1   STATE OF ALABAMA

2   PUBLIC SERVICE COMMISSION

3   ADMINISTRATIVE LAW DIVISION

4

5

6   IN THE MATTER OF:

7   PARKER FIBERNET, LLC   DOCKET NO.: 31630

8   APPALACHIAN VALLEY   DOCKET NO.: 31631
       FIBER NETWORK, LLC
9

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11   * * * * * * * * * *

12   TESTIMONY AND PROCEEDINGS before the

13   Honorable Scott Morris, Administrative Law

14   Judge, Carl L. Evans Chief Administrative Law

15   Judge Hearing Complex, RSA Union Building, 100

16   North Union Street, Room 900, Montgomery,

17   Alabama, on Tuesday, June 21, 2011, commencing

18   at approximately 10:43 a.m.; and reported by

19   Dee Coker, Registered Professional Reporter

20   and Commissioner for the State of Alabama at

21   Large.

22   * * * * * * * * * *

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 1                    APPEARANCES

 2    FOR THE PUBLIC SERVICE COMMISSION:

 3    Mr. William C. (Bill) Cook
      Public Utility Analyst
 4    Ms. Janet L. Conway
      Public Utility Analyst II
 5    Telecommunications Division
      RSA Union, Suite 923-B
 6    100 North Union Street
      Montgomery, Alabama  36104
 7
      FOR PARKER FIBERNET, LLC:
 8
      Mr. James H. McLemore
 9    CAPELL & HOWARD
      Attorneys at Law
10    150 South Perry Street
      Montgomery, Alabama  36104
11

12           * * * * * * * * * *

13              EXAMINATION INDEX

14   DAVID MATTHEW PARKER
         DIRECT BY MR. McLEMORE      7
15       CROSS BY MR. COOK              29
         CROSS BY MS. CONWAY          34
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1   ALJ MORRIS: Let's go on the

2   record. Today's date is Tuesday, June

3   21st, 2011. We're here for Docket

4   31630, which is the application of

5   Parker FiberNet, LLC, for approval of a

6   certificate of public convenience and

7   necessity to provide telecommunication

8   service in the state of Alabama.

9   This application was filed on

10   May 16th, 2011. An original notice was

11   served on May 19th, 2011, setting a

12   hearing date of June 14th, 2011.

13   Subsequent notice was served on May

14   20th, 2011, setting a hearing date for

15   today. And there has been no

16   intervention in this docket.

17   We are also here for Docket

18   31631, which is the application of

19   Appalachian Valley Fiber Network, LLC.

20   This application was likewise filed --

21   I'm sorry. The applicant is

22   Appalachian Valley Fiber Network, LLC.

23   They're seeking approval of a

1   certificate of public convenience and

2   necessity to provide telecommunication

3   services in the state of Alabama. The

4   application of Parker FiberNet reads

5   the same. And there has been

6   intervention -- or no intervention in

7   either of these matters.

8   The application for Appalachian

9   Valley Fiber Network was identified on

10   May 16th, 2011. And notice of today's

11   hearing was served on May 20th of 2011.

12   With this, we will begin by

13   taking appearances, first on behalf of

14   both applicants, Parker FiberNet, LLC,

15   and Appalachian Valley Fiber Network,

16   LLC.

17   MR. McLEMORE: Good morning, Your

18   Honor. I am James H. McLemore, the

19   attorney for both Appalachian Valley

20   Fiber Network and Parker FiberNet. I

21   practice here in Montgomery with Capell

22   and Howard at 150 South Perry Street.

23   Our telephone number is area code 334,

1   241-8000. And with me today, a

2   representative for both companies, is

3   its principal, Mr. David Parker. And

4   I'll have him introduce himself for the

5   record.

6   MR. PARKER: My name is David

7   Parker. Our business address is 1005

8   South Commerce Street in Summerville,

9   Georgia, like summertime, Summerville

10   Georgia, 30747. And I'm the manager of

11   both companies.

12   ALJ MORRIS: And for the staff?

13   MR. COOK: Bill Cook,

14   Telecommunications Division, Commission

15   staff.

16   MS. CONWAY: Janet Conway.

17   ALJ MORRIS: Thank you.

18   And is there anyone else that

19   needs to enter an appearance?

20   Let the record reflect that no

21   one else has come forward.

22   Just as a preliminary matter, I

23   want to note for the record that we are

1   taking both of these applications

2   together because of the relationship of

3   the companies under the same owner and

4   the consideration of the parties and

5   the staff that this would best be

6   served by hearing these two together.

7   And with that, we will proceed.

8   Are there any other preliminary matters

9   we need to address before we get

10   started?

11   MR. McLEMORE: No, sir.

12   ALJ MORRIS: Okay. With that,

13   Mr. Parker, if you will stand and raise

14   your right hand, I'll swear you in and

15   we'll get started.

16   DAVID MATTHEW PARKER

17   The witness, having first been sworn

18   to speak the truth, the whole truth and

19   nothing but the truth, testified as follows.

20   ALJ MORRIS: Okay. Be seated.

21   Mr. McLemore.

22   MR. McLEMORE: Yes, sir.

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 1                    DIRECT EXAMINATION

 2     BY MR. McLEMORE:

 3     Q.   State your name for the record, please.

 4     A.   David Matthew Parker.

 5     Q.   And, Mr. Parker, you're here on behalf of

 6          Appalachian Valley Fiber Network and also

 7          on behalf Parker FiberNet; is that

 8          correct?

 9     A.   That is correct.

10     Q.   What is your position with respect to the

11          two companies?

12     A.   I'm the manager of both.

13     Q.   Okay.  Where is your business located?

14     A.   We're located in Summerville, Georgia, at

15          1005 South Commerce Street.  And the zip

16          is 30747.

17     Q.   Okay.  A little different than what I

18          normally do, I'd like to kind of get into

19          the back story a bit about how these two

20          applications came to be filed and what

21          you're proceeding to do.  So first I'll

22          ask you about your existing company,

23          Parker FiberNet.  Tell me what that
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1   company does and how long it's been in

2   business.

3   A.   Thank you. Parker FiberNet was began by

4   myself in approximately 1998. We were a

5   small company that was doing horizontal

6   cabling and we would build private

7   networks for existing businesses.

8   At that time, we were independently

9   securing public and private right-of-way

10   and access to various infrastructure to

11   connect facilities together. For

12   example, a large manufacturing company

13   might have an office just down the street

14   from their manufacturing facility; and we

15   would build network between those two

16   facilities.

17   Being a little bit of a self-

18   proclaimed geek, I was on the Internet a

19   lot reading about the Telecom Act of '96

20   and saw that as an opportunity to gain

21   access to the public rights-of-ways,

22   recognizing that at that time that I

23   would have to secure primarily pole

1   attachments from Georgia Power, Southern

2   Company, and some other -- various

3   utility owners. It became clear that we

4   needed to gain Public Service authority.

5   That's how you made yourself available to

6   the rights-of-ways.

7   So I did research and found out that

8   the largest pole owner in the state of

9   Georgia was Georgia Power, Southern

10   Company. Their attorneys was Troutman

11   and Sanders based out of Atlanta. I felt

12   like that I probably couldn't fight those

13   big guys, so I got the same attorney firm

14   that they did, and I went and seeked

15   approval.

16   Q. Sought?

17   A. Sought, yeah. Well, seeked in past

18   tense, sought.

19   Q. He's an engineer and I'm the lawyer.

20   A. That's right. I made 800 on the math

21   part of the SAT. I made 440 on the

22   verbal. That's why it's seeked.

23   Q. Georgia Tech, right?

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 1    A.   Georgia Tech.  I attended Georgia Tech as

 2         an electrical engineer.  So, anyway, we

 3         sought approval for that.  And it became

 4         apparent we needed an other common

 5         carrier certificate, a CLEC certificate,

 6         some various FCC certificates, and those

 7         types of things.

 8              So we were successful in gaining

 9         those; and then we began building fiber

10         networks in secondary markets, secondary

11         tier markets like Rome, Georgia; Athens,

12         Georgia.  We then -- we purchased and

13         bought IRUs for fiber from Atlanta to

14         Chattanooga.

15              COURT REPORTER:  Purchased and

16           built our -- what kind of use?

17              THE WITNESS:  IRUs, indefeasible

18           rights of use, IRU.

19    Q.   Slow down a little bit.

20    A.   I know.  I apologize.  I get wound up.

21         I apologize to the court reporter.

22              So we -- we then began -- our company

23         expanded and grew, and so that kind of
```

 1   brought us to the present. We -- we

 2   serve commercial customers, no

 3   residential. A typical set of customers

 4   say in Rome, Georgia, to name one

 5   location, would be like Shorter College,

 6   Berry College, Floyd Hospital, Redmond

 7   Hospital, Harbin Clinic. So we're a

 8   large commercial provider. We provide

 9   Internet, switched voice through other

10   providers, and ethernet type connectivity

11   services between those larger providers.

12   At that time, the stimulus program --

13   Q.   Wait a minute. Before you get to that,

14   let me ask you this question.

15   A.   Sure.

16   Q.   How long has Parker FiberNet been in

17   business?

18   A.   Since 1999.

19   Q.   And you're the manager of the company?

20   A.   I'm the manager.

21   Q.   Are you the owner?

22   A.   I'm the owner.

23   Q.   How many employees do you have?

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 1    A.   We have approximately 35 employees.

 2    Q.   Okay.  And you're all located in

 3         Summerville, Georgia?

 4    A.   Summerville.  And that kind of leads into

 5         another point I should have made.  We do

 6         everything in-house.  We have our own

 7         engineering firm.  We have our own

 8         construction.  We do and seek our own

 9         permits with the DOT, with Georgia Power,

10         BellSouth, AT&T.  We have interconnection

11         agreements.

12              We have our own directional boring

13         machines.  We have our own construction

14         equipment.  So we provide -- we have

15         bucket trucks, splicing vans.  So we

16         provision, design, install.  And we're

17         provision CLEC, which means that we have

18         our own infrastructure in place.

19              In the beginning, you know, we

20         started out kind of using a UNE platform

21         that was provided to us from Bell; but as

22         they have sort of taken those options

23         away, our business model has shifted that
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 1          we only provide directly connected fiber

 2          customers to our own network.

 3     Q.   You -- presently, you only have

 4          telecommunications authority in Georgia;

 5          is that correct?

 6     A.   That's correct.

 7     Q.   Okay.  Let me ask you this.  What -- what

 8          is your interest with respect to these

 9          two applications for these two applicants

10          to do business in Alabama?

11     A.   Well, we -- as I started to say --

12     Q.   When you say we, you mean Parker?

13     A.   Parker.  Parker FiberNet and other Parker

14          companies.  We have some other companies

15          that do ancillary things.  Parker Systems

16          is the construction arm.  Parker FiberNet

17          is the CLEC authority in Georgia, for

18          example.

19               And so we sought a BTOP grant under

20          the stimulus program, and we were

21          successful in securing one.  And that

22          grant -- we, in our business or in the

23          plan of the grant, made application to go
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 1        into Alabama to provide the middle mile

 2        infrastructure fiber connectivity to an

 3        underserved portion of Alabama, kind

 4        of -- I get kind of turned around -- east

 5        of --

 6   Q.   Anniston?

 7   A.   Anniston.

 8   Q.   Right.

 9   A.   Right.

10   Q.   So up in Northeast Alabama with a

11        traditionally underserved area with

12        respect to telephone services?

13   A.   That's right.

14   Q.   There was a stimulus package available

15        that you applied for, received.  And

16        that's -- that's the funding that you've

17        acquired to be able to seek to do

18        business in the state of Alabama?

19   A.   That's right.

20   Q.   Right?

21   A.   That's right.  As -- as we came, we

22        worked closely with some of the regional

23        development stuff.  They were working on
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1   their auto alley corridor concept to

2   provide just-in-time manufacturing with

3   small businesses, 60 to 80 people, to

4   provide to the auto industry. I know

5   Alabama was real successful in getting

6   some of the larger car makers to come

7   here.

8   Well, there has to be ancillary

9   support, you know, like brake assembly

10   manufacturers and those kind of

11   providers. The auto alley concept

12   brought us down, so we kind of mirrored

13   that in our strategy under the grant to

14   provide the middle mile connectivity to

15   support those kind of activities in that

16   region. Alabama became clear that they

17   were lacking the connectivity, and it --

18   the proximity of Northwest Georgia and

19   Northeast Alabama just made it -- made

20   the two projects mirror together nicely.

21   And so while I guess the folks in

22   Alabama don't want to be associated with

23   Georgia and the folks in Georgia don't

1   want to be associated with Alabama, those

2   two regions are very similar in their --

3   in their telecommunication and cultures.

4   So it was just a natural extension of

5   where our network was going to include

6   that underserved area.

7   Because we had the connectivity that

8   went Atlanta to Chattanooga and because

9   we followed the railroad track in that

10   region, it came very close to the edge of

11   the state, the state lines.

12   Q.   With your application by Appalachian

13   Valley Fiber Network, you intend to seek

14   the authority to provide the

15   infrastructure for the fiberoptic cable

16   and the other construction services; is

17   that correct?

18   A.   That's correct.

19   Q.   You really don't intend by Appalachian

20   Valley to provide end user services; is

21   that right?

22   A.   Right. The stipulations under the

23   grant -- and you guys can probably

```
 1          appreciate more than most the

 2          complications and the rules associated

 3          with a federal grant and the -- the

 4          guidelines and stringent boundaries that

 5          they place us in.  The grant project had

 6          to be a middle mile only type fiber

 7          project serving the infrastructure of

 8          underserved communities and large anchor

 9          institutions.

10               And so it was a nice marriage to

11          allow Parker FiberNet to come in to be

12          the interface to the customer and

13          Appalachian Valley, under the grant, to

14          provide the middle mile fiber

15          connectivity in those regions.

16     Q.   Okay.  And that was what I was going to

17          ask.  Parker FiberNet will provide the

18          telecommunications services to the end

19          users --

20     A.   Right.

21     Q.   -- similar to the work that you're doing

22          in Georgia now?

23     A.   That's right.  That's right.  And it was
```

1   an effort not to use grant or stimulus

2   funds to mirror or duplicate

3   iinfrastructure that existed in Parker

4   FiberNet, that all those funds could then

5   be funneled directly to extending the

6   network into the underserved areas.

7   Q.   How many customers do you anticipate

8   having in Alabama?

9   A.   Probably more than none and less than a

10   hundred.

11   Q.   All right. Well, with that background,

12   let me ask you a few questions about

13   Parker FiberNet. Again, the primary

14   business address for that?

15   A.   Is 1005 South Commerce Street.

16   Q.   Is that true for Appalachian Valley as

17   well?

18   A.   Yes, sir.

19   Q.   And what's the telephone number for the

20   company?

21   A.   It's 800-8-PARKER or 1-800-872-7537.

22   Q.   Is that number true for Appalachian

23   Valley as well?

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 1      A.   Yes, sir.

 2      Q.   I'll ask you have you read and are you

 3           familiar with both of the applications in

 4           this proceeding?

 5      A.   Yes, sir, I am.

 6      Q.   Are they true and correct?

 7      A.   Yes, sir.

 8      Q.   Are you familiar with both of the

 9           proposed tariffs in this proceeding?

10      A.   Yes, sir.

11      Q.   Are they true and correct?

12      A.   Yes, sir.

13      Q.   Your company is presently registered to

14           do business in the state of Alabama,

15           correct?

16      A.   No.  In the state of Georgia.

17      Q.   Well, I mean, you don't have the

18           telecommunications authority from the

19           Public Service Commission yet, but you

20           have registered with the Secretary of

21           State's Office.

22      A.   Right.  Yes, sir.  Yes, sir.  I

23           apologize.
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 1    Q.   Will the company operate -- either

 2         company operate under any fictitious

 3         names in Alabama?

 4    A.   No, sir.

 5    Q.   And Parker FiberNet is authorized by the

 6         Public Utilities Commission of the State

 7         of Georgia to do business there, but

 8         you're not authorized with

 9         telecommunications authority anywhere

10         else.  Is that correct?

11    A.   That is correct.

12    Q.   And Appalachian Valley Fiber Net, does it

13         not have any authority from Georgia for

14         telecommunication services?

15    A.   We're in the process.

16    Q.   Okay.  You're seeking that application

17         now?

18    A.   I don't exactly know the status, but I --

19         we're in the process.

20    Q.   Okay.  Has Parker FiberNet ever applied

21         for telecommunications authority in any

22         other jurisdiction?

23    A.   No, sir.
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 1    Q.   Has the company ever been cited for any

 2         formal complaints by the Public Service

 3         Commission of Georgia?

 4    A.   No, sir.

 5    Q.   Has the company or any of the principals

 6         or officers of the company ever been

 7         indicted for a crime or -- or other

 8         felony?

 9    A.   No, sir.

10    Q.   Are you presently, either company, under

11         investigation for any regulatory

12         breaches?

13    A.   No, sir.

14    Q.   Does either company plan to operate any

15         physical facilities in the state of

16         Alabama other than the construction of

17         the fiberoptic cable?

18    A.   No, sir.

19    Q.   Does the company plan to have any

20         employees in the state of Alabama?

21    A.   Other than during the construction, no,

22         sir.

23    Q.   Okay.  Who will Parker FiberNet use for
```

1   its underlying carrier?

2   A.   For switched voice?

3   Q.   Yeah.

4   A.   We have interconnection agreements with

5   AT&T. It's now EarthLink. It used to be

6   Deltacom. A company called Momentum out

7   of Birmingham. And I believe that would

8   be all for switched voice.

9   Q.   That's who you presently use?

10   A.   Yes, sir.

11   Q.   Do you know which of those you'll be

12   using in Alabama?

13   A.   It would probably be a mixture of the

14   three.

15   Q.   But you don't have any agreements in

16   place with that yet?

17   A.   No. The AT&T agreement, for example,

18   when we secured it, was for seven

19   states. So we went ahead -- even though

20   we didn't have authority, we made

21   application and have AT&T agreements for

22   all of their seven operating states.

23   Momentum, there's a voice over IP.

```
 1          Perhaps you guys are more learned than I,

 2          but under -- we felt like that under our

 3          current agreement, that voice over IP,

 4          being voice-packaged switch, was not

 5          regulated; that we didn't need an

 6          individual application for each state.

 7    Q.    And with respect to both companies -- I

 8          guess, really, we're talking about Parker

 9          FiberNet.  With respect to sending

10          customer bills for telephone services, do

11          you plan to send bills on a monthly

12          basis?

13    A.    Yes, sir.

14    Q.    And will those bills be paper bills?

15    A.    Yes, sir.

16    Q.    Will the telephone number of the company

17          be on the bill?

18    A.    Yes, sir.

19    Q.    And that telephone number will be what?

20    A.    1-800-8-PARKER or 800-872-7537.

21    Q.    If a customer has a problem or needs to

22          contact the company to -- about a

23          grievance or any other issue, is that the
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 1           telephone number that they may call?

 2    A.    Yes, sir.

 3    Q.    Okay.  And what happens when they call

 4           during your normal business hours?

 5    A.    They will get the secretary.  We don't

 6           believe in them machines where you have

 7           to push one or two to get somebody.  A

 8           person answers the phone, and then

 9           they'll be directed to -- we have an

10           in-house engineer that sits in

11           Summerville, and he fields all the calls

12           initially.

13    Q.    Okay.  What are your normal business

14           hours?

15    A.    Eight to five Monday through Friday.

16    Q.    And if a customer were to call after

17           business hours, what's your protocol for

18           handling those calls?

19    A.    The call would be handled by the network

20           operations center, and they would direct

21           the call to the various engineer person

22           within the hour.  Remembering that our

23           customers are large business customers,
```

1   the next business day for a response is

2   inadequate. So we return all of our

3   calls. Typically, they're just switched

4   directly to that end user's cell phone

5   because it would be on outage or some

6   complaint. And we require either

7   engineering to do a routing change or

8   look into the -- the -- you know, we

9   would look at our equipment to see how it

10   interfaces, if we're up and up against

11   the customer. If we had to, we would

12   begin the troubleshooting at that time.

13   That usually happens within 15

14   minutes, but our procedure is within the

15   hour.

16   Q.   Okay. Do your companies plan to do any

17   marketing in the state of Alabama?

18   A.   No.

19   Q.   Okay. When you do marketing in Georgia,

20   for example, do you use a third party or

21   do you do it yourself?

22   A.   We do it ourself. We don't do any

23   third-party marketing.

```
 1    Q.   You don't.  So you don't have any intent

 2         to use a third party in Alabama for

 3         marketing either, do you?

 4    A.   No, sir.

 5    Q.   Okay.  And with respect to your bill that

 6         is sent to the customer that has the

 7         telephone number that you mentioned, it

 8         has the company's name on the bill as

 9         well, right?

10    A.   Yes, sir.

11    Q.   Does Parker FiberNet have a website?

12    A.   Yes, sir.

13    Q.   Okay.  Does Appalachian Valley have a

14         website?

15    A.   Yes, sir.

16    Q.   Is it the same or different?

17    A.   They link each other, but they're

18         different.

19    Q.   Okay.  Is there a telephone number of

20         your company on those websites?

21    A.   Yes, sir.

22    Q.   And what number would that be, the same?

23    A.   1-800-8-PARKER.
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 1    Q.  Where will the companies books and

 2         records be maintained?

 3    A.  In Summerville, Georgia.

 4    Q.  Will you maintain accurate, up-to-date

 5         tariffs on file with the Commission?

 6    A.  Yes, sir.

 7    Q.  Okay.  Are you familiar with the rules

 8         and regulations of the Alabama Public

 9         Service Commission?

10    A.  Yes, sir.

11    Q.  Will you abide by them?

12    A.  Yes, sir.

13    Q.  Are you familiar with the laws, rules,

14         and regulations of the Federal

15         Communications Commission?

16    A.  Yes, sir.

17    Q.  Will you abide by them?

18    A.  Yes, sir.

19    Q.  Are you familiar with federal and state

20         slamming and cramming laws?

21    A.  Yes, sir.

22    Q.  Will you abide by them?

23    A.  Absolutely.
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```
 1    Q.   Have you ever had any formal complaints

 2         about slamming or cramming or any

 3         telecommunications breach?

 4    A.   No, sir.

 5    Q.   In the event you were accused of any

 6         slamming or cramming violations, would

 7         the company immediately stop those

 8         actions and engage in the appropriate

 9         discipline of the relevant employees?

10    A.   Yes, sir.

11    Q.   Do you understand that your companies

12         must file and have approved by the

13         Commission an interconnection agreement

14         with respect to providing services in

15         Alabama?

16    A.   Yes, sir.

17    Q.   And will you do that?

18    A.   Absolutely.

19    Q.   Are your companies aware that you must

20         file annually a supervision and

21         inspection report and pay the appropriate

22         fees associated with that?

23    A.   Yes, sir.
```

1   Q.   Will your companies do that?

2   A.   Absolutely.

3   Q.   Are you aware that the company -- both

4   companies must file annually a financial

5   report with the Public Service

6   Commission?

7   A.   Yes, sir.

8   Q.   And will your companies comply with that

9   requirement?

10   A.   Yes, sir.

11   MR. McLEMORE: That's all.

12   ALJ MORRIS: Let's start with

13   Mr. Cook.

14   CROSS-EXAMINATION

15   BY MR. COOK:

16   Q.   Mr. Parker, my compliments to your

17   attorney.

18   A.   Thank you.

19   Q.   He's asked about all my questions. Does

20   your company plan to use a d/b/a?   I

21   noticed that you got Parker filed as an

22   LLC, hereafter PFN.

23   A.   The PFN is just for convenience of the

1   Commission. Parker FiberNet. So we

2   don't -- we don't have a d/b/a that would

3   not be intuitively apparent. We felt

4   like PFN is Parker FiberNet, just an

5   acronym; so that's -- but there's no

6   d/b/a like John's Telephone Company or

7   anything like that.

8   That was just for the convenience of

9   or the documents. I apologize if we

10   shouldn't have done it that way.

11   Q.   No. That's okay. It was just kind of

12   confusing.

13   A.   Yes, sir.

14   Q.   The financial information that you filed,

15   is that the latest and current?

16   A.   Yes, sir.

17   Q.   Who will be the contact person for

18   Alabama tariff-specific questions?

19   A.   Kristy Parker.

20   Q.   And what is her title?

21   A.   She's the office manager.

22   Q.   She any kin to you?

23   A.   She might be. She's my wife. We're a

```
 1         small company, as I stated.  She went to

 2         Georgia, too, which creates some

 3         conflict.

 4    Q.   Oh, that gets kind of interesting at the

 5         end of the year, don't it?

 6    A.   For the last nine years, it's been real

 7         interesting except for one year.

 8    Q.   Has your company ever been filed or

 9         presently in any bankruptcy proceedings?

10    A.   No, sir.

11    Q.   There will not be a marketing or sales

12         staff located in Alabama?

13    A.   No, sir.

14    Q.   Your underlying carrier, you said, is

15         going to be AT&T, EarthLink, which used

16         to be Deltacom, Momentum, which is the

17         VOiP?

18    A.   That's correct.

19    Q.   Okay.

20    A.   And -- and I don't know.  I apologize for

21         my ignorance.  I don't know if EarthLink

22         is going to be the survivor or if

23         Deltacom is going to be the survivor, but
```

1   I know they've merged. And I think -- I

2   noticed the other day that the EarthLink

3   logo was now on the bill.

4   MS. CONWAY: I think it's

5   EarthLink.

6   THE WITNESS: Yes, ma'am. I

7   apologize.

8   A. And then our -- we aggregate our Internet

9   product ourselves. So the underlying

10   carrier I guess would be us because we

11   BGP pier with our tier one.

12   COURT REPORTER: BGP what?

13   THE WITNESS: BGP, border gateway

14   protocol, so it's BGP pier. I'm sorry.

15   I sort of rattle off.

16   A. We take -- we take multiple Internet

17   providers, like AT&T or the larger

18   companies, UNET, cable and wireless; and

19   we aggregate that product ourselves. We

20   have a colocation at 56 Marietta, a

21   telecom hotel for the Southeast. So we

22   have a presence there. So we don't have

23   an underlying carrier for our Internet.

```
 1          We do it ourselves.

 2     Q.   Okay.  The locations you plan to serve in

 3          Alabama is basically going to be

 4          Northeast?

 5     A.   That's correct.

 6     Q.   Okay.

 7     A.   Basically from Breman in Georgia to

 8          Anniston.

 9     Q.   Are you aware that the Commission must be

10          notified if there are any changes in key

11          contact personnel --

12     A.   Yes, sir.

13     Q.   -- company ownership via merger,

14          transfers or acquisitions?

15     A.   Yes, sir?

16     Q.   And -- and/or mailing or phone address?

17     A.   Yes, sir.

18     Q.   Your company name will appear on the

19          bill?

20     A.   Yes, sir.

21     Q.   And the bill will be paper?

22     A.   Yes, sir.

23     Q.   Who will provide operator service or
```

```
 1        directory assistance?

 2   A.   The underlying carrier of the switch --

 3        of the switch provider.  So if we -- if

 4        the circuit is derived from AT&T, AT&T

 5        provides that service.  If the circuit is

 6        derived from EarthLink, they will provide

 7        that service.  If the system is derived

 8        by Momentum, then I think they sub it

 9        out.  But it's provided by the underlying

10        carrier.

11   Q.   Do you agree to provide by all the rules

12        and regulations of this commission?

13   A.   Absolutely.

14             MR. COOK:  I turn it over to

15        Ms. Conway.

16             ALJ MORRIS:  Ms. Conway.

17             MS. CONWAY:  Thank you.

18             CROSS-EXAMINATION

19   BY MS. CONWAY:

20   Q.   Mr. Parker, is your company currently

21        providing any type of telecommunication

22        services in Alabama?

23   A.   No, ma'am.
```

```
 1    Q.   You mentioned earlier that there was a

 2         separate website for Appalachian Valley?

 3    A.   Yes, sir.

 4    Q.   Do you happen to know what that is?  Can

 5         you provide that post-hearing?

 6    A.   Yes, ma'am.  I think it's AVFN.com, but

 7         I'll have to check.  That website is

 8         primarily placed currently for the

 9         convenience of the grant, for the

10         selection of vendors and equipment and

11         contractors.

12    Q.   Okay.  Will Appalachian Valley actually

13         be leasing fiber to Parker FiberNet?  Is

14         that the way it will work?

15    A.   Yes.  Yes, ma'am.

16    Q.   Okay.  So in all instances, the end user

17         would be Parker FiberNet from Appalachian

18         Valley?

19    A.   Parker FiberNet would be an end user.

20         While it's not a requirement of the

21         federal stimulus grant, we intend to

22         provide an open architecture.  So if a

23         wireless provider was known to AVFN or
```

```
 1          Parker, we would be willing to sell to

 2          any end user company; AVFN would.

 3    Q.    Okay.  So you would be actually reselling

 4          to another carrier?

 5    A.    On a wholesale basis, yes, ma'am.

 6    Q.    Okay.

 7    A.    It -- there's not an exclusive

 8          arrangement from AVFN to Parker.  We

 9          wanted to provide an open architecture

10          format to allow -- we're not into

11          wireless space; but if a wireless company

12          approached us as Parker FiberNet, because

13          we probably would be known to those guys

14          because we provide that to the Verizons

15          and AT&Ts of the world in these rural

16          markets that we're in, we would provide

17          that information to AVFN if a request was

18          made in Alabama.  So Alabama could --

19          AVFN could have wholesale customers as

20          end users as well as Parker FiberNet.

21    Q.    Okay.  So just to clarify, the -- it

22          would be wholesale resale to other

23          carriers only?
```

```
 1    A.   That's right.  That's right.

 2    Q.   Okay.

 3    A.   And -- and I don't -- I don't want to

 4         limit ourselves.  If AVFN made a business

 5         case to, say, a school system or a

 6         hospital, we would determine what was

 7         best for the customer.  And in that case,

 8         AVFN might directly take care of the

 9         customer.  Most likely, it would be

10         Parker FiberNet; but I want to be very

11         transparent.

12    Q.   So it's possible it could be -- other end

13         users could --

14    A.   But it would be -- it would be in

15         sophisticated industrial or institutional

16         type venues, right.

17    Q.   Okay.

18    A.   I think it's highly unlikely, but I just

19         want to be transparent.

20    Q.   Okay.  And are you familiar with tariff

21         filing procedures and notification of

22         promotions?

23    A.   Yes, ma'am.
```

1   MS. CONWAY: Judge Morris, the

2   actual tariff for Appalachian Valley

3   was not filed until yesterday.

4   ALJ MORRIS: Okay.

5   MS. CONWAY: So I have not had time

6   to thoroughly review it.

7   ALJ MORRIS: Okay.

8   MS. CONWAY: So I'd like to take a

9   few days to be able to thoroughly

10   review it. And I have already seen a

11   couple of issues in it that we'll need

12   to discuss and maybe make some changes.

13   THE WITNESS: Sure.

14   MS. CONWAY: But I will get back

15   with you, Jimmy, on that --

16   MR. McLEMORE: Okay.

17   MS. CONWAY: -- as soon as I've got

18   it completed.

19   MR. McLEMORE: I apologize for

20   that. We thought maybe we would be

21   excused from filing that, and we

22   weren't, so I appreciate that, so we

23   got it to you.

1   MS. CONWAY: That's okay. That's

2   okay. So post-hearing, I will just

3   need the website address also of

4   Appalachian Valley. That's all I have.

5   MR. McLEMORE: Okay.

6   ALJ MORRIS: Okay. I've just got a

7   couple of things. I notice in your

8   financial -- financial information with

9   the PFN application, there is some sort

10   of a balance sheet for DKSL. Can you

11   tell me what that is?

12   THE WITNESS: That's a holding

13   company for tax that owns all the

14   companies that I have.

15   ALJ MORRIS: Okay.

16   THE WITNESS: It stands for David,

17   Kristy, Seth and Luke. Those are my

18   children's names. So I'm not very

19   creative. Parker Systems, Parker

20   FiberNet.

21   ALJ MORRIS: You like acronyms.

22   Okay.

23   THE WITNESS: Yeah. My tax

1   accountant suggested that, and so it's

2   a holding company.

3   ALJ MORRIS: Okay. And for

4   Appalachian Valley Fiber Network, has

5   that even been capitalized yet?

6   THE WITNESS: Well, it's funded by

7   the BTOP stimulus grant.

8   ALJ MORRIS: And that's the sole

9   source of capital for that project?

10   THE WITNESS: And it's more than

11   sufficient to accomplish. We received

12   a $28 million grant.

13   ALJ MORRIS: Okay. And, you know,

14   there's no plan to put any of your own

15   personal capital into that?

16   THE WITNESS: We matched the grant

17   with $5 million.

18   ALJ MORRIS: You matched the grant.

19   THE WITNESS: Of in-kind.

20   ALJ MORRIS: All right. And I will

21   need actually -- for both Parker

22   FiberNet and Appalachian Valley Fiber

23   Network, I will need the articles of

1   organization. What I've got is the

2   operating agreements were filed, but

3   I'm going to need the articles of

4   organization post-hearing.

5   MR. McLEMORE: Yes, sir.

6   ALJ MORRIS: And as Ms. Conway has

7   already stated, she needs the website

8   for Appalachian Valley and she's going

9   to need some time to review the

10   tariff. And we'll get those issues

11   resolved before we take this to the

12   Commission for final approval.

13   Mr. McLemore, do you have

14   anything else you'd like to add?

15   MR. McLEMORE: No, sir.

16   ALJ MORRIS: Okay. With that, we

17   will take this under advisement. And

18   this hearing is concluded.

19   (Proceedings concluded at

20   11:16 a.m.)

21   * * * END OF PROCEEDINGS * * *

22

23

 1   REPORTER'S CERTIFICATE

 2   STATE OF ALABAMA

 3   ELMORE COUNTY

 4   I, Dee Coker, Registered Professional

 5   Reporter and Commissioner for the State of

 6   Alabama at Large, hereby certify that on

 7   Tuesday, June 21, 2011, I reported the

 8   TESTIMONY AND PROCEEDINGS in the matter of the

 9   foregoing cause, and that pages 3 through 41

10   contain a true and accurate transcription of

11   said proceedings.

12   I further certify that I am neither

13   kin nor of counsel to the parties to said

14   cause, nor in any manner interested in the

15   results thereof.

16

17

18   /s/Dee Coker
                       DEE COKER, CCR, RPR
19   Commissioner for the
                       State of Alabama at Large
20   CCR 85, Expires 9/30/2011

21   COMMISSION EXPIRES: 1/20/2013

22

23

< G >
gain 8:*20* 9:*4*
gaining 10:*8*
gateway 32:*13*
geek 8:*18*
Georgia 5:*9, 10*
  7:*14* 9:*1, 9, 9, 23*
  10:*1, 1, 11, 12*
  11:*4* 12:*3, 9*
  13:*4, 17* 15:*18,
  23, 23* 17:*22*
  19:*16* 20:*7, 13*
  21:*3* 25:*19* 27:*3*
  31:*2* 33:*7*
getting 15:*5*
go 3:*1* 13:*23*
going 16:*5*
  17:*16* 31:*15, 22,
  23* 33:*3* 41:*3, 8*
Good 4:*17*
grant 13:*19, 22,
  23* 15:*13* 16:*23*
  17:*3, 5, 13* 18:*1*
  35:*9, 21* 40:*7, 12,
  16, 18*
grew 10:*23*
grievance 23:*23*
guess 15:*21*
  23:*8* 32:*10*
guidelines 17:*4*
guys 9:*13* 16:*23*
  23:*1* 36:*13*

< H >
hand 6:*14*
handled 24:*19*
handling 24:*18*
happen 35:*4*
happens 24:*3*
  25:*13*
Harbin 11:*7*
Hearing 1:*15*
  3:*12, 14* 4:*11*
  6:*6* 35:*5* 39:*2*
  41:*4, 18*
highly 37:*18*
holding 39:*12*
  40:*2*
Honor 4:*18*

Honorable 1:*13*
horizontal 8:*5*
Hospital 11:*6, 7*
  37:*6*
hotel 32:*21*
hour 24:*22* 25:*15*
hours 24:*4, 14, 17*
house 12:*6*
  24:*10*
HOWARD 2:*9*
  4:*22*
hundred 18:*10*

< I >
identified 4:*9*
ignorance 31:*21*
II 2:*4*
iinfrastructure
  18:*3*
immediately 28:*7*
inadequate 25:*2*
include 16:*5*
indefeasible
  10:*17*
independently
  8:*8*
INDEX 2:*13*
indicted 21:*7*
individual 23:*6*
industrial 37:*15*
industry 15:*4*
information
  30:*14* 36:*17* 39:*8*
infrastructure
  8:*10* 12:*18* 14:*2*
  16:*15* 17:*7*
initially 24:*12*
inspection 28:*21*
install 12:*16*
instances 35:*16*
institutional
  37:*15*
institutions 17:*9*
intend 16:*13, 19*
  35:*21*
intent 26:*1*
interconnection
  12:*10* 22:*4* 28:*13*
interest 13:*8*
interested 42:*14*

interesting 31:*4,
7*
interface 17:*12*
interfaces 25:*10*
Internet 8:*18*
  11:*9* 32:*8, 16, 23*
intervention 3:*16*
  4:*6, 6*
introduce 5:*4*
intuitively 30:*3*
investigation
  21:*11*
IP 22:*23* 23:*3*
IRU 10:*18*
IRUs 10:*13, 17*
issue 23:*23*
issues 38:*11*
  41:*10*
its 5:*3* 22:*1*

< J >
James 2:*6* 4:*18*
Janet 2:*4* 5:*16*
Jimmy 38:*15*
John's 30:*6*
Judge 1:*14, 15*
  38:*1*
June 1:*17* 3:*2,
12* 42:*7*
jurisdiction 20:*22*

< K >
key 33:*10*
kin 30:*22* 42:*13*
kind 7:*18* 10:*16,
23* 12:*4, 20* 14:*3,
4* 15:*10, 12, 15*
  30:*11* 31:*4* 40:*19*
know 10:*20*
  12:*19* 15:*4, 9*
  20:*18* 22:*11*
  25:*8* 31:*20, 21*
  32:*1* 35:*4* 40:*13*
known 35:*23*
  36:*13*
Kristy 30:*19*
  39:*17*

< L >
lacking 15:*17*

Large 1:*21* 8:*12*
  11:*8* 17:*8* 24:*23*
  42:*6, 19*
larger 11:*11*
  15:*6* 32:*17*
largest 9:*8*
latest 30:*15*
LAW 1:*3, 13, 14*
  2:*9*
laws 27:*13, 20*
lawyer 9:*19*
leads 12:*4*
learned 23:*1*
leasing 35:*13*
likewise 3:*20*
limit 37:*4*
lines 16:*11*
link 26:*17*
little 7:*17* 8:*17*
  10:*19*
LLC 1:*7, 8* 2:*6*
  3:*5, 19, 22* 4:*14,
16* 29:*22*
located 7:*13, 14*
  12:*2* 31:*12*
location 11:*5*
locations 33:*2*
logo 32:*3*
long 8:*1* 11:*16*
look 25:*8, 9*
lot 8:*19*
Luke 39:*17*

< M >
ma'am 32:*6*
  34:*23* 35:*6, 15*
  36:*5* 37:*23*
machines 12:*13*
  24:*6*
mailing 33:*16*
maintain 27:*4*
maintained 27:*2*
makers 15:*6*
manager 5:*10*
  7:*12* 11:*19, 20*
  30:*21*
manner 42:*14*
manufacturers
  15:*10*

manufacturing 8:*12*, *14* 15:*2*
Marietta 32:*20*
marketing 25:*17*, *19, 23* 26:*3* 31:*11*
markets 10:*10*, *11* 36:*16*
marriage 17:*10*
matched 40:*16*, *18*
math 9:*20*
MATTER 1:*6* 5:*22* 42:*8*
matters 4:*7* 6:*8*
MATTHEW 2:*14* 6:*16* 7:*4*
McLemore 2:*6*, *14* 4:*17, 18* 6:*11*, *21, 22* 7:*2* 29:*11* 38:*16, 19* 39:*5* 41:*5, 13, 15*
mean 13:*12* 19:*17*
means 12:*17*
mentioned 26:*7* 35:*1*
merged 32:*1*
merger 33:*13*
middle 14:*1* 15:*14* 17:*6, 14*
mile 14:*1* 15:*14* 17:*6, 14*
million 40:*12, 17*
minute 11:*13*
minutes 25:*14*
mirror 15:*20* 18:*2*
mirrored 15:*12*
mixture 22:*13*
model 12:*23*
Momentum 22:*6*, *23* 31:*16* 34:*8*
Monday 24:*15*
Montgomery 1:*16* 2:*6, 10* 4:*21*
monthly 23:*11*
morning 4:*17*
Morris 1:*13* 3:*1* 5:*12, 17* 6:*12, 20* 29:*12* 34:*16*

38:*1, 4, 7* 39:*6, 15, 21* 40:*3, 8, 13, 18, 20* 41:*6, 16*
multiple 32:*16*

< N >
name 5:*6* 7:*3* 11:*4* 26:*8* 33:*18*
names 20:*3* 39:*18*
natural 16:*4*
necessity 3:*7* 4:*2*
need 6:*9* 23:*5* 38:*11* 39:*3* 40:*21, 23* 41:*3, 9*
needed 9:*4* 10:*4*
needs 5:*19* 23:*21* 41:*7*
neither 42:*12*
Net 20:*12*
NETWORK 1:*8* 3:*19, 22* 4:*9, 15, 20* 7:*6* 8:*15* 13:*2* 16:*5, 13* 18:*6* 24:*19* 40:*4, 23*
networks 8:*7* 10:*10*
nice 17:*10*
nicely 15:*20*
nine 31:*6*
normal 24:*4, 13*
normally 7:*18*
North 1:*16* 2:*6*
Northeast 14:*10* 15:*19* 33:*4*
Northwest 15:*18*
note 5:*23*
notice 3:*10, 13* 4:*10* 39:*7*
noticed 29:*21* 32:*2*
notification 37:*21*
notified 33:*10*
number 4:*23* 18:*19, 22* 23:*16, 19* 24:*1* 26:*7, 19, 22*

< O >
office 8:*13* 19:*21* 30:*21*
officers 21:*6*
Oh 31:*4*
Okay 6:*12, 20* 7:*13, 17* 12:*2* 13:*7* 17:*16* 20:*16, 20* 21:*23* 24:*3, 13* 25:*16, 19* 26:*5, 13, 19* 27:*7* 30:*11* 31:*19* 33:*2, 6* 35:*12, 16* 36:*3, 6, 21* 37:*2, 17, 20* 38:*4, 7, 16* 39:*1, 2, 5, 6, 15, 22* 40:*3, 13* 41:*16*
open 35:*22* 36:*9*
operate 20:*1, 2* 21:*14*
operating 22:*22* 41:*2*
operations 24:*20*
operator 33:*23*
opportunity 8:*20*
options 12:*22*
organization 41:*1, 4*
original 3:*10*
ourself 25:*22*
outage 25:*5*
owner 6:*3* 9:*8* 11:*21, 22*
owners 9:*3*
ownership 33:*13*
owns 39:*13*

< P >
package 14:*14*
packaged 23:*4*
pages 42:*9*
paper 23:*14* 33:*21*
PARKER 1:*7* 2:*6, 14* 3:*5* 4:*4, 14, 20* 5:*3, 6, 7* 6:*13, 16* 7:*4, 5, 7, 23* 8:*3* 11:*16* 13:*12,*

13, 13, 13, 15, 16 17:*11, 17* 18:*3, 13, 21* 20:*5, 20* 21:*23* 23:*8, 20* 26:*11, 23* 29:*16, 21* 30:*1, 4, 19* 34:*20* 35:*13, 17, 19* 36:*1, 8, 12, 20* 37:*10* 39:*19, 19* 40:*21*
part 9:*21*
parties 6:*4* 42:*13*
party 25:*20, 23* 26:*2*
pay 28:*21*
people 15:*3*
permits 12:*9*
Perry 2:*10* 4:*22*
person 24:*8, 21* 30:*17*
personal 40:*15*
personnel 33:*11*
PFN 29:*22, 23* 30:*4* 39:*9*
phone 24:*8* 25:*4* 33:*16*
physical 21:*15*
pier 32:*11, 14*
place 12:*18* 17:*5* 22:*16*
placed 35:*8*
plan 13:*23* 21:*14, 19* 23:*11* 25:*16* 29:*20* 33:*2* 40:*14*
platform 12:*20*
please 7:*3*
point 12:*5*
pole 8:*23* 9:*8*
portion 14:*3*
position 7:*10*
possible 37:*12*
post 35:*5* 39:*2* 41:*4*
Power 9:*1, 9* 12:*9*
practice 4:*21*
preliminary 5:*22* 6:*8*

presence 32:22
present 11:1
presently 13:3
 19:13 21:10
 22:9 31:9
primarily 8:23
 35:8
primary 18:13
principal 5:3
principals 21:5
private 8:6, 9
probably 9:12
 16:23 18:9
 22:13 36:13
problem 23:21
procedure 25:14
procedures 37:21
proceed 6:7
proceeding 7:21
 19:4, 9
PROCEEDINGS
 1:12 31:9 41:19,
 21 42:8, 11
process 20:15, 19
proclaimed 8:18
product 32:9, 19
Professional
 1:19 42:4
program 11:12
 13:20
project 17:5, 7
 40:9
projects 15:20
promotions 37:22
proposed 19:9
protocol 24:17
 32:14
provide 3:7 4:2
 11:8 12:14 13:1
 14:1 15:2, 4, 14
 16:14, 20 17:14,
 17 33:23 34:6,
 11 35:5, 22 36:9,
 14, 16
provided 12:21
 34:9
provider 11:8
 34:3 35:23
providers 11:10,

11 15:11 32:17
provides 34:5
providing 28:14
 34:21
provision 12:16,
17
proximity 15:18
PUBLIC 1:2 2:2,
3, 4 3:6 4:1 8:9,
21 9:4 19:19
 20:6 21:2 27:8
 29:5
purchased 10:12,
15
push 24:7
put 40:14

< Q >
question 11:14
questions 18:12
 29:19 30:18

< R >
railroad 16:9
raise 6:13
rattle 32:15
read 19:2
reading 8:19
reads 4:4
real 15:5 31:6
really 16:19 23:8
received 14:15
 40:11
recognizing 8:22
record 3:2 5:5,
20, 23 7:3
records 27:2
Redmond 11:6
reflect 5:20
region 15:16
 16:10
regional 14:22
regions 16:2
 17:15
Registered 1:19
 19:13, 20 42:4
regulated 23:5
regulations 27:8,
14 34:12

regulatory 21:11
relationship 6:2
relevant 28:9
Remembering
 24:22
report 28:21
 29:5
reported 1:18
 42:7
Reporter 1:19
 10:15, 21 32:12
 42:5
REPORTER'S
 42:1
representative
 5:2
request 36:17
require 25:6
requirement 29:9
 35:20
resale 36:22
research 9:7
reselling 36:3
residential 11:3
resolved 41:11
respect 7:10
 13:8 14:12 23:7,
 9 26:5 28:14
response 25:1
results 42:15
return 25:2
review 38:6, 10
 41:9
right 6:14 8:9
 9:20, 23 14:8, 9,
 13, 19, 20, 21
 16:21, 22 17:20,
 23, 23 18:11
 19:22 26:9 37:1,
 1, 16 40:20
rights 8:21 9:6
 10:18
Rome 10:11 11:4
Room 1:16
routing 25:7
RPR 42:18
RSA 1:15 2:5
rules 17:2 27:7,
13 34:11

rural 36:15

< S >
sales 31:11
Sanders 9:11
SAT 9:21
saw 8:20
school 37:5
Scott 1:13
seated 6:20
secondary 10:10,
10
Secretary 19:20
 24:5
secure 8:23
secured 22:18
securing 8:9
 13:21
see 25:9
seek 12:8 14:17
 16:13
seeked 9:14, 17,
22
seeking 3:23
 20:16
seen 38:10
selection 35:10
self 8:17
sell 36:1
send 23:11
sending 23:9
sent 26:6
separate 35:2
serve 11:2 33:2
served 3:11, 13
 4:11 6:6
SERVICE 1:2
 2:2 3:8 9:4
 19:19 21:2 27:9
 29:5 33:23 34:5,
7
services 4:3
 11:11 14:12
 16:16, 20 17:18
 20:14 23:10
 28:14 34:22
serving 17:7
set 11:3
Seth 39:17

user 16:*20*
 35:*16, 19* 36:*2*
users 17:*19*
 36:*20* 37:*13*
user's 25:*4*
usually 25:*13*
Utilities 20:*6*
Utility 2:*3, 4* 9:*3*

< V >
VALLEY 1:*8*
 3:*19, 22* 4:*9, 15,*
19 7:*6* 16:*13, 20*
 17:*13* 18:*16, 23*
 20:*12* 26:*13*
 35:*2, 12, 18* 38:*2*
 39:*4* 40:*4, 22*
 41:*8*
vans 12:*15*
various 8:*10* 9:*2*
 10:*6* 24:*21*
vendors 35:*10*
venues 37:*16*
verbal 9:*22*
Verizons 36:*14*
violations 28:*6*
voice 11:*9* 22:*2,*
8, 23 23:*3, 4*
VOiP 31:*17*

< W >
Wait 11:*13*
want 5:*23* 15:*22*
 16:*1* 37:*3, 10, 19*
wanted 36:*9*
way 8:*9* 30:*10*
 35:*14*
ways 8:*21* 9:*6*
website 26:*11, 14*
 35:*2, 7* 39:*3* 41:*7*
websites 26:*20*
Well 9:*17* 13:*11*
 15:*8* 18:*11, 17,*
23 19:*17* 26:*9*
 36:*20* 40:*6*
went 9:*14* 16:*8*
 22:*19* 31:*1*
We're 3:*3* 7:*14*
 11:*7* 12:*16*
 20:*15, 19* 23:*8*

25:*10* 30:*23*
 36:*10, 16*
wholesale 36:*5,*
19, 22
wife 30:*23*
William 2:*3*
willing 36:*1*
wireless 32:*18*
 35:*23* 36:*11, 11*
witness 6:*17*
 10:*17* 32:*6, 13*
 38:*13* 39:*12, 16,*
23 40:*6, 10, 16, 19*
work 17:*21*
 35:*14*
worked 14:*22*
working 14:*23*
world 36:*15*
wound 10:*20*

< Y >
yeah 9:*17* 22:*3*
 39:*23*
year 31:*5, 7*
years 31:*6*
yesterday 38:*3*

< Z >
zip 7:*15*