

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
BITWISE COMMUNICATIONS, INC.,)
) No. 00 -0480
Application for Certificate)
to Become a Telecommunications)
Carrier.)

Chicago, Illinois
August 10, 2000

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

MS. ERIN O'CONNELL-DIAZ, Administrative Law Judge

APPEARANCES:

MR. JOE ISAACS
40347 US 19 North
Suite 122
Tarpon Springs, FL
appearing for Applicant;

1 APPEARANCES (Cont'd)

2

3

MS. CINDY JACKSON, MS. JUDITH MARSHALL, and
MS. BARBARA LANKFORD
527 East Capitol Avenue
Springfield, Illinois 62701
appearing for ICC staff.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21 SULLIVAN REPORTING COMPANY, by
Jennifer L. Velasco, CSR
22 License No. 084-004030

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

I N D E X

Witnesses:	Direct	Cross	Re - direct	Re- cross	By Judge
Shaher Mizyad	11	14 27			9 11

E X H I B I T S

Number Evidence	For Identification	In
Petitioner's Exhibit No. 1		13

1 JUDGE O'CONNELL-DIAZ: Pursuant to the direction
2 of the Illinois Commerce Commission, I now call
3 Docket No. 00-0480. This is in the matter of
4 Bitwise Communications, Incorporated, application
5 for a certificate to become a telecommunications
6 carrier.

7 May I have the appearances for the
8 record, please.

9 MR. ISAACS: Joe Isaacs for Bitwise Systems, Inc.

10 MR. MIZYED: Shaher --

11 JUDGE O'CONNELL-DIAZ: Wait. Mr. Isaacs, I need
12 your full appearance. That means your address and
13 pertinent information, phone number.

14 MR. ISAACS: Okay. This is Joe Isaacs, CEO of
15 ISG. We are the regulatory consultants to Bitwise
16 Communications. My phone number is
17 (727) 738-5553. Did you want an address too?

18 JUDGE O'CONNELL-DIAZ: Please.

19 MR. ISAACS: 40347 US 19 North, Suite 122, Tarpon
20 Springs, Florida.

21 JUDGE O'CONNELL-DIAZ: Mr. Isaacs, are you an
22 attorney?

1 MR. ISAACS: Yes, I am.

2 JUDGE O'CONNELL-DIAZ: Will you be representing
3 the company today?

4 MR. ISAACS: Yes, I will.

5 JUDGE O'CONNELL-DIAZ: Springfield?

6 MS. JACKSON: Cindy Jackson, Illinois Commerce
7 Commission, Consumer Services Division, 527 East
8 Capitol Avenue, Springfield, Illinois.

9 MS. LANKFORD: Barb Lankford, Illinois Commerce
10 Commission, Consumer Services Division, 527 East
11 Capitol Avenue, Springfield, Illinois.

12 JUDGE O'CONNELL-DIAZ: Ms. Lankford, for the
13 court reporter's purpose, could you please spell
14 your last name.

15 MS. LANKFORD: L-a-n-k-f-o-r-d.

16 JUDGE O'CONNELL-DIAZ: Thank you.

17 MS. MARSHALL: Judith Marshall,
18 Telecommunications Division, Illinois Commerce
19 Commission, 527 East Capitol Avenue, Springfiel d,
20 Illinois.

21 MR. MIZYED: Shaher --

22 MR. ISAACS: Shaher Mizyed --

1 JUDGE O'CONNELL-DIAZ: Sir, I don't believe you'd
2 be filing an appearance.

3 Are you testifying?

4 MR. MIZYED: Yes, I am.

5 JUDGE O'CONNELL-DIAZ: Your counsel has filed an
6 appearance.

7 MR. MIZYED: That's fine then.

8 JUDGE O'CONNELL-DIAZ: Mr. Isaacs, if you'd like
9 to proceed.

10 MR. ISAACS: The purpose of this hearing is to go
11 over the prefiled testimony originally filed on
12 behalf of Bitwise Communications by Shaher Mizyed
13 through myself to be able to demonstrate both the
14 technical financial abilities of the company in lieu
15 of its application for a certificate to provide both
16 local exchange and interexchange services throughout
17 the State of Illinois.

18 JUDGE O'CONNELL-DIAZ: And --

19 MR. ISAACS: What I would like to do is make a
20 minor amendment to this testimony prior to taking
21 questions from staff. There was a conflict between
22 the original application and the testimony that was

1 filed.

2 The original application was for resold
3 and facility based carrier of local
4 telecommunications services, and that was
5 inadvertently left off of the testimony that had
6 been filed both on the cover page as well as on Page
7 2 of the testimony. So I'd like to make that
8 statement for the record. It will be amended and
9 reforwarded back to the utility commission at the
10 conclusion of this hearing.

11 JUDGE O'CONNELL-DIAZ: You're going to amend the
12 testimony that has been provided, and we will allow
13 that as a late-filed exhibit.

14 MR. ISAACS: Yes, you will. I'll make that late
15 Exhibit No. 1.

16 JUDGE O'CONNELL-DIAZ: Does staff have any
17 objection to that?

18 MS. JACKSON: No.

19 JUDGE O'CONNELL-DIAZ: Anything else, Mr. Isaacs?

20 MR. ISAACS: No, not at this particular point in
21 time. I'll just go ahead and field questions from
22 staff.

1 JUDGE O'CONNELL-DIAZ: Sir, don't you want to
2 have the exhibit -- introduce your witness and have
3 them sponsor the exhibit?

4 MR. ISAACS: If you'd like me to.

5 JUDGE O'CONNELL-DIAZ: It's not what I would
6 like. It's the rules of evidence require you to do
7 that, sir.

8 MR. ISAACS: Then let me go ahead and introduce
9 our witness which is Shaher Mizyed who is the
10 president of Bitwise Communications and also the
11 gentleman responsible for this testimony. I'd like
12 to introduce both the testimony and the application
13 as Exhibits 1 and 2 for the purpose of this hearing.

14 JUDGE O'CONNELL-DIAZ: Mr. Mizyed, if you'd raise
15 your right hand.

16

17

18

19 (Witness sworn.)

20 SHAHER MIZYED,

21 called as a witness herein, having been first duly
22 sworn, was examined and testified as follows:

1 EXAMINATION

2 BY

3 JUDGE O'CONNELL-DIAZ:

4 Q. Could you please state and spell your name
5 for the record.

6 A. Shaher Mizyed, S-h-a-h-e-r, M-i-z-y-e-d.

7 Q. And your address, sir?

8 A. 1301 Pioneer Parkway, Suite 125, Peoria,
9 Illinois 61615.

10 Q. And your position with the company?

11 A. President.

12 JUDGE O'CONNELL-DIAZ: Okay, counsel.

13 MR. ISAACS: You want me to review the testimony,
14 or do we want to just go through it like we
15 typically have done in the past with questions from
16 staff?

17 JUDGE O'CONNELL-DIAZ: That, to my understanding,
18 is called cross-examination. And unless we have
19 something in the record to cross-examine, that can't
20 happen.

21 So if you would like to have your witness
22 identify the testimony that you are seeking to

1 introduce in this proceeding and then request that
2 that document be admitted, that would be
3 appropriate. I mean, this is rudimentary. I don't
4 know--

5 MR. ISAACS: It's a little different than we
6 typically do them. That's why -- well, I've already
7 introduced the testimony as Exhibit 1 as evidence
8 into this hearing, so if you'd like me to go through
9 the questions within the exhibit, I'll be more than
10 glad to --

11 JUDGE O'CONNELL-DIAZ: Counsel, I would like you
12 to have your witness identify the testimony and go
13 through the litany of questions that is required
14 when one is seeking to introduce an exhibit.

15

16

17

18 DIRECT EXAMINATION

19 BY

20 MR. ISAACS:

21 Q. Shaher, would you please identify the
22 testimony that we have submitted that is true and

1 correct --

2 JUDGE O'CONNELL-DIAZ: It's not admitted, sir.

3 MR. ISAACS: I'm sorry?

4 JUDGE O'CONNELL-DIAZ: This document has not been
5 admitted into evidence.

6 MR. ISAACS: That has been submitted --

7 JUDGE O'CONNELL-DIAZ: I'll ask the questions.

8 FURTHER EXAMINATION

9 BY

10 JUDGE O'CONNELL-DIAZ:

11 Q. Mr. Mizyed, do you have a copy of the
12 testimony that has been prefiled in this docket
13 before you?

14 A. Are you speaking to me?

15 Q. I'm speaking to the witness, yes.

16 A. Okay. What would you like? Would you like
17 me to read through --

18 Q. No, I don't want you to read through the
19 testimony.

20 My question to you is: Do you have a
21 copy of the prefiled testimony that is entitled the
22 testimony that you are proffering in this matter?

1 A. Yes, I do.

2 Q. And could you please state for the record
3 and identify that document, how many pages is it?

4 A. Document is 15 pages.

5 Q. And, sir, are there any changes or
6 corrections that you wish to make to that document
7 prior to its introduction into evidence?

8 A. No.

9 Q. And do you wish this to be your sworn
10 testimony in this matter?

11 A. Yes.

12 JUDGE O'CONNELL-DIAZ: We will mark that as
13 Petitioner's Exhibit 1.

14 Does staff have any objection to
15 Petitioner's Exhibit 1 being introduced into
16 evidence?

17 MS. JACKSON: No.

18 JUDGE O'CONNELL-DIAZ: With the caveat that based
19 on Mr. Isaac's representations that there are some
20 amendments that will be made and he will provide in
21 triplicate copies of that testimony with the
22 amendments thereto, that document then is admitted

1 as Petitioner's Exhibit 1.

2 (Whereupon, Petitioner's
3 Exhibit No. 1 was
4 admitted into evidence.)

5 JUDGE O'CONNELL-DIAZ: Is this the only exhibit
6 that you will be offering, Mr. Isaacs?

7 MR. ISAACS: For this hearing, yes, it is.

8 JUDGE O'CONNELL-DIAZ: Does staff have
9 cross-examination for the witness?

10 MS. JACKSON: Yes, this is Cindy Jackson. I'll
11 proceed.

12

13

14 CROSS-EXAMINATION

15 BY

16 MS. JACKSON:

17 Q. Mr. Mizyed, just so I'm clear, I want to
18 clarify that you are seeking facilities based and
19 resale, local and interexchange service?

20 A. Yes.

21 Q. Okay.

22 JUDGE O'CONNELL-DIAZ: So you are seeking all

1 three certificates, correct?

2 THE WITNESS: Yes.

3 MS. JACKSON: Q On question No. 3 of the
4 application, you've marked that you want a waiver of
5 Part 735. Is that for your long-distance authority?

6 A. Repeat the question, please. 735, is that
7 the one?

8 Q. No. On question No. 3 of the application,
9 you've marked that you want a waiver of Part 735.
10 Is that waiver request for your long-distance
11 authority?

12 MR. ISAACS: Yes.

13 THE WITNESS: Yes.

14 JUDGE O'CONNELL-DIAZ: Mr. Isaacs, it's the
15 witness' job to answer the question.

16 THE WITNESS: Yes.

17 MS. JACKSON: Q Okay. You've also marked under
18 the waiver request "other."

19 Can you define what other waivers you're
20 requesting.

21 A. I believe that would be Mr. Isaacs' job.
22 We're deferring, I think, to our phone book and a

1 couple of other items.

2 JUDGE O'CONNELL-DIAZ: Well, Mr. Mizyed,
3 Mr. Isaacs cannot testify on behalf of the company.
4 He, is my understanding, is counsel for the company
5 --

6 THE WITNESS: Would you like to know what other
7 waivers? Okay. The variances that we would like
8 would be -- would be variance from 83 Illinois ADM
9 Code Part 73.180.

10 MS. JACKSON: Q You've already marked that one,
11 but you've marked a blank that's defined as "other,"
12 and I was just wondering what other codes you were
13 looking at.

14 A. We have waiver of 83 Illinois ADM Code Part
15 710.

16 Q. That's been marked.

17 A. Okay. Then we have -- Bitwise is also
18 seeking a waiver of the requirement to maintain its
19 books and records in the State of Illinois. I think
20 we declined that one.

21 Q. Sir, are you already located in Illinois?

22 A. Yes, we are.

1 Q. So you would not really want to seek a
2 waiver to keep your books in Illinois if they're
3 already here, would you?

4 A. That's fine. We're planning on keeping them
5 in Illinois. Just in case there was any question on
6 that.

7 Q. Okay.

8 A. And that's the only other thing that we
9 have.

10 Q. So maybe the "other" was marked in error?

11 A. Yes.

12 MS. JACKSON: Okay. Madam Examiner, do you want
13 him to revise this application?

14 JUDGE O'CONNELL-DIAZ: Yeah, I think that -- you
15 know, we can just do it on the record; otherwise
16 they'll have to send a whole new application in.

17 So let the record reflect pursuant to
18 testimony of the company's witness, it appears that
19 they wish to amend a portion of the application that
20 was filed on July 3rd, and in particular that
21 amendment is with regard to the application No. 3.
22 They wish to strike the request for other waiver

1 under that part, Section 3, and the request to amend
2 is hereby granted.

3 MS. JACKSON: Q Mr. Mized, looking at question
4 No. 12 of your application, it asks that you provide
5 evidence of the applicant's managerial and technical
6 resources.

7 Can you provide staff with additional
8 managerial resources such as resumes or bios of
9 people's customer service experience, regulatory
10 experience, and technical experience?

11 MR. ISAACS: May I comment?

12 MS. JACKSON: Yes.

13 MR. ISAACS: Additional resumes have been
14 provided by the witness. We will have those filed
15 as a late-filed Exhibit No. 2, if that's acceptable
16 by staff.

17 JUDGE O'CONNELL-DIAZ: Has staff had an
18 opportunity to look at these documents?

19 MS. JACKSON: No, we have not.

20 MR. ISAACS: We just got them this morning.

21 JUDGE O'CONNELL-DIAZ: So --

22 MR. ISAACS: The resumes of additional

1 qualifications, if that would be acceptable to do
2 these as an additional filing or as a late-filed.

3 JUDGE O'CONNELL-DIAZ: Was this something staff
4 requested prior to the hearing today?

5 MR. ISAACS: No, it is not.

6 MS. JACKSON: Yes, I requested --

7 MR. ISAACS: Yes, you did. You asked for them
8 yesterday and, obviously, there wasn't enough time
9 to get them to you overnight. But I will get those
10 out to you either this afternoon or tomorrow.
11 They'll be there by Monday.

12 JUDGE O'CONNELL-DIAZ: Okay. I will allow that
13 as Petitioner's Exhibit 2, late-filed exhibit.
14 However, I will not mark the record heard and taken
15 today because if staff has some further questions
16 along those lines, I will afford them the
17 opportunity to inquire therein.

18 MR. ISAACS: They can -- more than welcome to
19 give me a call if they have any additional questions
20 on that. We'll provide whatever information is
21 necessary.

22 MS. JACKSON: Q Mr. Mizyed, looking at

1 No. 15 of the application, it asks how the applicant
2 will bill for service.

3 Will you be issuing a detailed billing
4 statement? Mr. Mizyed?

5 MR. ISAACS: Mr. Mizyed, hello?

6 MS. JACKSON: Have we lost our witness?

7 MR. ISAACS: Shaher, are you still there?

8 JUDGE O'CONNELL-DIAZ: Something must have
9 happened. Can you reconnect him, Mr. Isaacs?

10 MR. ISAACS: It's on a conference bridge. Have
11 we lost our witness out of Bitwise?

12 JUDGE O'CONNELL-DIAZ: Seems so.

13 MR. ISAACS: If you want to hold on a second,
14 I'll put you guys on hold and try to reach him in
15 the office and find out what happened. If you guys
16 will give me a couple minutes, please.

17 (Recess taken.)

18 JUDGE O'CONNELL-DIAZ: Ms. Jackson?

19 MR. ISAACS: Ms. Jackson, what question were you
20 at?

21 JUDGE O'CONNELL-DIAZ: Do you need the question
22 read back?

1 THE WITNESS: She asked me how -- will we be
2 issuing a bill, and I answered yes.

3 JUDGE O'CONNELL-DIAZ: I think the question was
4 what detailing will you have, I think. You want the
5 court reporter to read the question back?

6 THE WITNESS: If you would.

7 (Record read as requested.)

8 THE WITNESS: Yes.

9 JUDGE O'CONNELL-DIAZ: The answer is yes?

10 THE WITNESS: Yes.

11 MS. JACKSON: Q Mr. Mizyed, will this billing
12 statement list all services, features, taxes, and
13 surcharges.

14 A. Yes.

15 Q. Question No. 16 of the application asked how
16 the applicant proposes to handle service, billing,
17 and repair complaints.

18 Do you have escalation procedures within
19 your company?

20 A. Yes, we do.

21 Q. Could you briefly describe them?

22 A. Those will be -- first will go to the

1 operator. If it's not handled through there, will
2 go to a second level tier, managerial. And if it
3 can't be handled there, then it will come to me.

4 Q. Okay. Will the customer at any time be
5 notified that they may come to the ICC for
6 assistance on complaint resolution?

7 A. Yes.

8 Q. Question No. 18 of the application asked
9 what number a customer would use to contact your
10 company.

11 Are you aware that you're required to
12 have a toll free number?

13 A. We do.

14 Q. What is that number?

15 A. Our phone number is 1-877-976-0711. That's
16 a toll free number.

17 Q. The 309 number that's listed in the
18 application, is that a number for your company also?

19 A. Yes, that is a regular office number, but
20 our toll free number is the one I just provided you
21 with.

22 Q. Question No. 19 of the application, you

1 describe your procedures to prevent slamming.

2 Will you require your customers to sign a
3 letter of authorization?

4 A. Yes, we will.

5 Q. Will you be using any third-party verifiers?

6 A. We may.

7 Q. When can I expect you to sign and return the
8 membership forms for ITAC and UTAC?

9 A. I believe Mr. Isaacs has those already, and
10 we will be forwarding it to you as soon as possible.

11 MR. ISAACS: If I can interject, those forms will
12 be leaving my office tomorrow Federal Express up to
13 the Commission. They will be there on Monday.

14 JUDGE O'CONNELL-DIAZ: Those need to go to
15 Ms. Jackson.

16 MS. JACKSON: Yes, thank you.

17 MR. ISAACS: Not a problem.

18 MS. JACKSON: Q Mr. Mizyed, whose services do
19 you plan to resell.

20 A. Plan to resell basically the ILEC, which is
21 Ameritech and GTE Sprint and any CLEC that's in our
22 -- other CLEC that's large enough in our area, plus

1 providing our own services.

2 Q. Okay. In looking at your testimony, Page 7,
3 you state that your customer service center is
4 available between 9:00 and 5:00 p.m.; however, the
5 application states that it's open from 8:00 to 12:00
6 midnight.

7 Which is correct?

8 A. 9:00 to 5:00.

9 Q. Okay. On the same Page 7, you state that
10 you will be responsible for handling consumer
11 complaints?

12 A. Yes.

13 Q. Does that say that you don't have a customer
14 service center to handle complaints?

15 A. No. We do have a customer service center,
16 but we're saying if there's anything that gets
17 escalated, I will be the last person before it goes
18 to the Commission if they have any complaint.

19 Q. Okay. In looking at Page 10 of your
20 testimony, line 10 and 11, you state that TTY
21 distribution telecommunications relayed service will
22 be handled by contracting with the incumbent LEC.

1 Are you aware that as a facilities
2 service provider this is your responsibility and not
3 the incumbent LEC's?

4 A. Yes.

5 Q. So you will be providing these services
6 yourself?

7 A. Yes.

8 MR. ISAACS: Once facilities have been deployed.

9 THE WITNESS: Are you talking to me, Joe?

10 MR. ISAACS: I was just making a statement once
11 facilities have been deployed.

12 MS. JACKSON: Q Turning to Page 12 of your
13 testimony, line 11, you state that it's your
14 understanding that the Commission has previously
15 waived or declared inapplicable portions of 710 and
16 735 for competitive carriers.

17 Again, is this waiver of 735 that you're
18 talking about for your long-distance authority.

19 A. If I can defer to Mr. Isaacs, I believe that
20 is.

21 MR. ISAACS: That is correct.

22 MS. JACKSON: Q Now, you've attached a copy of

1 your tariff to the testimony and the application; is
2 that correct.

3 A. Yes.

4 Q. Are you aware that by attaching a tariff
5 that it's not -- the tariff is not constituted as
6 filed or approved?

7 MR. ISAACS: Yes.

8 THE WITNESS: Yes.

9 MS. JACKSON: Q And that you will file tariffs
10 after you receive certification but prior to
11 providing service.

12 A. Yes, we will.

13 Q. I would just like to point out for the
14 record that while I didn't read the tariff word for
15 word, I did glance through it, and there are several
16 violations in this tariff to Illinois statutes and
17 rules and would request that you -- prior to
18 providing that that you compare it to Illinois
19 statutes and rules.

20 A. Yes, we will.

21 Can you please give us anything that is
22 not in compliance with Illinois rules, let us know,

1 and we will change those for you?

2 Q. Okay. But I think you also have a
3 responsibility to know what Illinois rules and
4 statutes are.

5 A. We'll go ahead and go through it again.

6 MS. JACKSON: Thank you. That's all my
7 questions.

8 JUDGE O'CONNELL-DIAZ: Okay. Ms. Lankford, do
9 you have any questions?

10 MS. LANKFORD: No, I don't.

11 JUDGE O'CONNELL-DIAZ: Ms. Marshall?

12 MS. MARSHALL: Yes, I have several questions.

13 CROSS-EXAMINATION

14 BY

15 MS. MARSHALL:

16 Q. Good morning, Mr. Mizyed. Is your name
17 pronounced Mizyed?

18 A. Mizyed, yes.

19 Q. Okay. Mr. Mizyed, I have a few questions.
20 I'll start with your testimony.

21 Page 3 of your testimony, the question is, Please
22 describe the corporate structure of Bitwise

1 Communications.

2 Could you provide a more complete
3 response to that?

4 A. What would you like? We are an Illinois
5 corporation and we have sent our articles of
6 incorporation to you. Can you clarify what would
7 you like?

8 Q. Who is speaking, please?

9 A. This is Mr. Mizyed.

10 Q. I'm sorry. I wasn't sure.

11 Yes. I'd like to know first of all if
12 Bitwise Communications has some other affiliates; if
13 they have a parent company?

14 A. No, we're a separate company right now.

15 Q. Okay. Then who is Bitwise, Incorporated?

16 A. Bitwise, Incorporated, is another company
17 which is an ISP which is -- I mean, we are not
18 affiliated in any way commercially, but we will be
19 working together for marketing and everything else
20 that we have.

21 Q. Do you have common ownership with Bitwise,
22 Incorporated?

1 A. Yes.

2 Q. And could you explain the extent of that
3 common ownership?

4 A. I own 10 percent of the other company.

5 Q. Okay. And that's yourself personally?

6 A. Yes.

7 Q. Are there other shareholders in Bitwise,
8 Incorporated, that also are shareholders of Bitwise
9 Communications?

10 A. Yes.

11 Q. Do you know what percentages of the
12 ownership would be the same?

13 A. We would be -- no. The other person owns 90
14 percent of Bitwise Systems.

15 Q. And when you say Bitwise Systems, that's the
16 ISP provider?

17 A. Yes, that's the ISP.

18 Q. Okay. And does that person also have an
19 investment in Bitwise Communications?

20 A. Yes.

21 Q. And what would the percentage investment be
22 in that?

1 A. He owns approximately 50 percent.

2 Q. Okay. So would it be fair to say then that
3 Bitwise Systems, Incorporated, is an affiliate of
4 Bitwise Communications, Incorporated, because of the
5 common ownership?

6 A. Yes.

7 Q. Could you -- I'm turning now to Page 4 of
8 your testimony.

9 Could you tell us the number of employees
10 that Bitwise Communications has?

11 A. Currently we have just the management staff,
12 and as soon as we have certification, we have people
13 that are ready to be hired.

14 Q. And the management staff consists of who?

15 A. I, myself, Shaher Mizyed, Michael Schueller,
16 which is our technical office. We have Mohamad
17 Mizyed, the secretary. And we're just -- we've got
18 everything else lined up in order to go once we have
19 certification.

20 Q. Okay. So currently you have the three
21 employees?

22 A. Yes.

1 Q. Do you share any employees with Bitwise
2 Systems?

3 A. No, not right now. Not at this moment, no.

4 Q. Do you plan to share employees with Bitwise
5 Systems?

6 A. Yes, we do.

7 Q. Page 5 of your testimony refers to initial
8 public offering of Bitwise Communications.

9 Could you provide any additional
10 information regarding that?

11 A. What kind of information would you like?

12 Q. I'd like to know if that is still the plan
13 of the company and also like to know approximately
14 when and how much you expect that would involve?

15 A. Basically we're looking at fourth quarter,
16 just depending on how, you know, things go. And as
17 far as price wise, we've not put a price on the
18 company so far. But we're just proceeding -- we're
19 basically just proceeding as, you know, just on a
20 time line, our CLEC status, our equipment,
21 everything goes.

22 Q. So at this point you haven't made a

1 determination that the market conditions might be
2 unfavorable to that offering and you still plan to
3 do that?

4 A. We are in the plans of doing that, but
5 market conditions will dictate whether we do put a
6 fourth quarter offering or not.

7 Q. Can you give us an estimate of the amount of
8 capital that Bitwise would intend to raise with this
9 offering?

10 A. Approximately about \$11 million.

11 Q. Does Bitwise have other financing
12 arrangements in place such as financing of equipment
13 they intend to install?

14 A. Yes.

15 Q. Could you explain what other financing
16 arrangements Bitwise has in place?

17 A. We have a loan that's ready to go for all
18 the equipment that we need through the local bank
19 just pending our certification.

20 Q. What would the amount of that loan be?

21 A. Several hundred thousand dollars right now.

22 Q. Well, you can't give us -- there isn't a

1 specific line of credit that the bank is --

2 A. The line of credit is about \$200,000 right
3 now.

4 Q. Is that line of credit Bitwise
5 Communications' line of credit or Bitwise Systems'
6 line of credit?

7 A. Bitwise Communications' line of credit.

8 Q. Okay. Now, you attached to your application
9 a bank statement -- actually, it's a copy of a
10 letter from a bank, and it lists several accounts
11 there.

12 Can you tell us who the owners are of
13 each of these accounts, please?

14 A. I'm the owner of these accounts.

15 Q. These are your personal accounts?

16 A. These are my corporate accounts.

17 Q. Your corporate accounts for what
18 corporation?

19 A. That I will transfer into Bitwise
20 Communications once we have the CLEC status; through
21 my personal accounts that I will transfer these
22 accounts into Bitwise Communications as soon as we

1 have our CLEC status.

2 Q. Okay. Each of these is a personal account
3 of yours, or is it a corporate account
4 of --

5 A. They're corporate -- Mizyed, Incorporated,
6 and some of it has through Bitwise Systems also.

7 Q. Okay. Could you for each of these accounts
8 -- there's an account No. 409974.

9 Could you tell us who the legal owner of
10 that account is?

11 A. Sure. 072175 is Bitwise Systems. 409974 is
12 Mizyed, Incorporated, which I'm the president of.
13 405783 is also Mizyed, Incorporated, and I am the
14 president of.

15 Q. Okay. Could you give us more information
16 about Mizyed, Incorporated, what's the nature of
17 that company and --

18 A. Mizyed, Incorporated, is basically a real
19 estate holding company.

20 Q. Okay. And are you the sole owner of that
21 company or you just own a percentage?

22 A. I'm 50 percent owner in that company.

1 Q. 50 percent, okay.

2 And would Mizyed, Incorporated, be
3 transferring its funds to Bitwise Communications, or
4 would the holding company continue in effect and
5 require its own --

6 A. No. We will transfer these amounts of
7 moneys into Bitwise Communications as soon as we
8 receive CLEC status.

9 Q. You've provided a letter of guarantee from
10 Bitwise Systems in the amount of a hundred thousand
11 dollars; is that correct?

12 A. Yes.

13 Q. And that would be to guarantee all financial
14 obligations for a period of two years?

15 A. Yes.

16 Q. Would that be including any refunds due to
17 customers?

18 A. Yes, we will.

19 Q. And would it also include any payments due
20 to underlying carriers?

21 A. Yes.

22 Q. While we're talking about your financial

1 records, you attached, I believe, to your business
2 plan but certainly to your application several pages
3 of what appear to be financial projections?

4 A. Yes.

5 Q. There's a single page here that's labeled
6 Bitwise Network Expenses. One column is headed NRC.

7 Could you explain what NRC means?

8 A. Nonrecurring charges.

9 Q. Okay. And are those charges for installing
10 equipment?

11 A. It would probably be the cost of equipment
12 and installation.

13 Q. And can you tell us -- give us any idea at
14 what point in time these nonrecurring charges will
15 be incurred?

16 A. I mean, just a time line, I mean, we do plan
17 on raising the money and basically we're going to
18 have our equipment that we financed through the
19 bank, and then as we get moneys in, then that's when
20 the other projects will be implemented.

21 Did I understand your question properly?

22 Q. I think so. I think what you said is that

1 you don't know precisely when these will occur but
2 it would be not until you receive your significant
3 funding?

4 A. Yes. We have funding to be up and running
5 and to resell other -- like Ameritech, but until we
6 have other moneys to expend, that's when some of
7 these other projects will come on line.

8 Q. Okay. You also provided a number of
9 calculations that appear to be revenue estimates.
10 They seem to be very much the same except that
11 they've been modified to include the varying numbers
12 of subscribers; would that be correct?

13 A. Yes. We're just going by estimates of
14 subscribers.

15 MR. ISAACS: Performance statement.

16 MS. MARSHALL: Q When you made these revenue
17 estimates, is this based on services you intend to
18 resell or services that are based on your facilities
19 based service.

20 A. These would be facilities based.

21 Q. Okay. Have you done anything with regard to
22 the resale where you've projected your revenues and

1 projected what your costs will be in the resale
2 environment?

3 A. No, we have not.

4 Q. Would it be possible for you, since it
5 appears that initially you'll be going into the
6 resale business, to provide estimates of your
7 revenues and expenses in the resale environment?

8 A. Can you repeat that, please.

9 Q. Yes. I am asking if you can prepare those
10 calculations. Perhaps I'm mistaken, but I'm
11 understanding that you're going to go into the
12 resale business first and that you won't be
13 purchasing this equipment until either through an
14 independent public offering or some other method you
15 raise the necessary capital.

16 So what I'm asking for is an estimate of
17 what your revenue and expenses will be when you
18 begin your company in the resold environment?

19 A. We really don't plan on reselling that much
20 Ameritech services at the beginning. Basically
21 we're just going to start deploying our network, so
22 we don't think that the cost will be that high.

1 Q. I'm not sure I understand.

2 You're going to enter into the resale
3 business prior to establishing your network?

4 A. Our network should be established right away
5 once we have our switch and our network should be up
6 and running. And then from that point if we need to
7 resell any equipment, we will for any resold --

8 MR. ISAACS: If I can interject for a minute, I
9 believe what they're trying to say is that the
10 facilities based and resale status will pretty much
11 be done on a simultaneous basis. Equipment will be
12 deployed initially but not to the total extent of
13 the calculations provided to the utility commissions
14 for total expenses.

15 MS. MARSHALL: Q Okay. Perhaps what we should
16 do is look at these expenses and you can tell me
17 which of these expenses are related to your resold
18 services.

19 A. That's fine.

20 MR. ISAACS: Are you still referring to the
21 single page, Bitwise network expenses?

22 MS. MARSHALL: Yes, I am.

1 MR. ISAACS: I think the only cost in there on a
2 resale platform would be the CLEC status. All of
3 this other equipment is all equipment for facilities
4 based and will be deployed over a period of time
5 not, necessarily all at once.

6 MS. MARSHALL: Q Well, define for me what the
7 caption CLEC status means.

8 MR. ISAACS: The cost of becoming -- the cost of
9 becoming and obtaining certification and
10 interconnections agreements and so on and so forth.

11 MS. MARSHALL: Q Okay. That's similar to what I
12 anticipated that meant. What I was looking for here
13 is whether there's any cost imputed in your list of
14 expenses that are related to purchasing services
15 from an underlying carrier.

16 A. No --

17 MR. ISAACS: -- facilities basis.

18 JUDGE O'CONNELL-DIAZ: Does the witness have an
19 answer to that question?

20 THE WITNESS: No, there is no other cost.

21 MS. MARSHALL: Q Going on to Page 6 of your
22 testimony, will you also be modifying the first

1 question on that page to include the resale local
2 and the resold interexchange services that you're
3 requesting?

4 MR. ISAACS: Yes, we will as described earlier at
5 the beginning of the hearing.

6 MS. MARSHALL: Q I don't believe you described
7 Page 6. I think you said on Page 2.

8 MR. ISAACS: I'd like to add Page 6 as the
9 amendment to this amended testimony Exhibit No. 1.

10 MS. MARSHALL: Q Just so that I'm entirely
11 clear, you're seeking facilities based local,
12 facilities based interexchange, resold local, and
13 resold interexchange?

14 MR. ISAACS: That is correct.

15 MS. MARSHALL: Q You intend to provide those
16 services throughout the State of Illinois?

17 MR. ISAACS: That's correct.

18 MS. MARSHALL: Q Are you familiar with the rural
19 exemptions discussed in the 96 Federal Telco Act?

20 MR. ISAACS: Yes, we are.

21 MS. MARSHALL: Q Are you aware that in order to
22 serve any rural -- in any rural area or to

1 interconnect in any rural area, you would need to
2 make a separate filing with the Commission?

3 MR. ISAACS: Yes, we do.

4 JUDGE O'CONNELL-DIAZ: Who is answering the
5 questions?

6 MR. ISAACS: Joe Isaacs.

7 JUDGE O'CONNELL-DIAZ: Mr. Isaacs, you are not
8 testifying. The witness is the person that's
9 supposed to be answering the questions.

10 THE WITNESS: Would you go ahead and repeat the
11 questions, please.

12 MS. MARSHALL: Q I was asking you, Mr. Mizyed,
13 if you're familiar with the rural exemptions
14 contained in the 96 Federal Telco Act.

15 A. Yes.

16 Q. And is it your understanding that prior to
17 providing service in rural areas of Illinois you
18 would need to file with the Commission to see
19 whether that carrier qualifies for a rural
20 exemption?

21 A. Yes.

22 Q. I'm looking on Page 9 of your testimony.

1 A. Yes.

2 Q. Mr. Mizyed, please tell me your
3 understanding of what the requirements are that are
4 contained within Illinois Administrative Code Part
5 705.

6 A. As far as preserving records, that we shall
7 maintain these records for a period of time.

8 Q. Have you reviewed a copy of Part 705?

9 A. No, I have not, but our understanding is
10 that we are supposed to keep the records of all of
11 our customers.

12 Q. Would you accept that there are a number of
13 other records that you are also required to keep
14 such as your permanent corporate records, your
15 income statements, your balance sheets, and those
16 types of records, not just customer records?

17 A. Yes.

18 Q. And would you agree to obtain a copy of that
19 so that you can set up your record keeping to comply
20 with that?

21 A. Yes.

22 Q. Now, in your answer you refer to the

1 incumbent LECs.

2 Could you tell me what the incumbent LECs
3 would have to do with your own record keeping
4 requirements?

5 A. Basically we would keep the same records as
6 they would. Anything that you require of
7 them -- that's required we will comply with.

8 Q. Okay. Did you understand that this is your
9 requirement, that the incumbent LECs will not be
10 providing any record keeping --

11 A. No. Yeah, we understand that. We will be
12 -- it's our requirement to keep those records.

13 Q. And there are a number of records listed
14 within Part 705 and then the amount of time that
15 each must be maintained.

16 A. We will do whatever is required in Part 705.

17 Q. Thank you.

18 Now, Mr. Mizyed, you are going to be the
19 contact person for 911 issues; is that correct?

20 A. Yes.

21 Q. Will your company ensure that 911 traffic is
22 handled in accordance with the 83 Illinois

1 Administrative Code Part 725 and the Emergency
2 Telephone System Act?

3 A. Yes.

4 Q. Will your company contact and establish a
5 working relationship with the 911 systems when you
6 begin to provide local telephone service?

7 A. Yes, we will.

8 Q. Will your company coordinate with the
9 incumbent LECs and local 911 systems to provide
10 transparent systems for your local exchange
11 customers?

12 A. Yes, we will.

13 Q. Who will be responsible for building and
14 maintaining the 911 database for your local exchange
15 customers?

16 A. That will be our technical officer.

17 Q. Mr. Scholler was that?

18 A. Yes.

19 Q. Is it Scholler or Schueller?

20 A. Schueller.

21 Q. Mr. Schueller, okay.

22 And how often will your company update

1 the 911 database with customer information?

2 A. We will update it as needed by the
3 regulations. We will comply to the regulations.

4 Q. Do you know what the regulations provision
5 is?

6 A. We will get a copy of that, and we will
7 comply with it.

8 Q. Would you accept that you're required to
9 update that database on a daily basis or less
10 frequently if that's -- if it's whenever a customer
11 is added?

12 A. Yes. Whenever -- we will update it, like I
13 said, as needed whenever you require us to. If it's
14 on a daily basis, we will. If it's on a customer
15 basis, we will.

16 Q. It would be at least daily unless there's no
17 customers added that day.

18 A. Yes, we will agree to that.

19 Q. Okay. Does your company billing system have
20 the ability to distinguish between facilities based
21 and resale customers for the collection of the 911
22 surcharge?

1 A. Yes.

2 Q. Does your company have procedures for
3 transitioning of 911 surcharge collection and
4 disbursement to local 911 systems?

5 A. We should, yes, we should.

6 Q. Will your company's proposal require any
7 network changes to any of the 911 systems?

8 A. No.

9 Q. Will your company be able to meet the
10 requirements specified under Part 725.500 sub O and
11 725.620 sub B for the installation of call boxes?

12 A. Yes.

13 Q. Do you understand the call box provisions of
14 those parts?

15 A. Not -- no, we don't, but we will comply with
16 them. I mean, you've read off a couple numbers. I
17 don't memorize everything. But if it's something
18 that we need to do, we will do it.

19 Q. You understand what a call box is?

20 A. Can you explain it to me? Are you talking
21 about the -- in our facilities or out to the
22 customer?

1 Q. We're talking about in your facilities and
2 the ability to bypass your switch with an externally
3 located call box.

4 You have a system that will be able to do
5 that?

6 A. Yes, we do. We have -- the ATM switch will
7 be able to handle that.

8 Q. What if your switch goes down, what happens?

9 A. We have redundancy.

10 Q. Will the 911 system people be able to access
11 that without entering your building?

12 A. Yes, they will.

13 Q. Okay. In the event that you find you're not
14 able to meet the call box provisions of these
15 sections, do you understand that you will need to
16 seek a waiver of these provisions in a separate
17 proceeding?

18 A. Yes.

19 Q. I'm going now to Page 13 of your testimony.
20 Here you're discussing your waiver request of
21 Illinois Administrative Code Part 710. Your
22 testimony refers to generally accepted accounting

1 principles.

2 Please describe for me what generally
3 accepted accounting principles means to you?

4 A. Basically we will just go by -- we have a
5 bookkeeper that will be on staff, and they will be
6 just going by generally accepted accounting
7 principles. I'm not going to get into -- I don't
8 know the details for everything, but I know we will
9 be applying those principles to any a ccounting that
10 we do.

11 Q. Will you use a mechanized computer based
12 accounting system?

13 A. Yes, we will.

14 Q. Will this be a full accrual system?

15 A. Yes.

16 Q. Have you provided a chart of accounts of the
17 accounting system you intend to use?

18 A. Have we provided them to whom?

19 Q. To the Illinois Commerce Commission.

20 A. As far as I -- I'm going to refer to
21 Mr. Isaacs on that.

22 MR. ISAACS: I believe a charts of accounts was

1 sent in with the application.

2 MS. MARSHALL: Q What I'm asking Mr. Mizyed, the
3 witness, is if this is the accounting system that
4 this bookkeeper is going to use.

5 MR. ISAACS: Yes, it is.

6 MS. MARSHALL: Does he know -- does it have a
7 name?

8 MR. ISAACS: That I don't have an answer for you.

9 THE WITNESS: No, I don't have a name for that.

10 MS. MARSHALL: I'd like to request to know what
11 accounting system the company will actually be
12 using.

13 Q. Will your accounting system be able to
14 separately distinguish between interstate calls and
15 intrastate calls?

16 A. Can you please repeat that, please.

17 Q. Yes. Will your accounting system
18 distinguish between interstate calls and intrastate
19 calls?

20 A. Yes, it will.

21 Q. Define for us what you mean by intrastate
22 calls, please?

1 A. Are you talking about interLATA and -- we're
2 just talking about inside our LATAs and outside our
3 LATAs?

4 Q. No. I'm not actually talking about LATAs.
5 I'm talking about intrastate, if you could provide a
6 definition of an intrastate call, please?

7 A. Inside the state and outside the state, is
8 that what you're referring to? I'm not
9 really --

10 Q. Is this Mr. Mizyed speaking?

11 A. Yes.

12 Q. Okay. Yeah. What I'm asking is for you to
13 explain it to us so that we're testing your
14 knowledge here if you know what it is you need to
15 keep track of.

16 A. Basically you're asking us what our phone
17 calls -- where our phone calls coming in, if it's
18 going to be an in-state call or an out-of-state
19 call.

20 Q. Right. So when you say in state, what do
21 you mean by that?

22 A. Inter and then -- I'm sorry, your other

1 term--

2 Q. Inter and intra. One is i-n-t-e-r and one
3 is i-n-t-r-a.

4 A. Intra would be in. Inter would be out.

5 Q. Okay. So what you're saying is that an
6 intrastate call is a call that both originates and
7 terminates within Illinois?

8 A. Yes.

9 Q. And you would accept that that definition
10 will apply even if the traffic is somehow routed
11 outside of the state and back into the state?

12 A. Yes.

13 Q. What circumstances warrant a departure from
14 the prescribed uniform systems of accounts for
15 Bitwise Systems?

16 A. There shouldn't be any circumstance. We'll
17 just stick to our accounting principles.

18 Q. Well, you're seeking a waiver of Part 710.
19 What this question is asking is why do you need this
20 waiver?

21 A. Well, basically we just want to make sure
22 that our accounting principles are maintained

1 uniformly and -- you know, resulting with other
2 telecommunications companies. We want to make sure
3 we are cohesive with other companies and the way
4 they're doing it.

5 I'd like to refer to Mr. Isaacs on this
6 also.

7 Q. Well, the questions and the responsibilities
8 are Bitwise's, Mr. Mizyed. You need to become
9 familiar with these rules so you can answer these
10 types of questions.

11 Will you maintain your records in
12 sufficient detail to facilitate the calculation of
13 all applicable taxes?

14 A. Yes, we will.

15 Q. Does the accounting system -- do you have an
16 accounting system currently in use, or do you still
17 need to develop one?

18 A. We have an in-house accounting system, and
19 then we will develop anything that the Commission
20 deems appropriate.

21 Q. Is the in-house accounting system software
22 based, or is it something that you've devised

1 yourself?

2 A. It is software based.

3 Q. Okay. And so you would be able to provide a
4 listing of the accounts that exist in that system;
5 is that correct?

6 A. Yes.

7 Q. And I'd like to request that you do that.

8 If a waiver of Part 710 is granted, will
9 you provide annual audited statements for all
10 periods subsequent to granting of the waiver?

11 A. Yes.

12 Q. And will those statements include footnotes
13 that fully disclose the financial information of the
14 company?

15 A. Yes.

16 Q. Does the applicant agree that the requested
17 waiver of Part 710 will not excuse it from
18 compliance with future Commission rules or
19 amendments to Part 710 that might otherwise be
20 applicable to the company?

21 A. Yes. Basically what we'd like to make sure
22 this is -- all our accounting principles are to Bell

1 core standards.

2 Q. Mr. Mizyed, would it be possible for you to
3 prepare related to your business plan an actual
4 projected statement of income and a projected
5 balance sheet?

6 A. Are you just saying going by our estimates
7 of what our customers are going to be that you want
8 us to project on from there, or where do you want me
9 to project from?

10 Q. It's your business plan, but I'm not sure
11 that you've included all types of expenses. And if
12 you put them on the income statement format, then
13 we'll see what the income of the company is likely
14 to be. And we'd also like a projected balance sheet
15 that will show what the equity of the company and
16 the liabilities of the company are expected to be.

17 A. That would be difficult. I mean, when we're
18 talking about future, you know, build out, are you
19 talking about right at this moment, once we get
20 certification, or from what point?

21 Q. We'd like to have this encompass probably
22 the first two or three years of operation what your

1 best estimate is.

2 A. Just want us to go by projections or
3 estimates basically?

4 Q. Yes. I'd just like to have them brought
5 down to the income statement level or the balance
6 sheet level, because what you've provided hasn't
7 been put together to demonstrate the profitability
8 of the company.

9 You understand what I am saying?

10 A. Yes.

11 MR. ISAACS: May I ask a question. Would you
12 like that to be submitted as late Exhibit No. 3?

13 MS. MARSHALL: Yes, I would.

14 JUDGE O'CONNELL-DIAZ: I think, counsel, that
15 would be Exhibit 4 because I believe that
16 Ms. Marshall requested that the witness provide a
17 description of the accounting system that the
18 company will be utilizing, and I think we should
19 provide for that as exhibit -- late-filed Exhibit 3.
20 So therefore this other exhibit will be late-filed
21 Exhibit 4.

22 MR. ISAACS: Not a problem.

1 MS. MARSHALL: Just bear with me for a moment. I
2 want to review the petition to see if there are any
3 additional questions that I have at this time.

4 That's all the questions I have at this
5 time. As the Examiner noted, I would like to
6 reserve the ability to ask additional questions once
7 the late-filed exhibits have been received.

8 JUDGE O'CONNELL-DIAZ: Okay. Does staff have any
9 other questions of this witness?

10 MS. MARSHALL: No, staff has nothing further
11 today.

12 JUDGE O'CONNELL-DIAZ: Mr. Isaacs, do you have
13 any redirect questions?

14 MR. ISAACS: No, not at this point in time.

15 JUDGE O'CONNELL-DIAZ: Okay. I'm looking at some
16 other dates for this matter to be continued to. How
17 does August 31st look for anyone?

18 MS. JACKSON: I'm not available in the morning,
19 but I am in the afternoon.

20 JUDGE O'CONNELL-DIAZ: How about 1:00 o'clock,
21 Ms. Marshall?

22 MS. MARSHALL: Yes, I don't know of any reason

1 why I would not be available at that time.

2 JUDGE O'CONNELL-DIAZ: Mr. Isaacs and Mr. Mizyed.

3 MR. ISAACS: That's fine with me.

4 THE WITNESS: That would be fine.

5 MS. MARSHALL: Could the company also provide a
6 date by which we would expect to receive the
7 late-filed exhibits?

8 MR. ISAACS: I would expect all the late-filed
9 exhibits to be in the hands of the Commission staff
10 by next Friday at the latest.

11 MS. MARSHALL: That would be the 18th, right?

12 MR. ISAACS: That is correct.

13 Would that be acceptable?

14 JUDGE O'CONNELL-DIAZ: Staff, is that acceptable
15 to you?

16 MS. MARSHALL: Yes, it is.

17 MR. ISAACS: Thank you.

18 JUDGE O'CONNELL-DIAZ: Okay. Counsel, is there
19 anything else that you wish to have included in the
20 record in this matter on behalf of the petitioner?

21 MR. ISAACS: Not at this point in time.

22 JUDGE O'CONNELL-DIAZ: Okay. Then at this

1 juncture we'll continue this matter to August 31st
2 at 1:00 o'clock with the caveat that the company
3 will provide to staff the exhibits and documentation
4 that they have requested during the pendency of this
5 hearing and that those documents will be provided to
6 staff by August 18th in order for staff to be able
7 to make a thorough review of those documents.

8 Anything further?

9 MS. MARSHALL: Staff has nothing.

10 MR. ISAACS: I have nothing.

11 JUDGE O'CONNELL-DIAZ: Mr. Isaacs, where are you
12 -- are you an attorney in Florida?

13 MR. ISAACS: Yes.

14 JUDGE O'CONNELL-DIAZ: Do you have an attorney
15 number?

16 MR. ISAACS: Not in front of me.

17 JUDGE O'CONNELL-DIAZ: Could you provide me with
18 that?

19 MR. ISAACS: Sure.

20 JUDGE O'CONNELL-DIAZ: Okay. All right. Then
21 this matter is now continued to August 31st at 1:00
22 o'clock.

1 MR. ISAACS: Thank you very much.

2 JUDGE O'CONNELL-DIAZ: Thank you.

3 (Whereupon, the above matter

4 was continued to

5 August 31, 2000, at 1:00 p. m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22