What type of reports are you
24 reviewing for them?

25 A: We have -- our RF wireless engineer can capture



1 from each radio through what's called AT&T
2 Quantum System. He can capture from each radio
3 the minutes of use and data on a monthly basis.

4 Q: Okay. And you said RF engineer. Did you say
5 what that was?

6 A: Radio frequency engineer.

7 Q: Radio frequency. Okay. And what is he using
8 it for?

9 A: He's using it to look at the network
10 availability and accessibility to be sure we
11 meet key performance indicators so people can
12 make calls when they want to and they can
13 transmit their data when they need to.

14 Q: Okay. All right. And I'm going to flip to
15 Exhibit 156. Ms. Mitchell, can you bring that
16 one up? Tell me what this document is?

17 **(Joint Exhibit Number 156 was introduced into the**
18 **record at this time.)**

19 A: This is a construction certification update
20 provided by FTC Communications.

21 Q: And what are the purposes of -- why do you have
22 to file this report?

23 A: Because we are a -- because FTC Communications
24 is a -- excuse me -- a USF recipient we have to
25 file this report to reflect the level of



1 coverage, the changes we've made to the network
2 and the construction that is ongoing to meet
3 the modifications necessary -- we're required
4 from our USF receipts to build -- show
5 improvements and coverage and capacity on an
6 annual basis to be a continued recipient of
7 that.

8 Q: Okay. And so you're receiving funds and you're
9 having to report on the use of those funds?

10 A: Yes.

11 Q: Okay. And what were you receiving those funds
12 to do?

13 A: You're gonna have to give me a minute to figure
14 out what this one was for.

15 Q: Okay.

16 A: You know, we've taken on a over-arching plan
17 that ---

18 Q: If you want turn to section 2.1 -- I'm sorry
19 2.0.

20 A: Okay. Relative to the current loan. These
21 funds were for the purposes of building towers
22 within the FCC service territory and fiber
23 outside of the Cooperative's territory. The
24 purpose of this loan is to construct an LT
25 network utilizing all 130 FTCC sites. So LT



1 was -- LT is synonymous with 4G ---

2 Q: Okay.

3 A: It was the latest iteration of technological
4 evolution in the wireless network and that was
5 the purpose of these funds. It required a
6 radio change out ---

7 Q: Okay.

8 A: --- to be able to implement.

9 Q: And when you're talking about the need -- why
10 you're needing to do this -- do you mention
11 minutes of use in this report?

12 A: It mentions minutes of use but it also talks
13 about the data capacity increases. I'd have to
14 find the exact reference in here ---

15 Q: Well let me just ask you this, when it -- why
16 would you reference bandwidth in this report?

17 A: Well as I said earlier, bandwidth/broadband is
18 the buzz word. This is what the federal
19 government emphasizes in it's funding efforts.
20 You've got to provide X level of broadband
21 capacity to be able to continue to receive
22 Universal Service Funds and/or loans from the
23 federal government. Our U.S. will not loan you
24 a dime to build copper. They'll loan you the
25 money to build fiber, they will not loan you a



1 dime to build copper.

2 Q: All right. Let's flip to Exhibit 151. And
3 actually this particular Exhibit is quite
4 difficult to read so I did a little blow up.
5 All right.

6 MS. GEER: Your Honor, would you mind if the witness
7 approaches the chart?

8 THE COURT: No.

9 Q: And you did have a note that I think that you
10 wanted to ---

11 A: Yeah, I just want to be sure I keep my head
12 straight around my numbers.

13 Q: Yeah. Please tell the Court what this chart
14 is.

15 A: This chart is reflective of the data that the
16 RF engineer captures from each of our wireless
17 sights on a monthly basis for its respective
18 years. And just so I don't have to walk all
19 the way across I'll go to 2018 which is closest
20 in proximity to me. If you take the minutes of
21 use -- the top of the chart reflects minutes of
22 use or voice traffic on the wireless network.
23 People making telephone calls, talking on the
24 phone it -- the total of those months is
25 812,111,143 minutes of use across the year.



1 What you'll see later -- but what I did here
2 was I turned that into hours equivalency. So
3 just by simply dividing 812 by 60 you can turn
4 it into 13,500,000 and some change. You know,
5 13,000,000 hours they're talkin' on the phone,
6 on the wire line network 10,000,000 they're
7 talkin' on the phone. The data portions are
8 also captured from that same quantum system and
9 this is the amount of data that traversed on a
10 monthly basis for the year 2018, and yes, this
11 says Six billion, 169 -- I ain't gonna try to
12 work all those numbers through but it's over
13 six billion kilobytes of data -- and if you
14 remember the bytes to bits discussion that went
15 on yesterday -- so it takes eight bits to make
16 a byte. Eight bits to make a byte. All right.
17 So what I did next to try to make a time use of
18 the network equivalency because that is what,
19 you know, we built this network to meet the
20 demand on a time sensitive basis. You have
21 peak demands and less demands throughout a
22 network, and I think Mr. Moss reflected on that
23 even yesterday. We showed you the average
24 bandwidth across those length grasp, but if
25 you, you know, it's in five minute increments



1 is the smallest snapshot we can take. Well if
2 I put that on there it'd have been just like
3 that. So we took the peak demand, the average
4 peak, and rolled it across there, but you have
5 peak demands that hit the network. So of this
6 six billion kilobytes of data the first thing
7 you have to do to convert it to time use of the
8 network is turn it into kilobits. So you'd
9 multiply that by eight. Once you multiply that
10 by eight you get a product of 49 billion and
11 some change, all right? So the next move is to
12 convert it based on the transmission path, and
13 I like to say that we have to every wireless
14 tower we have a minimum of a 100 megabit
15 wireless back haul from every tower. But I
16 conservatively used 10 megabits here in that
17 unless you're the only person functioning off
18 of that tower at that point in time you're not
19 gonna get access to all 100 megabits. So I
20 used 10 megabits for that conversion process so
21 if you took the 49 billion kilobits you would
22 then divide it by 10 because you've got a 10
23 megabit path which results in this number right
24 here (indicating). So that's because it's
25 traveling on a per second basis this became the



1 seconds, the total seconds, to transmit that
2 amount of information. 82,265,510. You divide
3 that by 60 to turn it into minutes and by 60
4 again to turn it into hours. That's 1.3
5 million hours to transmit all of that data.
6 Granted it's spread across a whole year but it
7 took 1. -- it would take 1.3 million hours time
8 use of the network as compared to actual time
9 use of the network was 13 million hours of
10 people talking on the phone. Respective of
11 that it reflects that that time use of the
12 network is 90 percent of the time. Now this
13 other column right here that shows voice's data
14 use of the network 14, 20, 29, I concede to my
15 misstep -- which, thank you, Mr. Moss, for
16 pointin' that out -- where I failed to make
17 this kilobyte to kilobit transition in that
18 line of the calculation and those numbers are
19 wrong and to the best of my ability I think his
20 numbers were right in that scenario.

21 Q: All right. And then how does that error -- so
22 what -- does that impact the analysis that you
23 just talked about in terms of the voice use of
24 the network?

25 A: From my perspective no. Voice is priority and,



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1 you know, that's what we built -- that's what
2 we have provided this network for. For the
3 voice communications perspective, yes it has
4 ancillary services of internet and texting and
5 whatever else -- I -- you know, I will contend
6 if you check with wireless switchins' in here
7 they will likely tell you that texting is the
8 treated as voice on a wireless network.

9 Q: And just to make clear so that the mathematical
10 error that was discussed is -- did that
11 calculation have any impact on this calculation
12 ---

13 A: No, it only impacts this line right here
14 (indicating).

15 Q: Okay. Okay. And so you're pointing to the
16 line that says voice's data percent use of the
17 network.

18 A: Yes.

19 Q: But the voice time use of the network is not
20 impacted in any way by the error?

21 A: No, it is not.

22 Q: Okay. And what is the range of percentages
23 from ---

24 A: Well, you know, I guess everybody can't read
25 this so 90 is its lowest percentage but it's 90



1 plus percentage all the way across the time
2 period reflected on this chart.

3 Q: Okay. All right. I think we're good with the
4 chart. You talked earlier about having some
5 customers that may not use their phones as
6 much.

7 A: Okay.

8 Q: All right. So if you have a customer -- and
9 first of all why would that be?

10 A: Some people have it solely for security
11 purposes ---

12 Q: Yep.

13 A: --- others I think everybody in this room will
14 admit to the recognition that if you have a
15 wireless phone and you want to call California
16 you might be sittin' right by your landline
17 phone but you're gonna use that wireless phone
18 cause your plan allows for it to do so on a
19 toll free basis as opposed to a long distance
20 charge.

21 Q: All right. And so this chart that we looked
22 at, let's say you have a customer that only
23 uses it -- doesn't even use it at all this
24 month, okay, so they don't use it at all this
25 month ---



1 A: Okay.

2 Q: --- is that going to be reflected in either of
3 the minutes or the data ---

4 A: No.

5 Q: --- on that chart?

6 A: No.

7 Q: So are you still providing rural telephone
8 service to that person?

9 A: Yes, they have accessability to the network.
10 They see value in it and they're paying me for
11 that ability.

12 Q: Now have you reviewed Mr. Moss's analysis in
13 this case?

14 A: I have.

15 Q: Okay. And are you aware that one of the things
16 he looked at in his report was the link data
17 that was provided about Farmer's?

18 A: Yes. Yes, I am.

19 Q: All right. And that was at Exhibit 152 and
20 153. Let me see. Actually that is -- that's
21 the diagram of the system. So he did look at
22 the diagram ---

23 A: Yep.

24 Q: And he also looked at the linked data -- which
25 Gina can you find me that?



1 **MS. HORSEMAN:** It's 148 and 149.

2 **MS. GEER:** Okay. Ms. Mitchell, would you mind
3 putting up 148 for me please?

4 **Q:** All right. So can you tell us what this shows?

5 **A:** This reflects on Link A, one of the links in
6 the core network diagram the average bandwidth
7 utilization for a single 24 hour period.

8 **Q:** Okay. Is this what you were referring to
9 earlier when you were talking about it actually
10 goes up and down but we've shown an average?

11 **A:** Yes.

12 **Q:** Okay. All right. So it's showing the inbound
13 to Link A and outbound from Link A?

14 **A:** Correct.

15 **Q:** There it picks up both ends. All right. And
16 then I want to put your diagram up again.

17 **MS. GEER:** And, Your Honor, would you mind if the
18 witness approaches again?

19 **THE COURT:** No.

20 **Q:** Mr. Erwin, can you -- would you come up and
21 what is your understanding of how Mr. Moss
22 counted the data that appears in these links?

23 **A:** What I believe I understand is that if you look
24 at the average inbound and outbound 5.34, 5.80
25 that is a sign to Link A. There was subsequent



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1 graphs that reflected each of these other links
2 in the network. He added them all together to
3 come up with the total bandwidth usage.

4 Q: Okay. And tell me what -- in your opinion is
5 that the correct way to do it?

6 A: No, it is not.

7 Q: Okay. And tell me why. What's wrong with
8 that?

9 A: Because -- and somebody used an example
10 yesterday. If I simply did a IP data session
11 phone call -- whichever you want to choose --
12 that went from North Kingstree across Link I,
13 across Link H, across Link D and across Link E
14 to Sumter tandem. Let's say this is a 1 gig
15 data session. It got counted one, two, three,
16 four times when only 1 gig traversed the
17 network.

18 Q: All right. So that's all I had on that one.
19 Thank you. And did you hear Mr. Moss testify
20 that he assumed a 56 kilobit voice transmission
21 path yesterday?

22 A: Yes.

23 Q: And is that accurate for Diversified?

24 A: It is not.

25 Q: Okay. Tell me what does Diversified?



1 A: We use 100 kilobit transmission path on both
2 the send and receive which means I set a path
3 up on the send side and it's 100 kilobits, I'm
4 connected to a customer on the other end, they
5 got a 100 kilobit path. A phone call uses 200
6 kilobits of transmission path.

7 MS GEER: One last thing. Ms. Mitchell, do you mind
8 pulling up 139?

9 (Joint Exhibit Number 139 was introduced into the
10 record at this time.)

11 Q: Mr. Erwin, can you see Exhibit 139?

12 A: Yes.

13 Q: What is that?

14 A: This is a letter that we sent to County
15 Auditors and there's a list somewhere
16 associated with this as well.

17 Q: I think if you scroll down you could see -- is
18 that all that's showing up at 139? Let me just
19 make sure.

20 A: Anyway ---

21 Q: Yeah.

22 A: --- this while y'all look for that this letter
23 was sent to various county officials relative
24 to the settlement agreement with the Department
25 of Revenue in which we were reflecting with



1 them the opportunity to have discussions with
2 us about how to resolve what burdens this may
3 pose upon the counties.

4 Q: Okay. And you could flip in your book on 139
5 it looks like there's the three page list of
6 names and addresses for the different counties.

7 A: Okay.

8 Q: And I don't need you to tell me. It's in the
9 record.

10 A: Okay.

11 Q: But did you send it to all of the people that
12 are listed in there?

13 A: Everybody that was on this list got mailed a
14 copy.

15 Q: And why did you send this letter?

16 A: Because we understood, you know, we -- we're
17 part of these communities as well. I mean,
18 these counties come to us on an annual basis
19 and say, hey, can we use your bucket truck to
20 put up Christmas lights? Hey, can you sell us
21 one of your old vehicles to use for the water
22 department? Hey, can you sponsor this event or
23 that event? And we're -- we live and we
24 breathe these communities, we all work
25 together, we live together. We -- no we don't



1 really live together. We work together, we
2 play together, our kids go to school together.
3 You know, it's important to us to maintain good
4 relationship with these communities, and this
5 was an effort to try to help them understand we
6 were willing to work with them in a reasonable
7 fashion to mitigate what concerns that had over
8 this settlement agreement.

9 Q: Okay. And did any of the counties respond to
10 you about this letter?

11 A: None. They didn't like the way I stated it I
12 guess.

13 **MS. GEER:** Your Honor, just one moment.

14 Q: One more question or one more topic. I'm not
15 sure how many questions it will take me. What
16 do you know about Straight Talk brand
17 telephones like are sold at Walmart?

18 A: Straight Talk is a reseller of AT&T service.

19 Q: Okay. And who are these phones used by?

20 A: Whoever goes to Walmart and purchases one.

21 Q: And do they have access to your network?

22 A: Yes.

23 Q: And do the people that are using these -- do
24 you have people in your communities that are
25 using these?



1 A: Yes, generally, you know, Straight Talk
2 provides a low minute of use, low bandwidth --
3 lower bandwidth capability. Some of them
4 provide no bandwidth capability. It's a pre-
5 paid phone. You know, it goes to I mentioned
6 earlier we have a very poor clientele in many
7 cases. Credit challenged, let's say it that
8 way.

9 Q: Uh-huh.

10 A: We have a very credit challenged customer base
11 and they can go to Walmart and buy the -- this
12 Straight Talk phone with X number of minutes of
13 use on it on a pre-paid SIM card that goes in
14 that phone and talk on it for however long
15 those minutes of use and if they subscribe to
16 data however long that can work for them and
17 then they have to go back and re -- you can
18 recharge that SIM card at various locations.
19 Some of these -- what do I want to call them --
20 convenience stores even have the ability to
21 recharge these SIM cards. So it's a
22 methodology by which many -- much of our --
23 much of the residents in our service territory
24 who meet that credit challenge status
25 communicate over the wireless network.



1 MS. GEER: That's all the questions I have, Your
2 Honor.

3 MR. CARTIN: Your Honor, I know the Court needed to
4 go to a visitation today. We've got 15 minutes
5 left. I can get started or we can -- if you
6 need to get on the road we can do that now.

7 THE COURT: Well I need to get on the road by 12:15.

8 MR. CARTIN: Okay.

9 THE COURT: So I don't -- Mr. Luther, are you.

10 MR. LUTHER: I think Mr. Cartin's up next although
11 I'm happy to go.

12 MR. CARTIN: Well if you want to go if you have
13 something short.

14 MR. LUTHER: I was just going to wait because you
15 might cover it then I won't need to go, but ---

16 MR. CARTIN: Mine's going to take a while.

17 THE COURT: Since y'all are on the same side I was
18 going to have you ---

19 MR. LUTHER: That's fine.

20 THE COURT: --- go first and then him go next.

21 MR. ERWIN - CROSS-EXAMINATION BY MR. LUTHER:

22 Q: Good morning.

23 A: Good morning.

24 Q: I will actually be very brief. How much of
25 Farmer's co-op's property was exempt as of



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12/31/1973?

MR. CARTIN: Objection. Lack of foundation.

THE COURT: By that what do you mean?

MR. CARTIN: That there hasn't been anything on the record to show he knows what Farmer's had in 1973.

THE COURT: Well that's right he did say he hadn't worked there.

MR. LUTHER: I can lay a foundation.

THE COURT: Yeah.

Q: In your capacity as CEO do you have access to records or other information that Farmer's has regarded to their history?

A: I do.

Q: Okay. Do you have an understanding that based on your role as CEO as to what level of the co-op's property has been exempted over the years?

A: My understanding is that FT- -- Farmer's Telephone Cooperatives' property has been 100 percent tax exempt since its inception in 1951.

Q: Okay. Do you have an understanding of what the co-op service area was at its inception?

A: It is still what it is today.

Q: Has it changed at all?

A: It has not.



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1 Q: Okay. Does FTCC operate in the same area as
2 the co-op?

3 A: With a minor exception to an extension up into
4 a corner of Williamsburg County and a corner of
5 Florence County. Specifically the town on
6 Hemingway in Williamsburg County and
7 specifically the town of Johnsonville in
8 Florence County. Those two locations are
9 included in FTCC's licensed partition wireless
10 serving area.

11 Q: How about Diversified?

12 A: Diversified has state-wide authority to provide
13 access anywhere in the state it wants to.

14 Q: Where does it provide access?

15 A: It provides access in the town proper of
16 Kingstree, Manning, Lake City, Olanta, Sumter -
17 - where am I leavin' out -- Hemingway,
18 Bishopville. Seems like I'm leavin' one out
19 but there may be one more.

20 Q: Are those all within -- except maybe Hemingway
21 because I think you just mentioned that was
22 outside of the co-op's territory -- but all of
23 the other areas that Diversified serves is that
24 within the same area that the co-op has
25 historically served?



1 A: Every one of those towns except for Hemingway
2 is inside the Cooperative boundaries.

3 Q: You were asked early on about the percentage of
4 Diversified and FTC's -- FTCC's network that
5 was copper versus fiber. I don't think you
6 were asked about the co-op so I was just
7 curious what percent of the co-op's network is
8 copper versus fiber?

9 A: 70 percent of the co-op's network is still
10 copper. 68 to be exact if you want me to be.

11 Q: I told you I'd be quick. That's all the
12 questions I got.

13 A: Thank you.

14 **THE COURT:** All right. Now if you're going to be
15 longer than 30 minutes then I will take a
16 break.

17 **MR. CARTIN:** Yes, sir, it'll be longer than 30
18 minutes.

19 **THE COURT:** All right. Well I want to be efficient.

20 **MS. GEER:** If it's possible for him to go like 20
21 minutes or so -- we have two witnesses we would
22 love to get in today if possible after Mr.
23 Erwin.

24 **MR. CARTIN:** I have a 10 page outline in addition to
25 the other notes ---



1 MS. GEER: Okay.

2 MR. CARTIN: --- that I've made during this call.

3 I'm happy to do -- I can do 10 or 15 minutes so

4 we can get started and then ---

5 THE COURT: Well go ahead and do that.

6 MR. CARTIN: --- we'll break for lunch. Yes, sir.

7 Can we switch over to the Elmo again?

8 MR. ERWIN - CROSS-EXAMINATION BY MR. CARTIN:

9 Q: All right. Mr. Erwin ---

10 A: All right.

11 Q: --- quick question for you. You see where I'm

12 pointing my finger here at the top

13 (indicating)?

14 A: Yes, sir.

15 Q: It's my understanding there's a three

16 directional antennas, ---

17 A: Correct.

18 Q: --- is that correct? Okay. And would those be

19 FTC Communication LLC's three directional

20 antennas?

21 A: They are.

22 Q: Okay. And it's my understanding this is also

23 a three directional antenna, is that correct?

24 A: I do -- no, sir. I don't three ---

25 Q: Okay.



1 A: I don't see a non-directional antenna there.

2 Q: What do you see right there?

3 A: I see a single antenna that we provide free
4 access to the Williamsburg County emergency
5 services to sit on that tower.

6 Q: Okay. Now let me ask you, in another situation
7 where you had -- well let me ask you this, I'll
8 lay a foundation for it. In certain situations
9 you allow other carriers to rent access space
10 on your sticks to use your ---

11 A: We do.

12 Q: --- you do, correct?

13 A: Yes.

14 Q: Okay. And in a situation like that you would
15 have another three dimensional antenna -- three
16 directional antenna rather -- situated
17 somewhere on this pole, correct?

18 A: We would.

19 Q: Okay. And in some circumstances you would have
20 multiple carriers, three directional antennas
21 situated on this pole, is that fair?

22 A: That does exist.

23 Q: Okay. But not in this example that you
24 provided to the Court.

25 A: No, sir.



1 Q: Okay. We talked about Diversified's area and
2 I just wanted to make sure I understood your
3 testimony. You said that it was all within the
4 ILEC territory. Those specific areas where you
5 said Diversified operated, is that correct?

6 A: It's within the over-arching ILEC boundary.

7 Q: Ah ha! Okay. So we draw a big circle around
8 the ILEC boundary ---

9 A: Correct.

10 Q: --- but that's not the same thing as being in
11 the ILEC areas?

12 A: It is not the ILEC territory.

13 Q: Okay. So these are donut holes within the ILEC
14 area, right?

15 A: Correct.

16 Q: Which you heard Mr. Lawrimore reference
17 yesterday?

18 A: Correct.

19 Q: All right. The ISUP reports that we looked at
20 a little bit earlier, do you recall those
21 reports?

22 A: I do.

23 Q: Okay. My understanding is that those relate to
24 the switch in the trunks only, is that correct?

25 A: That is correct.



1 Q: Okay.

2 A: That is the minutes of use on the network.

3 Q: So that would not related to cable, is that
4 fair?

5 A: Trunks are cable.

6 Q: They are cable?

7 A: Yes.

8 Q: I'm talking about cable television.

9 A: Oh. No, it is not IPTV.

10 Q: Okay. IPTV to use your term, that's right.
11 Not routers. It would not relate to routers
12 would it?

13 A: They connect to the routers.

14 Q: Okay. But that report would not show volume on
15 the routers?

16 A: It does not.

17 Q: Okay. And it would not show the volume on
18 multi-plexers either?

19 A: No.

20 Q: Okay. And it would not show I believe this is
21 DLC sites, is that correct?

22 A: Digital loop carriers.

23 Q: All right. It would not show that either?

24 A: No.

25 Q: Okay. And it wouldn't show DC power equipment



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ROA 002121

1 either would it?

2 A: No, but every one of those elements is part and
3 parcel of delivering the voice communications.

4 Q: Understood. Just curious, how did the co-op if
5 it's only breaking even only exist all those --
6 how did it exist all those years without
7 wireless?

8 A: 'Cause it used to make money.

9 Q: Ah, so the -- my understanding from your
10 testimony is that the goal of the co-op is to
11 make sure that customers have access to phone
12 service, voice services?

13 A: Correct.

14 Q: Okay. So I'm just curious, why does it matter
15 if your customers are leaving the co-op
16 landline and moving over to the wireless?

17 A: Because they're customers who want a landline.
18 I have a landline in my house. I'm never
19 givin' up a landline.

20 Q: Okay.

21 A: I want 911 services that are area specific,
22 geographically specific. Your cell phone is --
23 has to try -- currently on this technology your
24 cell phone has to triangulate and can only do
25 so within a 300 foot radius. If I'm off in a



1 ditch somewhere I'd rather than find me on a
2 closer proximity than that.

3 Q: Understood. You would agree with me that the
4 rural telephone exemption statute does not
5 provide an exemption for internet or broadband
6 services?

7 A: And exemption -- but -- ask that again. I'm
8 sorry.

9 Q: Internet and broadband services are not exempt
10 under the rural telephone service exemption in
11 your understanding?

12 A: Exempt in what fashion?

13 Q: From taxation.

14 A: Internet services are not exempt from property
15 taxation?

16 Q: Yes.

17 A: Internet is a -- broadband of which internet
18 travels is a regulated service.

19 Q: That wasn't the question. The exemption is for
20 rural telephone service, correct?

21 A: Yes.

22 Q: Okay. Broadband is not rural telephone
23 service, correct?

24 A: It is.

25 Q: Okay. That in your understanding, in your



1 definition, what you're telling the Court is
2 a person who has internet access never makes a
3 phone call, that's telephone service.

4 A: No, broadband is telephone service.

5 Q: Okay. You just told me that internet and
6 broadband a second ago were analogous terms.

7 A: But broadband also includes -- if you remember
8 earlier I commented that broadband is
9 inclusive of private line data circuits,
10 special access circuits, point to point, point
11 to multi-point all of which traverse the
12 telephone network.

13 Q: Well then let's be more narrow. A customer in
14 Farmer's service area with only internet access
15 who never makes a telephone call that touches
16 the public telephone -- the switch network --
17 that's telephone service in your mind?

18 A: Yes, that qualifies as broadband per the FCC.

19 Q: Okay. But you believe that's telephone
20 service?

21 A: I think it qualifies as telephone service,
22 telecommunication service per the FCC.

23 Q: Okay. You talked a little bit about what
24 drives development in your network, and you
25 said it's a network primarily aimed at



1 providing voice service, is that fair?

2 A: Yes.

3 Q: Okay. But then you told the Court that the
4 technological changes are driven by the demand
5 for internet and video and some of these other
6 services that you're -- the folks in your
7 service area want, correct?

8 A: Yes.

9 Q: You would agree with me those two answers
10 conflict to some extent?

11 A: One could interpret it that way.

12 Q: Okay.

13 A: But the fact of the matter is voice takes
14 priority. It is the bulldozer opening up the
15 path. Yes, consumer demand for those other
16 services is not irrelevant, it helps bolster
17 the economies and the economics of continuing
18 to provide the voice service which is our basic
19 premise, but the voice service takes all
20 priority over any of those other bandwidth
21 consuming applications. Voice consumes
22 bandwidth.

23 Q: I think we -- I think Mr. Moss agrees with you
24 on that.

25 A: We've all agreed to that.



1 Q: You don't own -- excuse me -- the co-op and its
2 subsidiaries do not own any switches, correct?

3 A: We own a fixed wireless switch.

4 Q: Let me be more specific, you don't own the
5 primary switch that's owned by Horry Telephone
6 Cooperative, right?

7 A: We do not.

8 Q: Okay. And you don't own the primary wireless
9 switch which is owned by AT&T, correct?

10 A: We do not.

11 Q: All right. In your time as CEO have those
12 switches ever crashed?

13 A: Ones that we own or ones that they own?

14 Q: Ones that they own.

15 A: No.

16 Q: Okay. Are you aware of any time -- and this is
17 the question I don't know the answer to but I'm
18 just going to go ahead and ask it here -- are
19 you aware of any time as the CEO that all other
20 services have had to been stopped, mitigated to
21 prioritize voice traffic?

22 A: No, because we have a network that's sufficient
23 to handle the demand as is necessary.

24 Q: Okay. Let's talk a little bit about staffing.
25 Who actually performs work on behalf of



1 Farmer's.

2 A: Okay.

3 Q: Are you okay? I know you've been sitting here
4 for 2 hours in the hot seat.

5 A: No, I'm fine. I'm fine.

6 Q: That's not easy.

7 A: I got to get up a couple times.

8 Q: You did. A little exercise. All right. So
9 you've been CEO since 2006, correct?

10 A: Correct.

11 Q: And y'all have around -- Farmer's Telephone
12 Cooperative, Inc. has around 278 employees,
13 does that sound right?

14 A: That's a close number, yes.

15 Q: Okay. FTC Communications has around 27
16 employees, does that sound right?

17 A: I think that number's 21 today, but, yeah.

18 Q: Okay. Close. And Diversified as I understand
19 has zero employees?

20 A: That is correct.

21 Q: Okay. So Farmer's manages FTC Communications
22 and Diversified, is that fair?

23 A: Yes.

24 Q: Okay. And you charge them fees for that,
25 right?



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ROA 002127

1 A: Yes, we have management contracts between the
2 co-op and those organizations.

3 Q: And you pass along engineering, billing,
4 switching costs and so forth?

5 A: Yes.

6 Q: Okay. Of the 278 Farmer's employees my
7 understanding that it's 70 of them would
8 provide services to FTC Communications?

9 A: In a review of my deposition in preparation for
10 this that is -- 70's probably reasonable with
11 respect to those who work a reasonable amount
12 of their time ---

13 Q: Uh-huh.

14 A: --- on that function, but everybody in the
15 company probably provides some level of service
16 to FTC Communications.

17 Q: Okay. About 35 provide services to
18 Diversified, is that fair?

19 A: Same answer, yes.

20 Q: Okay. So without your deposition you think
21 it's pretty much everybody?

22 A: At some point in time.

23 Q: Okay. All right. My understanding is that
24 there are around 100 employees that directly
25 service the network, you know, operate the



1 bucket trucks and so forth?

2 A: Plus or minus, yes.

3 Q: Okay. And again they service the network for
4 the co-op, FTC Communications and Diversified,
5 is that right?

6 A: Correct.

7 Q: And I believe you have around eight offices
8 spread throughout the counties?

9 A: That is eight business offices, correct.

10 Q: Okay.

11 A: Where the customers can come in and deal with
12 service needs.

13 Q: And my understanding is about four of those
14 eight offices are in unincorporated areas of
15 the county?

16 A: I think that's right.

17 Q: Okay. Now as far as the growth of your
18 business we talked a little bit about that in
19 your direct and I want to kind of expand on it.
20 My understand is that the business growth is
21 relatively flat right now for your company?

22 A: I would agree with that ---

23 Q: All right.

24 A: --- statement.

25 Q: And the primary growth that you see is the need



1 for increased internet speeds, is that correct?

2 A: Yes.

3 Q: All right. Because people need more bandwidth,
4 right?

5 A: Yes, they do.

6 Q: All right. And that places demand on your
7 network, correct?

8 A: Yes, it does.

9 Q: All right. So security services too are
10 growing, is that right?

11 A: They are.

12 Q: All right. And that service runs through a
13 POTS line, is that correct?

14 A: A telephone line, yes. Whether you want to
15 call it POTS or whatever it is a voice
16 telephone connection to that security
17 equipment.

18 Q: Okay. And my understanding is your business is
19 decreasing in the number of voice lines you
20 have, is that right?

21 A: Yes.

22 Q: For many years it's my understanding that you
23 guys required folks to have a landline, is that
24 correct?

25 A: That is correct.



1 Q: But you no longer do that right, right?

2 A: For about one year now.

3 Q: Okay. And I'm guessing that's because the
4 Universal Service Fund allows if someone has
5 internet access that counts so that they can
6 continue to be counted?

7 A: That is correct. We had to change our By-laws
8 to allow for membership to include internet or
9 voice -- landline telephone service but it goes
10 back to the focus of the federal government on
11 the emphasis on availability of broadband.

12 Q: Okay. So you guys also provide video services,
13 right?

14 A: We do.

15 Q: And say again so I don't mess it up.

16 A: You got it, go ahead.

17 Q: I was going to say cable services but you tell
18 me what -- remind me what it is again.

19 A: IPTV.

20 Q: IPTV, okay. That sounds fancier. My wife will
21 look at me like I'm smart when I use that when
22 I go home. And that service allows folks to
23 stream movies and so forth?

24 A: Stream?

25 Q: Or watch movies?



1 A: Yes.

2 Q: Okay. And my understanding is that service is
3 also provided by a POTS line?

4 A: It's provided over the same line going into
5 your home that provides your voice telephone
6 service.

7 Q: Okay. And Farmer's network it's transferred
8 over a POTS line, right?

9 A: Yes.

10 Q: Okay. And Farmer's transmits internet service
11 over a POTS line too, right?

12 A: Yes.

13 Q: And any time you transmit data down a line it's
14 my understanding it takes up some of the
15 capacity of that line, correct?

16 A: Sure.

17 Q: If your engaged in an activity like talking on
18 a cell phone while using data my understanding
19 is those two activities can both proceed down
20 the same transmission path, is that correct?

21 A: They can.

22 Q: And if that transmission path is actually fiber
23 optic cable you can actually separate it into
24 64 different paths at once, right?

25 A: That is the greatest capacity of passive



1 optical network interface. We use at a maximum
2 of 32 split in our network.

3 Q: Okay. So a single voice call coming out of a
4 home is not preventing that home from using
5 video services, right? Or IPTV?

6 A: No. We don't -- we wouldn't provision it as
7 such.

8 Q: Okay. And so a -- if you're making a voice
9 call you can also have security services coming
10 in at the same time, right?

11 A: Well, you know, your security service is an
12 outbound function not an inbound function.

13 Q: It could be available to the consumer?

14 A: It is available 24 hours a day 365 days a year.

15 Q: And if you're also making a voice call in a
16 house you can also get internet to that house
17 at the same time without any interruption? Is
18 that yes?

19 A: On a single, you know, depending on the amount
20 of internet traffic, yes, without any
21 interruption.

22 Q: Okay. And my understanding is if all those
23 types of activities were taking place at one
24 time and you were hooked into the WiFi in the
25 house for any sort of a cellular transmission



1 that you were making that the real limitation
2 on how much activity you can engage in is the
3 bandwidth in that case, the bandwidth available
4 to the consumer?

5 A: It is.

6 Q: And so just to clarify I jumped to WiFi there
7 but if you're in a house -- I'm in my house and
8 I'm hooked into the WiFi and I make a phone
9 call on my iPhone while I'm hooked into the
10 WiFi that's going to basically go through the
11 POTS system to get wherever its going?

12 A: If you have voice over WiFi capabilities on
13 your phone. Some of the earlier phones do not
14 have that capability.

15 Q: I think it's a iPhone 7. Would that have do
16 you think?

17 A: I don't think it does.

18 Q: What if I had an iPhone 8?

19 A: I think it does.

20 Q: Now that's different than when we talked in
21 your deposition. I thought we talked about
22 when the phone call was hooked into the WiFi
23 that it would go down to the POTS line?

24 A: Agreed. I will say I probably agreed to that
25 but it is dependent on whether or not your



1 phone has voice over WiFi. If you're doing a
2 data transmission it definitely goes over the
3 POTS line ---

4 Q: Oh, okay.

5 A: --- but a phone call is different.

6 Q: So if I'm watching funny cat videos on my phone
7 while it's hooked into the WiFi that's coming
8 through the data line?

9 A: Yes.

10 Q: And that's going through the POTS line, right?

11 A: Yes.

12 **MR. CARTIN:** Your Honor, we may be to a point where
13 I ---

14 **THE COURT:** All right. We'll take a break now.

15 **MR. CARTIN:** Okay.

16 **THE COURT:** I'll end it on the POTS.

17 **(Off the Record)**

18 Q: All right, Mr. Erwin, I've got a couple
19 technical questions for you. You referenced
20 100 kilobit per hour -- kilobit transfer rate,
21 not per hour but 100 kilobit transfer rate, is
22 that correct?

23 A: Yes, sir.

24 Q: How long has that been the transfer rate used
25 by the Farmer's network?



1 A: Since -- we had our on soft switch in 2007. I
2 do not absolute -- know with absolution whether
3 it was with the onset of that Siemens HighQ
4 soft switch or whether it occurred when we
5 moved to the EWSD.

6 Q: Okay. When did you move to the ---

7 A: I mean, excuse me, the metaswitch.

8 Q: The metaswitch. When did you move to that?

9 A: 2015.

10 Q: Okay. Are you familiar with the term overhead?

11 A: Yes.

12 Q: Okay. Of that 100 kilobit rate how much of
13 that is overhead?

14 A: 20 percent. I mean, I think Mr. Wyatt can
15 attest to that.

16 Q: Okay.

17 A: Answer that question much better than I, but
18 ...

19 Q: And the balance of that would be actual voice?

20 A: Yes.

21 Q: Okay. Does a typical phone call utilize that
22 entire 100 kilobit transfer -- transmit rate?

23 A: It is assigned on that channel for that
24 purpose, yes.

25 Q: So it occupies that 100 kilobit the entire time



1 that call is up, is that your understanding?

2 A: That's my understanding but you can ask Mr.
3 Wyatt that question.

4 Q: Okay. And he may have a different answer?

5 A: Uh-huh.

6 Q: Does your landline traffic employ silence
7 suppression?

8 A: I do not know.

9 Q: Okay. Do you know what silence suppression is?

10 A: I heard Mr. Moss discuss it yesterday. That's
11 my only knowledge of it.

12 Q: Okay. Would Mr. Wyatt something like that?

13 A: Potentially.

14 Q: Okay. With regard to landline calls what
15 percentage of your calls originate and
16 terminate on the FTC course? So I'm thinking
17 surely local calls.

18 A: We'd have to look back at that ISUP report. It
19 has that information on there.

20 Q: Was that Number 11? Let me see here.

21 **MR. CARTIN:** 179, Ms. Mitchell.

22 Q: 179 should be in your second notebook.

23 A: I got it.

24 Q: You got it?

25 A: Okay.



1 Q: Can you tell me where that information is that
2 shows the local calls, the ones that originate
3 and terminate on the FTC core?

4 A: All right. You have to go by trunk group.
5 There's six pages of them. You have to look
6 at each trunk group individually.

7 Q: Okay.

8 A: FTCNK, AT&T are long distance calls. FTCNK,
9 AT&T are long -- are wireless calls. AT&T
10 customers in our area that terminate on the
11 landline network.

12 Q: Okay.

13 A: FTC North Kingstree to Clarendon are totally
14 within the FTC network. FTC North King to
15 Clarendon those are 911 trunks. Those are our
16 customers making 911 calls. 911 calls, 911
17 calls, 911 calls, 911 calls. There 2,000 of
18 those on this page just for point of reference.
19 North Kingstree EAS that reflects local calls.
20 EAS means a local call. There's -- it is not
21 -- it is within the same LATA.

22 Q: What's that acronym stand for?

23 A: Local area transport -- and I don't remember
24 what the A even stands for now at this point
25 time. I actually had to speak it out and so



1 on. North Kingstree EAS DSI that would be a
2 DSI to co-op phone call or vice versa. There's
3 both of those. A terminating call and
4 originating. You'll see those calls on there.

5 Q: Okay.

6 A: Where do we go now? Oh, North Kingstree to
7 Johnsonville same in network. North Kingstree
8 DSI in network. North Kingstree DSI Lake City
9 network. North Kingstree DSI Lake City in
10 network. North Kingstree EAS FTC to FTC. EAS
11 FTC, EAS Georgetown front I don't know what
12 that one means, but it's local EAS trunk.
13 Sumter Frontier that's local calls to Sumter
14 Frontier customers. MCI's a interexchange
15 carrier trunk group. Tandem is North Kingstree
16 to North Sumter tandem trunk group. Quest is
17 an interexchange carrier long distance. This
18 is a Verizon wireless customer on -- that
19 terminates on the FTC network. Voicemail.
20 Every time somebody -- they go -- we have a
21 separate trunk set up solely for every customer
22 we have that we supply voicemail to. They're
23 on that trunk group.

24 Q: Okay.

25 A: Williams Communications is an interexchange



1 carrier. Wiltell interexchange carrier.
2 Sumter County 911. Sumter County 911. North
3 Sumter meaning in the Columbia LATA AT&T toll
4 call. AT&T North Sumter via the North Sumter
5 tandem. Century Lake is a interexchange
6 carrier connection. FTC Clarendon 911.
7 Clarendon 911. Lee County 911. These are all
8 people calling 911 from our service territory.
9 North Sumter co-op to DSI. North Sumter co-op
10 to DSI. North Sumter Lee County an FTC
11 customer they home off of the North Sumter
12 gateway is why that reference is there and they
13 made a call to 911. Global Crossing is an
14 interexchange carrier. MCI interexchange
15 carrier. Tandem Group I can't tell you what
16 that one is. North Sumter FTC customer a call
17 between an FTC customer and a Time Warner
18 voice over IP customer. Trient PCS is an
19 interconnect. Trient PCS is a wireless
20 provider.

21 Q: One second, Mr. Erwin. Would that FTC
22 underscore and as Time Warner be a -- is that
23 a local call?

24 A: Yes.

25 Q: Okay. Thank you.



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ROA 002140

1 A: FTC to a Verizon Wireless and/or Verizon
2 Wireless calling FTC. They list out in here
3 which one originating and which one's a
4 terminating. I can't see that nomenclature at
5 this point. FTC to Verizon Columbia. So if
6 you understand there based on where you are on
7 the network -- on Verizon's network -- you can
8 go to their switch -- they have a switch in
9 Charleston and a switch in Columbia and you go
10 to one or the other.

11 Q: Okay.

12 A: Voicemail again. More voicemail trunks.
13 Another Williams Communication interexchange
14 carrier. Wiltell. I don't know all these
15 acronyms down below there 'til you get to the
16 Cingular one. That'd be FTC to either Tandem
17 to Cingular so that is FTC wireless customers
18 making a toll call.

19 Q: Okay.

20 A: FTC to Columbia ISUP that is call set up. It's
21 SS7.

22 Q: So a call gets set up and torn down?

23 A: Yes.

24 Q: So it's all of theirs -- that's logged as
25 separate track?



1 A: Yep.

2 Q: Okay.

3 A: That's leaving our network right out of the
4 tandem. It's not on any of those link graphs.

5 Q: Okay.

6 A: I've lost where I am now. Oh, ISUP.

7 Q: You're ---

8 A: Right below that?

9 Q: Yeah.

10 A: Is Columbia based Time Warner calls. That's
11 South Carolina Time Warner Communications is
12 what that is.

13 Q: And for the record that's that SCTWC ---

14 A: Yes.

15 Q: --- acronym? Okay.

16 A: Yes.

17 Q: What's this STAN VOIP?

18 A: I don't know what CLMA stands for.

19 Q: Could that be for Columbia?

20 A: COLA is -- I don't think but I don't know.

21 Q: Okay.

22 A: Might be. Another STAN VOIP. Columbia market.
23 And then FTC FLD those will be long distance
24 calls people who pick to FLD as an
25 interexchange carrier for the next one, two,



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ROA 002142

1 three, four, five, six trunk groups. Then you
2 have Florence ISUP call set up trunks.

3 Q: Okay.

4 A: I lost it in the move.

5 **THE COURT:** You're right where you need to be.

6 A: Florence -- Florence voice over IP.
7 Inteliquent is an interexchange carrier. MCI,
8 MCI. Spirit local is Spirit Communications
9 providing local services to state agencies in
10 our network. Spirit Transit they do regular
11 lines and they do voice lines. Those are
12 transit trunks for that traffic.

13 Q: Is that long distance.

14 A: To their switch in Columbia.

15 Q: Okay.

16 A: I'm got it. I'm just tryin' to -- thank you,
17 sir. FTC North Kingstree. I can't tell you
18 what all the SS CMSC is.

19 Q: Is that local though?

20 A: It's within the -- within the co-op network ---

21 Q: Okay.

22 A: --- and/or DSI. There's another SS7 trunk
23 group right below that. FTC Sumter to
24 Kingstree was in the tandem to Kingstree. It
25 was within the Cooperative network. More



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ROA 002143

1 Spirit local after that. Again the CMSC I'm
2 not sure what that stands for. MTMTS is North
3 Sumter. SS7 trunks. Trident is a -- that's
4 more -- they're a wireless reseller for -- my
5 book's fallin' here. FTC to or from a Time
6 Warner and Sumter area. Spirit Transit is
7 their back call to their switch in Columbia.
8 Qwest is an interexchange carrier. More SS7
9 call set up trunks. ISUP SGTE I'm not sure
10 what that one is. Spirit Select. Spirit TPC
11 -- oh, Sprint, that's Sprint. Sprint PCS,
12 that's Sprint wireless traffic. T-Mobile
13 wireless traffic. Verizon. Verizon. Verizon.
14 Williams Communication. Of course each of
15 these is either originating or terminating in
16 the co-op territory. Wiltell is at 303 to your
17 right there. I'm lost on the nothing but pure
18 numbers but there's nothin' there. They're
19 zeros.

20 Q: You did pretty good. That was excellent recall
21 for a long spreadsheet so appreciate you going
22 through that. I've got a few questions about
23 this chart that you looked at before we took a
24 lunch break. I'm trying to figure out which of
25 these nodes are routed to which gateway. So my



1 understanding is that you initial a call and it
2 goes to the gateway, ---

3 A: Okay.

4 Q: --- does that sound right?

5 A: Yes.

6 Q: Okay. Are individuals nodes aggregated into
7 one gateway? So, you know, if you make a call
8 on node NSMTMX2 it always goes to gateway Stan
9 GW?

10 A: All right. You ready? You want us to talk to
11 your piece of paper?

12 Q: Yeah. I think Mr. Moss is right with us.

13 A: More Sumter.

14 Q: Uh-huh.

15 A: Pinewood.

16 **MR. CARTIN:** Can you see Mr. Moss?

17 A: Pocalla always route to this gateway.

18 Q: Okay.

19 A: Regardless of whether it's a local call or a
20 toll call it goes there first. If it's a toll
21 call it'll go -- also go to the tandem gateway.

22 Q: Okay.

23 A: All right? That could be a toll call outside
24 the network or inside the network and it's
25 picked up the interexchange carrier at this



1 location.

2 **THE COURT:** I don't know what all this is going to
3 mean to me but give it one more shot so I can
4 figure it out.

5 A: Okay.

6 **THE COURT:** Say it one more time.

7 A: If you're in North Sumter we have the customers
8 that hang directly off North Sumter MX1 or
9 North Sumter MX2 they go to the North Sumter
10 gateway. Pinewood and Pocalla also go to that
11 gateway, that same gateway. If any of those
12 are a toll call inside or -- a long distance
13 call -- inside or outside of the network it
14 goes here also.

15 Q: Okay.

16 A: This gateway hosts Scranton, North Kingstree
17 and North Manning -- two of the North
18 Kingstree, MX1 and MX2. All calls produced go
19 to here.

20 Q: Okay.

21 **THE COURT:** That's ---

22 A: Sir?

23 **THE COURT:** That's the one on the left?

24 A: North -- yes, the North Kingstree gateway.

25 **THE COURT:** Okay.



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ROA 002146

1 A: All right. Then if it's a -- depending on --
2 it gets routed after that depending on where
3 it's goin'.

4 Q: Okay.

5 A: So if it's an IXC -- if it's a long distance
6 call it immediately goes here and comes back.

7 Q: Let me ask you this, so just to confirm, a call
8 that initiates at SCTNMX would never travel all
9 these lengths? K, I, H, D, E to STAN GW over
10 here unless -- assuming that everything's
11 operating normally?

12 A: Assuming everything is operating normally call
13 originating here would not travel that route.

14 Q: Okay. Thank you.

15 **THE COURT:** Why -- this -- and I probably ---

16 Q: No, that's fine.

17 **THE COURT:** --- I want to understand it again.

18 Q: That's fine.

19 **THE COURT:** But why would something leave the North
20 Kingstree gateway, go to the -- where is that?

21 A: Sumter Tandem gateway.

22 **THE COURT:** Sumter Tandem and then go back?

23 A: Because this is the point of interface for --
24 all interexchange carriers are long distance
25 carriers -- so if you're making a long distance



1 call it has to go here to register that ticket
2 to charge long distance billing.

3 **THE COURT:** Then it goes back ---

4 A: Yep.

5 **THE COURT:** --- to the gateway to go out?

6 A: Yes.

7 **THE COURT:** Okay.

8 A: Now in this whole mix of things ---

9 Q: All right. I'm going to pull up a different
10 map here and just ask you some questions about
11 your wireless coverage. This is for the record
12 Farmer's 0007242.

13 **MR. CARTIN:** Your Honor, can you see that?

14 **THE COURT:** Okay. Yeah. It's pretty big. I'd have
15 to be about blind not to see that.

16 **MR. CARTIN:** The angle's kind of funny.

17 Q: Do you recognize this document?

18 A: I'm sure I've seen it before.

19 Q: Okay. And does it appear to be a copy of your
20 wireless coverage? It says FTC wireless ---

21 A: Yes.

22 Q: --- up here.

23 A: Yes.

24 Q: You know, you reference that there's a bout 20
25 percent of this coverage area where only FTC



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ROA 002148

1 Communications LLC customers have service, is
2 that correct? Yes?

3 A: Yes. Excuse me. Sorry.

4 Q: Can you show me on this map where those pockets
5 are?

6 A: No, sir, I cannot.

7 Q: You don't know where they are specifically?

8 A: No.

9 Q: Okay. Let me ask you this then, conceptually
10 if you have a AT&T customer who is in one of
11 those areas where there are only FTC
12 Communications towers and that customer makes a
13 call in that 20 percent area are you saying
14 that that call will not work?

15 A: An AT&T customer -- it will work for AT&T
16 'cause they run on our network.

17 Q: Okay.

18 A: It would not work for a Verizon customer.

19 Q: Would it work for a Sprint customer?

20 A: No.

21 Q: Okay. Would it work for a T-Mobile customer?

22 A: Not unless they have facilities there, no.

23 Q: Okay. What other wireless carriers are able to
24 run on your network?

25 A: The only ones who AT&T authorizes to run them



1 on, and I couldn't name who all those are.

2 Q: So that's in the control of AT&T and not
3 Farmer's Telephone Communications?

4 A: Correct.

5 Q: Okay.

6 **THE COURT:** Well does AT&T let Sprint or Verizon
7 roam on their network though?

8 A: No, sir. Those are ---

9 **THE COURT:** I figured that was going to be the
10 answer.

11 A: Verizon is an inner operable network with the
12 AT&T network with the AT&T network. It does
13 not operate with it.

14 **THE COURT:** That's that CDM ---

15 A: CDMA, yes, sir.

16 **THE COURT:** Yeah, yeah, yeah. Okay. I got that.

17 Q: This is your wireless coverage. Is this the
18 same physical area, geographic area, as your
19 ILEC area?

20 A: Not exactly, no, sir.

21 Q: Okay. Would your ILEC area be less than this
22 total coverage area?

23 A: Do you mind if I approach?

24 Q: Absolutely not. Please.

25 A: The -- I gotta get my glasses on. The ILEC



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ROA 002150

1 area would -- that's grant -- where's -- okay,
2 here we go. The ILEC area would cut off about
3 right like that. This would be the excess
4 through Johnsonville and Hemingway right there.

5 Q: Okay.

6 A: That is not included in the Cooperative
7 territory.

8 Q: What's the reason for the holes here?

9 A: That's a big body of woods. That's all that is
10 is big bodies of woods where there are no
11 inhabitants and we see no need to cover it.

12 Q: What major roads travel through your wireless
13 coverage area?

14 A: Well you can see I-95, I-20, 521 is a
15 significant thoroughfare. 378. I would call
16 those the major ones.

17 Q: Okay. Do -- in your industry when you're
18 choosing where to put wireless towers and
19 wireless equipment does it generally follow the
20 track of major roads and thoroughfares?

21 A: That is where you start in the -- if you're
22 doing nothing but building your -- let me put
23 it this way, your major carriers that's their
24 target. It's most people and most traffic and
25 the most density. They would go to the most



1 populated areas. You can see we cover our
2 entire service territory and that's the mission
3 of this Cooperative to provide a service where
4 nobody else would.

5 Q: Now a traveler coming down I-95 -- is that I-95
6 there I'm pointing at?

7 A: That's Highway 78. I think this is 95 right
8 there. There we go.

9 Q: You've got I-95 running north to south.
10 Somebody driving from New York, never been to
11 this area before has no plans of stopping but
12 they are a AT&T customer and they're driving
13 down I-95 and they make a cell phone call.

14 A: Correct.

15 Q: Okay. They're going to be able to make --
16 connect with that call, right?

17 A: Yes.

18 Q: And it may connection through part of FTC
19 Communications LLC's equipment, right?

20 A: Yes.

21 Q: Okay. And they may keep on going and never
22 come back to this area again, right?

23 A: Correct. No differently than somebody in New
24 York can make a landline call to somebody right
25 now.



1 Q: I understand. Yeah, I understand the position.
2 Wouldn't that example you just gave where
3 somebody from New York calls down to a customer
4 in Farmer's area you're assuming that that
5 customer in the Farmer's area would have a
6 landline telephone?

7 A: Yes.

8 Q: So it would be a physical connection to the
9 rural area?

10 A: Yes.

11 Q: We talked a little bit about bandwidth before
12 we left and I want to go back to understand
13 sort of the distinction between minutes and use
14 and bandwidth, but as I understand it a minute
15 of use is registered when there's at least six
16 seconds of a call made?

17 A: I need to correct that from my deposition ---

18 Q: Okay.

19 A: --- it's 30 seconds.

20 Q: Okay.

21 A: And six seconds was my confusion with the long
22 distance counts in six second increments.

23 Q: Okay. Kind of like the lawyers of the telecom
24 world, right?

25 A: No comment.



1 Q: So the -- a minute of use doesn't actually
2 equate to a full minute of time on the network?

3 A: It can but it may not.

4 Q: Okay. So it could be half of that minute,
5 right?

6 A: Yes, it could.

7 Q: And my understanding is that as technology has
8 advanced and you testified earlier that the
9 demand for more services has spurred the
10 Cooperative to want to provide better
11 technology, but my understanding is that as the
12 technology has advanced that bandwidth is now
13 the corresponding benchmark for your usage of
14 the network, is that right?

15 A: Ask that again?

16 Q: As technology has advanced bandwidth is the
17 corresponding benchmark for usage of the
18 network, right?

19 A: Corresponding benchmark? I don't understand
20 that phrase.

21 Q: For certain services?

22 A: Yes.

23 Q: For certain services.

24 A: For certain services.

25 Q: Which services?



1 A: Internet.

2 Q: How about ---

3 A: TV --

4 Q: --- IPTV?

5 A: IPTV.

6 Q: I got it right that time.

7 A: You do. You do it well.

8 Q: IPTV. What other services?

9 A: It is a function of rural telephony to the
10 extent that you're offering spacial access type
11 broadband services as well. Data circuits.

12 Q: Okay. My understanding is if you're in a
13 Farmer's house that is served by Farmer's
14 internet so you have WiFi and you have ten
15 iPhone customers in that house ---

16 A: Okay.

17 Q: --- and those iPhones owners who have FTC
18 Communications plans but this time they're
19 hooked into the WiFi, my understanding is that
20 all 10 of those people could make a call at
21 once and the only limit on that would be the
22 bandwidth that the house has available in terms
23 of their WiFi, is that ---

24 A: That is correct.

25 Q: Okay.



1 A: Your TV quit workin' when they made those 10
2 calls though 'cause the voice takes priority.

3 Q: And I guess it depends on how much ---

4 A: Unless got a big pie ---

5 Q: --- you bought. Right. But you can buy up to
6 a gigabyte in your network?

7 A: In some portions of it, yes, sir.

8 Q: All right. So in some portions the network
9 where you had a gigabyte worth of WiFi at your
10 house you could make 50 phone calls and watch
11 a movie at the same time, right?

12 A: I don't know. I can't answer that effectively.
13 But you could make 50 phone calls.

14 **THE COURT:** Would it depend on how fast they talk?

15 A: No, sir. No, sir.

16 Q: So FTC Communications owns around 112 cell
17 towers in your service area, is that right?

18 A: Yes.

19 Q: Okay. And the co-op owns about eight towers,
20 is that right?

21 A: Yes, sir.

22 Q: And then you lease for use by FTC
23 Communications 24 more sites, is that right?

24 A: At the time I made those statements those were
25 the correct numbers.



1 Q: What's the new number for the amount of ---

2 A: The lease numbers have decreased and the
3 Communications owns probably 5 or 6 more now.

4 Q: Okay. And I -- my understanding is that the
5 coverage, the cell coverage in your area is
6 also a function of capacity, is that right? In
7 your network?

8 A: Coverage and capacity go hand in hand in
9 providing service.

10 Q: Okay. You heard Mr. Moss's testimony yesterday
11 about how the constraint on a cell tower was
12 typically the radio receiving ability rather
13 than the ability to transmit the data once it's
14 into the ---

15 A: Spectrum is the most important factor in that
16 capacity.

17 Q: Okay.

18 A: Capacity not coverage.

19 Q: Right. My understanding is that FTC
20 Communications competes against companies like
21 Verizon and Sprint, is that right?

22 A: Yes.

23 Q: Okay. And you're very competitively priced?

24 A: We are.

25 Q: All right. Is it fair to say there's a lot of



1 competition for wireless service in your area?

2 A: You know, I'm gonna reference that back to a
3 lot of competition? There's a lot of
4 advertising. I'll put it that way. But the
5 success of those carriers is based on their
6 coverage, and I go back to my reference of
7 lesser coverage by other carriers. We have a
8 favorable market share in our marketplace.

9 Q: Okay. We've talked about a couple of folks who
10 operate in your marketplace. I want to make
11 sure I have a complete list of folks that you
12 know -- wireless carriers that you know -- who
13 operate ---

14 A: Okay.

15 Q: --- in your marketplace. Sprint? They operate
16 in your marketplace?

17 A: In portions.

18 Q: Okay. T-Mobile?

19 A: In portions.

20 Q: And AT&T, right?

21 A: No, they do not operate in our marketplace.

22 Q: They sort of operate through you? You provide
23 ---

24 A: They can roam on our network. They have no
25 operation of functionality anywhere at a



1 licensed area.

2 Q: Okay. What's the difference in operational
3 functionality and the ability to make a call?

4 A: You can roam on somebody else's network. They
5 roam on our network.

6 Q: Okay.

7 A: They own nothing in our network.

8 Q: So they sell plans to customers in your network
9 though, right?

10 A: Not in my area. They may sell a plan to
11 somebody in Florence, Columbia, Charleston, and
12 when you come into the Farmer's Telephone
13 network you're roaming on the FTC network.

14 Q: Right. So meaning that customer when he makes
15 a wireless call uses your network?

16 A: He uses my network.

17 Q: Okay. And were to access the landline network,
18 right?

19 A: Yes.

20 Q: Okay. Do the AT&T -- the volume of AT&T
21 customers on your network burden your network?

22 A: Does it burden it? No. It's built to meet the
23 necessary needs of it.

24 Q: Okay. Do you receive compensation from AT&T
25 for the use of your network?



1 A: We do.

2 Q: Okay. And my understanding is they pay you
3 about 9.8 million dollars each year for the use
4 of your network?

5 A: They do.

6 Q: And that's about ten percent of your total
7 revenues as far as I can tell, is that right?

8 A: Total revenues of what?

9 Q: You know, I never got anything for 2018, what
10 was your 2018 total revenue?

11 A: I don't know. I don't know off the top of my
12 head. I'm talkin' about total revenues of what
13 company?

14 Q: Co-op consolidated revenue.

15 A: That's close.

16 Q: So my understanding is in order to be able to
17 accommodate that AT&T traffic you've had to
18 build additional capacity into your network, is
19 that right?

20 A: To accommodate any and all traffic, yes.

21 Q: Including the AT&T?

22 A: Yes. As do any other wireless carriers.

23 Q: And you actually have a joint operating
24 agreement with AT&T, is that correct?

25 A: That is correct.



1 Q: All right. And it requires you to maintain the
2 network in the area, right?

3 A: Yes.

4 Q: And you own 100 percent of the network,
5 correct?

6 A: That's correct.

7 Q: But AT&T gets to use it just as you said,
8 right?

9 A: Yes.

10 Q: And FTC's Communications' wireless assets will
11 rely on the co-op's network to make that --
12 make good on that agreement, right?

13 A: Co-op or Diversified Services.

14 Q: Okay.

15 A: Depending on who the back all provider is.

16 Q: So does the co-op because the revenues roll up
17 to the co-op it derives an indirect financial
18 benefit from AT&T's use of the network, right?

19 A: I don't know if I would construe in that
20 fashion.

21 Q: Does it make money based on AT&T's ---

22 A: It receives money. I'll put it that way.

23 Q: Okay. I believe you signed the settlement
24 agreement on behalf of Farmer's?

25 A: I did.



1 Q: Okay. The settlement agreement I'm referencing
2 in this case is the one between the taxpayers
3 in this case and DOR, right?

4 A: Yes, sir.

5 Q: Okay. Did any of the taxing entities to your
6 knowledge that are my clients -- let me ask you
7 this, are you aware of who I represent in this
8 case?

9 A: Yes, I am.

10 Q: Okay. Do you know if any of my clients, the
11 Petitioners in this matter, signed that
12 settlement agreement?

13 A: I do not know that, no.

14 Q: Okay. And you don't believe they do though,
15 did you?

16 A: I saw you show it on the screen the other day
17 and you made reference to the point that they
18 nodded out signing.

19 Q: Okay.

20 A: I don't think they're a party to it.

21 Q: Right. And you did not have any conversations
22 with the Director of the Department of Revenue
23 about this, right?

24 A: I have not.

25 Q: Okay. And you did not witness him sign the



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ROA 002162

1 settlement agreement, correct?

2 A: I did not.

3 Q: Okay. And you heard me talk a little bit
4 yesterday about lit fiber agreements with Mr.
5 Lawrimore, do you recall that?

6 A: Yes, he threw me under the bus on that one.

7 Q: He did. So he punted to you and so I hope
8 you're ready to receive. So the lit fiber
9 agreements that you have my understanding is
10 that this allows another entity to take -- have
11 use of one of the fibers in a sheath like this,
12 is that right?

13 A: Correct.

14 Q: Okay. And when they have use of that fiber
15 they have full use of that fiber, right?

16 A: On that one strand, yes.

17 Q: Okay. And

18 **THE COURT:** When you say full use do you mean sole
19 use?

20 A: If they lease it from us as a single lit fiber.
21 There are many lit fiber configurations. I can
22 have a lit fiber to a building in a PON
23 scenario. PON, passive optical network, it can
24 be split 32 ways and this building is lit
25 because of that. That doesn't necessarily mean



1 they have access to the whole fiber. There are
2 many different scenarios under which that could
3 occur.

4 Q: Are there some scenarios where an entity will
5 have complete use to the exclusion of any other
6 Farmer's entity of a single fiber optic fiber
7 like this?

8 A: There are a few.

9 Q: Okay. And they would be in a sheath that would
10 be part of the Farmer's network, right?

11 A: Correct.

12 Q: And Farmer's would have claimed that as exempt
13 property, correct?

14 A: Yes, it's telephony property and that lit fiber
15 is considered telephony services and we -- it's
16 a special access circuit. An ethernet circuit
17 so to speak.

18 Q: And I think you said -- he said yesterday you
19 guys don't have dark fiber agreements, right?

20 A: No, sir.

21 Q: Okay. And my understanding is that if you have
22 a dark fiber agreement with someone -- can you
23 explain for the Court what a dark fiber
24 agreement is?

25 A: Dark fiber I would turn that single strand over



1 to you. You put the electronics on it and you
2 can put whatever traffic you want on it without
3 my knowledge.

4 Q: Okay. And my understanding is that one of the
5 reasons that you use a lit fiber agreement over
6 a dark fiber agreement is so that you can force
7 someone to use your landline network, is that
8 right?

9 A: It is not to force somebody to use my landline
10 network. It is to prevent competition.
11 Theoretically if I provide somebody a dark
12 fiber to which they could do anything wanted
13 off of it at that same location they could put
14 a switch in there and then provide landline
15 service.

16 Q: Okay. What year did you start with Farmer's
17 again, Mr. Erwin?

18 A: 1988.

19 Q: Okay. So in 1988 a Farmer's customer makes a
20 call and for whatever reason the switch is
21 completely at capacity ---

22 A: Okay.

23 Q: --- and that call won't go through, ---

24 A: Okay.

25 Q: --- is it fair to say that customer doesn't



1 have access to rural telephone service?

2 A: At that instantaneous moment if that occurred
3 that would be correct.

4 Q: All right. That's all I have.

5 A: Okay.

6 MS. GEER: Your Honor, if I could have just 30
7 seconds.

8 THE COURT: Well I have a question.

9 MS. GEER: Yes.

10 THE COURT: I think I've figured this one out. That
11 when we talk about minutes they're comparable
12 to lawyers billable hours, is that correct?

13 MS. GEER: Can I say no comment on that one?

14 THE COURT: I'm getting a pretty good laugh from the
15 witness over here about that. I think he gets
16 it.

17 MR. LUTHER: Your Honor, not all lawyers bill by the
18 hour.

19 THE COURT: Oh, that's right.

20 MR. ERWIN - REDIRECT EXAMINATION BY MS. GEER:

21 Q: I just have one follow-up for you.

22 A: Certainly.

23 Q: Does every customer in your territory have
24 access to broadband?

25 A: Yes.



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ROA 002166

1 Q: No matter where they are?

2 A: Yes, some level of broadband.

3 Q: So there's not any constraint as far as where
4 the tower location is in comparison to where --
5 sorry, not the tower, the digital loop carrier?

6 A: Well that is the function of digital loop
7 carrier is to extend capacity further out into
8 the network.

9 Q: So if someone is too far from the digital loop
10 carrier that's not going to impact their
11 bandwidth?

12 A: There is -- yes, it will impact your bandwidth,
13 yes.

14 Q: Okay.

15 A: We do have -- I'll say this ---

16 Q: Yep.

17 A: --- I'll take that back. There are probably in
18 Lane, South Carolina I think we have a half a
19 dozen customers who are still on dial up
20 internet ---

21 Q: Okay.

22 A: --- because we have not yet deployed enough
23 facilities to get down to full level broadband.

24 Q: Okay. All right. That's all I have, Your
25 Honor.



1 THE COURT: I think your one question had great,
2 great, grandchildren.

3 MS. GEER: I didn't get the answer the first time.
4 I had to ask him a couple of follow-ups.

5 THE COURT: All right.

6 MR. LUTHER: Nothing further from the Department.

7 THE COURT: Now you -- well ...

8 MR. CARTIN: No, Your Honor, nothing else.

9 THE COURT: Now you may step down.

10 A: Thank you, sir.

11 THE COURT: Do y'all need a break or are you good?

12 MR. VON LEHE: Your Honor, we'd like to call Mr.
13 Jeff Allen to the stand.

14 JEFFREY ALLEN, having been duly sworn, testifies as
15 follows:

16 MR. ALLEN - DIRECT EXAMINATION BY MR. VON LEHE:

17 Q: Mr. Allen, good afternoon.

18 A: Good afternoon.

19 Q: What has been your involvement as to say your
20 role in this matter?

21 A: We represent Farmer's in filing a claim with
22 the Department of Revenue for property tax
23 exemption.

24 Q: All right, sir. Did you make application for
25 exemption on their behalf?



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ROA 002168

1 A: Yes, sir, we did file the application for
2 exemption and claims for refund.

3 Q: All right. A little of your background please?
4 What's your education?

5 A: I went to the University of South Carolina for
6 undergrad with a BS in criminal justice and
7 University of South Carolina School of Law for
8 J.D. and University of Florida for an LLM in
9 taxation.

10 Q: All right. So what's -- where do you work?

11 A: I work presently at Burr Forman McNair. I
12 started there in 2006.

13 Q: In what capacity?

14 A: As an attorney.

15 Q: And any particular area?

16 A: I focus on tax matters. Controversy in tax
17 transaction.

18 Q: And is that a large percentage of your work?

19 A: Tax matters or ...

20 Q: Tax matters.

21 A: Yes, it's almost exclusively what I practice.

22 Q: All right. How much experience have you had in
23 advising utilities particularly on property tax
24 matters?

25 A: I've advised a number of rural telephone



1 companies as well as independent power
2 producers on property tax issues.

3 Q: Okay. And do you consider yourself to be
4 knowledgeable and if so why in what's required
5 to apply for a property tax exemption?

6 A: I do. Over the course of my career I filed
7 dozens and dozens of property tax exemptions
8 for many different clients.

9 Q: All right, sir. I want to talk to you about
10 your first involvement with this matter. When
11 and how did you first get involved in this
12 case?

13 A: Farmer's Telephone Cooperative has been a
14 client of McNair -- now Burr Forman McNair --
15 many decades, and I believe an article that was
16 distributed among some of my clients that one
17 of the relationship partners saw and that led
18 to a conversation as to whether this was
19 something Farmer's could qualify for.

20 Q: All right, sir. Could we take a look please at
21 Exhibit Number 22? We'll have it on the board
22 I believe in a moment. You got it? Okay.
23 Please identify this.

24 A: This is an October 11th, 2012 letter that I
25 prepared and sent to the Department of Revenue



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ROA 002170

1 in response to a proposed assessment for FTC
2 Communications, LLC for the 2012 tax year.

3 Q: All right, sir. Would you read it?

4 A: Certainly. This is regarding the protest of
5 FTC Communications, LLC, 1101 East Main Street,
6 P.O. Box 588, Kingstree, South Carolina 29556.
7 Phone number 843-382-2333. Tax type property.
8 Tax year 2012. Dear Sir or Madam, we represent
9 the above-referenced taxpayer of a copy of our
10 Form SC 2848 filed attorney and declaration of
11 representative authorizing our representation
12 is enclosed. FTC Communications, LLC hereby
13 protests the PT422 proposed assessment for tax
14 year 2012 a copy of which is enclosed. The
15 basis of the protest is the Department's
16 failure to exempt the company's assets which
17 are exempt under SC Code Section 12-
18 37220(b)(10). Please contact me to discuss
19 this protest at your earliest convenience.

20 Q: All right. And in your practice as far as your
21 practice is concerned ---

22 A: Uh-huh.

23 Q: --- what are the methods that you use to apply
24 for a property tax exemption?

25 A: There are a few different ways that the issue



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ROA 002171

1 is raised depending on the client and where it
2 -- how it comes in. At times you can file a
3 independent letter with the Department of
4 Revenue requesting a property tax exemption, at
5 times you can use a Department form, at times
6 there is a proposed assessment such as this
7 situation where you raise the issue through a
8 protest. I probably could think of another few
9 ways.

10 Q: You can claim that on the time they file
11 property tax return can you not? Is that one
12 of the methods?

13 A: You can.

14 Q: Claim an exemption?

15 A: You can.

16 Q: Right? But I believe you said also that you
17 could alternatively claim it in a letter?

18 A: Correct.

19 Q: Separate? Okay. What's your understanding of
20 what's got to be included in a letter seeking
21 an exemption?

22 A: Well you really just need to state what the
23 basis of the claim is. It's, you know, equated
24 to a notice filing.

25 **MR. VON LEHE:** Could we get Exhibit 15 up please?



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ROA 002172

1 Is it there?

2 (Joint Exhibit Number 15 was introduced into the
3 record at this time.)

4 A: It's here.

5 Q: It is there. All right. Would you identify
6 it?

7 A: Yes, this is a December 28th, 2012 letter I
8 prepared to the South Carolina Department of
9 Revenue and this one is an exemption request
10 and refund claim of Farmer's Telephone
11 Cooperative. And again the tax type, property.
12 Tax years 2010 and '11. And in this letter FTC
13 Communications is requesting a refund for tax
14 -- requesting a property tax exemption for its
15 wireless assets and requesting a refund for tax
16 years 2010 and '11.

17 Q: All right, sir. Was that letter mailed and
18 presumably received on a date within 36 months
19 of the time that FTCC filed its 2010 and 2011
20 property tax returns?

21 A: Yes, sir.

22 Q: Was it within a 36 month period?

23 A: Yes, sir.

24 Q: All right. Did the Department of Revenue grant
25 this exemption and refund request?



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ROA 002173

1 A: Eventually they did.

2 Q: Eventually they did?

3 A: Eventually.

4 Q: All right. And did they say anything about the
5 fact that it was not claimed on the original
6 property tax returns?

7 A: No, that was never an issue that was raised.

8 Q: All right, sir. And let me ask you this, as I
9 understand your testimony a moment ago you
10 believe an exemption can be claimed on an
11 original property tax return, is that correct?

12 A: You can.

13 Q: It can be?

14 A: Uh-huh.

15 Q: And I also understand your testimony to be that
16 it can also be claimed separately by a letter?

17 A: It can subject to this four year.

18 Q: Okay. And do I understand your testimony to be
19 that that letter would be timely if within 36
20 months of the date of that original return?

21 A: Yes, sir.

22 Q: Okay. I want to ask you this, explain to me if
23 this were a fact which -- would it make any
24 sense to allow a taxpayer 36 months to claim an
25 exemption if he had to report it on his initial



1 return?

2 **MR. CARTIN:** Objection, Your Honor. I think that's
3 asking for some sort of an opinion.

4 **MR. VON LEHE:** Well not a legal opinion. It just
5 simply doesn't make any sense. He's handling
6 the transaction.

7 **MR. CARTIN:** It's for the normative judgement about
8 reasonableness of doing something which seems
9 not within the appropriate personal knowledge
10 of a witness.

11 **THE COURT:** I mean, it's getting to the ultimate
12 issue if it doesn't make sense then therefore
13 you're just -- you're position should prevail
14 and I think that ---

15 **MR. VON LEHE:** It would be enhanced, Your Honor,
16 certainly.

17 **THE COURT:** Yeah, well it would be significantly
18 enhanced. I sustain that objection.

19 **MR. VON LEHE:** All right, sir. Thank you, Your
20 Honor.

21 **Q:** Now do you recall your first meeting with the
22 Department of Revenue?

23 **THE COURT:** But you can still make that argument.

24 **MR. VON LEHE:** All right. Thank you, Your Honor.

25 **THE COURT:** You can still make that argument.



1 MR. VON LEHE: Thank you, Your Honor.

2 Q: Do you -- do you still -- do you recall your
3 initial meeting with the Department of Revenue
4 personnel to discuss the property tax appeal?

5 A: I don't know if I recall the exact first date
6 of the meeting. I recall a few meetings with
7 staff and then in July of 213 (sic) was really
8 the first substantive meeting with a number of
9 Department representatives and myself.

10 Q: Well could we put Exhibit 80 up please? And
11 okay if you'd take a look at that please, Mr.
12 Allen. What is that?

13 (Joint Exhibit Number 80 was introduced into the
14 record at this time.)

15 A: This is a February 18th, 2014 letter I prepared
16 to the Department of Revenue protesting again
17 proposed assessments that were issued to FTC
18 Communications, FTC Diversified Services, LLC
19 for the 2013 tax year for property taxes.

20 Q: All right, sir. That -- this letter of protest
21 you say, it protests a property tax assessment?

22 A: It protested on the basis that the Department
23 of Revenue has not granted the exemption that
24 they are entitled to.

25 Q: Okay. And I'm going to put up Exhibit please



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ROA 002176

1 81, and what is this?

2 (Joint Exhibit 81 was introduced into the record at
3 this time.)

4 A: This is a November 6th, 2014 letter from myself
5 to the Department of Revenue protesting again
6 property taxes for the 2014 tax year this time
7 for FTC Communications and FTC Diversified
8 Services.

9 Q: All right. And I'm going to ask that Exhibit
10 86 be put up please?

11 (Joint Exhibit Number 86 was introduced into the
12 record at this time.)

13 Q: Okay. Do you recognize Exhibit 86?

14 A: I do. This is a October 8, 2015 letter would
15 be 2015 property tax year this time where FTC
16 Communications and FTC Diversified Services are
17 again protesting the Department's failure to
18 apply the exemption under 1237 220(b)(10).

19 Q: All right, sir. But we're just going over your
20 application for exemption for 2010 and 2011 a
21 moment ago.

22 A: Uh-huh.

23 Q: We've been over your protest based on your
24 state exemptions for 2013, 2014, 2015. Now
25 we're up to 2016 and I don't believe I have a



1 protest letter for 2016 to show you. Would
2 there have been one?

3 A: There was never a proposed assessment issued
4 for 2016 prior to the Department and taxpayers
5 resolving the application for the property tax
6 exemption.

7 Q: All right, sir. Would it be fair to say you
8 were in negotiations with the Department during
9 that time for the exemption?

10 A: Yes, sir.

11 Q: And so no assessment notice was sent out and so
12 no protest was made?

13 A: That's correct.

14 Q: All right. Tell me about your discussions with
15 the Department of Revenue leading up to the
16 settlement agreement?

17 **MR. CARTIN:** Objection. Calls for hearsay.

18 **MR. VON LEHE:** What did you do -- let me rephrase
19 that. I'm not asking what anybody in the
20 Department said to him ---

21 **MR. CARTIN:** Okay.

22 **MR. VON LEHE:** I just want to know what he said.

23 Q: So you can proceed.

24 A: Certainly. I corresponded with the -- after
25 filing the initial protest corresponded with



1 Department staff in the utility section
2 initially then with others at the Department.
3 Amelia Ruple, Jerry Lynn Van Story, others
4 until the matter was -- eventually made its way
5 over to the litigation side. The litigation
6 section of the Department of Revenue and then
7 initially dealt with Tim Thompson who was
8 managing counsel for litigation at the time,
9 and then the matter was ultimately assigned to
10 Bill Condon who's -- who I primarily worked
11 with in resolving the case.

12 Q: All right. I'm going to back a little bit in
13 time and show some of these Exhibits. I think
14 we can kind of move through them fairly
15 quickly, but before doing that I wanted to ask
16 you was Mr. Taylor Ingram involved in some of
17 these discussions?

18 A: Taylor Ingram was involved initially. He's
19 responsible generally for making the
20 assessments for rural teleco's in my
21 experience.

22 Q: Okay. Could we put up please Exhibit Number
23 76?

24 (Joint Exhibit Number 76 was introduced into the
25 record at this time.)



1 Q: This is going to be a string of e-mails. What
2 is that?

3 A: Yes. This looks to be a string of e-mails in
4 April and May of 2013 between Taylor Ingram and
5 myself.

6 Q: All right. Doing what?

7 A: It looks like we're scheduling a meeting, an
8 initial meeting, to discuss ---

9 Q: Uh-huh.

10 A: --- matters.

11 Q: Please put up 24?

12 **(Joint Exhibit Number 24 was introduced into the**
13 **record at this time.)**

14 Q: And what's this all about?

15 A: This is a May 14th e-mail and I believe I was
16 sent this in -- after meeting with Taylor and
17 his supervisor. He had requested I just send
18 an e-mail to confirm that FTC Communications
19 was relying on the CFRE case ---

20 Q: Uh-huh.

21 A: --- as the basis of this 2012 protest.

22 Q: Okay. And what was that CFRE matter? What was
23 that all about?

24 A: That was a Supreme Court decision which found
25 that a single member LLC was entitled to the



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ROA 002180

1 same property tax exemptions as it's parent
2 sole owner.

3 Q: Okay. Exhibit 77 please?

4 **(Joint Exhibit Number 77 was introduced into the**
5 **record at this time.)**

6 Q: Additional e-mails?

7 A: Yes, sir. E-mails in August of 2013.

8 Q: All right, sir. And what do they show?

9 A: They're communications between Taylor and
10 myself. It looks like Taylor was requesting
11 some line of business investment equipment
12 information and we were responding to those
13 requests.

14 Q: And running Exhibit 32?

15 **(Joint Exhibit Number 32 was introduced into the**
16 **record at this time.)**

17 Q: And these?

18 A: Yeah, this looks to be a continuation of that
19 prior chain. So now in September and providing
20 line of business information to the Department
21 of Revenue.

22 Q: All right. And in these are you being asked --
23 and did you follow up and do this -- are you
24 being asked to separate out certain assets?

25 A: Correct. The Department had requested that we



1 provide a breakdown of assets by line of
2 business.

3 Q: Okay. Let's move to Number 34 if you please?

4 **(Joint Exhibit Number 34 was introduced into the**
5 **record at this time.)**

6 Q: Is this just a sort of a request to move
7 forward?

8 A: Yes, this is October 2013 e-mail just
9 confirming that Taylor received a couple of
10 prior e-mails from September and October that
11 I sent to him.

12 Q: All right. I got a little more substantial one
13 here. Move to 78 please?

14 **(Joint Exhibit Number 78 was introduced into the**
15 **record at this time.)**

16 Q: What's this and what was the topic under
17 discussion?

18 A: Let's see. This is last one in the chain is a
19 December 2nd, 2013 e-mail from myself to Taylor
20 attaching line of business information for FTC.
21 Just to be clear FTC Communications.

22 Q: So does it indicate that others at the
23 Department are also looking at this question?

24 A: Let's see. I have the first page. Let me --
25 this one may be easier to look at at the book



1 than following on the screen. It was 84?

2 **MS. GEER:** 78.

3 A: 78?

4 Q: 78. And I'm really asking is there a phrase in
5 there that says that Mr. Ingram is waiting to
6 hear back from other people and suggesting a
7 need from what's implored that's in there?
8 'Cause if not I got you wrong. You said ---

9 A: Let's see. Yes, there's a November 21st, 2013
10 e-mail from Taylor to myself where he indicated
11 he sent all the pertinent information to
12 Amelia, which would Amelia Rupple, Jerry Lynn,
13 Ed Story, Sandy Houck and Milton Kimpson with
14 them to review.

15 Q: Is there anybody at the Department who's not
16 involved in this?

17 A: I'm sure there is somewhere.

18 Q: Exhibit 26 please?

19 **(Joint Exhibit Number 26 was introduced into the**
20 **record at this time.)**

21 A: Okay. This is an e-mail from Taylor Ingram to
22 myself January 15th, 2014. It's Jeff, as we
23 discussed on the phone attached are ten day
24 letters for the 2012 tax year appeals.

25 Q: Okay. 28?



1 (Joint Exhibit Number 28 was introduced into the
2 record at this time.)

3 A: 28 is a January 30th, 2014 letter and e-mail
4 from myself to Taylor Ingram protesting the
5 denial of the 2012 tax appeal.

6 Q: All right, sir. Number 87 please?

7 (Joint Exhibit Number 87 was introduced into the
8 record at this time.)

9 Q: Does someone else enter this e-mail
10 conversation at this point?

11 A: This is a e-mail from myself to Bill Condon
12 copying Eric Doerring from March 11th, 2016
13 where we were seeking to schedule a meeting
14 with the Department to see if the case could be
15 resolved.

16 Q: Okay. And what's Bill Condon's -- what was
17 Bill Condon's involvement at the Department?

18 A: He was the litigation attorney initially
19 assigned to the case and ultimately was
20 managing counsel for litigation by this point
21 in time.

22 Q: And did he follow this matter from this point
23 going forward?

24 A: Yes, and he was involved a little prior to this
25 point.



1 Q: And was he the person that finally ended up
2 signing the settlement agreement?

3 A: Yes.

4 Q: All right. You mentioned some people at the
5 Department. Let's just go over this quickly.
6 Who there was involved in reaching the
7 settlement?

8 A: Ultimately in reaching the settlement Bill
9 Condon, myself, Milton Kimpson and Eric
10 Doerring attending the meetings immediately
11 prior to the settlement. I'm not sure what
12 other personnel with the Department also
13 reviewed it.

14 Q: Okay. What were the primary concerns that the
15 Department personnel had that you addressed in
16 trying to obtain this exemption on behalf of
17 the Farmer's entities?

18 A: Initially when I met with staff there was some
19 question as to whether CFRE case could apply.

20 Q: Okay.

21 A: And whether the line of those assets would
22 qualify for the exemption.

23 Q: Uh-huh.

24 A: The CFRE issue didn't seem to be much of an
25 issue for the Department but with Taylor it was



1 initially sent over to the litigation side
2 because he was unsure whether the wireless
3 telephone assets would qualify then.

4 Q: Okay. With regard to the timeliness was there
5 any ever any question about whether or not
6 these applications were timely made?

7 A: No, the Department processed them in the normal
8 course.

9 Q: Was there ever any indication that there was
10 not the proper information put on the original
11 tax returns? Was that ever a brought up?

12 A: That issue was never raised with the returns.

13 Q: All right. And do you recall what forms FTCC
14 and Diversified were filing?

15 A: I believe they were filing PT-427's.

16 Q: All right, sir. Now when they're going to
17 those forms, those 427's was there ever any
18 discussion as to whether or not additional
19 information should have been provided on those
20 forms other than that which was provided?
21 Other than that which was provided?

22 A: No, there was never any discussion with regard
23 to the forms -- if there was ever any -- if
24 there were ever any follow-up questions that
25 information was provided.



1 Q: All right, sir. I want to ask you some
2 questions there with regard to the settlement
3 agreement. When did you first learn that the
4 Department was agreeable to a settlement?

5 A: It was approximately some time in the early
6 Fall of 2016 I believe.

7 Q: Okay. And who advised you of that?

8 A: Bill Condon.

9 Q: All right. And what was the next step after
10 you reached I assume a tentative agreement with
11 him?

12 A: We did. We kind of reach tentative agreement
13 and decided it'd be best to memorialize in the
14 settlement agreement.

15 Q: All right. And you -- and you and he put this
16 together? This settlement agreement?

17 A: Correct. The Department of Revenue sent the
18 first draft and we made comments and ...

19 Q: Okay. And now with regard to this settlement
20 agreement who at the Department -- was it your
21 understanding -- who based on your
22 understanding approved this settlement
23 agreement?

24 A: Based on my understanding I would have
25 understood that Bill Condon had gotten Milton



1 Kimpson's approval and Milton would have gotten
2 the Director, at that time Rick Reames, to
3 approve the agreement.

4 Q: And that was your understanding?

5 A: That was my understanding and that's what we
6 put in the settlement agreement was that all
7 authority -- all parties have the authority to
8 execute the agreement.

9 Q: So the agreement itself says that necessary
10 authority exists?

11 A: Correct.

12 Q: All right. The settlement agreement -- if
13 you'd put up Number 91 please?

14 Q: And this agreement has a date of January 8th,
15 2017, do you recognize it?

16 A: I do.

17 Q: All right. And I want to review a couple of
18 basic terms with you. Turn to 2.1 please and
19 read that provision?

20 A: 2.1 is Property Tax Exemptions. The parties
21 agree that the property used in FTCC's wireless
22 telephone service and Diversified's landline
23 telephone service qualifies for the exemption
24 in SC Code annotated section 1237.220(b)(10).
25 The parties agree that such property properly



1 allocated to municipality or town is subject to
2 municipal or town property tax. Further the
3 parties agree the property of FTCC and
4 Diversified used to provide other services is
5 not exempt from property taxes at any level.

6 Q: All right, sir. And what is your understanding
7 of what that term other services other than I
8 assume other than other than telephone services
9 meant?

10 A: Other services provided by Diversified for
11 example included internet service or cable TV
12 service. You know, services other than
13 telephone voice communication.

14 Q: Okay. And please turn to 2.2.

15 A: 2.2 is Amended Property Tax Return and it
16 states FTCC and Diversified supply amended tax
17 returns with the appropriate supplemental data
18 with the property division for every applicable
19 year during the audit period so that the
20 property division may calculate and certify to
21 the applicable county supervised assessment.

22 Q: All right. And were these returns in fact --
23 these amended returned filed?

24 A: Yes, sir, they were.

25 Q: Or schedules which were accepted in lieu of



1 amended returns?

2 A: Correct.

3 Q: And 2.3 reads how? I think maybe two of those
4 2.3s but the one that says ---

5 A: Uh-huh.

6 Q: --- that you worked together to determine what
7 information is needed or something to that
8 affect?

9 A: Yeah. There's a provision in the first 2.3 is
10 the parties will work together in good faith.
11 The parties have not agreed to the amount of
12 any appraised assessment. FTCC, Diversified and
13 the property division will work together in
14 good faith to determine what information is
15 need from FTCC and Diversified and the process
16 necessary for the property division to make the
17 appropriate assessments.

18 Q: Okay. The amount it says was not specifically
19 agreed upon, the amount in question?

20 A: Correct.

21 Q: Could that amount have been determined by you
22 or by Mr. Condon as far as you know? Any way
23 you could have determined that?

24 A: They could have. Yes, the agreement kind of
25 provides the guide post and I had in fact



1 prepared a calculation of what the numbers
2 should be and their 2016 proposed assessments
3 matched my number.

4 Q: All right. And what had the parties agreed
5 then, and I believe it to be redundant, but
6 you'd agreed on what assets were to be exempted
7 and what assets were tax to be paid on, is that
8 right?

9 MR. CARTIN: Objection, Your Honor. I've been
10 letting it go just to develop the testimony but
11 these are leading questions.

12 Q: Forgive me. What did you agree upon with
13 regard to the natures of the assets?

14 A: We agreed as to which assets would qualify for
15 the exemption and which would not.

16 Q: All right. The filing of the amended PT-427s
17 I believe you said a moment ago that the two
18 entities in question, Diversified and FTCC,
19 filed PT-427s.

20 A: Correct.

21 Q: Didn't you?

22 A: Correct. I believe that's the original form
23 they filed and the form they subsequently filed
24 pursuant to the terms of the settlement
25 agreement.



1 Q: And all right. Let's read a letter, Exhibit
2 Number 92 please?

3 **(Joint Exhibit Number 92 was introduced into the**
4 **record at this time.)**

5 Q: And what is this?

6 A: This is a January 20th, 2017 letter from myself
7 to Taylor Ingram who was in the property
8 division of the Department of Revenue providing
9 the amended returns for FTC Communications for
10 2010 through 2016 and FTC Diversified Services
11 for 2013 through 2016.

12 Q: All right, sir. I'm going to kind of close
13 this thought but I'm going to go back because
14 the point has been made about this whether or
15 not this agreement was approved by the
16 Director, that obviously is one of the
17 questions in this case, one of the factual
18 questions. So I want to go back to are you --
19 why -- you mentioned a moment ago in your
20 testimony that those people who were involved
21 in this settlement were Bill Condon -- now, do
22 you have direct knowledge of that he was
23 involved in this?

24 A: Yes, sir.

25 Q: All right. Was Milton Kimpson involved in it?



1 A: Yes, sir.

2 Q: And did you meet with him with regard to this
3 agreement?

4 A: Yes, sir.

5 Q: All right. And what about Rick Reames?

6 A: Did not.

7 Q: All right. All right. Thank you very much.

8 **MR. ALLEN - CROSS-EXAMINATION BY MR. LUTHER:**

9 Q: Mr. Allen, how are you?

10 A: Doing well.

11 Q: In your experience as a tax practitioner with
12 the Department of Revenue or in matters with
13 the Department of Revenue what is your
14 understanding of what a Department
15 determination is?

16 A: A Department determination is issued when the
17 Department disagrees with the taxpayer's
18 position and then gives them their rights to
19 judicial review.

20 Q: Who typically issues the Department
21 determination?

22 A: Someone from the Office of Litigation, counsel
23 from Litigation.

24 Q: And are you familiar with a proposed
25 assessment?



1 A: I am.

2 Q: Is that -- in your experience what is the
3 difference between a proposed assessment and a
4 Department determination?

5 A: Proposed assessment is the initial notice to a
6 taxpayer that this is what the Department
7 thinks the liability should be but gives the
8 opportunity to the taxpayer to disagree and
9 then administratively work with the Department
10 to find the correct number versus the
11 Department determination which is the end of
12 the administrative process with the Department
13 of Revenue.

14 Q: Are you familiar with the term a supplement
15 assessment certification or supplemental
16 certification?

17 A: I am not.

18 Q: Have you ever represented a client in a tax
19 controversy with the Department of Revenue that
20 resulted in a settlement agreement?

21 A: Yes.

22 Q: And in those situations did the Department ever
23 issue a determination following a settlement
24 agreement?

25 A: No.



1 Q: Thank you very much.

2 **MR. ALLEN - CROSS-EXAMINATION BY MR. CARTIN:**

3 Q: Mr. Allen, my name is Walt Cartin. We met at
4 your deposition. I represent the Petitioners
5 in this matter. I just have a few questions
6 for you this afternoon, okay?

7 A: Okay.

8 Q: You've been a tax attorney since 2006, is that
9 correct?

10 A: That's correct.

11 Q: And I believe you said that was your primary
12 area of focus, right?

13 A: Correct.

14 Q: And the good portion as tax litigation,
15 correct?

16 A: That's correct.

17 Q: Including disputes with the South Carolina
18 Department of Revenue, right?

19 A: That's correct.

20 Q: Okay. Would you say an estimate about 50
21 percent of your work is SCDOR disputes?

22 A: Yes.

23 Q: I'm going to skip around a little bit but just
24 so I am efficient with our time, okay? So if
25 these topics seem disjointed I don't want you



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1 to think I'm not going somewhere with it.

2 A: Okay.

3 Q: My understanding is that your position is that
4 property is used -- if property is used at all
5 to provide rural telephone service then it
6 qualifies for the exemption, is that correct?

7 **MR. VON LEHE:** Your Honor, objection. I don't
8 remember that his having the express that as
9 his opinion.

10 **THE COURT:** All right. He's on cross.

11 **MR. VON LEHE:** Yes.

12 **THE COURT:** There's a wide latitude on cross.

13 **MR. VON LEHE:** I understand that, but he simply
14 hasn't said that. I mean, he stated his
15 question. I just said that he hasn't said it.

16 **MR. CARTIN:** He said it in his deposition.

17 **MR. VON LEHE:** Well if he said it in his deposition
18 then that's a different story.

19 **THE COURT:** Okay. Go ahead.

20 Q: My understanding, Mr. Allen, is that your
21 position is that if property is used at all to
22 provide rural telephone service then it
23 qualifies for the exemption, is that a fair
24 assessment?

25 A: Yes, I believe the statute can be construed



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1 that way.

2 Q: Okay. And so there's no materiality threshold
3 in your mind?

4 A: The statute does not contain any materiality
5 threshold.

6 Q: All right. But you would agree with me that if
7 property used as around, you know, 1 percent
8 for an exempt purpose and 99 percent for a non-
9 exempt purpose that raises the question of
10 whether it's an actual bonafide use for an
11 exempt purpose, right?

12 A: Correct. In the deposition when you asked that
13 question the response was, you know, when
14 you're taking something to that level extreme
15 is a taxpayer playing games? Are they truly
16 using property for the intended purpose?

17 Q: Understood. You just testified a second ago
18 that FTC Communications and Diversified
19 submitted amended PT 427s correct?

20 A: Correct.

21 Q: And Diversified owns property that is used for
22 a variety of purposes, is that fair?

23 A: That's fair.

24 Q: All right. So landline services, right?

25 A: Correct.



1 Q: Internet services, correct?

2 A: Correct.

3 Q: Cable services, correct?

4 A: Correct.

5 Q: Or maybe I should say voice -- IPTV I think is
6 the more correct term I just learned, does that
7 sound right to you?

8 A: Could be.

9 Q: Television service coming through the TV?

10 A: Television service.

11 Q: There we go. When they submitted their PT-427s
12 to the Department it's my understanding they
13 did not segregate out any non-exempt property
14 initially when they file their PT-427s in the
15 original returns?

16 A: Which tax year, which original?

17 Q: FTC Communications, LLC 2010, '11, '12, '13,
18 '14.

19 A: Correct. I believe their -- at that time they
20 were listing their property as they had in the
21 past pending the outcome of the protest and the
22 request for an exemption.

23 Q: Okay. And then the original returns of FTC
24 Diversified, LLC for 2013, 2014, 2015, and 2016
25 they did not originally break out the exempt



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1 from non-exempt property, is that right?

2 A: Correct.

3 Q: Let's pull up Exhibit 22. Do we need to switch
4 out?

5 **MR. CARTIN:** Okay. All right. Ms. Mitchell, can
6 you show the body of the letter.

7 Q: Okay. It's my understanding this is the first
8 letter you sent to DOR protesting the FTC
9 communications assessment for tax year 2012, is
10 that right?

11 A: That's correct.

12 Q: All right. And there's no reference
13 specifically to wireless property in this
14 letter, right?

15 A: That's correct.

16 Q: It just recites the exemption section, correct?

17 A: It says the basis of the protest is the
18 Department's failure to exempt the company's
19 assets which are exempt under SC Code Section
20 1237(2)(20)(b)(10).

21 Q: Okay. And at the time you sent this letter FTC
22 Communications was not receiving the exemption,
23 that's correct?

24 A: That's correct.

25 Q: Okay. And to your knowledge this is the first



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ROA 002199

1 time that FTC Communications have ever
2 requested the exemption, right?

3 A: To my knowledge it's the first time that it was
4 requested.

5 Q: And your firm's represented them since before
6 you started in 2006, is that correct?

7 A: That is my general understanding but I don't
8 have personal knowledge.

9 Q: Okay. But you represented them since around
10 2011, right?

11 A: Correct.

12 Q: Okay. As I understand your position you
13 believe FTC Communications, Diversified applied
14 for that exemption through correspondence with
15 the Department, is that right?

16 A: Correct.

17 Q: Okay. Rather than through requesting the
18 exemption on their returns, correct?

19 A: The rural telephone co-ops are kind of a unique
20 animal. There are not many of them in the
21 state. They all tend to file different
22 returns. There's no standardized process for
23 them to file the request for an exemption.

24 Q: Look at Exhibit 15.

25 **MR. CARTIN:** Show the body of that letter, Ms.



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ROA 002200

1 Mitchell.

2 Q: All right. This is the first request for
3 relief you had sent in this case.

4 **THE COURT:** Can we zoom it out a little?

5 Q: Sure. Would you say the date is ---

6 A: Can we zoom it out or I can flip in the book.

7 Q: Scroll down a little bit.

8 A: Yes, this was the first refund request.

9 Q: Okay. And this is for FTC Communications LLC,
10 right?

11 A: Correct.

12 Q: And it doesn't mention the wireless issue at
13 all in this letter, correct? Do you need to
14 see the second page?

15 A: I do.

16 Q: Okay. Show the second page. Tell me when you
17 want to go to the third.

18 A: Yep, it represents that its assets are used to
19 provide rural telephone service, requests the
20 exemption and provides a chart to summarize.
21 It does not use the word wireless telephone
22 service.

23 Q: Okay. Do you need to see the third page?

24 A: We can.

25 Q: Just look at it just to make sure.



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ROA 002201

1 A: Just to confirm. Confirmed.

2 Q: Okay. This letter doesn't claim that
3 Communications ever listed the exemption on its
4 property tax returns does it?

5 A: To my knowledge there's nowhere you can list
6 the property as exempt on the return.

7 Q: Oh, so there's nowhere on a PT-427 where you
8 can write the word exempt?

9 A: You can write exempt on any form.

10 Q: Okay. And in fact you have written exempt on
11 PT-427s, right?

12 A: In connection with the schedules that are
13 prepared to a settlement agreement some of them
14 included an exempt notation.

15 Q: Okay. And there was nothing to prevent you
16 from doing something like on an original
17 return, correct?

18 A: No.

19 Q: My understanding is -- you talked about a
20 series of meetings with DOR -- my understanding
21 is that the property tax section's position on
22 this matter was that wireless assets did not
23 qualify for the exemption, is that a fair
24 characterization?

25 A: That's not the position that was ever expressed



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ROA 002202

1 to me.

2 Q: Okay. Nobody ever told you in any sort of a
3 response letter that they don't believe these
4 assets qualify for the exemption?

5 A: No, I don't recall everyone -- anyone ever
6 saying that they don't qualify or that they do
7 qualify. I recall the property division folks
8 saying this is something we need to refer over
9 to our general counsel's office.

10 Q: Let's go to Exhibit 77. You know what, let's
11 skip down to Exhibit 33. I'm going to skip
12 through this.

13 **THE COURT:** Yay.

14 Q: Ready?

15 **MR. CARTIN:** Ms. Mitchell, can you go to page 033-
16 003?

17 Q: All right. There's a summary here of the
18 issues that you say that DOR is still sort of
19 struggling with, right?

20 A: Correct.

21 Q: Okay. And whether the wireless assets qualify
22 for the exemption was one of those issues,
23 right?

24 A: Correct.

25 Q: And so they never expressed to you that they



1 had trepidation about granting the exemption
2 for wireless assets?

3 A: Well when you say they didn't have trepidation
4 they didn't issue. They referred it to their
5 counsel.

6 Q: Prior to that the property tax section never in
7 the discussions ...

8 A: They indicated they didn't know whether it was
9 qualified and didn't feel like they were
10 qualified to make that determination.

11 Q: Is it your understanding that up until the time
12 you received -- your client received the
13 exemption it had never -- nobody else had ever
14 applied for the exemption for wireless
15 property?

16 A: That was my understanding.

17 Q: Go to Exhibit 27.

18 **(Joint Exhibit 27 was introduced into the record at**
19 **this time.)**

20 Q: And go to the second page. All right. Did you
21 prepare this e-mail and the attachment?

22 A: Yes, this letter that was also sent by e-mail.

23 Q: Okay. And this was a letter prepared pursuant
24 to Taylor Ingram's appeal settlement
25 notification? Let me show you the



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ROA 002204

1 notification.

2 A: Yeah.

3 **MR. CARTIN:** Go to 027-0004, Ms. Mitchell.

4 A: Yes, it was a response to this letter.

5 Q: Okay. And so as of this date, January 15,
6 2014, you appear to have not persuaded the
7 property tax section, right?

8 A: Correct. No, the discussion with Taylor before
9 seeing this letter he'd already indicated that
10 it was something they would have to send over
11 to counsel for litigation.

12 Q: Okay. And my understanding is that when you
13 received this appeal settlement notification
14 that you never received such a document from
15 the Department before, is that correct?

16 A: That's correct. I have not seen one before.

17 Q: In nearly eight years of practice at that time
18 you'd never gotten one of these?

19 A: Correct.

20 Q: All right. And you'd never heard of anyone
21 else getting one of these?

22 A: Correct.

23 Q: Okay. Go to Exhibit 82.

24 **(Joint Exhibit Number 82 was introduced into the**
25 **record at this time.)**



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ROA 002205

1 **MR. CARTIN:** Can you go down, Ms. Mitchell, to part
2 there's an e-mail from Bill Condon asking for
3 some information. Is that -- it's there on the
4 second page of this Exhibit. There we go. All
5 right. If you go down to bullet point number
6 7, Ms. Mitchell.

7 **Q:** Take a second to read that for me, Mr. Allen.
8 Not into the record but just to yourself.

9 **A:** Okay. Okay.

10 **Q:** You ready?

11 **A:** Ready.

12 **Q:** Okay. And here you asked for a breakout of the
13 exempt versus the non-exempt assets, right?

14 **A:** Correct.

15 **Q:** Okay. And this e-mail was from February 2015,
16 is that -- you can go back to the first --
17 there we go -- so you can see?

18 **A:** Yes.

19 **Q:** Okay. So what years' tax returns would have
20 been submitted for FTC Communications and for
21 Diversified at this time?

22 **A:** At that time they would have submitted the
23 returns for 2010 through 2014 tax years.

24 **Q:** Okay. And so he's asking for information like
25 this because it couldn't be determined from



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ROA 002206

1 looking at the face of those tax returns?

2 A: Correct. The face of the tax return does not
3 include line of business information
4 breakdowns.

5 Q: Okay. All right. Go to Exhibit 83.

6 **(Joint Exhibit Number 83 was introduced into the**
7 **record at this time.)**

8 Q: All right. And my understanding is that this
9 is your response, your formal response, to Mr.
10 Condon's document request, right?

11 A: That's correct.

12 Q: Okay.

13 **MR. CARTIN:** If you look on page 083-002, Ms.
14 Mitchell? Bullet point 5.

15 Q: At the very bottom there's a third paragraph
16 down there under paragraph 5 it says, Farmer's
17 does not have records detailing the net amount
18 of property for each tax district for the year
19 ended 12/31/73. My understanding is there was
20 nothing submitted to the Department along with
21 this letter since you say you don't have any
22 information that would have showed what
23 property Farmer's owned in 1973 on that date?

24 A: Correct. This letter is not included in any
25 information detailing property that they owned



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ROA 002207

1 as of 12/31/73.

2 Q: Okay. And I see on page -0003, all right, you
3 responded to their request to break out how the
4 property was -- of FTC Communications,
5 Diversified -- was used, is that a fair
6 assessment?

7 A: Correct.

8 Q: And my understanding is that the information
9 you submitted to the Department in this letter
10 you didn't undergo any kind of independent
11 analysis in order to verify the accuracy of
12 that information, is that fair?

13 A: I did not audit the information that provided
14 by Farmer's, no.

15 Q: Okay. And you weren't aware of whether some of
16 FTC Communications, LLC use of Diversified
17 property could have multiple uses, some exempt,
18 some non-exempt, right?

19 A: I had a general awareness of how cable could be
20 used for fiber or other things.

21 Q: But with regard to the exemption, the non-
22 exemption or the exemption of that property you
23 weren't aware of whether their property was
24 being used for any purposes that were not
25 exempt, is that right?



1 A: Correct. My understanding was the property we
2 were listing and the information we were
3 presenting was for property that was used in
4 the same manner or form to provide rural
5 telephone service.

6 Q: Okay. Go to Exhibit 91.

7 **MR. CARTIN:** Let's go to the signature page of that
8 when you get there.

9 Q: Mr. von Lehe did a lot of my work for me so ...
10 All right. This is an easy one. You would
11 agree with me that there are none of the
12 counties who are impacted by this settlement
13 agreement are signators to the settlement
14 agreement?

15 A: Correct.

16 Q: Okay. None of the school districts who may be
17 impacted by this settlement agreement are
18 signators to the settlement agreement, correct?

19 A: The only parties to the agreement are the South
20 Carolina Department of Revenue, FTC
21 Communications, LLC and FTC Diversified
22 Services, LLC.

23 Q: Okay. So your understanding that none of the
24 school districts or counties potentially
25 impacted by this were consulted in negotiation



1 of this settlement agreement, right?

2 A: I do not know if the Department of Revenue
3 consulted with them or not.

4 Q: Okay. And you don't have any personal
5 knowledge of whether the Department Director
6 actually approved this settlement agreement,
7 correct?

8 A: I do not have personal knowledge.

9 Q: Okay. Go to Exhibit 90.

10 **(Joint Exhibit Number 90 was introduced into the**
11 **record at this time.)**

12 Q: While she's pulling that up, so you negotiated
13 the terms of the settlement agreement for
14 Farmer's, correct?

15 A: Correct.

16 Q: All right. And it wasn't just some sort of
17 stock settlement agreement you took out of your
18 file share data bases. It was a settlement
19 agreement that you actually meaningfully
20 drafted and negotiated, right?

21 A: Yeah, this was a document that Bill Condon
22 prepared the first draft of and then we
23 commented on.

24 Q: Okay. At the time you sent this you had been
25 practicing law for around what, ten years,



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ROA 002210

1 right?

2 A: 2016, yes, ten years.

3 Q: All with the McNair firm, right?

4 A: Correct.

5 Q: All in the area of tax, right?

6 A: Correct.

7 Q: With a significant amount of time spent on DOR
8 litigation, right?

9 A: Correct.

10 Q: Okay. And you used that experience I'm certain
11 to your client's benefit, correct?

12 A: I certainly try to.

13 Q: Yeah, and you're a -- you used that experience
14 in crafting an agreement that you thought would
15 accomplish your clients' objections, right?

16 A: That's correct.

17 Q: Okay. Go over to page 090-016.

18 **MR. CARTIN:** All right. Ms. Mitchell, pull up 2.3.

19 Actually, no, go back. Yeah, there we go.

20 That's what I want.

21 Q: Take a look at the first section -- the second
22 section 2.3 here, okay?

23 A: Certainly.

24 Q: And as I read it it says, once the property
25 division has made the appropriate assessments



1 the Department will issue a Department
2 determination finding that the proper use in
3 FTCC's wireless telephone service and
4 Diversified's landline telephone service
5 qualifies for the exemption in SC Code 12-37-
6 220(b)(10). Now these are edits that you
7 drafted for this agreement, correct?

8 A: Correct.

9 Q: Okay. And so as a lawyer with ten years
10 experience in the tax field you added language
11 stating that the Department had to issue a
12 Department determination, is that right?

13 A: Correct.

14 Q: And the Department struck that from the final
15 agreement, didn't they?

16 A: Correct.

17 Q: That's all I have for Mr. Allen.

18 **THE COURT:** Redirect?

19 **MR. VON LEHE:** Yes, Your Honor.

20 **MR. ALLEN - REDIRECT EXAMINATION BY MR. VON LEHE:**

21 Q: A couple of things. Questions were asked a
22 moment ago on cross-examination about the tax
23 returns themselves. The original tax returns
24 that were filed. And questions were asked
25 about whether the exempt versus non-exempt



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ROA 002212

1 categorization of these assets were shown on
2 that return. And I believe you answered that
3 there was no place on the return to do that?

4 A: Correct.

5 Q: To which I believe counsel said, you could have
6 written something on there? Do you recall
7 that? Did you say that a moment ago.

8 A: I recall that. I think ---

9 Q: I wanted to ask you this ---

10 A: Okay.

11 Q: --- okay, if I may? Are you familiar with some
12 other returns that -- particularly in the
13 property tax area -- that the Department of
14 Revenue publishes that tax payers fill out?

15 A: I am.

16 Q: Have you any experience with the common place
17 PT300 return which is used for manufacturers?

18 A: I do.

19 Q: You have.

20 **MR. VON LEHE:** Could we put Exhibit 178 up please?

21 **MR. CARTIN:** Objection, Your Honor. I'm going to
22 object to the relevance of some other property
23 tax form. I understand that there's some legal
24 argument that they want to make in the final
25 brief, but they can talk about how other



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ROA 002213

1 affected industries file their taxes, but again
2 I would assert that this is entirely irrelevant
3 to the type of taxpayer here that files a
4 specific type of form, a specific statutory
5 return.

6 **THE COURT:** I don't think it's responsive to your
7 line of questioning whether it's -- ultimately
8 whether it's probative. I have my questions
9 but I know that counsel's capable of arguing
10 things and I may not see at this point, so ...

11 **MR. VON LEHE:** Thank you, Your Honor. Can we get
12 that Exhibit up on the screen please?

13 **(Joint Exhibit Number 178 was introduced into the**
14 **record at this time.)**

15 Q: And I believe this -- do you recognize that?

16 A: Yes, sir, I do.

17 Q: And is it a schedule from the manufacturers
18 property tax return?

19 A: It is.

20 Q: And in Schedule A in the top of the left is
21 that a place to list machinery and equipment?

22 A: It is.

23 Q: And do you know whether or not there is an
24 exemption associated with that?

25 A: There's generally not a property tax exemption



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ROA 002214

1 for machinery and equipment.

2 Q: All right. Now below that there's a space for
3 -- down at the bottom of the return -- there's
4 a space for pollution control equipment to be
5 listed is there not?

6 A: There is.

7 Q: Okay. And is there an exemption for that?

8 A: There is.

9 Q: All right. So I would ask you this then, the
10 Department of Revenue in their returns -- at
11 least in certain of their returns -- do they
12 provide places for taxpayers to list assets as
13 exempt and taxable such as in this return?

14 A: They do.

15 Q: All right. But I believe your testimony is
16 there's no such place on a PT-427?

17 A: Correct.

18 Q: All right, sir. With regard to the terminology
19 that was mentioned a moment ago in the
20 agreement itself. We can go back to the
21 settlement agreement which I believe is -- it
22 doesn't matter I don't need that Exhibit up,
23 that's okay. We'll just talk about it. All
24 right. With regard to that in the draft -- in
25 an early draft of the settlement agreement --



1 the term Department determination was used ---

2 A: Correct.

3 Q: --- is that correct? But that was specifically
4 looked at was it not?

5 A: Correct. The Department would not agree to
6 include that provision.

7 Q: And do you know what they did not agree? Was
8 it because they didn't consider it to be a
9 Department determination? They took it out but
10 do you know why?

11 A: I do not know the precise reasoning. It had
12 been expressed to me that this was not a
13 Department determination and so they needed to
14 take that language out and would issue a --
15 provide a certification of accounts.

16 Q: And do you know if they contrasted and what way
17 they may have contrasted a settlement agreement
18 from a Department determination?

19 A: Can you rephrase the ...

20 Q: Yes. Yeah. This was a settlement agreement,
21 correct?

22 A: Correct.

23 Q: So the Department of -- the Department took out
24 the term Department determination and was that
25 because they believed it to be a settlement



1 agreement and not a Department determination?

2 A: That is my understanding.

3 Q: All right. Do you remember having
4 conversations about it with Bill Condon?

5 A: I do not specifically other than sending a
6 draft with the redline.

7 Q: All right, sir. Thank you. Nothing further
8 questions, Your Honor.

9 **THE COURT:** Okay.

10 **MR. ALLEN - RECROSS-EXAMINATION BY MR. CARTIN:**

11 Q: You'd been practicing law for ten years at the
12 time you negotiated that settlement agreement?

13 A: Correct.

14 **MR. VON LEHE:** Asked and answered, Your Honor.

15 **THE COURT:** I don't know where he's going yet so
16 I'll overrule at this point.

17 Q: Had you ever included that language before in
18 any settlement agreements you had negotiated
19 with the Department?

20 A: There were confidentiality provisions in each
21 of the settlement agreements with the
22 Department so I don't know that I'm allowed to
23 answer that question.

24 **MR. CARTIN:** Well, Your Honor, he's here under oath,
25 under penalty of perjury. Can he answer the



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ROA 002217

1 question without any specific indication of who
2 the ---

3 **THE COURT:** Sir, I don't see how that would reflect
4 any confidentiality ---

5 A: Because the Department ---

6 **THE COURT:** --- if it doesn't reference the specific
7 party.

8 A: Yeah, I mean, it's the Department's agreement.
9 They say the terms of the agreements are
10 confidential.

11 **THE COURT:** What's the Department's position on
12 that?

13 **MR. LUTHER:** That's a good question. I certainly --
14 I do think the standard agreements we have
15 generally contain a boilerplate confidentiality
16 agreement. There are exceptions. The
17 exceptions would include I think by Order of
18 Court so I think to the extent Your Honor finds
19 it's relevant and wants to ask him to disclose
20 that I think it's permissible.

21 **THE COURT:** All right.

22 **MR. LUTHER:** As long as the confidentiality is not
23 disclosed.

24 **THE COURT:** Okay. I hereby order you to answer the
25 question.



1 A: I don't recall including this specific language
2 in other agreements.

3 Q: You don't recall in ten years of practice
4 including that a Department determination had
5 to be issued after the settlement agreement in
6 any settlement agreement you would have entered
7 into with DOR on behalf of a client.

8 A: Not that I recall.

9 Q: Okay. But you felt it necessary to put in this
10 one settlement agreement that a Department
11 determination needs to issue.

12 A: We included that language in this settlement
13 agreement.

14 Q: Okay. I'm going to ask a question to I don't
15 know the answer to. Why?

16 A: And again if you're asking for the legal
17 reasoning of why I included the provision in
18 the settlement agreement I think that's
19 privileged and I don't think I can answer.

20 Q: I don't think so. I think they just stated
21 yesterday in their -- in Mr. Lawrimore's
22 testimony they were allowed on the advice of
23 counsel. So they may have waived that
24 privilege by asserting that.

25 **THE COURT:** What's your positions?



1 **MR. VON LEHE:** Your Honor, as to his reasons for
2 putting it in, if it -- putting in the term
3 determination we don't have a privilege to
4 assert with regard to that. And I will of
5 course speak to my client about it now before
6 saying that because I don't want to get out
7 ahead of myself, but I personally I don't, but
8 it's not up to me it's up to the client of
9 course, it's their privilege not mine, but ---

10 **MS. GEER:** You want to take a quick break?

11 **MR. VON LEHE:** Yeah.

12 **MS. GEER:** I think we should walk outside.

13 **THE COURT:** Do you think this is officially
14 probative to keep on going down this path?

15 **MR. CARTIN:** I do, Your Honor, because if they ---

16 **THE COURT:** Okay. No. That's all I need.

17 **(Off the Record)**

18 **MR. VON LEHE:** Your Honor, with regard to this
19 particular limited question my clients are not
20 asserting a privilege.

21 **THE COURT:** All right. Answer the question.

22 **A:** Okay. Could you restate if for me, sir?

23 **Q:** Why did you add the language requesting the
24 Department determination in the settlement
25 agreement.



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ROA 002220

1 A: The language was added so that there -- so that
2 we could ensure any appeal rights, counters or
3 other folks may have would be triggered and the
4 Department ultimately disagreed and said that
5 there wasn't going to be a Department
6 determination.

7 Q: Thank you. I have no more questions, Your
8 Honor.

9 **THE COURT:** Any new matters to raised?

10 **MR. VON LEHE:** If I may have just a second on this
11 last matter. All right. No further questions,
12 Your Honor.

13 **THE COURT:** You may step down.

14 A: Thank you.

15 **THE COURT:** All right. I'm going to take a short
16 break. Do we have any more witnesses today?

17 **MS. GEER:** Your Honor, our thought is that we're --
18 this witness is going to be a lengthy witness.
19 So if it's okay with the Court we'll just him
20 fresh tomorrow.

21 **THE COURT:** Okay. Well I was going to get through
22 on Friday. That's my goal.

23 **MS. GEER:** And we're willing to start a little early
24 if everybody wants to get done then. 9:30?

25 **THE COURT:** 9:30's fine.



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ROA 002221

1 (DAY THREE of the administrative hearing adjourned at
2 4:19 p.m.)

3 (DAY FOUR - THURSDAY, MAY 23, 2019. The
4 administrative hearing reconvened at 9:34 a.m.)

5 **THE COURT:** Ready when y'all are.

6 **MS. GEER:** Your Honor, I apologize first of all ---

7 **THE COURT:** No, no problem.

8 **MS. GEER:** --- for being late. We were talking
9 through a procedural issue, and I'm a little
10 bit hat in hand here, but I know at the
11 beginning we all -- we conferred, we talked
12 about the order to go in and we agreed at the
13 start that we would go -- there's two burdens
14 of proof of the issue in this case that's made
15 it procedurally an odd duck as far as we think
16 they have the burden to show that they can get
17 into court, that they have a right to appeal
18 these, but then we obviously have the burden of
19 proof to show that we qualify for the exemption
20 if it gets past that. It is what the parties
21 kind of discussed to begin with. And so what
22 we agreed on was counties would go first, we
23 would go second, the Department would go third
24 and then they would get a chance to rebuttal
25 and we would get a chance to rebuttal.



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ROA 002222

1 **THE COURT:** Yeah, okay.

2 **MS. GEER:** And normally we wouldn't get a chance to
3 rebut on the issue they have the burden of
4 proof on, and they wouldn't get a chance to
5 rebut on the issue we have burden of proof on.
6 The more we have thought about this I just
7 don't think it's -- I just don't think that we
8 got to the appropriate and proper place. I
9 think way it should be is that they get a
10 rebuttal on the issue they have a burden of
11 proof on and we get a rebuttal on the issue we
12 have a burden of proof on.

13 **THE COURT:** That makes sense.

14 **MS. GEER:** So that's ...

15 **THE COURT:** Well, Mr. ...

16 **MR. CARTIN:** Your Honor, under Rule 43(K) we stood
17 here in open court on the record and made an
18 agreement ---

19 **THE COURT:** Okay.

20 **MR. CARTIN:** --- about the way this would go. And I
21 certainly understand their arguments. They
22 will actually have the chance to make the last
23 statement about the technical issue in their
24 surrebuttal case and if they need time to
25 prepare for that if they want to do that



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ROA 002223

1 tomorrow afternoon so that they can -- if we
2 can finish Mr. Moss tonight or tomorrow morning
3 they can -- I'm happy to give them some more
4 time to prepare. I don't think his -- his
5 rebuttal will be somewhere under an hour but
6 that is what we agreed to and ---

7 **THE COURT:** All right. We'll come back to you.

8 **MS. GEER:** Yes.

9 **THE COURT:** What you said makes sense.

10 **MS. GEER:** Yes.

11 **THE COURT:** But y'all have already agreed to a
12 procedure that now we've started down this
13 path. And now you want to change the agreement
14 and there in lies my struggle.

15 **MS. GEER:** I understand. I understand the struggle.
16 I still think it should be everyone's goal to
17 get to the right result, and I'm not sure that
18 there's any prejudice to them for doing what we
19 I think see as the right way.

20 **THE COURT:** What would -- let me just turn to ---

21 **MS. GEER:** Yeah.

22 **THE COURT:** --- I -- and you don't have to sit down.

23 **MS. GEER:** Okay.

24 **THE COURT:** What would you lose by changing the
25 order?



1 **MR. CARTIN:** Well I've elicited some new
2 information, there's been some new analysis
3 provided by Mr. Erwin about how data moves
4 through the network, the different nodes that
5 are there and essentially provides more
6 evidence that -- and it's -- what they're going
7 to do is argue that our ---

8 **THE COURT:** I'm going to stop you. I'm sorry. If I
9 have to even add an extra rebuttal in all of
10 this to get to the truth of this case that
11 really is my goal so I'm going to let every
12 party do their best to get their evidence in
13 and as fair as I can. How do you feel about
14 that? I will follow the procedure that we've
15 got set forth and then if there is an argument
16 that there needs to be more -- a response made,
17 a surrebuttal or whatever I mean to allow that
18 in.

19 **MR. CARTIN:** Oh, absolutely, Your Honor. We have
20 agreed to a surrebuttal. That was part of our
21 Order.

22 **THE COURT:** Well sur sur is what I'm getting at.

23 **MR. CARTIN:** Sur sur.

24 **THE COURT:** We'll just -- in other words I want to
25 be flexible.



1 **MR. CARTIN:** Understood, Your Honor. So long as the
2 flexibility is afforded to both parties.

3 **THE COURT:** If I have to go an extra day ---

4 **MR. CARTIN:** Okay.

5 **THE COURT:** --- just to make sure everybody gets a
6 complete hearing of their evidence with
7 appropriate cross-examination and an
8 opportunity to do so.

9 **MS. GEER:** All right, Your Honor. Thank you.

10 **THE COURT:** Now the Department I ain't worried
11 about. How do you -- are you okay with all of
12 this?

13 **MR. LUTHER:** I'm okay with that, Your Honor.

14 **THE COURT:** When you say that do you mean the last
15 thing I said?

16 **MR. LUTHER:** I was purposely ambiguous.

17 **THE COURT:** Well done then. Okay.

18 **MS. GEER:** Your Honor, if you're ready for us to
19 begin our case?

20 **THE COURT:** Yeah.

21 **MS. GEER:** We will call George Wyatt.

22 **THE COURT:** I'm waiting for you to continue your
23 case.

24 **MS. GEER:** Yes. Begin for today.

25 **THE COURT:** Yeah. I surely don't want to start at



1 the beginning.

2 **GEORGE WYATT**, having been duly sworn, testifies as
3 follows:

4 **THE COURT:** Well, Mr. Wyatt, I thought that fellow
5 back there was Mr. Wyatt for a while.

6 **MR. WYATT:** They interchange the names.

7 **THE COURT:** Yeah, okay. I haven't aggravated Mr.
8 von Lehe or anything have I?

9 **MS. GEER:** No, he's ---

10 **THE COURT:** I need to ---

11 **MS. GEER:** --- he has something he wants to work on.

12 **THE COURT:** Okay.

13 **MS. GEER:** And I was so busy doing my stuff I didn't
14 pay attention to whether you've already been
15 sworn in.

16 **THE COURT:** Yeah, he has.

17 **MS. GEER:** Okay. Excellent.

18 **MR. WYATT - DIRECT EXAMINATION BY MS. GEER:**

19 Q: Mr. Wyatt, would you state your full name for
20 the record please?

21 A: George Harold Wyatt, Jr.

22 Q: And I'm going to start by talking about your
23 background and your qualifications.

24 **MS. GEER:** Can we pull up my 143? That's it? All
25 right.



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ROA 002227

1 (Joint Exhibit Number 143 was introduced into the
2 record at this time.)

3 Q: We have your CV on the screen. Is this a
4 current version of your CV?

5 A: Yes.

6 Q: Is there anything that you would add to it, any
7 other things you have done since this was
8 created?

9 A: I think I have a few of these state licenses
10 that I've since let -- we have other licensed
11 engineers and I'm passing some of that one. I
12 think currently I'm actively licensed in 16 of
13 those states.

14 Q: Okay. What about any committee work that
15 you've done since ...

16 A: I do have one I had forgotten about. A couple
17 years ago now I was appointed to serve on an
18 FCC committee, it was the Broadband Deployment
19 Advisory Council, and I served as part of their
20 competitive access to broadband working group.
21 That thing was a little council, it lasted
22 about a year from mid-April of '17 to mid-April
23 of '18 give or take.

24 Q: Okay.

25 A: And I enjoyed that. That was an interesting



1 piece of work.

2 Q: What was the focus of that work?

3 A: There were several different parties there from
4 all different manner of utilities and
5 departments of transportation and
6 municipalities and we were trying to come to
7 terms on the right way to deal with each other
8 in regard to joint usage on pole lines ---

9 Q: Okay.

10 A: --- and underground rights of way and those
11 kinds of things.

12 Q: All right. Would you mind -- so that's the
13 only thing that's not on your CV?

14 A: I believe so.

15 Q: Okay. For the Court's benefit can you briefly
16 summarize your educational background?

17 A: Sure. Graduated from Clemson in 1982. Went
18 back to school with my employer and sought an
19 MBA and graduated with an MBA from Clemson in
20 1988.

21 Q: And what did you do after that?

22 A: I went to work. I started at the Duke Power
23 Company back when it was Duke Power and not
24 Duke Energy. It was a much smaller investor
25 owned utility in those days. and I was -- I



1 started at Duke Power for about 10 and a half
2 years, something right at that area. I worked
3 in their distribution engineering department
4 initially. After two years of that I was named
5 as a supervisor of small special projects
6 group. Didn't stay in that long. Was moved
7 into industrial and commercial marketing and I
8 spent about 7 years there working with
9 industrial base in South Carolina that was
10 served by Duke Power.

11 Q: Okay.

12 A: And at the end of that time -- that last year
13 of service -- they transferred me to Greenville
14 and I was their business development executive,
15 and I worked primarily with Chambers of
16 Commerce and county economic development boards
17 and the Governor's State Development Board on
18 economic development in the Duke Power Service
19 area.

20 Q: What followed that?

21 A: I left Duke and pursued a desire to maybe one
22 day have my own company. I went into private
23 practice. It was small civil engineering
24 consultancy called Design South and I ended up
25 staying there 10 years. They had a small



1 telecom group, maybe 7 people. I was like
2 number 22 or 23 in the firm and that's where I
3 learned telecom. I had a background in
4 electric power especially in the local power
5 company with the wooden pole lines. I was
6 pretty well along in that, but learning
7 telephone was an intensive thing because
8 there's so many acronyms.

9 Q: Right.

10 A: It takes quite a bit.

11 Q: We've heard a few of them.

12 A: And it took a while and we had a few little
13 independent telephone related clients and I
14 learned telephony working with those people.

15 Q: And so while you were at Design South can you
16 just tell us like what type of telecom where
17 you involved in.

18 A: Oh, yes. That was a small shop. We did
19 everything. We would do central office
20 switching. We would plan for switches and put
21 together plans and specifications and assist
22 our clients with bidding those and then we do
23 the performance testing for acceptance to make
24 sure there was conformance with the spec. We
25 did outside plant. Back in that day there was



1 a lot of copper but the fiber was emerging and
2 it was a new thing and we were putting in fiber
3 optic cable between these big central offices.
4 And we didn't have a lot of wireless at that
5 time but later on I got a chance to do some
6 wireless and it was cell power placement more
7 of that kind of thing. I worked a lot in the
8 latter years of that with -- as fiber continued
9 to deploy -- did a lot more fiber and then
10 ultimately at the end of about 10 years I left
11 and went to a consultancy that was purely
12 telecom related. Their whole practice was
13 telecom.

14 Q: Okay.

15 A: And that was called Midstate Consultants and
16 that was out of Utah, and I was with them
17 almost four years. They were a big 300 man
18 firm and they wanted me to have an office in
19 the Southeast, I guess because of my southern
20 accent. They didn't want me in Utah. But I
21 did -- I grew a lot in that and I learned about
22 maintaining and keeping my clients and bringing
23 in -- I brought in a small branch office and
24 doing the engineering that they liked to do
25 which they were very heavy in fiber optic and



1 wireless and switching.

2 Q: Okay.

3 A: So it complimented well for me. After Midstate
4 about four years into that I had two or three
5 fellow approach me and we started Palmetto
6 Engineering and Consulting and that's over 13
7 years ago now. But ---

8 Q: And that's where you currently are?

9 A: Yes, ma'am.

10 Q: And tell me about your experience at Palmetto
11 Engineering.

12 A: Well we started it with four people and I think
13 we're about 170 today so it has been a lot of
14 growth ---

15 Q: Yep.

16 A: --- and it has been a phenomenal experience.
17 We've gained many, many new clients. We've
18 stretched our engineering expertise. We still
19 do a lot of fiber optic cable and fiber to the
20 home has emerged as a very predominant way to
21 put cable in. We still have some copper out
22 there. We still some switching. Still -- we
23 do a lot more with -- than with wireless and
24 we're moving into the 5G wireless. You know,
25 data -- the pieces of it that were related to



1 data with the routing and things like that --
2 that was all part of it too. So it was a
3 pretty broad background and, you know, as CEO
4 I get my hands into a fair amount. I mean,
5 maybe 30, 35 -- a third of time probably. I'm
6 still actively involved in projects ---

7 Q: Okay.

8 A: --- and oversight and review of projects for
9 the staff that I have a responsible charge
10 over. The rest of the time is dealing with
11 personnel and your clients, either business
12 development or retention of your clients and
13 investing in your staff. But if you take it in
14 three parts it's about a third staff, a third
15 development and a third practicing engineering.

16 Q: Okay. And tell me about the types of clients
17 that you have there.

18 A: Well we have a lot of different kinds of
19 clients. We have big clients like AT&T,
20 Verizon Wireless. We have Century Link. We
21 have Unity Fiber which is basically an equity
22 offshoot of Windstream. We have intermediate
23 sized clients like Consolidated Telephone which
24 that would be a middle sized client. And we
25 have a lot of independent and rural clients



1 still to this day. We span the gambit from
2 working up in upstate New York with
3 Margaretville Telephone up in -- it's very
4 rural. We go across the Hood River to Oregon
5 and we work Oregon area for Century Link and
6 that's some beautiful area. East Texas,
7 Louisiana -- not Louisiana -- Mississippi,
8 Alabama. A lot in Tennessee. A lot of
9 cooperatives. I think our smallest customer is
10 a lady down in south Georgia and it's her and
11 her son and two employees and they have 500
12 telephone lines.

13 Q: Wow.

14 A: Down in south Georgia. But she calls us every
15 time she needs something. But so we go from
16 little bitty to AT&T.

17 Q: And do you have a lot of clients in South
18 Carolina?

19 A: Well, you know, we have -- we don't do the AT&T
20 work in South Carolina. That's predominantly
21 out in Missouri and Arkansas and Texas.

22 Q: Okay.

23 A: That area. We work more with the independent
24 companies here.

25 Q: Right.



1 A: And we work with several of them. There's some
2 consolidation that has gone on but still I
3 would say we have five or six in South Carolina
4 still.

5 Q: Okay. Is Farmer's one of those clients?

6 A: Yes, they are.

7 Q: Okay. Tell me what type of work you've done
8 for Farmer's.

9 A: It kind of spans three different companies.
10 Design South and then my time at Midstate ---

11 Q: Uh-huh.

12 A: --- and then at PEC. There was outside plant
13 and it has always been sort of a staple in
14 there as they were building outside plant
15 putting in the cables and the facilities to
16 serve to the customers. That moved more and
17 more and more toward fiber as I went through
18 those years. There was some switching that we
19 did as they moved into a new soft switch some
20 years ago, and then we've done some wireless
21 work with them. Especially we done some things
22 with mitigating lightening in their cellular
23 tower network where you did a lot more
24 grounding. We do a lot of that. Today they're
25 embarking on a big fiber to the home project



1 that's going to be very comprehensive and quite
2 ambitious to take the voice telephone services
3 deeper into their network and provide more to
4 their subscribers. We're involved in that
5 along with other engineering firm.

6 Q: Okay. If you had to give a percent of your
7 firm's overall revenue say in the last 12
8 months from Farmer's ---

9 A: Okay.

10 Q: --- is it -- how does that -- what's that
11 number?

12 A: If you did that sliding window backwards at 12
13 months we might have done 16 million in
14 revenue but Farmer's they're just now starting
15 up on their fiber again so we have a very
16 sparse time for many months. Maybe \$350,000 of
17 revenue.

18 Q: All right. Let's see. What about your
19 professional and community involvement?

20 A: Well, I mean, there's things that I do to give
21 back and pay things forward in the community.
22 I'm engaged in our church and over time as our
23 kids would grow up I was engaged in different
24 things. The Christian school. Served on the
25 Deacon Board of several churches. I like to



1 sing in the choir. We are very active in the
2 company in giving back in the areas where we
3 work. We try to engage with our clients in
4 those areas and do projects to give back.
5 Donate to the University. My wife and I have
6 a little scholarship fund we've started there
7 and we're giving back to the school.

8 **THE COURT:** What is the University?

9 A: It's Clemson, sir.

10 **THE COURT:** I don't know if I agree with you on
11 that.

12 **MS. GEER:** Your Honor, I ask that that be stricken.

13 **THE COURT:** What did you say, Ms. Geer.

14 **MS. GEER:** I asked that that be stricken.

15 **THE COURT:** Yeah, yeah.

16 **MR. CARTIN:** You can't impeach the witness.

17 **THE COURT:** Yeah.

18 A: But that kind of charitable event. We do most
19 of our giving we focus it through our church.

20 **MS. GEER:** Your Honor, we would tender Mr. Wyatt as
21 an expert in the field of telecommunications
22 engineering.

23 **MR. CARTIN:** No objection.

24 **MR. LUTHER:** No objection.

25 **THE COURT:** And so qualified.



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ROA 002238

1 Q: All right. Mr. Wyatt, we've had a lot of
2 definitions this week. I'm going to get a
3 couple out of you. What does the term
4 telephone mean to an engineer?

5 A: I'm an engineer. I'll tell you what it means
6 to me. It's a device used to communicate
7 between or maybe multiple parties over
8 distance.

9 Q: And what about the term telephone service?

10 A: Well that's all that's required -- all that's
11 necessary to provision the ability to do
12 telephone over a distance. Over -- so
13 telephone service would be communicating -- and
14 I maintain maybe a little broader view than
15 some -- communicating between parties over a
16 distance.

17 Q: How would a telecom engineer classify services
18 that are provided via landlines and wireless
19 phones? Is there any distinction there?

20 A: It's telephone service.

21 Q: Does the type of technology that is being used
22 factor in in any way to your definitions?

23 A: No. No, ma'am. It's agnostic. Really the
24 service is independent of the way you deliver
25 it.



1 Q: What type of services in your opinion fall
2 under the umbrella of telephone services?

3 A: Voice services are clearly that and that -- I
4 just said the media is irrelevant -- but
5 wireless or a landline would be that way. I
6 see -- there's some elements of data service
7 that I see that have voice in them and I'll
8 talk about that more at the appropriate time,
9 but there's a lot of blurring that's going on
10 between data and voice as you see all of these
11 new and marvelous technological innovations
12 come about. It causes some blurring but at the
13 end of the day to me voice services.

14 Q: Did you hear Mr. Moss's testimony that an
15 engineer in 1978 would not have understood a
16 telephone to be a wireless phone?

17 A: I did.

18 Q: And what is your response to that?

19 A: Well I don't agree. I'd understand in his
20 position being very clear about how that
21 understanding was his but there were a lot of
22 engineers in our industry that were already
23 planning the roll out and deployment of
24 wireless which was right on the heels of
25 emerging. You also have this huge robust



1 wireless network across the country that nobody
2 thinks about. It was the AT&T microwave
3 network.

4 Q: Tell us what that is.

5 A: Well it was envisioned in the '50s and
6 implemented in the '60s. It actually carried
7 news of Kennedy's assassination across the
8 network. It was working in the gigahertz range
9 between 5 and 8 gigahertz in that area, which
10 is a very high frequency for those days. AT&T
11 built the thing to be -- and you've got to
12 remember the times -- it was supposed to be
13 nuclear war proof. And so they had it
14 scattered and spread out and very hardened and
15 very strengthened to withstand electromagnetic
16 pulses. Because of the robustness of that
17 network and its capacity they were able to
18 carry TV signals across it, and a lot of
19 television broadcast was hauled across that
20 network for decades. In addition, even in the
21 earliest days if you had cross country data
22 transfers those would happen on that network.
23 AT&T was famous for taking all their landline
24 and aggregating it back at their big office and
25 then having a microwave horn that fed that



1 network, and they would use that -- it was a
2 wonderful segue between a copper wired network
3 and a fiber network. During this period AT&T
4 figured out we can use microwaves and that's
5 wireless. So there was a fair amount of AT&T
6 engineering going on with wireless. It wasn't
7 pick up the cell phone wireless but it was
8 still wireless.

9 Q: All right. And we've heard a lot of testimony
10 this week about minutes of use and bandwidth.
11 Can you tell me how a telecommunications
12 engineer would define those two terms?

13 A: Say it again? One was bandwidth, what was the
14 other?

15 Q: Minutes of use. Let's start with minutes of
16 use. I'm asking my own witness a combined
17 question. I apologize.

18 A: Minutes of use is a common term in the telecom
19 industry. It basically is a measure of
20 capacity. It is very important -- it may be
21 the most important measure of capacity -- when
22 your dealing with certain elements of the
23 network such as the switch, such as areas where
24 you think that there may be blocking because of
25 many people wanting to access fewer resources.



1 I can think -- cell tower radios come to mind.
2 Some elements out on the edge of the network
3 come to mind. Certainly the switch comes to
4 mind. Even in routing when you start talking
5 about Cisco and some of the noted -- when they
6 have premise routing or enterprise routing at
7 a business or a big university and they're
8 carrying voice over that router there is an
9 element of that engineering that also deals
10 with minutes of use. Or another way of looking
11 at that is -- there's like three terms for this
12 that are all the same thing. In the AT&T world
13 they called it centum call seconds, CCS. I
14 don't know why they did that and made it into
15 one hundreds. Maybe it's because we're a base
16 ten -- human beings are base ten. But they
17 would take hundreds of seconds and so in an
18 hour you would have 60 seconds to a minute and
19 60 minutes in an hour, you'd have 3,600 seconds
20 in an hour. Well then say 3,600 divided by
21 100, they would call that 36 CCS. I don't know
22 why they do things like that.

23 Q: Seems confusing.

24 A: It was confusing. I think it was a conspiracy.
25 But you had to know that in order to deal with



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ROA 002243

1 those folks. The Danish engineer, Mr. Moss and
2 his expert cited that in erlang. He figured
3 out a queuing method and it's dimensionless.
4 It's like a percent. If you're 50 percent the
5 percent has no dimension to it, and so if you
6 use the phone for 60 minutes continuously in a
7 60 minute hour that was one erlang. It was one
8 -- a hundred percent.

9 Q: Okay.

10 A: And that's basically what that was. But so
11 many people if -- especially European -- would
12 work in erlangs and then migrated here when we
13 started buying European switches. And so you
14 had to know erlangs, you had to know CCS, and
15 you had to know MOU and they're all three the
16 same kind of thing. It has to do with capacity
17 and blocking and time use of the network.

18 Q: Okay.

19 A: Now bandwidth.

20 Q: Yes.

21 A: All right. So it depends on the kind of
22 engineering you're practicing. If you're an RF
23 engineer -- radio frequency -- and you're
24 working with wireless stuff, RF is a measure of
25 how much spectrum is available. Let's just say



1 in a new spectrum auction they're going to
2 auction off 40 megahertz of spectrum. Less --
3 that's the bandwidth that's available. It's 40
4 megahertz. And these companies like Verizon
5 Wireless would bid on that and they're all
6 bidding on the same thing. It's an
7 understanding of that, and if you're in a
8 computer or data network world and you start
9 talking about bandwidth that's a through put or
10 a capacity where your talking about a bit rate
11 and I equate that more to velocity. It's like
12 your speedometer in your car. If you're going
13 60 miles an hour and you -- for an hour --
14 we'll you've went 60 miles. Your speedometer
15 told you the speed rate. Well likewise, if
16 you're looking at bit rates and it says you're
17 going to do one million or a megabit per second
18 and you do that for a second that's a million
19 bits. So it's a speed rate. It's also a way
20 to measure the capacity of something, if you
21 multiply it by time you know how much you have.

22 Q: Right.

23 A: Does that ...

24 Q: Yes. Is there -- so you talked about your
25 speedometer and driving down the road real fast



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ROA 002245

1 and that's how you're talking about bandwidth.
2 What's the comparison for minutes of use in
3 your car down the highway example?

4 A: Okay. So you're going to go for 60 minutes at,
5 you know, 100 miles an hour. You 60 minutes at
6 a 100 miles an hour that's an hour, guess what
7 you went 100 miles. And it's -- one person is
8 using minutes as a tomato and one person is
9 using bandwidth bits as tomato, it's tomato and
10 tomato. It's two ways of looking at the same
11 animal which is a telecom network.

12 Q: Now apply from an engineering standpoint when
13 you use minutes of use -- actually, I'm sorry,
14 let me back up. Tell me first, what purposes
15 would a telecom engineer use minutes of use
16 for?

17 A: You -- I'm going to talk a little bit about the
18 different elements of the network because as we
19 stated earlier -- and I agree with this -- a
20 network is a very complicated thing. We've
21 spent time in this room trying to see how very
22 complicated it is. But I equate it to a human
23 body. And so you're in a human body and
24 there's all these subsystems in the human body.
25 There's the cardiovascular system. There are



1 your brain and your spinal cord and that's
2 their central nervous system. Maybe there's
3 the lymphatic system. Maybe somebody is like
4 an osteo doctor and he's looking at and a --
5 maybe there's your bones. All of these systems
6 -- if I broke my arm and this doctor's talking
7 to me about my blood sugar that's really not
8 where he needs to be at the moment. And so you
9 have these specialties within the human body of
10 medical practice and the same thing has
11 happened and evolved in networks. You have
12 engineers and technicians who are into the
13 switch and more there. You have some that are
14 at on the edge, you have some that are into the
15 transport which is where the big pipes are.
16 When I'm talking about the fiber optic pipes
17 and things like that, I use bandwidth. That's
18 a great way to talk about that.

19 Q: What system is that comparable to in the human
20 body?

21 A: Well you're talking about maybe pressure in the
22 blood. I mean, the blood pressure in the
23 arteries. But when I'm in the switch I'm
24 talking more about time and the best example I
25 can probably give of that is when I leave



1 Piedmont and drive down to Columbia I get on I-
2 26 and I can go pretty fast. And when I get up
3 above Columbiana the road opens up and there's
4 more lanes and it's not nearly as crowded
5 'cause it's bigger. And I can almost tell you
6 to the minute how long it'll take me to get to
7 the split at Huger off of 126 if there's not a
8 big mess at the I-20 junction. I can tell you
9 almost to the minute it's going to take me
10 like, oh, 83 minutes. But when I get there and
11 turn on Assembly and try to come down past Lady
12 Street and Hampton and these places where
13 there's traffic lights that are switching
14 traffic and all these roads, I have to tell you
15 how many minutes it's going to take me to hold
16 to go through those lights 'cause I can't do
17 that math anymore. I'm waiting on that
18 switching fabric. I'm waiting on that grid for
19 those lights to switch me through. And that's
20 a great place to talk about time. That's why
21 people that live in a big town say it'll be 20
22 minutes before I can get there. And people
23 that live in the country say I'll be -- it's
24 just two miles, I'll be there in just a minute.
25 They don't -- so they can count it that way.



1 Anyway, switching fabric as it relates to
2 transport network that's a very good analogy
3 for that. It's helpful to be able to talk in
4 both. Just like it's helpful to be able to
5 talk about erlangs and CCS and MOU. It's very
6 helpful to be able to understand that. The
7 common denominator to me -- and we've left this
8 out completely in this whole discussion -- but
9 it's the most important link that we haven't
10 discussed is this piece between the human
11 being's ear who's your customer and that
12 headset. That's the big link. And when people
13 talk and as long as human beings can talk and
14 they have to listen -- they don't have some
15 implant that takes the bits and bytes into
16 synaptic impulses -- as long as we have to
17 process information like this that takes time.
18 And humans take time to communicate. And so
19 time will always be a very important aspect of
20 a network. That's why I believe minutes of use
21 is very relevant. I don't think that thing's
22 going away.

23 Q: So the Farmer's engineers what do they in their
24 network need to use minutes of use for?

25 A: Well to the extent that they engineer switches



1 or they have to go out and -- in their case
2 today -- order trunks from another company
3 where they're leasing the switch fabric ---

4 Q: Uh-huh.

5 A: --- they need to know if they're going to be
6 blocking or not blocking on those trunks, and
7 one of the best ways to do that is with time.
8 And so maybe they're out on their cellular
9 network and they've had a lot of traffic in an
10 area or maybe there's some traffic around the
11 football stadium on Saturdays and it's really
12 messing up the ability to place the call,
13 having the knowledge of those busy spots, those
14 growing spots, those high activity spots, you
15 apply these time calculations in the devices
16 there to make sure that you don't get block,
17 that you can have plenty of links or trunks and
18 capacity. I'm just thinking maybe out on the
19 edge of the network where you have one of these
20 carrier boxes that was shown in the picture the
21 other day. That thing is dependent on how much
22 comes into it and you don't want to be blocked
23 there either. So those are three examples.

24 Q: Okay. Would Farmer's have needed to use
25 minutes of use to create or design their



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ROA 002250

1 network?

2 A: Most of these networks -- I guess the short
3 answer is yes. But most of the short -- these
4 networks are from inception. They were created
5 and planned with minutes of use around their
6 switch so an engineering team would come in
7 there and look at the area to be served. They
8 would look at the population in that area of
9 subscribers. The people that would be of an
10 age to call on the phone and they would start
11 looking at how many people might call in a time
12 because that's when it's most busy. Nobody
13 buys lunch at McDonald's at 4:00 p.m., okay?
14 The busy time at McDonald's is 12:00. And so
15 you have to provide for that at the busy time.
16 Well in the switch world, or in a telecom world
17 -- let me say it that way -- the high day in
18 America is Mother's Day. And the busy hour if
19 you're going to do the peak busy hour in
20 America is somewhere between 2:00 and 4:00
21 o'clock. So Mother's Day between 2:00 and 4:00
22 most people are gonna call mom. And that's
23 what most switches in America are designed for
24 is high day peak busy hour. And that's the
25 term. And once you figure out how many people



1 to be placing calls and you've got some idea of
2 average length of call you can figure out how
3 may minutes are going to be in that switch and
4 then you can figure out how many trunks it will
5 take to serve it. You also use these kinds of
6 metrics on the edge of the network where you
7 may be going down a country road and you want
8 to put fiber in and there may be four people
9 that live on that road. Well you'll want to
10 know what size fiber to put in for them. And
11 so you'll engineer that based on population,
12 based on availability 'cause you want to have
13 the facility available. There's a lot of
14 functions that go into this, ma'am, but
15 certainly minutes of use is very important one.

16 Q: So when we're talking about switching maybe if
17 you could describe a little bit for us how the
18 switching actually works and what is hitting
19 the switch.

20 A: Sure I'll be able to. I don't know if it'd be
21 appropriate for me to draw that or not.

22 Q: Sure.

23 A: I don't know if we could do that.

24 **MR. CARTIN:** We could use the Elmo. Whichever's
25 easier.



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ROA 002252

1 Q: Would you rather use Elmo and draw on a piece
2 of paper up there or would you rather use the
3 easel?

4 A: Can I draw on that thing over there for y'all?
5 Do you mind?

6 Q: I just need to get a piece of paper for you,
7 yeah.

8 A: Well let's do that.

9 Q: Yeah.

10 A: I don't want to see you put that easel up
11 again.

12 Q: I didn't do a good job.

13 **THE COURT:** If you make it -- I don't know if you
14 have to use the Elmo. See if you can draw on
15 the screen right now.

16 A: This one?

17 **THE COURT:** Yeah.

18 A: Oh, we're in business.

19 Q: Wow. Technology.

20 **THE COURT:** Now you can erase it.

21 A: Now how do I erase that?

22 **THE COURT:** I think you have to hit the arrow
23 button.

24 **MR. CARTIN:** It may be a permanent mark.

25 A: Okay. So the eraser's down on the bottom



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ROA 002253

1 right.

2 **THE COURT:** Well you've also got clear.

3 A: Fantastic.

4 **THE COURT:** All right.

5 A: We're in business. All right. So we're gonna
6 make a shot at this. Let's just say that in a
7 ---

8 **THE COURT:** You can switch up your tools too, as you
9 see.

10 A: Yes, sir. I'm gonna give it a shot at this one
11 right here. Let's just say you're in this --
12 this is gonna represent a switch and it's gonna
13 serve this area. And I want to show a little
14 handset that's at home. That's horrible but
15 I'm gonna show it that way. And there's a
16 connection into the switch for that. And I
17 might show a little handset over here for that.
18 This customer might dial the customer on the
19 top right's phone number.

20 Q: Okay.

21 A: And that would travel through this switch. It
22 would interpret through a series of selections
23 if that was something that was a long distance
24 call, if it was something that was gonna be in
25 a local network, if it was gonna be served from



1 another device. And it would set this call up
2 to the other person. The way our systems do
3 now is they set the call up. That's why you
4 can get things like calling name delivery and
5 you know who's calling you. 'Cause it's
6 already giving you the data before it completes
7 the call and then the call comes through and
8 you're able to talk on it. Now if you just
9 multiply -- and this is my technical term for
10 it -- all the goesintas (sic) to all the
11 goesoutas (sic) -- and so there's a lot of
12 goesintas and goesoutas in a switch. That's
13 what it does. So if you looked at that and you
14 said okay, and then maybe in this world there's
15 a cell tower. This is very ambitious. I'm
16 gettin' fancy now. And so you got the little
17 cell tower and there's a customer over here
18 that comes in and that's his little cell phone.
19 That call -- if it wanted to call up here to
20 this customer -- that call he would dial the
21 number, it would go through into the cell tower
22 radio and travel down the weight guide -- or
23 you may want to call it coaxial cable -- it'll
24 travel down that path to the foot of the tower,
25 a little conversion box there that goes from



1 electrical to probably optical in this case and
2 it's in the fiber network. Ultimately, -- and
3 this is an oversimplification -- that lines
4 gets back to that cellular switch right there.
5 I need one of you. It'll go to that cellular
6 switch and ultimately it'll be switched into
7 this landline switch because he's gonna serve
8 over here and that call would complete. So in
9 this little example there's a cellular switch,
10 there's a landline switch and 'cause he's
11 calling from a wireless phone to a landline
12 phone. What if there was another wireless
13 phone? He would go into that cellular switch
14 and complete over there to that. It wouldn't
15 -- other than the back haul to these switches
16 into this cell tower 'cause that's how that
17 would work. It goes into the cell tower and
18 then there's a radio wave to that. That's
19 right. I've got to erase that little piece
20 right there 'cause that ain't right. There you
21 go. That's how that would work. Is that what
22 you're looking at?

23 Q: That is. And so what type of traffic is
24 hitting the switch?

25 A: Well both switches have voice traffic hitting



1 them.

2 Q: Okay.

3 A: And both switches have voice traffic hitting
4 them. In the scenario where the landline to
5 landline, that landline switch is carrying that
6 voice traffic, or routing that voice traffic
7 through. If it's wireless to landline it hits
8 the wireless switch, ultimately ends up on the
9 landline switch and it goes on over and
10 completes. If it's wireless to wireless it
11 goes through the wireless switch but they all
12 three handle the voice traffic that way.

13 Q: Okay. Anything besides voice hit the switch?

14 A: Well there is a little bit of text messaging
15 that goes through that hits that switch and
16 it's treated like a voice circuit. SMS, the
17 messaging service, hits that and it would -- it
18 is carried through so you can see some of your
19 text messages that way.

20 Q: Okay. What about if my boys wanted to play on
21 PlayStation. Talk to -- they get on their
22 headsets and they talk to their buddy down the
23 street while they're playing their games? Does
24 that hit the switch?

25 A: It can. Yes, it would.



1 Q: Okay.

2 A: You can see the PlayStation hit the switch. If
3 he's at the house there may be an element of it
4 where he's talking but more times than not this
5 network strips off -- I'm using the eraser
6 right now -- more times than not this network
7 moves that big data -- ooh, that's a good one
8 -- off 'cause we're using this SIP, session
9 initial protocol. A lot of this is carried in
10 a consolidated fashion, but it'll all be
11 carried over the same fiber optic cable but it
12 may be treated -- it may not move through the
13 switch, it may move through a data router. And
14 if they're playing a game they're probably
15 buying that game from some provider that's off
16 the system -- off this Farmer's network. They
17 may be in Chicago. And so it would probably
18 have to move off the system to get to that data
19 session. I mean, especially if these guys are
20 gaming with a whole host of other people
21 there's a high likelihood that that's all
22 moving off the network.

23 **THE COURT:** And when you say moving off the network
24 that would be the data and the voice?

25 A: You know, Your Honor, sometimes these kids have



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ROA 002258

1 little headsets on and they can play their
2 video game and talk to each other while they're
3 doing it. And that voice is actually embedded
4 in that stream.

5 **THE COURT:** That's what I was asking.

6 A: And it's -- that's goin' off too.

7 **THE COURT:** Yeah.

8 A: You want me to clear this? I don't want you
9 looking at my sorry artwork too long. Which
10 one looks like -- here it is, says clear.

11 **THE COURT:** It's at the bottom left.

12 A: Yeah, good deal. I like this.

13 Q: All right. And when you were talking earlier
14 about using minutes of use to design or build
15 a network I wasn't a hundred percent clear.
16 Does that apply to both landline and wireless
17 networks?

18 A: It does.

19 Q: Okay.

20 A: It does.

21 Q: Could you build a voice network if the only
22 information you had was bandwidth?

23 A: I wouldn't want to do it and then the reason
24 might be without a really good measure of
25 what's happening at the handset to the



1 customer's ear and what's moving through the
2 switch fabric in time. I would try to over-
3 engineer it so that it wouldn't fail. And I
4 might -- it might not be a very efficient
5 network. It might be totally inaccurate for
6 that. Now there's parts of it that I would use
7 bandwidth on and there's parts of it I
8 definitely would use minutes of use. That
9 switch is a very important part of that network
10 so I -- it has a lot to do with it.

11 Q: And which part would you use the bandwidth for?

12 A: Let's say I had a fiber optic cable that I was
13 tying between offices and I really needed to
14 take this data somewhere, I'd want to make sure
15 that that fiber optic cable could carry that
16 data and all that bit stream out. It's just
17 like I'd want to make sure that I-26 had enough
18 lanes to get me down here.

19 Q: Right.

20 A: When you get into town and have to deal with
21 the red lights that's a whole different animal.

22 Q: And I'm just -- this is -- I don't know if this
23 is the best time for this -- but I want to
24 understand -- we've looked at the copper and
25 the fiber. What can -- tell us about the



1 capacity of these two. How does it compare?

2 A: It's really no comparison. The copper I will
3 say as a testimony to technology that we've
4 been able to do as much with copper as we've
5 been able to do with it. When you start
6 thinking about the digital subscriber line
7 modulation -- which that's a carrier frequency
8 -- on top of the voice you get a real high
9 frequency that rides on that same copper pair
10 and it will carry your data, and that's what
11 we've been doing for some years now to make 2,
12 3, 4, 5, 8 megabits of data available in short
13 distances. The problem with that, the physics
14 behind that is that high frequency attenuates
15 in copper wire really fast. And so the best
16 you can do -- best you can do with that is
17 maybe get out 26,000 feet and you can get some
18 bandwidth there. I -- most of the time you see
19 that stuff inside of 10,000 or 12,000 feet and
20 it works much better when it's inside of 5,000
21 feet. So it's a very -- the closer you are to
22 the office ---

23 Q: Uh-huh.

24 A: --- the better that DSL frequency will carry
25 bandwidth. These days people want more and



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1 more services with their voice service. They
2 want to have higher speed internet. They want
3 to have television. The copper wire is really
4 being taxed to meet all those obligations and
5 so fortunately fiber optic cable -- I don't
6 think that the theorists even have a capacity
7 ceiling on it yet -- it's still considered to
8 be an infinite medium. The only thing that
9 limits its capacity -- the only thing -- is how
10 flat bass we can flutter that laser on and off
11 and how many prisms we can put in that thing
12 and split the colors. So we can put --
13 everybody gets a color. You get a blue color,
14 you get a red color, you get a green color.
15 And that has happened and so between the
16 wavelength division multiplexing -- which is
17 the prism -- and cutting the laser light on and
18 off -- which is the flicker -- you're seeing
19 laser systems in labs now looking at 100 gig.
20 You're looking at really fast systems. If you
21 took a 100 gigabyte -- I mean gigabit -- per
22 second system ---

23 Q: Yeah.

24 A: --- and you wanted to download a two hour HD
25 movie, those things are 3 to 4 and a half



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1 gigabits -- gigabytes. If you wanted to
2 download that you're talking less than half a
3 second. If you took the total Library of
4 Congress -- and there's some debate about how
5 big that is and it's always growing -- but one
6 good metric on the Library of Congress file
7 size is 200 terabytes which is a lot -- if you
8 put that on a 100 gigabit per second circuit
9 you could download the whole Library in a
10 little over 4 and a half hours -- right at 4
11 and a half hours. That's the whole Library.
12 The capacity on the thing is amazing. And not
13 only is the capacity amazing, the ability to
14 carry that laser light, that laser light does
15 not attenuate like electricity especially high
16 frequency electricity does in the copper wire.
17 So back in the day when they were using this as
18 a T carrier, Your Honor, you might take
19 something like this and say we're gonna
20 designate a carrier system and then build it
21 and we're gonna take two of those pairs, or
22 four wires, and we're gonna put some special
23 treatment on that and run some special high
24 frequency on that. And because we've got that
25 carrier set up we can actually use four of



1 these wires, two pair, to make 24 voice calls,
2 voice channels. Well that's really good but
3 every -- if you used a 22 gauge wire Bell says
4 you can go 6,000 feet before you have to
5 regenerate the signal. Most of the independent
6 companies had a 24 gauge which is a finer wire
7 and RUS said you can only go 4,500 feet. So
8 about every 4,500 feet you used to see the
9 stainless steel looking pot on the side of the
10 road and that was a repeater housing and that's
11 where they regenerated the signal for this.
12 Another name for repeater housing is lightening
13 drawer 'cause it would draw lightening and it
14 would -- so you were spending all your time out
15 in the field repairing all the electronics that
16 got hit cause the copper wire and the
17 lightening don't go well together and it was.
18 Fiber is an optical signal in glass which is
19 actually electrically neutral and you don't
20 have nearly the problems with lightening and
21 plus you can put a laser on that and you can
22 send 20 miles. If you put Erbium doping in it
23 the amplifiers in Erbium dope fiber amplifier
24 you can send it 40 miles. So there's lots of
25 things you can do with the fiber that -- before



1 you regenerate the signal. So 40 miles versus
2 4,500 feet and lightening proof basically.
3 There's a lot to love about fiber optic cable.

4 Q: Al right. So you started talking a little bit
5 about how you would use minutes of use for
6 maintaining a system. Did you see the reports,
7 the ISUP report that Erwin referred to?

8 A: I saw it, yes.

9 Q: So from an engineering perspective what is he
10 using that report for?

11 A: Well he's taken -- that ISUP report is that the
12 one that had the minutes of use on it?

13 Q: Yes. Would you like to see it?

14 A: Yes, please.

15 **MR. CARTIN:** All right. So I think it's 179.

16 **MS. GEER:** 179?

17 Q: There we go.

18 A: Okay. What were you gonna ask me about?

19 Q: My question is from an engineering standpoint
20 what is Farmer's use this report for as far as
21 maintenance goes?

22 A: Well they're measuring, or capturing, minutes
23 usage for these various trunk groups. That far
24 left column is a trunk group and their total
25 minutes of usage is shown there. They're



1 showing calling attempts, terminated attempts,
2 originating attempts, and they show the number
3 of trunks in their sector. So what would
4 happen with this is if -- you would use this as
5 one piece of information as you were planning
6 sizing for adding more trunks to your network.
7 You'd certainly look at something like this.

8 Q: And would you -- would this be the same way you
9 handle a wireless system or is there anything
10 different?

11 A: I saw that. I saw that wireless minutes of use
12 report too. Those -- they've derived reports
13 on those radios at almost every radio site they
14 derived that report. So you can tell if that
15 radio is being stressed by the amount of
16 traffic that's going through it.

17 Q: Uh-huh.

18 A: And for some of the reasons I said earlier you
19 may see situations where traffic flows into an
20 area and really stresses a radio. You know,
21 you can go into an area and the radios are full
22 and you'll drop your call and so you don't want
23 that. I mean, I know that cellular is -- we've
24 pretty much conditions the public that it's not
25 as reliable as the landline but it's pretty



1 reliable these days. A lot better than it used
2 to be. And you don't like to see calls dropped
3 because their radio's full, the spectrum is
4 being used.

5 Q: Do you ---

6 **THE COURT:** This is Exhibit 157?

7 **MS. GEER:** I think it's 179.

8 **THE COURT:** Oh, okay. I've got the wrong one. You
9 said you would use this information to design
10 the number of ---

11 A: Trunks.

12 **THE COURT:** Okay.

13 A: So, Your Honor, the trunk is a term that's
14 basically it's a derived channel. It's a
15 digital equivalency of what used to be in the
16 analog world, but most of your access into and
17 out of your electronics are driven through a
18 trunk. It's a digital feeder.

19 **THE COURT:** I got it. Sorry for interrupting you.

20 **MS. GEER:** No, thank you, Your Honor.

21 Q: All right. And do you have an opinion to
22 reasonable degree of certainty in the telecom
23 engineering field as to whether minutes of use
24 or bandwidth better measures the use of the
25 network?



1 A: If I had to choose one I would stick with
2 minutes of use. We know that that works, it's
3 been used for years. And I would hate to have
4 to just rely on bandwidth alone to design my
5 network.

6 **THE COURT:** What was your question again?

7 **MS. GEER:** I asked him if he had an opinion to a
8 reasonable degree of certainty in the telecom
9 engineering field whether minutes of use or
10 bandwidth better measures the use of a
11 telephone network.

12 **THE COURT:** Your answer fit more to the designing of
13 the network. Can you answer her question?

14 A: About maintaining, sir?

15 Q: About the use. We were wanting to look at the
16 use of the network. So in your opinion ---

17 A: Oh, utilization of the network as far as how
18 it's used?

19 Q: Yes.

20 A: I still go back to my thought, Your Honor, that
21 it's all about the time that a human talks on
22 the phone. That is the limiting factor is the
23 time a human talks on the phone, and you have
24 to build your network for that usage. And so
25 when you start talking about maintaining a



1 network, adding to a network or people --
2 subscribers -- using the network, minutes of
3 use is still the defacto best way to do that.
4 Did that answer it better?

5 Q: Tell me this, what -- how did the Farmer's
6 network -- what did it start off being?

7 A: I wasn't there. I don't think any of us were.
8 But it started off being a voice telephone
9 network, and it was copper wires and very
10 primitive older switch. Electro mechanical
11 probably.

12 Q: And in your opinion does it continue to be a
13 voice telephone network?

14 A: Yes.

15 Q: And why do you say that?

16 A: You know, if it's fiber optics and you've got
17 advance routers that can handle voice and
18 internet and video and all kinds of things
19 maybe to come that still hasn't changed the
20 function and the core purpose of that network
21 which is to allow people to communicate over
22 distance and that's voice telephony is a huge
23 part of that. And so I'm still saying the more
24 things change the more they stay the same.
25 That's still a voice network.



1 Q: Have you term the five nine's of reliability?

2 A: I have, yes, ma'am.

3 Q: What is that?

4 A: Well it's hard to build sometimes I can tell
5 you that and it's hard to keep and it's
6 expensive. But really it's a term that's been
7 used and it's been mandated actually by FCC and
8 other bodies to drive carriers toward really
9 improving the reliability of their networks.
10 So the five nine's I heard it said it was
11 99.999 percent. I get that when I get the
12 percent out of and do the math it's a zero and
13 decimal point and five 9's behind the decimal
14 point. So if you start looking at that and say
15 what does that mean, George? One one hundred
16 thousandth of the time that network's down. So
17 if you take all the days in the year and you
18 say well there's 24 hours in a day and then you
19 took 60 minutes in an hour and then you
20 multiplied it by one one hundred thousand it's
21 like 5.27 -- it's 5 -- a little over 5 minutes
22 a year that the network's down which is pretty
23 amazing when you consider hurricanes come
24 through and knock out people. That's -- to
25 build a network to that level of reliability is



1 important if you're providing lifeline
2 services.

3 Q: Uh-huh.

4 A: And people have 911. And that's really a big
5 deal. You don't want your network down and you
6 run your car in the ditch or somebody's having
7 a heart attach and so governing bodies know
8 this and they've seen it and they've mandated
9 the reliability on top of the voice network.
10 That's really what it is.

11 Q: So that's mandated. You can't choose whether
12 you're going to build your network to that?

13 A: No, ma'am, you can't choose. You have to
14 submit reports to the FCC about your outages if
15 they're over certain limits.

16 Q: Did you hear Mr. Erwin's testimony on the
17 priority hierarchy in the Farmer's network?

18 A: When you start putting many things on your
19 network -- and I understand why you need to do
20 that -- you have to assign who goes first. And
21 because there is lifeline and that matters you
22 really don't want somebody watching Game of
23 Throne and mommy can't call the hospital for
24 911 so you have to put it in the proper order.
25 The proper order has always been -- and I don't



1 see any movement afoot to change it -- that
2 voice is first, data moves second and
3 television is third and that's generally
4 understood.

5 Q: And did you hear -- there was a question asked
6 the other day about whether Farmer's switches
7 have crashed while Mr. Erwin was there and he
8 said no they haven't. Does that mean that
9 switches don't crash? Has that happened?

10 A: That means Mr. Erwin's been very fortunate to
11 survive three hurricanes and a flood without a
12 crashed switch is what that means. But, no,
13 ma'am. I'll tell you what comes to mind is
14 perhaps the best example of people in this room
15 would know would be 9/11. When those buildings
16 came down those switches crashed because
17 everybody was calling, trying to figure out.
18 And that's more connections than high day peak
19 busy hour Mother's Day I promise you. And so
20 you'll have events like that. You hear about
21 where there's earthquakes in areas or there's
22 a comet in the sky or there's a plane crash
23 nearby. Things trigger that. Radio call in
24 things. You'll have it small areas. The idea
25 that the network doesn't fall down is wrong



1 thinking. It's -- elements of that network can
2 fail and do fail. I don't care if it's a radio
3 tower out on the edge that is passing calls
4 because it's full or if it's a fiber link. I
5 mean, I heard testimony that cables get cut
6 every day. The best cable locating tool I've
7 ever seen is a backhoe. It finds it almost
8 every time. And cables get cut constantly.
9 Electronics get hot and they fail and even
10 though where there's a great deal of redundancy
11 in these systems sometimes when you're out on
12 the far edge of it and the DSL can only carry
13 so much through this copper and somebody wants
14 to watch two of these IPTV streams maybe one of
15 them doesn't get to watch their show that
16 night. So bandwidth is not as plentiful on the
17 edge, it can be scarce. Which is one of the
18 reasons that the Cooperative is building fiber
19 optic further out in their network. They want
20 to help that problem. But there are failures
21 and it doesn't necessarily have to be a mega
22 switch controlling the whole network. It can
23 be a node out here that only governs 1,000
24 people or a cell tower that only covers 300 but
25 these pieces fail occasionally. It just



1 happens.

2 Q: And what is the cause of -- for example if I'm
3 on my phone and I'm trying to download a video
4 that somebody sent me and it just buffering,
5 buffering, buffering -- what does that mean has
6 happened?

7 A: You're on which kind of phone?

8 Q: I'm on an iPhone.

9 A: Well you may be in a network area that's full.
10 The radio may be full right then. Or it may be
11 something in your phone, you may need to reboot
12 your phone. But the reality of it is that that
13 buffering thing happens a lot and sometimes
14 it'll come back and say would you like to
15 change the format because you're looking at it
16 at a really rich video pixelation of HD or
17 something like that and it may want to just tap
18 the brakes on that and govern it back to make
19 it complete. I remember when we had dial up
20 modems and it took forever to download a file.
21 I remember that little circle doin' that thing.

22 Q: Right.

23 A: But to your point what were you tryin' to say?

24 Q: I'm just talking about other interruptions in
25 service and what's the cause of it. Is there



1 -- on the system -- for example when I drop a
2 call on my cell phone or when I can't get a
3 call to go through on my cell phone what's
4 happening with the network in those situations?

5 A: It could be several things. There could be
6 catastrophic failures because of cuts or
7 equipment. There could be capacity issues
8 where something is being blocked. There could
9 be prioritization issues where the most
10 important things are going through and your in
11 queue behind that and you're having to wait
12 your turn.

13 Q: So you've told us that your opinion is that
14 minutes of use is the right measure of this
15 network. Do you have an analogy that can help
16 us understand better why you think that minutes
17 of use is a better measure?

18 A: Yeah, I think -- yes, I think I do. I can give
19 you one. I might try my hand at drawing on
20 this thing again.

21 Q: Okay.

22 A: Using this screen has really constrained my
23 amazing artistic ability I'll just tell you
24 know. All right. So one of the things I see
25 in this room and it's a fundamental thing when



1 you talk about tomatoes or tomatoes are you
2 better off if your talkin' about apples and
3 oranges. Some folks want to talk about
4 bandwidth and how important that is, others
5 want to talk about minutes of use with the same
6 sense. This is how I see that. I look at
7 what's happening in networks, rural telephone
8 networks. Specifically the Farmer's network.
9 And all of you can relate to a five gallon
10 bucket. I mean, you all know what this is.
11 You may have even carried one. But if you say
12 that this network is a five gallon bucket and
13 it was built with sturdy walls and a solid
14 floor and a heavy gauge handle, and let's just
15 say voice would represent by rocks and so
16 you're putting rocks in this bucket. These are
17 not round rocks, some are bigger than others.
18 That's not a tiger paw I promise.

19 Q: It looks like one.

20 A: I was headed there.

21 **THE COURT:** We're going to make you hit erase if you
22 do that.

23 **MR. CARTIN:** You named my objections.

24 **THE COURT:** I've got the override button.

25 A: All right. So you've got some rocks heaped in



1 this bucket. Probably as many as you could put
2 because you're carrying these rocks and those
3 represent voice. Now somebody really smart has
4 come along and said we can pour some sand in
5 the bucket, we still have a little room in the
6 bucket and they pour some sand in there. And
7 not only that they shake it so that the sand is
8 gonna be denoted by these colored in areas.
9 And the sand can come in and fill every void.
10 Really if you do it right the sand just
11 completely -- I mean, I'm not gonna color all
12 of them for the same of time and 'cause I'm
13 gettin' tired of this screen, but you
14 understand my point. And the sand that's
15 coming in here it's a smaller thing and it's
16 filling it up so that's data. Let's talk about
17 little bits, bits of data. And here's rocks of
18 voice. All right. So this is built to be a
19 rock bucket and it's carrying some sand and it
20 can carry a lot of sand and what has happened
21 is that some really smart people have figured
22 out how to count the sand down to the
23 individual grain. And somebody did an analysis
24 of this and poured it all out and counted it
25 and there was a million grains of sand in that



1 bucket. A million. That's a lot. And we got
2 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 rocks. And
3 so what's happening today is people are saying
4 well we've got a million grains of sand and 11
5 rocks. That's one million and 11. 11's a
6 really small percentage of all the stuff we're
7 carrying. But if you weigh that bucket those
8 rocks weigh a lot. I would argue they weigh
9 more than the sand. Now what's getting ready
10 to happen in our country is we're finding sand
11 that's finer and finer and smaller and smaller
12 in grains. Instead of a million grains of sand
13 next year we're gonna put ten million grains of
14 sand in the same bucket. Still 11 rocks.
15 We've got ten million grains. Guess what we're
16 gonna have a hundred million grains of sand in
17 that bucket and 11 rocks. But you know what
18 it's still a bucket that was made to hold the
19 rocks. It's still hauling all the rocks and
20 the rocks still weigh more than all the sand.
21 I think I just made the case that this is voice
22 network. Mr. Erwin said it's a bulldozer
23 that's pushing through and clearing the way.
24 The five nine reliability pretty well mandates
25 the quality of the network to be built, and



1 it's really nice that we have a good sturdy
2 bucket because we can put a little sand in it
3 too. In fact, we can put a lot of sand in it,
4 but let's don't forget the rocks while we're
5 haulin' it around. Does that help?

6 Q: That helps.

7 A: Okay.

8 Q: Can you talk to us a little bit about
9 availability and the important of availability
10 or accessibility?

11 A: Well, yes. You know, that's the thing that
12 really hasn't been addressed well or a lot.
13 But what's more important having the phone
14 where you can talk on it every day or having
15 the phone and you don't ever use it except when
16 you're havin' a heart attack. And I -- and
17 somebody would argue that, you know, I just
18 keep this phone in case I need it. That same
19 person still pays their phone bill every month.
20 They obviously see value derived from having
21 the phone even if they don't use it 'cause they
22 -- the availability has value. Now it may not
23 have impact on the rock bucket. Maybe there's
24 some rocks out there we ought to put in it.
25 Availability rocks. But I don't know how to



1 project that. But it doesn't need to be lost
2 on the core that availability has value and is
3 important to Farmer's Telephone subscribers.

4 Q: And is that -- how is that reflected in the
5 chart we saw with minutes of use and bandwidth.

6 A: Ma'am, I don't think it is reflected. It's
7 just not up there. If you don't use the phone
8 you can't hardly measure what you don't use and
9 so it's hard to disprove a negative too. But
10 I'm telling you there are people in that
11 telephone cooperative that have phones that
12 don't use them except for certain very limited
13 things.

14 Q: And from an engineering perspective let's say
15 you have a network where a lot of people are in
16 that category. There's a lot of people that
17 are only using their phone in emergencies. Are
18 those assets that build that network still
19 being used for telephone service even if people
20 aren't using it very much?

21 A: Absolutely. You know, a parachute is just like
22 that. And people get in these planes and they
23 have a parachute. When that plane stops
24 they'll tell you how much that parachute's
25 worth.



1 Q: All right. I want to look at some boards.

2 MS. GEER: Your Honor, would you mind if I had the
3 witness come show us a few things on this
4 board?

5 THE COURT: Uh-huh. Step around.

6 A: Yes, sir. I brought a little pointer. I don't
7 know -- I'll try not to blind anybody with it.
8 If you don't want me to use it I won't. This
9 may help though. Can everybody see? Okay.

10 Q: All right. So I've put up is a board with a
11 depiction of a local call, and I want you to
12 just walk us through how a local would travel
13 the network.

14 A: Yes, ma'am. In your depiction -- in this
15 depiction here -- you have two customers, one
16 and two. And they both are served out of the
17 Scranton office. It appears that they have one
18 of those little carrier boxes which is I'm
19 gonna say has taken the fiber optic here even
20 closer to them. That's very common, they have
21 hundreds of those things. And this last little
22 bit would be copper in this example. But
23 customer one is gonna customer two so he
24 basically picks up the phone and the network is
25 sensing this. He starts dialing and it's



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1 sensing what's going on. It's setting the call
2 up for him. It hits the Scranton office and
3 the Scranton office basically has to go to this
4 gateway to be switched and served and so it has
5 to travel here to North Kingstree and then up
6 to the Kingstree gateway where the call
7 completes and goes out this way to the customer
8 and finds the customer over here. They're both
9 served off the same Scranton office and so it
10 goes out that way right there. And what is
11 that -- that's one link down, two links to the
12 office, three goin' back, four goin' back.
13 That's a four link hop.

14 Q: Now I want you to walk us through a long
15 distance call.

16 A: Okay. There's customer three. So customer
17 one's gonna call customer three.

18 Q: Okay.

19 A: Customer one lives at Scranton, he sets his
20 call up, it flows from Scranton to his gateway
21 'cause that's where everything is addressed for
22 him in Scranton, it's all pushed to the
23 gateway. This gateway knows he got to move
24 this over into a long distance call so the
25 place where you get your interexchange carrier



1 is over at this tandem in Sumter. So North
2 Kingstree uses this G link and goes over to the
3 tandem and it picks up and interexchange
4 carrier -- maybe you're using AT&T or someone
5 like that -- but it picks up an interexchange
6 carrier Farmer's long distance somebody and it
7 carries it because he knows the call has to
8 complete down here to this guy in Pocalla and
9 Pocalla is basically served or fed through this
10 North Sumter gateway. It zips that thing up to
11 North Sumter and it says, okay, now we gotta go
12 to Pocalla so it comes down this link right
13 here, goes to Pocalla and completes. Now this
14 other side of this path is interesting 'cause
15 when the customer's going back that's actually
16 the way this switch is -- I mean, the way this
17 system is set up with their SIP technology.
18 That's the return path call. There's bandwidth
19 reserve here for this side and that side. 100
20 kilobits here and 100 kilobits there. Actually
21 if you combine that for the whole voice call
22 there's 200 kilobits on that voice call and
23 that's the way that system works. So if you
24 count those links, let's do that, 1, 2, 3 going
25 out and then he's gotta go 4, 5, 6. That's to



1 reach here, and for it to go back 7, 8, 9, 10,
2 11, 12. There's 12 hops on this complicated
3 in-system long distance call.

4 Q: How does it differ if you've got -- these are
5 landline calls, correct?

6 A: Yes, ma'am. That's a landline call up there.

7 Q: Okay. What would change if it's wireless, and
8 you can use either of the boards that make
9 sense?

10 A: Well if that were wireless you're dealing with
11 a different switch. Depending on if the
12 wireless -- so when this thing gets switched it
13 moves off system.

14 Q: Right.

15 A: Let's just say that there were a wireless tower
16 right here and the customer was hanging off
17 that tower, okay. He had a little cell phone
18 to the tower. The tower still feeds into this.
19 It still goes to it and does a lot of the
20 stuff. When it finally goes and gets switched
21 it goes to the AT&T switch which depending on
22 which part of Farmer's territory it's in that
23 AT&T switch either lives in Columbia or the
24 Columbia ladder, the 803, or it lives in
25 Charleston for the Charleston LATA. So AT&T



1 has to know whether to route to the Columbia
2 LATA or the Charleston LATA so it does that.

3 **THE COURT:** If you're doing data transfer as opposed
4 to voice does it go through the same ...

5 A: Data will move around this ring, Your Honor, in
6 a very similar fashion because of that SIP
7 protocol. It'll move around this ring. The
8 difference is maybe that it's not switched now
9 in going through a voice switch, but if you had
10 a 1 gigabyte session -- like a gigabyte of data
11 moving between people -- it would follow the
12 path that these routers are forced into. These
13 routers are set up to mimic a voice network.
14 That's why it's not always scattered. The --
15 I like this part -- the analogy about the
16 trains was a good analogy. I like the one car
17 and then the mini cars and the efficiency were
18 very appropriate. The thing about scattering
19 it around, I think of it like this, if you
20 wrote a letter on paper to someone and then you
21 took and used scissors into 10 or 12 pieces and
22 numbered them and put them in separate
23 envelopes, maybe delivered them at two
24 different post offices, it would move through
25 the postal network. When it got to your person



1 they could use those numbers and put the letter
2 back together in order to read it. That's
3 exactly what happens in the data network. And
4 that technology was perfected by the military
5 for hardiness during nuclear war. And so all
6 this ability to move data and disparate ways
7 but bring it back together and assemble it and
8 still read it actually the military tool.

9 **THE COURT:** Well they also did it -- did they also
10 do it to ensure encryption?

11 A: Encryption and security which is built on top
12 of that too.

13 **THE COURT:** Okay.

14 Q: And so where -- for the wireless call that we
15 started talking about -- what piece of that
16 call is wireless.

17 A: Well in the one I just told you about ---

18 Q: Yeah.

19 A: --- listen if we had a tower living right here
20 and there was a little -- let's just say it was
21 living right here -- and a handset was in the
22 customer's hand, there's only a small piece of
23 a wireless call that's ever wireless. I don't
24 think my daughters understand this. I think
25 they believe it just talks to other wireless



1 phones. But it goes immediately to the first
2 tower that it can train on and hone on that it
3 can sync with and that piece is the only
4 wireless line is the radio. The handheld radio
5 to the radio to tower then it moves down that
6 tower's weight gun into that optical electrical
7 conversion and it's in the same landline that
8 everything else is from that point. And if it
9 dumps off to another customer that's wireless
10 that last little piece between the handset and
11 the tower that's also true wireless.
12 Everything else is landline. There was a
13 really nice paper done by the Foundation of
14 Rural Service that they used in Washington to
15 lobby and teach Congress's staff or staffers
16 about it that says wireless needs wires because
17 this generation of millennials and Gen-X and
18 Gen-Z they don't know that.

19 Q: And you talked at the very beginning about that
20 AT&T microwave network?

21 A: Oh, yeah, yeah.

22 Q: Does it look visually like the wireless? How
23 did the microwaves -- how are they captured?
24 Are they on a tower or ...

25 A: You know, the microwaves those things are like



1 big oil drums ---

2 Q: Okay.

3 A: --- in the sky. Like big drums. There's one
4 over here on the building really close to us --
5 is it the BB&T building? I'm trying to think.
6 There's a building close by they got a big drum
7 on top. That's a microwave drum. And where
8 these things are using little monopole or smart
9 panels that big round drum is a horn and
10 underneath it and it shoots a line of sight
11 signal. AT&T was shooting it 30 miles. That
12 thing was -- sometimes if you have to complete
13 from like Charlotte to Chicago it may go
14 through 300 hops to get there because it wasn't
15 all of it in a straight line. They didn't
16 engineer it in a straight line. They didn't
17 want the predictability in the event of some
18 kind of attack so they built that thing in the
19 '60s and we know why that was done.

20 Q: All right. I think that's all the ones I have
21 for the charts.

22 A: Uh-huh.

23 Q: You want to -- everybody to return to their
24 seats. We heard some testimony yesterday about
25 agreements that Farmer's has with other



1 carriers. I believe I heard mention of
2 interexchange agreements and joint operating
3 agreements. Can you tell me what these
4 agreements are about and what impact they have
5 on the Farmer's network?

6 A: I heard some of that. I can speak to a piece
7 of it.

8 Q: Okay.

9 A: You know, on the network piece these companies
10 are mandated to interconnect with each other.
11 If your Public Service Commission says you're
12 a telephone company other telephone companies
13 have to connect with you.

14 Q: Okay.

15 A: If you're a wireless company and there's some
16 kind of agreement they have to negotiate in
17 good faith to connect with you. The upside of
18 that -- and in my opinion, you know, I think
19 it's great that Alexander Bell had his network
20 and he connected it with all these little
21 towns. And because of that America probably
22 has, and has had for a long, long time, the
23 most robust and ubiquitous network in the
24 world. And, you know, there's so many pieces
25 to it and so many different methodologies and



1 equipment pieces, but the marvel of this
2 network is it still carries traffic really well
3 and it's robust and it's -- it unifies. Value
4 of network is in the nodes that it connects.
5 We don't know if the next kid that we connect
6 to internet is gonna find a cure for cancer and
7 so we want to connect all of them that we can.
8 And so it's really good to know that we place
9 a high value on interconnectivity. Not only
10 are they mandated by law to connect it's also
11 very economically practical to be able to have
12 a subscription base of people. So economics
13 drive it and it's also a great thing for
14 humanity to have that.

15 Q: And when another carrier is accessing the
16 Farmer's network are those Farmer's assets
17 still being used to provide rural telephone
18 service?

19 A: Oh, yeah, absolutely. I mean, if you want
20 rural people to be able to order something out
21 a catalog rural people deserve that opportunity
22 as much as anybody else. Maybe the catalog
23 subscriber is somewhere way off but you want
24 that service.

25 Q: What about the example Mr. Cartin had yesterday



1 of the fellow from New York who's just driving
2 through.

3 A: Just as long as he drives through. Just don't
4 let him stay. But what were you saying?

5 Q: All right. So the New York guy is traveling
6 through and he's in the Farmer's territory ---

7 A: Yes, ma'am.

8 Q: --- how does that impact -- are these assets
9 being used for rural telephone service when
10 it's a New York guy there?

11 A: Absolutely. We don't know if his calls gonna
12 complete to somebody in that service area or
13 not. We don't know if he's kin to anybody in
14 that area and callin' them. But assuming he's
15 not, even if he's not, if he's in -- he's a New
16 York guy, he's driving through on I-95 and he's
17 callin' back to New York, that's still rural
18 service. You know, if he wasn't able to make
19 that call he may not drive through that area.
20 He may not spend those dollars in that
21 community, and so it's absolutely essential
22 that that's considered rural voice service.

23 Q: I am going to ask you some questions about the
24 minutes of use analysis. That's Exhibit 151
25 and I think I have it on the board as well in



1 case it's easier for anyone to see it, the
2 numbers are kind of small on the Exhibit. Now
3 did you hear Mr. Erwin's testimony about how
4 these numbers were calculated?

5 A: Yes, I did.

6 Q: Do you have anything to clarify or add as far
7 as how he did his calculations?

8 A: Well I think he did okay with that, but I mean,
9 just for the sake of the Court and to be clear
10 on it I don't mind giving it a shot.

11 Q: Okay. Yeah, that'd be great.

12 A: Can I come up?

13 Q: Please.

14 **MS. GEER:** Your Honor, is it okay if the witness
15 approaches the chart?

16 **THE COURT:** Yeah.

17 A: Sorry guys. So using this information, and I
18 think Mr. Erwin talked about this calling
19 because he was closer to it or something. I've
20 got this thing so we can talk about anyone you
21 want to, but he was trying to convert data into
22 minutes. And I understand why he's trying to
23 do that. I said it's apples and oranges. We
24 need to find ways to make them as comparable as
25 we can if we're gonna be comparing them and



1 there's a lot of thought on that. But in this
2 case taking this total number down here this is
3 millions and this is million and this billion.
4 It's up to six trillion and change number there
5 and it's in bytes. It's clearly in bytes.
6 That's an 8 bit word. You'd want to take that
7 and multiply that big number by 8 and that's
8 what 48 something -- 48 trillion. Then you
9 need to move it away from this kilo to mega if
10 you're gonna do something with it you want to
11 move it away from kilo to mega, maybe divide it
12 by 1,000. Mr. Erwin went through why he used
13 10. So after you divide it by a 1,000 you
14 divide it by 10. This is because this is the
15 transport speed. You know, I was talkin' about
16 the Library of Congress with you earlier and
17 that transport speed of 100 gig. Farmer's is
18 -- Farmer's telephone cellular network can go
19 100 meg, but you can't guaranty that somebody's
20 gonna have 100 meg at any time so I thought
21 that was a pretty reasonable way to scale that
22 back just to 10. So then you divide it again
23 by 10. Once you do that you divide that by 60
24 because this is per second and you want to get
25 to minutes ultimately. So 60 seconds in a



1 minute, you gotta divide by 60. When you do
2 that math -- and Mr. Moss has checked this
3 stuff -- and it gets to that number right
4 there, that 82 million minutes. And he took it
5 and divided by 60 again and that got to that
6 1.3 million hours. So now you've got something
7 you can work with. You can take hours and
8 compare it to hours which is what all this
9 totaled up to be. Hours and hours. Well it
10 actually totaled up to minutes, you have to
11 make it into hours by dividing by 60. But when
12 you do that you can see that the data is about
13 one tenth of the hours of voice. About one
14 tenth.

15 Q: And that's for 2018. What about the other
16 years?

17 A: Well without goin' through every piece of it
18 you could make the assumption that it has
19 gotten 93.85 percent of this total traffic is
20 related to voice. Minutes of voice. 93.8.
21 These rocks are very heavy. There's a lot of
22 that. 96.2, 98.1, 98.8, 99.3. And you do see
23 a little bit of trending as this moves down
24 some but it's still an overwhelming weight of
25 rocks in the bucket. You -- it boils down to



1 the fact that data, you can put a lot of data
2 through a pipe really fast. And to use my old
3 analogy, the sand is really light, there's a
4 lot of particles of it 'cause it's light. This
5 has got a lot of gravity to it, a lot of
6 heaviness. That's what that is.

7 Q: All right. And you hear Mr. Moss's testimony
8 about an error in the calculation converting
9 the voice to bandwidth, is that correct?

10 A: Oh, yeah, that hurt. Yeah, that's true. He's
11 right. Look people mess up and, you know, I
12 need to take responsibility for that. That was
13 a calculation that the Cooperative handed me,
14 but I was allegedly their technical expert.
15 I'm supposed to be looking at these things.
16 There was no backstop. That ball went all the
17 way to the parking lot. That was wrong. Now
18 on the bright side for me that was when we were
19 trying to go the other way and go down here and
20 compare data to data and yeah, we muffed that.
21 But by far the more important argument to me is
22 this one up here so I'm glad that one went
23 through.

24 Q: All right. I think that's all the questions I
25 have on this chart.



1 MS. GEER: Sorry to make y'all keep getting up and
2 down.

3 Q: Now did you hear Mr. Moss's testimony that he
4 didn't think you should compare -- talk about
5 in terms of time and that if you did you'd have
6 to do something -- you'd have to do some sort
7 of measurement of how long somebody's computer
8 was left on or how long a television was left
9 on. What is your response to that?

10 A: Well I understand that. I understand why he
11 might say that. This the fundamental
12 difference. This is the tomatoes or tomatoes,
13 this is the apple or the oranges that is the
14 big thing to me in all of this technical
15 wrangling that we're doing. We're trying
16 really hard to be consistent. The reality of
17 it is whatever the user device, whatever the
18 user experience is needs to be kept pure and
19 true. If a user is talking on a phone, be it
20 landline phone, be it a cellular phone, that
21 voice session last for a certain amount of
22 time. And it's actually measured -- if you'll
23 let me do that -- it's measured in the voice
24 world up here one time. One time. It might
25 move through a bunch of nodes but it's measured



1 there one time. So Mr. Moss is talking about
2 these intelligent devices and these computers
3 and the data that transfers in and even
4 television sets could you not leave them on all
5 the time. Well if you leave your computer on
6 all the time in my experience most Farmer's
7 subscribers are not transmitting data all the
8 time on their computer. Now in this scenario
9 they're using smart devices. This is a FTCC,
10 this is the wireless system. I don't believe
11 anybody's leaving their smart phone and
12 transmitting pedabyte and exabyte files all day
13 long with their phone. You may watch a TV
14 show, I give you that, but most of these people
15 are payin' for this data on a data plan. I
16 doubt seriously they're leavin' that television
17 on that phone all day. I don't think it's
18 applicable in this case. Understand it, I do
19 think it's important that we try to make these
20 things work like they're intended if we're
21 gonna compare them so that's what I've tried to
22 do. This is one of the most reasonable ways I
23 can think of in order to get apples and apples.

24 Q: Okay. All right. We're going to turn to
25 Exhibit 134. And I have boards on this as



1 well, Mr. Wyatt. I'll let you tell me whether
2 it's more helpful for you to look on the screen
3 or look at a board.

4 A: Well, I mean, I'm open to whatever the Court
5 wants to do but if I could see this on the
6 screen and maybe you could put something on a
7 foam board right there. I think I can move
8 back and forth between the two and understand
9 between the two in an understandable way.

10 Q: Okay. At some point I'm going to reach
11 capacity on the easel. I'm not there yet. All
12 right. Have you reviewed Mr. Moss's analysis
13 that's contained in this Exhibit?

14 A: Yes, I have.

15 Q: Okay. What reaction do you have to it?

16 A: I don't agree ---

17 Q: Okay.

18 A: --- with the analysis. Do you recall when I
19 was talking with you about the links and way we
20 were stepping through the network ---

21 Q: Yes.

22 A: --- and seeing that in some places there were
23 two calls, in some places there were 12. I
24 think we're falling away from this thing in a
25 way when you add all this stuff up sequentially



1 out of every link ---

2 Q: Yes.

3 A: --- and you just add the cumulative up, you may
4 have captured what the network is doing. I'm
5 okay with saying you may have captured some of
6 that, but I think you miss entirely the amount
7 of traffic that actually flowed through the
8 network. The best way I know of to talk about
9 that is near and dear to me is a toll road.
10 It's a toll road. You're goin' down a toll
11 road -- anybody that's ever driven in Florida
12 or Texas or in Hilton Head knows what I'm
13 talking about -- and on this toll road there's
14 four toll booths and you go through it with
15 your car and your family and you pay the toll,
16 it's a quarter, it's a quarter. And you hit
17 the same, same, same and so you've gone through
18 four toll booths and you paid a quarter every
19 time. What Mr. Moss is measuring is the four
20 quarters. He's -- it looks like there's four
21 cars that paid a quarter. It's one car, it
22 traversed the whole network, it paid at every
23 booth but it was one car. You think about a
24 man building a home and he's got his driveway
25 and he's got a clever way to figure out how to



1 build his garage. I want to build my garage
2 big enough. Well I measure the car that comes
3 up the driveway and the car that goes down the
4 driveway. Well I've counted two cars, I guess
5 I need a two car garage. It's one car but you
6 measure it going and coming. Did he accurately
7 see that the function of the driveway was to
8 receive going and coming? Yes. Did he count
9 the car right? No. That's what's going here.
10 And it's in stark contrast to the way that the
11 voice in the other example is handled where
12 it's just counted one time at the switch. So
13 I'm trying to make sure these things are
14 counted ---

15 Q: I think I understand all the call that we went
16 through earlier.

17 A: Thank you.

18 Q: How that -- how the counting works in
19 connection with ---

20 A: Well when I look at that, Ms. Geer ---

21 Q: Yes.

22 A: --- what happens here -- and I'm gonna take the
23 very most simple one of these things I can
24 find. Let's just say that these two customers
25 didn't live there. They lived over here, maybe



1 right there and they hung off of this thing
2 just like that. Well if he wanted to call him
3 they would just go in here to get that gateway
4 and go back, that would be 1, 2, boom, it's
5 done. The least number of hops I can find on
6 the network's 2 hops. But you can see a
7 situation -- and this is not an uncommon
8 scenario -- where's there's 12 hops. The
9 problem exists that we don't have the session
10 mapping to adequately figure out how many hops
11 and all these calls are making. We just don't
12 have that. So you have to rely on something.
13 You take 2 and 12 and it's -- what is that 14
14 -- and you divide that in half, it's 7. And I
15 don't want to use an odd number on this thing,
16 let's don't do that. But let's just say for
17 the sake of argument that we've over-counted
18 this stuff four times. Now I think that's
19 reasonable and I think it's on the low end
20 actually. I think we've over-counted the data
21 because we're checking utilization at every
22 point instead of the guy moving across the toll
23 road. We have accurately counted every quarter
24 but completely missed the fact that it was one
25 car.



1 Q: Okay. And where does that number show up on
2 Mr. Moss's chart?

3 A: Okay. Utilization -- he has got the total
4 network utilization, this 3.5 number down here
5 where he had -- adds all of these up -- he's
6 got it right there.

7 Q: Okay.

8 A: Where he's adding all these up. And I think
9 it's too big a number. I mean, I understand
10 what was done, just disagree with it.

11 Q: Okay. Did you hear Mr. Erwin's testimony
12 yesterday about an error with the voice
13 transmission path rate? I think you've alluded
14 to transmission rate.

15 A: I did. I think I heard him hand that off to
16 me, too.

17 Q: What can you tell us about that?

18 A: Well, you know, I've got a little note sheet.

19 Q: Yes, please.

20 A: I don't -- I don't know where I put it.

21 Q: Do you have it?

22 A: I might have left it with you. I've got a
23 little note sheet that would be ---

24 Q: Do you want it put up or do you just want to be
25 able to look at it?



1 A: Why don't you just put it up for -- I mean,
2 that's fine.

3 Q: Okay.

4 A: That works fine. Thank you.

5 **THE COURT:** While she's doing that, when you were
6 talking about the voice got counted too many
7 times because of the different ---

8 A: Your Honor, I think the data -- I think the
9 data got counted too many times.

10 **THE COURT:** The data got counted too many times.
11 Yeah, that's right.

12 A: Yes, sir.

13 **THE COURT:** So you said the data got -- but would
14 not the voice also be getting over-counted too
15 because of going through the same.

16 A: Now that's a good point, and you're right, but
17 the fact of the matter is because the data
18 already outweighs the voice by so much to do it
19 four times too much exacerbates the problem.

20 **THE COURT:** Well you're -- I'm just trying to figure
21 this out -- if you're exacerbating the problem
22 on the data by four times and you're
23 exacerbating the problem on the voice by four
24 times ---

25 A: It would be better to take the voice out, Your



1 Honor, and then just count the data four times.
2 Because that -- I think the point that I
3 believe it's over-counted you're okay
4 understanding that, you just want to say is
5 there voice in there too and I would say yes
6 there is some.

7 **THE COURT:** Okay.

8 A: But it's not much relative to the rest of it.
9 But it would be better if this calculation
10 eliminated that too and then compare.

11 **THE COURT:** Right.

12 A: I hope that helps but ...

13 **THE COURT:** It will eventually. Thank you.

14 A: There are some places where voice is added back
15 in on the cellular network in the back haul
16 there, but what were you asking me?

17 Q: I was asking you about the transmission path
18 rate.

19 A: Oh, yeah. So in the Farmer's telephone network
20 even though they have off-boarded their primary
21 switching and they lease on the Horry telephone
22 metaswitch there was some discussion about
23 whether it should be a 56 kilobit circuit or
24 should it be a larger circuit and Mr. Moss was
25 very accurate about his codec in that coding



1 and decoding device is a -- those things at
2 this point are -- best you can do in the Cisco
3 world is a G.711 and it can work at 48
4 kilobits, at 56 kilobits and at 64 kilobits.
5 And so just going back and checking things --
6 but the Farmer's switching technicians talked
7 to me about this -- that codec is set up at 64
8 kilobits plus it has overhead with it. Now
9 this is gonna be fun. When you start looking
10 at the screen now the bottom line, the short
11 answer -- and I'm gonna go back and expand on
12 it as we need to -- where it talks about this
13 31.2 kilobits on the right hand side under
14 encoded audio that encoded audio is the 64.
15 The 31.2 is the overhead that's attached to the
16 payload. The payload is the 64 which is the
17 content and that equals 95.2 kilobits per
18 second that is happening on both sides of that
19 voice session on the transmit and receive side.
20 So Farmer's has provisioned 100 kilobits. And
21 I think Mr. Erwin was asked about silence
22 suppression. Silence suppression is a really
23 neat thing. It's a good compression because on
24 a telephone when I'm talking normally unless
25 you're my wife you're listening, and when she's



1 talking I'm listening and listening. But smart
2 engineers have said well when someone's not
3 talking we'll just cut that off and we won't
4 let that data flow and we'll save that and
5 we'll do it the other way on the other side.
6 And silence suppression can be a good thing.
7 The problem is Farmer's Telephone was actually
8 trying to provide high way quality voice.
9 Silence suppression is notorious on some of the
10 drawbacks, that processor that cuts that voice
11 off. There's background noise on your phone
12 and a human ear can hear that background noise
13 and when silence suppression works and cuts
14 that off it's dead space and guess what it
15 sounds like my wife hung up on me, that the
16 call has not completed anymore. So silence
17 suppression causes the dead thing and unless
18 you're used to talking like that on a phone
19 it's weird. The other piece of it is that some
20 of these things are very anticipatory and they
21 will clip your conversation, and I talk slow.
22 It may clip my last word off and it -- because
23 of that and because Farmer's wasn't trying to
24 move forward in technology but deliver lower
25 quality voice service and because it's all



1 about the voice the decided to keep it fully
2 provisioned and disable silence suppression and
3 so what you really have going on at the
4 Farmer's Telephone Cooperative is the SIP
5 session that is at 95.2 kilobits. Now I'm
6 gonna say this about the overhead, Your Honor,
7 and this is -- you see over here that you have
8 all these different protocols. You have the
9 RTP, you have the UDP, you IP, you have
10 internet. Those are different wrappers that
11 allow the message to go through and I think of
12 it like this, sometimes my wife goes to town
13 and she'll buy shoes for one of our daughters.
14 Well when she buys those shoes guess what, the
15 guy in the store puts them in a little box.
16 They're in a box. Buy a box of shoes. Mommy,
17 can I wear them home. You buy them in a box
18 and then that box in order to get out of the
19 store they put it in a bag and so you've got a
20 Belks bag and you're goin' out of the store
21 with your shoes. Well when she gets home she
22 wraps those things for a present and she wraps
23 it in special wrapping paper and then we put
24 that in a bag because we're gonna carry it to
25 her apartment and we put that bag in the trunk



1 of our car and every one of those things we're
2 imbedding the valuable thing deeper and deeper
3 and deeper in order to serve a purpose to get
4 it where we want it to go. You understand
5 that?

6 Q: Uh-huh.

7 A: That happens in computer networks. As these
8 things move through internet protocol, user
9 data port protocol, real time transport
10 protocol, as they move through all these
11 different rules and guides they keep these
12 wrappers on them to protect the data, and if
13 you want all these things to play well together
14 you basically gotta put these wrappers on them
15 to make it move through the network. And
16 that's why you have to had the 3.2 kilobits to
17 the 64 and you get almost a 100. It's 95.2
18 kilobits. It's not 56.

19 Q: Okay.

20 A: So when you look at that and you say well
21 there's two sides to that thing, so 200 divided
22 by 56 ---

23 Q: When you say two sides to that thing what do
24 you mean.

25 A: I'm sorry. You know, in this path right here



1 ---

2 Q: Yes.

3 A: --- there's a send side and a receive side ---

4 Q: Okay.

5 A: --- and so at any given point when your dealing
6 with the voice your dealing with 200 kilobits
7 per voice session. So instead of 56 kilobits
8 it's 200 so that's about 3.57 of an
9 understatement of the voice. The voice was
10 understated by over three times on this
11 network. Now I don't believe it was
12 intentional, I believe that it was just a
13 general number was used. It was a national
14 standard. The problem with the national
15 standard is it's not all -- it doesn't resemble
16 what's happening at this phone company which is
17 in question.

18 Q: And so when Your Honor asked a question of you
19 earlier about couldn't we just correct this by
20 multiplying the voice times four you got the --
21 you said that the bandwidth is over-counted by
22 four why can't we just multiply the voice times
23 four. Is it because we don't have a good voice
24 number?

25 A: The better answer to this would be to track



1 through the network what's actually moving
2 through the network ---

3 Q: Okay.

4 A: --- instead of what's appearing at every node
5 and repeating the count. So if you had a data
6 session that was moving around this thing,
7 instead of it being 1 gigabit -- or 1 gigabyte,
8 excuse me -- of data that's goin' through there
9 you would end up with up to 12 gigabytes. I
10 don't think you make up for that by counting
11 that small piece of voice four times.

12 Q: Okay.

13 A: You really need to decrease the whole number
14 and you're actually decreasing the voice and
15 either that or remove the voice from the
16 equation up here before you do all this
17 sequential adding.

18 Q: Okay.

19 A: And then add it back in.

20 Q: And I apologize if you've already said this.
21 I might have missed it. How long has Farmer's
22 been using this transmission rate?

23 A: They moved to a -- Siemens is the manufacturer
24 either of the SD and their HighQ upgrade which
25 moves it to a soft switch. We talked about the



1 little soft switches ---

2 Q: Yeah.

3 A: --- back in the '95 or '96 time frame. Yeah,
4 and then about five years ago they off boarded
5 from that HighQ to Horry and then went with a
6 metaswitch so about in 2014 they went to meta
7 and both meta and HighQ used the 100 in, 100
8 out, the 200 kilobits per second methodology
9 for voice. So in '95 or '96 that's when this
10 started. That's been a while.

11 Q: Okay. What about did you look at Mr. Moss's --
12 I don't know if this is the right term for it
13 -- I'm going to call it the regression analysis
14 that he did on the prior years?

15 A: Oh, yeah. I saw that. I did.

16 Q: What is your response to that?

17 A: I don't like it much. I understand we had to
18 use something.

19 Q: Right.

20 A: Right. I get that and it's commendable. But
21 here's the problem with that Cisco analysis.
22 If you look at that thing the information was
23 derived from North America.

24 Q: Okay.

25 A: I mean, that's as small as Cisco cut that was



1 North America. The didn't even cut it to the
2 United States much less South Carolina, and so
3 the growth rates in there in my opinion I don't
4 think are representative of what's goin' on in
5 Farmer's service area. I went to the census
6 bureau and I looked at some things on that by
7 county. My memory will serve me but the census
8 data, Your Honor, was from April the 1st of
9 2010 to July the 1st, 2018 so there was an
10 eight year period and a little bit. For the
11 census data it's very current. Williamsburg
12 County had a decrease in population of 11.1
13 percent. Lee County had a decrease in
14 population of 10.8 percent. Clarendon County
15 had a decrease in population of 3.6 percent.
16 Sumter County had a decrease in population of
17 0.9 percent, and Florence County was the only
18 county that had a positive and it had an
19 increase of 0.9 percent. But I would argue
20 that the Farmer's Cooperative only serves the
21 southern half of that county that growth
22 probably happened up in the city. It probably
23 if you could carve it even finer would be even
24 more indicative of a population decline -- if
25 you average all those percentages together and



1 divide it by 5 it's a little over 5 percent
2 population decline in their service area
3 compared to what Cisco was saying what's
4 happening in North America. I just don't think
5 it's relevant.

6 Q: Now did you -- were you in here for Mr. Erwin's
7 testimony when he went through the pictures of
8 the -- representing the assets that Farmer's
9 has claimed is exempt in this matter?

10 A: I saw that.

11 Q: And do you have an opinion to a reasonable
12 degree of certainty in the engineering field as
13 to what these assets are being used for?

14 A: I do. Those assets are being used for voice.

15 Q: And are they being use to provide rural
16 telephone service?

17 A: Yes, ma'am, absolutely.

18 **MS. GEER:** Excuse me, Your Honor. One minute.

19 **MR. CARTIN:** Your Honor, can we take a brief
20 restroom break?

21 **THE COURT:** Yeah. Let's take a -- well let's -- are
22 we about to finish up in two to three minutes?

23 **MR. VON LEHE:** Yes, I think there's just one
24 question left here, Your Honor.

25 **THE COURT:** Okay.



1 MR. VON LEHE: I could be mistaken about that but
2 that's my understanding.

3 THE COURT: Okay. Well yesterday with went with
4 great grandchildren so.

5 MS. GEER: Your Honor, I apologize for that. Those
6 are all the questions I have at this time. I
7 was wondering whether it would be possible to
8 take a break.

9 THE COURT: Well we just decided about that.

10 MS. GEER: Y'all decided about that.

11 THE COURT: We're taking a 5, 10 minute.

12 MS. GEER: 10 minutes would be great.

13 THE COURT: Okay. Thank y'all.

14 (Off the Record)

15 THE COURT: All right. Are we going to let the
16 Department go first?

17 MR. CARTIN: Oh, I'm sorry.

18 MR. LUTHER: You can go, I don't care.

19 MR. CARTIN: No, you can go ahead.

20 THE COURT: What I thought about as I was wanting
21 the Department cross and then break for lunch.
22 I was kidding.

23 MR. WYATT - CROSS-EXAMINATION BY MR. LUTHER:

24 Q: Morning. I think we're still morning.
25 Morning, afternoon. I've lost track of time.



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ROA 002314

1 **THE COURT:** You've got a few more minutes.

2 Q: Mr. Wyatt, I want to just ask you a few
3 questions and I'm kind of going to drill down
4 into the technical stuff a little bit.

5 A: Okay.

6 Q: But I kind of want to focus on three areas
7 because I understand that these are three issue
8 in this case that we're trying to figure out.
9 One is the meaning of telephone service in
10 1978. And I understood you correctly your
11 definition is telephone service means being
12 able to provide or deliver or receive
13 information over a distance, is that fair?

14 A: That is fair.

15 Q: Okay. And so if the next question is what's
16 telephone service and what's not do I
17 understand your testimony to be that in your
18 opinion telephone service would include
19 landline, wireless, internet and security
20 services?

21 A: I wouldn't say it that way. I would say
22 landline and wireless. There are elements of
23 internet with the blurring that deliver voice
24 but by ad large the internet's a data service,
25 and I would also say the security is more of an



1 added service even though it's over a voice
2 line.

3 Q: Do we agree is not a telephone service?

4 A: We do agree on that.

5 Q: All right. So here's where I want to try to
6 break it down because the last question I think
7 is to what extent these assets are being used
8 for telephone service?

9 A: I understand.

10 Q: And I want to go with the definition. Let's
11 just start out with telephone service includes
12 only landline, let's just assume that for my
13 question.

14 A: Okay.

15 Q: But I want to know is if I were have to go look
16 at the network that Farmer's has now and their
17 subsidiaries ---

18 A: Yes, sir.

19 Q: --- what assets comprise the network that
20 provide exclusively landline telephone service?

21 A: Exclusively landline what assets? There's a
22 lot of assets. I would tell you, sir, that
23 what the Cooperative has already put forward
24 for exemption is providing voice services.
25 They had been very careful not to put something



1 in there for exemption that's not related to
2 the voice network.

3 Q: All right. So let me break -- 'cause I'm -- I
4 am out of everybody in here the least technical
5 of understanding all this. I'm trying to put
6 it in layman's terms for myself to understand.

7 A: Yes, sir.

8 Q: So is it fair to say a network is largely
9 cables, wires, routers and switches, is that
10 essentially the generic components of the
11 network? Am I missing anything?

12 A: Cables, wires, routers, switches. If we're
13 talking about that landline network ---

14 Q: Yes.

15 A: --- do we include the people in the maintenance
16 trucks and all of that stuff that goes with it
17 and buildings and all of that?

18 Q: Yeah, let's set aside personnel, let's set
19 aside ---

20 A: You want bells and whistles?

21 Q: No, I just want the nitty gritty about the
22 network itself. The things we're talking about
23 here. I mean we haven't talked about
24 personnel.

25 A: You've got that core, you've got the



1 interconnectivity of that by whatever means
2 interconnectivity, you've got these edge
3 devices, you have equipment out at the customer
4 premise on the side of the home to enable it,
5 you've got that whole gambit of plant is voice
6 services, yes. They use it for voice services.

7 Q: Okay. So but again I'm trying to drill down
8 here.

9 A: I'm sorry.

10 Q: That's okay. And maybe my questions are not
11 clear, but I want to say if I'm looking at a
12 list of assets ---

13 A: Right.

14 Q: --- and I'm a layman, I don't understand all
15 these terms. What assets if we broke it down
16 comprise of the core used to provide landline
17 telephone?

18 A: Okay. Well you have routers.

19 Q: Okay.

20 A: You have interconnecting cables and all of the
21 lasers that drive those.

22 Q: You said lasers?

23 A: Lasers.

24 Q: Okay.

25 A: All the transport equipment. You have all the



1 excess equipment out through the edge and
2 beyond to the premise equipment excepting for
3 the house phone which the customer buys.

4 Q: And the access equipment would be just sort of
5 another layer of wires, cables, routers and
6 switches?

7 A: Well you have powering equipment. We're in
8 these offices. They have to provide a good
9 power supply and so you a lot of times have
10 batteries that would provide -- you have all of
11 those things that go into keeping the system
12 operational, but those are all piece parts,
13 yeah.

14 Q: Okay. All right. Now let's change the
15 hypothetical a little bit.

16 A: Okay.

17 Q: I think you would define wireless telephone to
18 be included in the telephone service?

19 A: I think we should, yes, sir.

20 Q: And do I understand you correctly that you
21 cannot have a wireless network without a wire
22 line network, is that fair?

23 A: That's very fair.

24 Q: Okay. So if we were going to add in now a
25 group of assets to provide the wireless



1 component of telephone services ---

2 A: Uh-huh.

3 Q: --- I assume the ones we just talked about for
4 a landline would be included in that group, is
5 that fair?

6 A: They would.

7 Q: Okay. What additional assets would we be
8 looking at now?

9 A: For wireless if you ---

10 Q: For wireless.

11 A: --- wanted to add that into it too?

12 Q: Yeah.

13 A: Somebody's got a tower. Either that or their
14 leasing a tower. Somebody has a tower and all
15 of the equipment that's on that tower, the
16 radios, the waveguide, the electronics at the
17 bottom that drive it.

18 Q: Anything else?

19 A: There are -- and I don't the inter-arrangement
20 between the wireless company and the landline
21 company there about the interconnection on that
22 -- but you have all of those components and
23 then the battery strains that are with it.
24 They -- the switch that they pay the carrier --
25 AT&T -- there's some lease prices there,



1 there's some cost that goes into that.

2 Q: But they lease that right?

3 A: They do.

4 Q: Okay.

5 A: They lease time on it. It's an expense. I
6 guess it's not a capital item.

7 Q: All right. Let's set those aside. Let's just
8 say for the sake of my question that we've all
9 agreed that television or the IPTV I think it
10 what I heard ---

11 A: That's right.

12 Q: --- security services and internet are not
13 telephone.

14 A: We can do that.

15 Q: I think is how it was set up in the settlement
16 agreement.

17 A: I think you could.

18 Q: What assets are used exclusively to provide
19 those services if you know?

20 A: Well I don't entirely know. I mean, I haven't
21 dwelled on that part of the problem to be
22 honest.

23 Q: Okay. All right. Let me tackle it one
24 different way and I hope this will clear it up
25 for me.



1 A: I'll do what I can.

2 Q: If you were -- if tomorrow morning Farmer's --
3 and I mean all Farmer's co-op, FTCC and
4 Diversified ---

5 A: Right.

6 Q: --- all said we're not going to provide anymore
7 wireless, internet, security services, TV. So
8 we're going to strip out everything and only
9 have landline what would we have to -- am I
10 fair to say that as we sort of pieced it apart
11 that we could take out all the things for
12 wireless, we could take out all the stuff for
13 internet, we could take out all the stuff for
14 security ---

15 A: Indeed.

16 Q: --- and landline would still work? Are there
17 any of those components that would be needed
18 for the landline to operate.

19 A: I see -- no, sir. Not really. That landline
20 stands on its own. It is the foundational
21 fundamental piece. Does that help?

22 Q: It is helping, yes.

23 A: Okay.

24 **THE COURT:** But would you -- would you even need
25 fiber optics anymore?



1 A: Yes, sir. You absolutely need fiber optics ---

2 **THE COURT:** If you just went to voice?

3 A: Yes, sir. It'd be hard to let -- to put the
4 genie back in the bottle there. Actually,
5 copper plant is so much expensive to put in
6 than fiber optic cable that they would force a
7 tremendous hardship financially on the
8 Cooperative to try to go back and put the genie
9 back I the bottle.

10 Q: And I want to -- I'm not suggesting that that's
11 what we do. I'm trying to figure out you have
12 a class of assets as I understand it that have
13 multiple uses ---

14 A: Yes, sir.

15 Q: --- and so I'm wondering if you reduce, if you
16 remove those uses, you would still need those
17 assets to provide the core service of landline,
18 is that fair? So you'd need the fiber optic
19 cable, is that right?

20 A: Yes, sir. And I understand a little bit now so
21 I think of it like this -- and this is not any
22 effort to deflect anything, I'm just tellin'
23 you what I think about the core network and the
24 bucket and the rocks and sands -- I found this
25 out a couple of years ago that Delta Airlines



1 actually doesn't own the jet engines on their
2 aircraft, they lease them from G.E. Capital
3 Finance or whatever it is. And Delta might
4 haul people in their planes but sometimes
5 there's a pet or two and sometimes there's a
6 box of mail and there's other things. I would
7 hate to prorate that out and take the engines
8 off that plane. The whole bucket and the way
9 it's built supports everything else, and I know
10 we're trying to get to the point well what is
11 not essential but the voice network stood on
12 its own for many decades and these other things
13 were added to it. You can strip them back off
14 of it and it'd still work. You can't go
15 backwards on the technology of fiber and try to
16 justify financially something. You can't take
17 it and make it a voice network anymore. Those
18 models they blow up on you with the economy.
19 Tell me what you need me to say to you and
20 teach you what I know.

21 Q: This is helpful for me. I think what I'm
22 trying to get at is I'm trying to understand
23 the multi-use component and you've got an
24 entire network on top of which you have
25 services which may or may not be telephone



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1 depending on the definition that you use, but
2 in my it's almost like turning on the faucet.

3 A: Wow, I get it. Okay.

4 Q: And so I'm wondering if you turn the faucet off
5 on internet and you turn it off on security
6 does that -- do you still need that entire
7 system to provide landlines and I think your
8 answer is yes.

9 A: Yes, sir.

10 Q: Okay.

11 A: The way they've got that thing set up it is
12 exactly right and what is apparent to me is
13 we've gone from this medium of copper using
14 electrical signals to this thing and it can do
15 so much more. It can do so much more and so we
16 are doing more for a lot of reasons, but this
17 is no reason to call that network a data
18 network. It's no reason to do that. I had a
19 great-aunt, Sally, Your Honor, and she had an
20 old mama cat that one time had kittens in her
21 oven. It happened. And I never once heard
22 Aunt Sally call that oven a kitten incubator or
23 those kittens a pan of biscuits. It happened,
24 but the original intent and the continued use
25 of that network it's still an oven, it's still



1 a bucket to carry rocks. We've been really
2 clever to put some sand in there with it, man.
3 But if you take all the sand out you still
4 gotta pay for the bucket and you still gotta
5 carry the rocks.

6 Q: Thank you.

7 A: Yes, sir.

8 **MR. CARTIN:** Your Honor, I'm happy to start now or
9 if you would prefer to take a lunch break now
10 either way works for me.

11 **THE COURT:** I say go ahead.

12 **MR. WYATT - CROSS-EXAMINATION BY MR. CARTIN:**

13 Q: If we pull up Exhibit 148.

14 **THE COURT:** Take that. The Department needs to be
15 able to see.

16 Q: Mr. Wyatt, I'm Walt Cartin. We met several
17 times before ---

18 A: Yes, sir.

19 Q: --- to include your deposition.

20 A: Yes, sir.

21 Q: I've got a few questions for you. I'm going to
22 skip around a little bit so I don't try to
23 replot any other ground, but I just want to
24 understand some of your direct exam testimony.
25 So I have pulled up what is Exhibit 148. Do



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1 you recognize this document?

2 A: Yes, sir, I do.

3 Q: This is as I understand it a measurement that
4 was provided to us by the folks at Farmer's
5 that shows the bandwidth utilization and
6 average of it on one of those particular links
7 in these diagrams that we've been looking at,
8 is that a fair characterization?

9 A: I believe it is.

10 Q: Okay. And my question to you is this, you
11 know, so our green box there is goes up to
12 around the 5G mark, do you see that on the
13 document?

14 A: Yes.

15 Q: What is the total size of this pipe on link A?
16 Do you have any understanding of what that
17 might be for Farmer's network?

18 A: I don't recall the fiber optic transport over
19 there. I believe they were running around --
20 is it -- I would just guess right now. I
21 believe it's well over 1 gigabit. I don't know
22 it maybe not be. It's just a guess. I can't
23 say.

24 Q: Okay. You don't know.

25 A: I can't say.



1 Q: You don't have any personal knowledge of that.
2 All right. And let me just ask you this, this
3 shows a period of time and an average generated
4 for the bits per second over that amount of
5 time, we could agree on that right?

6 A: Bits per second over 24 hours of time, yeah.

7 Q: Okay. Now the actual traffic heading down link
8 A would not look nice and neat, a nice neat
9 green bar at 5G all the time, correct?

10 A: That's what I understand too. It would be very
11 spikey.

12 Q: Okay. Right. Now my question to you is this,
13 you have a 95.2 transmit rate for a voice call,
14 correct?

15 A: If you double it -- oh, no, on the transmit
16 side. Your right. Transmit's one ---

17 Q: That's just one way.

18 A: 95.2, that's right.

19 Q: Okay. Now is it your testimony that ---

20 A: They actually provision it at 100, okay. So I
21 don't know if they ---

22 Q: What's 100?

23 A: --- it's all being used but it's provisioned as
24 100.

25 Q: Ah, there it is. Let's call -- let's say that



1 it is just 100 and imagine that this box under
2 link A is that one -- instead of 5G there is
3 said 100 kilobits so the box is to represent,
4 you know, the total capacity of this voice
5 transmission circuit. My question is this, if
6 you have a five minute voice call is there also
7 variability -- the spikiness as you reference
8 it -- during that time?

9 A: You know that's a good question. The way --
10 the nature of those calls people talk and
11 listen, they talk and listen. Sometimes they
12 talk over each and they're both talking,
13 sometimes they're both silent. And I can see
14 there's a dynamic to it. What's happening at
15 the other end of it is there's a person waiting
16 on the side and that side and that is a time
17 element too. How it looks on that link as it
18 moves through that network doesn't translate
19 directly to me onto the time element that I'm
20 talking about with you.

21 Q: Totally understand the time element of it but
22 I'm talking about the actual transmission of
23 that data. It's not going to occupy that full
24 100 kilobit capacity one hundred percent of
25 that call.



1 A: I think that link is reserved at that rate.
2 Whether that boxcar is full of stuff or it's an
3 empty boxcar that train rolls out with 100
4 kilobits of boxcar.

5 Q: Of boxcar capacity, right?

6 A: Yes, sir.

7 Q: It's not necessarily filled up with data?

8 A: And I will agree with that, it's not
9 necessarily filled.

10 Q: Talk about time as the appropriate measure of
11 network utilization and I want to make sure I
12 understand this as well. IPTV -- I finally got
13 that right -- is what Farmer's provides and I
14 want you to imagine that you've got a Farmer's
15 customer of IPTV.

16 A: Okay.

17 Q: He watches, he pulls up on there -- what's your
18 favorite movie?

19 A: Forrest Gump.

20 Q: He pulls up Forrest Gump. Full of Forrest Gump
21 I believe is around three hours, right? Sound
22 about right?

23 A: Sounds right.

24 Q: Okay. Pulls it up on TV, kicks back sitting on
25 his couch and is watching Forrest Gump through



1 his IPTV. You would agree with me for that
2 full three hours he is drawing data off of the
3 Farmer's network through their transmission
4 lines, correct?

5 A: I think that's right.

6 Q: Okay. And so similarly just to, you know, his
7 wife's in the other room, she's talking on the
8 phone, she talks for an hour. So that would
9 log in an hour worth of minutes of use,
10 correct?

11 A: It should, yes.

12 Q: Okay. And the same thing -- we all have
13 computer around here and everybody works in an
14 office building for the most part where they
15 have their e-mail up sometimes, is that a
16 familiar situation for you? You're sitting in
17 your office with your e-mail pulled up on your
18 screen?

19 A: Yes, sir.

20 Q: Okay. Periodically you get an e-mail don't
21 you?

22 A: We do.

23 Q: Okay. Periodically you get a little
24 notification from somebody. If you're IM
25 chatting -- I don't think people do that



1 any more but it's possible that people could
2 still chat, right?

3 A: Yes, sir.

4 Q: Okay. So you would agree with me that the
5 entire time your internet access is available
6 you're pulling down data from that system --
7 from that -- you're taking data out of the
8 transmission lines bringing it to your house,
9 correct?

10 A: When you talk about the internet being
11 available will you rephrase that? Are you
12 talking about that computer with the data
13 session and the e-mail or what are you talking
14 about specifically?

15 Q: Well let's do it a couple different ways.
16 You've got your e-mail open on your Outlook for
17 instance, guy in the next room sends me an e-
18 mail -- maybe even not with my company -- comes
19 to my system, pops up there. My understanding
20 is that in order for me to get that e-mail it
21 had to access the data transmission system,
22 bring it to my computer, is that a fair
23 characterization?

24 A: It is. It doesn't take very long, in fact it's
25 infinitesimally small. It's a very small



1 amount of time for that thing to get to you
2 depending on the file size, but most e-mails
3 are small.

4 Q: Understood. Let's try this example. What if
5 the Master's is on and I want to stream live
6 the Master's so I go to ESPN.com and pull up
7 the Master's and there's Tiger Woods ---

8 A: Well we're watchin' Forrest Gump already.
9 We're already watchin' Gump. Are we watchin'
10 the Master's and Gump?

11 Q: I don't know that we can stream that but we can
12 do Forrest Gump here in a second but right now
13 I'm going to stick on the Master's.

14 A: Okay.

15 Q: We're watching a live streaming video coming
16 from a direct feed from ESPN.com, is that
17 pulling data off of the transmission lines
18 feeding into my internet access?

19 A: Your internet access?

20 Q: I'm watching through the internet.

21 A: Oh, you're watching it through the internet?

22 Q: Yeah, on my computer.

23 A: I think I understand you better now. So you've
24 got an internet session up. It's probably
25 ESPN. You're seeing it through your ESPN ---



1 Q: In real time.

2 A: That is coming in through that same FTC
3 facility, you're getting it as internet, yes.

4 Q: Okay. And how long does the Master's typically
5 last, all day right?

6 A: Well Sunday is at least six hours.

7 Q: Okay, so I could be using that for six hours,
8 right?

9 A: Yes, sir.

10 Q: Okay. I'm glad we established that time is an
11 appropriate measure of utilization. Do you
12 know how much time the average American family
13 watches television?

14 A: I've heard numbers. It's a lot but I don't
15 recall it.

16 Q: Okay. I told you we were going to jump around
17 so I'm going to go back to the late '70s, early
18 '80s and you referenced an AT&T microwave
19 network. My understanding is that that
20 microwave network did not have anything to do
21 with transmission of calls from an end user
22 meaning a normal human being like me or you
23 into the system itself. Rather it was
24 transmitting data that was coming from landline
25 networks across distances, is that -- that's



1 probably a jumbled characterization -- but is
2 that a fair characterization?

3 A: I don't know about that. From what I've read
4 and under about it it carried voice across the
5 country. It carried television across the
6 country, and it carried data across the
7 country. That's what they used it for.

8 Q: Okay. But I guess my point is this, was there
9 anybody with a phone ---

10 A: Oh.

11 Q: --- who could access that microwave system?

12 A: Better. No, sir.

13 Q: Okay. Sometimes if you make it simpler it gets
14 better right? All right. You talked a little
15 bit about trunks -- and I'm not going to bring
16 the report back up -- when I reference the
17 trunks from the ISUP report does that sound
18 familiar to you?

19 A: We tried to do some of that in deposition, I
20 wish we hadn't, but yeah, it does sound
21 familiar.

22 Q: Well you saw Mr. Erwin. He was on the real hot
23 seat yesterday having to list out what all
24 those trunks were. Did you disagree with any
25 of his testimony about what those trunks were



1 and what they did?

2 A: It was like a calf starin' at a new gate. I
3 was so grateful he was doing it, I'm glad he
4 did it. I couldn't have done it.

5 Q: Okay. My question for you is this, those
6 trunks, my understanding is that those trunks
7 are only applicable to figuring out how many
8 ports, whether real or virtual, you need on the
9 switch.

10 A: Really? He uses that report just for the ports
11 on the switch?

12 Q: No, my question is, and again this probably the
13 failure of a non-engineer to articulate it
14 appropriately.

15 A: I'm sorry.

16 Q: Those trunks I understand are essentially
17 channels feeding into the switch in measurement
18 of how much traffic's on those channels leading
19 into the switch, is that fair?

20 A: That's better. Yes.

21 Q: Okay. And it logged a number of minutes of use
22 for carriers that are not associated with FTC
23 Communications LLC, do you recall that?

24 A: Yeah, I -- yes, sir, I recall that. I don't
25 remember all the things it logged but I



1 remember that part.

2 Q: Okay. And my understanding is that those
3 minutes of use are actually used to bill those
4 other carriers for the cost of using FTC's or
5 Farmer's network, is that fair?

6 A: I could believe that.

7 Q: Okay. So it is a very relevant measure in that
8 respect certainly we can all agree. I want to
9 -- I want you to think about a situation where
10 you've got a customer in rural Sumter County
11 and they've got FTC all around. FTC
12 Communications cell phone and they even have
13 Farmer's Telephone Cooperative Inc. landline,
14 cable, and so forth. They want to make a call
15 out ---

16 A: Okay.

17 Q: --- and so they pick up the phone, they dial
18 it, low and behold the switch has crashed or
19 it's some other 911 type situation, all right?

20 A: Okay.

21 Q: Could they still walk into their office, their
22 home office, pull up their computer and send
23 and e-mail to their loved ones to tell them
24 they're okay?

25 A: No, sir, I don't believe they could.



1 Q: Okay. Why is that? Why don't you think so?

2 A: Well if I'm understanding you right are you
3 saying the switch has crashed or the facility
4 between the ---

5 Q: Just the switch has crashed.

6 A: The switch.

7 Q: The switch is overloaded. So the voice call
8 won't go through.

9 A: Well that thing is a SIP based protocol on that
10 thing and it handles voice and video and data
11 together so if it's down any ability to handle
12 any of those things is gonna go away.

13 Q: Now we talked about your letter analogy which
14 I really liked, it was a good clever analogy
15 where you talk about cutting it up, ---

16 A: Yes.

17 Q: --- putting some numbers on it, sending it form
18 two post offices and it gets put back together.

19 A: Right.

20 Q: Your call out analogy which you gave us.

21 A: I do. Yes.

22 Q: Okay. My understanding is that notwithstanding
23 the voice transmission from your landline might
24 have to go through the switch but the data
25 transmission would not necessarily have to go



1 through the switch.

2 A: And that's a good point of distinction. Once
3 it hits that gateway it may be spread into the
4 data network or what you want to call is a
5 routed network like that but the -- it would
6 not necessarily hit the switch if it were. But
7 if that gateway's down all that things that
8 it's handling, all the video, the IPTV, the
9 voice and the data are down. Now you could
10 walk over and maybe pick up your cell phone and
11 that network might still be working, but if the
12 gateway's down, you're down.

13 Q: Ah, so even better. So I'm in my house, I pick
14 up my landline, low and behold the switch has
15 crashed, it's owned by Horry Telephone
16 Cooperative, so I pick up my cell phone the
17 call might go through 'cause it's going to a
18 different switch owned by AT&T, is that right?

19 A: It's possible. And certainly it would hit the
20 cell network. It would not be terminating in
21 that switch that was down, it would go to the
22 switch that AT&T owns.

23 Q: Okay. And then, just again just to clarify ---

24 A: If your phone was charged. You know you have
25 to keep that thing charged.



1 Q: You do. I agree with you on that.

2 A: Definitely.

3 Q: We can definitely come to an agreement on that
4 one. So one more just to clarify -- I think
5 you answered this but I want to make sure it's
6 clear for the record -- try to make a landline
7 call, crashed, switch is out. Try to make a
8 handheld wireless call, crashed, the switch is
9 out. Got to get some word out to your family,
10 you pull up your reliable Farmer's Telephone
11 Cooperative Inc. internet service, you go to
12 your Gmail and you press send on an e-mail you
13 could e-mail someone outside of the system?
14 You do not agree with that?

15 A: I don't think so, no.

16 Q: Okay. Now you just told me that -- and I'm not
17 saying that the gateway crashed, the gateway is
18 fully functional. Does that change your
19 answer?

20 A: Yes, it would.

21 Q: Okay. If the gateway is fully functional that
22 e-mail would go out, right?

23 A: It's a very high possibility it could unless
24 there were failures in the link elsewhere but
25 there's a very high possibility it could. It



1 could get to the gateway.

2 Q: Understood. Thank you. You were very careful
3 in your wording on one particular answer about
4 wireless carriers being able to access a
5 landline, and I think you said that they don't
6 get to connect automatically, you have to
7 negotiate in good faith, do you remember that
8 portion of your testimony?

9 A: I do. I recall that.

10 Q: And can you explain a little bit more about
11 that? You don't necessarily have to give a
12 wireless carrier access to your landline that
13 worked do you?

14 A: I'd pretty much reached the edge of my
15 knowledge when I said what I said on that. I
16 do understand that it's not the same level of
17 obligation that a landline carries but you do
18 have to work in good faith with a wireless
19 carrier and that's pretty much it.

20 Q: But you can if those good faith negotiations
21 fail refuse to give a wireless carrier access
22 to your landline network, is that fair?

23 A: I think it would be fair and rare.

24 Q: Okay. We talked about your New York
25 hypothetical. You were picking on my New York



1 hypothetical a little bit, that's okay. I'll
2 try to rehab it here a little bit. I just want
3 to make sure. You said that if a person
4 traveling from New York through this area did
5 not have cell service they might not choose to
6 travel through the rural area, is that a fair
7 characterization?

8 A: Well if he didn't -- you know it's a big area,
9 it might take a couple hours. They may reroute
10 and get a better route. I can understand that.

11 Q: So in my analogy somebody was coming down I-95,
12 right?

13 A: Yes, sir.

14 Q: So your testimony is that someone would stop
15 using I-95 as a method to travel through South
16 Carolina if there was not appropriate cell
17 phone coverage in that area?

18 A: That does seem a little extreme.

19 Q: Okay.

20 A: I don't think I would do it. I might suck it
21 up for 45 minutes and do that. You know,
22 you've got to consider too ---

23 Q: We're finding more things to agree on every
24 minute.

25 A: Well and, you know, I understand that. But no,



1 your right.

2 Q: Did Mr. Moss -- you were here for his testimony
3 yesterday, correct?

4 A: Yes, sir.

5 Q: Did Mr. Moss give a correct recitation of the
6 changes in technology over the decades?

7 A: I thought he did.

8 Q: Okay. And there's nothing you would
9 necessarily disagree with that -- about his
10 history lesson that he gave for the Court?

11 A: I thought it was really good.

12 Q: Okay. I want to go back to your experience
13 sort of starting from the beginning when we're
14 halfway through. You started your career at
15 Duke Power, is that correct?

16 A: Yes, sir.

17 Q: All right. And what year was that?

18 A: '82.

19 Q: Okay. My understanding is that you did not do
20 any telecommunications work for Duke Power at
21 that time, right?

22 A: That's correct.

23 Q: All right. And you left Duke Power in 1991, is
24 that right?

25 A: End of '91. Right -- December -- it was ten



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1 years.

2 Q: Okay. From '82 to '91 with Duke Power you did
3 not do any telecommunications work, is that
4 correct?

5 A: That is.

6 Q: All right. So my understanding is that it
7 wasn't until 1992 that you actually did any
8 telecom engineering, is that what you said?

9 A: That's right.

10 Q: All right. And -- let me see what Ms. Geer's
11 already covered -- and as to your work today
12 with your current consulting company my
13 understanding -- you said in your -- earlier
14 that about 30 percent of your time was working
15 on actual technical projects, is that right?

16 A: I believe that's right.

17 Q: Okay. And so the balance of your time is with
18 supervisory efforts?

19 A: Yes, sir.

20 Q: Okay. And you rarely direct any engineering
21 work on projects, is that fair?

22 A: Well that's not really fair.

23 Q: Okay.

24 A: I direct at a higher level. Project manager,
25 vice presidents and they work these projects.



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1 I mean, I might direct a guy who is directing
2 30 guys.

3 Q: Understood. I'm just talking about the direct
4 technical move this two to three decimal places
5 to the right -- you're -- that's not your kind
6 of thing?

7 A: Well what he does I have an obligation to sign
8 off on that with my professional license. It
9 has to be under my responsible charge and my
10 oversight, and I have to be familiar with the
11 project and know what's going on and I don't
12 get down in every weed like you said. I agree
13 with you. But at a certain level I know what's
14 going on on those projects ---

15 Q: Okay.

16 A: --- and that's core to what I do.

17 Q: Understood. My understanding is that you live
18 in Piedmont, South Carolina, is that right?

19 A: Yes, sir.

20 Q: That's a rural area isn't it?

21 A: Yes, sir.

22 Q: And we've agreed that rural areas need good
23 telephone service, correct?

24 A: They do.

25 Q: It's important for economic development you



1 agree?

2 A: I do agree.

3 Q: All right. But you need good schools as well?

4 A: Yes, sir.

5 Q: All right. And you need reliable police and
6 emergency services, is that right?

7 A: Yes, sir.

8 Q: All right. And you need good physical
9 infrastructure so that folks will want to come
10 to invest in Piedmont and other rural areas,
11 right?

12 A: You need all that, yes, you do.

13 Q: Okay. And you need good healthcare too you'd
14 agree?

15 A: Yes, sir.

16 Q: All right. My understanding is the mid to the
17 late '80s before the first generation cellular
18 came into the picture, is the correct?

19 A: I believe that's right. I'm not disagreeing
20 about any of that with the history.

21 Q: Okay. Well then I'll just cut that off. I
22 want to talk through some practical examples of
23 what you consider to be telephone service under
24 your definition.

25 A: Okay.



1 Q: Television is not telephone service under your
2 definition, right?

3 A: We agree on that.

4 Q: Okay.

5 A: But now I do want to say that there are some
6 telephone features that happen on these systems
7 in IPTV. Sometimes you can have your
8 television show when a caller calls in, it can
9 pop up on your TV screen. That's delivered
10 through the telephone network. There's so
11 blurring that's going on. That's why I
12 maintain such a broad -- this is difficult,
13 it's gonna be difficult to do this, but it's
14 because I'm very aware of the blurring between
15 data and voice as they move together but go on.

16 Q: Understood. And I'm going to go off based on
17 what you told me in your deposition ---

18 A: Please do.

19 Q: --- and if you need to correct ---

20 A: And remind me. I may have to correct some, but
21 remind me.

22 Q: Okay. Texting is telephone service in your
23 mind, right?

24 A: If the texting doesn't include like a video
25 file or sound file or -- there's the simple



1 texting and then there's the multi-media MMS
2 texting and so what happens there is the
3 gateway strips that off. If it's a big old wad
4 of video or something like that and it lets it
5 go through the routers for data. But for years
6 when texting was just emerging before there was
7 a multi-media element that was switched and it
8 still is.

9 Q: Okay.

10 A: The SMS is switch so.

11 Q: It depends on what you mean by texting.

12 A: It does but, you know, that SMS is so much more
13 prevalent than MMS because it's 10 to 1.
14 There's a lot more SMS going on.

15 Q: Okay. Well let's try another category. My
16 understanding is that you believe internet
17 usage is telephone service.

18 A: You know, I've said that. I may regret saying
19 that but there is so much of the internet that
20 carries communications. Here's a great one --
21 and I'll share that for the Court -- but there
22 was something on South Carolina public radio
23 and I read the associated article where deaf
24 people are now using social medial and all of
25 these video applications to communicate and



1 they set their phone up for video and they sign
2 each other on each end and that's there session
3 I would argue strongly that that's a telephone
4 service but it's happening over a smart phone
5 as a video application so it blurred but I'm
6 trying to be -- understandable I said internet
7 is a telephone service. Let me -- can I
8 rephrase that. I would say there are some
9 elements of internet that are clearly telephone
10 service. The greater internet I would -- I
11 could be persuaded it's not telephone service.

12 Q: Okay. So if I'm sitting at home with a laptop
13 hooked into the WiFi sending e-mails to my
14 friends that's telephone service?

15 A: You know, I want to call e-mail telephone
16 service, I really do, but ---

17 Q: You did in your deposition.

18 A: I know. I know I did. But you're sorting
19 eroding the pony express and so you got the
20 pony express for mail and then they got on
21 trains and then they were in the funky looking
22 cars and now they're in airplanes. I don't
23 care what you do that's still mail, and I think
24 mail has migrated to e-mail. That may be --
25 it's still communication but it's using mail.



1 Q: Okay. And so if I'm sitting there on the
2 couch, I've just sent my e-mail, I've got my
3 fingers crossed I've got the appropriate
4 bandwidth available, I pull up Netflix on my
5 laptop and I start watching a movie, that's
6 telephone service.

7 A: I don't like that. That's video over telephone
8 maybe.

9 Q: I can get your deposition out.

10 A: I know you can, but that's video over telephone
11 but if it's coming in over telephone --
12 telephone service.

13 Q: Okay. How about a deer cam?

14 A: I love the deer cam.

15 Q: What is it, is it telephone service?

16 A: I believe it's telephone service.

17 Q: Can you explain for the Court what a deer cam
18 is?

19 A: Apparently the Farmer's people have the ability
20 to get the deer cam and have it connected into
21 their network where you can actually see if
22 there's any deer hittin' your corn pile.

23 **THE COURT:** I think you can almost take judicial
24 notice in South Carolina.

25 A: I want that in my house but AT&T won't provide



1 that to me. But now, you know, well I've
2 thought about some of these things after
3 deposition and it's hard to support some of it.

4 **THE COURT:** When you say you want that at your house
5 you could put a deer cam up and do it over the
6 internet couldn't you?

7 A: You know, now a days with the little WiFi
8 ability if it's within a certain range you
9 could. If I start feedin' them closer to the
10 house though they'll make pits out of them.
11 But I get your point. So I guess what I want
12 to tell you is I can identify -- I think that
13 the brush is too broad but I understand that's
14 the brush that we have. We're painting with a
15 broad brush. Is it internet service, is it
16 telephone service? And I'm gonna have to get
17 down off my high horse where I said there's so
18 much blurring that's it's hard to tell some of
19 these things these days and be a little more
20 realistic with it. I'm rethinking the video
21 over the cell phone. I think that might be
22 video delivery over a cell phone. I don't ---

23 Q: I think you originally told me that was
24 telephone though right?

25 A: I did tell you that was telephone. I don't



1 know that I still feel that way.

2 Q: Okay. I want to talk about the wireless market
3 in Framers area. My understanding is Sprint
4 has around ten towers, does that sound correct?

5 A: I heard that. I didn't really remember the
6 number. That sounds good.

7 Q: Okay. T-Mobile has around nine towers, is that
8 right?

9 A: I'm relying on what I hard in the courtroom.
10 I think that's right, yeah.

11 Q: And Verizon has around 50 towers, is that
12 correct?

13 A: I believe that's right.

14 Q: You agree with me that wireless service is a
15 competitive field, correct?

16 A: I do believe it is.

17 Q: Do you believe that wireless service can --
18 strike that. Farmer's is an ILEC or has ILEC
19 territory, correct?

20 A: Yes, sir.

21 Q: And that's an incumbent local exchange, just --
22 right?

23 A: Yes, sir.

24 Q: Right? Okay. So my understanding is that in
25 that in that ILEC territory if a customer for



1 Verizon or T-Mobile or AT&T wants to make a
2 phone call they've got to get into Farmer's
3 landline service somehow or to get to China or
4 India or wherever.

5 A: I lost focus there for a second. I'm sorry.
6 Just repeat that for me. I apologize.

7 Q: I understand. You've been up there for a long
8 time. My understanding is that if a Verizon,
9 T-Mobile or AT&T customer wants to make a call
10 in Farmer's ILEC area that's going to make it
11 to it's ultimate end user in let's say Shanghai
12 -- an exotic place -- it's going to have to go
13 through Farmer's wire line network at some
14 point, correct?

15 A: Yes, they will.

16 Q: Okay. So I want to think a little bit about
17 what is on a cell tower and what that does and
18 I can go through this pretty quickly but just
19 so we're on the same page here, on each cell
20 tower you have an antennae that creates a radio
21 wave, right?

22 A: I like the way you said that, that's accurate.

23 Q: Okay. I got it from you. Did you see the
24 three directional antennas that were ---

25 A: I did.



1 Q: --- described yesterday?

2 A: I did.

3 Q: Okay. Is that typical of what Farmer's uses on
4 its poles?

5 A: I'm gonna have to except out on that, I don't
6 know. I'm not sure. I'm sure some of them
7 are.

8 Q: Okay. And there'd be a waveguide, right?

9 A: Waveguide and some people refer to that as a
10 coaxial cable, a big one.

11 Q: All right. Like a big cable. Then there's --
12 then there is an optical to radio wave, is that
13 right?

14 A: Optical to radio conversion, there's a
15 conversion from optical to radio waves, that's
16 right. Radio waves -- optical to radio, so it
17 comes out of the laser light, it moves from
18 laser light to a electro magnetic wave.

19 Q: Okay. And at some point it would turn and be
20 hooked into the wire line network.

21 A: That optical side of it goes back into the wire
22 line, yes.

23 Q: Okay. So if someone like Verizon owned the
24 tower then it would own the actual physical
25 structure of the tower itself, correct?



1 A: They can. Now that doesn't mean that they do.
2 Most of those guys they lease that stuff from
3 big tower companies now, but Verizon still owns
4 a few I guess.

5 Q: Okay. Let's just -- for this hypothetical
6 we'll say Verizon owns the actual tower.

7 A: It's their tower. All right.

8 Q: Okay. And they would also own the antennae, is
9 that right?

10 A: In this -- they would own their antennae.

11 Q: Okay. How about the waveguide?

12 A: They would own the waveguide and the radio that
13 drives it.

14 Q: Okay. How about the optical to radio wave at
15 the base?

16 A: That interconnection that's where the interface
17 is.

18 Q: Okay.

19 A: That's where everything is. There's a handoff.

20 Q: And they would -- right -- and they would pay
21 Farmer's a fee for the interconnection into
22 that.

23 A: Farmer's bringing the light in and they're
24 coming up on the light panel and the light is
25 terminated and moves through the optical to



1 electrical conversion at some point in there --
2 I don't know if it's on the light to electrical
3 conversion or if it's on the moving it on up to
4 the radio waveguide -- there is a point of
5 interconnection where they have demarced --
6 there's a demarcation.

7 Q: Okay.

8 A: And I'm not familiar enough to tell you what
9 that is.

10 Q: All right. You talked about the core network
11 and I just want to make sure it's established
12 that we could agree that Farmer's Telephone
13 Cooperative Inc., FTC Diversified, LLC, FTC
14 Communications, LLC, they all use that core
15 network, all the information is aggregated
16 there in the core, is that fair?

17 A: That's fair.

18 Q: Okay. And as well as the edge and the access
19 parts of the network those would all be for the
20 most part commonly shared?

21 A: I agree.

22 Q: Okay. I think maybe where you might get a
23 distinction is out to the ultimate sort of the
24 end user, the last mile, is that ---

25 A: I'm just thinkin' ---



1 Q: --- fair?

2 A: --- about that FTCC piece, sir, and that tower
3 hung out on the end and that switch that lives
4 in one of AT&T LATAs, those pieces are not, you
5 know, they're not really part of that.

6 Q: Okay. So let's say we've got three houses
7 there in a row, copper POTS line right at each
8 one to some fiber, not too far away -- we
9 haven't gotten complete fiber to the home yet
10 but we're getting close -- and somebody in
11 house number one is making a voice call over
12 the landline, somebody in house two is using
13 the internet to sent e-mails to friends and
14 watch funny cat videos, somebody in house
15 number three is watching IPTV, okay?

16 A: Okay.

17 Q: All of those transmissions are going to travel
18 from the respective houses to the edge, is that
19 fair?

20 A: Yes, it is. You're doin' good.

21 Q: And all that stuff's going to get jumbled up
22 like our train. It's going to get packetized
23 and sent where it needs to go, correct?

24 A: Absolutely.

25 Q: All right. Telephone call is going to go to



1 the switch, right?

2 A: Yes, sir.

3 Q: The rest of the data is going to go wherever it
4 needs to go in order to help the end user be
5 able to accomplish the function that they've
6 paid for, right?

7 A: I believe so.

8 Q: Okay. Quick question about this before I
9 forget -- bring this back up here. And I may
10 be very wrong about what I getting ready to ask
11 you so ---

12 A: I've already been wrong once today so.

13 Q: I'll ask you to refrain from laughing at me.
14 Customer two wants to call customer three ---

15 A: Customer two? Okay.

16 Q: Customer two, right there.

17 A: All right.

18 Q: So my understanding is this call would be
19 routed thusly -- and this is the landline call
20 -- from customer two it's going to get FCTN
21 702, travel over to FCTN MX down link K to NKGS
22 MX2, up link J to the gateway and then at that
23 point it's going to go up to the Horry
24 telephone cooperative switch, have I gotten
25 that right so far?



1 A: If it's a long distance call, sir, it has to
2 get all the way to this tandem. No, that's not
3 right.

4 Q: What if it's a local call that's going to
5 customer three.

6 A: I thought that was a local -- I thought that
7 was a long distance call.

8 Q: No, no, this is a local call. Customer two is
9 calling customer three so ---

10 A: But now ---

11 Q: --- again ---

12 A: --- there are long distance calls inside that
13 network.

14 Q: --- that's not the question. We can get to
15 one, we can get to one. But we're going to do
16 this ---

17 A: The hypothetical is this is local.

18 Q: This is local.

19 A: I get you now. Okay. It's off to -- yeah, it
20 goes to the switch now. You're right. The
21 gateway takes it to the switch. I'm with you.

22 Q: It goes to the switch.

23 A: Yep. I'm on the same page.

24 Q: Now my understanding is that from the switch
25 he's going to go straight to ---



1 **THE COURT:** Hold on. You can't react like that.
2 I'm sorry.

3 **MR. ERWIN:** Yes, sir.

4 **THE COURT:** Don't want to hold anybody in the C
5 word.

6 **Q:** My understanding is that it's going to travel
7 from the switch to STANGW to the gateway in
8 Sumter and then down here to POCLMX to POCL701
9 and then to customer three, is that right?

10 **A:** I don't believe that -- I don't believe that
11 link from the Horry tandem to that gateway is
12 the way I understand this network to work.

13 **Q:** So you think it would go ---

14 **A:** It comes back to there and then -- and takes
15 the route that the routers force it to take.
16 I don't believe that Horry switch that lives
17 out here talks directly to that to process that
18 traffic. I believe it goes here and follows
19 that link path.

20 **Q:** I may have to let Mr. Moss talk for -- talk
21 about that because I may be at the end of what
22 I can do with this. So my understanding -- how
23 long have you been a telecom engineer is it
24 fair to say?

25 **A:** Let's see, from '92 'til what is it -- 27 years



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ROA 002360

1 and counting.

2 Q: Okay. So my understanding is that when you
3 prepared for this case you actually had to do
4 research on what erlangs and centum call
5 seconds were as a measure of capacity, is that
6 correct?

7 A: I was refreshing, yes. I did.

8 Q: Because you hadn't used those terms in quite a
9 few years had you?

10 A: Well I hadn't, no.

11 Q: And my understanding is it had been actually at
12 the time of your deposition around six or seven
13 years since you actually used those terms,
14 right?

15 A: In working on switch directly that's probably
16 accurate but in talking about switching with
17 others I don't know that it's been that long.

18 Q: Okay. You'd agree that voice traffic is
19 diminishing while data traffic is growing, is
20 that fair? As a function of bandwidth?

21 A: Let me think about that a second. Voice
22 traffic is diminishing while data is growing.
23 Data's clearly growing. I would say there's
24 been some decline in voice traffic, yes, I
25 would say that.



1 Q: Okay. And you would agree that bandwidth
2 actually is a good measure of capacity, is that
3 fair?

4 A: I think it's better to day there's several
5 measures of capacity. Bandwidth is certainly
6 one applicable, I don't think it's the best
7 one.

8 Q: But it's a good way to describe a transport
9 rate, is that fair?

10 A: I do think so, yes.

11 Q: Okay. And if we're talking about transport
12 capacity you would agree that minutes of use
13 are not necessarily the constraining factor in
14 a wire line system, is that correct?

15 A: You're talking about just the transport?

16 Q: Just the transport capacity.

17 A: I could agree with that.

18 Q: Okay. And they're certainly relevant switching
19 technology minutes of use that is, right?

20 A: I believe so.

21 Q: Okay. But the Co-op doesn't actually own the
22 switches it uses for either its landline
23 traffic or wireless traffic does it?

24 A: They do not own the switch.

25 Q: Okay.



1 A: But they do have to pay for those trunks that
2 interface to that switch, you know, and that
3 does require that kind of traffic engineering.

4 Q: Okay. Understood.

5 A: Okay.

6 Q: And my understanding is that in your time as an
7 engineer you've actually never personally seen
8 a switch hit its capacity, is that correct?

9 A: I have not.

10 Q: Okay.

11 A: I've seen some that probably should have but,
12 no.

13 Q: And there's certain voice traffic that never
14 hits the switch, is that right? Video game
15 system hooked into the internet.

16 A: Oh, yeah, yeah, yeah, okay, I'm with you on
17 that.

18 Q: Skyping over internet, right?

19 A: Yeah, that's right. Now that's that blurring
20 going on again, but that's true.

21 Q: All right. Just a little bit more. You were
22 here for Mr. Erwin's testimony yesterday,
23 correct?

24 A: Yes, sir, I was.

25 Q: My understanding is that you heard -- he had a



1 conversion rate for voice to data or minutes
2 use to data of about 10 megabits per second, is
3 that right?

4 A: Well, you know, he did that and I wanted to
5 recheck that and make sure that there was a
6 better understanding of it. I heard some of
7 that too.

8 Q: Okay.

9 A: I thought he might have got lost a little bit
10 in that.

11 Q: Okay. So what was the correct ---

12 A: The conversion ---

13 Q: Yeah.

14 A: --- from the whole number?

15 Q: What do you think the correct number was?

16 A: Well you had to multiply by 8 to get to bytes
17 to bits and then you had to divide by 1,000
18 which is to move it megabits then you had to
19 impose it on that 10 megabit transport so you
20 divide by another 10 and then if you wanted to
21 get it into -- from seconds to minutes you had
22 to divide by 60 and he took it -- he should
23 have took it another step further and divided
24 by another 60 to make it hours to hours.

25 Q: Okay.



1 A: That's really what I wanted to establish.

2 Q: You mentioned that they had disabled silence
3 suppression, they being the Cooperative. They
4 disabled silence suppression on their voice
5 call system, right?

6 A: Yes, sir.

7 Q: Had it ever been activated?

8 A: I don't believe it had.

9 Q: Okay. You don't know for sure though?

10 A: I could probably find out but I don't know for
11 sure at the moment.

12 Q: Okay.

13 A: I can't imagine any reason that they would
14 have.

15 Q: Do you know what the voice over IP rate was in
16 2010?

17 A: 2010?

18 Q: For Farmer's?

19 A: For Farmer's the VOIP rate?

20 Q: Uh-huh.

21 A: So didn't they move them to that HighQ network
22 in '06, or '05 or '06, so that was around 200
23 kilobits per second 'cause they were using that
24 soft switch.

25 Q: So just to -- we can maybe shortcut this -- is



1 it your testimony that for years 2010 through
2 2018 the 200 kilobit rate would have been the
3 applicable two way count of the transmission
4 rate?

5 A: Thank you, sir. I'm convinced of it.

6 Q: Okay.

7 **MR. CARTIN:** Just one moment, Your Honor, I beg your
8 indulgence.

9 Q: We talked a little bit about the growth rate
10 and data usage from 2010 to 2018, is that --
11 recall that discussion?

12 A: Yes, sir.

13 Q: All right. And I believe you disagreed with
14 Mr. Moss's numbers that he used to combine the
15 two -- come up with combined average growth
16 rate, right?

17 A: We don't disagree on a lot of things but we
18 disagree strongly on some, yes, sir.

19 Q: Okay. What are more appropriate growth rates
20 that you would have utilized for that
21 calculation?

22 A: I thought we had some pretty good models on
23 some of these usage charts that we had here.

24 Q: Uh-huh.

25 A: Now from what I saw on the minutes of use and



1 the data chart I know that's the cellular
2 network, I understand that, but I think the
3 trending and data growth is transparent across
4 those boundaries. I would love to see that
5 compared and look -- and see how that looks.

6 Q: So if Mr. Moss's analysis had similar average
7 growth rate to what's on that chart it would be
8 reasonable in your mind, right?

9 A: Well if you discount the fact that there's a
10 couple, three places where I -- really disturbs
11 me that we're using a national standard of 56
12 kilobits but the reality is we're using 200
13 kilobits. We're using an author, Mr. Herpee
14 (sic), citing Cisco statistics in Mr. Moss's
15 original affidavit that cites percentages of
16 growth for voice and data and reaches a 5
17 percent number for a U.S. national average but
18 that doesn't apply with us specifically, and
19 the we turn around and we talk about growth
20 rates in North America but all the counties
21 that we're dealing with here, the population's
22 in decline. Now I know the data rate's
23 growing. I don't dispute the data rate's
24 growing. What bothers me is we use these
25 national numbers and they're not germane,



1 they're not even close to specific.

2 Q: So how far off would those national numbers be?
3 What metric could you give us to tell us how
4 Farmer's ---

5 A: Well that's a fair question and I don't know
6 that' I've answered that. It's a lot easier to
7 criticize it than it is to go and produce it
8 yourself. I get that, but I think with a
9 little bit of effort we could find something
10 better.

11 Q: Cisco is an credible company in the world.

12 A: Absolutely. A great company.

13 Q: And the reports they generate you would agree
14 with me they are credible as well?

15 A: I do.

16 Q: Generally accurate as well, right?

17 A: Generally accurate but maybe not specific.

18 Q: Okay. And I understand there may be a
19 disagreement about the application of North
20 America numbers to Farmer's, ---

21 A: Thank you.

22 Q: --- but in the general sense you would agree
23 with me it is a reliable reports relied upon by
24 experts in your field, correct?

25 A: I'm not arguing with you about that.



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1 Q: Okay. I think that's all I have for this
2 witness, Your Honor.

3 **THE COURT:** Redirect?

4 **MR. WYATT - REDIRECT EXAMINATION BY MS. GEER:**

5 Q: I just want to make sure we're clear and I drew
6 on my own little board there, kind of my hand.
7 But the error that you mentioned about the --
8 is it transmit rate or transfer rate -- I want
9 to make sure I get it right, the 200?

10 A: It's a transmit rate.

11 Q: Transmit rate. The error that is made in Mr.
12 Moss using 56 kilobits per second, is that
13 right? And you're saying it's a 100?

14 A: 200.

15 Q: Two ways.

16 A: Yes, ma'am.

17 Q: Where does that error show up in his
18 conclusions?

19 A: I don't know that it's on that board per se.

20 Q: Which board should we be looking at?

21 A: I think it was in his PowerPoint notes to be
22 honest.

23 Q: I'm going to hand this to you and see -- if
24 Your Honor doesn't mind if I approach the
25 witness -- and tell me is this -- and I can put



1 it up if it's on that one.

2 A: This will work.

3 Q: Okay.

4 A: Now what do you want me to do?

5 Q: The error that we're talking about that we
6 should have used 200 instead of 56. Where does
7 that error manifest itself in the conclusion?

8 A: Well you see the top row FTC voice?

9 Q: Yes.

10 A: You see the DSI voice ---

11 Q: Yes.

12 A: --- and the FTCC voice?

13 Q: Yes.

14 A: To the extent that any of those hit the SIP
15 network. You know, I understand some of the
16 FTCC voice may not hit the SIP network. It may
17 be -- well it would, it would hit the SIP
18 network and if that's the case then all three
19 of these numbers, A, B and C are underrated by
20 3.5 seven times.

21 Q: One more question from me. I'll pull up a
22 different board here. The hypothetical that
23 Mr. Cartin was asking you about ---

24 A: Yes.

25 Q: --- when he said it was a local call but he was



1 on the long distance board, right?

2 A: That is our model for the long distance call.

3 Q: Okay. And he had a customer -- he had a
4 customer here?

5 A: Yes, ma'am.

6 Q: And he had a customer over here.

7 A: That's right.

8 Q: And is that actually a local call?

9 A: Not in the Farmer's telephone network. He
10 couched it as a hypothetical and I tried to
11 handle it but the network doesn't really work
12 that way.

13 Q: Okay. So in the Farmer's network that is a
14 long distance call?

15 A: Yes, ma'am.

16 Q: Okay. That's all I have.

17 **MR. WYATT - RECROSS-EXAMINATION BY MR. LUTHER:**

18 Q: Just to clarify a few things for my mind.

19 A: And I've done the poorest with you. I'll try
20 to help all that I can.

21 Q: I've sort of in a league of my own here.

22 A: I'm just trying to help the situation.

23 Q: The routers in the core network.

24 A: Yes, sir.

25 Q: Those are the Juniper routers, correct?



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1 A: Yes, sir.

2 Q: Any other routers in the core network in terms
3 of ---

4 A: Not to my knowledge, no, sir.

5 Q: Wireless network uses the Ciena routers,
6 correct?

7 A: Yes, sir.

8 Q: Okay. And then are there -- as I understand it
9 there's a -- we've been talking about the
10 gateway here, right?

11 A: Yes, sir. Yes, sir.

12 Q: Gateway is that like a router?

13 A: It is. It is a supped up router.

14 Q: Would that be the Juniper or is that kind of
15 ...

16 A: That's the Juniper.

17 Q: Okay. Got it. And then as I understand it you
18 said there are some transmissions where it hits
19 the gateway and if it's wireless it goes -- I
20 mean, if it's a voice it goes one way and if
21 it's the data it goes through a data router, is
22 that right?

23 A: Yeah -- if it's the data it would just probably
24 stay in there and route through a data path.
25 If it's a switch traffic it would hop off and



1 hit the switch. It'll be switched to wherever
2 it had to go. But if it were a data path --
3 let's just say your data takes a couple of
4 routes through the internet out of the system.
5 One may go up to New York and one may go toward
6 Orlando, but that data would route out of the
7 system wherever it needed to go just like a
8 switch would.

9 Q: Switch traffic is the voice traffic?

10 A: Yes, sir.

11 Q: Okay. And we're talking about it's either
12 going to the AT&T switch or the meta switch
13 depending on whether it's wireless or landline?

14 A: Yes, sir. You've got a good -- yes.

15 Q: All right. I'm with you. All right. The wrap
16 that -- so the data that's what I'm trying to
17 figure out now.

18 A: You want to talk data, okay.

19 Q: The data part is that a different router than
20 the Ciena or the Juniper that we're talking
21 about?

22 A: No, sir.

23 Q: It's the same router?

24 A: It's all in the same ...

25 Q: That's all I got. Thank you.



1 MR. WYATT - CLARIFICATION BY THE COURT:

2 **THE COURT:** Well I'm going to ask him -- I'm going
3 to follow Mr. Luther's questioning. Is
4 basically to say that you need the same
5 infrastructure whether -- for the voice even
6 though you took out -- if you were to take out
7 internet ---

8 A: Video.

9 **THE COURT:** IPTV.

10 A: Data, yeah.

11 **THE COURT:** And the data. You need the same
12 infrastructure?

13 A: Yes, sir. And ---

14 **THE COURT:** But that's really -- doesn't appear to
15 be true to me because you would need the
16 Juniper router but you wouldn't need the Ciena
17 router would you?

18 A: Well ---

19 **THE COURT:** If wireless was taken out too?

20 A: The Ciena piece when they back haul it into
21 this network, Your Honor, to complete a call
22 that goes through that system at some point
23 every tower that lives on this system moves
24 into this core for a minute and it may come in
25 through the Ciena and not the Juniper but it



1 ultimately gets to that Juniper.

2 **THE COURT:** But if you didn't have wireless ---

3 A: And then it's moved out.

4 **THE COURT:** --- would you need the Ciena router?

5 A: Yes, sir, because the wireless needs route
6 wires and it goes down into the ground ---

7 **THE COURT:** But I said if you didn't have wireless.

8 A: If you didn't have wireless would the Ciena
9 routers -- they still manage the voice and data
10 for the Farmer's Telephone Cooperative as it
11 touches the antennas, that's exactly right but
12 if you didn't have those wireless antennas
13 would you need those Ciena routers? I'm not
14 entirely sure about that.

15 **THE COURT:** Okay. Well so the infrastructure could
16 change, it could be lessened if you didn't have
17 all -- if you only had only voice, landline,
18 voice and that was it?

19 A: I understand your question.

20 **THE COURT:** Matter of fact I don't even know would
21 you need the same level of fiber optics if you
22 dropped from ---

23 A: Well I think you probably, the way the fiber
24 optics work is the transport rate is so high on
25 that the impact of the wireless traffic is not



1 a necessitated need to move up or down with the
2 wireless transport rate with the fiber optic
3 transport rate.

4 **THE COURT:** Okay.

5 A: It is what it is and those are bought in
6 discreet packages by vendors and it's hard to
7 -- it's hard to carve that down and buy a 33
8 and a half. You can buy it in the 60 and
9 that's plenty, you understand that?

10 **THE COURT:** No I don't understand all the ---

11 A: Well the capacity of these things are bought.

12 **THE COURT:** Do you just buy the cables?

13 A: The big box is the Junipers and these are
14 bought in discreet sizes so that you buy a size
15 that can handle these other things that can be
16 handled and it's not something you can scale
17 down that finely.

18 **THE COURT:** Well I'm talking about -- you're talking
19 about scaling it down ---

20 A: Right. If you diminish it.

21 **THE COURT:** If this infrastructure had been nothing
22 but voice from the get go ---

23 A: From the get go.

24 **THE COURT:** --- and had never been utilized as all
25 the other functions that we've talked about,



1 wireless, internet, IPTV ---

2 A: Yes, sir.

3 **THE COURT:** --- and it was built only to handle
4 voice ---

5 A: Just voice.

6 **THE COURT:** Would the structure have to be the same
7 as it is now? Because you're going -- saying
8 this is what happens if we pull back, I'm
9 asking if we never did it?

10 A: We never did it in the first place. I
11 understand your question better now. You know
12 there's two parts to that. If you never did it
13 in the first place the Cooperative probably
14 wouldn't be in business, we wouldn't even be
15 having this discussion because they wouldn't
16 have been competitive and they would have gone
17 out of business a while back.

18 **THE COURT:** All right. So you're saying that the
19 other aspect is a financial aspect.

20 A: There may be but I think in terms of the
21 network provisioning aspect this network looks
22 very similar to many other clients that are
23 moving in technology where they're doing a
24 voice and video and data play in a unified.

25 **THE COURT:** I understand all that, I'm trying to



1 follow Mr. Luther's reasoning.

2 A: Yes, sir, Mr. Luther's reasoning. And he's
3 trying to get to the bottom of what is the bare
4 essential for a voice network.

5 **THE COURT:** Yes.

6 A: I understand that.

7 **MS. GEER:** Just to make sure I'm clear, a voice
8 landline network or only ---

9 **THE COURT:** Well he asked it both ways. I think he
10 asked landline and then wireless.

11 **MS. GEER:** Are we on wireless now?

12 **THE COURT:** We're on landline right now.

13 **MS. GEER:** Okay, landline.

14 A: So in the landline scenario what you see up
15 there with that deployment of their core
16 routers I believe that remains. I believe the
17 fiber optic sizes are optimized for a lot of
18 things not just the carrying of the
19 consolidated traffic but a lot of the sizing I
20 do on the fiber, Your Honor, is not for the
21 capacity to move through it, it's just
22 everybody needs one. And so you may be able to
23 carry all of the capacity of the company on one
24 fiber strand but you're going down this road
25 and there's 200 people down it and you're gonna



1 have to take 200 fibers down there. So a lot
2 of times it's sized for access and not
3 capacity. So so much of their plan is sized to
4 take the broadband or voice services to all
5 their subscription. That happens. Does that
6 help?

7 **THE COURT:** I don't think you've answered it for me
8 yet but ---

9 A: I'm trying.

10 **THE COURT:** --- is -- you certainly -- any further
11 questions?

12 **MR. CARTIN:** Very quick question.

13 **MR. WYATT - RECROSS-EXAMINATION BY MR. CARTIN:**

14 A: Come on.

15 Q: Does a long distance call ever hit the
16 metaswitch?

17 A: Does the long distance call ever hit the
18 metaswitch?

19 Q: Right.

20 A: So what is this tandem -- it goes off and so
21 when it comes back from that tandem it goes to
22 that gateway and that gateway takes it to the
23 meta and back and switches.

24 Q: That's a yes?

25 A: Yes.



1 Q: Okay. That's all I have.

2 A: I'm still gnawing on trying to help clarify
3 this thing for you, Your Honor. Let me think
4 about that.

5 **THE COURT:** I'm not asking anything.

6 **MS. GEER:** Your Honor, if I could just have one
7 moment. Your Honor, we don't have any further
8 questions.

9 **THE COURT:** Mr. Luther?

10 **MR. LUTHER:** Nothing further.

11 **THE COURT:** You may step down.

12 A: Thank you, sir.

13 **THE COURT:** All right. We're going to take a break
14 for lunch now? Back at 2:15 or 2:30?

15 **MS. GEER:** 2:15.

16 **THE COURT:** 2:15.

17 **(Off the Record)**

18 **MR. VON LEHE:** Your Honor, we would like to call as
19 our next witness with the knowledge that there
20 is a motion outstanding as his testimony, but
21 we'd like to call Mr. Douglas Meredith.

22 **THE COURT:** Well we're going to go ahead and just
23 address the motion?

24 **MR. VON LEHE:** Yes, we can address the motion. I
25 believe you're the moving party isn't it Walt?



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ROA 002380

1 MR. CARTIN: Happy to. Your Honor, we submitted
2 last week or so a -- before our prehearing
3 conference a motion in limine pertaining to Mr.
4 Meredith. I think it's important to note
5 there's only two portions of his testimony in
6 particular that we object to. For the record
7 he was designated to do the following -- I just
8 want to make sure that I tell the Court what's
9 not at issue. What is not at issue is the need
10 for rural telephone service in rural areas, the
11 need for incentives to provide rural telephone
12 service but what is at issue is how the South
13 Carolina Public Service Commission's ruling
14 directives and regulations view and address
15 wireless telephone service, how the Federal
16 Communications Commission's ruling directives
17 and regulations view and address wireless
18 telephone service, and it's my understanding
19 that what constitutes regulated versus non-
20 regulated as this was withdrawn as a topic, so
21 we're really focusing on those last two
22 categories, Your Honor, and I -- rather than
23 hearing my words about what the testimony will
24 be I think it's important to look at from the
25 deposition what Mr. Meredith said he was going



1 to do. So I ask the question after going
2 through a number of questions about these
3 topics. So my testimony would be describing
4 the policy -- and this is at, just so you can
5 follow along, Mr. Von Lehe, it's at his
6 deposition at page 33 starting at line 1. So
7 my testimony would be describing the policy,
8 describing what, you know, what the law was
9 saying and then what the Commission has said in
10 the past and then saying, okay, based upon this
11 we recommend you do the following. Question,
12 so your testimony there would have been looking
13 at the law in the prior orders of the PFC to
14 recommend how they often determine the
15 particular case, right? Answer, yes. And so
16 when I'm in a State Commission proceeding a lot
17 of material coming from the federal side, the
18 FCC, will be presented to give guidance and
19 inform commissioners. Question, and so in this
20 case would you presume that the normal path
21 your testimony would be that you would talk
22 about what the law says, FCC orders, PFC
23 orders, other sorts of decisions from governing
24 bodies and then advocate for a particular
25 position about how the court should rule?



1 Answer, that's how -- yes. I actually looked
2 at the deposition to make sure there wasn't
3 some other explanation after that and that the
4 answer was just yes on that particular point.
5 We cited a number of cases from South Carolina
6 law all standing for the proposition that Your
7 Honor is the only one who is an expert on the
8 law in this courtroom and no one else can usurp
9 that authority. Now there have been a couple
10 of cases that have been presented, I believe
11 Bill Zarian (sic), Offal (sic) and Buchanan
12 where the other cases that were presented. I
13 focus on the Bill Zarian case and Offal (sic)
14 case for right now. Those cases were both
15 securities regulations cases. Basically there
16 were allegations of insider trading, other
17 securities violations and importantly they were
18 jury trials and the evidence was let in for the
19 sole purpose of getting the jury of the lay of
20 the land about present regulations in the
21 existing state of securities analysis and
22 securities law so that they could better
23 understand in context some of the actions that
24 the defendants in that action took. The fourth
25 circuit in those cases was very circumscribed



1 and said this is very limited what we're
2 allowing this to do. To my knowledge I've only
3 seen those in the securities industry and with
4 jury trials where there might need to be some
5 explanation. There's a lot of distinctions
6 here. First, Your Honor, we're talking about
7 what this term would have meant in 1978. Now
8 there's been a lot of technology talk as I'll
9 call it and that's appropriate factual
10 information. It's been asserted in the
11 response to the motion in limine that this
12 witness is going to provide some sort of
13 factual background for the regulatory scheme.
14 Well I would submit to the court that at least
15 in his deposition testimony he referenced case
16 law, he referenced SEC orders, PSC orders.
17 These are all wonderful sources that everybody
18 can find on Westlaw. These are all things that
19 would be appropriate for opposing counsel to
20 make in a brief. If they want make these legal
21 arguments they certainly can, and the most
22 important part is all of these orders, all of
23 these cases are replete with established facts
24 that another court has gone through the trouble
25 of finding or another commission has gone



1 through the trouble of verifying the veracity
2 of and finding to be true and accurate such
3 that they can be included in orders so if they
4 are looking for factual information to
5 entertain -- or to inform policy and the legal
6 structure they have to look no further than the
7 documents themselves. Now I think what's going
8 to happen is they're going to ask the Court to
9 -- well he just needs to be able to testify
10 about the facts, but I think this is just a
11 backdoor way for him to be able to because in
12 order for his talk to make sense at all he
13 would have to reference the regulatory
14 structure so what I think it's going to be is
15 basically a backdoor legal argument. As I
16 understand it this gentleman tends to take two
17 federal definitions and argue for a definition
18 of telephone service. That's an appropriate
19 analysis for this Court, and I feel, Your
20 Honor, that we've laid out a strong written
21 foundation in this motion in limine and in our
22 reply to their response. It gives the Court
23 more than enough to exclude those portions of
24 the testimony.

25 **THE COURT:** All right. Mr. Luther, what's your



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ROA 002385

1 position?

2 **MR. LUTHER:** Your Honor, we don't have a position.

3 **THE COURT:** There you go. That's all.

4 **MR. VON LEHE:** Now, by the way that counsel has
5 prophesized what's he's going to be asked and
6 what's he's going to testify to which you heard
7 a moment ago and somehow know that we're going
8 to try to backdoor in legal issues and put
9 forward legal conclusions. Well this is not
10 accurate, Your Honor. That is not going to
11 happen. Excuse me just a second. The legal in
12 this case is assets used in providing rural
13 telephone service. That's going to be the
14 legal question to be determined. He's not --
15 he's not going to comment on the legal
16 question. There was nothing about South
17 Carolina law. He does have background
18 generally in federal laws. He's not a lawyer
19 but he has general background there.

20 **THE COURT:** Why is that relevant.

21 **MR. VON LEHE:** That is relevant because of the
22 context are these laws -- the terminology
23 that's placed in these laws they seep into the
24 lexicon and they become used throughout an
25 industry and it's terminology and it's



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ROA 002386

1 interpretation of terminology which I would
2 like to get before the Court -- especially a
3 lot of these abbreviations. What do they mean?
4 And we've heard so many abbreviations.

5 **THE COURT:** Well I get the abbreviations. But let
6 me back you up. Is the lexicon that people use
7 in the industry ---

8 **MR. VON LEHE:** Yes, ---

9 **THE COURT:** --- may be one thing but I'm to -- that
10 lexicon in the industry doesn't necessarily
11 translate into statutory construction so I --
12 and I also don't see why that can't be utilized
13 in simply a legal argument.

14 **MR. VON LEHE:** It can be, Your Honor, but we don't
15 want it presented from the legal perspective.
16 We're looking for facts. And of course the
17 whole idea for ---

18 **THE COURT:** So can I just have you present only
19 facts without referencing his analysis of the
20 decisions?

21 **MR. VON LEHE:** Yes. Yes.

22 **THE COURT:** Okay.

23 **MR. VON LEHE:** We'll do that. He will present only
24 facts. He will not discuss decisions. He will
25 not discuss court cases. As I look through ---



1 THE COURT: Okay.

2 MR. VON LEHE: --- it's a completely different views
3 on this question of what an expert witness is
4 allowed to testify so far as law is concerned
5 but the whole idea here is that as you well
6 know that he is to help you in interpreting
7 some of these complex facts.

8 THE COURT: Right. Any response?

9 MR. CARTIN: Your Honor, I think you hit on the
10 point with your very first question. Why is
11 this relevant? My understanding is that the --
12 most of the regulatory framework he's going to
13 talk about is only applicable around 1995, '96
14 going forward and the facts that have to go
15 into determining what modern technology sees
16 telephone services being. I don't think that
17 those types of facts about -- that inform
18 modern policy decisions are necessarily at
19 issue here and just to clarify for the Court
20 we're not making the argument that the
21 technological change to fiber optic cable
22 somehow doesn't make it voice tracking, that's
23 not an argument that we're making. So I sense
24 that the Court's somewhat concerned about that
25 but in general we don't think -- we don't find



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ROA 002388

1 it's relevant. The modern day definitions are
2 not what's at issue here because certainly they
3 were promulgated in a far different context
4 than the General Assembly would have been in in
5 1978 so we don't think it's relevant.

6 **THE COURT:** I'm going to take a short break, y'all.

7 **MR. VON LEHE:** Yes, Your Honor. I'm just going to
8 reply though.

9 **THE COURT:** Well if you want to.

10 **MR. VON LEHE:** I'd just like to reply to that just
11 briefly ---

12 **THE COURT:** Okay.

13 **MR. VON LEHE:** --- if I may. I'm going to make a
14 suggestion, Your Honor. We take them as they
15 come but the questions that I ask we'll see if
16 it calls for an interpretation of law or not.

17 **THE COURT:** Okay. I'm going to still take a short
18 break.

19 **(Off the Record)**

20 **THE COURT:** Under the caveat of what Mr. Von Lehe
21 just stated I'm going to allow him to go
22 forward, but also setting forth that you can
23 make your objections as soon as you think he
24 crosses the line. But I will state hearing
25 testimony about the acronyms certainly may be



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ROA 002389

1 something that would be helpful in my viewpoint
2 of statutory of construction law technical
3 terms so in interpreting terms unless they are
4 technical terms of an industry the Courts do
5 not seek to utilize the industry's technical
6 terms and in this instance the term that I am
7 dealing is rural telephone service which I
8 don't believe an industry term for which I need
9 any testimony to help me and therefore I --
10 unless I am -- hear something that vastly
11 persuades me otherwise but so far from what I
12 -- I doubt that it will be testimony that will
13 be much probative value but I hold my mind open
14 so that thank you.

15 **MR. VON LEHE:** Thank you, Your Honor. May we
16 proceed?

17 **THE COURT:** Proceed.

18 **MR. VON LEHE:** We'd like to call Mr. Douglas
19 Meredith to the stand please.

20 **DOUGLAS MEREDITH,** having been duly sworn, testifies
21 as follows:

22 **MR. MEREDITH - DIRECT EXAMINATION BY MR. VON LEHE:**

23 Q: Good afternoon, Mr. Meredith.

24 A: Good afternoon. I'm just gonna clear the decks
25 here. Good afternoon, sir.



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ROA 002390

1 Q: Good afternoon. So what is that yo have up
2 there? Are these Exhibit books?

3 A: Those were left here.

4 Q: Those were left there, okay. You didn't bring
5 them with you?

6 A: No.

7 Q: They were just there. All right, sir. Where
8 do you work?

9 A: I work at a firm, a consulting firm called JSI
10 LLC.

11 Q: All right, sir. In what capacity?

12 A: I am the Director of Economics and Policy for
13 said firm.

14 Q: All right. Do you understand that you're being
15 called as an expert witness in this case?

16 A: Yes.

17 Q: All right, sir. Do you understand that I'm
18 going to ask the Court to except your testimony
19 as an expert in economics and policy issues
20 related to telecommunications and a subset of
21 that area would be economics and policy related
22 to rural telephone service?

23 A: Yes.

24 Q: That's your understanding? Before beginning
25 that series of questions I'm going to need to



1 get some more information about you so that I
2 can ask the Court to qualify you as an expert.
3 And what knowledge to you have generally of the
4 telecommunications industry?

5 A: Well I've been working with JSI for 24 years in
6 the capacity of economics and policy. So
7 working with clients that have issues related
8 to economics, pricing and policy issues related
9 specifically to universal service programs.
10 Prior to that I was working that I working
11 toward a Ph.D., never finished but my thesis --
12 my dissertation topic was approved and it was
13 dealing with wholesale and retail
14 telecommunications services. So with that
15 that's what I bring to the table.

16 Q: Now you're not an engineer, is that correct?

17 A: That is correct.

18 Q: So what kind of testimony might you give about
19 assets?

20 A: I'll have a general understanding of assets
21 that are used in the provisioning of
22 telecommunication services, but that's a very
23 general understanding.

24 Q: And does that include the services that are
25 performed by those assets?



1 A: Yes.

2 Q: All right, sir. Do you also have what I'm
3 going to refer to loosely as a background or
4 working knowledge of federal and state laws?

5 A: Yes, I do. Federal and state policy is
6 important in dealing with telecommunications
7 and the background of the laws are necessarily
8 the framework for that.

9 Q: All right, sir.

10 A: But I do have a working knowledge of that
11 material.

12 Q: And do you argue matters before certain forums,
13 is that a part of your work?

14 A: I'm sorry, say that again?

15 Q: Do you argue matters before certain forums like
16 the Public Service Commission?

17 A: Yes, Public Service Commissions, yes, in my
18 capacity for working with clients that have a
19 particular policy issue in front a Public
20 Service Commission I would provide pre-filed
21 testimony and be subject to cross-examination
22 on a number of policy matters.

23 Q: And would you be there as an economist?

24 A: Yes.

25 Q: All right.



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ROA 002393

1 **THE COURT:** Do you -- so you have appeared before
2 Public Service Commissions but as an economist?

3 A: Correct.

4 **THE COURT:** All right.

5 Q: Do you know anything about tax laws?

6 A: No, only that I pay them.

7 Q: Okay. Do you know anything about South
8 Carolina tax laws?

9 A: No.

10 **MR. VON LEHE:** Your Honor, we're going to move that
11 Mr. Meredith be qualified as an expert in
12 economics and policy issues related to
13 telecommunications and the subset of this area
14 of the rural telephone service.

15 **THE COURT:** Well I haven't heard anything about
16 rural telephone service.

17 **MR. VON LEHE:** Forgive me, Your Honor. As a part of
18 your statement of what he has done.

19 **MS. GEER:** His CV?

20 **MR. VON LEHE:** Yeah, do we got it handy? I'll have
21 to pull one up, Your Honor. It won't take but
22 a minute.

23 Q: Have you been involved in the area of rural
24 telephone service?

25 A: Yes, a good deal of my -- well the client basis



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ROA 002394

1 of really rural telephone companies across the
2 company. In addition, as a side -- another
3 client, a very important client that I deal
4 with as I am also the Economic Advisor to the
5 Public Service Commission in Puerto Rico. But
6 that's not a rural area, but so, yes, I am
7 familiar with rural issues, rural service
8 throughout the United States.

9 Q: Okay. You've made a study of these areas?

10 A: Yes.

11 **MR. VON LEHE:** She says I've got to do this, Your
12 Honor, so I will.

13 Q: Where'd you go to school?

14 A: I did my undergraduate work at the University
15 of Utah and my graduate work at the University
16 of Maryland College Park, both degrees are in
17 economics.

18 Q: And I believe you mentioned that you did not
19 get a Ph.D. in economics but you were writing
20 a thesis?

21 A: Correct. Yes.

22 Q: Does that -- and was that -- did that thesis
23 pertain to telecommunications?

24 A: Yes, it is. I mentioned it dealt with
25 wholesale and retail telecommunication



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ROA 002395

1 services.

2 Q: All right. And does the company that you work
3 for and your self, do you represent rural
4 telephone cooperatives?

5 A: Yes, we have a -- quite a number of clients
6 that are cooperatives throughout the United
7 States, and I'm very familiar with their
8 structure and operation.

9 Q: All right. And do you give economic testimony
10 before various bodies associated with these
11 rural cooperatives?

12 A: Yes, I do.

13 Q: All right.

14 **MR. VON LEHE:** Your Honor, we would like to move
15 that he be qualified as an expert in the area
16 of -- I wanted to read it out correctly -- we'd
17 like to move for his admission as an expert in
18 economics and policy issues related to
19 telecommunications and the subset of this area,
20 rural telephone service.

21 **THE COURT:** All right. Qualification ---

22 **MR. CARTIN:** Your Honor, I object.

23 **THE COURT:** --- and what is relevant -- I want to
24 hear about qualifications.

25 **MR. CARTIN:** Right, Your Honor, I don't understand



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ROA 002396

1 for the testimony that's been provided so far
2 how -- I can understand the economics. He
3 could be a economics of telecommunications
4 expert based on the qualifications being
5 provided, but policy? I think the policy --
6 the only policy experience I've heard is the
7 testimony before these public service
8 commissions throughout the country that provide
9 legal testimony essentially akin to what we
10 attached to our Motion in Limine so I would
11 object to the characterization of him being a
12 telecommunications policy expert.

13 **THE COURT:** Okay. Anything in reply?

14 **MR. VON LEHE:** Your Honor, that's what he is. I
15 think we've shown that he is. In fact we
16 believe that is going to be relevant and
17 helpful to the Court from an expert witness
18 standpoint and again, in trying to interpret
19 this rather complex body of facts that we've
20 been presented with.

21 **THE COURT:** Just give me a moment.

22 **MR. VON LEHE:** Yes, Your Honor.

23 **THE COURT:** You can have a seat. Mr. Cartin, I do
24 see the deficiencies of what he said in policy.
25 The problem I have is -- I think I've got your



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ROA 002397

1 Motion up where you said even though that Mr.
2 Meredith has specialized knowledge, skill and
3 experience in matters pertaining to the FCC and
4 SCPSC he is an expert in economics and policy.
5 So ---

6 **MR. CARTIN:** I said that?

7 **THE COURT:** Hold on, I'll make sure. Maybe I pulled
8 the wrong one up.

9 **MR. CARTIN:** I need to fire somebody if I did.

10 **THE COURT:** Maybe I did pull the wrong one up. Oh,
11 no, this is von Lehe.

12 **MR. CARTIN:** I was thinkin'.

13 **MS. GEER:** I didn't think it sounded like Walt.

14 **THE COURT:** I still here a lot about -- let me just
15 ask you a little bit more about policy.

16 **MR. VON LEHE:** Certainly, Your Honor.

17 **THE COURT:** He knows about the area from economics
18 but what does he know about policy?

19 **MR. VON LEHE:** Policy, Your Honor, where I've -- I
20 think that it's ---

21 **THE COURT:** Well that's all I'm getting to what you
22 mean by policy, I need to understand that.

23 **MR. VON LEHE:** Yes. If I may, if I could call on
24 him to explain to the Court what his background
25 is in that?



1 **THE COURT:** Okay.

2 **A:** Yes, thank you, Your Honor. The nature of
3 policy deals with looking at from a framework
4 of economics to essentially look at the policy
5 that would further the public interest, and a
6 good example of that would be universal service
7 programs. We have federal and state universal
8 service programs, and the development of those
9 programs requires economic analysis, of course,
10 but also an understanding that economics needs
11 to go to one step further on what the public
12 interest is and what public interest holds.

13 **THE COURT:** I'll qualify him as an expert in that
14 area.

15 **MR. VON LEHE:** And we'll see what it leads to?

16 **THE COURT:** Yes, sir.

17 **MR. VON LEHE:** All right, sir. Well I'd to start
18 and I think this could have been helpful a few
19 days ago. I quite frankly didn't think about
20 it, but I tried to learn what these terms mean
21 and if it would please the Court and if you say
22 no, then, of course, but I've got a list of
23 terms which he probably will use many of these
24 terms. Many of these terms have already been
25 used in this Court since day one, but what do



1 these acronyms stand for. It's just a matter
2 of trying for the Court to be able to
3 understand the facts of the case and me too for
4 that matter.

5 Q: But for example, I've got some acronyms here
6 for you. You tell me what it means. What's
7 ETC?

8 A: ETC is -- means eligible telecommunications
9 carrier. It is a designation that a carrier
10 can seek in order to qualify for universal
11 service support at the federal level.

12 Q: All right.

13 MR. CARTIN: Objection, Your Honor. I mean, for
14 right here we're talking about -- these
15 definitions are federal -- are available in the
16 federal law and the ETC you can look right into
17 the Universal Service Fund. There's no
18 specialized knowledge required for this.

19 THE COURT: Well -- go ahead.

20 MR. VON LEHE: What's he's going to talk about is
21 how does this Universal Service Fund from the
22 economic standpoint impact these rural
23 cooperatives and other entities. He knows what
24 it -- how the outcome of this ---

25 THE COURT: All right. So now we're off to the --



1 I'm trying to narrow this down where we -- so
2 this is the Universal Service Fund ---

3 A: That's right.

4 **THE COURT:** --- and that's going to -- that's where
5 we're going now?

6 Q: Yes, that's another term I was going to -- the
7 USF. What is it?

8 **THE COURT:** But is that where we're -- the testimony
9 is now headed concerning that subject?

10 **MR. VON LEHE:** A part of his testimony will concern
11 this -- and I'm not ripe for that yet in my
12 outline, but a part of his testimony will
13 concern the Universal Service Fund, yes, Your
14 Honor, and how it impacts particularly rural
15 electric cooperatives.

16 **THE COURT:** And that is relevant how?

17 **MR. VON LEHE:** Your Honor, that is relevant in when
18 one goes to the purpose a cooperative. What is
19 the purpose of a cooperative, what is the
20 purpose of a rural cooperative and therefore
21 why would the legislature seek to exempt their
22 assets.

23 **MR. CARTIN:** Your Honor, but they didn't just exempt
24 rural telephone cooperative assets. Also any
25 telephone company involved in providing rural



1 telephone service. So I don't think whether
2 it's a cooperative or not is frankly relevant
3 to anything in this case.

4 **MR. VON LEHE:** Well we're argue of course, but we
5 think it's very pertinent, but nevertheless we
6 will argue that. But getting back to your
7 question before we got off the second argument,
8 how does this Universal Service Fund Your
9 decision in this case? It shows what the
10 economics -- I mean so much time has already
11 been spent here on the funds that the co-op
12 gets from all these different carriers, et
13 cetera, obviously in an attempt to discredit
14 the co-op as being a nonprofit it's got to be
15 the only other reason I can think of. We want
16 to show Your Honor that the co-op does operate
17 in a certain fashion and the Universal Service
18 Fund is part of the economics that goes into
19 how it operates.

20 **MR. CARTIN:** Your Honor, the Universal Service Fund
21 was created in 1996 consistent with the
22 objection to Mr. Lyndon Anthony's testimony
23 that current discussions about existing policy
24 right now are irrelevant which was excluded
25 from testimony. Your Honor, ---



1 **THE COURT:** Well it was created in 19 ...

2 **MR. CARTIN:** 1996, the Universal Service Fund.

3 **THE COURT:** That's before or after the passage of
4 the statute?

5 **MR. CARTIN:** Absolutely, Your Honor, decades after
6 the passage of the statute.

7 **MR. VON LEHE:** Every year, Your Honor, the
8 legislature meets, they reenact these laws.

9 **THE COURT:** I don't know if I agree with you on
10 that.

11 **MR. VON LEHE:** We kept that ...

12 **THE COURT:** They don't -- every year the legislature
13 meets they don't enact every law that has been
14 ever created because statutory construction
15 would be turned on its head under that theory.
16 I mean, if that -- under that theory there
17 would be no reason to ever do -- look at the
18 meaning of a statute in its historical context
19 because there would never be any historical
20 context because every year would be an entirely
21 new tax structure based on that single year.

22 **MR. VON LEHE:** I stand corrected, Your Honor.

23 **THE COURT:** Well, no, I don't mean to -- I'm not
24 trying to -- fight anybody. I just ---

25 **MR. VON LEHE:** Just thinking it out.



1 THE COURT: Yes, sir.

2 MR. VON LEHE: And ---

3 THE COURT: So I just don't find that -- if that's
4 the path we're going on that I don't find that
5 relevant.

6 MR. VON LEHE: All right. Then we'll move on. I
7 have few other ---

8 THE COURT: Yeah, let's get on with it.

9 MR. VON LEHE: Acronyms that I'll try. And I guess
10 you could tell me if you want to hear it or
11 not.

12 MR. VON LEHE: An ILEC, that's been discussed here.

13 THE COURT: It's certainly been discussed.

14 MR. VON LEHE: I wonder if we'd like to hear what
15 that is?

16 THE COURT: Yes, sir.

17 Q: What is it?

18 A: An ILEC is an acronym identifying an incumbent
19 local exchange carrier and the incumbent status
20 given to usually the first carrier in the area
21 and that status carries with it certain
22 obligations that are above and beyond other
23 obligations that other carriers have.

24 Q: All right. It also has been mentioned and
25 discussed there is a CLEC if Your Honor would



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1 like to -- like for him to tell us what is a
2 CLEC?

3 **MR. CARTIN:** Objection. Your Honor, this is all
4 cumulative. We've had several witnesses talk
5 about ---

6 **THE COURT:** I'll overrule you on that.

7 Q: Please proceed.

8 A: CLEC represents competitive local exchange
9 carrier. It is a designation of a carrier
10 would generally get a certificate of public
11 convenience and necessity from a state
12 commission in order to operate in a particular
13 geographic area in a state. They are not
14 incumbents and do not have the obligations and
15 duties that the incumbent has.

16 **THE COURT:** Okay. And when you say duties do --
17 where do your -- duties originating from where?

18 A: Duties that are enumerated in the
19 Telecommunications Act of 1996.

20 **MR. VON LEHE:** And, Your Honor, these duties ---

21 **THE COURT:** I'll let him go. I've already told you
22 my position on that, so go ahead.

23 **MR. VON LEHE:** These duties, Your Honor, do -- I'm
24 going to interject here for a moment -- whether
25 I'm still in the middle of making an argument



1 or not, but ---

2 **THE COURT:** No, sir, you're back in the bubble.

3 **MR. VON LEHE:** All right, well I'll just ask this
4 then.

5 Q: These duties which you mentioned, how do they
6 impact rural cooperatives? Are there any
7 duties imposed on them through these?

8 A: Yes, and I should be a little more clear on the
9 duties that I just mentioned to His Honor were
10 duties that were identified in 1996. There are
11 also duties that -- a number of duties that
12 common carriers held and that would only be
13 ILECs before 1996 because there were no --
14 there were no CLECs before that. Those ILECs
15 would have a lot of duties imposed on them both
16 in the state and federal regulatory regime, so
17 going all the way back to 1934. But ---

18 **MR. CARTIN:** Your Honor, I want to make sure I've
19 preserved -- do I need to stand up and object
20 to every reference of the law?

21 **THE COURT:** Well give me what you want to be the
22 running objection and I'll hear that.

23 **MR. CARTIN:** I think I want any reference to matters
24 from an expert that can be clearly understood
25 from looking at a statutory scheme or even, you



1 know, definitions, policy implications that can
2 be made from looking at the face of the
3 statutory scheme, I would argue should not come
4 in. For instance, the obligations, the duties
5 on an ILEC and CLEC, all of that's going to be
6 enumerated in statute or through regulation.
7 It'll be set forth in -- we can search the
8 legislative history through every step of the
9 process since 1978 bring it all the way forward
10 such that a discussion about the duties is --
11 to the extent they have any relevance at all,
12 you know, I'll -- in any event, Your Honor, it
13 just -- that would be my objection to any ...

14 **MR. VON LEHE:** Your Honor, if I may just interpose -
15 - I realize -- but it's not the law that we
16 want the testimony on, it is the effects. What
17 have these -- what has been the effects of all
18 of this background on the economic operations
19 of this company which we are currently
20 examining.

21 **THE COURT:** The effects of all this background being
22 what?

23 **MR. VON LEHE:** Federal laws, interpretations, how
24 these things have been -- what has that brought
25 to the circumstances that a rural electric co-



1 op face today.

2 **MR. CARTIN:** Your Honor ---

3 **MR. VON LEHE:** How has it impacted them and
4 certainly it has as you've seen for the --
5 there's been a lot of testimony about this
6 already, Your Honor. Even Mr. Moss in his
7 electrical engineering he mentioned the FCC and
8 talked about it a little. So let's not --
9 because he's not there to testify with regard
10 to the FCC laws. Neither is Mr. Meredith.
11 He's here to tell us what the impact of these
12 are on this company.

13 **MR. CARTIN:** Your Honor, this is not a court of
14 equity. We were excluded from putting any
15 information about the impact on the counties of
16 the grant or denial of the tax exemption so why
17 the impact on the co-ops of a grant or denial
18 of this or of any regulatory scheme would be
19 relevant I can't see why it would relevant with
20 the Court.

21 **MR. VON LEHE:** Your Honor, it's a completely
22 different -- this is a completely different
23 situation. Yes, we made that argument because
24 obviously the co-ops were telling the Court,
25 hey, look, this is going to cost us a lot of



1 money so you shouldn't rule on the law. I
2 mean, that's basically what they were saying.
3 You said well I'm not going to do that, I'm not
4 going to hear that testimony. We're not asking
5 about that, we're not talking about that.
6 We're not ---

7 **THE COURT:** All right. Well I think I can
8 understand because it sounds like you may be
9 arguing well this is going to impact our co-op
10 significantly ---

11 **MR. VON LEHE:** Favorably as a matter of fact to some
12 extent. To some extent it's favorable.

13 **THE COURT:** Well it will favorable impact depending
14 on how you -- how I rule and therefore I should
15 construe the statute in your favor for that
16 reason.

17 **MR. VON LEHE:** No, Your Honor, I think it this ---

18 **THE COURT:** Okay.

19 **MR. VON LEHE:** --- it's just a matter of trying to
20 understand this complex set of facts where we
21 have all these terms are being thrown out here.
22 He could tell us from the standing -- well I
23 call it lathe -- I know he's an economist -- he
24 can tell us from an economic standpoint how
25 they really fit into the question of how does



1 this company operate and for that reason why
2 would the legislature be disposed to give it an
3 exemption or not.

4 **THE COURT:** Okay. I'm going to take another quick
5 break and I'll be right back.

6 **MR. VON LEHE:** Yes, Your Honor.

7 **THE COURT:** I'm sorry, y'all.

8 **(Off the Record)**

9 **THE COURT:** Thank y'all. I'm sorry. I'm just
10 trying to get this really right in my mind.
11 Mr. von Lehe, I think you're one of the most
12 intelligent lawyers in the state but on this
13 one I just have to disagree with you. I don't
14 see the need for this testimony on this
15 economic aspect of this.

16 **MR. VON LEHE:** Well, Your Honor, what we would ask
17 you to do is as you hear this testimony unfold
18 if it appears to be helpful to you, fine. It's
19 not going to be a big waste of time I can
20 promise you that, and -- but if you hear this
21 testimony obviously you can judge. We don't
22 have a jury here we've got to worry about. So
23 as you here this testimony you can judge, is
24 that helpful to you, not helpful to you? I
25 think it will be helpful.



1 **THE COURT:** Well I'm going to deny you even though
2 I'd love to grant it, I'm going to deny your
3 running objection request and ask that you just
4 object when you think I should consider your
5 objection because I want to stay on -- I don't
6 want to frustrate either one of y'all.

7 **MR. VON LEHE:** Oh, you're not frustrating me, Your
8 Honor.

9 **THE COURT:** I'm trying to follow the legal -- I
10 mean, I'm trying to get them their just
11 decision concerning they're objections and your
12 ---

13 **MR. VON LEHE:** Yes. Yes.

14 **THE COURT:** --- points concerning offering the
15 evidence.

16 **MR. CARTIN:** Understood, Your Honor.

17 Q: All right. Now, Mr. Meredith, does your
18 company, JSI, LLC, does it do work for
19 Farmer's?

20 A: Yes, it does.

21 Q: Okay. And what type of work do you do for
22 Farmer's or perhaps I assume if I kept some
23 kind of a vicarious representation through some
24 entity?

25 A: Yes, I don't work directly for Farmer's on a



1 normal course of events. I provided support
2 for the South Carolina Telephone Coalition of
3 which Farmer's is a member so my work is
4 indirect for Farmer's although I have
5 colleagues at JSI who do work for Farmer's
6 directly in the areas of cost accounting and
7 management services.

8 Q: Okay. And is Farmer's a member of this South
9 Carolina Telephone Coalition?

10 A: Yes, it is.

11 Q: All right, sir. And is that -- and you've done
12 work this Telephone Coalition?

13 A: Yes, I have.

14 Q: All right. Now what have you addressed on
15 behalf of this Telephone Coalition -- what have
16 you addressed with regard to wireless telephone
17 services?

18 A: Yes, two aspects of my work for the Coalition
19 come to mind. First is the designation of
20 ETCs. The state commission has that authority
21 and responsibility and so that's that
22 particular area

23 **MR. CARTIN:** Objection.

24 A: --- that was an ETC designation discussion.

25 **THE COURT:** When he objects you have to stop.



1 A: Oh, I'm sorry.

2 **MR. CARTIN:** Just objection to the, you know, you
3 can't talk about these facts in a vacuum so
4 he's got to describe the regulatory regime at
5 work to do that and we continue to object to
6 the description of what state law requires even
7 if it's the context of providing those facts.

8 **THE COURT:** Kind of like the ---

9 **MR. VON LEHE:** All I'm asking him to do is say what
10 he did. What he's done.

11 **THE COURT:** If you could just respond specifically
12 to his question.

13 A: Sure. I'll try. And I'm sure counsel will let
14 me know.

15 **THE COURT:** Okay. All right.

16 Q: Have you had ---

17 A: So ---

18 Q: Go ahead.

19 A: --- so the first work was testimony and
20 material policy regarding ETC designation, the
21 second was policy and recommendations regarding
22 whether wireless carriers should contribute to
23 the State Universal Service Program in
24 furtherance of rural telephone service.

25 Q: All right. And what side of that were you



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1 arguing? That they should contribute or should
2 not contribute?'

3 A: I was arguing that they should contribute.

4 Q: All right. And were you successful?

5 A: Yes.

6 Q: All right. And for what reason?

7 A: The economics show that there is a high degree
8 of substitution between wire line and wireless
9 service and that from the perspective of the
10 consumer, the end user customer who pays for
11 rural -- for the telephone service -- it seemed
12 indistinguishable.

13 Q: All right. And you've used the term -- well
14 I've heard it here, perhaps you've not already
15 -- what's the term network refer to? What is
16 this?

17 A: Network is a collection of infrastructure that
18 allows end users or users of the network to
19 interconnect with each other.

20 Q: All right. Now with regard to rural telephone
21 companies, which also have other services which
22 are available, how do most if not all of these
23 rural telephone networks begin?

24 A: They -- my experience is is that they began
25 very early in the 1900s and began offering



1 telephone service to their customers.

2 Q: Okay. How do wireless and wire line services
3 compare to each other in terms of service?

4 A: Well as I mentioned, the wire -- from an end
5 user perspective ---

6 **MR. CARTIN:** Objection, Your Honor. This is neither
7 economics nor is it policy. This is a
8 technical opinion and he's not a technical
9 expert. You said he wasn't a ---

10 **THE COURT:** I get that.

11 **MR. VON LEHE:** You said he was knowledgeable with
12 regard to the assets, Your Honor. You don't
13 have to be an engineer to be knowledgeable.
14 Just like, look, you don't have to be a cook to
15 smell a rotten egg. He knows the functions of
16 what these assets are he's testified.
17 Obviously his curriculum vitae shows that he
18 does so he has that knowledge and we hope it
19 will be helpful to the Court.

20 **THE COURT:** Any response to that?

21 **MR. CARTIN:** I don't ---

22 **MR. VON LEHE:** We've laid the background for it.
23 Even his more extensive background ---

24 **THE COURT:** In economics you've laid the background.

25 **MR. VON LEHE:** Yes, well I rephrase this if it'll be



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1 helpful.

2 Q: From an economic standpoint compare wireless
3 and wire line services to us?

4 A: And I was -- I -- thank you, and what I was
5 intending to say was that from an end user
6 perspective, because this is the interaction
7 between the provider and the receiver or the
8 purchaser of the service which is an economic
9 transaction. From an end user perspective it's
10 the end users see wireless and wire line
11 service to be offering telephone service.

12 Q: All right, sir. And where are we going in this
13 country from an economic standpoint from
14 landline and wireless? There's been a bunch of
15 testimony about it but I want to know what the
16 economics of this are?

17 A: Yeah, the best source for the trends in
18 wireless adoption is actually from the Centers
19 for Disease Control. They do a health study
20 and have a fairly good longitudinal database on
21 how many people actually claim or provide their
22 wireless service or their wireless service or
23 their mobile service number for medical
24 services, and the trend is that the wireless
25 service is substituting -- or actually there



1 are more people actually using wireless phones
2 than wire line phones now.

3 Q: All right. Now you were asked in your
4 deposition -- and I'm going to ask you this
5 question in court -- you were asked about
6 measuring the use of a network and how that was
7 measured by data or minutes of use, etcetera.
8 In other words, when measuring the use of a
9 network is availability of that network a
10 significant factor?

11 MR. CARTIN: I'm going to object to the portion of
12 this that is -- you know, we've got two telecom
13 engineers who have already testified in this
14 case -- but as to the last part of the question
15 if it's limited to the use so long as it's not
16 a technological opinion. I can live with that.
17 I have an objection to the whole question I
18 suppose for the cleanness purpose of the
19 record.

20 MR. VON LEHE: Well I guess our point is this, Your
21 Honor, which I would certainly -- I don't want
22 to testify, I want him to do it, but I guess
23 our whole point is this, he knows as an
24 economist, this is the reason he knows, he
25 knows that there's more to having a telephone



1 than when you're on it and using it and he
2 could talk about that.

3 **THE COURT:** I sustain that objection. I'm sorry.

4 Q: All right, sir. Tell me about -- from an
5 economic standpoint -- tell me about the need
6 for telephones in rural areas and particularly
7 whether or not this also applies to wireless
8 phones?

9 A: Uh-huh. Yeah, the rural areas historically
10 have been left out of the telephone system.
11 AT&T early on developed a network that left a
12 lot of rural areas out largely because the
13 rural areas were too cost prohibitive. Low
14 density, high cost, therefore AT&T at the time
15 decided not to serve those areas. Smaller
16 companies were formed and cooperatives were
17 formed to fill in those gaps, and it's very
18 important to understand that the creation of
19 these smaller companies was a direct result or
20 was there to fill a need, an economic need, for
21 the community. Communications needs and
22 telephone service, rural telephone service in
23 rural areas of the country are -- is a vital
24 component of economic development and it's a
25 vital service that customers rely on.



1 Q: So you believe from an economic standpoint that
2 it is a vital part of economic development?

3 A: Yes.

4 Q: All right, sir. And is that or is that not
5 obvious?

6 A: It's fairly straight forward. I've done some
7 work with RUPI which is the rural policy
8 institute and we looked at infrastructure needs
9 across the spectrum and telephone and
10 communication services are vital.

11 Q: All right, sir. Now in your deposition you
12 were asked based on the following -- you were
13 asked, so it's the ILEC's underlying
14 infrastructure that enables those wireless
15 carriers to do business? And your answer was,
16 in many cases that is the case. Do you recall
17 this?

18 A: Yes, I do.

19 Q: All right. What about Farmer's? You heard the
20 testimony here this morning, I hope you were
21 present?

22 A: Yes.

23 Q: And were you paying attention to it?

24 A: Yes.

25 Q: All right. So what about Farmer's? How does



1 it fit into this category?

2 A: Yes, Farmer's has the same characteristic as I
3 described in my deposition that wireless
4 carriers do rely in large part for many
5 connections to their towers and they rely on
6 the incumbent local exchange carrier network to
7 provide service to their customers.

8 Q: Okay. In your deposition you were asked, quote
9 what percentage of wireless traffic is data and
10 would you agree that it's 95 percent? You said
11 you didn't agree. Why not?

12 MR. CARTIN: Objection.

13 THE COURT: I sustain that. Well I let you respond
14 but I have heard nothing that would ...

15 MR. VON LEHE: This gets into do we measure a
16 telephone network based on how much data is
17 going through it or even minutes of use do it
18 -- is there more to that than just that.

19 THE COURT: The question was his opinion as to how
20 much is data or not.

21 MR. VON LEHE: Well actually it was -- quite right,
22 Your Honor, the question was, what percent of
23 wireless traffic is data and would you agree
24 that it's 95 percent.

25 THE COURT: Okay. I sustain that objection.



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1 MR. VON LEHE: All right, sir.

2 Q: Now with regard to the use of wireless
3 telephones I believe you testified that that
4 use is increasing?

5 A: Yes.

6 Q: And what's the reason for this from an economic
7 standpoint?

8 A: Well there's a couple of things that are
9 driving it from an economic viewpoint from the
10 end user customer standpoint. First is the
11 convenience. Having a mobile service is
12 convenience because it's with you at all times.
13 The second is that over time the price has
14 declined as well and so wireless services are
15 more affordable than they have been in the
16 past.

17 Q: All right, sir. I wanted to ask you a little
18 bit about technology and how it fits into the
19 economics of the telephone industry. A lot has
20 been talked about this in the last few days.
21 And there are various -- I mean, there's
22 various terminology which is applied in the
23 industry. So far as technology is concerned
24 has it changed over the years?

25 A: Yes, my observation from an economic standpoint



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1 in dealing with -- well let me give some
2 background, Your Honor. The ---

3 **THE COURT:** Well I'd rather you answer his question.

4 A: Yeah. Yes, it has changed.

5 Q: How?

6 A: The technology and provisioning rural telephone
7 service has changed over many decades, and it's
8 not surprise that it's -- that it continues to
9 evolve and change.

10 **MR. CARTIN:** Objection, Your Honor. To the lack of
11 foundation for this. The only source of this
12 information that he could have had -- well,
13 number one, I'll say it's outside of his realm.
14 The history of telecommunications technology is
15 certainly not something that's necessarily
16 within the bounds of economics or policy so I'd
17 say it's outside of the designation. And
18 number two, I don't think an appropriate
19 foundation has been laid to see where this
20 witness is getting these facts from.

21 **THE COURT:** Well I suppose they'll have to inform us
22 where their facts are coming from. It just has
23 to be something that's reasonably relied upon
24 by an expert in his field. I'll -- what do you
25 -- how do you respond to that?



1 **MR. VON LEHE:** Well, Your Honor, I think certainly
2 enough background has been laid and he has been
3 working in this area for a long -- what did you
4 say 28 years?

5 **A:** 24.

6 **MR. VON LEHE:** 24. He's very knowledgeable about it
7 so the background is certainly there. So far
8 as its relevance is concerned we've been
9 talking a lot about telephone technology.
10 Obviously that is one of the points that you
11 will be deciding within which you said to do at
12 the beginning of this trial.

13 **THE COURT:** I don't want to cut you off but we've
14 been talking about technology from people who
15 are experts in the area of this field. He's
16 taking ---

17 **MR. VON LEHE:** He's an economist.

18 **THE COURT:** --- so ---

19 **MR. VON LEHE:** He's not an engineer, I understand
20 that.

21 **THE COURT:** Yeah.

22 **MR. VON LEHE:** But he's an economist and he has seen
23 -- he knows this industry, there's no question
24 about that. There's plenty of background on
25 that. He knows this industry. He knows



1 changes in technology when certain important
2 changes took place. He knows this and he can
3 fit that in, he can help determining the facts
4 as to what the effect of this technology was on
5 telephone service.

6 **MR. CARTIN:** And, Your Honor, respectfully, we've
7 had two very well informed experts one of whom
8 was actually around in 1980 working in the
9 telecom industry and talked the Court through
10 in detail about the technological changes. And
11 Mr. Wyatt as well provided some good
12 information about the transition from copper to
13 fiber, from landline to wireless, so I would
14 include amongst my other objections that this
15 is cumulative as well.

16 **MR. VON LEHE:** Your Honor, in response to that it
17 may well be cumulative in the sense that ---

18 **THE COURT:** Your allowed -- I'm not going to rule on
19 that. I'm still thinking about the other
20 objection.

21 **MR. VON LEHE:** Yes.

22 **THE COURT:** On the cumulative aspect I'm not -- ask
23 the question one more time. I mean, ---

24 **MR. VON LEHE:** Yes, I asked him by way of technology
25 in what way has telephone technology from an



1 economic standpoint changed over the years.
2 What is the economic effect of these changes in
3 technology. Maybe that is a more accurate way
4 of putting it.

5 **THE COURT:** All right.

6 **MR. VON LEHE:** What is the economic effect of the
7 changes in this technology?

8 **THE COURT:** I'm okay with the last way your phrased
9 it.

10 **MR. CARTIN:** I'm waiting to see what his answer is,
11 Your Honor, but that question is fine.

12 **MR. VON LEHE:** I'm also anxious to hear that.

13 **THE COURT:** Okay.

14 **Q:** What is the economic effect of these changes in
15 technology on telephones and the telephone
16 industry? To make it relevant to what we're
17 talking about here?

18 **A:** The changes -- fortunately, the changes in
19 telecommunications technology have actually
20 driven costs down from a per unit cost basis.
21 How you provision a particular service has
22 changed over time and the costs of those
23 provisioning costs have declined.

24 **THE COURT:** Okay.

25 **Q:** Now you said -- I believe it's in your



1 deposition and if you did not I'm going to ask
2 you today -- how would you respond to this if
3 I were to say telephone service is elastic and
4 static from an economic standpoint?

5 A: Yeah, there's two interpretations there. First
6 of all there's a technical one I don't think
7 you want me to go there, it prices the
8 elasticity of demand. But the second portion
9 of that what elastic is is that the provisions
10 of the service can be very -- can change and
11 can morph and evolve but the actual service
12 itself -- what the end user is seeing is
13 static. It's rural telephone service. It's
14 the ability to send and receive a telephone
15 call over the public switch telephone network.

16 Q: All right, sir. Thank you. Now the -- much
17 has been made earlier in this courtroom we're
18 here for -- and certainly the rest of us were
19 -- about interconnection agreements and the
20 fact that this co-op -- or co-ops in general
21 and particularly this one -- has
22 interconnection agreements. What from an
23 economic standpoint is the effect of
24 interconnection agreements?

25 A: If you ---



1 Q: First of all what are they and then what's the
2 economic effect of them?

3 A: Interconnection agreements are agreements
4 between carriers to exchange traffic between
5 one another and so the terms and conditions
6 related to pricing, location, other terms and
7 conditions I'm not going to discuss. A -- it's
8 no surprise that there are a number of
9 interconnection agreements that carriers have --
10 -- even rural telephone carriers -- have with
11 other carriers. It's a standard mode of
12 operation to have interconnection agreements.

13 Q: Okay. Would this be particularly true for
14 rural telephone companies?

15 A: Same as -- yeah, it's valid for rural telephone
16 companies as well as the larger telephone
17 companies throughout the country.

18 Q: And what does this enable the rural telephone
19 or any other telephone company to do?

20 A: Well the nice thing about rural interconnection
21 agreements is once the payments and once the
22 pricing has been set up it allows carriers to
23 exchange traffic freely and so it actually
24 enhances the public switch telephone network
25 and it enhances the value of the rural



1 telephone service that the rural carrier is
2 offering it's customers.

3 Q: Okay. So there's nothing nefarious about this
4 as far as economic testimony is concerned for
5 a rural cooperative to enter into such
6 agreements?

7 A: No, none whatsoever.

8 Q: All right, sir.

9 **MR. VON LEHE:** Your Honor, at the beginning this and
10 I'm going to close it down with this but ---

11 **THE COURT:** Yeah.

12 **MR. VON LEHE:** But at the beginning of this you
13 mentioned what you did not want to hear, and so
14 I want to ask you about this and I won't ask
15 him if you tell me, yeah, I don't want to hear
16 that.

17 **THE COURT:** Okay.

18 **MR. VON LEHE:** You said I don't really need to hear
19 about terms like -- I believe you said
20 telephone service. I think you said that. I
21 may have been mistaken.

22 **THE COURT:** Yes, if -- what I was getting at is I
23 think telephone service is such a general term
24 that -- and as used in the statute it wasn't
25 used as a term of our end in an industry



1 because there's no reference to that in the
2 statute so I didn't -- I don't believe I need
3 to hear him giving his interpretation of that
4 and whatever in the industry.

5 **MR. VON LEHE:** I apologize, sir. Would it be
6 helpful -- and of course you just answer this
7 -- would it be helpful from the standpoint of
8 the general use of the term in the industry
9 which he knows. The general use of the term in
10 the industry, would it be helpful to know how
11 that term is used in the telephone -- excuse me
12 -- in telecommunications industry in general
13 throughout the country?

14 **MR. CARTIN:** Your Honor, again I would object.
15 We're talking about a specific moment in time
16 and -- a moment in time that was before I was
17 even born so it's been a long time. The growth
18 and technology I think makes the modern
19 definitions under the federal acts which what
20 he's going to do is going to take two portions
21 of a federal act and construe them to come up
22 with his own definition of telephone service.

23 **THE COURT:** Is that what he's ---

24 **MR. VON LEHE:** He's not going to do that, Your
25 Honor. Again the crystal ball is clouded on



1 this.

2 **THE COURT:** Okay.

3 **MR. VON LEHE:** He's not going to do that. He's
4 going to tell Your Honor how these -- how this
5 term -- what this term means in the general
6 telecommunications industry.

7 **MR. CARTIN:** As of today?

8 **MR. VON LEHE:** Not only as of today, throughout the
9 -- throughout his knowledge of the industry.
10 He knows this industry from its beginning to
11 today.

12 **THE COURT:** And that -- his opinion will be based
13 upon what?

14 **MR. VON LEHE:** The economics of the industry. I
15 mean, he talks to other economists, he hears
16 all these terms being used. He knows what the
17 general meaning of these terms are in this
18 industry. Maybe it's very respective, maybe
19 it's pretty broad. I don't know, he knows.

20 **MR. CARTIN:** Your Honor, I just disagree with
21 relevance of it and the fact that an economist
22 would opine as to a technical issue. I mean,
23 that's really what this is. I don't we get ---

24 **THE COURT:** Well I'll -- he's presenting it from an
25 economic -- he's got an economist perspective



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1 as we say the term in the industry. He's an
2 expert in economics. I'll allow you to make it
3 offer of proof if you wish, but I sustain the
4 objection.

5 **MR. VON LEHE:** Well I will for that purpose then, I
6 will take your offer of that.

7 **THE COURT:** All right.

8 **MR. VON LEHE:** And I will ask him.

9 Q: Do you -- tell us what the term telephone
10 service means in the telecommunications
11 industry from an economic standpoint?

12 A: Yes, and I think we've touched upon this a
13 little bit but let me bring the threads
14 together. Tele -- rural telecommunications
15 service is the exchange of a service from a
16 provider to an end user customer and so it's
17 actually best bet viewed from the end user
18 perspective. What is the end user paying for
19 in order -- with regards to this particular
20 service. It has nothing to do with how the
21 service is provisioned. The provisioning of
22 the service could be any number of ways but
23 it's the actual -- the exchange between -- the
24 payment between the end user customer to the
25 provider of the service what that customer is



1 actually paying for, and in that context the
2 customer is paying for the ability to send and
3 receive telephone calls. Not the actual use or
4 the actual use of that network but it's the
5 ability of the network that is open 24/7 -- and
6 we've mentioned -- I've heard today about the
7 five nine's -- very high reliability. So it's
8 a very highly reliable network that the end
9 user can use to send and receive telephone
10 calls at his or her discretion.

11 Q: And this term telephone service ---

12 **THE COURT:** All right. So that ---

13 **MR. CARTIN:** Is this still part of the ---

14 **MR. VON LEHE:** This is still part of what is ---

15 **THE COURT:** Well that's going to be the offer of
16 proof on that question because if you've got
17 another question I'm going to ---

18 **MR. VON LEHE:** It's the same one. I want to expand
19 on it just a little bit.

20 **THE COURT:** Okay.

21 **MR. VON LEHE:** Because, you know, when I asked him a
22 minute ago which hadn't covered this yet, over
23 this span from the beginning up until today
24 what's telephone service mean in the industry.
25 He hasn't covered that over the period of time.



1 If you would please?

2 **MR. CARTIN:** So the same objection, Your Honor, for
3 the record.

4 **THE COURT:** Well it's still -- I'll just say that
5 actually the last thing so I didn't find that
6 objectionable. This one I think is going to be
7 further afield but he's still under the offer
8 of proof.

9 **MR. VON LEHE:** Okay. Thank you, Your Honor.

10 **MR. CARTIN:** Thank you, Your Honor.

11 Q: Go ahead and answer that and do you recall the
12 question then?

13 A: With all ---

14 Q: How is this, what has been the meaning of the
15 term telephone service in the industry from an
16 economic standpoint?

17 A: From an economic standpoint as I described the
18 relationship or the agreement between the end
19 user customer buying a service from a provider
20 that definition has not changed since
21 telephones began.

22 Q: All right. Thank you, sir.

23 **MR. CARTIN:** Your Honor, just a very ---

24 **THE COURT:** Mr. Cartin, I'm going to stick with my
25 gun, but I can still change my mind, but the



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